

Assembly Bill No. 2757

Passed the Assembly August 21, 2000

Chief Clerk of the Assembly

Passed the Senate August 18, 2000

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2000, at _____ o'clock ____M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 278, 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, 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 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, 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 this 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 a specified 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.

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

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

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



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

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

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

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

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

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

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

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

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

278. (a) (1) There is hereby created the Deaf and Disabled Telecommunications Program Administrative Committee, which is an advisory board to advise the commission regarding the development,



implementation, and administration of programs to provide specified telecommunications services and equipment to persons in this state who are deaf, disabled, or print disabled, as provided for in Sections 2881, 2881.1, and 2881.2, and to carry out the programs pursuant to the commission's direction, control, and approval.

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

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the programs specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the Deaf and Disabled Telecommunications Program Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer those moneys to the Controller for deposit in the Deaf and Disabled Telecommunications Program Administrative Committee Fund. In addition, those revenues that are collected pursuant to subdivision (d) of Section 2881 shall be accounted for separately, as required by subdivision (b) of Section 2881.2, and deposited in the fund created by the commission pursuant to subdivision (b) of Section 2881.2.

(c) Moneys appropriated from the Deaf and Disabled Telecommunications Program Administrative Committee Fund to the commission shall be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the



commission associated with the administration and oversight of the program and the fund.

SEC. 4. 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 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, 2005. 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, 2005, 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 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.

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

(2) For purposes of this subdivision “telephonic reading system” means a system operated by, or under the control or sponsorship of any agency, instrumentality, or political subdivision of the State of California, or by any



nonprofit organization doing business in this state, whereby the caller can hear the reading of material such as newspapers, magazines, newsletters, broadcast media schedules, transit route and schedule information, and other reference or time sensitive materials as determined by the operator of the system.

(3) Any agency, instrumentality, or political subdivision of this state, or any nonprofit organization doing business in this state, may apply to the commission for funding to establish a new telephonic reading system, and for the operation of such a system. Any agency, instrumentality, or political subdivision of this state may apply to the commission for the reimbursement of operational costs incurred or expended between January 1, 2001, and July 1, 2002, for the operation of a telephonic reading system. The commission may not authorize reimbursement for operational costs that the telephonic reading system paid or could have paid from grants or donations that the telephonic reading system received and which grants or donations the grantor specified exclusively to fund the expenses for the telephonic reading system.

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

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

(6) The Deaf and Disabled Telecommunications Program Administrative Committee shall 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.

(7) The commission shall establish new protocols and guidelines for telephonic reading systems. The protocols should consider the cost-effectiveness of supporting a particular telephonic reading center and the value of its services to Californians. The protocols should also consider whether the publications the centers make



available meet local, regional, and foreign language needs of Californians.

(8) For purposes of this section, any agency, instrumentality, or political subdivision of this state, or any nonprofit organization doing business in this state, that operates a telephonic reading center shall provide the commission with access to their books, records, documents, and reports pursuant to Sections 312 to 314, inclusive, and Sections 581 to 587, inclusive. Any agency, instrumentality, or political subdivision of this state, or nonprofit organization doing business in this state, that operates a telephonic reading center shall also be subject to the commission's authority pursuant to subdivisions (a) 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.

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 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, 2005.

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

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



Approved _____, 2000

Governor

