

SENATE BILL NO. 387—SENATOR D. HARRIS

MARCH 26, 2021

Referred to Committee on Growth and Infrastructure

SUMMARY—Provides for the regulation of certain suppliers that provide an inmate calling service. (BDR 58-1015)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to telecommunication service; providing for the regulation of certain suppliers that provide an inmate calling service by the Public Utilities Commission of Nevada; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires the Public Utilities Commission of Nevada to regulate
2 certain utilities. (Chapter 704 of NRS) Under existing law, all telecommunication
3 providers, with the exception of certain small-scale providers of last resort, are
4 classified as competitive suppliers and subject to reduced regulation by the
5 Commission. (NRS 704.68861-704.68887) Existing federal regulations adopted by
6 the Federal Communications Commission establish rate caps and certain other
7 limitations on charges that may be imposed by a provider of an inmate calling
8 service for interstate or international calls. (47 C.F.R. §§ 64.6000 et seq.)

9 **Section 3** of this bill defines “inmate calling service” to mean a calling service
10 that allows a person confined in a correctional facility to make intrastate calls to
11 persons outside the correctional facility in which the person is being confined.

12 **Section 2** of this bill defines “correctional facility” to include a public or private
13 correctional facility.

14 **Section 5** of this bill requires the Commission to adopt by regulation
15 procedures to: (1) establish rate caps and certain limitations on charges for an
16 inmate calling service; and (2) approve a schedule or tariff that exceeds such a rate
17 cap or fails to comply with a limitation prescribed by the Commission. **Section 5**
18 also requires the Commission to review annually, and, if necessary, revise such a
19 rate cap or limitation established or imposed by the Commission.

20 **Section 4** of this bill requires a competitive supplier to file with the
21 Commission, and obtain approval for, a schedule or tariff that specifies the rates,
22 terms and conditions applicable to an inmate calling service before providing the
23 service. **Section 4** requires the Commission to approve any schedule or tariff that
24 specifies rates, terms and conditions that do not exceed a rate cap prescribed by the



25 Commission and that comply with any limitation prescribed by the Commission.
26 **Section 4** authorizes the Commission to approve a schedule or tariff that exceeds a
27 rate cap or fails to comply with a limitation prescribed by the Commission pursuant
28 to the procedure adopted pursuant to **section 5**. **Section 4** also requires a
29 competitive supplier to submit a revised schedule or tariff if the Commission
30 revises a rate cap or limitation and the schedule or tariff on file with the
31 Commission exceeds the revised rate cap or fails to comply with the revised
32 limitation. **Section 12** of this bill authorizes a competitive supplier who provides an
33 inmate calling service before October 1, 2021, to continue to provide such service if
34 the competitive supplier files with the Commission the tariff or schedule required
35 by **section 4** by a certain date. **Sections 10 and 11** of this bill make conforming
36 changes to remove certain exemptions from regulation by the Commission for
37 competitive suppliers that provide an inmate calling service. **Section 11** of this bill
38 requires a competitive supplier that provides an inmate calling service to publish the
39 rates, terms and conditions of the inmate calling service. **Sections 6-9** of this
40 bill make conforming changes to indicate the proper placement of **sections 2-5** in
41 the Nevada Revised Statutes.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 704 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 5, inclusive, of this
3 act.

4 **Sec. 2.** *“Correctional facility” means a local detention*
5 *facility, county, city or town jail, state prison, reformatory or other*
6 *correctional facility, including, without limitation, a facility where*
7 *a prisoner is housed by a private entity with which the Department*
8 *of Corrections has contracted to perform core correctional*
9 *services pursuant to NRS 208.175.*

10 **Sec. 3.** *“Inmate calling service” means a calling service that*
11 *allows a person confined in a correctional facility to make*
12 *intrastate calls to persons outside the correctional facility in which*
13 *the person is being confined, regardless of the technology used to*
14 *deliver the service.*

15 **Sec. 4. 1.** *Before providing an inmate calling service, a*
16 *competitive supplier must file with the Commission, for its*
17 *approval, a schedule or tariff that specifies the rates, terms, and*
18 *conditions applicable to the inmate calling service to be provided.*

19 **2. The Commission:**

20 *(a) Shall approve any schedule or tariff that specifies rates,*
21 *terms and conditions that:*

22 *(1) Do not exceed a rate cap prescribed by the Commission;*
23 *and*

24 *(2) Comply with any limitation prescribed by the*
25 *Commission.*



1 (b) *May approve a schedule or tariff that specifies rates, terms*
2 *and conditions that exceed a rate cap or fail to comply with a*
3 *limitation prescribed by the Commission pursuant to the*
4 *procedure for approval prescribed by regulations adopted by the*
5 *Commission pursuant to section 5 of this act.*

6 3. *A competitive supplier that files with the Commission a*
7 *schedule or tariff that exceeds a rate cap or fails to comply with a*
8 *limitation prescribed by the Commission shall submit with the*
9 *schedule or tariff:*

