

Senate Bill No. 379

Passed the Senate August 30, 2012

Secretary of the Senate

Passed the Assembly August 23, 2012

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

SB 379, 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.

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

SECTION 1. In making the changes made by this act to Section 275.6 of the Public Utilities Code, it is the intent of the Legislature to preserve all of the following:

(a) Federal universal service funding for telephone corporations participating in the California High-Cost Fund-A Program, thereby reducing cost pressures on the program and minimizing the state surcharge levels necessary to fund the program.

(b) Application of the Federal Communications Commission's cost allocation and separation rules to the expenses and investments of telephone corporations that participate in the California High-Cost Fund-A Program.

(c) The discretion of the Public Utilities Commission in open Rulemaking 11-11-007 to establish the regulatory requirements for the California High-Cost Fund-A Program within the policy framework provided by this act.

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

275.6. (a) The commission shall exercise its regulatory authority to maintain the California High-Cost Fund-A Program to provide universal service 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.

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

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

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

(3) "Rate design" means the mix of end user rates, high-cost support, and other revenue sources that are targeted to provide a

fair opportunity to meet the revenue requirement of the telephone corporation.

(4) “Rate-of-return regulation” means a regulatory structure whereby the commission establishes a telephone corporation’s revenue requirements, and then fashions a rate design to provide the company a fair opportunity to meet the revenue requirement.

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

(6) “Small independent telephone corporations” are rural incumbent local exchange carriers subject to commission regulation.

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

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

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

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

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

(5) Promote customer access to advanced services and deployment of broadband-capable facilities in rural areas that is

reasonably comparable to that in urban areas, consistent with national communications policy.

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

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

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

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

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

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

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

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

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

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

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 _____, 2012

Governor