

AMENDED IN ASSEMBLY APRIL 25, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1299

Introduced by Assembly Member Bradford

February 22, 2013

An act to amend Section 281 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1299, as amended, Bradford. 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 Advanced Services Fund (CASF) in the State Treasury and requires that moneys in those 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 a 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. *Existing law requires that of the moneys collected after January 1, 2011, \$100,000,000 is to be deposited into the Broadband Infrastructure Grant Account, \$10,000,000 is to be deposited into the Rural and Urban Regional Broadband Consortia Grant Account and used for specified purposes, and \$15,000,000 is to be deposited into the Broadband Infrastructure Revolving Loan Account and used for specified purposes.*

~~This bill would require the commission to develop, implement, and administer the CASF to encourage deployment and adoption of high-quality advanced communication services to Californians who reside in publicly supported housing communities in urban regions without assessing a new surcharge or increasing an existing surcharge that \$5,000,000 of the additional moneys collected on and after January 1, 2011, that are deposited into the Broadband Infrastructure Grant Account, be used to support programs designed to increase adoption~~

rates for broadband service for residents of publicly supported housing communities, as defined, and not more than \$20,000,000 of the additional moneys collected on and after January 1, 2011, that are deposited into the Broadband Infrastructure Grant Account, be used to connect broadband networks to publicly supported housing communities.

Vote: majority. 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. ~~Without assessing a new~~
10 ~~surcharge or increasing an existing surcharge, the commission~~
11 ~~shall also develop, implement, and administer the California~~
12 ~~Advanced Services Fund to encourage deployment and adoption~~
13 ~~of high-quality advanced communications services to Californians~~
14 ~~who reside in publicly supported housing communities in urban~~
15 ~~regions.~~ The commission shall establish the following accounts
16 within the fund:

17 (1) The Broadband Infrastructure Grant Account.
18 (2) The Rural and Urban Regional Broadband Consortia Grant
19 Account.

20 (3) The Broadband Infrastructure Revolving Loan Account.

21 (b) (1) All moneys collected by the surcharge authorized by
22 the commission pursuant to Decision 07-12-054, whether collected
23 before or after January 1, 2009, shall be transmitted to the
24 commission pursuant to a schedule established by the commission.
25 The commission shall transfer the moneys received to the
26 Controller for deposit in the California Advanced Services Fund.
27 Moneys collected *on and* after January 1, 2011, shall be deposited
28 in the following amounts in the following accounts:

1 (A) One hundred million dollars (\$100,000,000) into the
2 Broadband Infrastructure Grant Account.

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

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

7 (2) All interest earned on moneys in the fund shall be deposited
8 in the fund.

9 (3) The commission shall not collect moneys, by imposing the
10 surcharge described in paragraph (1) for deposit in the fund, in an
11 amount that exceeds one hundred million dollars (\$100,000,000)
12 before January 1, 2011. ~~After~~ *On and after* January 1, 2011, the
13 commission may collect an additional sum not to exceed one
14 hundred twenty-five million dollars (\$125,000,000), for a sum
15 total of moneys collected by imposing the surcharge described in
16 paragraph (1) not to exceed two hundred twenty-five million dollars
17 (\$225,000,000). *Five million dollars (\$5,000,000) of the additional*
18 *moneys collected on and after January 1, 2011, and deposited in*
19 *the Broadband Infrastructure Grant Account, shall be used to*
20 *support programs designed to increase adoption rates for*
21 *broadband service for residents of publicly supported housing*
22 *communities, and twenty million dollars (\$20,000,000) shall be*
23 *used for the purpose described in subdivision (f).* The commission
24 may collect the additional sum beginning with the calendar year
25 starting on January 1, 2011, and continuing through the 2015
26 calendar year, in an amount not to exceed twenty-five million
27 dollars (\$25,000,000) per year, unless the commission determines
28 that collecting a higher amount in any year will not result in an
29 increase in the total amount of all surcharges collected from
30 telephone customers that year.

31 (c) (1) All moneys in the California Advanced Services Fund
32 shall be available, upon appropriation by the Legislature, to the
33 commission for the program administered by the commission
34 pursuant to this section, including the costs incurred by the
35 commission in developing, implementing, and administering the
36 program and the fund.

