

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 598
Committee Substitute Favorable 5/2/13

Short Title: TRS Surcharge Modernization.

(Public)

Sponsors:

Referred to:

April 9, 2013

1 A BILL TO BE ENTITLED
2 AN ACT PROVIDING THAT INTERCONNECTED VOIP SERVICE PROVIDERS SHALL
3 REMIT THE TELECOMMUNICATIONS RELAY SERVICE SURCHARGE TO THE
4 STATE TREASURER, ALLOWING LOCAL EXCHANGE, CMRS, AND VOIP
5 PROVIDERS TO CHOOSE WHETHER TO INCLUDE THE SURCHARGE ON
6 CUSTOMERS' BILLS, DIRECTING ALL PROVIDERS TO REMIT THE FEE TO THE
7 STATE TREASURER, ALLOWING ALL PROVIDERS TO DEDUCT A ONE
8 PERCENT ADMINISTRATIVE FEE FROM THE TOTAL AMOUNT OF SURCHARGE
9 REVENUE, AND CLARIFYING THE SALES TAX TREATMENT OF CERTAIN
10 CHARGES RELATED TO TELECOMMUNICATIONS RELAY SERVICE.

11 The General Assembly of North Carolina enacts:

12 **SECTION 1.** G.S. 62-157 reads as rewritten:

13 **"§ 62-157. Telecommunications relay service.**

14 (a) Finding. – The General Assembly finds and declares that it is in the public interest
15 to provide access to public telecommunications services for hearing impaired or speech
16 impaired persons, including those who also have vision impairment, and that a statewide
17 telecommunications relay service for telephone service should be established.

18 (a1) Definitions. – For purposes of this section:

19 (1) "CMRS" is as defined in G.S. 62A-40.

20 (2) "CMRS connection" is as defined in G.S. 62A-40.

21 (3) "CMRS provider" is as defined in G.S. 62A-40.

22 (4) "Exchange access facility" means the access from a particular telephone
23 subscriber's premises to the telephone system of a local exchange telephone
24 company, and includes local exchange company-provided access lines,
25 private branch exchange trunks, and centrex network access registers, all as
26 defined by tariffs of telephone companies as approved by the Commission.

27 (4a) "Interconnected VoIP service" is as defined in 47 C.F.R. § 9.3.

28 (5) "Local service provider" means a local exchange company, competing local
29 provider, or telephone membership corporation.

30 (6) "Prepaid wireless telecommunications service" is as defined in G.S. 62A-40.

31 (7) "Voice communications service connection" is as defined in G.S. 62A-40.

32 (8) "VoIP provider" is an entity that provides interconnected VoIP service.

33 (a2) Surcharge Remitted by Providers. – A monthly telecommunications relay service
34 surcharge is imposed on each active voice communication service connection provided by local
35 service providers, VoIP providers, and CMRS providers other than prepaid wireless
36 telecommunications service providers. The purpose of the surcharge is to fund a statewide



1 telecommunications relay service by which hearing impaired or speech impaired persons,
2 including those who also have vision impairment, may communicate with others by voice
3 communication. The amount of the surcharge is the amount set by the Commission in
4 subsection (c) of this section. The providers shall remit to the State Treasurer the monthly
5 surcharge imposed by this section. The surcharge is payable by the subscriber to voice
6 communications service provider. The providers may assess the surcharge as a separately stated
7 charge as provided in subsection (c) of this section. The surcharge is not includable in the gross
8 receipts subject to sales tax under G.S. 105-164.4C.

9 (b) ~~Authority to Require~~ Local Exchange Surcharge. – The Commission shall require
10 local service providers to ~~impose~~ remit a monthly surcharge on all residential and business
11 local exchange access facilities to fund a statewide telecommunications relay service by which
12 hearing impaired or speech impaired persons, including those who also have vision impairment,
13 may communicate with others by ~~telephone~~ telephone to the State Treasurer. This surcharge,
14 however, may not be imposed on participants in the Subscriber Line Charge Waiver Program
15 or the Link-up Carolina Program established by the Commission. ~~This surcharge and long~~
16 ~~distance revenues collected under subsection (f) of this section, are not includable in gross~~
17 ~~receipts subject to the franchise tax levied under G.S. 105-120 or the sales tax levied under~~
18 ~~G.S. 105-164.4.~~

19 (c) Specification of Surcharge. – The Department of Health and Human Services shall
20 initiate a telecommunications relay service by filing a petition with the Commission requesting
21 the service and detailing initial projected required funding. The Commission shall, after giving
22 notice and an opportunity to be heard to other interested parties, set the initial monthly
23 surcharge based upon the amount of funding necessary to implement and operate the service,
24 including a reasonable margin for a reserve. ~~The~~ If the surcharge is assessed separately on
25 customer bills, the surcharge shall be identified on customer bills as a special surcharge for
26 provision of a telecommunications relay service for hearing impaired and speech impaired
27 persons. The Commission may, upon petition of any interested party, and after giving notice
28 and an opportunity to be heard to other interested parties, revise the surcharge from time to
29 time if the funding requirements change. In no event shall the surcharge exceed twenty-five
30 cents (25¢) per month for each exchange access facility.

