

AMENDED IN ASSEMBLY APRIL 26, 2007

AMENDED IN ASSEMBLY APRIL 12, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 891

Introduced by Assembly Member De La Torre

February 22, 2007

An act to add Article 11 (commencing with Section 905) to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 891, as amended, De La Torre. Telecommunications: consumer protection.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. The existing Telecommunications Customer Service Act of 1993 requires the commission to require telephone corporations to provide certain customer services to telecommunication customers, as specified.

This bill would provide that except for a contract or agreement the formation of which is completed by telephone, no contract or agreement with a customer for telecommunications services is binding and enforceable unless the telecommunications service provider, as defined, has clearly and conspicuously disclosed the key rates, terms, and conditions of the contract or agreement orally and in a single written document. No oral disclosure would be required if the contract or agreement is negotiated only by means of written or electronic communication. The bill would provide that except for a contract or

agreement the formation of which is completed by telephone, no contract or agreement with a customer for telecommunications services is binding and enforceable unless the telecommunications service provider provides the customer with a copy of each contract or agreement between the telecommunications service provider and the customer prior to supplying telecommunications products or service. If formation of a contract or agreement is completed by telephone, the bill would require a telecommunications service provider to provide a written confirmation containing the key rates, terms, and conditions of service of every order and a copy of each contract or agreement between the telecommunications service provider and the customer within 10 days of formation of the contract or agreement. The bill would require a telecommunications service provider that advertises or negotiates, verbally or in writing, primarily in a language other than English, during the formation of the contract or agreement to provide to the customer a translation of any required documents in the language in which the contract or agreement was negotiated. *If a customer affirmatively requests that all communications from the telecommunications service provider be through electronic means, the bill would authorize that all required written communications, copies, and disclosures be delivered by electronic mail.*

Under existing law, a violation of the Public Utilities Act is a crime. Because a violation of the bill's provisions would be a crime, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Article 11 (commencing with Section 905) is
- 2 added to Chapter 4 of Part 1 of Division 1 of the Public Utilities
- 3 Code, to read:

1 Article 11. Truth in Telecommunications Sales Act

2
3 905. (a) The Legislature finds and declares that a disclosure,
4 contract, or agreement described in this article should be made in
5 the language used to negotiate the contract or agreement and that
6 Section 1632 of the Civil Code is a reasonable model for
7 non-English disclosures described in this article.

8 (b) It is the intent of the Legislature to ensure full disclosure in
9 the sales of telecommunications products and services, including
10 mobile telephony services, by requiring that customers receive
11 sufficient information to make an informed decision.

12 (c) For the purposes of this section, the following terms have
13 the following meanings:

14 (1) “Customer” means any customer that subscribes for not
15 more than 20 telephone access lines from any single telephone
16 service provider. Any customer subscribing to more than one T-1
17 line is not a customer for purposes of this section.

18 (2) “Telecommunications service provider” means any person,
19 corporation, or other entity selling or providing telecommunications
20 service as defined in Section 153 of Title 47 of the United States
21 Code, and includes a telephone corporation, contracted agents of
22 the telephone corporation, and a reseller of the telephone
23 corporation.

24 (d) Except for those contracts and agreements formed pursuant
25 to subdivision (f), a contract or agreement with a customer for
26 telecommunications services is not binding and enforceable unless
27 the telecommunications service provider has clearly and
28 conspicuously disclosed the key rates, terms, and conditions of
29 the contract or agreement orally and in a single written document,
30 except that no oral disclosure is required if the contract or
31 agreement is negotiated only by means of written or electronic
32 communication.

33 (e) Except for those contracts and agreements formed pursuant
34 to subdivision (f), a contract or agreement with a customer for
35 telecommunications services is not binding and enforceable unless
36 the telecommunications service provider provides the customer a
37 copy of each contract or agreement between the
38 telecommunications service provider and the customer prior to
39 supplying telecommunications products or service.

1 (f) If the formation of a contract or agreement is completed by
2 telephone, a telecommunications service provider shall provide a
3 written confirmation containing the key rates, terms, and conditions
4 of service of every order and a copy of each contract or agreement
5 between the telecommunications service provider and the customer
6 within 10 days of formation of the contract or agreement.

7 (g) A telecommunications service provider that advertises or
8 negotiates, verbally or in writing, primarily in a language other
9 than English, during the formation of the contract or agreement to
10 provide telecommunications services, shall provide to the customer
11 a translation of any documents required in subdivisions (d), (e),
12 and (f) in the language in which the contract or agreement was
13 negotiated.

14 (h) *If a customer affirmatively requests that all communications*
15 *from the telecommunications service provider be through electronic*
16 *means, all written confirmations, copies, and disclosures required*
17 *under this section may be delivered by electronic mail.*

18 *SEC. 2. No reimbursement is required by this act pursuant to*
19 *Section 6 of Article XIII B of the California Constitution because*
20 *the only costs that may be incurred by a local agency or school*
21 *district will be incurred because this act creates a new crime or*
22 *infraction, eliminates a crime or infraction, or changes the penalty*
23 *for a crime or infraction, within the meaning of Section 17556 of*
24 *the Government Code, or changes the definition of a crime within*
25 *the meaning of Section 6 of Article XIII B of the California*
26 *Constitution.*