37 (2) Notwithstanding any other law and for the sole purpose of
38 providing matching funds pursuant to the federal American
39 Recovery and Reinvestment Act of 2009 (Public Law 111-5), any
40 entity eligible for funding pursuant to that act shall be eligible to

1 apply to participate in the program administered by the commission
2 pursuant to this section, if that entity otherwise satisfies the
3 eligibility requirements under that program. Nothing in this section
4 shall impede the ability of an incumbent local exchange carrier,
5 as defined by subsection (h) of Section 251 of Title 47 of the
6 United States Code, that is regulated under a rate of return
7 regulatory structure, to recover, in rate base, California
8 infrastructure investment not provided through federal or state
9 grant funds for facilities that provide broadband service and
10 California intrastate voice service.

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

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

28 (f) (1) *For purposes of this subdivision, “publicly supported*
29 *housing community” means a publicly subsidized housing*
30 *multitenant attached dwelling unit that is wholly owned by either*
31 *of the following:*

32 (A) *A public housing agency that has been chartered by the*
33 *state, or by any city or county in the state, and has been determined*
34 *an eligible public housing agency by the United States Department*
35 *of Housing and Urban Development.*

36 (B) *An incorporated nonprofit organization as described in*
37 *Section 501 (c)(3) of the Internal Revenue Code (26 U.S.C. Sec.*
38 *501(c)(3)) that is exempt from taxation under Section 501 (a) of*
39 *that code (16 U.S.C. Sec. 501(a)), and that has received public*
40 *funding to subsidize the construction or maintenance of housing*

1 occupied by residents whose annual income qualifies as “low-”
2 or “very low” income according to federal poverty guidelines.

3 (2) (A) Not more than twenty million dollars (\$20,000,000) of
4 the moneys collected on and after January 1, 2011, and deposited
5 in the Broadband Infrastructure Grant Account, shall be used to
6 connect broadband networks to publicly supported housing
7 communities. If less than twenty million dollars (\$20,000,000) has
8 been awarded by December 31, 2016, the remaining moneys not
9 awarded may be used for any other purpose permitted under this
10 section.

11 (B) A publicly supported housing community may be eligible
12 for a grant to fund a broadband adoption program if the units in
13 the facility of the residents to be served have existing broadband
14 services or will have broadband services at the time the grant for
15 adoption is implemented. Eligible applicants receiving broadband
16 adoption grants may contract with other nonprofit or public
17 agencies to assist in implementation of the broadband adoption
18 program.

19 (C) A publicly supported housing community may be an eligible
20 applicant if the publicly supported housing community can verify
21 to the commission that the publicly supported housing community
22 has not denied a right of access to any broadband provider that
23 is willing to deploy broadband services in the facility for which
24 the grant is sought.

25 (D) To the extent feasible, the commission shall allocate funds
26 from the Broadband Infrastructure Grant Account in a manner
27 that reflects the statewide distribution of those publicly supported
28 housing communities.

29 (f)

30 (g) (1) The commission shall conduct an interim and final
31 financial audit and an interim and final performance audit of the
32 implementation and effectiveness of the California Advanced
33 Services Fund to ensure that funds have been expended in
34 accordance with the approved terms of the grant awards and loan
35 agreements and this section. The commission shall report its interim
36 findings to the Legislature by April 1, 2011. The commission shall
37 report its final findings to the Legislature by April 1, 2017. The
38 reports shall also include an update to the maps in the final report
39 of the California Broadband Task Force and data on the types and

1 numbers of jobs created as a result of the program administered
2 by the commission pursuant to this section.

3 (2) (A) The requirement for submitting a report imposed under
4 paragraph (1) is inoperative on January 1, 2018, pursuant to Section
5 10231.5 of the Government Code.

6 (B) A report to be submitted pursuant to paragraph (1) shall be
7 submitted in compliance with Section 9795 of the Government
8 Code.

9 ~~(g)~~

10 (h) (1) Beginning on January 1, 2012, and annually thereafter,
11 the commission shall provide a report to the Legislature that
12 includes all of the following information:

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

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

17 (C) The geographic regions of the state affected by funds
18 expended from the California Advanced Services Fund in the prior
19 year.

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

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

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

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

29 (2) (A) The requirement for submitting a report imposed under
30 paragraph (1) is inoperative on January 1, 2016, pursuant to Section
31 10231.5 of the Government Code.

32 (B) A report to be submitted pursuant to paragraph (1) shall be
33 submitted in compliance with Section 9795 of the Government
34 Code.

O