AMENDED IN SENATE MAY 1, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL No. 219

Introduced by Committee on Utilities and Commerce (Wright (Chair), Pescetti (Vice Chair), Canciamilla, Diaz, Jackson, Kelley, Papan, Reyes, and Wesson)
(Coauthor: Assembly Member Corbett)

February 9, 2001

An act to amend Sections 2881 and 2881.2 of, *to add and repeal Section 270.1 of,* and to repeal Section 2881.01 of, the Public Utilities Code, relating to public utilities, *making an appropriation therefor,* and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 219, as amended, Committee on Utilities and Commerce. Public utilities: deaf and disabled telecommunications program.

Existing law requires the Public Utilities Commission to establish a rate recovery mechanism through surcharges on intrastate telephone service, until January 1, 2001, to recover the costs for providing telecommunications devices capable of serving the needs of the deaf and hearing impaired and telecommunications equipment for the disabled.

This bill would extend the requirement for those telephone surcharges until January 1, 2006, and delete an obsolete provision.

The bill would authorize the commission to authorize the trustee of the California High-Cost Fund-B Trust to transfer to the Deaf Equipment Acquisition Fund Trust (DEAF Trust) money sufficient to cover the costs of the deaf and disabled telecommunications program.

The bill would require the commission to reimburse the California High-Cost Fund-B Trust for any such transfer, with interest as determined by the commission, and would appropriate from the Deaf and Disabled Telecommunications Program Administrative Committee Fund a sum equivalent to the amount of money transferred to the commission for allocation to the California High-Cost Fund-B Trust for that purpose. The bill would repeal those transfer and reimbursement provisions as of January 1, 2002.

The bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $^{2}/_{3}$ of the membership of each house of the Legislature.

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

Vote: $^{2}/_{3}$. Appropriation: ~~no~~ *yes*. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. *Section 270.1 is added to the Public Utilities Code to read:*

270.1. (a) Notwithstanding any other provision of law, the commission may authorize the trustee of the California High-Cost Fund-B Trust to transfer to the Deaf Equipment Acquisition Fund Trust (DEAF Trust) money sufficient to cover the costs of the program as specified in subdivision (a) of Section 278, including, but not limited to, all costs specified in subdivision (c) of Section 278. The amount of any transfer of money authorized may not exceed the cost of operating the program for six months. The commission shall also establish other terms of the transfer, as it determines to be appropriate.

(b) The commission shall reimburse the California High-Cost Fund-B Trust for any transfer of money to the DEAF Trust authorized pursuant to subdivision (a), with interest as determined by the commission.

(c) A sum equivalent to the amount of money transferred to the Deaf Equipment Acquisition Fund Trust (DEAF Trust) pursuant to subdivision (a) is hereby appropriated from the Deaf and Disabled Telecommunications Program Administrative

Committee Fund to the commission, for allocation to the California High-Cost Fund-B Trust, for purposes of subdivision (b).

(d) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2002, deletes or extends that date.

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

2881. (a) The commission shall 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 by a licensed physician and surgeon, audiologist, or a qualified state or federal agency, as determined by the commission, and to any subscriber that is an organization representing individuals who are deaf or hearing impaired, as determined and specified by the commission pursuant to subdivision (e). A licensed hearing aid dispenser may certify the need of an individual to participate in the program if that individual has been previously fitted with an amplified device by the dispenser and the dispenser has the individual's hearing records on file prior to certification.

(b) The commission shall also design and implement a program to provide a dual-party relay system, using third-party intervention to connect individuals who are deaf or hearing impaired and offices of organizations representing individuals who are deaf or hearing impaired, as determined and specified by the commission pursuant to subdivision (e), with persons of normal hearing by way of intercommunications devices for individuals who are deaf or hearing impaired and the telephone system, making available reasonable access of all phases of public telephone service to telephone subscribers who are deaf or hearing impaired. In order to make a dual-party relay system that will meet the requirements of individuals who are deaf or hearing impaired available at a reasonable cost, the commission shall initiate an investigation, conduct public hearings to determine the most cost-effective method of providing dual-party relay service to the deaf or hearing impaired when using a telecommunications device, and solicit the advice, counsel, and physical assistance of statewide nonprofit consumer organizations of the deaf, during the development and implementation of the system. The commission shall phase in this program, on a geographical basis, over a three-year period ending on January 1, 1987. The commission shall apply for certification of this program under rules adopted by the Federal Communications Commission pursuant to Section 401 of the federal Americans with Disabilities Act of 1990 (Public Law 101-336).

