

AMENDED IN SENATE JUNE 21, 2000
AMENDED IN ASSEMBLY APRIL 11, 2000
AMENDED IN ASSEMBLY MARCH 29, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2757

**Introduced by Committee on Utilities and Commerce
(Wright (Chair), Pescetti (Vice Chair), Calderon,
Campbell, Mazzoni, Vincent, and Wesson)
(Coauthors: Assembly Members Cardenas, Maddox, Papan,
and Reyes)**

February 25, 2000

An act to amend Sections 278 ~~and 2881~~, 2881, and 2881.2 of, and to repeal Section 2881.01 of, of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2757, as amended, Committee on Utilities and Commerce. Public utilities: telephonic reading system.

(1) Existing law requires the Public Utilities Commission to establish a rate recovery mechanism through a ~~surcharge~~ *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, hearing impaired, and disabled, *as prescribed*. The Public Utilities Act established 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.

This bill would extend the requirement for those telephone surcharges until January 1, 2005, and delete an obsolete provision.

The bill would require the commission to design and implement, on or before July 1, 2001 2002, a program to provide free access to telephonic reading systems, as defined, for individuals with print disabilities. The bill would authorize specified entities to apply to the commission for funding to establish a new telephonic reading system, and for the operation of such a system. The bill would require the commission to reimburse any authorized operational expenses paid or incurred by a telephonic reading system on or after January 1, 2001, and to make any retroactive payments to a telephonic reading system after the implementation by the commission of the program. The bill would authorize a maximum of 20% of the maximum amount that is subject to collection under the telephone surcharge to be spent on this program. The bill would require the committee to review the guidelines and administration of existing telephonic reading systems in this state and issue recommendations to the commission relating to the establishment of new protocols and guidelines. The bill would require the commission to establish new protocols and guidelines for telephonic reading systems. The bill would make related findings and declarations. Because, under the act a violation of its provisions would be a crime, this bill would impose a state-mandated local program.

The bill would state the intent of the Legislature that \$185,000 of the amount appropriated in a specified item of the Budget Act of 2000 be used by the California State Library to fund the operations of telephonic reading centers in certain cities, from October 1, 2000, until September 30, 2001, in implementation of the bill.

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 $\frac{2}{3}$ of the membership of each house of the Legislature.

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

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

1 SECTION 1. The Legislature finds and declares all of
2 the following:

3 (a) Thousands of California citizens have disabilities
4 that prevent them from directly accessing conventional
5 print material due to visual impairments, dyslexia, and
6 orthopedic disabilities, which prevent the physical
7 manipulation of such print materials.

8 (b) For decades there have been governmental and
9 nonprofit organizations dedicated to providing access to
10 reading materials on a wide variety of subjects by way of
11 Braille, large print, or audio tape recordings.

12 (c) Access to time sensitive or local or regional
13 publications, or both, is not feasible to produce through
14 these traditional means and formats.

15 (d) Lack of direct and prompt access to these
16 materials, such as newspapers, magazines, newsletters,
17 broadcast media schedules, and other time sensitive
18 materials has a detrimental effect on the educational
19 opportunities, literacy, and opportunity for full
20 participation in governmental and community forums by
21 people with such print disabilities.

22 (e) The California State Library, through the
23 leadership of State Librarian Dr. Kevin Starr, has caused
24 to be established in five locations throughout California
25 high technology systems that provide access to such
26 previously inaccessible material by use of a standard
27 telephone.



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

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

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

13 SEC. 2. This bill may be known and shall be cited as
14 the Kevin Starr Access to Information Act of 2000.

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

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

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

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

1 and Disabled Telecommunications Program
2 Administrative Committee Fund. All interest earned by
3 moneys in the fund shall be deposited in the fund. Any
4 unexpended revenues collected prior to the operative
5 date of this section shall be submitted to the commission,
6 and the commission shall transfer those moneys to the
7 Controller for deposit in the Deaf and Disabled
8 Telecommunications Program Administrative
9 Committee Fund. In addition, those revenues that are
10 collected pursuant to subdivision (d) of Section 2881 shall
11 be accounted for separately, as required by subdivision
12 (b) of Section 2881.2, and deposited in the fund created
13 by the commission pursuant to subdivision (b) of Section
14 2881.2.

