

**Introduced by Senator Padilla**February 22, 2013

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An act to amend Section 281 of the Public Utilities Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

SB 740, as introduced, Padilla. Telecommunications: universal service programs: California Advanced Services Fund.

Existing law, the 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. The universal service principles include the principle that consumers in all regions of the nation, including low-income consumers and those in rural, insular, and high-cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas. The act authorizes each state to adopt regulations to provide for additional definitions and standards to preserve and advance universal service within the state, only to the extent that they adopt additional specific, predictable, and sufficient mechanisms that do not rely on or burden federal universal service support mechanisms.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations, as defined. Existing law establishes the California High-Cost Fund-A Administrative Committee Fund, the California High-Cost Fund-B Administrative Committee Fund, the Universal Lifeline Telephone Service Trust Administrative Committee Fund, the Deaf and Disabled Telecommunications Program Administrative Committee Fund, the Payphone Service Providers Committee Fund, the California Teleconnect Fund Administrative Committee Fund, and the California Advanced Services Fund (CASF) in the State Treasury and requires that moneys in the funds are the proceeds of rates and are held in trust for the benefit of ratepayers and to compensate telephone corporations for their costs of providing universal service and may be expended only to accomplish specified telecommunications universal service programs, upon appropriation in the annual Budget Act or upon supplemental appropriation. Existing law requires the commission to develop, implement, and administer the CASF to encourage deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and substantial social benefits of advanced information and communications technologies, as provided in specified decisions of the commission and in the CASF statute.

Existing law requires that \$100,000,000, collected by the surcharge, authorized by the commission, after January 1, 2011, is to be deposited into the Broadband Infrastructure Account. Existing law authorizes the commission to collect an additional sum not to exceed \$125,000,000, after January 1, 2011, for a sum total of moneys collected through the surcharge not to exceed \$225,000,000. Existing law authorizes the commission to collect the additional sum through the 2015 calendar year.

This bill would instead require that \$200,000,000 be deposited into the Broadband Infrastructure account. The bill would increase the amount of additional money the commission is authorized to collect to \$225,000,000, with a sum total not to exceed \$325,000,000. The bill would authorize the commission to collect the additional money until 2020.

This bill would provide that, notwithstanding the requirement that moneys in the funds are to be used to compensate telephone corporations for their costs of providing universal service, an entity that is not a telephone corporation is eligible to apply to participate in the CASF

program if the entity otherwise meets the eligibility requirements and complies with program requirements established by the commission.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 281 of the Public Utilities Code is  
2 amended to read:

3 281. (a) The commission shall develop, implement, and  
4 administer the California Advanced Services Fund to encourage  
5 deployment of high-quality advanced communications services to  
6 all Californians that will promote economic growth, job creation,  
7 and the substantial social benefits of advanced information and  
8 communications technologies, as provided in Decision 07-12-054  
9 and Decision 09-07-020 and this section. The commission shall  
10 establish the following accounts within the fund:

11 (1) The Broadband Infrastructure Grant Account.

12 (2) The Rural and Urban Regional Broadband Consortia Grant  
13 Account.

14 (3) The Broadband Infrastructure Revolving Loan Account.

15 (b) (1) All moneys collected by the surcharge authorized by  
16 the commission pursuant to Decision 07-12-054, whether collected  
17 before or after January 1, 2009, shall be transmitted to the  
18 commission pursuant to a schedule established by the commission.  
19 The commission shall transfer the moneys received to the  
20 Controller for deposit in the California Advanced Services Fund.  
21 Moneys collected after January 1, 2011, shall be deposited in the  
22 following amounts in the following accounts:

23 (A) ~~One—Two~~ hundred million dollars—~~(\$100,000,000)~~  
24 ~~(\$200,000,000)~~ into the Broadband Infrastructure Grant Account.

25 (B) Ten million dollars (\$10,000,000) into the Rural and Urban  
26 Regional Broadband Consortia Grant Account.

27 (C) Fifteen million dollars (\$15,000,000) into the Broadband  
28 Infrastructure Revolving Loan Account.

29 (2) All interest earned on moneys in the fund shall be deposited  
30 in the fund.

1 (3) The commission shall not collect moneys, by imposing the  
 2 surcharge described in paragraph (1) for deposit in the fund, in an  
 3 amount that exceeds one hundred million dollars (\$100,000,000)  
 4 before January 1, 2011. After January 1, 2011, the commission  
 5 may collect an additional sum not to exceed ~~one~~ two hundred  
 6 twenty-five million dollars ~~(\$125,000,000)~~ (\$225,000,000), for a  
 7 sum total of moneys collected by imposing the surcharge described  
 8 in paragraph (1) not to exceed ~~two~~ three hundred twenty-five  
 9 million dollars ~~(\$225,000,000)~~ (\$325,000,000). The commission  
 10 may collect the additional sum beginning with the calendar year  
 11 starting on January 1, 2011, and continuing through the ~~2015~~ 2020  
 12 calendar year, in an amount not to exceed twenty-five million  
 13 dollars (\$25,000,000) per year, unless the commission determines  
 14 that collecting a higher amount in any year will not result in an  
 15 increase in the total amount of all surcharges collected from  
 16 telephone customers that year.

