

ASSEMBLY BILL

No. 2130

Introduced by Assembly Member Quirk

February 17, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2130, as introduced, Quirk. Telecommunications: universal service: California Advanced Services Fund.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law establishes the California Advanced Services Fund, referred to as the CASF, in the State Treasury. 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 the substantial social benefits of advanced information and communications technologies, as provided in certain decisions of the commission and in statute.

This bill would make nonsubstantive changes to the CASF statute.

Vote: majority. Appropriation: no. Fiscal committee: no.
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 program to
3 encourage deployment of high-quality advanced communications
4 services to all Californians that will promote economic growth,
5 job creation, and the substantial social benefits of advanced
6 information and communications technologies, consistent with
7 this section.

8 (b) (1) The goal of the program is, no later than December 31,
9 2015, to approve funding for infrastructure projects that will
10 provide broadband access to no less than 98 percent of ~~California~~
11 *the state's* households.

12 (2) In approving infrastructure projects, the commission shall
13 give priority to projects that provide last-mile broadband access
14 to households that are unserved by an existing facilities-based
15 broadband provider. The commission shall provide each applicant,
16 and any party challenging an application, the opportunity to
17 demonstrate actual levels of broadband service in the project area,
18 which the commission shall consider in reviewing the application.

19 (c) The commission shall establish the following accounts within
20 the fund:

21 (1) The Broadband Infrastructure Grant Account.

22 (2) The Rural and Urban Regional Broadband Consortia Grant
23 Account.

24 (3) The Broadband Infrastructure Revolving Loan Account.

25 (4) The Broadband Public Housing Account.

26 (d) (1) All moneys collected by the surcharge authorized by
27 the commission pursuant to Decision 07-12-054 shall be
28 transmitted to the commission pursuant to a schedule established
29 by the commission. The commission shall transfer the moneys
30 received to the Controller for deposit in the California Advanced
31 Services Fund. Moneys collected on and after January 1, 2011,
32 shall be deposited in the following amounts in the following
33 accounts:

34 (A) One hundred ninety million dollars (\$190,000,000) into the
35 Broadband Infrastructure Grant Account.

36 (B) Fifteen million dollars (\$15,000,000) into the Rural and
37 Urban Regional Broadband Consortia Grant Account.

38 (C) Ten million dollars (\$10,000,000) into the Broadband
39 Infrastructure Revolving Loan Account.

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

3 (3) The commission shall not collect moneys, by imposing the
4 surcharge described in paragraph (1) for deposit in the fund, in an
5 amount that exceeds one hundred million dollars (\$100,000,000)
6 before January 1, 2011. On and after January 1, 2011, the
7 commission may collect an additional sum not to exceed two
8 hundred fifteen million dollars (\$215,000,000), for a sum total of
9 moneys collected by imposing the surcharge described in paragraph
10 (1) not to exceed three hundred fifteen million dollars
11 (\$315,000,000). The commission may collect the additional sum
12 beginning with the calendar year starting on January 1, 2011, and
13 continuing through the 2020 calendar year, in an amount not to
14 exceed twenty-five million dollars (\$25,000,000) per year, unless
15 the commission determines that collecting a higher amount in any
16 year will not result in an increase in the total amount of all
17 surcharges collected from telephone customers that year.

18 (e) (1) All moneys in the California Advanced Services Fund
19 shall be available, upon appropriation by the Legislature, to the
20 commission for the program administered by the commission
21 pursuant to this section, including the costs incurred by the
22 commission in developing, implementing, and administering the
23 program and the fund.

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

38 (3) ~~Notwithstanding subdivision (b) of Section 270, an~~ An entity
39 that is not a telephone corporation shall be eligible to apply to
40 participate in the program administered by the commission pursuant

1 to this section to provide access to broadband to an unserved or
2 underserved household, as defined in commission Decision
3 12-02-015, if the entity otherwise meets the eligibility requirements
4 and complies with program requirements established by the
5 commission. These requirements shall include all of the following:

6 (A) That projects under this paragraph provide last-mile
7 broadband access to households that are unserved by an existing
8 facilities-based broadband provider and only receive funding to
9 provide broadband access to households that are unserved or
10 underserved, as defined in commission Decision 12-02-015.

11 (B) That funding for a project providing broadband access to
12 an underserved household shall not be approved until after any
13 existing facilities-based provider has an opportunity to demonstrate
14 to the commission that it will, within a reasonable timeframe,
15 upgrade existing service. An existing facilities-based provider
16 may, but is not required to, apply for funding under this section to
17 make that upgrade.

18 (C) That the commission shall provide each applicant, and any
19 party challenging an application, the opportunity to demonstrate
20 actual levels of broadband service in the project area, which the
21 commission shall consider in reviewing the application.

