

AMENDED IN ASSEMBLY JUNE 5, 2013

AMENDED IN SENATE APRIL 30, 2013

AMENDED IN SENATE APRIL 23, 2013

AMENDED IN SENATE APRIL 16, 2013

SENATE BILL

No. 129

Introduced by Senator Wright
(Coauthor: Assembly Member Gomez)

January 23, 2013

An act to amend Section 53112 of the Government Code, and to amend Section 2881 of, and to repeal Section 278.5 of, the Public Utilities Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 129, as amended, Wright. Deaf and disabled telecommunications program.

(1) 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 telecommunications universal service programs, including the deaf and disabled programs, which are funded through the Deaf and Disabled Telecommunications Program Administrative Committee Fund. Existing law, until January 1, 2014, requires the commission to establish a surcharge, not to exceed 0.5%, that is uniformly applied to a subscriber's intrastate telephone service charges to allow providers of the equipment and service provided pursuant to the deaf and disabled programs to recover their costs. Existing law, until January 1, 2016, requires the commission to submit

a report on the fiscal status of the programs to the Legislature on or before December 31 of each year. Existing law requires the report to include, among other things, an evaluation of options for controlling program expenses and program efficiency, as specified.

This bill would extend imposition of the surcharge until January 1, 2020. The bill would extend the reporting requirements until January 1, 2021, and would require the commission to submit the report to the Legislature on or before March 1 of each year. This bill would also require the report to include an evaluation of any modification to the program that would maximize participation and funding opportunities under similar federal programs. As part of the report that is due no later than March 1, 2014, this bill would require the commission to evaluate options for controlling the program costs of providing speech generating devices, and include any information on barriers to participation by eligible subscribers.

(2) Existing law requires the commission to design and implement a program to provide access to a speech-generating telecommunications device to any subscriber who is certified as having a speech disability at no charge additional to the basic exchange rate. Existing law also requires the commission to expand the deaf and disabled program to include assistance to individuals with speech disabilities, including assistance in purchasing speech-generating devices, accessories, and mounting systems, and specialized telecommunications equipment.

This bill would delete the ~~provisions requiring~~ *first provision, described above, that requires* the commission to expand the program to include assistance to individuals with speech disabilities, including assistance in purchasing speech-generating devices, accessories, and mounting systems, and specialized telecommunications equipment.

(3) Existing law states the intent of the Legislature that existing members of the Deaf and Disabled Telecommunications Program Administrative Committee should serve out their current terms of office as members of the committee, but not to exceed July 1, 2003. Existing law requires the committee to develop and submit, not later than October 1, 2002, recommendations to the commission for administration and governance of the deaf and disabled programs, as prescribed.

The bill would repeal these provisions.

(4) Under the Public Utilities Act, a violation of any order, decision, rule, direction, demand, or requirement of the commission by a public utility is a crime.

Because the bill would require an order or decision of the commission to extend the surcharge funding the deaf and disabled programs and because a violation of these requirements would be a crime, the bill would impose a state-mandated local program by expanding the definition 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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 53112 of the Government Code is
2 amended to read:

3 53112. (a) All systems shall be designed to meet the specific
4 requirements of each community and public agency served by the
5 system. Every system, whether basic or sophisticated, shall be
6 designed to have the capability of utilizing at least three of the
7 methods specified in Sections 53103 to 53106, inclusive, in
8 response to emergency calls. The Legislature finds and declares
9 that the most critical aspect of the design of any system is the
10 procedure established for handling a telephone request for
11 emergency services.

12 (b) In addition, to maximize efficiency and utilization of the
13 system, all pay telephones within each system shall, by December
14 31, 1985, enable a caller to dial "911" for emergency services, and
15 to reach an operator by dialing "0", without the necessity of
16 inserting a coin. At those "911" public safety answering points
17 serving an area where 5 percent or more of the population, in
18 accordance with the latest United States census information, speak
19 a specific primary language other than English, operators who
20 speak each such other language, in addition to English, shall be
21 on duty or available through interagency telephone conference
22 procedures at all times for "911" emergency services.

