

AMENDED IN SENATE JUNE 30, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1553

Introduced by ~~Committee on Utilities and Commerce (Fuentes (Chair), Duvall (Vice Chair), Blakeslee, Buchanan, Carter, Fong, Furutani, Huffman, Krekorian, Smyth, and Torricio)~~ Assembly Member Fuentes

March 10, 2009

An act to amend Section 44273 of the Health and Safety Code, to amend Sections 25620.1, 25620.2, 25620.6, 25620.7, and 25620.15 of the Public Resources Code, and to amend Sections 381, 384, 399, 890, and 895 of the Public Utilities Code, relating to energy. An act to amend Section 2881 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1553, as amended, ~~Committee on Utilities and Commerce Fuentes. Public interest energy research. Telecommunications: universal service: deaf and disabled telecommunications programs.~~

Existing law, the federal Telecommunications Act of 1996, establishes a program of cooperative federalism for the regulation of telecommunications to attain the goal of local competition, while implementing specific, predictable, and sufficient federal and state mechanisms to preserve and advance universal service, consistent with certain universal service principles. Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law requires the commission to oversee administration of the state's universal service programs,

including the deaf and disabled programs. The existing deaf and disabled universal service program, among other things, requires the commission to design and implement a program to provide a telecommunications device capable of serving the needs of individuals who are deaf or hearing impaired, together with a single party line, at no charge additional to the basic exchange rate, to any subscriber who is certified as an individual who is deaf or hearing impaired. The existing Moore Universal Telephone Service Act established the Universal Lifeline Telephone Service program in order to provide low-income households with access to affordable basic residential telephone service.

This bill would require the commission to design and implement a program to provide a telecommunications device capable of servicing the needs of individuals who are deaf or hearing impaired, including devices capable of nonvoice communications, together with monthly service, at no charge additional to the basic service rate, to any subscriber who is certified as an individual who is deaf or hearing impaired. The bill would provide that an individual who is certified as deaf or hearing impaired that meets the requirements for eligibility pursuant to the Moore Universal Telephone Service Act is eligible for up to 2 lifeline service connections, as determined by the commission, and is authorized to apply his or her lifeline discount to nonvoice communications services.

Existing law requires the commission, with certain exceptions, until January 1, 2010, to establish a rate recovery mechanism through a surcharge not to exceed 0.5% applied to a subscriber's intrastate telephone service, to allow providers of equipment and service pursuant to the state's deaf and disabled universal service programs to recover costs as they are incurred. Existing law requires the commission to annually review the surcharge level and the balances in the funds established to fund the state's deaf and disabled universal service programs and, until January 1, 2010, authorize the commission to make any necessary adjustments to the surcharge to ensure that the deaf and disabled universal service programs are adequately funded and the fund balances are not excessive.

This bill would delete January 1, 2010, as the termination date for the requirements placed on the commission relative to funding of the deaf and disabled universal service programs.

Existing law makes any public utility and any corporation other than a public utility that fails to comply with any part of any order, decision,

rule, direction, demand, or requirement of the commission guilty of a crime.

Because the program that is extended under the provisions of this bill require a decision or order of the commission to implement, and violation of the order or decision would be a crime, the bill would impose a state-mandated local program by extending the operation of a crime.

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.

~~Existing law requires the State Energy Resources Conservation and Development Commission to develop, implement, and administer a program, titled the Public Interest Energy Research, Development, and Demonstration Program, to include a full range of research, development, and demonstration activities that are not adequately provided for by competitive and regulated energy markets. Certain statutes, however, refer to the program as the Public Interest Research, Development, and Demonstration Program and the fund established for implementation and administration of the program is the Public Interest Research, Development, and Demonstration Fund.~~

~~This bill would change statutory references to the program to refer to it as the Public Interest Energy Research, Development, and Demonstration Program and would change the name of the fund established for implementation and administration of the program to the Public Interest Energy Research, Development, and Demonstration Fund.~~

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

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

1 SECTION 1. Section 2881 of the Public Utilities Code is
2 amended to read:

3 2881. (a) (1) The commission shall design and implement a
4 program to provide a telecommunications device capable of serving
5 the needs of individuals who are deaf or hearing impaired,
6 including devices capable of nonvoice communication, together

1 with a single party line *monthly service*, at no charge additional to
2 the basic ~~exchange rate~~, to *service rate*.

3 (2) *The commission shall make the program available to any*
4 *subscriber who is certified as an individual who is deaf or hearing*
5 *impaired by a licensed physician and surgeon, audiologist, or a*
6 *qualified state or federal agency, as determined by the commission,*
7 *and to any subscriber that is an organization representing*
8 *individuals who are deaf or hearing impaired, as determined and*
9 *specified by the commission pursuant to subdivision (e). A licensed*
10 *hearing aid dispenser may certify the need of an individual to*
11 *participate in the program if that individual has been previously*
12 *fitted with an amplified device by the dispenser and the dispenser*
13 *has the individual's hearing records on file prior to certification.*

14 (3) *An individual who is certified as deaf or hearing impaired*
15 *pursuant to paragraph (2), who meets the requirements for*
16 *eligibility pursuant to the Moore Universal Telephone Service Act*
17 *(Article 8 (commencing with Section 871) of Chapter 4 of Part 1),*
18 *shall be eligible for up to two lifeline service connections, as*
19 *determined by the commission, and may apply his or her lifeline*
20 *discount to no-voice communications services.*

