

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 661

Introduced by Transportation and Telecommunications Committee:
Fischer, 43, Chairperson; Aguilar, 35; Louden, 49;
Pedersen, 39; Schimek, 27

Read first time January 17, 2007

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to telecommunications; to amend sections
2 86-313, 86-420, 86-422, 86-433, 86-434, 86-435,
3 86-436, 86-442, 86-443, 86-457, 86-459, and 86-461,
4 Revised Statutes Cumulative Supplement, 2006; to
5 change provisions relating to surcharges, the Emergency
6 Telephone Communications Systems Act, the Enhanced
7 Wireless 911 Services Act, and the Enhanced Wireless
8 911 Advisory Board; to define and redefine terms; to
9 harmonize provisions; to repeal the original sections;
10 and to outright repeal sections 86-427, 86-443.01, and
11 86-450.01, Revised Statutes Cumulative Supplement, 2006.
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 86-313, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 86-313 ~~(1)(a)~~ (1) Each telephone company in Nebraska
4 shall collect from each of the telephone subscribers a surcharge
5 not to exceed twenty cents per month on each telephone ~~access line~~
6 number or functional equivalent in Nebraska, including ~~cellular~~
7 ~~telephone~~ wireless service. The surcharge shall only be collected
8 on the first one hundred telephone ~~access lines~~ numbers or
9 functional equivalents per subscriber. The companies shall add
10 the surcharge to each subscriber's ~~local telephone~~ bill.

11 ~~(b)~~ The telephone companies are not liable for any
12 surcharge not paid by a subscriber and are not obligated to take
13 legal action to collect the surcharge.

14 (2) Before April 1 of each year, the commission shall
15 hold a public hearing to determine the amount of surcharge
16 necessary to carry out the Telecommunications Relay System Act.
17 After the hearing, the commission shall set the surcharge at
18 the level necessary to fund the statewide telecommunications
19 relay system and the specialized telecommunications equipment
20 program for the following year plus a reasonable reserve. The
21 surcharge shall become effective on July 1 following the change.
22 ~~The amount appropriated for the specialized telecommunications~~
23 ~~equipment program from the fund shall not exceed the revenue~~
24 ~~generated by one cent of the surcharge per month.~~

25 (3) In an emergency the commission may adjust the amount

1 of the surcharge to become effective before such date but only
2 after a public hearing for such purpose.

3 (4) The proceeds from the surcharge shall be remitted to
4 the commission monthly no later than thirty days after the end of
5 the month in which they were collected together with forms provided
6 by the commission. The commission shall remit the funds to the
7 State Treasurer for credit to the fund.

8 (5) The commission may require an audit of any ~~telephone~~
9 company collecting the surcharge pursuant to the act.

10 Sec. 2. Section 86-420, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 86-420 Sections 86-420 to 86-441.01 and section 4 of this
13 act shall be known and may be cited as the Emergency Telephone
14 Communications Systems Act.

15 Sec. 3. Section 86-422, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 86-422 For purposes of the Emergency Telephone
18 Communications Systems Act, the definitions found in sections
19 86-423 to 86-434 and section 4 of this act apply.

20 Sec. 4. Primary place of use means the residential or
21 business street address that is representative of the primary
22 location of the customer's use of a service that includes the
23 provision of 911 service. For wireless service as defined in
24 section 12 of this act, the primary place of use shall be within
25 the service area of the home service provider as defined in section

1 77-2703.04.

2 Sec. 5. Section 86-433, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 86-433 Service surcharge means a charge set by a
5 governing body and assessed on ~~each local exchange access line~~
6 which physically terminates each telephone number or functional
7 equivalent of service users whose primary place of use is
8 within the governing body's designated 911 service area, with
9 the exception of those service users served by wireless carriers as
10 defined in section 86-456.

11 Sec. 6. Section 86-434, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 86-434 Service user means any person who is provided
14 ~~local exchange access line~~ 911 service in this state.

15 Sec. 7. Section 86-435, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 86-435 (1) A governing body may incur any nonrecurring or
18 recurring charges for the installation, maintenance, and operation
19 of 911 service and shall pay such costs out of general funds which
20 may be supplemented by funds from the imposition of a service
21 surcharge. A governing body incurring costs for 911 service may
22 impose a uniform service surcharge of up to fifty cents per
23 month on ~~each local exchange access line physically terminating in~~
24 telephone number or functional equivalent of service users whose
25 primary place of use is within the governing body's 911 service

1 area, except for those service users served by wireless carriers
2 as defined in section 86-456. The initial service surcharge may be
3 imposed at any time subsequent to the execution of an agreement for
4 911 service with a service supplier.

