

AMENDED IN ASSEMBLY AUGUST 17, 2004

AMENDED IN ASSEMBLY JUNE 16, 2004

AMENDED IN ASSEMBLY JUNE 9, 2004

AMENDED IN SENATE APRIL 1, 2004

**SENATE BILL**

**No. 1276**

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**Introduced by Senator Bowen**  
(*Coauthor: Assembly Member Firebaugh*)

February 13, 2004

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An act to amend ~~Section~~ *Sections 270 and 739.3* of the Public Utilities Code, relating to telecommunications, *making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1276, as amended, Bowen. Telecommunications: telephone service rates: *universal service programs.*

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 federal universal service principles also include the principle that elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications service.* The act authorizes states to adopt regulations not inconsistent with Federal Communications Commission rules to preserve and advance universal service. The act requires that every telecommunications carrier that provides intrastate telecommunications services contribute, on an equitable and nondiscriminatory basis, in a manner determined by the state, to the preservation and advancement of universal service in that state. 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. Existing law authorizes the commission to fix just and reasonable rates and charges. *Existing law establishes the California High-Cost Fund-A Administrative Committee Fund, the California High-Cost Fund-B Administrative Committee Fund, the Universal Lifeline Telephone Service Trust Administrative Committee Fund, the Deaf and Disabled Telecommunications Program Administrative Committee Fund, the Payphone Service Providers Committee Fund, and the California Teleconnect Fund Administrative Committee Fund in the State Treasury and requires that the moneys in the funds be expended only to accomplish specified telecommunications universal service programs, upon appropriation in the annual Budget Act.*

*This bill would provide that moneys in the funds are the proceeds of rates and are held in trust for the benefit of ratepayers and to compensate telephone corporations for their costs of providing universal service. The bill would require that the moneys in the funds be expended only to accomplish specified telecommunications universal service programs, upon appropriation in the annual Budget Act or upon supplemental appropriation.*

Existing law, until January 1, 2005, requires the commission to develop, implement, and maintain a program to establish a fair and equitable local rate structure designed to reduce any disparity in rates



charged by small independent telephone corporations serving rural and small metropolitan areas, and a competitively neutral, and broadbased program to provide for transfer payments to telephone corporations serving areas where the cost of providing services exceeds rates charged by providers, as determined by the commission. Pursuant to this requirement, the commission has imposed a surcharge to intrastate telephone service to fund the transfer payments *funded through the California High-Cost Fund-A Administrative Committee Fund and the California High-Cost Fund-B Administrative Committee Fund.*

This bill would extend ~~this program~~ *these programs* until January 1, 2009. ~~By extending the program, the bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature~~ *The bill would make other technical changes and would require the commission to structure the programs so that any charge imposed to promote the goals of universal service reasonably equals the value of the benefits of universal service.*

The bill would require the commission by January 1, 2006, to conduct a review of the program, as extended by the bill, for the establishment of a fair and equitable local telephone rate support structure, and a review of the California High-Cost Fund-B Administrative Committee Fund, to accomplish an adjustment of subsidy payments to reflect updated operating costs and an evaluation of whether subsidy levels can be reduced while maintaining the goals of the program.

*Existing law establishes the California Teleconnect Fund Administrative Committee to advise the Public Utilities Commission regarding the development, implementation, and administration of a program to advance universal service by providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations, funded through the California Teleconnect Fund Administrative Committee Fund.*

*This bill would appropriate \$17,974,000 from the California Teleconnect Fund Administrative Committee Fund to the commission for the purpose of transferring funds to telephone corporations providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations and authorized to receive these funds.*



*The bill would declare that it is to take effect immediately as an urgency statute.*

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. *Section 270 of the Public Utilities Code, as*  
2 *amended by Section 1 of Chapter 903 of the Statutes of 2001, is*  
3 *amended to read:*

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

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

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

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

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

14 (5) The Payphone Service Providers Committee Fund.

15 (6) The California Teleconnect Fund Administrative  
16 Committee Fund.

17 (b) *Moneys in the funds are the proceeds of rates and are held*  
18 *in trust for the benefit of ratepayers and to compensate telephone*  
19 *corporations for their costs of providing universal service.*

20 Moneys in the funds may only be expended pursuant to this chapter  
21 and upon appropriation in the annual Budget Act *or upon*  
22 *supplemental appropriation.* Any appropriation from the  
23 California High-Cost Administrative Committee Fund-B for the  
24 purposes of the grant program established in Section 276.5 of the  
25 Public Utilities Code regarding rural telecommunications  
26 infrastructure, may not be made until all of the following events  
27 have occurred:

28 (1) The United States Supreme Court has decided Iowa  
29 Utilities Board v. Federal Communications Commission (219 F.3d  
30 744 (8th Cir.); certiorari granted January 22, 2001).

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



1 (3) The commission is current on all claims made by carriers  
2 for service provided in high-cost areas, except for those claims that  
3 the commission is in the process of investigating, contesting, or  
4 disallowing.

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

8 (d) This section shall remain in effect only until January 1,  
9 2006, and as of that date is repealed, unless a later enacted statute,  
10 that is enacted before January 1, 2006, deletes or extends that date.

11 SEC. 2. Section 270 of the Public Utilities Code, as added by  
12 Section 2 of Chapter 903 of the Statutes of 2001, is amended to  
13 read:

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

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

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

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

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

24 (5) The Payphone Service Providers Committee Fund.

25 (6) The California Teleconnect Fund Administrative  
26 Committee Fund.

