AB-14 Communications: California Advanced Services Fund: deaf and disabled telecommunications program: surcharges. (2021-2022)

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Assembly Bill No. 14

CHAPTER 658

An act to amend Sections 285, 914.7, and 2881 of, and to add Sections 281.1 and 884.2 to, the Public Utilities Code, relating to communications, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 08, 2021. Filed with Secretary of State October 08, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 14, Aguiar-Curry. Communications: California Advanced Services Fund: deaf and disabled telecommunications program: surcharges.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law requires the commission to develop, implement, and administer the California Advanced Services Fund (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. Existing law authorizes the commission to impose a surcharge to collect $330,000,000 for deposit into the CASF beginning January 1, 2018, and continuing through the 2022 calendar year. Existing law specifies the amount of surcharge revenues to be deposited into each account within the CASF, subject to appropriation by the Legislature.

This bill would authorize the commission to impose the surcharge to fund the CASF until December 31, 2032, as specified.

Existing law requires the commission, until April 1, 2023, to annually report specified information to the Legislature, including the remaining unserved areas in the state, the status of the CASF balance, and the projected amount to be collected in each year.

This bill would require the commission to report that information in perpetuity.

This bill would authorize the commission to require each internet service provider, as defined, to report specified information regarding each free, low-cost, income-qualified, or affordable internet service plan advertised by the provider.

(2) Existing law requires the commission to require interconnected Voice over Internet Protocol service providers to collect and remit surcharges on their California intrastate revenues in support of specified public purpose program funds. Existing law authorizes those providers to use certain methodologies to identify their intrastate revenues subject to the surcharge.

This bill would repeal that authorization to use those methodologies.

(3) Existing law establishes the deaf and disabled telecommunications program and requires the commission to establish a rate recovery mechanism through a surcharge not to exceed $^{1}/_{2}$ of 1% uniformly applied to a subscriber’s intrastate telephone service, other than one-way radio paging service and universal telephone service, until January 1, 2025, to allow providers of equipment and service pursuant to that program to recover their costs as they are incurred.

This bill would revise those requirements to instead require the commission to administer a surcharge to collect revenues of up to $100,000,000 per year until January 1, 2025, subject to annual appropriation of moneys by the Legislature, to allow providers of equipment and service pursuant to the deaf and disabled telecommunications program to recover their costs as they are incurred.

(4) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because certain of the above provisions would be part of the act and a violation of a commission action implementing this bill's requirements would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(5) This bill would become effective only if SB 4 of the 2021–22 Regular Session is enacted and takes effect on or before January 1, 2022.

(6) This bill would declare that it is to take effect immediately as an urgency statute.
Vote: 2/3   Appropriation: no   Fiscal Committee: yes   Local Program: yes

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

SECTION 1. (a) The Legislature finds and declares both of the following:

(1) The creation of a fiber optic network for "middle-mile" broadband service deployment and "backhaul" infrastructure for unserved households, community anchor institutions, small businesses, and employers is critical to close the digital divide.

(2) All state agencies and departments with pertinent authority and resources to assist and facilitate timely deployment of broadband infrastructure throughout California must be engaged and coordinated by the administration and California Broadband Council to coordinate actions to achieve the goals and purposes of the Internet for All Now Act (Chapter 851 of the Statutes of 2017).

(b) It is the intent of the Legislature to close the digital divide by connecting students, families, and communities with reliable internet connectivity that will remain a necessity after the COVID-19 pandemic has abated.

(c) It is the intent of the Legislature that California achieve the goal specified in the Internet for All Now Act of providing broadband access to no less than 98 percent of California households in each California Advanced Services Fund consortia region.

SEC. 2. Section 281.1 is added to the Public Utilities Code, to read:

281.1. Beginning January 1, 2022, the commission may impose the surcharge pursuant to paragraph (4) of subdivision (d) of Section 281 to fund the California Advanced Services Fund pursuant to Section 281 until December 31, 2032.

SEC. 3. Section 285 of the Public Utilities Code is amended to read:

285. (a) As used in this section, "interconnected Voice over Internet Protocol (VoIP) service" has the same meaning as in Section 9.3 of Title 47 of the Code of Federal Regulations.

(b) The Legislature finds and declares that the sole purpose of this section is to require the commission to impose the surcharges pursuant to this section to ensure that end-use customers of interconnected VoIP service providers contribute to the funds enumerated in this section, and, therefore, this section does not indicate the intent of the Legislature with respect to any other purpose.