5 (2) Except in a county containing a city of the
6 metropolitan class, such uniform service surcharge in subsection
7 (1) of this section may be increased by an additional amount not
8 to exceed fifty cents per month. Such additional increase shall be
9 made only after:

10 (a) Publication of notices for a public hearing. Such
11 notices shall:

12 (i) Be published at least once a week for three
13 consecutive weeks in a legal newspaper published or of general
14 circulation in the areas affected;

15 (ii) Set forth the time, place, and date of such public
16 hearing; and

17 (iii) Set forth the purpose of the public hearing and the
18 purpose of the increase; and

19 (b) A public hearing is held pursuant to such notices.

20 (3) If 911 service is to be provided for a territory
21 which is included in whole or in part in the jurisdiction of
22 two or more governing bodies, the agreement for such service
23 shall be entered into by each such governing body unless any
24 such governing body expressly excludes itself from the agreement.
25 Such an agreement shall provide that each governing body which

1 is a customer of 911 service will pay for its portion of the
2 service. Nothing in this subsection shall be construed to prevent
3 two or more governing bodies from entering into a contract which
4 establishes a separate legal entity for the purpose of entering
5 into such an agreement as the customer of the service supplier or
6 any supplier of equipment for 911 service.

7 (4) If a governing body's 911 service area includes
8 a local exchange area which intersects governmental boundary
9 lines, the affected governmental units may cooperate to provide
10 911 service through an agreement as provided in the Interlocal
11 Cooperation Act or the Joint Public Agency Act. The agreement shall
12 provide for the assessment of a uniform service surcharge within
13 a governing body's 911 service area. The service surcharge on
14 each local exchange access line physically terminating in telephone
15 number or functional equivalent of service users whose primary
16 place of use is within the governing body's 911 service area,
17 except for those service users served by wireless carriers as
18 defined in section 86-456, shall be the same as the amount allowed
19 in subsections (1) and (2) of this section.

20 (5) Funds generated by the service surcharge
21 shall be expended only for the purchase, installation,
22 maintenance, and operation of telecommunications equipment and
23 telecommunications-related services required for the provision of
24 911 service.

25 Sec. 8. Section 86-436, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 86-436 (1) A service user shall pay service surcharges
3 in each 911 service area where the service user has ~~local exchange~~
4 ~~access line service~~ its primary place of use and receives 911
5 service, except that an individual service user shall not be
6 required to pay on a single periodic billing service surcharges
7 on more than one hundred ~~local exchange access lines, or their~~
8 ~~equivalent,~~ telephone numbers or functional equivalents, in any
9 single 911 service area. Every service user shall be liable for any
10 service surcharge billed to such user until the surcharge has been
11 paid to the service supplier.

12 (2) The duty of a service supplier to bill a service
13 surcharge to a service user shall commence at such time as may
14 be specified by the governing body. A service surcharge shall be
15 collected as far as practicable at the same time as and along with
16 the charges for ~~local exchange access lines~~ service in accordance
17 with the regular billing practice of the service supplier.

18 (3) A service supplier shall have no obligation to take
19 any legal action to enforce the collection of any service surcharge
20 imposed pursuant to section 86-435. Such action may be brought by
21 or on behalf of the governing body imposing the charge or the
22 separate legal entity formed pursuant to such section. A service
23 supplier shall annually provide the governing body a list of the
24 amounts uncollected along with the names and addresses of those
25 service users who carry a balance that can be determined by the

1 service supplier to be for nonpayment of any service surcharge. The
2 service supplier shall not be liable for such uncollected amounts.

3 Sec. 9. Section 86-442, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 86-442 Sections 86-442 to 86-470 and sections 11 and
6 12 of this act shall be known and may be cited as the Enhanced
7 Wireless 911 Services Act.

8 Sec. 10. Section 86-443, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 86-443 For purposes of the Enhanced Wireless 911 Services
11 Act, the definitions found in sections ~~86-443.01~~ 86-444 to 86-456
12 and sections 11 and 12 of this act apply.