27 (b) *Moneys in the funds are the proceeds of rates and are held*  
28 *in trust for the benefit of ratepayers and to compensate telephone*  
29 *corporations for their costs of providing universal service.*  
30 Moneys in the funds may only be expended pursuant to this chapter  
31 and upon appropriation in the annual Budget Act *or upon*  
32 *supplemental appropriation.*

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

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

37 SEC. 3. Section 739.3 of the Public Utilities Code is amended  
38 to read:

39 739.3. (a) The commission shall develop, implement, and  
40 maintain a suitable program to establish a fair and equitable local



1 rate structure aided by ~~transfer payments~~ *universal service rate*  
2 *support* to small independent telephone corporations serving rural  
3 and small metropolitan areas. The purpose of the program shall be  
4 to promote the goals of universal telephone service and to reduce  
5 any disparity in the rates charged by those companies.

6 (b) For purposes of this section, small independent telephone  
7 corporations means those independent telephone corporations  
8 serving rural areas, as determined by the commission.

9 (c) The commission shall develop, implement, and maintain a  
10 suitable, competitively neutral, and broadbased program to  
11 establish a fair and equitable local rate support structure aided by  
12 ~~transfer payments~~ *universal service rate support* to telephone  
13 corporations serving areas where the cost of providing services  
14 exceeds rates charged by providers, as determined by the  
15 commission. The commission shall develop and implement the  
16 program on or before October 1, 1996. The purpose of the program  
17 shall be to promote the goals of universal telephone service and to  
18 reduce any disparity in the rates charged by those companies. ~~The~~  
19 ~~commission shall structure the program required by this~~  
20 ~~subdivision so that the amount of each transfer payment~~  
21 ~~reasonably equals the value of the benefits of universal service to~~  
22 ~~the transferor entity and its subscribers.~~ Except as otherwise  
23 explicitly provided, this subdivision does not limit the manner in  
24 which the commission collects and disburses funds, and does not  
25 limit the manner in which it may include or exclude the revenue  
26 of ~~transferring~~ *contributing* entities in structuring the program.

27 (d) *The commission shall structure the programs required by*  
28 *this section so that any charge imposed to promote the goals of*  
29 *universal service reasonably equals the value of the benefits of*  
30 *universal service to contributing entities and their subscribers.*

31 (e) The commission shall investigate ~~subsidy reduction~~  
32 *reducing the level of universal service rate support*, or elimination  
33 of ~~subsidies~~ *universal service rate support* in service areas with  
34 demonstrated competition.

35 (e) ~~Not later than February 1, 2001, the Legislative Analyst~~  
36 ~~shall conduct a review of the state's universal telephone service~~  
37 ~~program, including subsequent modifications as appropriate, and~~  
38 ~~report to the Governor and the Legislature as part of the Legislative~~  
39 ~~Analyst's analysis of the Budget Bill to be issued in February 2001.~~



1 ~~In evaluating the program, the Legislative Analyst shall consider~~  
2 ~~all of the following:~~

- 3 ~~(1) The findings of the report required by subdivision (c).~~
- 4 ~~(2) An assessment of whether any identified problems are~~  
5 ~~issues that affect the continued implementation of this chapter or~~  
6 ~~issues that warrant revisions of statutes or regulations.~~

7 (f) This section shall remain in effect until January 1, 2009, and  
8 as of that date is repealed, unless a later enacted statute that  
9 becomes effective on or before January 1, 2009, deletes or extends  
10 that date.

11 ~~SEC. 2.—~~

12 *SEC. 4.* The Public Utilities Commission shall, by January 1,  
13 2006, conduct a review of the program established pursuant to  
14 subdivision (c) of Section 739.3 of the Public Utilities Code and  
15 of the California High-Cost Fund-B Administrative Committee  
16 Fund, to accomplish both of the following:

- 17 (a) Adjust ~~subsidy~~ *universal service rate support* payments to  
18 reflect updated operating costs.
- 19 (b) Evaluate whether ~~subsidy~~ *universal service rate support*  
20 levels can be reduced while still meeting the goals of this program.

21 *SEC. 5.* *There is hereby appropriated from the California*  
22 *Teleconnect Fund Administrative Committee Fund to the Public*  
23 *Utilities Commission, seventeen million nine hundred seventy-four*  
24 *thousand dollars (\$17,974,000) for the purpose of transferring*  
25 *funds to telephone corporations providing discounted rates to*  
26 *qualifying schools, libraries, hospitals, health clinics, and*  
27 *community organizations and authorized to receive these funds*  
28 *pursuant to Chapter 1.5 (commencing with Section 270) of Part 1*  
29 *of Division 1.*

30 *SEC. 6.* *This act is an urgency statute necessary for the*  
31 *immediate preservation of the public peace, health, or safety*  
32 *within the meaning of Article IV of the Constitution and shall go*  
33 *into immediate effect. The facts constituting the necessity are:*

34 *The authority to expend money from the California Teleconnect*  
35 *Fund Administrative Committee Fund was deleted from the*  
36 *Budget Act for fiscal year 2004–05. The California Teleconnect*  
37 *Fund Administrative Committee Fund provides funding to*  
38 *compensate telephone corporations for providing service at*  
39 *discounted rates to qualifying schools, libraries, hospitals, health*  
40 *clinics, and community organizations. In order to provide*



1 *sufficient revenues for the telephone corporations authorized to*  
2 *receive these funds pursuant to Chapter 1.5 (commencing with*  
3 *Section 270) of Part 1 of Division 1 of the Public Utilities Code,*  
4 *so that those telephone corporations may continue to provide*  
5 *teleconnect services, it is necessary that this act take effect*  
6 *immediately.*

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