

Assembly Bill No. 1315

Passed the Assembly August 26, 2010

Chief Clerk of the Assembly

Passed the Senate August 18, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 716 to the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1315, Fuentes. Telecommunications: Public Utilities Commission: Federal Communications Commission: forbearance petitions.

The federal Communications Act of 1934, as amended by 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 act authorizes an incumbent local exchange carrier, as defined, to file a forbearance petition with the Federal Communications Commission (FCC) to require the FCC to forbear from applying any regulation or any provision of the act to a telecommunications carrier, as defined, or telecommunications service, as defined, in any or some of its or their geographic markets, if the FCC makes certain determinations.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including telephone corporations, as defined.

This bill would provide that if an incumbent local exchange carrier files a forbearance petition with the FCC requesting that the FCC forbear from enforcing that carrier's duty to provide to any requesting telecommunications carrier nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, within any metropolitan statistical area located in the state, the PUC would be required to participate in that forbearance proceeding by filing comments on the petition, providing data on competition in the metropolitan statistical area that is the subject of the petition, and taking any other action that advances the state's policies promoting competition in telecommunications markets. The bill would require

the PUC to develop a sample data request for collecting data on competition in any California metropolitan statistical area, and would require all providers of voice communications services, as specified, to provide all data and other information relevant to the forbearance petition requested by the PUC.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the PUC is a crime.

Because the provisions of this bill are within the act and certain of the bill's provisions require action by the PUC to implement, a violation of these provisions would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

(a) The federal Telecommunications Act of 1996 (Public Law 104-104) amended the federal Communications Act of 1934 (47 U.S.C. Sec. 151 et seq.), to establish 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.

(b) Consistent with the federal Telecommunications Act of 1996, state law declares the policies for telecommunications for California to include removal of the barriers to open and competitive markets and promoting fair product and price competition in a way that encourages greater efficiency, lower prices, and more consumer choices, while continuing the state's universal service commitment.

(c) Section 10 of the federal Communications Act of 1934 (47 U.S.C. Sec. 160) permits an incumbent local exchange carrier to

file a forbearance petition with the Federal Communications Commission (FCC), pursuant to the practice and procedure regulations for forbearance proceedings adopted by the FCC (47 C.F.R. 1.53 to 1.59), requesting that the FCC forbear from enforcing that carrier's duty to provide to any requesting telecommunications carrier, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory (47 U.S.C. Sec. 251(c)(3) and Sec. 271(c)(2)(B)(ii)).

(d) In order to fulfill the state's policies for telecommunications, when an incumbent local exchange carrier that is a telephone corporation subject to the authority and jurisdiction of the PUC, files a forbearance petition with the FCC requesting that the FCC forbear from enforcing that carrier's duty to provide nondiscriminatory access to network elements on an unbundled basis, it is necessary for the PUC to monitor and evaluate the petition and to act to advance the state's policies promoting competition in telecommunications markets.

SEC. 2. Section 716 is added to the Public Utilities Code, to read:

716. (a) If an incumbent local exchange carrier files a forbearance petition with the Federal Communications Commission pursuant to Section 10 of the federal Communications Act of 1934 (47 U.S.C. Sec. 160), requesting that the Federal Communications Commission forbear from enforcing that carrier's duty to provide to any requesting telecommunications carrier, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory (47 U.S.C. Sec. 251(c)(3) and Sec. 271 (c)(2)(B)(ii)), within any metropolitan statistical area located in the state, the commission shall participate in that forbearance proceeding by filing comments on the petition, providing data on competition in the metropolitan statistical area that is the subject of the petition, and taking any other action that advances the state's policies promoting competition in telecommunications markets.

(b) (1) In order to be prepared to timely comply with subdivision (a), the commission shall develop a sample data request for collecting data on competition in any California metropolitan

statistical area. The data shall include, but not be limited to, separate data on competitive options for residential, business, and wholesale services.

(2) All providers of voice communications services, including, but not limited to, local exchange carriers, interexchange carriers, mobile telephony service providers, and providers of facilities-based interconnected Voice over Internet Protocol (VoIP) service, shall provide all data and other information relevant to the forbearance petition requested by the commission pursuant to this section.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2010

Governor