13 Sec. 11. Prepaid wireless service means a wireless
14 service for which the user pays prospectively and for which
15 the wireless carrier does not have an ongoing monthly billing
16 relationship with the user of such service.

17 Sec. 12. Wireless service means any mobile service as
18 defined in 47 U.S.C. 153, as such section existed on January 1,
19 2007, provided by a wireless carrier to a user whose primary place
20 of use, as defined in section 4 of this act, is in Nebraska.

21 Sec. 13. Section 86-457, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 86-457 ~~(1) Each wireless carrier who has a customer,~~
24 ~~other than a prepaid customer or a customer in a county containing~~
25 ~~a city of the metropolitan class, whose primary place of use is~~

1 in Nebraska, shall collect a surcharge of up to seventy cents per
2 month per access line. Each wireless carrier who has a customer in
3 a county containing a city of the metropolitan class shall collect
4 a surcharge of not more than fifty cents per month per access line.
5 The wireless carrier shall add the surcharge to each customer's
6 billing statement. The wireless carrier is not liable for any
7 surcharge not paid by a customer and is not obligated to take
8 legal action to collect the surcharge. The surcharge shall appear
9 as a separate line-item charge on the customer's billing statement
10 and shall be labeled as "Enhanced Wireless 911 Surcharge" or a
11 reasonable abbreviation of such phrase. The commission may take any
12 legal action as it deems necessary to collect unpaid surcharges in
13 its own name, as a real party in interest, or by assigning such
14 debt for collection to a third party.

15 (2) If a wireless carrier resells its services through
16 other entities, each reseller shall collect the surcharge from
17 its subscribers and shall remit the surcharge in accordance with
18 section 86-459.

19 (3) Beginning on July 1, 2007, each wireless carrier who
20 has a prepaid customer shall remit a surcharge from each prepaid
21 customer in the amount established in subsection (1) of this
22 section. A wireless carrier may collect such surcharge from prepaid
23 customers using one of the following methods:

24 (a) The wireless carrier shall divide the total earned
25 prepaid wireless telephone revenue received by the wireless carrier

1 within the monthly reporting period by fifty dollars and multiply
2 the quotient by the surcharge amount;

3 ~~(b) The wireless carrier shall collect on a monthly
4 basis the surcharge from each customer's active, prepaid account.~~

5 A customer with two or more active, prepaid accounts shall be
6 assessed a separate surcharge for each active, prepaid account; or

7 ~~(c) A wireless carrier shall remit the surcharge upon
8 the activation of the active, prepaid account and upon each
9 replenishment of additional minutes purchased by the prepaid
10 customer.~~

11 (1) Each wireless carrier shall collect:

12 (a) A surcharge of up to seventy cents, except as
13 provided in subdivision (1)(b) of this subsection and subsection
14 (4) of this section, on all active telephone numbers or functional
15 equivalents every month from users of wireless service and shall
16 remit the surcharge in accordance with section 86-459; or

17 (b) A surcharge of up to fifty cents, except as provided
18 in subsection (4) of this section, on all active telephone numbers
19 or functional equivalents every month from users of wireless
20 service whose primary place of use is in a county containing a
21 city of the metropolitan class and shall remit the surcharge in
22 accordance with section 86-459.

23 The wireless carrier is not liable for any surcharge not
24 paid by a customer.

25 (2) Except as provided in subsection (4) of this section,

1 the wireless carrier shall add the surcharge to each user's billing
2 statement. The surcharge shall appear as a separate line-item
3 charge on the user's billing statement and shall be labeled as
4 "Enhanced Wireless 911 Surcharge" or a reasonable abbreviation of
5 such phrase.

6 (3) If a wireless carrier, except as provided in
7 subsection (4) of this section, resells its service through
8 other entities, each reseller shall collect the surcharge from
9 its customers and shall remit the surcharge in accordance with
10 section 86-459.

11 (4) It is the intent of the Legislature that all users
12 of prepaid wireless services pay an amount comparable of the amount
13 paid by users of wireless services that are not prepaid in support
14 of statewide wireless enhanced 911 service.

15 (a) The commission shall develop a mechanism to establish
16 a surcharge to be collected by wireless carriers from users of
17 prepaid wireless services.