17 (c) (1) All moneys in the California Advanced Services Fund  
 18 shall be available, upon appropriation by the Legislature, to the  
 19 commission for the program administered by the commission  
 20 pursuant to this section, including the costs incurred by the  
 21 commission in developing, implementing, and administering the  
 22 program and the fund.

23 (2) Notwithstanding any other law and for the sole purpose of  
 24 providing matching funds pursuant to the federal American  
 25 Recovery and Reinvestment Act of 2009 (Public Law 111-5), any  
 26 entity eligible for funding pursuant to that act shall be eligible to  
 27 apply to participate in the program administered by the commission  
 28 pursuant to this section, if that entity otherwise satisfies the  
 29 eligibility requirements under that program. Nothing in this section  
 30 shall impede the ability of an incumbent local exchange carrier,  
 31 as defined by subsection (h) of Section 251 of Title 47 of the  
 32 United States Code, that is regulated under a rate of return  
 33 regulatory structure, to recover, in rate base, California  
 34 infrastructure investment not provided through federal or state  
 35 grant funds for facilities that provide broadband service and  
 36 California intrastate voice service.

37 (3) *Notwithstanding subdivision (b) of Section 270, an entity*  
 38 *that is not a telephone corporation shall be eligible to apply to*  
 39 *participate in the program administered by the commission*  
 40 *pursuant to this section if the entity otherwise meets the eligibility*

1 *requirements and complies with program requirements established*  
2 *by the commission.*

3 (d) Moneys in the Rural and Urban Regional Broadband  
4 Consortia Grant Account shall be available for grants to eligible  
5 consortia to fund the cost of broadband deployment activities other  
6 than the capital cost of facilities, as specified by the commission.  
7 An eligible consortium may include, as specified by the  
8 commission, representatives of organizations, including, but not  
9 limited to, local and regional government, public safety, K-12  
10 education, health care, libraries, higher education,  
11 community-based organizations, tourism, parks and recreation,  
12 agricultural, and business, and is not required to have as its lead  
13 fiscal agent an entity with a certificate of public convenience and  
14 necessity.

15 (e) Moneys in the Broadband Infrastructure Revolving Loan  
16 Account shall be available to finance capital costs of broadband  
17 facilities not funded by a grant from the Broadband Infrastructure  
18 Grant Account. The commission shall periodically set interest rates  
19 on the loans based on surveys of existing financial markets.

20 (f) (1) The commission shall conduct an interim and final  
21 financial audit and an interim and final performance audit of the  
22 implementation and effectiveness of the California Advanced  
23 Services Fund to ensure that funds have been expended in  
24 accordance with the approved terms of the grant awards and loan  
25 agreements and this section. The commission shall report its interim  
26 findings to the Legislature by April 1, 2011. The commission shall  
27 report its final findings to the Legislature by April 1, 2017. The  
28 reports shall also include an update to the maps in the final report  
29 of the California Broadband Task Force and data on the types and  
30 numbers of jobs created as a result of the program administered  
31 by the commission pursuant to this section.

32 (2) (A) The requirement for submitting a report imposed under  
33 paragraph (1) is inoperative on January 1, 2018, pursuant to Section  
34 10231.5 of the Government Code.

35 (B) A report to be submitted pursuant to paragraph (1) shall be  
36 submitted in compliance with Section 9795 of the Government  
37 Code.

38 (g) (1) Beginning on January 1, 2012, and annually thereafter,  
39 the commission shall provide a report to the Legislature that  
40 includes all of the following information:

1 (A) The amount of funds expended from the California  
2 Advanced Services Fund in the prior year.

3 (B) The recipients of funds expended from the California  
4 Advanced Services Fund in the prior year.

5 (C) The geographic regions of the state affected by funds  
6 expended from the California Advanced Services Fund in the prior  
7 year.

8 (D) The expected benefits to be derived from the funds expended  
9 from the California Advanced Services Fund in the prior year.

10 (E) Actual broadband adoption levels from the funds expended  
11 from the California Advanced Services Fund in the prior year.

12 (F) The amount of funds expended from the California  
13 Advanced Services Fund used to match federal funds.

14 (G) An update on the expenditures from California Advanced  
15 Services Fund and broadband adoption levels, and an accounting  
16 of remaining unserved and underserved areas of the state.

17 (2) (A) The requirement for submitting a report imposed under  
18 paragraph (1) is inoperative on January 1, 2016, pursuant to Section  
19 10231.5 of the Government Code.

20 (B) A report to be submitted pursuant to paragraph (1) shall be  
21 submitted in compliance with Section 9795 of the Government  
22 Code.

23 SEC. 2. This act is an urgency statute necessary for the  
24 immediate preservation of the public peace, health, or safety within  
25 the meaning of Article IV of the Constitution and shall go into  
26 immediate effect. The facts constituting the necessity are:

27 In order to authorize the award of funds for the expansion of  
28 broadband deployment to unserved and underserved areas of  
29 California, to stimulate investments in infrastructure critical to  
30 increasing the state's productivity, and to improve the quality of  
31 information available to all of the state's citizens, as needed for  
32 the health and safety of those citizens, it is necessary that this act  
33 take effect immediately.