

ASSEMBLY BILL

No. 1723

Introduced by Committee on Utilities and Commerce (Wright (Chair), Pescetti (Vice Chair), John Campbell, Canciamilla, Cardenas, Diaz, Jackson, Maddox, Nation, Papan, Reyes, and Wesson)

March 15, 2001

An act to amend Sections 278 and 2881 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1723, as introduced, Committee on Utilities and Commerce. Public utilities: telephonic reading systems.

Existing law requires the Public Utilities Commission to establish a rate recovery mechanism through a surcharge on intrastate telephone service to recover the costs for providing telecommunications devices capable of serving the needs of the deaf, hearing impaired, and disabled. The Public Utilities Act establishes the Deaf and Disabled Telecommunications Program Administrative Committee to advise the commission regarding the development, implementation, and administration of these programs and the Deaf and Disabled Telecommunications Program Administrative Committee Fund as a repository for the funds collected by the surcharge.

The bill would require the commission to also design and implement, on or before July 1, 2002, a program to provide toll-free access throughout California to telephonic reading systems for citizens with print disabilities, at no charge additional to the basic exchange rate. The bill would authorize any agency, instrumentality, or political subdivision of this state, or any nonprofit organization doing business

in this state, to apply to the commission for funding to establish and operate a new telephonic reading system, as defined, and for the reimbursement of certain operational costs. The bill would require the administrative committee to issue recommendations to the commission relating to the establishment of new protocols and guidelines, and would require the commission to establish new protocols and guidelines, for telephonic reading systems. The bill would state the intent of the Legislature that \$185,000 of a sum appropriated in the Budget Act of 2000 to the California State Library for public library projects be used by the library to fund the operations of a telephonic reading center in each of specified cities.

The bill would make related findings and declarations.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Thousands of California citizens have disabilities that
- 4 prevent them from directly accessing conventional print material
- 5 due to visual impairments, dyslexia, and orthopedic disabilities,
- 6 which prevent the physical manipulation of print materials.
- 7 (b) For decades there have been governmental and nonprofit
- 8 organizations dedicated to providing access to reading materials
- 9 on a wide variety of subjects by way of Braille, large print, or audio
- 10 tape recordings.
- 11 (c) Access to time-sensitive or local or regional publications,
- 12 or both, is not feasible to produce through these traditional means
- 13 and formats.
- 14 (d) Lack of direct and prompt access to these materials, such as
- 15 newspapers, magazines, newsletters, broadcast media schedules,
- 16 and other time-sensitive materials has a detrimental effect on the
- 17 educational opportunities, literacy, and opportunity for full
- 18 participation in governmental and community forums by people
- 19 with print disabilities.
- 20 (e) The California State Library, through the leadership of
- 21 State Librarian Dr. Kevin Starr, has caused to be established in five
- 22 locations throughout California high technology systems that



1 provide access to previously inaccessible material by use of a
2 standard telephone.

3 (f) These telephonic reading systems are currently
4 underutilized because they are capable of serving many more
5 people than can call without incurring long distance telephone
6 charges.

7 (g) It is not cost-effective to establish the hundreds of locations
8 necessary to give print disabled Californians local telephone call
9 access to those locations.

10 (h) Toll-free access to current and future telephonic reading
11 systems operated by governmental or nonprofit organizations in
12 California will provide meaningful access to this important print
13 material for all Californians with print disabilities.

14 SEC. 2. This bill may be known and shall be cited as the Kevin
15 Starr Access to Information Act of 2001.

16 SEC. 3. Section 278 of the Public Utilities Code is amended
17 to read:

18 278. (a) (1) There is hereby created the Deaf and Disabled
19 Telecommunications Program Administrative Committee, which
20 is an advisory board to advise the commission regarding the
21 development, implementation, and administration of programs to
22 provide specified telecommunications services and equipment to
23 persons in this state who are deaf-~~or~~, disabled, *or print disabled*,
24 as provided for in Sections 2881, 2881.1, and 2881.2, and to carry
25 out the programs pursuant to the commission's direction, control,
26 and approval.

27 (2) In addition to the membership qualifications established by
28 the commission pursuant to subdivision (a) of Section 271, the
29 commission shall establish qualifications for persons to serve as
30 members of the Deaf and Disabled Telecommunications Program
31 Administrative Committee to achieve appropriate representation
32 by the consumers of telecommunications services for the deaf and
33 disabled.

34 (b) All revenues collected by telephone corporations in rates
35 authorized by the commission to fund the programs specified in
36 subdivision (a) shall be submitted to the commission pursuant to
37 a schedule established by the commission. The commission shall
38 transfer the moneys received to the Controller for deposit in the
39 Deaf and Disabled Telecommunications Program Administrative
40 Committee Fund. All interest earned by moneys in the fund shall

1 be deposited in the fund. Any unexpended revenues collected prior
2 to the operative date of this section shall be submitted to the
3 commission, and the commission shall transfer those moneys to
4 the Controller for deposit in the Deaf and Disabled
5 Telecommunications Program Administrative Committee Fund.
6 In addition, those revenues that are collected pursuant to
7 subdivision (d) of Section 2881 shall be accounted for separately,
8 as required by subdivision (b) of Section 2881.2, and deposited in
9 the fund created by the commission pursuant to subdivision (b) of
10 Section 2881.2.

