

M e m o r a n d u m

Date: May 4, 2006

To: The Commission
(Meeting of May 11, 2006)

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

Subject: **AB 2393 (Levine) - Telecommunications: emergency service.**
As Amended April 5, 2006

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: Support if amended.

SUMMARY OF BILL:

This bill would require the CPUC, in coordination with the State Office of Emergency Services and Department of General Services, to open an Order Instituting Investigation (OII) on the possibility of developing a standard set of protocols for reverse 911.

Reverse 911 is an auto dialer telecommunications system that makes outbound calls to advise residents or businesses of emergencies that specifically affect them. It provides information or instructions regarding these emergencies. Examples include notification of escaped felons and notification of toxic chemical releases.

Additionally, in light of the increased use of fiber to the premises, this bill would require the commission to develop reliability standards for backup power systems installed on customer property by a telephone corporation, as well as identify the need for telecommunications service customers to have a backup source of electricity to enable the customer to contact a public safety answering point operator during an electrical outage, to determine performance criteria for backup systems, and to determine whether certain recommendations for backup systems have been implemented by telecommunications service providers operating in California.

The CPUC would be required to report to the Legislature on the results of these proceedings by January 1, 2008.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

This bill would potentially enhance public safety by standardizing reverse 911 protocols and by seeking factual information about backup power systems that are installed on customer property or are used to provide fiber to the premises.

SUMMARY OF FISCAL IMPACT OF BILL:

This bill would require the CPUC to conduct an Order Instituting Investigation (OII) and issue a report on standards for use of auto-dialers to notify the public of local emergencies, conduct an OII and issue a report on reliability of service-provider installed backup power, and conduct an OII and issue a report on the need for backup telecommunications power to ensure emergency functionality. In total, this bill would require the CPUC to launch three OII's and issue three reports for a total cost of approximately \$596,719.

SUMMARY OF SUGGESTED AMENDMENTS:

The Legislature should appropriate the necessary funds to the Commission to cover its costs for doing these investigations and reports because current staffing levels are inadequate to meet existing legislative mandates. While the estimated cost for each investigation and report may seem minor and absorbable standing alone, the cumulative effect of the various reports mandated by the Legislature has become major and unabsorbable.

DIVISION ANALYSIS (Telco Division):

Reverse 911:

- This bill would provide a pivotal role for the CPUC in determining the correct use of auto dialer reverse 911 telecommunications for notifying the public of local emergencies. In addition, the CPUC would need to consider customer privacy issues in setting forth appropriate usage protocols.
- It is unknown if there is a problem with non-standard use of automatic dialing devices to notify the public of local emergencies, but assurance of adequate emergency procedures is very important. This legislation requires the Commission to make this determination.
- The Commission may also be spearheading this effort because of its ability to provide funding through telephone surcharges.

Fiber to the premises:

- Customers who receive telephone service via fiber to the premises may be unaware of the differences in functionality when compared to standard wireline service over a copper pair.
- Customers should not have to first find out during a blackout that their telephone services are not capable of connecting them with 911 services.
- This bill would require the CPUC to conduct two investigations into the reliability of electrical power sources essential for telephone service over fiber to the premises, and report back to the Legislature.
 1. An investigation and report on reliability standards for backup power systems installed on customer property. The bill specifies the following considerations:
 - minimum operating life,
 - minimum operating time,
 - low power warning, and
 - system low or no charge warning.
 2. An investigation and report on:
 - current reliability of back up power,
 - need for back up power,
 - performance criteria for back up power, and
 - status of implementation of standard back up power systems.

Other

- This bill would define voice communication in the broadest possible way for purposes of this legislation, specifically including satellite telephone service, mobile telephony and commercially available voice over the Internet protocol.

PROGRAM BACKGROUND:

Reverse 911:

- Existing law provides latitude to public health and safety agencies in when and what information is provided to the public in the case of local emergencies.
- Applicable state law grants exemptions from Commission regulation to automatic dialing devices used by public safety agencies.
- Applicable law currently provides a role for the Commission in regulating auto-dialers that are not exempt from regulation:

- PUC Code Section 2871 and 2872 defines automatic dialers and sets forth rules that are to be followed in the use of these devices.
- Complaints regarding the use of auto dialers are referred to carriers.
- Customers may be subject to disconnection for violations of the rules surrounding auto-dialers.

Fiber to the premises:

- The Commission has no experience with this issue, and would have to start from scratch in developing the requisite background information for the investigations and reports.

LEGISLATIVE HISTORY:

According to the author, this bill is the result an informational hearing held by the Assembly Utilities and Commerce Committee in Los Angeles on October 28, 2005, which was convened to discuss the emergency preparedness of telephone systems in California.

STATUS: This bill passed the Assembly Utilities and Commerce Committee 10-0, and is awaiting hearing by the Assembly Appropriations Committee.

SUPPORT/OPPOSITION:

Support: The Utility Reform Network (TURN)

Opposition: None

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Date: May 2, 2006.