(c) The commission shall require interconnected VoIP service providers to collect and remit surcharges on their California intrastate revenues in support of the following public purpose program funds:

(1) California High-Cost Fund-A Administrative Committee Fund under Section 275.

(2) California High-Cost Fund-B Administrative Committee Fund under Section 276.

(3) Universal Lifeline Telephone Service Trust Administrative Committee Fund under Section 277.

(4) Deaf and Disabled Telecommunications Program Administrative Committee Fund under Section 278.

(5) California Teleconnect Fund Administrative Committee Fund under Section 280.

(6) California Advanced Services Fund under Section 281.

(d) The authority to impose a surcharge pursuant to this section applies only to a surcharge imposed on end-use customers for interconnected VoIP service provided to an end-use customer's place of primary use that is located within California. As used in this subdivision, "place of primary use" means the street address where the end-use customer's use of interconnected VoIP service primarily occurs, or a reasonable proxy as determined by the interconnected VoIP service provider, such as the customer's registered location for 911 purposes.

SEC. 4. Section 884.2 is added to the Public Utilities Code, to read:

884.2. The commission may require each internet service provider, as defined in Section 3100 of the Civil Code, to report the following information regarding each free, low-cost, income-qualified, or affordable internet service plan advertised by the provider:

(a) The cost of the plan, including any fees and taxes.

(b) The eligibility requirements for the plan.

(c) The data limitations of the plan.

(d) The number of California residents enrolled in the plan.

(e) A description of the outreach efforts undertaken by the provider to eligible populations to increase awareness about the plan.

SEC. 5. Section 914.7 of the Public Utilities Code is amended to read:

914.7. By April 1, 2019, and by April 1 of each year thereafter, the commission shall provide to the Legislature either a report or the biennial fiscal and performance audit conducted pursuant to Section 912.2 that includes all of the following information:

(a) The remaining unserved areas in the state.

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

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

(d) The geographic regions of the state affected by funds expended from the California Advanced Services Fund in the prior year, including information by county.

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

(f) Details on the status of each project funded through the California Advanced Services Fund and whether the project has been completed or the expected completion date of the project.

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

(h) The cost per household for each project.

(i) The number of formerly unserved households subscribing to broadband service in areas covered by projects funded by the California Advanced Services Fund.

(j) The number of subscriptions resulting from the broadband adoption program funded by the California Advanced Services Fund.

(k) An update on the expenditures from the California Advanced Services Fund, broadband adoption levels, the progress in achieving the goals of the program, and an accounting of the remaining unserved households in each region of the state as of December 31 of the immediately preceding year.

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

(m) Additional details on efforts to leverage non-California Advanced Services Fund moneys.

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

SEC. 6. Section 2881 of the Public Utilities Code is amended to read:

2881. (a) The commission shall design and implement a program to provide a telecommunications device capable of serving the needs of individuals who are deaf or hard of hearing, together with a single party line, at no charge additional to the basic exchange rate, to a subscriber who is certified as an individual who is deaf or hard of hearing by a licensed physician and surgeon, audiologist, or a qualified state or federal agency, as determined by the commission, and to a subscriber that is an organization representing individuals who are deaf or hard of hearing, as determined and specified by the commission pursuant to subdivision (h). A licensed hearing aid dispenser may certify the need of an individual to participate in the program if that individual has been previously fitted with an amplified device by the dispenser and the dispenser has the individual's hearing records on file before certification. In addition, a physician assistant or nurse practitioner may certify the needs of an individual who has been diagnosed by a physician and surgeon as being deaf or hard of hearing to participate in the program after reviewing the medical records or copies of the medical records containing that diagnosis.

(b) The commission shall also design and implement a program to provide a dual-party relay system, using third-party intervention to connect individuals who are deaf or hard of hearing and offices of organizations representing individuals who are deaf or hard of hearing, as determined and specified by the commission pursuant to subdivision (h), with persons of normal hearing by way of intercommunications devices for individuals who are deaf or hard of hearing and the telephone system, making available reasonable access of all phases of public telephone service to telephone subscribers who are deaf or hard of hearing. In order to make a dual-party relay system that will meet the requirements of individuals who are deaf or hard of hearing available at a reasonable cost, the commission shall initiate an investigation, conduct public hearings to determine the most cost-effective method of providing dual-party relay service to the deaf or hard of hearing when using a telecommunications device, and solicit the advice, counsel, and physical assistance of statewide nonprofit consumer organizations of the deaf, during the development and implementation of the system. The commission shall apply for certification of this program under rules adopted by the Federal Communications Commission pursuant to Section 401 of the federal Americans with Disabilities Act of 1990 (Public Law 101-336).

