

AMENDED IN SENATE SEPTEMBER 4, 2013

AMENDED IN SENATE JULY 10, 2013

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 establishes 3 accounts, the Broadband Infrastructure Grant Account, the Rural and Urban Regional Broadband Consortia Grant Account, and the Broadband Infrastructure Revolving Loan Account within the CASF.

Existing law prohibits the commission from collecting, before January 1, 2011, more than \$100,000,000, for deposit into the CASF through the surcharge authorized by the commission. 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 establish the Broadband Public Housing Account within the CASF and would authorize the commission to transfer \$20,000,000 from the Broadband Infrastructure Grant Account and

\$5,000,000 from the Broadband Revolving Loan Account to the Broadband Public Housing Account if the commission is otherwise authorized to collect funds for purposes of the CASF in excess of the \$225,000,000 the commission is authorized to collect through December 31, 2015, under existing law. The bill would authorize not more than \$20,000,000 from the Broadband Public Housing Account be available for grants and loans to a publicly supported ~~housing~~ community, as defined, to finance a project to connect a broadband network to that publicly supported ~~housing~~ community. The bill would authorize not more than \$5,000,000 from the Broadband Public Housing Account be available for grants and loans to a publicly supported ~~housing~~ community to support programs designed to increase adoption rates for broadband services for residents of that publicly supported ~~housing~~ community. The bill would require the commission, in reviewing a project application to consider the availability of other funding sources for that project, any financial contribution from the broadband service provider to the project, the availability of any other public or private broadband adoption or deployment program, including tax credits and other incentives, and whether the applicant has sought funding from, or participated in, any reasonably available program. The bill would authorize the commission to require an applicant to provide match funding, and prohibit the commission from denying funding for a project solely because the applicant is receiving funding from another source.

The provisions of the bill would become operative only if this bill and SB 740 of the 2013–14 Regular Session are both enacted and become effective on or before January 1, 2014.

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

1 and Decision 09-07-020 and this section. The commission shall
2 establish the following accounts within the fund:

3 (1) The Broadband Infrastructure Grant Account.

4 (2) The Rural and Urban Regional Broadband Consortia Grant
5 Account.

6 (3) The Broadband Infrastructure Revolving Loan Account.

7 (4) The Broadband Public Housing Account.

8 (b) (1) All moneys collected by the surcharge authorized by
9 the commission pursuant to Decision 07-12-054, whether collected
10 before or after January 1, 2009, shall be transmitted to the
11 commission pursuant to a schedule established by the commission.
12 The commission shall transfer the moneys received to the
13 Controller for deposit in the California Advanced Services Fund.
14 Moneys collected on and after January 1, 2011, shall be deposited
15 in the following amounts in the following accounts:

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

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

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

22 (2) All interest earned on moneys in the fund shall be deposited
23 in the fund.

24 (3) The commission shall not collect moneys, by imposing the
25 surcharge described in paragraph (1) for deposit in the fund, in an
26 amount that exceeds one hundred million dollars (\$100,000,000)
27 before January 1, 2011. On and after January 1, 2011, the
28 commission may collect an additional sum not to exceed one
29 hundred twenty-five million dollars (\$125,000,000), for a sum
30 total of moneys collected by imposing the surcharge described in
31 paragraph (1) not to exceed two hundred twenty-five million dollars
32 (\$225,000,000). The commission may collect the additional sum
33 beginning with the calendar year starting on January 1, 2011, and
34 continuing through the 2015 calendar year, in an amount not to
35 exceed twenty-five million dollars (\$25,000,000) per year, unless
36 the commission determines that collecting a higher amount in any
37 year will not result in an increase in the total amount of all
38 surcharges collected from telephone customers that year.

39 (c) (1) All moneys in the California Advanced Services Fund
40 shall be available, upon appropriation by the Legislature, to the

1 commission for the program administered by the commission
2 pursuant to this section, including the costs incurred by the
3 commission in developing, implementing, and administering the
4 program and the fund.

5 (2) Notwithstanding any other law and for the sole purpose of
6 providing matching funds pursuant to the federal American
7 Recovery and Reinvestment Act of 2009 (Public Law 111-5), any
8 entity eligible for funding pursuant to that act shall be eligible to
9 apply to participate in the program administered by the commission
10 pursuant to this section, if that entity otherwise satisfies the
11 eligibility requirements under that program. Nothing in this section
12 shall impede the ability of an incumbent local exchange carrier,
13 as defined by subsection (h) of Section 251 of Title 47 of the
14 United States Code, that is regulated under a rate of return
15 regulatory structure, to recover, in rate base, California
16 infrastructure investment not provided through federal or state
17 grant funds for facilities that provide broadband service and
18 California intrastate voice service.

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

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

36 (f) (1) For purposes of this subdivision, ~~publicly~~ *the following*
37 *terms have the following meanings:*

38 (A) *“Publicly subsidized” means either that the housing*
39 *development receives financial assistance from the United States*
40 *Department of Housing and Urban Development pursuant to an*

1 *annual contribution contract or is financed with low-income*
2 *housing tax credits, tax-exempt mortgage revenue bonds, general*
3 *obligation bonds, or local, state, or federal loans or grants and*
4 *the rents of the occupants, who are lower income households, do*
5 *not exceed those prescribed by deed restrictions or regulatory*
6 *agreements pursuant to the terms of the financing or financial*
7 *assistance.*

8 (B) “Publicly supported ~~housing~~ community” means a publicly
9 subsidized ~~housing~~ ~~multitenant attached dwelling unit~~ *multifamily*
10 *housing development* that is wholly owned by either of the
11 following:

12 (A)

13 (i) A public housing agency that has been chartered by the state,
14 or by any city or county in the state, and has been determined an
15 eligible public housing agency by the United States Department
16 of Housing and Urban Development.

