

Legislative Analysis



EARLY CELL PHONE CONTRACT TERMINATION FOR ACTIVE DUTY

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Senate Bill 371

Sponsor: Sen. Valde Garcia

House Committee: Military and Veterans Affairs and Homeland Security

Senate Committee: Senior Citizens and Veterans Affairs

Complete to 11-9-09

A SUMMARY OF SENATE BILL 371 AS PASSED BY THE SENATE 6-11-09

The bill would create the Military Personnel Wireless Contract Act to allow a service member to terminate a cell phone contract if transferred or deployed overseas, on active duty for 180 days or more, to an area not served by the service member's existing wireless telecommunication provider. A spouse could take the action if so authorized.

This would apply if the contract was entered into on or after the effective date of the bill and the contract was executed by or on behalf of the service member before the service member was transferred, or deployed overseas, on active duty. It does not apply to a wireless telephone or similar device installed in a motor vehicle and does not apply to prepaid wireless services.

(This bill is similar to House Bill 5102, which passed the House on 9-10-09.)

Conditions of Contract Termination. Under the bill, a termination of the contract is effective on the date that all of the following are met: (1) the transferred or deployed service member (or a spouse) provides the cell phone provider, by certified mail, a written notice of the intention to terminate the contract, a copy of the orders calling the service member to active duty, and a copy of any orders further extending the service member's period of active duty; and (2) any cell phone equipment not owned by the service member and acquired from the provider would be returned to its custody or control within 30 days after the delivery of the written notice.

If the contract is terminated, the cell phone provider could not impose any early termination charge. However, the service member would remain responsible for any use charges incurred before termination.

Civil Actions by Cell Phone Provider and Attorney General. In addition to any other penalty provided by law, the attorney general could file a civil action in which the court could impose on a cell phone provider a civil fine of up to \$2,000 for each violation. Money recovered from such actions would be forwarded to the state treasurer for deposit into the Military Family Relief Fund as created by the Military Family Relief Act of 2004.

FISCAL IMPACT:

There would be an indeterminate fiscal impact on state government and local government. It is unknown how many cell phone provider contracts would be terminated by eligible active duty service members under this bill and how many civil actions would be filed by the Attorney General against cell phone providers that violate the conditions of this bill. The Military Family Relief Fund would receive money recovered by the Attorney General for these civil actions, but the amount that would be forwarded to the Military Family Relief Fund cannot be determined. The Attorney General may generate some expenses for filing civil actions, and the courts may also generate both expenses and revenues for these civil action.

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