21 (b) The commission shall also design and implement a program
22 to provide a dual-party relay system, using third-party intervention
23 to connect individuals who are deaf or hearing impaired and offices
24 of organizations representing individuals who are deaf or hearing
25 impaired, as determined and specified by the commission pursuant
26 to subdivision (e), with persons of normal hearing by way of
27 intercommunications devices for individuals who are deaf or
28 hearing impaired and the telephone system, making available
29 reasonable access of all phases of public telephone service to
30 telephone subscribers who are deaf or hearing impaired. In order
31 to make a dual-party relay system that will meet the requirements
32 of individuals who are deaf or hearing impaired available at a
33 reasonable cost, the commission shall initiate an investigation,
34 conduct public hearings to determine the most cost-effective
35 method of providing dual-party relay service to the deaf or hearing
36 impaired when using a telecommunications device, and solicit the
37 advice, counsel, and physical assistance of statewide nonprofit
38 consumer organizations of the deaf, during the development and
39 implementation of the system. The commission shall phase in this
40 program, on a geographical basis, over a three-year period ending

1 on January 1, 1987. The commission shall apply for certification
2 of this program under rules adopted by the Federal
3 Communications Commission pursuant to Section 401 of the
4 federal Americans with Disabilities Act of 1990 (Public Law
5 101-336).

6 (c) The commission shall also design and implement a program
7 whereby specialized or supplemental telephone communications
8 equipment may be provided to subscribers who are certified to be
9 disabled at no charge additional to the basic exchange rate. The
10 certification, including a statement of visual or medical need for
11 specialized telecommunications equipment, shall be provided by
12 a licensed optometrist or physician and surgeon, acting within the
13 scope of practice of his or her license, or by a qualified state or
14 federal agency as determined by the commission. The commission
15 shall, in this connection, study the feasibility of, and implement,
16 if determined to be feasible, personal income criteria, in addition
17 to the certification of disability, for determining a subscriber's
18 eligibility under this subdivision.

19 (d) The commission shall establish a rate recovery mechanism
20 through a surcharge not to exceed one-half of 1 percent uniformly
21 applied to a subscriber's intrastate telephone service, other than
22 one-way radio paging service and universal telephone service,
23 both within a service area and between service areas, to allow
24 providers of the equipment and service specified in subdivisions
25 (a), (b), and (c), to recover costs as they are incurred under this
26 section. ~~The surcharge shall be in effect until January 1, 2010.~~ The
27 commission shall require that the programs implemented under
28 this section be identified on subscribers' bills, and shall establish
29 a fund and require separate accounting for each of the programs
30 implemented under this section.

31 (e) The commission shall determine and specify those statewide
32 organizations representing the deaf or hearing impaired that shall
33 receive a telecommunications device pursuant to subdivision (a)
34 or a dual-party relay system pursuant to subdivision (b), or both,
35 and in which offices the equipment shall be installed in the case
36 of an organization having more than one office.

37 (f) The commission may direct any telephone corporation subject
38 to its jurisdiction to comply with its determinations and
39 specifications pursuant to this section.

1 (g) The commission shall annually review the surcharge level
2 and the balances in the funds established pursuant to subdivision
3 (d). ~~Until January 1, 2010, the~~ *The* commission shall be authorized
4 to make, within the limits set by subdivision (d), any necessary
5 adjustments to the surcharge to ensure that the programs supported
6 thereby are adequately funded and that the fund balances are not
7 excessive. A fund balance which is projected to exceed six months'
8 worth of projected expenses at the end of the fiscal year is
9 excessive.

10 (h) The commission shall *annually* prepare and submit to the
11 Legislature, on or before December 31, ~~1988, and annually~~
12 ~~thereafter~~, a report on the fiscal status of the programs established
13 and funded pursuant to this section and Sections 2881.1 and 2881.2.
14 The report shall include a statement of the surcharge level
15 established pursuant to subdivision (d) and revenues produced by
16 the surcharge, an accounting of program expenses, and an
17 evaluation of options for controlling those expenses and increasing
18 program efficiency, including, but not limited to, all of the
19 following proposals:

20 (1) The establishment of a means test for persons to qualify for
21 program equipment or free or reduced charges for the use of
22 telecommunication services.

23 (2) If and to the extent not prohibited under Section 401 of the
24 federal Americans with Disabilities Act of 1990 (Public Law
25 101-336), the imposition of limits or other restrictions on maximum
26 usage levels for the relay service, which shall include the
27 development of a program to provide basic communications
28 requirements to all relay users at discounted rates, including
29 discounted toll-call rates, and, for usage in excess of those basic
30 requirements, at rates which recover the full costs of service.

31 (3) More efficient means for obtaining and distributing
32 equipment to qualified subscribers.

33 (4) The establishment of quality standards for increasing the
34 efficiency of the relay system.

35 (i) In order to continue to meet the access needs of individuals
36 with functional limitations of hearing, vision, movement,
37 manipulation, speech and interpretation of information, the
38 commission shall perform ongoing assessment of, and if
39 appropriate, expand the scope of the program to allow for

1 additional access capability consistent with evolving
2 telecommunications technology.

3 (j) The commission shall structure the programs required by
4 this section so that any charge imposed to promote the goals of
5 universal service reasonably equals the value of the benefits of
6 universal service to contributing entities and their subscribers.

7 *SEC. 2. No reimbursement is required by this act pursuant to*
8 *Section 6 of Article XIII B of the California Constitution because*
9 *the only costs that may be incurred by a local agency or school*
10 *district will be incurred because this act creates a new crime or*
11 *infraction, eliminates a crime or infraction, or changes the penalty*
12 *for a crime or infraction, within the meaning of Section 17556 of*
13 *the Government Code, or changes the definition of a crime within*
14 *the meaning of Section 6 of Article XIII B of the California*
15 *Constitution.*

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**All matter omitted in this version of the bill
appears in the bill as introduced in the
Assembly, March 10, 2009 (JR11)**