

House Research Act Summary

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Analyst: Jeanne Cochran, 651-296-8961

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Overview

This act includes two separate legislative changes relating to regulation of telephone service. First, the act removes most state regulation of pay telephones. Second, it authorizes the Public Utilities Commission to impose administrative penalties against providers of local telephone service and issue temporary, emergency relief when necessary. It also increases the maximum court imposed penalty for certain types of violations.

- 1 Pay telephones.** Provides that authorization from the Public Utilities Commission (PUC) is not required to site a public pay telephone in the state. However, registration is required to own and operate a pay phone. Commission approval is not required for changes in service, rates, location, or ownership of a public pay telephone. Local units of government and other state government entities retain their existing exercised authority over pay telephones. Owners of pay telephones are required to provide free 911 access and free access to telecommunications relay service. Owners of pay telephones also must post customer service, complaint information and a toll free number for obtaining pricing information.
- 2 Administrative penalties.**
 - Subd. 1.** Authorizes the public utilities commission to issue a monetary administrative penalty following an investigation of a telephone company under section 237.081. A penalty can be imposed for a violation of:
 - section 237.09, 237.121, or 237.16 which regulate discriminatory practices, prohibited practices, and local exchange competition, respectively, or any rule adopted under those sections;
 - any standards or limits established in a commission order pursuant to those same sections;
 - any approved interconnection agreement; or

any duty or obligation under Section 251 of the federal Telecommunications Act of 1996 relating to interconnection, unbundling, resale, and other telephone service requirements.

Subd. 2. Provides criteria for determining the appropriate penalty subject to a minimum of \$100 and a maximum of \$10,000 a day for each violation. A penalty can only be imposed for a knowing and intentional violation.

Subd. 3. Requires proof by a preponderance of the evidence in order to impose a penalty.

Subd. 4. Specifies the contents of an order imposing an administrative penalty.

Subd. 5. Provides for a delay in the payment of a penalty to accommodate a possible appeal.

Subd. 6. Provides for an expedited proceeding to develop an evidentiary record that may be used if the commission finds it is in the public interest. The bill includes timelines for completion of various stages of the expedited proceeding. The commission is authorized to extend the timelines if the parties agree or if justices requires.

Subd. 7. Authorizes the commission to issue a temporary, emergency order requiring the party alleged to be in violation to act or refrain from acting as the commission determines is necessary to avoid, prevent, or mitigate the complained of harm to local telephone service until a final decision by the commission on the complaint. The commission can only issue such an order if it finds:

- (1) there is a need;
- (2) the complaining party is likely to prevail; and
- (3) the requested relief is technically feasible.

The commission must provide notice and an opportunity for comment before issuing such an order, and must hold an evidentiary hearing within 30 days after issuing such an order if there are material issues of fact and the commission issued the order without an evidentiary hearing. A party may seek review, rehearing, or reconsideration of a temporary, emergency relief order.

Subd. 8. Authorizes the attorney general to collect penalties using any procedure available under law.

Subd. 9. Provides that the administrative penalty is in addition to other remedies that may be available. However, the attorney general may not seek additional civil penalties under section 237.461 in cases when an administrative penalty has been imposed by the commission.

Subd. 10. Provides that penalty proceeds must be deposited in the general fund.

Subd. 11. Provides that a party filing a complaint is not prohibited from bringing a private lawsuit if a penalty is imposed under this section.

Subd. 12. Limits the scope of section 2 so it applies only to telecommunications providers, telephone companies, or telecommunications carriers that offer local telephone service in the service territory of a telephone company with 50,000 or more subscribers, regardless of where the violation occurs.

3 Technical change.

4 **Civil penalties for local competition violations.** Provides that a court may impose a penalty of up to \$55,000 per day per violation if it finds that a person has knowingly and intentionally violated certain requirements designed to encourage local competition.

5 Technical change.

6 **Expiration of certain laws.** Deletes the sunset provision for certain competitive service laws which the public utilities commission has determined are still necessary.

7 **Sunset.** Provides that the commission's administrative penalty authority in section 2 and the civil

court penalty authority in section 4, as well as some of the laws retained in section 6 sunset on December 31, 2004.

- 8** **Effective date.** Provides for an immediate effective date and provides that the bill does not apply to dockets pending as of the effective date.