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

22 SEC. 4. Section 2881 of the Public Utilities Code is
23 amended to read:

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

1 (b) The commission shall also design and implement
2 a program to provide a dual-party relay system, using
3 third-party intervention to connect individuals who are
4 deaf or hearing impaired and offices of organizations
5 representing individuals who are deaf or hearing
6 impaired, as determined and specified by the commission
7 pursuant to subdivision (e), with persons of normal
8 hearing by way of intercommunications devices for
9 individuals who are deaf or hearing impaired and the
10 telephone system, making available reasonable access of
11 all phases of public telephone service to telephone
12 subscribers who are deaf or hearing impaired. In order to
13 make a dual-party relay system that will meet the
14 requirements of individuals who are deaf or hearing
15 impaired available at a reasonable cost, the commission
16 shall initiate an investigation, conduct public hearings to
17 determine the most cost-effective method of providing
18 dual-party relay service to the deaf or hearing impaired
19 when using a telecommunications device, and solicit the
20 advice, counsel, and physical assistance of statewide
21 nonprofit consumer organizations of the deaf, during the
22 development and implementation of the system. The
23 commission shall phase in this program, on a geographical
24 basis, over a three-year period ending on January 1, 1987.
25 The commission shall apply for certification of this
26 program under rules adopted by the Federal
27 Communications Commission pursuant to Section 401 of
28 the Americans with Disabilities Act of 1990 (Public Law
29 101-336).

30 (c) The commission shall also design and implement a
31 program whereby specialized or supplemental telephone
32 communications equipment may be provided to
33 subscribers who are certified to be disabled at no charge
34 additional to the basic exchange rate. The certification,
35 including a statement of medical need for specialized
36 telecommunications equipment, shall be provided by a
37 licensed physician and surgeon acting within the scope of
38 practice of his or her license, or by a qualified state or
39 federal agency as determined by the commission. The
40 commission shall, in this connection, study the feasibility

1 of, and implement, if determined to be feasible, personal
2 income criteria, in addition to the certification of
3 disability, for determining a subscriber's eligibility under
4 this subdivision.

5 (d) The commission shall establish a rate recovery
6 mechanism through a surcharge not to exceed one-half of
7 1 percent uniformly applied to a subscriber's intrastate
8 telephone service, other than one-way radio paging
9 service and universal telephone service, both within a
10 service area and between service areas, to allow providers
11 of the equipment and service specified in subdivisions
12 (a), (b), and (c), to recover costs as they are incurred
13 under this section. The surcharge shall be in effect until
14 January 1, ~~2004~~ 2005. The commission shall require that
15 the programs implemented under this section be
16 identified on subscribers' bills, and shall establish a fund
17 and require separate accounting for each of the programs
18 implemented under this section.

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

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

30 (g) The commission shall annually review the
31 surcharge level and the balances in the funds established
32 pursuant to subdivision (d). Until January 1, ~~2004~~ 2005,
33 the commission shall be authorized to make, within the
34 limits set by subdivision (d), any necessary adjustments
35 to the surcharge to ensure that the programs supported
36 thereby are adequately funded and that the fund
37 balances are not excessive. A fund balance which is
38 projected to exceed six months' worth of projected
39 expenses at the end of the fiscal year is excessive.

1 (h) The commission shall prepare and submit to the
2 Legislature, on or before December 31, 1988, and
3 annually thereafter, a report on the fiscal status of the
4 programs established and funded pursuant to this section
5 and Sections 2881.1 and 2881.2. The report shall include
6 a statement of the surcharge level established pursuant to
7 subdivision (d) and revenues produced by the surcharge,
8 an accounting of program expenses, and an evaluation of
9 options for controlling those expenses and increasing
10 program efficiency, including, but not limited to, all of the
11 following proposals:

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

15 (2) If, and to the extent not prohibited under Section
16 401 of the Americans with Disabilities Act of 1990 (Public
17 Law 101-336), the imposition of limits or other restrictions
18 on maximum usage levels for the relay service, which
19 shall include the development of a program to provide
20 basic communications requirements to all relay users at
21 discounted rates, including discounted toll call rates, and,
22 for usage in excess of those basic requirements, at rates
23 which recover the full costs of service.

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

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

28 (i) In order to continue to meet the access needs of
29 individuals with functional limitations of hearing, vision,
30 movement, manipulation, speech and interpretation of
31 information, the commission shall perform ongoing
32 assessment of, and if appropriate, expand the scope of the
33 program to allow for additional access capability
34 consistent with evolving telecommunications
35 technology.

