

ASSEMBLY BILL

No. 136

Introduced by Assembly Member Beall

January 12, 2011

An act to amend Section 2881 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 136, as introduced, Beall. Telecommunications: universal service: deaf and disabled.

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.

This bill would make technical, nonsubstantive changes to provisions of law relating to the deaf and disabled universal service program.

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

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) 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, together
6 with a single party line, at no charge additional to the basic
7 exchange rate, to ~~any~~ a subscriber who is certified as an individual
8 who is deaf or hearing impaired by a licensed physician and
9 surgeon, audiologist, or a qualified state or federal agency, as
10 determined by the commission, and to ~~any~~ a subscriber that is an
11 organization representing individuals who are deaf or hearing
12 impaired, as determined and specified by the commission pursuant
13 to subdivision (e). A licensed hearing aid dispenser may certify
14 the need of an individual to participate in the program if that
15 individual has been previously fitted with an amplified device by
16 the dispenser and the dispenser has the individual's hearing records
17 on file prior to certification. In addition, a physician assistant may
18 certify the needs of an individual who has been diagnosed by a
19 physician and surgeon as being deaf or hearing impaired to
20 participate in the program after reviewing the medical records or
21 copies of the medical records containing that diagnosis.

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

1 consumer organizations of the deaf, during the development and
2 implementation of the system. ~~The commission shall phase in this~~
3 ~~program, on a geographical basis, over a three-year period ending~~
4 ~~on January 1, 1987.~~ The commission shall apply for certification
5 of this program under rules adopted by the Federal
6 Communications Commission pursuant to Section 401 of the
7 federal Americans with Disabilities Act of 1990 (Public Law
8 101-336).

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

22 (d) The commission shall establish a rate recovery mechanism
23 through a surcharge not to exceed one-half of 1 percent uniformly
24 applied to a subscriber's intrastate telephone service, other than
25 one-way radio paging service and universal telephone service,
26 both within a service area and between service areas, to allow
27 providers of the equipment and service specified in subdivisions
28 (a), (b), and (c), to recover costs as they are incurred under this
29 section. The surcharge shall be in effect until January 1, 2014. The
30 commission shall require that the programs implemented under
31 this section be identified on subscribers' bills, and shall establish
32 a fund and require separate accounting for each of the programs
33 implemented under this section.

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

1 (f) The commission may direct ~~any~~ a telephone corporation
2 subject to its jurisdiction to comply with its determinations and
3 specifications pursuant to this section.

4 (g) The commission shall annually review the surcharge level
5 and the balances in the funds established pursuant to subdivision
6 (d). Until January 1, 2014, the commission ~~shall be authorized to~~
7 *may* make, within the limits set by subdivision (d), any necessary
8 adjustments to the surcharge to ensure that the programs supported
9 thereby are adequately funded and that the fund balances are not
10 excessive. A fund balance ~~which~~ *that* is projected to exceed six
11 months' worth of projected expenses at the end of the fiscal year
12 is excessive.

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

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

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

33 (3) More efficient means for obtaining and distributing
34 equipment to qualified subscribers.

35 (4) The establishment of quality standards for increasing the
36 efficiency of the relay system.

37 (i) In order to continue to meet the access needs of individuals
38 with functional limitations of hearing, vision, movement,
39 manipulation, speech, and interpretation of information, the
40 commission shall perform ongoing assessment of, and if

1 appropriate, expand the scope of the program to allow for
2 additional access capability consistent with evolving
3 telecommunications technology.

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

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