

AMENDED IN ASSEMBLY AUGUST 8, 2008

AMENDED IN SENATE APRIL 22, 2008

AMENDED IN SENATE APRIL 9, 2008

SENATE BILL

No. 1193

Introduced by Senator Padilla

February 12, 2008

An act to amend Section 270 of, and to amend, renumber, add, and repeal Section 281 of, the Public Utilities Code, relating to telecommunications, *making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1193, as amended, Padilla. Telecommunications: universal service: California Advanced Services Fund.

The

(1) *The* existing federal Telecommunications Act of 1996 establishes a program 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.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law authorizes the commission to supervise and regulate every public utility and to do all things necessary and convenient in the exercise of its power and jurisdiction. Existing law establishes the California High-Cost Fund-A Administrative Committee Fund (CHCF-A 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, and the California Teleconnect Fund Administrative Committee Fund 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.

In Decision 07-12-054, pursuant to its authority to do all things necessary and convenient in the exercise of its power and jurisdiction, the commission imposed a surcharge beginning January 1, 2008, collected through retail telecommunications customers' bills, to fund the California Advanced Services Fund (CASF), for the purpose of encouraging deployment of broadband facilities for use in provisioning advanced telecommunications and voice service in unserved and underserved areas. Decision 07-12-054 further ordered that prior to any CASF disbursements, the commission would seek statutory authority to add the CASF as one of the funds authorized for handling by the State Treasury and to seek statutory authority for specific direction to telephone corporations for remitting CASF collections and for use of the funds by the commission.

This bill would, until January 1, 2013, establish the CASF in the State Treasury, subject to the conditions and restrictions applicable to the 6 existing universal service funds described above. The bill would require that moneys collected by the surcharge authorized by the commission to fund the CASF, whether collected before or after ~~January 1, 2009~~ *the operative date of the bill*, be transmitted to *the commission pursuant to a schedule established by the commission*. *The bill would require the commission to transfer the moneys received to the Controller for deposit in the fund.* The bill would prohibit the commission from collecting

those moneys in an amount that exceeds a total amount of \$100,000,000. *The bill would specify that any moneys appropriated from the CASF to the commission may only be expended for limited purposes.*

The bill would require the commission to develop, implement, and administer the CASF to provide for transfer payments 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 commission Decision 07-12-054. The bill would require the commission to conduct both a financial audit and a performance audit of the implementation and effectiveness of the ~~fund~~ CASF to ensure that moneys have been expended in accordance with ~~(1)~~ (a) the approved terms of the winning bids, and ~~(2)~~ (b) the requirements of the bill. *The bill would appropriate \$42,000,000 to the Public Utilities Commission from the fund for these purposes.* The bill would require the commission to report its findings to the Legislature by December 31, 2010.

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

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The emergence of advanced high capacity communication
- 4 networks, often defined as broadband, based on high-speed
- 5 interactive networks designed for voice, data, and video
- 6 communications, have opened up tremendous opportunities for
- 7 communication.
- 8 (b) Advanced communications services are important for our
- 9 state’s economic growth and can increase democratic and civic
- 10 participation, improve the delivery of health care, education, job
- 11 training, public safety, and other vital services.
- 12 (c) Those who do not have access to advanced communications
- 13 services will be isolated from information, services, products, and
- 14 means of entrepreneurship, ultimately weakening our
- 15 competitiveness in the global economy.

1 (d) Existing law provides for various universal service programs
2 relating to telephone corporations to be administered by the Public
3 Utilities Commission, and paid for through program end-user
4 surcharges authorized by the commission.

5 (e) In order to promote the widespread availability of
6 high-quality telecommunications, emerging technologies, and
7 information services to all Californians, the commission shall
8 develop, implement, and administer a California Advanced
9 Services Fund.

10 (f) The purpose of the California Advanced Services Fund
11 program will be to spur deployment of broadband infrastructure
12 in unserved and underserved areas within the state, in both rural
13 and urban areas, and encourage the existing statewide policy to
14 promote broadband throughout the state.

