

AMENDED IN SENATE JANUARY 4, 2016

**SENATE BILL**

**No. 745**

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**Introduced by Senator Hueso**

February 27, 2015

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An act to amend ~~Section~~ *Sections 281 and 914.7* of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 745, as amended, 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.

*Existing law requires the commission to annually report to the Legislature on the expenditures of CASF funds, as specified, including the geographic regions of the state affected by those expenditures in the prior year.*

*This bill would require the commission's report to the Legislature to include that information by county and to include details on efforts to leverage non-CASF funds.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ 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:

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.

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

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

21     (c) The commission shall establish the following accounts within  
22 the fund:

23     (1) The Broadband Infrastructure Grant Account.

24     (2) The Rural and Urban Regional Broadband Consortia Grant  
25 Account.

26     (3) The Broadband Infrastructure Revolving Loan Account.

27     (4) The Broadband Public Housing Account.

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

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

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

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

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

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

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

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

1 grant funds for facilities that provide broadband service and  
2 California intrastate voice service.

3 (3) Notwithstanding subdivision (b) of Section 270, an entity  
4 that is not a telephone corporation shall be eligible to apply to  
5 participate in the program administered by the commission pursuant  
6 to this section to provide access to broadband to an unserved or  
7 underserved household, as defined in commission Decision  
8 12-02-015, if the entity otherwise meets the eligibility requirements  
9 and complies with program requirements established by the  
10 commission. These requirements shall include all of the following:

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

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

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

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

31 (E) That the commission shall establish a service list of  
32 interested parties to be notified of California Advanced Services  
33 Fund applications.

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

1 and secondary education, health care, libraries, postsecondary  
 2 education, community-based organizations, tourism, parks and  
 3 recreation, agricultural, ~~and business,~~ *business, workforce*  
 4 *organizations, and air pollution control or air quality management*  
 5 *districts*, and is not required to have as its lead fiscal agent an entity  
 6 with a certificate of public convenience and necessity.

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

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

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

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

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

31 (ii) An incorporated nonprofit organization as described in  
 32 Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Sec.  
 33 501(c)(3)) that is exempt from taxation under Section 501(a) of  
 34 that code ~~(+6 (26 U.S.C. Sec. 501(a))~~, and that has received public  
 35 funding to subsidize the construction or maintenance of housing  
 36 occupied by residents whose annual income qualifies as “low” or  
 37 “very low” income according to federal poverty guidelines.

38 (2) Notwithstanding subdivision (b) of Section 270, moneys in  
 39 the Broadband Public Housing Account shall be available for the  
 40 commission to award grants and loans pursuant to this subdivision

1 to an eligible publicly supported community if that entity otherwise  
2 meets eligibility requirements and complies with program  
3 requirements established by the commission.

4 (3) Not more than twenty million dollars (\$20,000,000) shall  
5 be available for grants and loans to a publicly supported community  
6 to finance a project to connect a broadband network to that publicly  
7 supported community. A publicly supported community may be  
8 an eligible applicant only if the publicly supported community can  
9 verify to the commission that the publicly supported community  
10 has not denied a right of access to any broadband provider that is  
11 willing to connect a broadband network to the facility for which  
12 the grant or loan is sought.

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

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

25 (5) To the extent feasible, the commission shall approve projects  
26 for funding from the Broadband Public Housing Account in a  
27 manner that reflects the statewide distribution of publicly supported  
28 communities.

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

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

11 (B) The commission shall transfer funds pursuant to  
12 subparagraph (A) only if the commission is otherwise authorized  
13 to collect funds for purposes of this section in excess of the total  
14 amount authorized pursuant to paragraph (3) of subdivision (d).

15 *SEC. 2. Section 914.7 of the Public Utilities Code is amended*  
16 *to read:*

17 914.7. (a) By January 1 of each year, the commission shall  
18 provide a report to the Legislature that includes all of the following  
19 information:

20 (1) The amount of funds expended from the California Advanced  
21 Services Fund in the prior year.

22 (2) The recipients of funds expended from the California  
23 Advanced Services Fund in the prior year.

24 (3) The geographic ~~regions~~ *regions, including information by*  
25 *county*, of the state affected by funds expended from the California  
26 Advanced Services Fund in the prior year.

27 (4) The expected benefits to be derived from the funds expended  
28 from the California Advanced Services Fund in the prior year.

29 (5) Actual broadband adoption levels from the funds expended  
30 from the California Advanced Services Fund in the prior year.

31 (6) The amount of funds expended from the California Advanced  
32 Services Fund used to match federal funds.

33 (7) *Additional details on efforts to leverage non-California*  
34 *Advanced Services Fund funds.*

35 ~~(7)~~

36 (8) An update on the expenditures from *the* California Advanced  
37 Services Fund and broadband adoption levels, and an accounting  
38 of remaining unserved and underserved households and areas of  
39 the state.

40 ~~(8)~~

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

4 (b) Pursuant to Section 10231.5 of the Government Code, this  
5 section is repealed on January 1, 2021.

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**All matter omitted in this version of the bill  
appears in the bill as introduced in the  
Senate, February 27, 2015. (JR11)**

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