22 (D) That a local governmental agency may be eligible for an
23 infrastructure grant only if the infrastructure project is for an
24 unserved household or business, the commission has conducted
25 an open application process, and no other eligible entity applied.

26 (E) That the commission shall establish a service list of
27 interested parties to be notified of California Advanced Services
28 Fund applications.

29 (f) Moneys in the Rural and Urban Regional Broadband
30 Consortia Grant Account shall be available for grants to eligible
31 consortia to fund the cost of broadband deployment activities other
32 than the capital cost of facilities, as specified by the commission.
33 An eligible consortium may include, as specified by the
34 commission, representatives of organizations, including, but not
35 limited to, local and regional government, public safety, elementary
36 and secondary education, health care, libraries, postsecondary
37 education, community-based organizations, tourism, parks and
38 recreation, agricultural, and business, and is not required to have
39 as its lead fiscal agent an entity with a certificate of public
40 convenience and necessity.

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

6 (h) (1) For purposes of this subdivision, the following terms
7 have the following meanings:

8 (A) “Publicly subsidized” means either that the housing
9 development receives financial assistance from the United States
10 Department of Housing and Urban Development pursuant to an
11 annual contribution contract or is financed with low-income
12 housing tax credits, tax-exempt mortgage revenue bonds, general
13 obligation bonds, or local, state, or federal loans or grants and the
14 rents of the occupants, who are lower income households, do not
15 exceed those prescribed by deed restrictions or regulatory
16 agreements pursuant to the terms of the financing or financial
17 assistance.

18 (B) “Publicly supported community” means a publicly
19 subsidized multifamily housing development that is wholly owned
20 by either of the following:

21 (i) A public housing agency that has been chartered by the state,
22 or by any city or county in the state, and has been determined to
23 be an eligible public housing agency by the United States
24 Department of Housing and Urban Development.

25 (ii) An incorporated nonprofit organization as described in
26 Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Sec.
27 501(c)(3)) that is exempt from taxation under Section 501(a) of
28 that code (16 U.S.C. Sec. 501(a)), and that has received public
29 funding to subsidize the construction or maintenance of housing
30 occupied by residents whose annual income qualifies as “low” or
31 “very low” income according to federal poverty guidelines.

32 ~~(2) Notwithstanding subdivision (b) of Section 270, moneys~~
33 *Moneys* in the Broadband Public Housing Account shall be
34 available for the commission to award grants and loans pursuant
35 to this subdivision to an eligible publicly supported community if
36 that entity otherwise meets eligibility requirements and complies
37 with 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 community
40 to finance a project to connect a broadband network to that publicly

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

7 (4) (A) Not more than five million dollars (\$5,000,000) shall
8 be available for grants and loans to a publicly supported community
9 to support programs designed to increase adoption rates for
10 broadband services for residents of that publicly supported
11 community. A publicly supported community may be eligible for
12 funding for a broadband adoption program only if the residential
13 units in the facility to be served have access to broadband services
14 or will have access to broadband services at the time the funding
15 for adoption is implemented.

16 (B) A publicly supported community may contract with other
17 nonprofit or public agencies to assist in implementation of a
18 broadband adoption program.

19 (5) To the extent feasible, the commission shall approve projects
20 for funding from the Broadband Public Housing Account in a
21 manner that reflects the statewide distribution of publicly supported
22 communities.

23 (6) In reviewing a project application under this subdivision,
24 the commission shall consider the availability of other funding
25 sources for that project, any financial contribution from the
26 broadband service provider to the project, the availability of any
27 other public or private broadband adoption or deployment program,
28 including tax credits and other incentives, and whether the applicant
29 has sought funding from, or participated in, any reasonably
30 available program. The commission may require an applicant to
31 provide match funding, and shall not deny funding for a project
32 solely because the applicant is receiving funding from another
33 source.

34 (7) (A) To provide funding for the purposes of this subdivision,
35 the commission shall transfer to the Broadband Public Housing
36 Account twenty million dollars (\$20,000,000) from the Broadband
37 Infrastructure Grant Account and five million dollars (\$5,000,000)
38 from the Broadband Revolving Loan Account. Any moneys in the
39 Broadband Public Housing Account that have not been awarded
40 pursuant to this subdivision by December 31, 2016, shall be

1 transferred back to the Broadband Infrastructure Grant Account
2 and Broadband Infrastructure Revolving Loan Account in
3 proportion to the amount transferred from the respective accounts.
4 (B) The commission shall transfer funds pursuant to
5 subparagraph (A) only if the commission is otherwise authorized
6 to collect funds for purposes of this section in excess of the total
7 amount authorized pursuant to paragraph (3) of subdivision (d).

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