AMENDED IN SENATE JULY 3, 2001

AMENDED IN ASSEMBLY MAY 31, 2001

AMENDED IN ASSEMBLY APRIL 26, 2001

AMENDED IN ASSEMBLY APRIL 19, 2001

AMENDED IN ASSEMBLY MARCH 27, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL No. 140

Introduced by Assembly Member Strom-Martin
(Coauthor: Assembly Member Florez)

January 24, 2001

An act to amend, repeal, and add Sections 270, 275, 276 of, and to add and repeal Section 276.5 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 140, as amended, Strom-Martin. Rural telecommunications infrastructure: grants.

(1) Existing law creates the High-Cost Fund-A Administration Committee and the High-Cost Fund-B Administrative Committee to advise the Public Utilities Commission regarding programs to provide for transfer payments to telephone corporations providing services in high cost areas and to carry out the programs under the commission's authority. Existing law creates the California High-Cost Fund-A Administrative Committee Fund and the High-Cost Fund-B

Administrative Committee Fund. Moneys in the funds may be expended, as specified, upon appropriation in the annual Budget Act.

This bill would, under the Public Utilities Act, until January 1, 2006, also establish a grant program for the construction of telecommunications infrastructure, as prescribed.

The bill would provide that the corporations receiving transfer payments shall continue to be fully reimbursed for the costs they are entitled to recover.

Under the bill, the funding for the grant program would be from the existing California High-Cost Fund-A Administrative Committee Fund or the High-Cost Fund-B Administrative Committee Fund, or both, up to a specified annual limit, as determined by the commission. The bill would require the commission to award grants, as specified. The bill would require the commission to establish a working group to develop technical criteria for evaluating the grants. Because, under the act, a violation of these provisions would be a crime, this bill would impose a state-mandated local program by creating new crimes.

The bill would prohibit any appropriation from the California High-Cost Administrative Committee Fund-B for the purposes of the grant program until the United States Supreme Court decides a specified case regarding high cost funding, the commission recalculates the statewide average cost to serve a residential line stated in a specified decision of the commission, as it determines to be appropriate, and the commission is current on all claims made by carriers for service provided in high cost areas.

(2) 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.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 270 of the Public Utilities Code is amended to read:

270. (a) The following funds are hereby created in the State Treasury:

(1) The California High-Cost Fund-A Administrative Committee Fund.

(2) The California High-Cost Fund-B Administrative Committee Fund.

(3) The Universal Lifeline Telephone Service Trust Administrative Committee Fund.

(4) The Deaf and Disabled Telecommunications Program Administrative Committee Fund.

(5) The Payphone Service Providers Committee Fund.

(6) The California Teleconnect Fund Administrative Committee Fund.

(b) Moneys in the funds may only be expended pursuant to this chapter and upon appropriation in the annual Budget Act. Any appropriation from the California High-Cost Administrative Committee Fund-B for the purposes of the grant program established in Section 276.5 of the Public Utilities Code regarding rural telecommunications infrastructure, may not be made until all of the following events have occurred:

(1) The United States Supreme Court has decided Iowa Utilities Board v. Federal Communications Commission (219 F.3d 744 (8th Cir.); certiorari granted January 22, 2001).

(2) The commission recalculates the statewide average cost to serve a residential line stated in Decision 96-10-066, as it determines to be appropriate.

(3) The commission is current on all claims made by carriers for service provided in high cost areas.

(c) Moneys in each fund may not be appropriated, or in any other manner transferred or otherwise diverted, to any other fund or entity, except as provided for in Sections 276 and 276.5.

(d) On or before July 1, 2000, the Public Utilities Commission, in consultation with the Department of Finance, shall report to the Governor and the Legislature regarding a transition plan for programs associated with funds to be established within the State Treasury, as specified in subdivision (a). The transition plan report shall include information regarding the annual revenue to be deposited in, and the annual estimated expenditure for, each fund specified in subdivision (a). Advisory committees created by Sections 275, 276, 277, 278, 279, and 280 shall provide information and input to the commission in development of the specified transition plan.

(e) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 2. Section 270 is added to the Public Utilities Code, to read:

270. (a) The following funds are hereby created in the State Treasury:

(1) The California High-Cost Fund-A Administrative Committee Fund.

(2) The California High-Cost Fund-B Administrative Committee Fund.

(3) The Universal Lifeline Telephone Service Trust Administrative Committee Fund.

(4) The Deaf and Disabled Telecommunications Program Administrative Committee Fund.