18 (b) All wireless carriers shall collect as a separate
19 charge from any entity that resells the carrier's prepaid wireless
20 service the surcharge established by the commission in subdivision
21 (a) of this subsection and shall remit the surcharge in accordance
22 with section 86-459.

23 (5) This section shall not apply to users who have no 911
24 service.

25 Sec. 14. Section 86-459, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 86-459 (1) Each wireless carrier shall remit monthly
3 to the commission the amount of ~~surcharge~~ amounts collected
4 pursuant to section 86-457 together with any forms required by
5 the commission no later than sixty days after the last day of the
6 month. The commission shall remit the funds to the State Treasurer
7 for credit to the Enhanced Wireless 911 Fund.

8 (2) As the commission may require, each wireless carrier
9 shall report to the commission on a quarterly basis for each
10 county in a manner prescribed by the commission the following
11 information: (a) The number of ~~wireless lines, including prepaid~~
12 ~~customers, telephone numbers or functional equivalents~~ served; by
13 ~~county;~~ (b) the number of ~~wireless lines, including active, prepaid~~
14 ~~accounts, telephone numbers or functional equivalents~~ from which
15 it has collected surcharge revenue; by county; (c) the number
16 of wireless towers by county; and (d) the current implementation
17 status of enhanced wireless 911 service in each county served by
18 that wireless carrier.

19 (3) The wireless carrier shall maintain ~~surcharge~~ all
20 records required by this section, records of the amounts collected
21 pursuant to section 86-457, and remittance records for a period of
22 two years after the date of remittance to the fund. The commission
23 may ~~at its own expense~~ require an audit of any wireless carrier's
24 books and records concerning the collection and remittance of ~~the~~
25 ~~surcharge~~ any amounts collected pursuant to the Enhanced Wireless

1 911 Services Act. The costs of any audit required by the commission
2 shall, at the commission's discretion, be paid by the audited
3 wireless carrier.

4 (4) Each wireless carrier shall comply with all
5 commission rules and regulations regarding enhanced wireless 911
6 service.

7 (5) Each wireless carrier shall comply with this section
8 regardless of whether the wireless carrier receives reimbursement
9 from the fund. Wireless carriers failing to comply with this
10 section may be administratively fined by the commission pursuant to
11 section 75-156.

12 Sec. 15. Section 86-461, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 86-461 (1) The Enhanced Wireless 911 Advisory Board is
15 created to advise the commission concerning the implementation,
16 development, administration, coordination, evaluation, and
17 maintenance of enhanced wireless 911 service. The advisory board
18 shall be composed of ~~ten~~ nine individuals appointed by the
19 Governor, including:

20 (a) One sheriff;

21 (b) Two county officials or employees;

22 (c) Two municipal officials or employees;

23 (d) ~~Two representatives~~ One representative from the
24 state's wireless telecommunications industry;

25 (e) One manager of a public safety answering point not

1 employed by a sheriff;

2 (f) One representative of the state's local exchange
3 telecommunications service industry; and

4 ~~(g) One commissioner from the Public Service Commission~~
5 ~~or his or her designee who shall serve as an ex officio member; and~~

6 (g) One member of the public.

7 (2) The advisory board shall also include two ex officio
8 members:

9 (a) One commissioner from the Public Service Commission
10 or his or her designee; and

11 ~~(h) (b) The Chief Information Officer or his or her~~
12 ~~designee, who shall serve as an ex officio member.~~

13 ~~(2) (3) Members of the board as described in subdivisions~~
14 ~~(1) (a) through (1) (f) (1) (g) of this section shall be appointed for~~
15 ~~a term of three years. Each succeeding member of the board shall be~~
16 ~~appointed for a term of three years. The board shall meet as often~~
17 ~~as necessary to carry out its duties. Members of the board shall be~~
18 ~~reimbursed for their actual and necessary expenses as provided in~~
19 ~~sections 81-1174 to 81-1177.~~

20 Sec. 16. Original sections 86-313, 86-420, 86-422,
21 86-433, 86-434, 86-435, 86-436, 86-442, 86-443, 86-457, 86-459, and
22 86-461, Revised Statutes Cumulative Supplement, 2006, are repealed.

23 Sec. 17. The following sections are outright repealed:
24 Sections 86-427, 86-443.01, and 86-450.01, Revised Statutes
25 Cumulative Supplement, 2006.