

AMENDED IN SENATE JUNE 30, 2011

AMENDED IN SENATE JUNE 14, 2011

AMENDED IN ASSEMBLY APRIL 26, 2011

AMENDED IN ASSEMBLY MARCH 14, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 136**

---

### **Introduced by Assembly Member Beall**

**(Coauthors: Assembly Members Ammiano, Bradford, Buchanan, Carter, Fletcher, Fong, Fuentes, Furutani, Garrick, Roger Hernández, Huffman, Ma, Nestande, Swanson, and Valadao)**

January 12, 2011

---

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

#### LEGISLATIVE COUNSEL'S DIGEST

AB 136, as amended, Beall. Telecommunications: universal service: speech disabilities.

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 require the commission to expand the program to include assistance to individuals with speech disabilities, including assistance to purchase speech-generating devices, accessories, and mounting systems, and specialized telecommunications equipment. *The bill would require the commission to evaluate options for controlling the program costs of providing speech-generating devices, as part of an existing report to the Legislature.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
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 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 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

1 to subdivision (e), with persons of normal hearing by way of  
2 intercommunications devices for individuals who are deaf or  
3 hearing impaired and the telephone system, making available  
4 reasonable access of all phases of public telephone service to  
5 telephone subscribers who are deaf or hearing impaired. In order  
6 to make a dual-party relay system that will meet the requirements  
7 of individuals who are deaf or hearing impaired available at a  
8 reasonable cost, the commission shall initiate an investigation,  
9 conduct public hearings to determine the most cost-effective  
10 method of providing dual-party relay service to the deaf or hearing  
11 impaired when using a telecommunications device, and solicit the  
12 advice, counsel, and physical assistance of statewide nonprofit  
13 consumer organizations of the deaf, during the development and  
14 implementation of the system. The commission shall apply for  
15 certification of this program under rules adopted by the Federal  
16 Communications Commission pursuant to Section 401 of the  
17 federal Americans with Disabilities Act of 1990 (Public Law  
18 101-336).

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

32 (d) The commission shall establish a rate recovery mechanism  
33 through a surcharge not to exceed one-half of 1 percent uniformly  
34 applied to a subscriber's intrastate telephone service, other than  
35 one-way radio paging service and universal telephone service,  
36 both within a service area and between service areas, to allow  
37 providers of the equipment and service specified in subdivisions  
38 (a), (b), (c), and (f), to recover costs as they are incurred under this  
39 section. The surcharge shall be in effect until January 1, 2014. The  
40 commission shall require that the programs implemented under

1 this section be identified on subscribers' bills, and shall establish  
2 a fund and require separate accounting for each of the programs  
3 implemented under this section.

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

10 (f) (1) The commission shall expand the program created by  
11 this section to include assistance to individuals with speech  
12 disabilities that impair the individual's access to, and use of, the  
13 telephone network. The commission shall ensure that  
14 speech-generating devices, accessories, and mounting systems,  
15 and specialized telecommunications equipment, including infrared  
16 telephones, speaker phones, and telephone interface devices, are  
17 funded through the program.

18 (2) The commission shall ensure that only individuals who are  
19 both residents of the state and speech impaired as certified by a  
20 licensed physician, licensed speech-language pathologist, or  
21 qualified state or federal agency are eligible.

22 (3) The commission shall provide to each eligible applicant the  
23 appropriate equipment consistent with the recommendation of a  
24 licensed speech-language pathologist.

25 (4) The commission shall ensure that the equipment provided  
26 pursuant to this subdivision is consistent with the economy,  
27 efficiency, and quality of equipment that is available for purchase  
28 in the state.

29 (g) The commission may direct a telephone corporation subject  
30 to its jurisdiction to comply with its determinations and  
31 specifications pursuant to this section.

32 (h) The commission shall annually review the surcharge level  
33 and the balances in the funds established pursuant to subdivision  
34 (d). Until January 1, 2014, the commission may make, within the  
35 limits set by subdivision (d), any necessary adjustments to the  
36 surcharge to ensure that the programs supported thereby are  
37 adequately funded and that the fund balances are not excessive. A  
38 fund balance that is projected to exceed six months' worth of  
39 projected expenses at the end of the fiscal year is excessive.

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

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

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

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

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

*(j) The report described in subdivision (i) that is due no later than December 31, 2012, shall evaluate options for controlling the program costs of providing speech-generating devices.*

~~(j)~~

*(k)* In order to continue to meet the access needs of individuals with functional limitations of hearing, vision, movement, manipulation, speech, and interpretation of information, the commission shall perform ongoing assessment of, and if appropriate, expand the scope of the program to allow for additional access capability consistent with evolving telecommunications technology.

~~(k)~~

*(l)* The commission shall structure the programs required by this section so that a charge imposed to promote the goals of

- 1 universal service reasonably equals the value of the benefits of
- 2 universal service to contributing entities and their subscribers.

O