

Senate Bill No. 1193

CHAPTER 393

An act to amend Section 270 of, and to amend, renumber, add, and repeal Section 281 of, the Public Utilities Code, relating to telecommunications, and making an appropriation therefor.

[Approved by Governor September 27, 2008. Filed with Secretary of State September 27, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

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

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 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 CASF to ensure that moneys have been expended in accordance with (a) the approved terms of the winning bids, and (b) the requirements of the bill. The bill would require the commission to report its findings to the Legislature by December 31, 2010. The bill would appropriate \$25,000,000 to the commission from the fund, to be expended in the 2008–09 fiscal year, and would require the commission to report on its expenditures pursuant to this appropriation, as provided.

Appropriation: yes.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The emergence of advanced high capacity communication networks, often defined as broadband, based on high-speed interactive networks designed for voice, data, and video communications, have opened up tremendous opportunities for communication.

(b) Advanced communications services are important for our state's economic growth and can increase democratic and civic participation, improve the delivery of health care, education, job training, public safety, and other vital services.

(c) Those who do not have access to advanced communications services will be isolated from information, services, products, and means of entrepreneurship, ultimately weakening our competitiveness in the global economy.

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

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

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

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

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

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

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

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

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

(5) The Payphone Service Providers Committee Fund.

(6) The California Teleconnect Fund Administrative Committee Fund.

(7) The California Advanced Services Fund.

(b) 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. Moneys in the funds may only be expended pursuant to this chapter and upon appropriation in the annual Budget Act or upon supplemental appropriation.

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

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

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

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

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

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

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

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

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

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

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

SEC. 5. (a) The sum of twenty-five million dollars (\$25,000,000) is hereby appropriated to the Public Utilities Commission from moneys which will be deposited into the California Advanced Services Fund, pursuant to Section 281 of the Public Utilities Code, on the effective date of this act for purposes of Section 281 of the Public Utilities Code, to be expended in the 2008–09 fiscal year. All unexpended moneys shall be returned to the California Advanced Services Fund.

(b) The Public Utilities Commission shall report to the Assembly and Senate Committees on Budget and the appropriate Senate and Assembly policy committees by May 15, 2009, detailing all of the following:

(1) A description of the projects approved with the moneys appropriated by this section, including the name of the applicant, the area to be served, and the criteria used to score the application.

(2) The amount of funding committed to each approved project.

(3) The status of those approved projects.

- (4) The amount of funds expended up to the date of the report.
- (5) The anticipated expenditures for the 2009–10 fiscal year.

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