1 (c) In addition, all systems shall require installation of a
2 telecommunications device capable of servicing the needs of the
3 deaf or severely hearing impaired at the “911” public safety
4 answering point or points. The device shall be compatible with
5 devices furnished by telephone corporations pursuant to Section
6 2881 of the Public Utilities Code.

7 SEC. 2. Section 278.5 of the Public Utilities Code is repealed.

8 SEC. 3. Section 2881 of the Public Utilities Code is amended
9 to read:

10 2881. (a) The commission shall design and implement a
11 program to provide a telecommunications device capable of serving
12 the needs of individuals who are deaf or hearing impaired, together
13 with a single party line, at no charge additional to the basic
14 exchange rate, to a subscriber who is certified as an individual
15 who is deaf or hearing impaired by a licensed physician and
16 surgeon, audiologist, or a qualified state or federal agency, as
17 determined by the commission, and to a subscriber that is an
18 organization representing individuals who are deaf or hearing
19 impaired, as determined and specified by the commission pursuant
20 to subdivision (h). A licensed hearing aid dispenser may certify
21 the need of an individual to participate in the program if that
22 individual has been previously fitted with an amplified device by
23 the dispenser and the dispenser has the individual’s hearing records
24 on file prior to certification. In addition, a physician assistant may
25 certify the needs of an individual who has been diagnosed by a
26 physician and surgeon as being deaf or hearing impaired to
27 participate in the program after reviewing the medical records or
28 copies of the medical records containing that diagnosis.

29 (b) The commission shall also design and implement a program
30 to provide a dual-party relay system, using third-party intervention
31 to connect individuals who are deaf or hearing impaired and offices
32 of organizations representing individuals who are deaf or hearing
33 impaired, as determined and specified by the commission pursuant
34 to subdivision (h), with persons of normal hearing by way of
35 intercommunications devices for individuals who are deaf or
36 hearing impaired and the telephone system, making available
37 reasonable access of all phases of public telephone service to
38 telephone subscribers who are deaf or hearing impaired. In order
39 to make a dual-party relay system that will meet the requirements
40 of individuals who are deaf or hearing impaired available at a

1 reasonable cost, the commission shall initiate an investigation,
2 conduct public hearings to determine the most cost-effective
3 method of providing dual-party relay service to the deaf or hearing
4 impaired when using a telecommunications device, and solicit the
5 advice, counsel, and physical assistance of statewide nonprofit
6 consumer organizations of the deaf, during the development and
7 implementation of the system. The commission shall apply for
8 certification of this program under rules adopted by the Federal
9 Communications Commission pursuant to Section 401 of the
10 federal Americans with Disabilities Act of 1990 (Public Law
11 101-336).

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

25 (d) (1) The commission shall also design and implement a
26 program to provide access to a speech-generating device to any
27 subscriber who is certified as having a speech disability at no
28 charge additional to the basic exchange rate. The certification shall
29 be provided by a licensed physician, licensed speech-language
30 pathologist, or qualified state or federal agency. The commission
31 shall provide to a certified subscriber access to a speech-generating
32 device that is all of the following:

33 (A) A telecommunications device or a device that includes a
34 telecommunications component.

35 (B) Appropriate to meet the subscriber's needs for access to,
36 and use of, the telephone network, based on the recommendation
37 of a licensed speech-language pathologist.

38 (C) Consistent with the quality of speech-generating devices
39 available for purchase in the state.

1 (2) The commission shall adopt rules to implement this
2 subdivision and subdivision (e) by January 1, 2014.

3 (e) All of the following apply to any device or equipment
4 described in this section that is classified as durable medical
5 equipment under guidelines established by the United States
6 Department of Health and Human Services:

7 (1) It is the intent of the Legislature that the commission be the
8 provider of last resort and that eligible subscribers first obtain
9 coverage from any available public or private insurance.

10 (2) The commission may require the subscriber to provide
11 information about coverage for any or all of the cost of the device
12 or equipment that is available from any public or private insurance,
13 the cost to the subscriber of any deductible, copayment, or other
14 relevant expense, and any related benefit cap information.

