

AMENDED IN SENATE MAY 31, 2011
AMENDED IN SENATE APRIL 12, 2011
AMENDED IN SENATE MARCH 29, 2011

SENATE BILL

No. 3

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

December 6, 2010

An act to amend Section 739.3 of, *and* 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 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 the CHCF-B program requirements until January 1, 2014.

(2) This bill would require the commission to require contributions from intrastate revenues of interconnected Voice over Internet Protocol service 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.~~

(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.

(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. *The Legislature finds and declares all of the*
2 *following:*

3 (a) *Federal and state laws and regulations to promote universal*
4 *service have historically provided support for universal access to*
5 *landline voice telephone service.*

6 (b) *The Telecommunications Act of 1996 (Public Law 104-104)*
7 *provides that state regulations to preserve and advance universal*
8 *service shall not be inconsistent with the universal service*
9 *regulations adopted by the Federal Communications Commission*
10 *(47 U.S.C. Sec. 254(f)).*

11 (c) *The Federal Communications Commission, in implementing*
12 *the National Broadband Plan, released in March 2010, has*
13 *proposed substantial changes to its universal service regulations*
14 *in order to increase accountability and efficiency and provide*
15 *support for universal access to broadband and voice service.*

16 ~~SECTION 1.~~

17 SEC. 2. Section 270.5 is added to the Public Utilities Code, to
18 read:

19 270.5. (a) The commission shall require contributions from
20 intrastate revenues of interconnected Voice over Internet Protocol
21 service, or VoIP service, as defined in Section 41019.5 of the
22 Revenue and Taxation Code, to support the universal service
23 programs identified in Section 270.

24 (b) This section shall not be construed to enlarge or diminish
25 any regulatory authority over VoIP service providers under existing
26 law except to grant explicit authority to require contributions
27 pursuant to subdivision (a).

1 ~~SEC. 2. Section 283 is added to the Public Utilities Code, to~~
2 ~~read:~~

3 ~~283. (a) The Legislature finds and declares all of the following:~~

4 ~~(1) Federal and state laws and regulations to promote universal~~
5 ~~service have historically provided support for universal access to~~
6 ~~landline voice telephone service.~~

7 ~~(2) The Telecommunications Act of 1996 (Public Law 104-104)~~
8 ~~provides that state regulations to preserve and advance universal~~
9 ~~service shall not be inconsistent with the universal service~~
10 ~~regulations adopted by the Federal Communications Commission~~
11 ~~(47 U.S.C. Sec. 254(f)).~~

12 ~~(3) The Federal Communications Commission, in implementing~~
13 ~~the National Broadband Plan, released in March 2010, has proposed~~
14 ~~substantial changes to its universal service regulations in order to~~
15 ~~increase accountability and efficiency and provide support for~~
16 ~~universal access to broadband and voice service.~~

17 ~~(b) It is the intent of the Legislature that the commission~~
18 ~~participate in all proceedings of the Federal Communications~~
19 ~~Commission relating to changes in universal service regulations~~
20 ~~and open proceedings, as necessary, to consider appropriate~~
21 ~~conforming changes to state universal service programs.~~

22 ~~(c) By October 1, 2012, the commission shall report to the~~
23 ~~Legislature on the status of proposed changes to federal universal~~
24 ~~service regulations and whether any changes to statutes authorizing~~
25 ~~state universal service programs are necessary to ensure that they~~
26 ~~are not inconsistent with federal regulations.~~

27 ~~(d) The report to be submitted pursuant to subdivision (c) shall~~
28 ~~be submitted in compliance with Section 9795 of the Government~~
29 ~~Code.~~

30 ~~(e) Pursuant to Section 10231.5 of the Government Code, this~~
31 ~~section is repealed on October 1, 2016.~~

32 ~~SEC. 3. Section 739.3 of the Public Utilities Code is amended~~
33 ~~to read:~~

34 ~~739.3. (a) The commission shall develop, implement, and~~
35 ~~maintain a suitable program to establish a fair and equitable local~~
36 ~~rate structure aided by universal service rate support to small~~
37 ~~independent telephone corporations serving rural and small~~
38 ~~metropolitan areas. The purpose of the program shall be to promote~~
39 ~~the goals of universal telephone service and to reduce any disparity~~
40 ~~in the rates charged by those companies.~~

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

4 (c) The commission shall develop, implement, and maintain a
5 suitable, competitively neutral, and broadbased program to
6 establish a fair and equitable local rate support structure aided by
7 universal service rate support to telephone corporations serving
8 areas where the cost of providing services exceeds rates charged
9 by providers, as determined by the commission. The commission
10 shall develop and implement the program on or before October 1,
11 1996. The purpose of the program shall be to promote the goals
12 of universal telephone service and to reduce any disparity in the
13 rates charged by those companies. Except as otherwise explicitly
14 provided, this subdivision does not limit the manner in which the
15 commission collects and disburses funds, and does not limit the
16 manner in which it may include or exclude the revenue of
17 contributing entities in structuring the program.

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

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

25 (f) By July 1, 2010, the commission shall prepare and submit
26 to the Legislature a report on the affordability of basic telephone
27 service in areas funded by the California High-Cost Fund-B
28 Administrative Committee Fund. The report, among other things,
29 shall provide information on prices and costs of basic telephone
30 service, and penetration and utilization rates of basic telephone
31 service by income, ethnicity, age, and other demographic
32 characteristics, using surveys and other methods of identifying the
33 factors affecting affordability of basic telephone service for
34 customers and noncustomers. The report shall describe the
35 characteristics of noncustomers and their reasons for not having
36 telephone service. The report shall identify those persons most at
37 risk of losing basic telephone service. The report shall be funded
38 out of the California High-Cost Fund-B Administrative Committee
39 Fund.

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

3 (h) This section shall remain in effect only until January 1, 2014,
4 and as of that date is repealed, unless a later enacted statute, that
5 is enacted before January 1, 2014, deletes or extends that date.

6 SEC. 4. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.

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

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