

AMENDED IN SENATE MARCH 29, 2011

**SENATE BILL**

**No. 3**

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**Introduced by Senator Padilla**  
*(Coauthor: Senator Fuller)*

December 6, 2010

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An act to amend Section 739.3 of, *to add Section 270.5 to, and to add and repeal Section 283 of*, the Public Utilities Code, relating to telecommunications, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 3, as amended, Padilla. Telecommunications: universal service.

(1) 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.

Existing law authorizes the Public Utilities Commission to supervise and regulate every public utility in the state, including telephone corporations, and to fix just and reasonable rates and charges for the

public utility. Existing law establishes the *state's universal service funds, including the California High-Cost Fund-A Administrative Committee Fund (CHCF-A) and the California High-Cost Fund-B Administrative Committee Fund (CHCF-B)*, in the State Treasury, and provides that moneys in ~~the~~ *each of the state's universal service 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 to accomplish specified telecommunications universal service programs, upon appropriation in the annual Budget Act or upon supplemental appropriation.

Existing law, until January 1, 2012, requires the commission to develop, implement, and maintain a suitable, competitively neutral, and broadbased program to establish a fair and equitable local rate support structure aided by universal service rate support to telephone corporations serving areas where the cost of providing services exceeds rates charged by providers, as determined by the commission. Existing law provides that it applies only to the CHCF-B program.

This bill would extend the repeal date of ~~that the CHCF-B program requirement~~ *requirements* until January 1, ~~2013~~ 2014.

(2) *This bill would require the commission to require contributions from intrastate end users of interconnected Voice over Internet Protocol to support the universal service programs. The bill would state the intent of the Legislature that the commission participate in ongoing federal proceedings before the Federal Communications Commission relative to the federal universal service program and would require that the commission report to the Legislature by October 1, 2012, on the status of proposed changes to federal universal service regulations and whether any changes to statutes authorizing state universal service programs are necessary to ensure that they are not inconsistent with federal regulations.*

(2)

(3) Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

Because the program that is extended under the provisions of this bill is within the act and a decision or order of the commission implements the program requirements, a violation of these provisions would impose a state-mandated local program by creating a new crime.

~~(3) This bill would constitute a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section~~

~~3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.~~

(4) 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.

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

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

1     SECTION 1. Section 270.5 is added to the Public Utilities  
2 Code, to read:

3     270.5. (a) *The commission shall require contributions from*  
4 *intrastate end users of interconnected Voice over Internet Protocol,*  
5 *or VoIP, as defined in Section 41019.5 of the Revenue and Taxation*  
6 *Code, to support the universal service programs identified in*  
7 *Section 270.*

8     (b) *This section shall not be construed to enlarge or diminish*  
9 *any regulatory authority over VoIP service providers under existing*  
10 *law except to grant explicit authority to require contributions*  
11 *pursuant to subdivision (a).*

12     SEC. 2. Section 283 is added to the Public Utilities Code, to  
13 read:

14     283. (a) *The Legislature finds and declares all of the following:*

15     (1) *Federal and state laws and regulations to promote universal*  
16 *service have historically provided support for universal access to*  
17 *landline voice telephone service.*

18     (2) *The Telecommunications Act of 1996 (Public Law 104-104)*  
19 *provides that state regulations to preserve and advance universal*  
20 *service shall not be inconsistent with the universal service*  
21 *regulations adopted by the Federal Communications Commission*  
22 *(47 U.S.C. Sec. 254(f)).*

23     (3) *The Federal Communications Commission, in implementing*  
24 *the National Broadband Plan, released in March 2010, has*  
25 *proposed substantial changes to its universal service regulations*

1 *in order to increase accountability and efficiency and provide*  
2 *support for universal access to broadband and voice service.*

3 *(b) It is the intent of the Legislature that the commission*  
4 *participate in all proceedings of the Federal Communications*  
5 *Commission relating to changes in universal service regulations*  
6 *and open proceedings, as necessary, to consider appropriate*  
7 *conforming changes to state universal service programs.*

8 *(c) By October 1, 2012, the commission shall report to the*  
9 *Legislature on the status of proposed changes to federal universal*  
10 *service regulations and whether any changes to statutes authorizing*  
11 *state universal service programs are necessary to ensure that they*  
12 *are not inconsistent with federal regulations.*

