SB 1130 (Lena Gonzalez) - Telecommunications: California Advanced Services Fund

Version: June 2, 2020	**Policy Vote:** E., U., & C. 11 - 2
Urgency: No	**Mandate:** No
Hearing Date: June 9, 2020	**Consultant:** Ashley Ames

Bill Summary: This bill would make various changes to the California Advanced Services Fund (CASF), including modifying the definition of an "unserved" area eligible for CASF broadband infrastructure funding.

Fiscal Impact:
- Unknown cost pressure, likely in the millions of dollars (special fund), due to an expansion of the number of unserved households/areas that would be eligible for funding from the CASF program.

Background:

Purpose of the CASF. The CPUC established the CASF program in 2006 through Decision 07-12-054. Under the CPUC's decision, CASF provided funding as an incentive to encourage broadband providers to deploy broadband infrastructure to unserved and underserved communities. CASF funding is collected through a surcharge on end users' intrastate telecommunications bills. The CPUC established a priority of providing grants to areas completely unserved by broadband providers. Under the CPUC decision, any remaining funds would be provided to "underserved" communities where no broadband provider offered speeds of three mbps downstream and 1 mbps upstream. The Legislature codified the CPUC's decision establishing the CASF by passing SB 1193 (Padilla, Chapter 383, Statutes of 2008).

Since its establishment, the CASF has been modified by CPUC decisions and legislation multiple times. Legislation has modified the definition of an unserved household and also led to increases in the percentage of a project's cost covered by grant funding. Some recent projects have received CASF grants covering 100 percent of the project's cost. Despite the possibility of having project costs fully covered by the CASF, few large internet service providers (ISPs) participate in the program. Frontier and Charter Communications are the only two large competitive ISPs that have received grants in CASF's 2019 cycle. The small independent local exchange carriers (ILECs) are some of the most active telecommunications providers participating in the CASF.

Who is Unserved? Under existing law, an unserved community is one in which no broadband exists or no broadband provider offers speeds of at least six mbps downstream and 1 mbps upstream. Generally, CASF funded broadband infrastructure in rural areas where the lack of economies of scale and challenging terrain makes expansion of broadband in private markets unprofitable. In these areas, broadband

largely does not exist. Even in communities that have some form of internet service, the service is delivered over a network that does not have a sufficient amount of fiber to reach broadband internet speeds.

Proposed Law: This bill would:

1) Modify the goal of the CASF program to specify that the program is intended to approve funding for broadband infrastructure projects that will supply "high-capacity, future-proof" infrastructure to no less than 98 percent of households in each broadband consortia region based on current engineering and scientific information available at the time of a CASF application.

2) Modify the definition of "unserved" for the purposes of determining areas that are eligible for CASF project funding. Under the bill, an "unserved area" is on in which 90 percent of the population has no facility-based broadband provider offering service at speeds of at least 25 mbps downstream and 25 mbps upstream, and a latency sufficiently low to allow real-time interactive applications.

3) Adds new definitions for the purpose of identifying areas and projects eligible for CASF grants, including the following definitions:
    a) "Unserved high-poverty area" means a census tract with a poverty rate of at least 20 percent, as measured by the most recent five-year data series available from the American Community Survey of the United States Census Bureau.
    b) "Future-proof infrastructure" means data networks that once built do not require new construction that involve significant public works in order to deliver higher speeds that mirror advancements in network equipment. Only infrastructure capable of delivering broadband speeds of 100 mbps downstream and 100 mbps upstream with a sufficiently low latency for interactive, real-time applications shall meet the definition of future-proof infrastructure.
    c) "Open access project" means a wholesale network operation that supplies wholesale broadband access services to multiple service providers that re-sell broadband. An open access project is prohibited from selling its own broadband service.

4) Shortens the time frame from 180 days to 90 days during which an incumbent broadband provider has an opportunity to demonstrate that it intends to expand broadband access to an area proposed for CASF funding. These incumbent broadband providers would not be eligible for CASF funding for broadband expansions unless they demonstrate that they are financially incapable of self-financing necessary upgrades.

