

**Introduced by Senator Hueso**February 27, 2015

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

## LEGISLATIVE COUNSEL'S DIGEST

SB 745, as introduced, Hueso. Telecommunications: universal service: 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, 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 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 4 accounts, the Broadband Infrastructure Grant Account, the Rural and Urban Regional Broadband Consortia Grant Account, the Broadband Infrastructure Revolving Loan Account, and the Broadband Public Housing Account within the CASF. Existing law provides that moneys in the Rural and Urban Regional Broadband Consortia Grant Account are available for grants to eligible consortia to fund the cost of broadband deployment activities other than the capital cost of facilities, as specified by the commission, and provides that an eligible consortium may include representatives of organizations, including local and regional government, public safety, elementary and secondary education, health care, libraries, postsecondary education, community-based organizations, tourism, parks and recreation, agricultural, and business.

This bill would specifically include representatives of workforce organizations and air pollution control or air quality management districts amongst the persons that can be included in an eligible consortium.

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:
- 3 281. (a) The commission shall develop, implement, and
- 4 administer the California Advanced Services Fund program to
- 5 encourage deployment of high-quality advanced communications
- 6 services to all Californians that will promote economic growth,
- 7 job creation, and the substantial social benefits of advanced
- 8 information and communications technologies, consistent with
- 9 this section.

1 (b) (1) The goal of the program is, no later than December 31,  
2 2015, to approve funding for infrastructure projects that will  
3 provide broadband access to no less than 98 percent of California  
4 households.

5 (2) In approving infrastructure projects, the commission shall  
6 give priority to projects that provide last-mile broadband access  
7 to households that are unserved by an existing facilities-based  
8 broadband provider. The commission shall provide each applicant,  
9 and any party challenging an application, the opportunity to  
10 demonstrate actual levels of broadband service in the project area,  
11 which the commission shall consider in reviewing the application.

12 (c) The commission shall establish the following accounts within  
13 the fund:

14 (1) The Broadband Infrastructure Grant Account.

15 (2) The Rural and Urban Regional Broadband Consortia Grant  
16 Account.

17 (3) The Broadband Infrastructure Revolving Loan Account.

18 (4) The Broadband Public Housing Account.

19 (d) (1) All moneys collected by the surcharge authorized by  
20 the commission pursuant to Decision 07-12-054 shall be  
21 transmitted to the commission pursuant to a schedule established  
22 by the commission. The commission shall transfer the moneys  
23 received to the Controller for deposit in the California Advanced  
24 Services Fund. Moneys collected on and after January 1, 2011,  
25 shall be deposited in the following amounts in the following  
26 accounts:

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

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

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

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

35 (3) The commission shall not collect moneys, by imposing the  
36 surcharge described in paragraph (1) for deposit in the fund, in an  
37 amount that exceeds one hundred million dollars (\$100,000,000)  
38 before January 1, 2011. On and after January 1, 2011, the  
39 commission may collect an additional sum not to exceed two  
40 hundred fifteen million dollars (\$215,000,000), for a sum total of

1 moneys collected by imposing the surcharge described in paragraph  
2 (1) not to exceed three hundred fifteen million dollars  
3 (\$315,000,000). The commission may collect the additional sum  
4 beginning with the calendar year starting on January 1, 2011, and  
5 continuing through the 2020 calendar year, in an amount not to  
6 exceed twenty-five million dollars (\$25,000,000) per year, unless  
7 the commission determines that collecting a higher amount in any  
8 year will not result in an increase in the total amount of all  
9 surcharges collected from telephone customers that year.

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

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

30 (3) Notwithstanding subdivision (b) of Section 270, an entity  
31 that is not a telephone corporation shall be eligible to apply to  
32 participate in the program administered by the commission pursuant  
33 to this section to provide access to broadband to an unserved or  
34 underserved household, as defined in commission Decision  
35 12-02-015, if the entity otherwise meets the eligibility requirements  
36 and complies with program requirements established by the  
37 commission. These requirements shall include all of the following:

38 (A) That projects under this paragraph provide last-mile  
39 broadband access to households that are unserved by an existing  
40 facilities-based broadband provider and only receive funding to

1 provide broadband access to households that are unserved or  
2 underserved, as defined in commission Decision 12-02-015.

