

1 HB432
2 130386-4
3 By Representative Love
4 RFD: Ways and Means Education
5 First Read: 05-APR-11

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ENROLLED, An Act,

To amend Section 37-1-80.2 of the Code of Alabama, 1975, to replace the use of a private fund as the depository of revenues with a special account in the State Treasury and to allow for the transfer of funds from the Dual Party Relay Fund to the Education Trust Fund.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 37-1-80.2 of the Code of Alabama, 1975, is amended to read as follows:

"§37-1-80.2.

"(a) The Alabama Public Service Commission shall impose a surcharge on each access line of each customer of the local exchange companies operating in Alabama to fund a dual party relay system whereby a deaf or hearing-impaired person may communicate with other such persons or with hearing persons via telephone. The fee may be imposed by order of the Alabama Public Service Commission on the access line.

"(b) The Alabama Public Service Commission shall establish the amount to be imposed based on the amount of funding necessary to implement and maintain such system. However, no additional fees other than the surcharge may be imposed on any user of this deaf and hearing-impaired service.

"(c) The local exchange companies shall collect the surcharge from their customers and transfer the moneys col-

1 lected to ~~a private fund~~ the Alabama Public Service Commission
2 to be deposited into a special fund established by the State
3 Treasurer to be held separate from all other funds and used
4 ~~solely~~ for the administration of this system and other pur-
5 poses. The fund shall be known as the State Dual Party Relay
6 Fund and shall be administered as provided in subsections (e),
7 (f), and (g). In addition to using funds collected from this
8 surcharge for the administration of this system, the Dual
9 Party Relay Fund Board of Trustees, through the Alabama Public
10 Service Commission, shall transfer from the Dual Party Relay
11 Fund established in Act 88-259 to the State Dual Party Relay
12 Fund established by the State Treasurer the amount of thirty
13 million dollars (\$30,000,000). These funds shall be trans-
14 ferred in the amount of seven million five hundred thousand
15 dollars (\$7,500,000) before each of the following four dates:

16 October 15, 2011

17 January 15, 2012

18 April 15, 2012

19 July 15, 2012

20 After July 15, 2012, thirty million dollars
21 (\$30,000,000) shall be transferred from the State Dual Party

1 Relay Fund established by the State Treasurer to the Education
 2 Trust Fund.

3 All funds collected pursuant to this Code section
 4 are hereby appropriated for the purposes provided for in this
 5 Code section.

6 The surcharge collected by the local exchange
 7 companies from their customers shall not be subject to the
 8 utility gross receipts tax levied under Sections 40-21-80
 9 through 40-21-87 or the utility use tax levied under Sections
 10 40-21-100 through 40-21-107, nor shall such collections be
 11 included in the gross receipts subject to tax under Section
 12 40-21-58 or the supervision and inspection fees under Sections
 13 37-4-23 and 37-4-24.

14 "(d) The Alabama Public Service Commission shall be
 15 charged with implementation of the dual party relay system
 16 within the state and shall establish the procedures for its
 17 continuation.

18 "(e) The Dual Party Relay Fund shall be governed by
 19 the Dual Party Relay Fund Board of Trustees, appointed by the
 20 Alabama Public Service Commission. ~~Those individuals serving~~
 21 ~~as members of the governing committee of the Dual Party Relay~~
 22 ~~Fund as of July 1, 2006, shall continue to serve as trustees.~~
 23 On behalf of the Dual Party Relay Fund, the trustees may
 24 select an administrator, service provider, and auditing firm,
 25 and may obtain other services and execute such other contracts

1 as may be necessary to carry out their duties; ~~provided,~~
2 ~~however, that such contracts shall not be considered public~~
3 ~~contracts or obligations of the State of Alabama and shall not~~
4 ~~be subject to the rules governing such contracts.~~ All costs
5 associated with the implementation of the system and the
6 functions of the Dual Party Relay Fund and its board of
7 trustees, including, without limitation, any insurance costs,
8 shall be paid out of the Dual Party Relay Fund. The trustees
9 shall not be paid for their service, but shall be reimbursed
10 for their actual and reasonable expenses in carrying out their
11 duties. The trustees shall submit an annual report to the
12 Alabama Public Service Commission regarding the condition of
13 the fund, which shall include a copy of an annual audit.

14 "(f) As part of its administration of the dual party
15 relay system, the trustees may authorize the funding of other
16 telephone services to people who are deaf, hard of hearing,
17 deaf/blind and speech impaired, including the provision of
18 informational services to the blind; provided, however, that
19 no existing service provided to the deaf or hearing impaired
20 shall be terminated or curtailed as a result of any such
21 additional program.

22 "(g) Absent negligence, wantonness, recklessness, or
23 deliberate misconduct, a trustee shall not be subject to civil
24 liability for any act or omission in carrying out his or her
25 duties as a trustee. In addition, those trustees who are

1 officials or employees of the Alabama Public Service
2 Commission shall receive the benefit of any immunities that
3 would normally apply to such official or employee in carrying
4 out his or her official duties.

5 "(h) Nothing in this section shall invalidate
6 contracts entered into prior to July 1, 2006, which contracts
7 are hereby ratified and confirmed."

8 Section 2. This act shall become effective
9 immediately following its passage and approval by the
10 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 12-APR-11 as amended and was
passed again as amended by Executive Amendment 02-JUN-11.
Yeas 96 Nays 0 Abstains 0

Greg Pappas
Clerk

Senate

 03-MAY-11

Senate

 02-JUN-11

Passed
Passed, as amended by
Executive Amendment
Yeas 26, Nays 2, Ab-
stains 0