

AMENDED IN SENATE JULY 10, 2013

AMENDED IN ASSEMBLY APRIL 25, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1299**

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**Introduced by Assembly Member Bradford**

February 22, 2013

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An act to amend Section 281 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1299, as amended, Bradford. Telecommunications: universal service programs: California Advanced Services Fund.

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. The act authorizes each state to adopt regulations to provide for additional definitions and standards to preserve and advance universal service within the state, only to the extent that

they adopt additional specific, predictable, and sufficient mechanisms that do not rely on or burden federal universal service support mechanisms.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations, as defined. Existing law establishes the California Advanced Services Fund (CASF) in the State Treasury and requires that moneys in those 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 and may be expended only to accomplish specified telecommunications universal service programs, upon appropriation in the annual Budget Act or upon supplemental appropriation. Existing law requires the commission to develop, implement, and administer the CASF to encourage deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and substantial social benefits of advanced information and communications technologies, as provided in specified decisions of the commission and in the CASF statute. *Existing law establishes 3 accounts, the Broadband Infrastructure Grant Account, the Rural and Urban Regional Broadband Consortia Grant Account, and the Broadband Infrastructure Revolving Loan Account within the CASF.*

~~Existing law requires that prohibits the commission from collecting, before January 1, 2011, more than \$100,000,000, collected by a for deposit into the CASF through the surcharge authorized by the commission, after January 1, 2011, is to be deposited into the Broadband Infrastructure Account commission.~~ Existing law authorizes the commission to collect an additional sum not to exceed \$125,000,000, after January 1, 2011, for a sum total of moneys collected through the surcharge not to exceed \$225,000,000. Existing law authorizes the commission to collect the additional sum through the 2015 calendar year. Existing law requires that of the moneys collected after January 1, 2011, \$100,000,000 is to be deposited into the Broadband Infrastructure Grant Account, \$10,000,000 is to be deposited into the Rural and Urban Regional Broadband Consortia Grant Account and used for specified purposes, and \$15,000,000 is to be deposited into the Broadband Infrastructure Revolving Loan Account and used for specified purposes.

~~This bill would require that \$5,000,000 of the additional moneys collected on and after January 1, 2011, that are deposited into the~~

~~Broadband Infrastructure Grant Account, be used to support programs designed to increase adoption rates for broadband service for residents of publicly supported housing communities, as defined, and not more than \$20,000,000 of the additional moneys collected on and after January 1, 2011, that are deposited into the Broadband Infrastructure Grant Account, be used to connect broadband networks to publicly supported housing communities.~~

*This bill would establish the Broadband Public Housing Account within the CASF and would authorize the commission to transfer \$20,000,000 from the Broadband Infrastructure Grant Account and \$5,000,000 from the Broadband Revolving Loan Account to the Broadband Public Housing Account if the commission is otherwise authorized to collect funds for purposes of the CASF in excess of the \$225,000,000 the commission is authorized to collect through December 31, 2015, under existing law. The bill would authorize not more than \$20,000,000 from the Broadband Public Housing Account be available for grants and loans to a publicly supported housing community, as defined, to finance a project to connect a broadband network to that publicly supported housing community. The bill would authorize not more than \$5,000,000 from the Broadband Public Housing Account be available for grants and loans to a publicly supported housing community to support programs designed to increase adoption rates for broadband services for residents of that publicly supported housing community. The bill would require the commission, in reviewing a project application to consider the availability of other funding sources for that project, any financial contribution from the broadband service provider to the project, the availability of any other public or private broadband adoption or deployment program, including tax credits and other incentives, and whether the applicant has sought funding from, or participated in, any reasonably available program. The bill would authorize the commission to require an applicant to provide match funding, and prohibit the commission from denying funding for a project solely because the applicant is receiving funding from another source.*

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

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

- 1 SECTION 1. Section 281 of the Public Utilities Code is
- 2 amended to read:

1 281. (a) The commission shall develop, implement, and  
2 administer the California Advanced Services Fund to encourage  
3 deployment of high-quality advanced communications services to  
4 all Californians that will promote economic growth, job creation,  
5 and the substantial social benefits of advanced information and  
6 communications technologies, as provided in Decision 07-12-054  
7 and Decision 09-07-020 and this section. The commission shall  
8 establish the following accounts within the fund:

9 (1) The Broadband Infrastructure Grant Account.