36 (j) (1) The commission shall also design and
37 implement, on or before July 1, ~~2001~~ 2002, a program to
38 provide toll-free access throughout California to
39 telephonic reading systems for citizens with print
40 disabilities, at no charge additional to the basic exchange

1 rate. The commission shall establish a system whereby a
2 single toll-free telephone number is used to access all
3 telephonic reading systems, with the caller selecting the
4 desired system by choosing among menu items provided
5 at the beginning of each call. Each telephonic reading
6 system shall provide access with the use of individual
7 passwords issued only to persons who are eligible under
8 the criteria established by the National Library Service
9 for the Blind and Physically Handicapped, Library of
10 Congress, as authorized by Section 135a of Title 2 of the
11 United States Code, and as described in Section 701.10 of
12 Title 36 of the Code of Federal Regulations. The operator
13 of each telephonic reading system shall provide for the
14 issuance of passwords to those individuals who meet the
15 criteria described in this paragraph.

16 (2) For purposes of this subdivision “telephonic
17 reading system” means a system operated by, or under
18 the control or sponsorship of any agency, instrumentality,
19 or political subdivision of the State of California, or by any
20 nonprofit organization doing business in this state,
21 whereby the caller can hear the reading of material such
22 as newspapers, magazines, newsletters, broadcast media
23 schedules, transit route and schedule information, and
24 other reference or time sensitive materials as determined
25 by the operator of the system.

26 (3) Any agency, instrumentality, or political
27 subdivision of this state, or any nonprofit organization
28 doing business in this state, may apply to the commission
29 for funding to establish a new telephonic reading system,
30 ~~and for the operation of such a system. The commission~~
31 ~~shall reimburse any operational expenses paid or~~
32 ~~incurred by a telephonic reading system authorized by~~
33 ~~the commission on or after January 1, 2001, and the~~
34 ~~commission shall make any retroactive payments to a~~
35 ~~telephone reading system after the implementation by~~
36 ~~the commission of the program described in paragraph~~
37 ~~(1).— and for the operation of such a system. Any agency,~~
38 ~~instrumentality, or political subdivision of this state may~~
39 ~~apply to the commission for the reimbursement of~~
40 ~~operational costs incurred or expended between January~~

1 1, 2001, and July 1, 2002, for the operation of a telephonic
2 reading system. The commission may not authorize
3 reimbursement for operational costs that the telephonic
4 reading system paid or could have paid from grants or
5 donations that the telephonic reading system received
6 and which grants or donations the grantor specified
7 exclusively to fund the expenses for the telephonic
8 reading system.

9 (4) Expenditures under this subdivision may not
10 exceed 20 percent of maximum revenues authorized by
11 subdivision (d).

12 (5) Nothing in this subdivision is intended to limit the
13 establishment by the commission of other programs or
14 services under subdivision (i).

15 (6) The Deaf and Disabled Telecommunications
16 Program Administrative Committee shall review the
17 guidelines and administration of existing telephonic
18 reading systems in this state and issue recommendations
19 to the commission relating to the establishment of new
20 protocols and guidelines.

21 (7) The commission shall establish new protocols and
22 guidelines for telephonic reading systems. *The protocols*
23 *should consider the cost-effectiveness of supporting a*
24 *particular telephonic reading center and the value of its*
25 *services to Californians. The protocols should also*
26 *consider whether the publications the centers make*
27 *available meet local, regional, and foreign language needs*
28 *of Californians.*

29 (8) For purposes of this section, any agency,
30 instrumentality, or political subdivision of this state, or
31 any nonprofit organization doing business in this state,
32 that operates a telephonic reading center shall provide
33 the commission with access to their books, records,
34 documents, and reports pursuant to Sections 312 to 314,
35 inclusive, and Sections 581 to 587, inclusive. Any agency,
36 instrumentality, or political subdivision of this state, or
37 nonprofit organization doing business in this state, that
38 operates a telephonic reading center shall also be subject
39 to the commission's authority pursuant to subdivisions (a)
40 and (b) of Section 311.



