

**Introduced by Senator McGuire
(Coauthors: Senators Hill, Nielsen, and Wolk)**

February 18, 2016

An act to amend Section 710 of, to amend and renumber Section 2889.8 of, and to add Sections 911.5 and 2882.5 to, the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 1250, as introduced, McGuire. Telecommunications: major rural outages: notifications and reporting.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law requires the commission to periodically assess the reliability of the public telecommunications network and, if necessary, to develop recommendations for improvement. The assessment is required to include (1) an analysis of those factors that pose a risk to network reliability, including the adequacy of independent sources of reserve power, (2) consideration as to whether development of reliability standards is appropriate, and (3) consideration as to whether procedures should be developed to notify customers about accessing other telecommunications companies in the event of a service disruption.

This bill would impose, on a facilities-based provider of telecommunications services that the Federal Communications Commission requires to provide access to 911 service, certain notification and reporting requirements for a major rural outage of telecommunications services, with the requirements to be adopted by the commission in consultation with the Office of Emergency Services. The bill would make these requirements enforceable through the Public Utilities Act. The bill would require the commission to annually report

to the Legislature on certain information from reports filed with the commission and to include recommendations to improve the reporting of major rural outages and remedial actions that can be undertaken to avoid or minimize outages. Because a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime, and the requirements added by the bill would be a part of, or enforceable pursuant to, the act and require actions by the commission for their implementation, the bill would impose a state-mandated local program by creating a new crime.

Existing law, until January 1, 2020, prohibits the commission from regulating Voice over Internet Protocol (VoIP) and Internet Protocol enabled service (IP enabled service), as defined, except as required or delegated by federal law or expressly provided otherwise in statute.

This bill would expressly authorize the commission to implement the notification and reporting requirements for major rural outages with respect to VoIP and IP enabled service providers of telecommunications services that the Federal Communications Commission requires to provide access to 911 service, as determined by the commission.

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. (a) This act shall be known, and may be cited,
- 2 as the 911 Emergency Reliability and Public Safety Act.
- 3 (b) The Legislature finds and declares all of the following:
- 4 (1) The Public Utilities Commission currently has no specific
- 5 requirements with respect to the reporting of major service
- 6 interruptions that impair the ability of persons to call and connect
- 7 to the local emergency telephone system by dialing 911, other than
- 8 requiring facilities-based certificated and registered public utility
- 9 telephone corporations to report major service interruptions as
- 10 required by the Federal Communications Commission's Network
- 11 Outage Reporting System adopted by the Public Utilities

1 Commission in the Rules Governing Telecommunications Services
2 (General Order 133-C (effective July 9, 2009), page 9).

3 (2) The duty to report outages pursuant to the Network Outage
4 Reporting System requirements is triggered upon surpassing either
5 a duration or a user-minutes-affected threshold. That
6 user-minutes-affected threshold is appropriate for urban areas.
7 However, the user-minutes-affected threshold results in the
8 nonreporting of major service interruptions in rural areas of
9 California.

10 (3) The Federal Communications Commission has
11 acknowledged that providing access to the 911 emergency call
12 system includes maintaining the function of the communications
13 networks required to initiate 911 calls and to deliver those calls
14 and that there is a shared authority of the federal government and
15 states to collectively oversee all components of 911 service.

16 (4) In order to protect the health and safety of persons living in
17 rural areas of the state requiring reliable access to the 911
18 emergency call system, it is necessary for the Public Utilities
19 Commission to adopt more stringent requirements for the reporting
20 of major service interruptions in rural areas of the state.

21 (5) It is the intent of the Legislature that the commission utilize
22 its existing authority under the Public Utilities Act, including the
23 authority to impose fines and penalties for violations, to enforce
24 the requirements of this act, and that any moneys collected through
25 fines or penalties will be used first to offset the costs of
26 implementing the requirements of the act, and if any moneys
27 remain, toward eliminating the digital divide.