5) Requires the CPUC to only approve CASF projects that meet the following criteria:
    a) Projects that provide broadband access at speeds of at least 100 mbps downstream and 100 mbps upstream with a sufficiently low latency in unserved areas where no provider offers 25 mbps downstream and 25 mbps upstream with sufficiently low latency.
    b) All or a significant part of a project deploys last-mile infrastructure to unserved and unserved high-poverty areas. Projects that deploy middle-mile infrastructure are only eligible for grants if they are open access projects. To grant CASF monies to projects that include middle-mile infrastructure, the CPUC must verify

that the middle-mile infrastructure is indispensable for accessing the last mile infrastructure.

6) Deletes existing prohibitions on projects receiving both CASF and CAF funding.

7) Deletes existing permissions enabling the CASF to fund line extensions on private property under certain conditions.

8) Limits CASF grants for projects involving line extensions by deleting the existing $5 million allocation for line extensions and restricting grants to households that do not require line extensions. This bill requires the CPUC, when approving projects, to consider limiting funding to households based on income and only provide grants to households that would not otherwise be able to afford privately-financed line extensions. This bill would also limit grants while requiring cost sharing by the property owner.

9) Requires the CPUC to consider whether a provider must provide wholesale wireless or wireline services to other providers when determining whether wholesale services are necessary for providing affordable services under the CASF program.

10) Specifies that local government agencies are only eligible for CASF grants if the project serves unserved or high-poverty unserved areas.

11) Extends various deadlines and makes conforming changes for the purposes of this bill.

Related Legislation:

SB 1058 (Hueso, 2020) requires internet service providers to file emergency operations plans with the CPUC annually. These plans must identify how these providers will ensure reliable and accessible communications during disasters and emergencies, including the provision of an affordable internet plan for individuals sheltering in place or displaced by an emergency or disaster. These plans must also identify how each company's capital expenditure plan for expanding broadband in the state. The bill is currently pending in the Senate.

AB 1665 (E. Garcia, Chapter 851, Statutes of 2017) made various changes to the CASF program, including requiring regional goals instead of a state goal for broadband adoption to target funding for broadband access to largely rural areas. The bill also established an adoption account to improve broadband adoption and set audit requirements for the program.

SB 745 (Hueso, Chapter 710, Statutes of 2016) extended from December 31, 2016, to December 31, 2020, the date that remaining funds from the Public Housing Account are transferred back to other accounts, it and limited eligibility to unserved public housing developments. The bill made additional changes, including modifying information required in the CPUC's annual CASF report to the Legislature.

AB 1262 (Wood, Chapter 242, Statutes of 2015) reallocated $5 million from the CASF Loan Account to the Consortia Account.

AB 1299 (Bradford, Chapter 507, Statutes of 2013) required the CPUC to provide grants for broadband deployment and adoption in certain low-income publicly subsidized multifamily housing communities using the Public Housing Account established within the CASF.

SB 1040 (Padilla, Chapter 317, Statutes of 2010) extended the operation of the CASF indefinitely and established three different accounts within the CASF: the Broadband Infrastructure Grant Account, the Rural and Urban Regional Broadband Consortia Account, and the Broadband Infrastructure Loan Account.

SB 1193 (Padilla, Chapter 393, Statutes of 2008) codified the CASF program by requiring the CPUC to develop, implement, and administer the program to encourage the deployment of high-quality advanced communications services to all Californians as specified in the CPUC's Decision 07-12-054.

Staff Comments: This bill would specify that communities without speeds of 25 mbps downstream and 25 mbps upstream are considered "unserved." This modification would significantly expand the number and types of communities that are considered unserved by broadband, including communities where households have internet service that meets the federal definition of broadband of 25 mbps downstream and 3 mbps upstream.

Expanding the number of unserved households/areas that would be eligible for funding from the CASF program would place additional cost pressure on the program. The funding for the CASF program is generated by a charge on consumer phone bills. This cost pressure could potentially lead to increasing the charge on consumers, charging consumers for a longer period of time, or both.

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