(9) The commission may enforce Chapter 11 (commencing with Section 2101) of Part 1 regarding violations against any agency, instrumentality, or political subdivision of this state, or any nonprofit organization doing business in this state that operates a telephonic reading center as if that entity were a public utility. Notwithstanding the above, nothing in this section shall be construed to grant the commission jurisdiction to regulate any agency, instrumentality, or political subdivision of this state, or any nonprofit organization doing business in this state, that operates a telephonic reading system other than as specifically set forth in this part.

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

SEC. 5. Section 2881.01 of the Public Utilities Code is repealed.

~~2881.01. (a) Notwithstanding subdivision (d) of Section 2881, the surcharge shall be in effect until January 1, 2001.~~

~~(b) Notwithstanding subdivision (f) of Section 2881, the commission shall be authorized to make the prescribed adjustments until January 1, 2001.~~

SEC. 6. 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

1 within existing buildings, structures, facilities, and public
2 accommodations in need of a telecommunications device
3 and to contract for the procurement, installation, and
4 maintenance of these devices. In the letting of the
5 contract, the commission shall direct the committee to
6 ensure consideration of for-profit and nonprofit
7 corporations, including nonprofit corporations with
8 demonstrated service to individuals who are deaf or
9 hearing impaired and whose boards of directors and staff
10 are made up of a majority of those individuals. The
11 commission shall also direct the committee to seek the
12 cooperation of the owners, managers, and tenants of the
13 existing buildings, structures, facilities, and public
14 accommodations that have been determined to be in
15 need of a telecommunications device with regard to its
16 installation and maintenance. The commission shall
17 phase in this program over a reasonable period of time,
18 beginning no later than January 1, 1998, giving priority to
19 those existing buildings, structures, facilities, and public
20 accommodations determined by the commission, with
21 the advice and counsel of statewide nonprofit consumer
22 organizations for the deaf, to be of most importance and
23 usefulness to the deaf or hearing impaired.

24 (b) The commission shall ensure that costs are
25 recovered as they are incurred under this section,
26 including any costs incurred by the owners, managers, or
27 tenants of existing buildings, structures, facilities, and
28 public accommodations, and shall utilize for this purpose
29 the rate recovery mechanism established pursuant to
30 subdivision (d) of Section 2881. The commission shall also
31 establish a fund and require separate accounting for the
32 program implemented under this section and, in
33 addition, shall require that the surcharge utilized to fund
34 the program not exceed two-hundredths of 1 percent,
35 that it be combined with the surcharge required by
36 subdivision (d) of Section 2881, and that it count toward
37 the limits set by that subdivision. This surcharge shall be
38 in effect until January 1, ~~2001~~ 2005.

39 (c) “Existing buildings, structures, facilities, and
40 public accommodations,” for the purposes of this section,

1 means those buildings, structures, facilities, and public
2 accommodations or parts thereof that were constructed
3 or altered prior to January 26, 1993, or are otherwise not
4 required by Section 303 of the *federal* Americans with
5 Disabilities Act of 1990 (Public Law 101-336) (42 U.S.C.;
6 Sec. 12183) or any other section of that act and its
7 implementing regulations and guidelines, to have a
8 publicly available telecommunications device capable of
9 serving the needs of the deaf or hearing impaired.

10 *SEC. 7. It is the intent of the Legislature that one*
11 *hundred eighty-five thousand dollars (\$185,000) of the*
12 *amount appropriated in Item 6120-140-0001 of Section*
13 *2.00 of the Budget Act of 2000, for local assistance,*
14 *California State Library, Public Library Projects, be used*
15 *by the library to fund the operations of a telephonic*
16 *reading center in San Diego, Fresno, and San Francisco,*
17 *and two in Sacramento, from October 1, 2000 until*
18 *September 30, 2001, in implementation of the Kevin Starr*
19 *Access to Information Act of 2000, set forth in Sections 278*
20 *and 2881 of the Public Utilities Code.*

21 *SEC. 8. No reimbursement is required by this act*
22 *pursuant to Section 6 of Article XIII B of the California*
23 *Constitution because the only costs that may be incurred*
24 *by a local agency or school district will be incurred*
25 *because this act creates a new crime or infraction,*
26 *eliminates a crime or infraction, or changes the penalty*
27 *for a crime or infraction, within the meaning of Section*
28 *17556 of the Government Code, or changes the definition*
29 *of a crime within the meaning of Section 6 of Article*
30 *XIII B of the California Constitution.*