

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 1016

Short Title: Net Neutrality in Procurement. (Public)

Sponsors: Representatives G. Martin, John, Meyer, and Beasley (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Finance, if favorable, Regulatory Reform, if favorable, Energy and Public Utilities

May 28, 2018

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH PROCEDURES FOR PROCUREMENT OF BROADBAND
3 SERVICES BY STATE AND LOCAL GOVERNMENT ENTITIES TO SUPPORT THE
4 PRINCIPLES OF NET NEUTRALITY.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Part 4 of Article 15 of Chapter 143B of the General Statutes is amended
7 by adding a new section to read:

8 **"§ 143B-1363. Broadband procurement restrictions.**

9 (a) No State agency shall enter into a contract with a broadband provider if that provider
10 engages in any of the following activities:

11 (1) Management of a broadband network to directly or indirectly favor, prioritize,
12 or prefer certain traffic in exchange for consideration from a third party or to
13 benefit an affiliated entity.

14 (2) Blocking of lawful content, applications, services, or nonharmful devices.

15 (3) Impeding or degrading lawful traffic for the purpose of discriminating or
16 favoring certain content, applications, services, or nonharmful devices.

17 (4) Unreasonable interference with or disadvantaging an end user's ability to
18 select, access, and use the broadband service or lawful Internet content,
19 applications, services, or devices of the end user's choice.

20 (b) Notwithstanding subsection (a) of this section, a State agency may contract with a
21 broadband provider that engages in the activity described in that subsection if the Secretary
22 determines any of the following:

23 (1) The provider is the sole provider of broadband service to a particular
24 geographic location relevant to the contract.

25 (2) The provider engages in the activity described in subsection (a) of this section
26 in furtherance of reasonable network management. "Reasonable network
27 management" includes all of the following criteria:

28 a. Technical network management necessity.

29 b. No intent to impact other business processes.

30 c. Narrow tailoring to achieve a legitimate network management
31 purpose, based upon the particular network structure and the
32 technology of the broadband service.

33 (3) The provider engages in the activity described in subdivisions (2) through (4)
34 of subsection (a) of this section in furtherance of addressing copyright
35 infringement or other unlawful activity or in assistance of emergency



1 communications, law enforcement, public safety, or national security
2 authorities.

3 (4) The provider engages in the activity described in subdivision (1) of subsection
4 (a) of this section which results in significant benefit to the public and does
5 not inhibit the openness of the broadband service.

6 (c) A broadband provider contracting with a State agency shall disclose all information
7 regarding the network management practices and other relevant characteristics and service terms
8 sufficient for the Secretary to verify compliance with this section. This section applies to
9 broadband service provided for fixed or mobile access.

10 (d) Upon a determination made pursuant to the request of a State agency, the Secretary
11 may exempt all or a portion of a State agency from any of the restrictions contained in this
12 section."

13 **SECTION 2.** G.S. 143B-1350(c) reads as rewritten:

14 "(c) The Department shall, subject to the provisions of this Part, do all of the following
15 with respect to State information technology procurement:

16 ...

17 (10) Ensure that the provisions of G.S. 143B-1363 are met with respect to
18 broadband providers."

19 **SECTION 3.** G.S. 143B-1351(b) reads as rewritten:

20 "(b) Notwithstanding any other provision of law, local governmental entities may use the
21 information technology programs, services, or contracts offered by the Department, including
22 information technology procurement, in accordance with the statutes, policies, and rules of the
23 Department. Local governmental entities are not required to comply with otherwise applicable
24 competitive bidding requirements when using contracts established by the Department. The
25 Secretary may certify vendor compliance with the requirements of G.S. 143B-1363 at the request
26 of a local government entity."

27 **SECTION 4.** The Department of Information Technology shall establish a telephone
28 number and an online reporting mechanism for members of the public to report suspected
29 violations of the principles of net neutrality in State information technology procurement.

30 **SECTION 5.** Notwithstanding G.S. 143C-5-2, there is appropriated from the
31 General Fund to the Department of Information Technology the sum of one hundred fifty
32 thousand dollars (\$150,000) in recurring funds for the 2018-2019 fiscal year for the Department
33 to establish one new full-time equivalent position within the Broadband Infrastructure Office to
34 assist in administering the provisions of this act.

35 **SECTION 6.** Section 5 of this act becomes effective July 1, 2018. Section 6 of this
36 act is effective when it becomes law, and the remainder of this act becomes effective January 1,
37 2019, and applies to contracts entered into or renewed on or after that date.