

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE BILL 861

Short Title: Net Neutrality in Procurement. (Public)

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

Referred to: Rules, Calendar, and Operations of the House

April 22, 2019

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



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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 2019-2020 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, 2019. Section 6 of this  
36 act is effective when it becomes law, and the remainder of this act becomes effective January 1,  
37 2020, and applies to contracts entered into or renewed on or after that date.