10 (2) The Rural and Urban Regional Broadband Consortia Grant  
11 Account.

12 (3) The Broadband Infrastructure Revolving Loan Account.

13 (4) *The Broadband Public Housing Account.*

14 (b) (1) All moneys collected by the surcharge authorized by  
15 the commission pursuant to Decision 07-12-054, whether collected  
16 before or after January 1, 2009, shall be transmitted to the  
17 commission pursuant to a schedule established by the commission.  
18 The commission shall transfer the moneys received to the  
19 Controller for deposit in the California Advanced Services Fund.  
20 Moneys collected on and after January 1, 2011, shall be deposited  
21 in the following amounts in the following accounts:

22 (A) One hundred million dollars (\$100,000,000) into the  
23 Broadband Infrastructure Grant Account.

24 (B) Ten million dollars (\$10,000,000) into the Rural and Urban  
25 Regional Broadband Consortia Grant Account.

26 (C) Fifteen million dollars (\$15,000,000) into the Broadband  
27 Infrastructure Revolving Loan Account.

28 (2) All interest earned on moneys in the fund shall be deposited  
29 in the fund.

30 (3) The commission shall not collect moneys, by imposing the  
31 surcharge described in paragraph (1) for deposit in the fund, in an  
32 amount that exceeds one hundred million dollars (\$100,000,000)  
33 before January 1, 2011. On and after January 1, 2011, the  
34 commission may collect an additional sum not to exceed one  
35 hundred twenty-five million dollars (\$125,000,000), for a sum  
36 total of moneys collected by imposing the surcharge described in  
37 paragraph (1) not to exceed two hundred twenty-five million dollars  
38 (\$225,000,000). ~~Five million dollars (\$5,000,000) of the additional~~  
39 ~~moneys collected on and after January 1, 2011, and deposited in~~  
40 ~~the Broadband Infrastructure Grant Account, shall be used to~~

1 support programs designed to increase adoption rates for broadband  
2 service for residents of publicly supported housing communities,  
3 and twenty million dollars (\$20,000,000) shall be used for the  
4 purpose described in subdivision (f). The commission may collect  
5 the additional sum beginning with the calendar year starting on  
6 January 1, 2011, and continuing through the 2015 calendar year,  
7 in an amount not to exceed twenty-five million dollars  
8 (\$25,000,000) per year, unless the commission determines that  
9 collecting a higher amount in any year will not result in an increase  
10 in the total amount of all surcharges collected from telephone  
11 customers that year.

12 (c) (1) All moneys in the California Advanced Services Fund  
13 shall be available, upon appropriation by the Legislature, to the  
14 commission for the program administered by the commission  
15 pursuant to this section, including the costs incurred by the  
16 commission in developing, implementing, and administering the  
17 program and the fund.

18 (2) Notwithstanding any other law and for the sole purpose of  
19 providing matching funds pursuant to the federal American  
20 Recovery and Reinvestment Act of 2009 (Public Law 111-5), any  
21 entity eligible for funding pursuant to that act shall be eligible to  
22 apply to participate in the program administered by the commission  
23 pursuant to this section, if that entity otherwise satisfies the  
24 eligibility requirements under that program. Nothing in this section  
25 shall impede the ability of an incumbent local exchange carrier,  
26 as defined by subsection (h) of Section 251 of Title 47 of the  
27 United States Code, that is regulated under a rate of return  
28 regulatory structure, to recover, in rate base, California  
29 infrastructure investment not provided through federal or state  
30 grant funds for facilities that provide broadband service and  
31 California intrastate voice service.