11 (c) Moneys appropriated from the Deaf and Disabled
12 Telecommunications Program Administrative Committee Fund to
13 the commission shall be utilized exclusively by the commission
14 for the program specified in subdivision (a), including all costs of
15 the board and the commission associated with the administration
16 and oversight of the program and the fund.

17 SEC. 4. Section 2881 of the Public Utilities Code is amended
18 to read:

19 2881. (a) The commission shall design and implement a
20 program to provide a telecommunications device capable of
21 serving the needs of individuals who are deaf or hearing impaired,
22 together with a single party line, at no charge additional to the basic
23 exchange rate, to any subscriber who is certified as an individual
24 who is deaf or hearing impaired by a licensed physician and
25 surgeon, audiologist, or a qualified state or federal agency, as
26 determined by the commission, and to any subscriber that is an
27 organization representing individuals who are deaf or hearing
28 impaired, as determined and specified by the commission pursuant
29 to subdivision (e). A licensed hearing aid dispenser may certify the
30 need of an individual to participate in the program if that
31 individual has been previously fitted with an amplified device by
32 the dispenser and the dispenser has the individual's hearing
33 records on file prior to certification.

34 (b) The commission shall also design and implement a program
35 to provide a dual-party relay system, using third-party intervention
36 to connect individuals who are deaf or hearing impaired and
37 offices of organizations representing individuals who are deaf or
38 hearing impaired, as determined and specified by the commission
39 pursuant to subdivision (e), with persons of normal hearing by way
40 of intercommunications devices for individuals who are deaf or

1 hearing impaired and the telephone system, making available
 2 reasonable access of all phases of public telephone service to
 3 telephone subscribers who are deaf or hearing impaired. In order
 4 to make a dual-party relay system that will meet the requirements
 5 of individuals who are deaf or hearing impaired available at a
 6 reasonable cost, the commission shall initiate an investigation,
 7 conduct public hearings to determine the most cost-effective
 8 method of providing dual-party relay service to the deaf or hearing
 9 impaired when using a telecommunications device, and solicit the
 10 advice, counsel, and physical assistance of statewide nonprofit
 11 consumer organizations of the deaf, during the development and
 12 implementation of the system. The commission shall phase in this
 13 program, on a geographical basis, over a three-year period ending
 14 on January 1, 1987. The commission shall apply for certification
 15 of this program under rules adopted by the Federal
 16 Communications Commission pursuant to Section 401 of the
 17 Americans with Disabilities Act of 1990 (Public Law 101-336).

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

31 (d) The commission shall establish a rate recovery mechanism
 32 through a surcharge not to exceed one-half of 1 percent uniformly
 33 applied to a subscriber's intrastate telephone service, other than
 34 one-way radio paging service and universal telephone service,
 35 both within a service area and between service areas, to allow
 36 providers of the equipment and service specified in subdivisions
 37 (a), (b), and (c), to recover costs as they are incurred under this
 38 section. The surcharge shall be in effect until January 1, 2001. The
 39 commission shall require that the programs implemented under
 40 this section be identified on subscribers' bills, and shall establish

1 a fund and require separate accounting for each of the programs
2 implemented under this section.

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

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

13 (g) The commission shall annually review the surcharge level
14 and the balances in the funds established pursuant to subdivision
15 (d). Until January 1, 2001, the commission shall be authorized to
16 make, within the limits set by subdivision (d), any necessary
17 adjustments to the surcharge to ensure that the programs supported
18 thereby are adequately funded and that the fund balances are not
19 excessive. A fund balance which is projected to exceed six
20 months' worth of projected expenses at the end of the fiscal year
21 is excessive.

22 (h) The commission shall prepare and submit to the
23 Legislature, on or before December 31, 1988, and annually
24 thereafter, a report on the fiscal status of the programs established
25 and funded pursuant to this section and Sections 2881.1 and
26 2881.2. The report shall include a statement of the surcharge level
27 established pursuant to subdivision (d) and revenues produced by
28 the surcharge, an accounting of program expenses, and an
29 evaluation of options for controlling those expenses and
30 increasing program efficiency, including, but not limited to, all of
31 the following proposals:

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

35 (2) If, and to the extent not prohibited under Section 401 of the
36 Americans with Disabilities Act of 1990 (Public Law 101-336),
37 the imposition of limits or other restrictions on maximum usage
38 levels for the relay service, which shall include the development
39 of a program to provide basic communications requirements to all
40 relay users at discounted rates, including discounted toll call rates,

1 and, for usage in excess of those basic requirements, at rates which
2 recover the full costs of service.