(5) The Payphone Service Providers Committee Fund.

(6) The California Teleconnect Fund Administrative Committee Fund.

(b) Moneys in the funds may only be expended pursuant to this chapter and upon appropriation in the annual Budget Act.

(c) Moneys in each fund may not be appropriated, or in any other manner transferred or otherwise diverted, to any other fund or entity.

(d) On or before July 1, 2000, the Public Utilities Commission, in consultation with the Department of Finance, shall report to the Governor and the Legislature regarding a transition plan for programs associated with funds to be established within the State Treasury, as specified in subdivision (a). The transition plan report shall include information regarding the annual revenue to be deposited in, and the annual estimated expenditure for, each fund specified in subdivision (a). Advisory committees created by Sections 275, 276, 277, 278, 279, and 280 shall provide information and input to the commission in development of the specified transition plan.

(e) This section shall become operative on January 1, 2006.

SEC. 3. Section 275 of the Public Utilities Code is amended to read:

275. (a) There is hereby created the California High-Cost Fund-A Administrative Committee, which is an advisory board to advise the commission regarding the development,

implementation, and administration of a program to provide for transfer payments to small independent telephone corporations providing local exchange services in high-cost rural and small metropolitan areas in the state to create fair and equitable local rate structures, as provided for in Section 739.3, the development of a grant program for the construction of telecommunications infrastructure as set forth in Section 276.5, and to carry out the program pursuant to the commission's direction, control, and approval.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the program specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the California High-Cost Fund-A Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer those moneys to the Controller for deposit in the California High-Cost Fund-A Administrative Committee Fund.

(c) Moneys appropriated from the California High-Cost Fund-A Administrative Committee Fund to the commission shall be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

(d) Telephone corporations receiving transfer payments for providing local exchange services in high-cost areas in the state under the program established to create fair and equitable local rate structures as provided for in Section 739.3 shall continue to be fully reimbursed for the costs they are entitled to recover pursuant to commission Decision 96-10-066.

(e) Any appropriation from the California High-Cost Fund-A Administrative Committee *Fund* for the purposes of the grant program established in Section 276.5 regarding rural telecommunications infrastructure, may not be made until the commission is current on all claims made by carriers for service provided in high cost areas.

(f) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 4. Section 275 is added to the Public Utilities Code, to read:

275. (a) There is hereby created the California High-Cost Fund-A Administrative Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of a program to provide for transfer payments to small independent telephone corporations providing local exchange services in high-cost rural and small metropolitan areas in the state to create fair and equitable local rate structures, as provided for in Section 739.3, and to carry out the program pursuant to the commission's direction, control, and approval.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the program specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the California High-Cost Fund-A Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer those moneys to the Controller for deposit in the California High-Cost Fund-A Administrative Committee Fund.

(c) Moneys appropriated from the California High-Cost Fund-A Administrative Committee Fund to the commission shall be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

(d) This section shall become operative on January 1, 2006.

SEC. 5. Section 276 of the Public Utilities Code is amended to read:

276. (a) There is hereby created the California High-Cost Fund-B Administrative Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of a program to provide for

transfer payments to telephone corporations providing local exchange services in high-cost areas in the state to create fair and equitable local rate structures, as provided for in Section 739.3, and the development of a grant program for the construction of telecommunications infrastructure as set forth in Section 276.5, and to carry out the program pursuant to the commission's direction, control, and approval.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the program specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the California High-Cost Fund-B Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer those moneys to the Controller for deposit in the California High-Cost Fund-B Administrative Committee Fund.

(c) Moneys appropriated from the California High-Cost Fund-B Administrative Committee Fund to the commission shall be utilized exclusively by the commission for the programs specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

(d) Telephone corporations receiving transfer payments for providing local exchange services in high cost areas in the state under the program established to create fair and equitable local rate structures as provided for in Section 739.3 shall continue to be fully reimbursed for the costs they are entitled to recover pursuant to commission Decision 96-10-066.

(e) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 6. Section 276 is added to the Public Utilities Code, to read:

276. (a) There is hereby created the California High-Cost Fund-B Administrative Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of a program to provide for

transfer payments to telephone corporations providing local exchange services in high-cost areas in the state to create fair and equitable local rate structures, as provided for in Section 739.3, and to carry out the program pursuant to the commission's direction, control, and approval.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the program specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the California High-Cost Fund-B Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer those moneys to the Controller for deposit in the California High-Cost Fund-B Administrative Committee Fund.