32 (d) Moneys in the Rural and Urban Regional Broadband  
33 Consortia Grant Account shall be available for grants to eligible  
34 consortia to fund the cost of broadband deployment activities other  
35 than the capital cost of facilities, as specified by the commission.  
36 An eligible consortium may include, as specified by the  
37 commission, representatives of organizations, including, but not  
38 limited to, local and regional government, public safety, elementary  
39 and secondary education, health care, libraries, postsecondary  
40 education, community-based organizations, tourism, parks and

1 recreation, agricultural, and business, and is not required to have  
2 as its lead fiscal agent an entity with a certificate of public  
3 convenience and necessity.

4 (e) Moneys in the Broadband Infrastructure Revolving Loan  
5 Account shall be available to finance capital costs of broadband  
6 facilities not funded by a grant from the Broadband Infrastructure  
7 Grant Account. The commission shall periodically set interest rates  
8 on the loans based on surveys of existing financial markets.

9 (f) (1) For purposes of this subdivision, “publicly supported  
10 housing community” means a publicly subsidized housing  
11 multitenant attached dwelling unit that is wholly owned by either  
12 of the following:

13 (A) A public housing agency that has been chartered by the  
14 state, or by any city or county in the state, and has been determined  
15 an eligible public housing agency by the United States Department  
16 of Housing and Urban Development.

17 (B) An incorporated nonprofit organization as described in  
18 Section 501 (c)(3) of the Internal Revenue Code (26 U.S.C. Sec.  
19 501(c)(3)) that is exempt from taxation under Section 501 (a) of  
20 that code (16 U.S.C. Sec. 501(a)), and that has received public  
21 funding to subsidize the construction or maintenance of housing  
22 occupied by residents whose annual income qualifies as “low-” or  
23 “very low” income according to federal poverty guidelines.

24 ~~(2) (A) Not more than twenty million dollars (\$20,000,000) of~~  
25 ~~the moneys collected on and after January 1, 2011, and deposited~~  
26 ~~in the Broadband Infrastructure Grant Account, shall be used to~~  
27 ~~connect broadband networks to publicly supported housing~~  
28 ~~communities. If less than twenty million dollars (\$20,000,000) has~~  
29 ~~been awarded by December 31, 2016, the remaining moneys not~~  
30 ~~awarded may be used for any other purpose permitted under this~~  
31 ~~section.~~

32 *(2) Notwithstanding subdivision (b) of Section 270, moneys in*  
33 *the Broadband Public Housing Account shall be available for the*  
34 *commission to award grants and loans pursuant to this subdivision*  
35 *to an eligible publicly supported housing community if that entity*  
36 *otherwise meets eligibility requirements and complies with*  
37 *program requirements established by the commission.*

38 *(3) Not more than twenty million dollars (\$20,000,000) shall*  
39 *be available for grants and loans to a publicly supported housing*  
40 *community to finance a project to connect a broadband network*

1 *to that publicly supported housing community. A publicly supported*  
2 *housing community may be an eligible applicant only if the publicly*  
3 *supported housing community can verify to the commission that*  
4 *the publicly supported housing community has not denied a right*  
5 *of access to any broadband provider that is willing to connect a*  
6 *broadband network to the facility for which the grant or loan is*  
7 *sought.*

8 ~~(B)~~

9 (4) (A) *Not more than five million dollars (\$5,000,000) shall*  
10 *be available for grants and loans to a publicly supported housing*  
11 *community to support programs designed to increase adoption*  
12 *rates for broadband services for residents of that publicly*  
13 *supported housing community. A publicly supported housing*  
14 *community may be eligible for a grant to fund a broadband*  
15 *adoption program only if the residential units in the facility of the*  
16 *residents to be served have existing access to broadband services*  
17 *or will have access to broadband services at the time the grant for*  
18 *adoption is implemented. Eligible applicants receiving broadband*  
19 *adoption grants may contract with other nonprofit or public*  
20 *agencies to assist in implementation of the broadband adoption*  
21 *program.*

22 ~~(C) A publicly supported housing community may be an eligible~~  
23 ~~applicant if the publicly supported housing community can verify~~  
24 ~~to the commission that the publicly supported housing community~~  
25 ~~has not denied a right of access to any broadband provider that is~~  
26 ~~willing to deploy broadband services in the facility for which the~~  
27 ~~grant is sought.~~

