

SB2975



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2975

Introduced 2/15/2018, by Sen. Daniel Biss

SYNOPSIS AS INTRODUCED:

New Act

Creates the Broadband Procurement and Disclosure Act. Provides that no State broadband purchaser may award any contract to an Internet service provider that includes broadband service unless the contract provides specified terms concerning access to and impairment of Internet services. Requires each Internet service provider to make available on its website a clear and conspicuous statement informing end users of the Internet service provider's network management practices and performance, including commercial terms offered to end users. Provides enforcement and damages provisions. Provides that nothing in the Act supersedes any obligation or authorization or limits the ability of an Internet service provider to address the needs of emergency communications or law enforcement, public safety, or national security authorities consistent with or as permitted by applicable law. Provides legislative findings. Defines terms.

LRB100 18723 RJF 33956 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Broadband Procurement and Disclosure Act.

6 Section 5. Legislative findings. The General Assembly
7 finds that the health, welfare, and prosperity of all Illinois
8 citizens require that Illinois State agencies, public
9 authorities, and municipalities are provided Internet access
10 free from unreasonable discrimination or impairment of lawful
11 network traffic and access to lawful content, applications, and
12 services, in order to communicate with, and conduct business on
13 behalf of, the people of Illinois. Because many Illinois
14 government services and related information are available only
15 via the Internet, throttling or paid prioritization could
16 severely impair or limit the ability of many Illinois citizens,
17 including the most vulnerable, to access such services and
18 information. As a significant purchaser of broadband services,
19 the State of Illinois has a responsibility to ensure the
20 efficient procurement of all broadband services necessary to
21 serve the public interest.

22 Accordingly, the General Assembly concludes that it is
23 necessary for Illinois State broadband purchasers to contract

1 with Internet service providers that agree to
2 nondiscriminatory broadband practices, and to ensure that all
3 Internet service providers disclose commercial terms regarding
4 network management practices so that Illinois consumers have
5 the information needed to make informed choices.

6 Section 10. Definitions. As used in this Act:

7 "Broadband service" means a mass-market retail service by
8 wire or radio that provides the capability to transmit data to
9 and receive data from all or substantially all Internet
10 endpoints in Illinois, including any capabilities that are
11 incidental to and enable the operation of the communications
12 service, but excluding dial-up Internet access service.
13 "Broadband service" includes any service in Illinois that
14 provides a functional equivalent of the service described
15 herein or that is used to evade the protections set forth in
16 this Act, and also includes the definition of "broadband
17 service" provided under Section 21-201 of the Public Utilities
18 Act.

19 "Content, applications, and services" mean all traffic
20 transmitted to or from end users of a broadband service within
21 this State, including traffic that may not fit clearly into any
22 of these categories.

23 "Commercial terms" mean information about payment for
24 broadband service sufficient for consumers to make informed
25 choices, including: (i) the full monthly service charge for

1 broadband service (excluding tax); (ii) additional fees, such
2 as one-time fees, recurring fees, and surcharges incurred by
3 end users to initiate, maintain, or discontinue broadband
4 service; and (iii) limitations on broadband service, such as
5 throttling, data caps, allowances, or other restrictions based
6 on content or network traffic.

7 "Edge provider" means any individual or entity in Illinois
8 that provides any content, application, or service over the
9 Internet, and any individual or entity in this State that
10 provides a device used for accessing any content, application,
11 or service over the Internet.

12 "End user" includes a residential, business,
13 institutional, or government entity in this State who uses
14 broadband service for its own purposes and who does not resell
15 such services to other entities or incorporate such services
16 into retail Internet-access services. "End user" of a broadband
17 connection does not include Internet service providers.

18 "Internet service provider" means any business that
19 provides broadband service to an individual, corporation,
20 government entity, or other customer in this State.

21 "State broadband purchaser" means any State entity, or
22 person acting on behalf of the State, that purchases broadband
23 service, including any of the following: all officers, boards,
24 departments, commissions, agencies, institutions, authorities,
25 universities, and bodies politic and corporate of the State,
26 created by or in accordance with the Constitution or statute,

1 whether in the executive, legislative, or judicial branch of
2 State government; and administrative units or corporate
3 outgrowths of the State government which are created by or
4 under statute.

5 Section 15. Broadband service purchasing in State
6 contracts. Notwithstanding any other provision of law to the
7 contrary, no State broadband purchaser may award any contract
8 to an Internet service provider that includes broadband service
9 unless the contract provides:

10 (1) that the Internet service provider shall not block
11 end users from accessing lawful content, applications,
12 services, or non-harmful devices, subject to reasonable
13 network management;

14 (2) that the Internet service provider shall not impair
15 or degrade lawful Internet traffic to end users on the
16 basis of content, applications, and services, or use of a
17 non-harmful device, subject to reasonable network
18 management; and

19 (3) that the Internet service provider, either in
20 exchange for monetary or other consideration from a third
21 party or to benefit an affiliated entity, shall not:

22 (i) manipulate broadband service to directly or
23 indirectly favor some Internet traffic to end users
24 over other traffic (including through use of
25 techniques such as traffic shaping, prioritization,

1 resource reservation, or other forms preferential
2 traffic management);

3 (ii) unreasonably interfere with or unreasonably
4 disadvantage end users' ability to select, access, and
5 use broadband service for the lawful Internet content,
6 applications, services, or devices of their choice; or

7 (iii) unreasonably interfere with or unreasonably
8 disadvantage edge providers' ability to make lawful
9 content, applications, services, or devices available
10 to end users.

11 Section 20. Disclosure required. Each Internet service
12 provider shall make available on its website a clear and
13 conspicuous statement informing end users of the Internet
14 service provider's network management practices and
15 performance, including commercial terms offered to end users.

16 Section 25. Enforcement; damages. The Attorney General and
17 appropriate State's Attorney may commence a civil action in the
18 name of the People of the State of Illinois in any appropriate
19 circuit court. The State shall receive an amount for reasonable
20 expenses that the court finds to have been necessarily incurred
21 by the Attorney General, including reasonable attorneys' fees
22 and costs. All such expenses, fees, and costs shall be awarded
23 against the defendant. The court may award amounts from the
24 proceeds of an action or settlement that it considers

1 appropriate to any governmental entity or program that has been
2 adversely affected by a defendant. The Attorney General, if
3 necessary, shall direct the State Treasurer to make a
4 disbursement of funds as provided in court orders or settlement
5 agreements.

6 Section 30. Security. Nothing in this Act supersedes any
7 obligation or authorization or limits the ability of an
8 Internet service provider to address the needs of emergency
9 communications or law enforcement, public safety, or national
10 security authorities consistent with or as permitted by
11 applicable law.