

SB700

FILED

2004 APR -7 P 5:17

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Regular Session, 2004



ENROLLED

Committee Substitute for

SENATE BILL NO. 700

(By Senator Love, et al)



PASSED March 13, 2004

In Effect ^{90 Days} From Passage

FILED

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 700

(SENATORS LOVE, DEMPSEY, SHARPE
AND MINEAR, *original sponsors*)

_____ ^{ninety days}
[Passed March 13, 2004; in effect from passage.]

α AEIL

AN ACT to amend the code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-7-4a, relating to payments for telecommunications services; providing legislative findings; creating a special revenue account; requiring certain duties of the information services and communications division; requiring state spending units budget for telecommunications services and submit payment or transfer funds to pay for services; authorizing secretary of department of administration to transfer funds to pay for telecommunications services and certain fees and penalties from funds supporting the administration of a spending unit; providing for payment and determination of contested telecommunications charges; requiring payment of telecommunications services within ninety days of receipt of invoice; providing for discontinuance of telecommunications services; authorizing fees for administration of section; and authorizing legislative and emergency rules.

Be it enacted by the Legislature of West Virginia:

That the code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §5A-7-4a, to read as follows:

ARTICLE 7. INFORMATION SERVICES AND COMMUNICATIONS DIVISION.

§5A-7-4a. Payment of legitimate uncontested invoices for telecommunications services; procedures and powers of the information and communications division and secretary of administration.

1 (a) The Legislature finds that it is in the best interest of
2 the state, its spending units and those vendors supplying
3 telecommunications services to the state and its spending
4 units that any properly registered and qualified vendor
5 supplying telecommunications services to two or more
6 spending units under a shared account is entitled to
7 prompt payment upon presentation of a legitimate uncon-
8 tested invoice for telecommunications services to the
9 division, as provided in the following subsections.

10 (b) To facilitate the administration and payment of
11 telecommunications services, there is hereby created in the
12 state treasury a special revenue account to be known as
13 the "Telecommunication Services Payment and Reserve
14 Fund". All moneys transferred from state spending units
15 pursuant to the requirements of this section shall be
16 deposited in the account. Expenditures from the fund
17 shall be made by the director for the exclusive purposes set
18 forth in this section: *Provided*, That no more than one
19 hundred and fifty thousand dollars or the actual amount
20 collected pursuant to subsection (i) of this section in any
21 fiscal year, whichever is less, may be expended from the
22 fund in any fiscal year to defray the costs of administra-
23 tion of this section.

24 (c) Upon receipt of any telecommunications charges from
25 a properly registered and qualified vendor, the director
26 shall fully apportion telecommunications charges among
27 spending units based on the spending unit's service and

28 usage, as determined by the director. The director shall
29 send each spending unit a statement of the spending unit's
30 proportionate share of any telecommunications charges
31 within thirty days of receipt by the division of the invoice
32 detailing the telecommunications charges. The statement
33 is to provide a date of no more than thirty calendar days
34 from the date the division sends the statement by which
35 the spending unit shall submit payment or transfer to the
36 telecommunications services payment and reserve fund all
37 funds necessary to pay for the spending unit's charges in
38 full: *Provided*, That the statement sent in last month of
39 the fiscal year shall provide that the transfer shall be made
40 by the thirty-first day of July. If feasible for the spending
41 unit, the preferable method of payment is by intergovern-
42 mental transfer.

43 (d) All spending units shall budget for telecommunica-
44 tions service expenses. Prior to the date provided in each
45 statement sent to a spending unit pursuant to subsection
46 (c) of this section, each spending unit shall pay or transfer
47 the statement amount to the telecommunication services
48 payment and reserve fund.