17 (B)

18 (ii) An incorporated nonprofit organization as described in
19 Section 501 (c)(3) of the Internal Revenue Code (26 U.S.C. Sec.
20 501(c)(3)) that is exempt from taxation under Section 501 (a) of
21 that code (16 U.S.C. Sec. 501(a)), and that has received public
22 funding to subsidize the construction or maintenance of housing
23 occupied by residents whose annual income qualifies as “low-” or
24 “very low” income according to federal poverty guidelines.

25 (2) Notwithstanding subdivision (b) of Section 270, moneys in
26 the Broadband Public Housing Account shall be available for the
27 commission to award grants and loans pursuant to this subdivision
28 to an eligible publicly supported ~~housing~~ community if that entity
29 otherwise meets eligibility requirements and complies with
30 program requirements established by the commission.

31 (3) Not more than twenty million dollars (\$20,000,000) shall
32 be available for grants and loans to a publicly supported ~~housing~~
33 community to finance a project to connect a broadband network
34 to that publicly supported ~~housing~~ community. A publicly
35 supported ~~housing~~ community may be an eligible applicant only
36 if the publicly supported ~~housing~~ community can verify to the
37 commission that the publicly supported ~~housing~~ community has
38 not denied a right of access to any broadband provider that is
39 willing to connect a broadband network to the facility for which
40 the grant or loan is sought.

1 (4) (A) Not more than five million dollars (\$5,000,000) shall
2 be available for grants and loans to a publicly supported ~~housing~~
3 community to support programs designed to increase adoption
4 rates for broadband services for residents of that publicly supported
5 ~~housing~~ community. A publicly supported ~~housing~~ community
6 may be eligible for ~~a grant to fund~~ *funding for* a broadband
7 adoption program only if the residential units in the facility to be
8 served have access to broadband services or will have access to
9 broadband services at the time the ~~grant~~ *funding* for adoption is
10 implemented.

11 (B) A publicly supported ~~housing~~ community may contract with
12 other nonprofit or public agencies to assist in implementation of
13 a broadband adoption program.

14 (5) To the extent feasible, the commission shall approve projects
15 for funding from the Broadband Public Housing Account in a
16 manner that reflects the statewide distribution of publicly supported
17 ~~housing~~ communities.

18 (6) In reviewing a project application under this subdivision,
19 the commission shall consider the availability of other funding
20 sources for that project, any financial contribution from the
21 broadband service provider to the project, the availability of any
22 other public or private broadband adoption or deployment program,
23 including tax credits and other incentives, and whether the applicant
24 has sought funding from, or participated in, any reasonably
25 available program. The commission may require an applicant to
26 provide match funding, and shall not deny funding for a project
27 solely because the applicant is receiving funding from another
28 source.

29 (7) (A) To provide funding for the purposes of this subdivision,
30 the commission shall transfer to the Broadband Public Housing
31 Account twenty million dollars (\$20,000,000) from the Broadband
32 Infrastructure Grant Account and five million dollars (\$5,000,000)
33 from the Broadband Revolving Loan Account. Any moneys in the
34 Broadband Public Housing Account that have not been awarded
35 pursuant to this subdivision by December 31, 2016, shall be
36 transferred back to the Broadband Infrastructure Grant Account
37 and Broadband Infrastructure Revolving Loan Account in
38 proportion to the amount transferred from the respective accounts.

39 (B) The commission shall transfer funds pursuant to
40 subparagraph (A) only if the commission is otherwise authorized

1 to collect funds for purposes of this section in excess of the total
2 amount authorized pursuant to paragraph (3) of subdivision (b).

3 (g) (1) The commission shall conduct an interim and final
4 financial audit and an interim and final performance audit of the
5 implementation and effectiveness of the California Advanced
6 Services Fund to ensure that funds have been expended in
7 accordance with the approved terms of the grant awards and loan
8 agreements and this section. The commission shall report its interim
9 findings to the Legislature by April 1, 2011. The commission shall
10 report its final findings to the Legislature by April 1, 2017. The
11 reports shall also include an update to the maps in the final report
12 of the California Broadband Task Force and data on the types and
13 numbers of jobs created as a result of the program administered
14 by the commission pursuant to this section.

15 (2) (A) The requirement for submitting a report imposed under
16 paragraph (1) is inoperative on January 1, 2018, pursuant to Section
17 10231.5 of the Government Code.

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

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

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

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

28 (C) The geographic regions of the state affected by funds
29 expended from the California Advanced Services Fund in the prior
30 year.

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

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

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

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

1 (2) (A) The requirement for submitting a report imposed under
2 paragraph (1) is inoperative on January 1, 2016, pursuant to Section
3 10231.5 of the Government Code.

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

7 *SEC. 2. This bill shall become operative only if this bill and*
8 *Senate Bill 740 are both enacted and become effective on or before*
9 *January 1, 2014.*

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