

Senate Bill No. 3

Passed the Senate August 30, 2011

Secretary of the Senate

Passed the Assembly August 29, 2011

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 275.6 and 739.3 of, and to add Section 270.5 to, the Public Utilities Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 3, Padilla. Telecommunications: universal service.

(1) 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.

Existing law authorizes the Public Utilities Commission to supervise and regulate every public utility in the state, including telephone corporations, and to fix just and reasonable rates and charges for the public utility. Existing law establishes the state's universal service funds, including the California High-Cost Fund-A Administrative Committee Fund (CHCF-A) and the California High-Cost Fund-B Administrative Committee Fund (CHCF-B), in the State Treasury, and provides that moneys in each of the state's universal service 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. Moneys in the funds may only be expended to accomplish specified telecommunications universal service programs, upon appropriation in the annual Budget Act or upon supplemental appropriation.

Existing law, until January 1, 2013, requires the commission to develop, implement, and maintain a suitable program to establish a fair and equitable local rate structure aided by universal service rate support to small independent telephone corporations that serve rural areas and are subject to rate-of-return regulation by the commission (the CHCF-A program). Existing law, until January 1, 2012, requires the commission to develop, implement, and maintain a suitable, competitively neutral, and broadbased program to establish a fair and equitable local rate support structure aided by universal service rate support to telephone corporations serving areas where the cost of providing services exceeds rates charged by providers, as determined by the commission (the CHCF-B program).

This bill would extend the repeal date of the CHCF-A and CHCF-B program requirements until January 1, 2015.

(2) This bill would require the commission to require interconnected Voice over Internet Protocol (VoIP) service providers to collect and remit surcharges on their California intrastate revenues in support of the universal service funds. The bill would make this requirement operative only if AB 841 is not enacted or fails to become effective on or before January 1, 2012.

(3) Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

Because the program that is extended under the provisions of this bill is within the act and a decision or order of the commission implements the program requirements, a violation of these provisions would impose a state-mandated local program by creating a new crime.

(4) 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 declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Federal and state laws and regulations to promote universal service have historically provided support for universal access to landline voice telephone service.

(b) The Telecommunications Act of 1996 (Public Law 104-104) provides that state regulations to preserve and advance universal service shall not be inconsistent with the universal service regulations adopted by the Federal Communications Commission (47 U.S.C. Sec. 254(f)).

(c) The Federal Communications Commission, in implementing the National Broadband Plan, released in March 2010, has proposed substantial changes to its universal service regulations in order to increase accountability and efficiency and provide support for universal access to broadband and voice service.

SEC. 2. Section 270.5 is added to the Public Utilities Code, to read:

270.5. (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.

(e) (1) For the purposes of determining what revenues are subject to a surcharge imposed pursuant to this section, an interconnected VoIP service provider may use any of the following methodologies to identify intrastate revenues:

(A) The inverse of the interstate safe harbor percentage established by the Federal Communications Commission for interconnected VoIP service for federal universal service contribution purposes, as these percentages may be revised from time to time.

(B) A traffic study specific to the interconnected VoIP service provider allocating revenues between the federal and state jurisdictions.

(C) Another means of accurately apportioning interconnected VoIP service between federal and state jurisdictions.

(2) The methodology chosen pursuant to paragraph (1) shall be consistent with the revenue allocation methodology the provider uses to determine its federal universal service contribution obligations.

(3) It is the intent of the Legislature that a traffic study described in subparagraph (B) of paragraph (1) is excluded from public inspection pursuant to Public Utilities Commission General Order 66-C, because the disclosure of these studies would place the provider at an unfair business disadvantage.

SEC. 3. Section 275.6 of the Public Utilities Code is amended to read:

275.6. (a) The commission shall develop, implement, and maintain a suitable program to establish a fair and equitable local rate structure aided by universal service rate support to small independent telephone corporations that serve rural areas and are subject to rate-of-return regulation by the commission. The purpose of the program shall be to promote the goals of universal telephone service and to reduce any disparity in the rates charged by those companies.

(b) For purposes of this section, “small independent telephone corporations” means those independent telephone corporations serving rural areas that are subject to rate-of-return regulation by the commission, as determined by the commission.

(c) The commission shall structure the programs required by this section so that any 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.

(d) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 4. Section 739.3 of the Public Utilities Code is amended to read:

739.3. (a) The commission shall develop, implement, and maintain a suitable program to establish a fair and equitable local rate structure aided by universal service rate support to small independent telephone corporations serving rural and small metropolitan areas. The purpose of the program shall be to promote the goals of universal telephone service and to reduce any disparity in the rates charged by those companies.

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

(c) The commission shall develop, implement, and maintain a suitable, competitively neutral, and broadbased program to establish a fair and equitable local rate support structure aided by universal service rate support to telephone corporations serving areas where the cost of providing services exceeds rates charged by providers, as determined by the commission. The commission shall develop and implement the program on or before October 1, 1996. The purpose of the program shall be to promote the goals of universal telephone service and to reduce any disparity in the

rates charged by those companies. Except as otherwise explicitly provided, this subdivision does not limit the manner in which the commission collects and disburses funds, and does not limit the manner in which it may include or exclude the revenue of contributing entities in structuring the program.

(d) The commission shall structure the programs required by this section so that any 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.

(e) The commission shall investigate reducing the level of universal service rate support, or elimination of universal service rate support in service areas with demonstrated competition.

(f) By July 1, 2010, the commission shall prepare and submit to the Legislature a report on the affordability of basic telephone service in areas funded by the California High-Cost Fund-B Administrative Committee Fund. The report, among other things, shall provide information on prices and costs of basic telephone service, and penetration and utilization rates of basic telephone service by income, ethnicity, age, and other demographic characteristics, using surveys and other methods of identifying the factors affecting affordability of basic telephone service for customers and noncustomers. The report shall describe the characteristics of noncustomers and their reasons for not having telephone service. The report shall identify those persons most at risk of losing basic telephone service. The report shall be funded out of the California High-Cost Fund-B Administrative Committee Fund.

(g) This section shall only apply to the California High-Cost Fund-B Administrative Committee Fund program.

(h) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 5. Section 2 of this act shall only become operative if Assembly Bill 841 is not enacted or fails to become effective on or before January 1, 2012.

SEC. 6. 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. 7. 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 Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the Public Utilities Commission has the necessary statutory direction to fund the state's universal service programs at the earliest possible time, it is necessary for this act to take effect immediately.

Approved _____, 2011

Governor