

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: April 29, 2005

To: The Commission
(Meeting of May 5, 2005)

From: Delaney L. Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 1735 (Asm. U. & C.) Telecommunications: telephone corporations: surcharge**
As Introduced (February 24, 2005)

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: Support.

SUMMARY: This bill amends Section 2881 of the Public Utilities Code, to extend the Commission authority, until January 1, 2010, to establish a rate recovery mechanism so that the programs, under which telephone companies provide telecommunications access for deaf, hearing impaired, or disabled, are adequately funded and that the fund balances are not excessive.

DIVISION ANALYSIS (Telco): This bill essentially extends the Commission's current authority for an additional four years until January 1, 2010 with no apparent impact on the Commission authority or quality and quantity of affected services to subscribers.

This bill amends subsections (d) and (g) and adds subsection (j). Subsections (d) and (g) extend the Commission current authority for an additional four years until January 1, 2010. Subsection (j) attempts to reaffirms that the fund balances are adequately maintained so that the programs are not under funded or excessively over funded. No impact on current Commission authority is expected. No impact on quality or quantity of services, as currently provided to the subscribers, is expected.

LEGISLATIVE HISTORY: SB 210 is a similar bill that was introduced by Senator Bowen, was amended on 03/14/2005, and was passed at the Senate floor on 04/21/2005. The Commission position on SB 210 was: support.

STATUS: Passed in Assembly U. & C. on April 11th (Ayes 10 Noes 0). In Assembly Appropriations on April 20th and referred to the suspense file.

SUPPORT/OPPOSITION

Support:

California Council of the Blind
California Coalition of Agencies Serving the Deaf and Hard of Hearing.

Opposition:

None on file.

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Date: April 29, 2005

BILL LANGUAGE:

BILL NUMBER: AB 1735 INTRODUCED

BILL TEXT

INTRODUCED BY Committee on Utilities and Commerce (Levine (Chair), Baca, Cohn, De La Torre, Jerome Horton, Montanez, and Ridley-Thomas)

FEBRUARY 24, 2005

An act to amend Section 2881 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1735, as introduced, Committee on Utilities and Commerce. Telecommunications: telephone corporations: surcharge.

The existing federal Telecommunications Act of 1996, establishes a program of cooperative federalism for the regulation of telecommunications to attain the goal of local competition, while implementing specific, predictable, and sufficient federal and state mechanisms to preserve and advance universal service, consistent with certain universal service principles. Existing federal law requires that a manufacturer of telecommunications equipment or customer premises equipment ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, as defined, if readily achievable. Existing federal law further requires that a provider of telecommunications services, as defined, ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law requires the commission to design and implement programs under which telephone corporations provide access to the telecommunications system for subscribers who are deaf, hearing impaired, or disabled, including programs to provide specialized or supplemental telephone communications equipment. The commission is required, until January 1, 2006, to establish a rate recovery mechanism through a surcharge, not to exceed 1/2 % on interstate service, to allow providers of the equipment and services to recover their costs. Existing law authorizes the commission, until January 1, 2006, to adjust the surcharge upward or downward within the specified 1/2% cap, to ensure that the programs supported thereby are adequately funded and that the fund balances are not excessive.

This bill would extend, until January 1, 2010, the authority of the commission to establish a rate recovery mechanism through a surcharge and to adjust the surcharge upward or downward within the specified 1/2% cap, to ensure that the programs supported thereby are adequately funded and that the fund balances are not excessive.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. 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 visual or medical need for specialized telecommunications equipment, shall be provided by a licensed optometrist or 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~~

2010 . 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~~ 2010, 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.

(j) The commission shall structure the programs required by this section so that any charge imposed to promote the goals of universal service reasonably equals the value of the benefits of universal service to contributing entities and their subscribers.