28 SEC. 2. Section 710 of the Public Utilities Code is amended
29 to read:

30 710. (a) The commission shall not exercise regulatory
31 jurisdiction or control over Voice over Internet Protocol and
32 Internet Protocol enabled services except as required or expressly
33 delegated by federal law or expressly directed to do so by statute
34 or as set forth in subdivision (c). In the event of a requirement or
35 a delegation referred to above, this section does not expand the
36 commission's jurisdiction beyond the scope of that requirement
37 or delegation.

38 (b) No department, agency, commission, or political subdivision
39 of the state shall enact, adopt, or enforce any law, rule, regulation,
40 ordinance, standard, order, or other provision having the force or

1 effect of law, that regulates VoIP or other IP enabled service, unless
2 required or expressly delegated by federal law or expressly
3 authorized by statute or pursuant to subdivision (c). In the event
4 of a requirement or a delegation referred to above, this section
5 does not expand the commission's jurisdiction beyond the scope
6 of that requirement or delegation.

7 (c) This section does not affect or supersede any of the
8 following:

9 (1) The Emergency Telephone Users Surcharge Law (Part 20
10 commencing with Section 41001) of Division 2 of the Revenue
11 and Taxation Code) and the state's universal service programs
12 (Section 285).

13 (2) The Digital Infrastructure and Video Competition Act of
14 2006 (Division 2.5 (commencing with Section 5800)) or a franchise
15 granted by a local franchising entity, as those terms are defined in
16 Section 5830.

17 (3) The commission's authority to implement and enforce
18 Sections 251 and 252 of the federal Communications Act of 1934,
19 as amended (47 U.S.C. Secs. 251 and 252).

20 (4) The commission's authority to require data and other
21 information pursuant to Section 716.

22 (5) The commission's authority to address or affect the
23 resolution of disputes regarding intercarrier compensation,
24 including for the exchange of traffic that originated, terminated,
25 or was translated at any point into Internet Protocol format.

26 (6) The commission's authority to enforce existing requirements
27 regarding backup power systems established in Decision
28 10-01-026, adopted pursuant to Section ~~2892.1~~ 2892.1, *rural*
29 *outage notification and reporting requirements adopted pursuant*
30 *to Section 2882.5, or other outage notification and reporting*
31 *requirements determined by the commission to be necessary to*
32 *ensure public safety.*

33 (7) The commission's authority relative to access to support
34 structures, including pole attachments, or to the construction and
35 maintenance of facilities pursuant to commission General Order
36 95 and General Order 128.

37 (8) The Warren-911-Emergency Assistance Act (Article 6
38 commencing with Section 53100) of Chapter 1.5 of Part 1 of
39 Division 2 of Title 5 of the Government Code).

1 (d) This section does not affect the enforcement of any state or
2 federal criminal or civil law or any local ordinances of general
3 applicability, including, but not limited to, consumer protection
4 and unfair or deceptive trade practice laws or ordinances, that
5 apply to the conduct of business, the California Environmental
6 Quality Act (Division 13 (commencing with Section 21000) of
7 the Public Resources Code), local utility user taxes, and state and
8 local authority governing the use and management of the public
9 rights-of-way.

10 (e) This section does not affect any existing regulation of,
11 proceedings governing, or existing commission authority over,
12 non-VoIP and other non-IP enabled wireline or wireless service,
13 including regulations governing universal service and the offering
14 of basic service and lifeline service, and any obligations to offer
15 basic service.

16 (f) This section does not limit the commission's ability to
17 continue to monitor and discuss VoIP services, to track and report
18 to the Federal Communications Commission and the Legislature,
19 within its annual report to the Legislature, the number and type of
20 complaints received by the commission from customers, and to
21 respond informally to customer complaints, including providing
22 VoIP customers who contact the commission information regarding
23 available options under state and federal law for addressing
24 complaints.

25 (g) This section does not affect the establishment or enforcement
26 of standards, requirements, or procedures, including procurement
27 policies, applicable to any department, agency, commission, or
28 political subdivision of the state, or to the employees, agents, or
29 contractors of a department, agency, commission, or political
30 subdivision of the state, relating to the protection of intellectual
31 property.

32 (h) This section shall remain in effect only until January 1, 2020,
33 and as of that date is repealed, unless a later enacted statute, that
34 is enacted before January 1, 2020, deletes or extends that date.

