

REVISED
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CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

No. 1665

**Introduced by Assembly Members Eduardo Garcia, Aguiar-Curry, Holden, and
McCarty**
(Principal coauthors: Assembly Members Chiu, Eggman, and Mullin)
**(Coauthors: Assembly Members Caballero, Gipson, Jones-Sawyer, Levine, Reyes,
and ~~Rubio~~ Rubio, and Wood)**

February 17, 2017

An act to amend Sections 281 and 914.7 of the Public Utilities Code, relating to communications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1665, as introduced, Eduardo Garcia. Telecommunications: California Advanced Services Fund.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law establishes, among other funds related to telecommunications, the California Advanced Services Fund (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 specified decisions of the commission and in the CASF statute. Existing law requires the commission to give priority to projects that provide last-mile broadband access to households that are unserved by an existing facilities-based broadband provider.

Existing law establishes that the goal of the program is, no later than December 31, 2015, to approve funding for infrastructure projects that will provide broadband access to no less than 98% of California households. Existing law authorizes the commission to collect a surcharge for deposit into the CASF not to exceed \$315,000,000 in total and authorizes the surcharge until 2020. Existing law establishes 4 accounts within the CASF and specifies the amount of moneys to be deposited into each account.

This bill would retain that the goal of the program is to approve funding for infrastructure projects that will provide broadband access to no less than 98% of California households, but would provide that this goal is to be achieved by December 31, 2023. The bill establishes a 5th account within the CASF, the Broadband Adoption Account, and provides that an unspecified amount shall be deposited into each of the 5 accounts. The bill repeals the current authorization to collect up to \$315,000,000 for deposit in the CASF at a rate of up to \$25,000,000 per year through the 2020 calendar year, and instead authorizes the commission to collect an unspecified amount for deposit into the CASF beginning January 1, 2018, and continuing through the 2027 calendar year. The bill would repeal funding and authority to expend specified sums for certain purposes from one of the CASF accounts, the Broadband Public Housing Account, and would authorize the expenditure of an unspecified amount of moneys from that account.

Existing law requires the commission to annually report specified information relative to the CASF to the Legislature. Existing law repeals these reporting requirements on January 1, 2022.

This bill would instead require the commission to biennially report specified information relative to the CASF to the Legislature and would revise the information specified for inclusion. The bill would repeal these reporting requirements on January 1, 2030. The bill would require the commission to identify priority unserved and underserved areas and delineate the priority areas in the biennial reports. The bill would require the commission to consult regional consortia, stakeholders, and consumers regarding priority areas and cost-effective strategies to achieve the broadband access goal through public workshops conducted at least annually no later than April 30 of each year.

Digest Key

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: NO

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

This act shall be known, and may be cited, as the Internet for All Now Act.

SEC. 2.

The Legislature finds and declares all of the following:

(a) The availability of high-speed Internet access, referred to generically as “broadband” and including both wired and wireless technologies, is essential 21st century infrastructure for economic competitiveness and quality of life. Economic studies confirm that the use of broadband technologies increases economic productivity as a

foundation for increased efficiency in organizational operations and enhanced profitability in business.

(b) Broadband infrastructure is also vital to the operation and management of other critical infrastructure, such as energy generation systems and the electrical grid, water supply systems, and public safety and emergency response networks. There is a need for world-class broadband infrastructure throughout California to support these major infrastructure investments, and thereby to protect lives, property, and the environment.

(c) It is the intent of the Legislature that California be a national leader and globally competitive in the deployment and adoption of broadband technology and to implement quality universal access for all residents.

SEC. 3.

Section 281 of the Public Utilities Code is amended to read:

281.

(a) The commission shall develop, implement, and administer the California Advanced Services Fund program 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, consistent with this section.

(b) (1) The goal of the program is, no later than December 31, ~~2015~~, **2023**, to approve funding for infrastructure projects that will provide broadband access to no less than 98 percent of California households.

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

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

(1) The Broadband Infrastructure Grant Account.

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

(3) The Broadband Infrastructure Revolving Loan Account.

(4) The Broadband Public Housing Account.

(5) The Broadband Adoption Account.

(d) (1) ~~All moneys collected by the surcharge authorized by the commission pursuant to Decision 07-12-054 shall be transmitted to the commission pursuant to a schedule established by the commission.~~ The commission shall transfer the moneys received *by the commission from the surcharge imposed to fund the accounts* to the Controller for deposit in the California Advanced Services Fund. Moneys collected ~~on and after January 1, 2011~~, shall be deposited in the following amounts in the following accounts:

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

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

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

(D) ____ into the Broadband Public Housing Account.

(E) ____ into the Broadband Adoption Account.