10 (a) *A statement that demonstrates that the rate cap or*
11 *limitation is not a just or reasonable rate or limitation for the*
12 *competitive supplier; and*

13 (b) *Proof that the competitive supplier participated in a public*
14 *hearing conducted by the Commission for the purposes of*
15 *establishing the rate cap or limitation.*

16 4. *A competitive supplier shall submit a revised schedule or*
17 *tariff within 30 days after the date on which the Commission*
18 *revises a rate cap or limitation if the schedule or tariff on file with*
19 *the Commission for the competitive supplier exceeds the revised*
20 *rate cap or fails to comply with the revised limitation.*

21 **Sec. 5. 1. The Commission shall adopt regulations**
22 **governing the provision of an inmate calling service, which must**
23 **prescribe a procedure for:**

24 (a) *Establishing rate caps for inmate calling services in an*
25 *amount that does not exceed any rate caps prescribed by the*
26 *Federal Communications Commission for providers of interstate*
27 *or international inmate calling services;*

28 (b) *Defining and limiting ancillary service charges that*
29 *providers may charge users of inmate calling services in a manner*
30 *consistent with any limitations on such charges prescribed by the*
31 *Federal Communications Commission for providers of interstate*
32 *or international inmate calling services;*

33 (c) *Limiting the taxes or fees that providers may charge users*
34 *of inmate calling services in a manner consistent with any*
35 *limitations on the collection of any taxes or fees prescribed by the*
36 *Federal Communications Commission for providers of interstate*
37 *or international inmate calling services; and*

38 (d) *Approving a schedule or tariff that exceeds a rate cap or*
39 *fails to comply with a limitation established by the Commission in*
40 *accordance with this subsection.*

41 2. *The Commission shall annually review and, if necessary,*
42 *revise a rate cap or limitation established by the Commission*
43 *pursuant to the procedure required by regulations adopted*
44 *pursuant to subsection 1.*



1 **3.** *As used in this section, “ancillary service charge” means a*
2 *charge relating to the use of inmate calling services that is not*
3 *included in the per-minute charge assessed for a call.*

4 **Sec. 6.** NRS 704.005 is hereby amended to read as follows:

5 704.005 As used in this chapter, unless the context otherwise
6 requires, the words and terms defined in NRS 704.006 to 704.028,
7 inclusive, *and sections 2 and 3 of this act* have the meanings
8 ascribed to them in those sections.

9 **Sec. 7.** NRS 704.390 is hereby amended to read as follows:

10 704.390 1. Except as otherwise provided in NRS 704.68861
11 to 704.68887, inclusive, *and sections 4 and 5 of this act*, it is
12 unlawful for any public utility to discontinue, modify or restrict
13 service to any city, town, municipality, community or territory
14 theretofore serviced by it, except upon 30 days’ notice filed with the
15 Commission, specifying in detail the character and nature of the
16 discontinuance or restriction of the service intended, and upon order
17 of the Commission, made after hearing, permitting such
18 discontinuance, modification or restriction of service.

19 2. Except as otherwise provided in subsection 3, the
20 Commission, in its discretion and after investigation, may dispense
21 with the hearing on the application for discontinuance, modification
22 or restriction of service if, upon the expiration of the time fixed in
23 the notice thereof, no protest against the granting of the application
24 has been filed by or on behalf of any interested person.

25 3. The Commission shall not dispense with the hearing on the
26 application of an electric utility.

27 **Sec. 8.** NRS 704.68861 is hereby amended to read as follows:

28 704.68861 1. Except as otherwise provided in this section,
29 any telecommunication provider operating within this State is a
30 competitive supplier that is subject to the provisions of NRS
31 704.68861 to 704.68887, inclusive **[H]**, *and sections 4 and 5 of this*
32 *act.*

33 2. A small-scale provider of last resort is not a competitive
34 supplier that is subject to the provisions of NRS 704.68861 to
35 704.68887, inclusive, *and sections 4 and 5 of this act*, unless the
36 small-scale provider of last resort is authorized by the Commission
37 pursuant to NRS 704.68869 to be regulated as a competitive
38 supplier.

39 **Sec. 9.** NRS 704.68863 is hereby amended to read as follows:

40 704.68863 The provisions of NRS 704.68861 to 704.68887,
41 inclusive, *and sections 4 and 5 of this act* do not:

42 1. Apply to the Commission in connection with any actions or
43 decisions required or permitted by the Telecommunications Act of
44 1996, Public Law 104-104, 110 Stat. 56-161; or

45 2. Limit or modify:



1 (a) The duties of a competitive supplier that is an incumbent
2 local exchange carrier regarding the provision of network
3 interconnection, unbundled network elements and resold services
4 under the provisions of the Telecommunications Act of 1996, Public
5 Law 104-104, 110 Stat. 56-161; or

6 (b) The authority of the Commission to act pursuant to NRS
7 704.6881 and 704.6882.