31 (d) Funds to Be Deposited in Special Account. – The local service providers shall
32 ~~collect~~ remit the surcharge ~~from their customers~~ and deposit the moneys collected with the
33 State Treasurer, who shall maintain the funds in an interest-bearing, nonreverting account. A
34 local service provider may deduct a one percent (1%) administrative fee from the total amount
35 of surcharge revenue remitted to the State Treasurer. After consulting with the State Treasurer,
36 the Commission shall direct how and when the local service providers shall deposit these
37 moneys. Revenues from this fund shall be available only to the Department of Health and
38 Human Services to administer the statewide telecommunications relay service program,
39 including its establishment, operation, and promotion. The Commission may allow the
40 Department of Health and Human Services to use up to four cents (4¢) per access line per
41 month of the surcharge for the purpose of providing telecommunications devices for hearing
42 impaired or speech impaired persons, including those who also have vision impairment,
43 through a distribution program. The Commission shall prepare such guidelines for the
44 distribution program as it deems appropriate and in the public interest. Both the Commission
45 and the Public Staff may audit all aspects of the telecommunications relay service program,
46 including the distribution programs, as they do with any public utility subject to the provisions
47 of this Chapter. Equipment paid for with surcharge revenues, as allowed by the Commission,
48 may be distributed only by the Department of Health and Human Services.

49 ...

50 (f) Charge to Users. – The users of the telecommunications relay service shall be
51 charged their approved long distance and local rates for telephone services (including the

1 surcharge required by this section), but no additional charges may be imposed for the use of the
2 relay service. The local service providers shall collect revenues from the users of the relay
3 service for long distance services provided through the relay service. These revenues shall be
4 deposited in the special fund established in subsection (d) of this section in a manner
5 determined by the Commission after consulting with the State Treasurer. Local service
6 providers shall be compensated for collection, inquiry, and other administrative services
7 provided by said companies, subject to the approval of the Commission. The long distance
8 revenues collected under this subsection are not includable in gross receipts subject to the sales
9 tax levied under G.S. 105-164.4C.

10 (g) Reporting Requirement. – The Commission shall, after consulting with the
11 Department of Health and Human Services, develop a format and filing schedule for a
12 comprehensive financial and operational report on the telecommunications relay service
13 program. The Department of Health and Human Services shall thereafter prepare and file these
14 reports as required by the Commission with the Commission and the Public Staff. The
15 Department shall also be required to report to the Revenue Laws Study Committee.

16 (h) Power to Regulate. – The Commission shall have the same power to regulate the
17 operation of the telecommunications relay service program as it has to regulate any public
18 utility subject to the provisions of this Chapter.

19 (i) Wireless Surcharge. – ~~A CMRS provider, as part of its monthly billing~~
20 ~~process, provider, other than a prepaid wireless communications service provider, must remit~~
21 ~~the telecommunications relay service surcharge imposed under subsection (a2) of this section~~
22 ~~for each voice communications service connection. must collect the same surcharge imposed~~
23 ~~on each exchange access facility under this section for each CMRS connection. A CMRS~~
24 ~~provider may deduct a one percent (1%) administrative fee from the total amount of the~~
25 ~~surcharge collected. A CMRS provider shall remit the surcharge collected, less the~~
26 ~~administrative fee, to the 911 Board State Treasurer in the same manner and with the same~~
27 ~~frequency as the local service providers remit the surcharge to the State Treasurer. The 911~~
28 ~~Board shall remit the funds collected from the surcharge to State Treasurer shall deposit the~~
29 ~~funds remitted by CMRS providers in the special account created under subsection (d) of this~~
30 ~~section.~~

31 (j) VoIP Surcharge. – A VoIP provider must remit the telecommunications relay
32 service surcharge imposed under subsection (a2) of this section for each voice communications
33 service connection. A VoIP provider may deduct a one percent (1%) administrative fee from
34 the total amount of the surcharge collected. A VoIP provider shall remit the surcharge
35 collected, less the administrative fee, to the State Treasurer in the same manner and with the
36 same frequency as the local service providers remit to the State Treasurer. The State Treasurer
37 shall deposit the funds remitted by VoIP providers in the special account created under
38 subsection (d) of this section."

39 **SECTION 2.** G.S. 105-164.13(54) is amended by adding new sub-subdivisions to
40 read:

41 "f. The telecommunications relay service surcharge collected from users
42 of telecommunications relay service under G.S. 62-157. If the
43 surcharge is not assessed separately on customer bills, the seller must
44 maintain records of the surcharge collected in a form that may be
45 accurately and conveniently checked by the Secretary or his duly
46 authorized agent.

47 g. The long distance revenues collected from users of
48 telecommunications relay service under G.S. 62-157(f).

49 **SECTION 3.** This act becomes effective January 1, 2014, and applies to all
50 telecommunications service relay surcharges collected on or after that date.