28 (B) *A publicly supported housing community may contract with*  
29 *other nonprofit or public agencies to assist in implementation of*  
30 *a broadband adoption program.*

31 ~~(D)~~

32 (5) *To the extent feasible, the commission shall allocate funds*  
33 *approve projects for funding from the Broadband Infrastructure*  
34 *Grant Public Housing Account in a manner that reflects the*  
35 *statewide distribution of those publicly supported housing*  
36 *communities.*

37 (6) *In reviewing a project application under this subdivision,*  
38 *the commission shall consider the availability of other funding*  
39 *sources for that project, any financial contribution from the*  
40 *broadband service provider to the project, the availability of any*

1 *other public or private broadband adoption or deployment*  
2 *program, including tax credits and other incentives, and whether*  
3 *the applicant has sought funding from, or participated in, any*  
4 *reasonably available program. The commission may require an*  
5 *applicant to provide match funding, and shall not deny funding*  
6 *for a project solely because the applicant is receiving funding from*  
7 *another source.*

8 (7) (A) *To provide funding for the purposes of this subdivision,*  
9 *the commission shall transfer to the Broadband Public Housing*  
10 *Account twenty million (\$20,000,000) from the Broadband*  
11 *Infrastructure Grant Account and five million (\$5,000,000) from*  
12 *the Broadband Revolving Loan Account. Any moneys in the*  
13 *Broadband Public Housing Account that have not been awarded*  
14 *pursuant to this subdivision by December 31, 2016, shall be*  
15 *transferred back to the Broadband Infrastructure Grant Account*  
16 *and Broadband Infrastructure Revolving Loan Account in*  
17 *proportion to the amount transferred from the respective accounts.*

18 (B) *The commission shall transfer funds pursuant to*  
19 *subparagraph (A) only if the commission is otherwise authorized*  
20 *to collect funds for purposes of this section in excess of the total*  
21 *amount authorized pursuant to paragraph (3) of subdivision (b).*

22 (g) (1) The commission shall conduct an interim and final  
23 financial audit and an interim and final performance audit of the  
24 implementation and effectiveness of the California Advanced  
25 Services Fund to ensure that funds have been expended in  
26 accordance with the approved terms of the grant awards and loan  
27 agreements and this section. The commission shall report its interim  
28 findings to the Legislature by April 1, 2011. The commission shall  
29 report its final findings to the Legislature by April 1, 2017. The  
30 reports shall also include an update to the maps in the final report  
31 of the California Broadband Task Force and data on the types and  
32 numbers of jobs created as a result of the program administered  
33 by the commission pursuant to this section.

34 (2) (A) The requirement for submitting a report imposed under  
35 paragraph (1) is inoperative on January 1, 2018, pursuant to Section  
36 10231.5 of the Government Code.

37 (B) A report to be submitted pursuant to paragraph (1) shall be  
38 submitted in compliance with Section 9795 of the Government  
39 Code.

1 (h) (1) Beginning on January 1, 2012, and annually thereafter,  
2 the commission shall provide a report to the Legislature that  
3 includes all of the following information:

4 (A) The amount of funds expended from the California  
5 Advanced Services Fund in the prior year.

6 (B) The recipients of funds expended from the California  
7 Advanced Services Fund in the prior year.

8 (C) The geographic regions of the state affected by funds  
9 expended from the California Advanced Services Fund in the prior  
10 year.

11 (D) The expected benefits to be derived from the funds expended  
12 from the California Advanced Services Fund in the prior year.

13 (E) Actual broadband adoption levels from the funds expended  
14 from the California Advanced Services Fund in the prior year.

15 (F) The amount of funds expended from the California  
16 Advanced Services Fund used to match federal funds.

17 (G) An update on the expenditures from California Advanced  
18 Services Fund and broadband adoption levels, and an accounting  
19 of remaining unserved and underserved areas of the state.

20 (2) (A) The requirement for submitting a report imposed under  
21 paragraph (1) is inoperative on January 1, 2016, pursuant to Section  
22 10231.5 of the Government Code.

23 (B) A report to be submitted pursuant to paragraph (1) shall be  
24 submitted in compliance with Section 9795 of the Government  
25 Code.

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