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

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

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

14 (j) (1) *The commission shall also design and implement, on or*
15 *before July 1, 2002, a program to provide toll-free access*
16 *throughout California to telephonic reading systems for citizens*
17 *with print disabilities, at no charge additional to the basic*
18 *exchange rate. The commission shall establish a system whereby*
19 *a single toll-free telephone number is used to access all telephonic*
20 *reading systems, with the caller selecting the desired system by*
21 *choosing among menu items provided at the beginning of each*
22 *call. Each telephonic reading system shall provide access with the*
23 *use of individual passwords issued only to persons who are eligible*
24 *under the criteria established by the National Library Service for*
25 *the Blind and Physically Handicapped, Library of Congress, as*
26 *authorized by Section 135a of Title 2 of the United States Code,*
27 *and as described in Section 701.10 of Title 36 of the Code of*
28 *Federal Regulations. The operator of each telephonic reading*
29 *system shall provide for the issuance of passwords to those*
30 *individuals who meet the criteria described in this paragraph.*

31 (2) *For purposes of this subdivision "telephonic reading*
32 *system" means a system operated by, or under the control or*
33 *sponsorship of any agency, instrumentality, or political*
34 *subdivision of the State of California, or by any nonprofit*
35 *organization doing business in this state, whereby the caller can*
36 *hear the reading of material such as newspapers, magazines,*
37 *newsletters, broadcast media schedules, transit route and schedule*
38 *information, and other reference or time sensitive materials as*
39 *determined by the operator of the system.*

1 (3) Any agency, instrumentality, or political subdivision of this
2 state, or any nonprofit organization doing business in this state,
3 may apply to the commission for funding to establish a new
4 telephonic reading system, and for the operation of such a system.
5 Any agency, instrumentality, or political subdivision of this state
6 may apply to the commission for the reimbursement of operational
7 costs incurred or expended between October 1, 2001, and July 1,
8 2002, for the operation of a telephonic reading system. The
9 commission may not authorize reimbursement for operational
10 costs that the telephonic reading system paid or could have paid
11 from grants or donations that the telephonic reading system
12 received, and which grants or donations the grantor specified
13 exclusively to fund the expenses for the telephonic reading system.
14 (4) Nothing in this subdivision is intended to limit the
15 establishment by the commission of other programs or services
16 under subdivision (i).
17 (5) The Deaf and Disabled Telecommunications Program
18 Administrative Committee shall review the guidelines and
19 administration of existing telephonic reading systems in this state
20 and issue recommendations to the commission relating to the
21 establishment of new protocols and guidelines.
22 (6) The commission shall establish new protocols and
23 guidelines for telephonic reading systems. The protocols should
24 consider the cost-effectiveness of supporting a particular
25 telephonic reading center and the value of its services to
26 Californians. The protocols should also consider whether the
27 publications the centers make available meet local, regional, and
28 foreign language needs of Californians.
29 (7) For purposes of this section, any agency, instrumentality, or
30 political subdivision of this state, or any nonprofit organization
31 doing business in this state, that operates a telephonic reading
32 center shall provide the commission with access to their books,
33 records, documents, and reports pursuant to Sections 312 to 314,
34 inclusive, and Sections 581 to 587, inclusive. Any agency,
35 instrumentality, or political subdivision of this state, or nonprofit
36 organization doing business in this state, that operates a
37 telephonic reading center shall also be subject to the commission's
38 authority pursuant to subdivisions (a) and (b) of Section 311.
39 (8) The commission may enforce Chapter 11 (commencing with
40 Section 2101) of Part 1 regarding violations against any agency,

1 *instrumentality, or political subdivision of this state, or any*
2 *nonprofit organization doing business in this state that operates a*
3 *telephonic reading center as if that entity were a public utility.*
4 *Notwithstanding the above, nothing in this section shall be*
5 *construed to grant the commission jurisdiction to regulate any*
6 *agency, instrumentality, or political subdivision of this state, or*
7 *any nonprofit organization doing business in this state, that*
8 *operates a telephonic reading system other than as specifically set*
9 *forth in this part.*

10 (9) *The commission shall incur no liability for the content of*
11 *information provided by a telephonic reading system participating*
12 *in the provision of information pursuant to this section.*

13 (10) *The commission shall have full control over the level of*
14 *funding of the telephonic reading system, and may utilize such*
15 *measures as it determines to be appropriate to control costs, such*
16 *as varying the number of available toll-free access lines in order*
17 *to keep call volume within predetermined fiscal targets.*

18 SEC. 5. It is the intent of the Legislature that one hundred
19 eighty-five thousand dollars (\$185,000) of the amount
20 appropriated in Item 6120-140-0001 of Section 2.00 of the Budget
21 Act of 2000, for local assistance, California State Library, Public
22 Library Projects, be used by the library to fund the operations of
23 a telephonic reading center in Los Angeles, San Diego, Fresno,
24 and San Francisco, and two in Sacramento, from October 1, 2000
25 until September 30, 2001, in implementation of the Kevin Starr
26 Access to Information Act of 2001, set forth in Sections 278 and
27 2881 of the Public Utilities Code.