35 SEC. 3. Section 911.5 is added to the Public Utilities Code, to
36 read:

37 911.5. By January 31, 2018, and each January 31 thereafter,
38 the commission shall report to the Legislature summarizing major
39 rural outage information as reported to the commission pursuant
40 to Section 2882.5, including the number and duration of major

1 rural outages and the number of customers affected by those
2 outages. The report shall include any rules adopted by the
3 commission pursuant to subdivision (g) of Section 2882.5, any
4 recommendations to the Legislature as to changes that can be made
5 to further refine the requirements for reporting of major rural
6 outages, recommendations for remedial actions that can be
7 undertaken to avoid or minimize outages, any failures to comply
8 with the major rural outages reporting requirements, and any fines
9 imposed or other enforcement actions undertaken to enforce
10 Section 2882.5.

11 SEC. 4. Section 2882.5 is added to the Public Utilities Code,
12 to read:

13 2882.5. (a) For purposes of this section, the following terms
14 have the following meanings:

15 (1) “Access to 911 service” means the ability of a person to call
16 and connect to the local emergency telephone systems described
17 in the Warren-911-Emergency Assistance Act (Article 6
18 (commencing with Section 53100) of Chapter 1 of Part 1 of
19 Division 2 of Title 5 of the Government Code).

20 (2) “Major rural outage” means an outage of telecommunications
21 service in a rural area, experienced by a facilities-based provider
22 of telecommunications services that the Federal Communications
23 Commission requires to provide access to 911 service, that is both
24 of the following: (A) is of 30 or more minutes duration, and (B)
25 potentially affects 75,000 or more user-minutes. The number of
26 user-minutes is the mathematical result of multiplying the outage’s
27 duration expressed in minutes and the number of users potentially
28 affected by the outage.

29 (3) “Outage” has the same meaning as defined by the Federal
30 Communications Commission in Section 4.5 of Part 4 of
31 Subchapter A of Chapter 1 of Title 47 of the Code of Federal
32 Regulations.

33 (4) “Rural area” means those areas of the state that the
34 commission, utilizing United States Census Bureau measurements
35 and data, determines are not within urbanized areas or urban
36 clusters.

37 (5) “Telecommunications service” has the same meaning as
38 defined in subdivision (a) of Section 2892.1.

39 (b) The enhanced notification and reporting requirements of
40 this section do not apply to those areas of the state that the

1 commission, utilizing United States Census Bureau measurements
2 and data, determines are not rural areas. Nothing in this section
3 affects the notification and reporting requirements adopted by the
4 Federal Communications Commission (Part 4 of Subchapter A of
5 Chapter 1 of Title 47 of the Code of Federal Regulations) and the
6 commission's Rules Governing Telecommunications Services
7 (General Order 133-C (effective July 9, 2009), pages 9-10, or any
8 successor rules adopted by the commission) as to those areas of
9 the state that the commission determines are not rural areas.

10 (c) The commission, in consultation with the Office of
11 Emergency Services, shall require all facilities-based providers of
12 telecommunications services that the Federal Communications
13 Commission requires to provide access to 911 service to provide
14 responder outage notification whenever there is a major rural
15 outage. Responder outage notification shall be provided within 30
16 minutes of the outage to the Office of Emergency Services and to
17 the county office of emergency services and sheriff of any county
18 affected by the outage. The notification shall include the
19 telecommunications provider's contact name and calling number,
20 an assigned unique report code that will be used to identify the
21 outage for reporting purposes, a description of the nature of the
22 outage, a description of the estimated area affected by the outage,
23 and other information that the telecommunications provider feels
24 may be of assistance to emergency first responders. The provider
25 of telecommunications services shall notify the commission upon
26 its completion of providing responder outage notification.