BILL LANGUAGE:

BILL NUMBER: AB 2393 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY APRIL 5, 2006

INTRODUCED BY ~~Committee on Utilities and Commerce~~
~~(Levine (Chair), Baca,~~
~~Blakeslee, Cohn, De La Torre, Jerome Horton, Montanez, Ridley Thomas,~~
~~and Wyland)~~ ~~Assembly Member~~
Levine

FEBRUARY 23, 2006

An act to add ~~Section 2872.5~~ Sections 776,
2872.5, and 2892.1 to the Public Utilities Code, relating to
telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 2393, as amended, ~~Committee on Utilities and Commerce~~
Levine Telecommunications: ~~automatic~~
~~dialing announcing devices: local emergencies~~
emergency service .

(1) Existing law authorizes the Public Utilities Commission to supervise and regulate every public utility, including telephone corporations, and to do all things necessary and convenient in the exercise of its power and jurisdiction. ~~Existing~~ The existing Public Utilities Act requires the commission to prescribe rules for the performance of any service or the furnishing of any commodity of the character furnished or supplied by any public utility and requires the public utility to furnish the commodity or render the service within the time and upon the conditions provided in the rules of the commission.

This bill would require the commission, in a rulemaking or other appropriate proceeding, to develop reliability standards for backup power systems installed on customer property by a telephone corporation. The bill would require the commission, by January 1, 2008, to report to the Legislature on the results of the proceeding.

Under existing law, a violation of an order or direction of the commission is a crime.

Because the provisions of this bill are part of the act and require action by the commission to implement its requirements, a violation of these provisions would impose a state-mandated local program by creating a new crime.

(2) Existing law authorizes the commission to control and regulate the use of automatic dialing-announcing devices, which are automatic equipment that incorporates a storage capability of telephone numbers to be called or a random or sequential number generator capable of producing numbers to be called and that, working alone or in conjunction with

other equipment, can disseminate a prerecorded message to the telephone number being called. Existing law exempts from that commission regulation law enforcement agencies, fire protection agencies, public health agencies, public environmental health agencies, city or county emergency services planning agencies, or any private for-profit agency operating under contract with, and at the direction of, one or more of these agencies, placing calls through automatic dialing-announcing devices ~~are used~~ to provide public service information relating to public safety, ~~provide~~ information concerning police or fire emergencies, or ~~provide~~ warnings of impending or threatened emergencies.

This bill would require the commission, in consultation with the Office of Emergency Services *and the Department of General Services*, to open an investigation ~~and rulemaking proceeding~~ to determine whether standardized notification systems and protocol should be utilized by the above-described entities ~~—~~ to facilitate notification of affected members of the public of local emergencies. The bill would require the commission to report to the Legislature by January 1, 2008, on the results of the proceeding, including recommendations for funding notification systems and any statutory modifications needed to facilitate notification of affected members of the public of local emergencies.

(3) *Existing provisions of the Warren-911-Emergency Assistance Act establishes the number "911" as the primary emergency telephone number for use in the state.*

This bill would require the commission to open a rulemaking or other appropriate proceeding to identify the need for telecommunications service customers to have a backup source of electricity to enable the customer to contact a public safety answering point operator during an electrical outage, to determine performance criteria for backup systems, and to determine whether certain recommendations for backup systems have been implemented by telecommunications service providers operating in California. The bill would require the commission, by January 1, 2008, to report to the Legislature on the results of the proceeding.

(4) *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. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes .

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

SECTION 1. Section 776 is added to the Public Utilities Code, to read:

776. (a) The commission shall develop, in a rulemaking or other appropriate proceeding, reliability standards for all backup power systems installed on customer property by a telephone corporation, that do all the following:

(1) Establish minimum operating life.

(2) Establish minimum periods of time during which a telephone system with a charged backup power system will provide the customer with sufficient electricity for emergency usage.

(3) Establish means to warn a customer when the backup power system's charge is low or when the system can no longer hold a charge.

(b) The commission shall, by January 1, 2008, report to the Legislature on the results of the proceeding.

~~SECTION 1.~~ SEC. 2. Section 2872.5 is added to the Public Utilities Code, to read:

2872.5. (a) The commission, in consultation with the Office of Emergency Services and the Department of General Services, shall open an investigation ~~and rulemaking~~ proceeding to determine whether standardized notification systems and protocol should be utilized by entities that are authorized to use automatic dialing-announcing devices pursuant to subdivision (e) of Section 2872, to facilitate notification of affected members of the public of local emergencies.

(b) The commission shall, by January 1, 2008, report to the Legislature on the results of the proceeding, including recommendations for funding notification systems and any statutory modifications needed to facilitate notification of affected members of the public of local emergencies.

SEC. 3. Section 2892.1 is added to the Public Utilities Code, to read:

2892.1. (a) For purposes of this section, "telecommunications service" means voice communication provided by a telephone corporation as defined in Section 234, voice communication provided by a provider of satellite telephone services, voice communication provided by a provider of mobile telephony service, as defined in Section 2890.2, and voice communication provided by a commercially available provider of voice communication services utilizing voice over Internet Protocol or any successor protocol.

(b) The commission shall open a rulemaking or other appropriate proceeding to identify the need for telecommunications service customers to have a backup source of electricity to enable the customer to contact a public safety answering point operator during an electrical outage, to determine performance criteria for backup systems, and to determine whether the best practices recommended by the Network Reliability and Interoperability Council in December 2005, for backup systems have been implemented by telecommunications service providers operating in California.

(c) The commission shall, by January 1, 2008, report to the Legislature on the results of the proceeding.

SEC. 4. 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.