13 *(d) The report to be submitted pursuant to subdivision (c) shall*  
14 *be submitted in compliance with Section 9795 of the Government*  
15 *Code.*

16 *(e) Pursuant to Section 10231.5 of the Government Code, this*  
17 *section is repealed on October 1, 2016.*

18 **SECTION 1.**

19 **SEC. 3.** Section 739.3 of the Public Utilities Code is amended  
20 to read:

21 739.3. (a) The commission shall develop, implement, and  
22 maintain a suitable program to establish a fair and equitable local  
23 rate structure aided by universal service rate support to small  
24 independent telephone corporations serving rural and small  
25 metropolitan areas. The purpose of the program shall be to promote  
26 the goals of universal telephone service and to reduce any disparity  
27 in the rates charged by those companies.

28 (b) For purposes of this section, small independent telephone  
29 corporations means those independent telephone corporations  
30 serving rural areas, as determined by the commission.

31 (c) The commission shall develop, implement, and maintain a  
32 suitable, competitively neutral, and broadbased program to  
33 establish a fair and equitable local rate support structure aided by  
34 universal service rate support to telephone corporations serving  
35 areas where the cost of providing services exceeds rates charged  
36 by providers, as determined by the commission. The commission  
37 shall develop and implement the program on or before October 1,  
38 1996. The purpose of the program shall be to promote the goals  
39 of universal telephone service and to reduce any disparity in the  
40 rates charged by those companies. Except as otherwise explicitly

1 provided, this subdivision does not limit the manner in which the  
2 commission collects and disburses funds, and does not limit the  
3 manner in which it may include or exclude the revenue of  
4 contributing entities in structuring the program.

5 (d) The commission shall structure the programs required by  
6 this section so that any charge imposed to promote the goals of  
7 universal service reasonably equals the value of the benefits of  
8 universal service to contributing entities and their subscribers.

9 (e) The commission shall investigate reducing the level of  
10 universal service rate support, or elimination of universal service  
11 rate support in service areas with demonstrated competition.

12 (f) By July 1, 2010, the commission shall prepare and submit  
13 to the Legislature a report on the affordability of basic telephone  
14 service in areas funded by the California High-Cost Fund-B  
15 Administrative Committee Fund. The report, among other things,  
16 shall provide information on prices and costs of basic telephone  
17 service, and penetration and utilization rates of basic telephone  
18 service by income, ethnicity, age, and other demographic  
19 characteristics, using surveys and other methods of identifying the  
20 factors affecting affordability of basic telephone service for  
21 customers and noncustomers. The report shall describe the  
22 characteristics of noncustomers and their reasons for not having  
23 telephone service. The report shall identify those persons most at  
24 risk of losing basic telephone service. The report shall be funded  
25 out of the California High-Cost Fund-B Administrative Committee  
26 Fund.

27 (g) This section shall only apply to the California High-Cost  
28 Fund-B Administrative Committee Fund program.

29 (h) This section shall remain in effect only until January 1, ~~2013~~  
30 *2014*, and as of that date is repealed, unless a later enacted statute,  
31 that is enacted before January 1, ~~2013~~ *2014*, deletes or extends  
32 that date.

33 ~~SEC. 2.~~

34 *SEC. 4.* No reimbursement is required by this act pursuant to  
35 Section 6 of Article XIII B of the California Constitution because  
36 the only costs that may be incurred by a local agency or school  
37 district will be incurred because this act creates a new crime or  
38 infraction, eliminates a crime or infraction, or changes the penalty  
39 for a crime or infraction, within the meaning of Section 17556 of  
40 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

3 *SEC. 5. This act is an urgency statute necessary for the*  
4 *immediate preservation of the public peace, health, or safety within*  
5 *the meaning of Article IV of the Constitution and shall go into*  
6 *immediate effect. The facts constituting the necessity are:*

7 *In order to provide the Public Utilities Commission with express*  
8 *authority to require providers of telephone quality voice*  
9 *communication utilizing Voice over Internet Protocol to contribute*  
10 *to the state's universal service programs, as proposed in pending*  
11 *Rulemaking 11-01-008, it is necessary for this act to take effect*  
12 *immediately.*