

AMENDED IN ASSEMBLY AUGUST 20, 2012

AMENDED IN ASSEMBLY JUNE 25, 2012

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AMENDED IN ASSEMBLY MAY 23, 2012

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 25, 2011

SENATE BILL

No. 379

Introduced by Senator Fuller

*(Coauthors: Senators Berryhill, Cannella, Gaines, La Malfa, Rubio,
and Runner)*

*(Coauthors: Assembly Members Buchanan, Conway, Beth Gaines,
Grove, Halderman, Jeffries, Logue, Nielsen, Olsen, and Perea)*

February 15, 2011

An act to amend Section 275.6 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 379, as amended, Fuller. Telecommunications: universal service: regulation.

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, 2015, requires the commission to develop, implement, and maintain a suitable program to establish a fair and equitable local rate structure aided by universal service rate support to small independent telephone corporations that serve rural areas and are subject to rate-of-return regulation by the commission (the CHCF-A program).

This bill would revise the CHCF-A program to instead require the commission, until January 1, 2015, to exercise its regulatory authority to maintain the CHCF-A program to provide universal rate support to small independent telephone corporations in amounts sufficient to meet the revenue requirements established by the commission through rate-of-return regulation in furtherance of the state's universal service commitment to the continued affordability and widespread availability of safe, reliable, high-quality communications services in rural areas of the state. The bill would specify eligibility requirements for small independent telephone corporations to participate in the CHCF-A program and requirements for the commission in maintaining the program. *This bill would require a small independent telephone corporation that receives support from the CHCF-A program to provide*

information regarding revenues derived from the provision of unregulated internet access service upon request from the commission and would require the commission to treat this information as confidential.

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

Because the provisions of this bill would be a part of the act and because a failure by a small independent telephone corporation that receives support from the CHCF-A program to provide information regarding revenues derived from unregulated internet access service when requested by the commission would be a crime, the bill 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

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

- 1 SECTION 1. In making the changes made by this act to Section
- 2 275.6 of the Public Utilities Code, it is the intent of the Legislature
- 3 to preserve all of the following:
- 4 (a) Federal universal service funding for telephone corporations
- 5 participating in the California High-Cost Fund-A Program, thereby
- 6 reducing cost pressures on the program and minimizing the state
- 7 surcharge levels necessary to fund the program.
- 8 (b) Application of the Federal Communications Commission’s
- 9 cost allocation and separation rules to the expenses and investments
- 10 of telephone corporations that participate in the California
- 11 High-Cost Fund-A Program.
- 12 (c) The discretion of the Public Utilities Commission in open
- 13 Rulemaking 11-11-007 to establish the regulatory requirements
- 14 for the California High-Cost Fund-A Program within the policy
- 15 framework provided by this act.

1 SEC. 2. Section 275.6 of the Public Utilities Code is amended
2 to read:

3 275.6. (a) The commission shall exercise its regulatory
4 authority to maintain the California High-Cost Fund-A Program
5 to provide universal service rate support to small independent
6 telephone corporations in amounts sufficient to meet the revenue
7 requirements established by the commission through rate-of-return
8 regulation in furtherance of the state's universal service
9 commitment to the continued affordability and widespread
10 availability of safe, reliable, high-quality communications services
11 in rural areas of the state.

12 (b) For purposes of this section, the following terms have the
13 following meanings:

14 (1) "Carrier of last resort" means a telephone corporation that
15 is required to fulfill all reasonable requests for service within its
16 service territory.

17 (2) "Rate base" means the value of a telephone corporation's
18 plant and equipment that is reasonably necessary to provide
19 regulated voice services and access to advanced services, and upon
20 which the telephone corporation is entitled to *a fair opportunity*
21 *to* earn a reasonable rate of return.

22 (3) "Rate design" means the mix of end user rates, high-cost
23 support, and other revenue sources that are targeted to provide ~~an~~
24 *a fair* opportunity to meet the revenue requirement of the telephone
25 corporation.

26 (4) "Rate-of-return regulation" means a regulatory structure
27 whereby the commission establishes a telephone corporation's
28 revenue requirements, and then fashions a rate design to provide
29 the company a fair opportunity to meet the revenue requirement.

30 (5) "Revenue requirement" means the amount that is necessary
31 for a telephone corporation to recover its reasonable expenses and
32 tax liabilities and earn a reasonable rate of return on its rate base.

33 (6) "Small independent telephone corporations" are rural
34 incumbent local exchange carriers subject to commission
35 regulation.

36 (c) In administering the California High-Cost Fund-A Program,
37 the commission shall do all of the following:

38 (1) Continue to set rates to be charged by the small independent
39 telephone corporations in accordance with Sections 451, 454, 455,
40 and 728.

1 (2) Employ rate-of-return regulation to determine a small
2 independent telephone corporation's revenue requirement in a
3 manner that provides revenues and earnings sufficient to allow the
4 telephone corporation to deliver safe, reliable, high-quality voice
5 communication service and fulfill its obligations as a carrier of
6 last resort in its service territory, and to afford the telephone
7 corporation ~~an~~ *a fair* opportunity to earn a reasonable return on its
8 investments, attract capital for investment on reasonable terms,
9 and ensure the financial integrity of the telephone corporation.

10 (3) Ensure that rates charged to customers of small independent
11 telephone corporations are just and reasonable and are reasonably
12 comparable to rates charged to customers of urban telephone
13 corporations.

14 (4) Provide universal service rate support from the California
15 High-Cost Fund-A Administrative Committee Fund to small
16 independent telephone corporations in an amount sufficient to
17 supply the portion of the revenue requirement that cannot
18 reasonably be provided by the customers of each small independent
19 telephone corporation after receipt of federal universal service rate
20 support.

21 (5) Promote customer access to advanced services and
22 deployment of broadband-capable facilities in rural areas that is
23 reasonably comparable to that in urban areas, consistent with
24 national communications policy.

25 (6) Include all reasonable investments necessary to provide for
26 the delivery of high-quality voice communication services and the
27 deployment of broadband-capable facilities in the rate base of
28 small independent telephone corporations.

29 (7) Ensure that support is not excessive so that the burden on
30 all contributors to the California High-Cost Fund-A Program is
31 limited.

32 (d) In order to participate in the California High-Cost Fund-A
33 Program, a small independent telephone corporation shall meet
34 all of the following requirements:

35 (1) Be subject to rate-of-return regulation.

36 (2) Be subject to the commission's regulation of telephone
37 corporations pursuant to this division.

38 (3) Be a carrier of last resort in their service territory.

39 (4) Qualify as a rural telephone company under federal law (47
40 U.S.C. Section 153(44)).

1 (e) Upon request from the commission, a small independent
 2 telephone corporation that receives support from the California
 3 High-Cost Fund-A Program shall provide information regarding
 4 revenues derived from the provision of unregulated internet access
 5 service by that corporation or its affiliate within that corporation's
 6 telephone service territory. The commission shall treat as
 7 confidential any information provided pursuant to this subdivision.

8 (e)

9 (f) The commission shall structure the programs required by
 10 this section so that any charge imposed to promote the goals of
 11 universal service reasonably equals the value of the benefits of
 12 universal service to contributing entities and their subscribers.

13 (f)

14 (g) This section shall remain in effect only until January 1, 2015,
 15 and as of that date is repealed, unless a later enacted statute, that
 16 is enacted before January 1, 2015, deletes or extends that date.

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