(c) Moneys appropriated from the California High-Cost Fund-B Administrative Committee Fund to the commission shall be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

(d) This section shall become operative on January 1, 2006.

SEC. 7. Section 276.5 is added to the Public Utilities Code, to read:

276.5. (a) The commission shall establish a grant program to aid in the establishment of telecommunications service in areas not currently served by existing local exchange carriers. *In establishing the rules and regulations for the grant program the commission shall consider whether grantees have a continuing obligation to serve.* The program shall be funded out of either the California High-Cost Administrative Committee Fund-A or the California High-Cost Administrative Committee Fund-B, or both, as determined by the commission, and the funding level may not exceed ten million dollars ($10,000,000) per year.

(b) On or after July 1, 2002, any community-based group representing a qualifying community may apply for and receive grants to build an original telecommunications infrastructure that can provide basic telecommunications service that will serve an area that meets the grant program's population criteria with consideration given to communities with schools, hospitals, and health clinics, as set forth in Decision 96-10-066, and that currently lacks basic telecommunications services, as described in Decision 96-10-066 of the commission. A community-based group representing a qualifying community may alternatively apply for and receive a grant to subsidize the cost of the telecommunications service itself, if the group determines that this would be more cost-effective than subsidizing the building of an original telecommunications infrastructure. On or before June 30, 2002, the commission, shall establish eligibility criteria for community-based groups to qualify to apply for telecommunications infrastructure grants. The criteria shall include a requirement that a local agency, as defined by Section 50001 of the Government Code, or a town, as defined by Section 21 of the Government Code, shall act as the community-based group's fiscal agent for the receipt and distribution of funds. Qualifying communities shall have a median household income no greater than the ~~top~~ income level used in the Universal Lifeline Telephone Service index *for a family of four.*

(c) Grant proposals shall be submitted in accordance with procedures prescribed by the commission and evaluated and awarded by the commission using technology criteria developed by the government-industry working group established by subdivision (h). Grant proposals shall contain all of the following:

(1) A letter from a local agency or town agreeing to act as a fiscal agent for the receipt and distribution of funds.

(2) Preliminary engineering feasibility studies conducted in cooperation with the local service providers that include all of the following:

(A) Topographical maps indicating the location of all existing residences.

(B) Schematic maps of the proposed network facilities.

(C) Recommendations and justifications for the preferred technologies.

(D) Network compatibility statements from one or more interconnecting carriers.

(E) Cost projections for the infrastructure facilities.

(F) Cost projections for the interconnection and recurring service provisions.

(G) Projected budget for engineering feasibility studies.

(3) Recommendations and letters of support from all of the following:

(A) The county board of supervisors.

(B) Other affected local governments.

(C) Affected school districts.

(D) Affected emergency service providers.

(E) Affected law enforcement agencies.

(4) Letters of commitment from 75 percent of the unserved population.

(5) A project schedule, including timeline and budget.

(6) A management plan that assures the proper utilization of grant funds.

(7) Evidence that competing providers and competing technologies have been considered and evaluated.

(d) Grant applicants that are rejected by the commission may be reimbursed for the cost of their preliminary engineering feasibility studies, including, but not limited to, any approved cost of a local telecommunications carrier that contributes to the studies, from the grant program.

(e) The procedures developed for awarding grants shall ensure that the grants awarded do not exceed annual moneys available to support the program, that not more than one grant is awarded to a qualifying community, and that no one applicant receive more than 25 percent of the designated program funds in a single fiscal year.

(f) In evaluating grant applications, the commission shall consider the cost effectiveness of the application, the number of people served, the level of local support, the ability of the community served to pay for the services delivered, and the effect on public health and safety.

~~(g) The commission shall establish a procedure that allows any telecommunications provider subject to commission jurisdiction that is capable of providing telephone service to the grant funded service area an opportunity to provide the interconnection to the public switched network.~~

~~(h)~~

(g) The commission shall establish a government-industry working group to develop the technical criteria to be used in evaluating grant awards. The working group shall be composed of, but not limited to, the following:

(1) Representatives of the commission.
(2) Representatives of the incumbent local exchange carrier industry.
(3) Representatives of the competitive local exchange carrier industry.
(4) Representatives of the wireless carrier industry.
~~(i)~~
(h) Grant applicants shall seek to secure federal sources of funding in conjunction with local subsidies for the construction of telecommunications infrastructure.
~~(j)~~
(i) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute enacted before January 1, 2006, deletes or extends that date.
SEC. 8. 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.

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