3 (B) That funding for a project providing broadband access to  
4 an underserved household shall not be approved until after any  
5 existing facilities-based provider has an opportunity to demonstrate  
6 to the commission that it will, within a reasonable timeframe,  
7 upgrade existing service. An existing facilities-based provider  
8 may, but is not required to, apply for funding under this section to  
9 make that upgrade.

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

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

18 (E) That the commission shall establish a service list of  
19 interested parties to be notified of California Advanced Services  
20 Fund applications.

21 (f) Moneys in the Rural and Urban Regional Broadband  
22 Consortia Grant Account shall be available for grants to eligible  
23 consortia to fund the cost of broadband deployment activities other  
24 than the capital cost of facilities, as specified by the commission.  
25 An eligible consortium may include, as specified by the  
26 commission, representatives of organizations, including, but not  
27 limited to, local and regional government, public safety, elementary  
28 and secondary education, health care, libraries, postsecondary  
29 education, community-based organizations, tourism, parks and  
30 recreation, agricultural, ~~and~~ business, *workforce organizations,*  
31 *and air pollution control or air quality management districts,* and  
32 is not required to have as its lead fiscal agent an entity with a  
33 certificate of public convenience and necessity.

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

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

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

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

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

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

25 (2) Notwithstanding subdivision (b) of Section 270, moneys in  
26 the Broadband Public Housing Account shall be available for the  
27 commission to award grants and loans pursuant to this subdivision  
28 to an eligible publicly supported community if that entity otherwise  
29 meets eligibility requirements and complies with program  
30 requirements established by the commission.

31 (3) Not more than twenty million dollars (\$20,000,000) shall  
32 be available for grants and loans to a publicly supported community  
33 to finance a project to connect a broadband network to that publicly  
34 supported community. A publicly supported community may be  
35 an eligible applicant only if the publicly supported community can  
36 verify to the commission that the publicly supported community  
37 has not denied a right of access to any broadband provider that is  
38 willing to connect a broadband network to the facility for which  
39 the grant or loan is sought.

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

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

13 (5) To the extent feasible, the commission shall approve projects  
14 for funding from the Broadband Public Housing Account in a  
15 manner that reflects the statewide distribution of publicly supported  
16 communities.

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

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

38 (B) The commission shall transfer funds pursuant to  
39 subparagraph (A) only if the commission is otherwise authorized

1 to collect funds for purposes of this section in excess of the total  
2 amount authorized pursuant to paragraph (3) of subdivision (d).

3 (i) (1) The commission shall conduct two interim financial  
4 audits and a final financial audit and two interim performance  
5 audits and a final performance audit of the implementation and  
6 effectiveness of the California Advanced Services Fund to ensure  
7 that funds have been expended in accordance with the approved  
8 terms of the grant awards and loan agreements and this section.  
9 The commission shall report its interim findings to the Legislature  
10 by April 1, 2011, and April 1, 2017. The commission shall report  
11 its final findings to the Legislature by April 1, 2021. The reports  
12 shall also include an update to the maps in the final report of the  
13 California Broadband Task Force and data on the types and  
14 numbers of jobs created as a result of the program administered  
15 by the commission pursuant to this section.

16 (2) (A) The requirement for submitting a report imposed under  
17 paragraph (1) is inoperative on January 1, 2022, pursuant to Section  
18 10231.5 of the Government Code.

19 (B) A report to be submitted pursuant to paragraph (1) shall be  
20 submitted in compliance with Section 9795 of the Government  
21 Code.

22 (j) (1) Beginning on January 1, 2012, and annually thereafter,  
23 the commission shall provide a report to the Legislature that  
24 includes all of the following information:

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

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

29 (C) The geographic regions of the state affected by funds  
30 expended from the California Advanced Services Fund in the prior  
31 year.

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

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

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

38 (G) An update on the expenditures from California Advanced  
39 Services Fund and broadband adoption levels, and an accounting



1 of remaining unserved and underserved households and areas of  
2 the state.

3 (H) The status of the California Advanced Services Fund balance  
4 and the projected amount to be collected in each year through 2020  
5 to fund approved projects.

6 (2) (A) The requirement for submitting a report imposed under  
7 paragraph (1) is inoperative on January 1, 2021, pursuant to Section  
8 10231.5 of the Government Code.

9 (B) A report to be submitted pursuant to paragraph (1) shall be  
10 submitted in compliance with Section 9795 of the Government  
11 Code.

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