8 **Sec. 10.** NRS 704.68871 is hereby amended to read as
9 follows:

10 704.68871 1. ~~[A]~~ *Except as otherwise provided by section 4*
11 *of this act, a* competitive supplier is not subject to any review of
12 earnings or monitoring of the rate base or any other regulation by
13 the Commission relating to the net income or rate of return of the
14 competitive supplier, and the Commission shall not consider the rate
15 of return, the rate base or any other earnings of the competitive
16 supplier in carrying out the provisions of NRS 704.68861 to
17 704.68887, inclusive ~~[]~~, *and sections 4 and 5 of this act.*

18 2. On or before May 15 of each year, a competitive supplier
19 shall file with the Commission an annual statement of income, a
20 balance sheet, a statement of cash flows for the total operations of
21 the competitive supplier and a statement of intrastate service
22 revenues, each prepared in accordance with generally accepted
23 accounting principles.

24 3. ~~[A]~~ *Except as otherwise provided by section 4 of this act, a*
25 competitive supplier is not required to submit any other form of
26 financial report or comply with any other accounting requirements,
27 including, without limitation, requirements relating to depreciation
28 and affiliate transactions, imposed upon a public utility by this
29 chapter, chapter 703 of NRS or the regulations of the Commission.

30 **Sec. 11.** NRS 704.68875 is hereby amended to read as
31 follows:

32 704.68875 1. ~~[A]~~ *Except as otherwise provided by section 4*
33 *of this act, a* competitive supplier is not required to maintain or file
34 any schedule or tariff with the Commission.

35 2. For any area in which a competitive supplier is a provider of
36 last resort, the competitive supplier:

37 (a) Shall publish the rates, pricing, terms and conditions of basic
38 network service by:

39 (1) Posting such rates, pricing, terms and conditions
40 electronically on a publicly available Internet website maintained by
41 the competitive supplier;

42 (2) Maintaining for inspection by the public a copy of such
43 rates, pricing, terms and conditions at the principal office in Nevada
44 of the competitive supplier; or



1 (3) Delivering to the customer a copy of the rates, pricing,
2 terms and conditions in writing with the first invoice, billing
3 statement or other written summary of charges for the
4 telecommunication service provided by the competitive supplier to
5 the customer; and

6 (b) May publish the rates, pricing, terms and conditions of other
7 telecommunication service by:

8 (1) Posting such rates, pricing, terms and conditions
9 electronically on a publicly available Internet website maintained by
10 the competitive supplier;

11 (2) Maintaining for inspection by the public a copy of such
12 rates, pricing, terms and conditions at the principal office in Nevada
13 of the competitive supplier; or

14 (3) Delivering to the customer a copy of the rates, pricing,
15 terms and conditions in writing with the first invoice, billing
16 statement or other written summary of charges for the
17 telecommunication service provided by the competitive supplier to
18 the customer.

19 **3. A competitive supplier that provides an inmate calling**
20 **service shall publish the rates, terms and conditions of the inmate**
21 **calling service by:**

22 (a) *Posting such rates, pricing, terms and conditions*
23 *electronically on a publicly available Internet website maintained*
24 *by the competitive supplier;*

25 (b) *Maintaining for inspection by the public a copy of such*
26 *rates, pricing, terms and conditions at the principal office in*
27 *Nevada of the competitive supplier; and*

28 (c) *Delivering to the customer a copy of the rates, pricing,*
29 *terms and conditions in writing with the first invoice, billing*
30 *statement or other written summary of charges for the*
31 *telecommunication service provided by the competitive supplier to*
32 *the customer.*

33 **Sec. 12.** A competitive supplier who, before October 1, 2021,
34 provides an inmate calling service may, on or after October 1, 2021,
35 continue to provide an inmate calling service, if the competitive
36 supplier files with the Commission the tariff or schedule required by
37 section 4 of this act not later than 30 days after the effective date of
38 the regulations adopted by the Commission pursuant to section 5 of
39 this act.

40 **Sec. 13.** Notwithstanding the provisions of NRS 218D.430 and
41 218D.435, a committee, other than the Assembly Standing
42 Committee on Ways and Means and the Senate Standing Committee
43 on Finance, may vote on this act before the expiration of the period
44 prescribed for the return of a fiscal note in NRS 218D.475. This
45 section applies retroactively from and after March 22, 2021.



1 **Sec. 14.** 1. This section becomes effective upon passage and
2 approval.

3 2. Sections 1 to 13, inclusive, of this act become effective:

4 (a) Upon passage and approval for the purpose of adopting any
5 regulations and performing any other preparatory administrative
6 tasks that are necessary to carry out the provisions of this act; and

7 (b) On October 1, 2021, for all other purposes.

⑩



* S B 3 8 7 R 1 *