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

(3) The commission ~~shall not collect moneys, by imposing the surcharge described in paragraph (1) for deposit in the fund, in an amount that exceeds one hundred million dollars (\$100,000,000) before January 1, 2011. On and after January 1, 2011, the commission may collect an additional~~ *may collect a* sum not to exceed ~~two hundred fifteen million dollars (\$215,000,000);~~ ____, for a sum total of moneys collected by imposing the surcharge described in paragraph (1) not to exceed ~~three hundred fifteen million dollars (\$315,000,000).~~ ____. The commission may collect the ~~additional~~ sum beginning with the calendar year starting on January 1, ~~2011,~~ *2018*, and continuing through the ~~2020~~ *2027* calendar year, in an amount not to exceed ~~twenty-five million dollars (\$25,000,000)~~ ____ per year, unless the commission determines that collecting a higher amount in any year will not result in an increase in the total amount of all surcharges collected from telephone customers that year.

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

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

(2) (A) The commission shall be responsible for achieving the goals of the program. The commission shall recognize that broadband advanced communications services include both wireline and wireless technologies, and that both shall be eligible for grants from the Broadband Infrastructure Grant Account based on the objective functionality needs for the customers to be served in any specified project application.

(B) The commission shall identify priority unserved and underserved areas and delineate the priority areas in the biennial reports prepared pursuant to Section 914.7.

(C) The commission shall consult regional consortia, stakeholders, and consumers regarding priority areas and cost-effective strategies to achieve the broadband access goal through public workshops conducted at least annually no later than April 30 of each year.

(3) Notwithstanding subdivision (b) of Section 270, an entity that is not a telephone corporation shall be eligible to apply to participate in the program administered by the commission pursuant to this section to provide access to broadband to an unserved or

underserved household, as defined in commission Decision 12-02-015, if the entity otherwise meets the eligibility requirements and complies with program requirements established by the commission. These requirements shall include all of the following:

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

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

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

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

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

(f) Moneys in the Rural and Urban Regional Broadband Consortia Grant Account shall be 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. An eligible consortium may include, as specified by the commission, representatives of organizations, including, but not limited to, local and regional government, public safety, elementary and secondary education, health care, libraries, postsecondary education, community-based organizations, tourism, parks and recreation, agricultural, business, workforce organizations, and air pollution control or air quality management districts, and is not required to have as its lead fiscal agent an entity with a certificate of public convenience and necessity.

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

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

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

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

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

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

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

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

(B) (i) In its review of applications received pursuant to subparagraph (A), the commission shall award grants only to unserved housing developments.

(ii) For purposes of this subparagraph, a housing development is unserved when at least one housing unit within the housing development is not offered broadband Internet service.

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

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

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

(6) In reviewing a project application under this subdivision, the commission shall 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 commission may require an applicant to provide match funding, and shall not deny funding for a project solely because the applicant is receiving funding from another source.

~~(7)(A) To provide funding for the purposes of this subdivision, the commission shall transfer to the Broadband Public Housing Account twenty million dollars (\$20,000,000) from the Broadband Infrastructure Grant Account and five million dollars (\$5,000,000) from the Broadband Infrastructure Revolving Loan Account. Any moneys in the Broadband Public Housing Account that have not been awarded pursuant to this subdivision by December 31, 2020, shall be transferred back to the Broadband Infrastructure Grant Account and Broadband Infrastructure Revolving Loan Account in proportion to the amount transferred from the respective accounts.~~

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

SEC. 4.

Section 914.7 of the Public Utilities Code is amended to read:

914.7.

(a) By April ~~1 of each year, 1, 2019, and by April 1 of each odd-numbered year thereafter, until April 1, 2029,~~ the commission shall provide a report to the Legislature that includes all of the following information:

(1) The amount of funds expended from the California Advanced Services Fund in the prior ~~year. two calendar years and cumulatively to December 31 of the immediately preceding even-numbered calendar year.~~

(2) The recipients of funds expended from the California Advanced Services Fund in the prior ~~year. two calendar years and cumulatively to December 31 of the immediately preceding even-numbered calendar year.~~

(3) The geographic regions of the state affected by funds expended from the California Advanced Services Fund in the prior ~~year, including information by county. two calendar years and cumulatively to December 31 of the immediately preceding even-numbered calendar year.~~

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

~~(5) Details on the status of each project funded through the California Advanced Services Fund, whether the project has been completed, and, if applicable, the expected completion date of the project.~~

~~(6) Actual broadband adoption levels from the funds expended from the California Advanced Services Fund in the prior year.~~

~~(7) The amount of funds expended from the California Advanced Services Fund used to match federal funds.~~

~~(8) Additional details on efforts to leverage non-California Advanced Services Fund funds.~~

~~(9) An update on the expenditures from the California Advanced Services Fund and broadband adoption levels, and an accounting of remaining unserved and underserved households and areas of the state.~~

~~(10) The status of the California Advanced Services Fund balance and the projected amount to be collected in each year through 2020 to fund approved projects.~~

(4) The progress in achieving the goals of the program and an accounting of the remaining unserved and underserved households in each region of the state as of December 31 of the immediately preceding even-numbered calendar year.

(b) Pursuant to Section 10231.5 of the Government Code, this This section is repealed on January 1, ~~2022~~ 2030, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2030, deletes or extends that date.