15 SEC. 2. Section 270 of the Public Utilities Code is amended
16 to read:

17 270. (a) The following funds are hereby created in the State
18 Treasury:

19 (1) The California High-Cost Fund-A Administrative Committee
20 Fund.

21 (2) The California High-Cost Fund-B Administrative Committee
22 Fund.

23 (3) The Universal Lifeline Telephone Service Trust
24 Administrative Committee Fund.

25 (4) The Deaf and Disabled Telecommunications Program
26 Administrative Committee Fund.

27 (5) The Payphone Service Providers Committee Fund.

28 (6) The California Teleconnect Fund Administrative Committee
29 Fund.

30 (7) The California Advanced Services Fund.

31 (b) Moneys in the funds are the proceeds of rates and are held
32 in trust for the benefit of ratepayers and to compensate telephone
33 corporations for their costs of providing universal service. Moneys
34 in the funds may only be expended pursuant to this chapter and
35 upon appropriation in the annual Budget Act or upon supplemental
36 appropriation.

37 (c) Moneys in each fund may not be appropriated, or in any
38 other manner transferred or otherwise diverted, to any other fund
39 or entity, except as provided in Sections 19325 and 19325.1 of the
40 Education Code.

1 SEC. 3. Section 281 of the Public Utilities Code is amended
2 and renumbered to read:

3 282. Any revenues that are deposited in funds created pursuant
4 to this chapter shall not be used by the state for any purpose other
5 than as specified in this chapter.

6 SEC. 4. Section 281 is added to the Public Utilities Code, to
7 read:

8 281. (a) The commission shall develop, implement, and
9 administer the California Advanced Services Fund to encourage
10 deployment of high-quality advanced communications services to
11 all Californians that will promote economic growth, job creation,
12 and the substantial social benefits of advanced information and
13 communications technologies, as provided in Decision 07-12-054.

14 (b) (1) All moneys collected by the surcharge authorized by
15 the commission pursuant to that decision, whether collected before
16 or after ~~January 1, 2009~~, ~~shall be transmitted~~ *the operative date of*
17 *this section, shall be transmitted to the commission pursuant to a*
18 *schedule established by the commission. The commission shall*
19 *transfer the moneys received to the Controller for deposit in the*
20 *California Advanced Services Fund.*

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

23 (3) The commission may not collect moneys, by imposing the
24 surcharge described in paragraph (1) for deposit in the fund, in an
25 amount that exceeds a total amount of one hundred million dollars
26 (\$100,000,000).

27 (c) Any moneys appropriated from the California Advanced
28 Services Fund to the commission may only be expended for the
29 program administered by the commission pursuant to subdivision
30 (a), including the costs incurred by the commission in developing,
31 implementing, and administering the program and the fund.

32 (d) The commission shall conduct both a financial audit and a
33 performance audit of the implementation and effectiveness of the
34 California Advanced Services Fund to ensure that funds have been
35 expended in accordance with the approved terms of the winning
36 bids and this section. The commission shall report its findings to
37 the Legislature by December 31, 2010. *The report shall also*
38 *include an update to the maps in the final report of the California*
39 *Broadband Task Force.*

1 (e) This section shall remain in effect only until January 1, 2013,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2013, deletes or extends that date.

4 *SEC. 5. The sum of forty-two million dollars (\$42,000,000) is*
5 *hereby appropriated to the Public Utilities Commission from*
6 *moneys which will be deposited into the California Advanced*
7 *Services Fund, pursuant to Section 281 of the Public Utilities Code,*
8 *on the effective date of this act for purposes of Section 281 of the*
9 *Public Utilities Code.*

10 *SEC. 6. This act is an urgency statute necessary for the*
11 *immediate preservation of the public peace, health, or safety within*
12 *the meaning of Article IV of the Constitution and shall go into*
13 *immediate effect. The facts constituting the necessity are:*

14 *In order to enhance the safety, health, and well-being of*
15 *California's residents living in areas of the state without access*
16 *to broadband services as quickly as possible, it is necessary that*
17 *this act take effect immediately.*