(c) The commission shall also design and implement a program whereby specialized or supplemental telephone communications equipment may be provided to subscribers who are certified to be disabled at no charge additional to the basic exchange rate. The certification, including a statement of visual or medical need for specialized telecommunications equipment, shall be provided by a licensed optometrist, physician and surgeon, physician assistant, or nurse practitioner, acting within the scope of practice of the applicable license, or by a qualified state or federal agency as determined by the commission. The commission shall, in this connection, study the feasibility of, and implement, if determined to be feasible, personal income criteria, in addition to the certification of disability, for determining a subscriber's eligibility under this subdivision.

(d) (1) The commission shall also design and implement a program to provide access to a speech-generating device to any subscriber who is certified as having a speech disability at no charge additional to the basic exchange rate. The certification shall be provided by a licensed physician, licensed speech-language pathologist, nurse practitioner, or qualified state or federal agency. The commission shall provide to a certified subscriber access to a speech-generating device that is all of the following:

(A) A telecommunications device or a device that includes a telecommunications component.

(B) Appropriate to meet the subscriber's needs for access to, and use of, the telephone network, based on the recommendation of a licensed speech-language pathologist.

(C) Consistent with the quality of speech-generating devices available for purchase in the state.

(2) The commission shall adopt rules to implement this subdivision and subdivision (e) by January 1, 2014.

(e) All of the following apply to any device or equipment described in this section that is classified as durable medical equipment under guidelines established by the United States Department of Health and Human Services:

(1) It is the intent of the Legislature that the commission be the provider of last resort and that eligible subscribers first obtain coverage from any available public or private insurance.

(2) The commission may require the subscriber to provide information about coverage for any or all of the cost of the device or equipment that is available from a public or private insurance, the cost to the subscriber of a deductible, copayment, or other relevant expense, and any related benefit cap information.

(3) The total cost of a device or equipment provided to a subscriber under this section shall not exceed the rate of reimbursement provided by Medi-Cal for that device or equipment.

(f) This section does not require the commission to provide training to a subscriber on the use of a speech-generating device.

(g) (1) The commission shall administer a surcharge to collect revenues, subject to an annual appropriation of moneys by the Legislature, to allow providers of the equipment and service specified in subdivisions (a) to (d), inclusive, to recover costs as they are incurred under this section. The surcharge shall be in effect until January 1, 2025. The commission shall require that the programs implemented under this section be identified on subscribers’ bills, and shall establish a fund and require separate accounting for each of the programs implemented under this section.

(2) The commission may collect a sum not to exceed one hundred million dollars ($100,000,000) per year by imposing the surcharge pursuant to paragraph (1).

(h) The commission shall determine and specify those statewide organizations representing the deaf or hard of hearing that shall receive a telecommunications device pursuant to subdivision (a), or a dual-party relay system pursuant to subdivision (b), or both, and in which offices the equipment shall be installed in the case of an organization having more than one office.

(i) The commission may direct a telephone corporation subject to its jurisdiction to comply with its determinations and specifications pursuant to this section.

(j) The commission shall annually review the surcharge level and the balances in the funds established pursuant to subdivision (g). Until January 1, 2025, the commission may make, within the limits set by subdivision (g), necessary adjustments to the surcharge to ensure that the programs supported by the surcharge are adequately funded and that the fund balances are not excessive. A fund balance that is projected to exceed six months’ worth of projected expenses at the end of the fiscal year is excessive.

(k) In order to continue to meet the access needs of individuals with functional limitations of hearing, vision, movement, manipulation, speech, and interpretation of information, the commission shall perform an ongoing assessment of, and if appropriate, expand the scope of, the program to allow for additional access capability consistent with evolving telecommunications technology.

(l) The commission shall structure the programs required by this section so that a charge imposed to promote the goals of universal service reasonably equals the value of the benefits of universal service to contributing entities and their subscribers.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 8. This act shall become effective only if Senate Bill 4 of the 2021–22 Regular Session is enacted and takes effect on or before January 1, 2022.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

To expedite the deployment of broadband infrastructure and internet service to unserved rural and urban communities and establishing 21st century infrastructure essential for economic competitiveness and quality of life.