15 (3) The total cost of any device or equipment provided to a
16 subscriber under this section shall not exceed the rate of
17 reimbursement provided by Medi-Cal for that device or equipment.

18 (f) Nothing in this section requires the commission to provide
19 training to a subscriber on the use of a speech-generating device.

20 (g) The commission shall establish a rate recovery mechanism
21 through a surcharge not to exceed one-half of 1 percent uniformly
22 applied to a subscriber's intrastate telephone service, other than
23 one-way radio paging service and universal telephone service,
24 both within a service area and between service areas, to allow
25 providers of the equipment and service specified in subdivisions
26 (a), (b), (c), and (d) to recover costs as they are incurred under this
27 section. The surcharge shall be in effect until January 1, 2020. The
28 commission shall require that the programs implemented under
29 this section be identified on subscribers' bills, and shall establish
30 a fund and require separate accounting for each of the programs
31 implemented under this section.

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

38 (i) The commission may direct a telephone corporation subject
39 to its jurisdiction to comply with its determinations and
40 specifications pursuant to this section.

1 (j) The commission shall annually review the surcharge level
2 and the balances in the funds established pursuant to subdivision
3 (g). Until January 1, 2020, the commission may make, within the
4 limits set by subdivision (g), any necessary adjustments to the
5 surcharge to ensure that the programs supported thereby are
6 adequately funded and that the fund balances are not excessive. A
7 fund balance that is projected to exceed six months' worth of
8 projected expenses at the end of the fiscal year is excessive.

9 (k) The commission shall prepare and submit to the Legislature,
10 on or before March 1 of each year, a report on the fiscal status of
11 the programs established and funded pursuant to this section and
12 Sections 2881.1 and 2881.2. The report shall include a statement
13 of the surcharge level established pursuant to subdivision (g) and
14 revenues produced by the surcharge, an accounting of program
15 expenses, and an evaluation of options for controlling those
16 expenses and increasing program efficiency, including, but not
17 limited to, all of the following proposals:

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

21 (2) If and to the extent not prohibited under Section 401 of the
22 federal Americans with Disabilities Act of 1990 (Public Law
23 101-336), *as amended (47 U.S.C. Sec. 225)*, the imposition of
24 limits or other restrictions on maximum usage levels for the relay
25 service, which shall include the development of a program to
26 provide basic communications requirements to all relay users at
27 discounted rates, including discounted toll-call rates, and, for usage
28 in excess of those basic requirements, at rates that recover the full
29 costs of service.

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

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

34 (5) Any modification to the program in order to maximize
35 participation and funding opportunity under similar federal
36 programs.

37 (l) The report described in subdivision (k) that is due no later
38 than March 1, 2014, shall evaluate options for controlling the
39 program costs of providing speech-generating devices and include

1 information on any barriers to participation in the program by
2 eligible subscribers.

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

10 (n) The commission shall structure the programs required by
11 this section so that a charge imposed to promote the goals of
12 universal service reasonably equals the value of the benefits of
13 universal service to contributing entities and their subscribers.

14 (o) (1) The requirement for submitting a report imposed under
15 subdivision (k) is inoperative on January 1, 2021, pursuant to
16 Section 10231.5 of the Government Code.

17 (2) A report submitted pursuant to subdivision (k) shall be
18 submitted in compliance with Section 9795 of the Government
19 Code.

20 SEC. 4. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.

29 SEC. 5. This act is an urgency statute necessary for the
30 immediate preservation of the public peace, health, or safety within
31 the meaning of Article IV of the Constitution and shall go into
32 immediate effect. The facts constituting the necessity are:

33 In order to avoid administrative and reporting disruptions with
34 respect to the state's deaf and disabled telecommunications
35 universal service programs, to maintain compliance with federal
36 telecommunications universal service program requirements, and
37 to encourage continued investments in the development and
38 manufacture of technology and software that advances the

- 1 communications capabilities of the deaf and disabled, it is
- 2 necessary for this act to take effect immediately.

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