49 (e) If a spending unit fails to pay or transfer funds by the
50 date specified in the statement sent pursuant to subsection
51 (c) of this section, the secretary of the department of
52 administration shall transfer to the telecommunication
53 services payment and reserve fund the statement amount
54 plus an additional penalty in the amount of three percent
55 of the statement amount from any funds supporting the
56 administration of that spending unit: *Provided*, That the
57 secretary shall complete all such transfers by the thirty-
58 first day of July of each fiscal year. Upon exercising a
59 transfer under the authority of this subsection, the director
60 shall provide a notification to the spending unit, including,
61 but not limited to, the date, time, total amount of the
62 transfer, statement amount and penalty amount. If a
63 participating spending unit does not maintain funds in the
64 state treasury, the secretary may transfer funds by wire

65 from any depository outside the state treasury. A partici-
66 pating spending unit maintaining funds in depositories
67 outside the state treasury shall furnish the secretary access
68 to those funds for the exclusive purposes of this section.

69 (f) If a spending unit contests any portion of its state-
70 ment, it shall nonetheless remit payment for the entire
71 statement amount and notify the division in writing within
72 thirty days of statement receipt by the spending unit. The
73 secretary shall consider any contested apportionments of
74 charges and provide a final determination on the appor-
75 tionment of legitimate charges. Corrections or adjustments
76 to apportionments may be effected on future transfer
77 payments: *Provided*, That legitimate vendor charges are to
78 be fully apportioned. If the basis of the contest is vendor
79 error, overcharge, service failure, failure to terminate
80 services as required by the division, or other failure of or
81 error in vendor performance, the director shall withhold
82 the contested amount from current or future vendor
83 payments, pending resolution by the secretary, and the
84 director shall bring the contested matter to the attention
85 of the vendor. The director and the vendor shall attempt
86 to resolve the matter in good faith. Within ninety days of
87 the receipt of the vendor's invoice or a time period mutu-
88 ally agreed to by the vendor and secretary, the secretary
89 shall make the final decision as to the legitimacy of the
90 contested amount and determine if payment is warranted.
91 If the final decision of the secretary is to refuse to pay any
92 amount, the vendor may proceed in accordance with the
93 provisions of article two, chapter fourteen of this code.

94 (g) The director shall provide for full payment of legiti-
95 mate, uncontested telecommunications charges within
96 ninety days of receipt of an invoice detailing the telecom-
97 munications charges by the division. Payment for the
98 charges shall be made by the director from the telecommu-
99 nications services payment and reserve fund.

100 (h) The director may direct the discontinuance of tele-
101 communications services to any spending unit that fails to

102 comply with the provisions of this section and the vendor
103 supplying telecommunication services shall comply with
104 the written direction of the director on discontinuance of
105 services.

106 (i) To help defray the additional cost of administering
107 this section, the director may assess a proportional fee of
108 up to one hundred fifty thousand dollars in aggregate per
109 fiscal year to the participating spending units based on
110 each spending unit's portion of service and usage. This fee
111 is to be included in the statement sent to spending units
112 pursuant to subsection (c) of this section and transferred
113 to the telecommunication service payment and reserve
114 fund by the date specified in the statement for the transfer
115 of payment.

116 (j) Notwithstanding any other provision of this code to
117 the contrary, for purposes of this section, an invoice is
118 considered received by the division on the date on which
119 the invoice is marked as received by the division, or three
120 business days after the date of the postmark made by the
121 United States postal service as evidenced on the envelope
122 in which the invoice is mailed, whichever is earlier:
123 *Provided*, That if an invoice is received by the division
124 prior to the date on which the telecommunications services
125 covered by the invoice are delivered or fully performed, for
126 purposes of determining the ninety-day time period for
127 payment in subsection (g) of this section, the invoice is
128 considered received on the date on which the telecommu-
129 nications services covered by the invoice were delivered or
130 fully performed.

131 (k) For purposes of this section, "telecommunications
132 service" means and includes not only telephone service
133 regulated under chapter twenty-four of this code or under
134 federal law, but also may include, at the discretion of the
135 secretary of administration, wireless service, voice over
136 internet protocol service, internet service and any other
137 service or equipment used for the electronic transmission
138 of voice or data.

139 (l) The director may propose rules for legislative ap-
140 proval in accordance with the provisions of article three,
141 chapter twenty-nine-a of this code to effectuate the
142 purposes of this section. The initial rule filed by the
143 division pursuant to this subsection shall be filed as an
144 emergency rule.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ^{ninety days or less} from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this the *7th*
Day of *April*, 2004.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR/

DATE 3/22/04

TIME 4:16pm