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

(d) The commission shall establish a rate recovery mechanism through a surcharge not to exceed one-half of 1 percent uniformly applied to a subscriber’s intrastate telephone service, other than one-way radio paging service and universal telephone service, both within a service area and between service areas, to allow providers of the equipment and service specified in subdivisions (a), (b), and (c), to recover costs as they are incurred under this section. The surcharge shall be in effect until January 1, 2006. The commission shall require that the programs implemented under this section be identified on subscribers’ bills, and shall establish a fund and require separate accounting for each of the programs implemented under this section.

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

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

(g) The commission shall annually review the surcharge level and the balances in the funds established pursuant to subdivision (d). Until January 1, 2006, the commission shall be authorized to make, within the limits set by subdivision (d), any necessary adjustments to the surcharge to ensure that the programs supported thereby are adequately funded and that the fund balances are not excessive. A fund balance which is projected to exceed six months' worth of projected expenses at the end of the fiscal year is excessive.

(h) The commission shall prepare and submit to the Legislature, on or before December 31, 1988, and annually thereafter, 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 which 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.

(i) 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.

~~SEC. 2.~~

SEC. 3. Section 2881.01 of the Public Utilities Code is repealed.

~~SEC. 3.~~

SEC. 4. Section 2881.2 of the Public Utilities Code is amended to read:

2881.2. (a) In addition to the requirements of Section 2881, the commission shall design and implement a program that shall provide for publicly available telecommunications devices capable of servicing the needs of the deaf or hearing impaired in existing buildings, structures, facilities, and public accommodations of the type specified in Section 4450 of the Government Code and Sections 19955.5 and 19956 of the Health and Safety Code, making available reasonable access of all phases of public telephone service to individuals who are deaf or hearing impaired. The commission shall direct the appropriate committee under its control to determine and specify locations within existing buildings, structures, facilities, and public accommodations in need of a telecommunications device and to contract for the procurement, installation, and maintenance of these devices. In the letting of the contract, the commission shall direct the committee to ensure consideration of for-profit and nonprofit corporations, including nonprofit corporations with demonstrated service to individuals who are deaf or hearing impaired and whose boards of directors and staff are made up of a majority of those individuals. The commission shall also direct the committee to seek the cooperation of the owners, managers, and tenants of the existing buildings, structures, facilities, and public accommodations that have been determined to be in need of a telecommunications device with regard to its installation and maintenance. The commission shall phase in this program over a reasonable period of time, beginning no later than January 1, 1998, giving priority to those existing buildings, structures, facilities, and public accommodations determined by the commission, with the advice and counsel of statewide nonprofit consumer organizations for the deaf, to be of most importance and usefulness to the deaf or hearing impaired.

(b) The commission shall ensure that costs are recovered as they are incurred under this section, including any costs incurred by the owners, managers, or tenants of existing buildings, structures, facilities, and public accommodations, and shall utilize for this purpose the rate recovery mechanism established pursuant to subdivision (d) of Section 2881. The commission shall also establish a fund and require separate accounting for the program implemented under this section and, in addition, shall require that the surcharge utilized to fund the program not exceed two-hundredths of 1 percent, that it be combined with the surcharge required by subdivision (d) of Section 2881, and that it count toward the limits set by that subdivision. This surcharge shall be in effect until January 1, 2006.

(c) ‘‘Existing buildings, structures, facilities, and public accommodations,’’ for the purposes of this section, means those buildings, structures, facilities, and public accommodations or parts thereof that were constructed or altered prior to January 26, 1993, or are otherwise not required by Section 303 of the federal Americans with Disabilities Act of 1990 (Public Law 101-336) (42 U.S.C. Sec. 12183) or any other section of that act and its implementing regulations and guidelines, to have a publicly available telecommunications device capable of serving the needs of the deaf or hearing impaired.

~~SEC. 4.~~

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

In order to reinstate a telephone surcharge that is needed in order to recover the costs for telecommunications devices capable of serving the needs of the deaf and hearing impaired and telecommunications equipment for the disabled, it is necessary for this act to take effect immediately as an urgency statute.

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