27 (d) The commission, in consultation with the Office of
28 Emergency Services, shall require all facilities-based providers of
29 telecommunications services that the Federal Communications
30 Commission requires to provide access to 911 service to provide
31 public outage notification whenever there is a major rural outage.
32 The commission shall adopt rules for the most effective and
33 efficient means for dissemination of information to the public
34 relative to outages. The rules shall require that a
35 telecommunications provider that maintains an Internet Web site
36 timely post information relative to an outage on its Internet Web
37 site, including the area of the outage and, when available,
38 alternative means to contact a public safety answering point in the
39 event of an emergency arising during the outage. The commission
40 may adopt additional requirements for outreach to be provided to

1 customers during or following an outage and what information
2 relative to public outage notification is to be provided to the
3 commission.

4 (e) The commission, in consultation with the Office of
5 Emergency Services, shall require all facilities-based providers of
6 telecommunications services that the Federal Communications
7 Commission requires to provide access to 911 service to provide
8 initial outage reporting whenever there is a major rural outage.
9 Initial outage reporting shall be provided within 120 minutes of
10 the outage to the Office of Emergency Services and to the county
11 office of emergency services and sheriff of any county affected
12 by the outage. The initial outage report shall, at a minimum, include
13 a description of the direct cause or general nature of the outage
14 and identify the date and time of the incident causing the outage,
15 the unique report code provided pursuant to subdivision (c), the
16 location of the incident or cause, the geographic range and number
17 of potentially affected customers, and, if the outage has not been
18 rectified, the expected duration of the outage. The provider of
19 telecommunications services shall notify the commission upon its
20 completion of providing initial outage reporting. The commission,
21 in consultation with the Office of Emergency Services, shall
22 determine what information, if any, that is required to be contained
23 in the initial outage report is, or may be made, public consistent
24 with Section 583 and the confidentiality requirements adopted by
25 the Federal Communications Commission in order to protect
26 homeland security (Section 4.2 of Part 4 of Subchapter A of
27 Chapter 1 of Title 47 of the Code of Federal Regulations).

28 (f) The commission, in consultation with the Office of
29 Emergency Services, shall require all facilities-based providers of
30 telecommunications services that the Federal Communications
31 Commission requires to provide access to 911 service to provide
32 final outage reporting whenever there is a major rural outage. Final
33 outage reporting shall be provided within 20 days to the
34 commission and the Office of Emergency Services. The final
35 outage report shall, at a minimum, include the unique report code
36 provided pursuant to subdivision (c), a detailed description of the
37 direct cause and any root cause of the outage, the estimated damage
38 caused by the outage, including any casualties that resulted from
39 the outage and any known financial impacts to the area affected
40 by the outage, the provider's actions to restore service, and any

1 measures undertaken to prevent the occurrence of a similar outage
2 in the future. The commission, in consultation with the Office of
3 Emergency Services, shall determine what information, if any,
4 that is required to be contained in the final outage report is, or may
5 be made, public consistent with Section 583 and the confidentiality
6 requirements adopted by the Federal Communications Commission
7 in order to protect homeland security (Section 4.2 of Part 4 of
8 Subchapter A of Chapter 1 of Title 47 of the Code of Federal
9 Regulations). A written summary of the outage report, containing
10 that information the commission determines may be safely
11 disclosed, shall be supplied to the board of supervisors of each
12 county affected by the outage within 30 days of the major rural
13 outage.

14 (g) The commission, in consultation with the Office of
15 Emergency Services and, to the extent feasible, with rural
16 emergency responders, may adopt rules to implement and refine
17 the notification and reporting requirements of this section.

18 (h) The requirements of this section are enforceable pursuant
19 to Chapter 11 (commencing with Section 2100) of Part 1.

20 SEC. 5. Section 2889.8 of the Public Utilities Code is amended
21 and renumbered to read:

22 ~~2889.8-~~

23 2882. The commission periodically shall assess the reliability
24 of the public telecommunications network and, if necessary,
25 develop recommendations for improvement. The assessment shall
26 include, but not be limited to, all of the following:

27 (a) An analysis of those factors that pose a risk to network
28 reliability, including the adequacy of independent sources of
29 reserve power.

30 (b) Consideration as to whether development of reliability
31 standards is appropriate.

32 (c) Consideration as to whether procedures should be developed
33 to notify customers about accessing other telecommunications
34 companies in the event of a service disruption.

35 SEC. 6. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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