

Senate Bill 146

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Extends scope of Residential Service Protection Fund surcharge to include fixed interconnected voice over Internet protocol service and prepaid telecommunications service.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the Residential Service Protection Fund; creating new provisions; amending section 7,
3 chapter 290, Oregon Laws 1987; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** Section 7, chapter 290, Oregon Laws 1987, as amended by section 2, chapter 622,
6 Oregon Laws 1991, section 8, chapter 872, Oregon Laws 1991, section 1, chapter 231, Oregon Laws
7 1993, section 387, chapter 79, Oregon Laws 1995, section 1, chapter 451, Oregon Laws 1995, and
8 section 2, chapter 408, Oregon Laws 2001, is amended to read:

9 **Sec. 7. (1) For purposes of this section:**

10 (a) **“Customer” means a person that has telecommunications service with access to the**
11 **telecommunications relay service through local exchange service, cellular service or other**
12 **wired or wireless means, including fixed interconnected voice over Internet protocol service.**

13 (b) **“Fixed interconnected voice over Internet protocol service” means any Internet pro-**
14 **tol enabled service that offers real-time two-way voice communications requiring a**
15 **broadband connection from the user’s location and permits users generally to receive calls**
16 **that originate on the public switched telephone network and to terminate calls to the public**
17 **switched telephone network.**

18 (c) **“Prepaid telecommunications service” means any telecommunications service paid for**
19 **by the customer prior to activation or use of the service.**

20 (d) **“Prepaid telecommunications service provider” means any telecommunications ser-**
21 **vice provider that sells prepaid telecommunications service on a wholesale or retail basis.**

22 [(1)] (2)(a) In order to fund the programs provided in sections 2 to 6 and 9 to 14, chapter 290,
23 Oregon Laws 1987, the Public Utility Commission shall develop and implement a system for assess-
24 ing a surcharge in an amount not to exceed 35 cents per month against each paying retail [sub-
25 scriber] **customer** [who has telecommunications service with access to the telecommunications relay
26 service]. The surcharge shall be applied on a telecommunications circuit designated for a particular
27 [subscriber] **customer**. One [subscriber] **customer** line shall be counted for each circuit that is ca-
28 pable of generating usage on the line side of the **public** switched **telephone** network regardless of
29 the quantity of customer premises equipment connected to each circuit. For providers of central
30 office based services, the surcharge shall be applied to each line that has unrestricted connection

NOTE: Matter in **boldfaced** type in an amended section is new; matter [italic and bracketed] is existing law to be omitted.
New sections are in **boldfaced** type.

1 to the telecommunications relay service. These central office based service lines that have restricted
 2 access to the telecommunications relay service shall be charged based on software design. **Except**
 3 **for prepaid telecommunications service, the surcharge shall be assessed on each customer**
 4 **connection for cellular, wireless, fixed interconnected voice over Internet protocol or other**
 5 **radio common carriers.** *[For cellular, wireless or other radio common carriers, the surcharge shall*
 6 *be applied on a per instrument basis, but]* **The surcharge** applies only to *[subscribers]* **customers**
 7 whose place of primary use, as defined and determined under 4 U.S.C. 116 to 126, is within this state.

8 **(b) The surcharge must be assessed on each customer connection provided and billed by**
 9 **each telecommunications service provider and on any prepaid telecommunications service**
 10 **offered by each prepaid telecommunications service provider.**

11 **(c) Each customer is liable to the telecommunications service provider for payment of**
 12 **any surcharge properly imposed under this section. The telecommunications service provider**
 13 **is not liable for any uncollected surcharge, and does not have an obligation to take legal**
 14 **action to enforce the collection of any surcharge that is unpaid by its customers.**

15 **(d) Each telecommunications service provider that periodically bills customers for its**
 16 **services must bill each customer for the surcharge.**

17 **(e) For customers that are not billed periodically, including but not limited to customers**
 18 **that purchase prepaid telecommunications service, the telecommunications service provider**
 19 **must include in the price of the service the surcharge for each month during which the**
 20 **customer is authorized to use the service. A prepaid telecommunications service provider**
 21 **must remit to the Residential Protection Service Fund an amount equal to the surcharge**
 22 **after collecting the amount using one of the following options:**

23 **(A) On a monthly basis, the prepaid telecommunications service provider must collect**
 24 **an amount equal to the surcharge from each active prepaid telecommunications service**
 25 **customer whose account balance is equal to or greater than the surcharge; or**

26 **(B) The prepaid telecommunications service provider must divide the provider's total**
 27 **intrastate monthly revenue by the national average monthly revenue for each prepaid tele-**
 28 **communications service customer of the national prepaid telecommunications service in-**
 29 **dustry to determine the number of the provider's prepaid customers. The prepaid**
 30 **telecommunications service provider must then pay on a monthly basis an amount to the**
 31 **Residential Service Protection Fund equal to the number of the provider's prepaid custom-**
 32 **ers, multiplied by the amount of the surcharge.**

33 **(f) The commission may adopt by rule the method for calculating the national average**
 34 **monthly revenue for each prepaid telecommunications service customer of the national pre-**
 35 **paid telecommunications service industry.**

36 **(g) If a customer receives prepaid wireless telecommunication services at no cost to the**
 37 **customer, the provider of the services must remit an amount equal to the surcharge for each**
 38 **month during which the customer is authorized to use the service.**

39 *[(2)]* **(3) The surcharge imposed by subsection *[(1)]* (2) of this section does not apply to:**

40 **(a) Services upon which the state is prohibited from imposing the surcharge by the Constitution**
 41 **or laws of the United States or the Constitution or laws of the State of Oregon.**

42 **(b) Interconnection between telecommunications utilities, telecommunications cooperatives,**
 43 **competitive telecommunications services providers certified pursuant to ORS 759.020, radio common**
 44 **carriers and interexchange carriers.**

45 *[(3)]* **(4) The commission annually shall review the surcharge and the balance in the Residential**

1 Service Protection Fund and may make adjustments to the amount of the surcharge to ensure that
2 the fund has adequate resources but that the fund balance does not exceed six months of projected
3 expenses.

4 [(4)] (5) Moneys collected pursuant to the surcharge [*shall*] **may** not be considered in any pro-
5 ceeding to establish rates for telecommunication service.

6 [(5)] (6) The commission shall direct telecommunications public utilities to identify separately
7 in bills to customers for service the surcharge imposed pursuant to this section.

8 **SECTION 2. The amendments to section 7, chapter 290, Oregon Laws 1987, by section 1**
9 **of this 2011 Act become operative January 1, 2012.**

10 **SECTION 3. This 2011 Act being necessary for the immediate preservation of the public**
11 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
12 **on its passage.**

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