

Date of Hearing: August 11, 2020

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

SB 1130 (Lena Gonzalez) – As Amended July 27, 2020

Policy Committee: Communications and Conveyance Vote: 9 - 3

Urgency: No State Mandated Local Program: No Reimbursable: No

**SUMMARY:**

This bill revises key aspects of the California Advanced Services Fund (CASF) program—the state program to encourage deployment of broadband technology to all areas of the state.

Among other things, this bill:

- 1) Revises the program goal, so that the CASF program is to, by the end of 2024, approve funding for infrastructure projects that will provide “high-capacity, future-proof infrastructure...to no less than 98% of California households in each consortia region.” (Current law establishes the program goal as, by the end of 2022, funding of infrastructure projects that will provide “broadband access” to no less than 98% of households in each consortia region.)
- 2) Directs the California Public Utilities Commission (CPUC), in approving CASF program infrastructure projects, to approve certain infrastructure projects in “unserved areas and unserved high-poverty areas,” each as defined in the bill, and to prioritize projects in such areas where internet connectivity is available but only below certain technical downstream, upstream and latency standards.
- 3) Directs the CPUC to ensure all approved projects can be completed with existing program resources without increasing the surcharge on telephone consumers and repeals the CPUC’s authority to collect more than \$66 million per year from a surcharge on telephone customers.
- 4) Directs the CPUC to ensure no awardee receives a program grant for which the awardee has already received the full cost of the project from a federal grant.
- 5) Allows an existing facility-based broadband provider to apply for certain CASF program grants only if the provider can demonstrate it is financially incapable of self-financing the upgrades.
- 6) Limits eligibility of “middle mile” infrastructure projects for certain CASF program grants to only those projects that are “open access” projects and tasks the CPUC with ensuring the rates charged by an open access project are just and reasonable, and prohibits an open access project from selling its own broadband service.
- 7) Requires the CPUC to periodically conduct program audits and report to the Legislature.

**FISCAL EFFECT:**

- 1) According to the CPUC, this bill will result in one-time costs of approximately \$1.51 million (special fund) to contract for audits required by the bill. The CPUC attributes approximately \$860,000 of this amount to a performance audit and approximately \$650,000 to a financial audit. These estimates are in line with the costs of an ongoing interim CASF program audit, which statute requires be completed.
- 2) Additionally, the bill includes two fiscal provisions of note, as described above. First, the bill directs the CPUC to ensure all approved projects can be completed with existing program resources without increasing the surcharge on telephone consumers. Second, the bill repeals the CPUC's authority to collect more than \$66 million per year from a surcharge on telephone customers. These provisions, individually and together, severely hinder the ability of the program to achieve the bill's goals, as described in the comments section, below.

#### COMMENTS:

- 1) **Purpose.** According to the author, the CASF program, “despite having millions of dollars available to it,” is “often not accessed by the Californians who need it the most or not accessed at all.” Additionally, the author contends the program finances “low speed infrastructure,” leaving California “behind the curve of other major economies...who aggressively invest in fiber optic broadband networks.” The author intends SB 1130 to remedy this situation by expanding the areas of the state that qualify for CASF program funding and by raising the standards projects must meet to qualify for program funding.
- 2) **Background and Comments.** SB 1193 (Padilla), Chapter 393, Statutes of 2008, established the CASF and gave the CPUC authority to assess a surcharge on communication service ratepayers (wireline, wireless and voice over internet protocol customers) receiving intrastate telecommunication services. The purpose of this CPUC-sponsored legislation was to fund deployment of broadband infrastructure in unserved areas of the state.

Subsequently, the Legislature passed AB 1665 (E. Garcia), Chapter 851, Statutes of 2017. The bill authorized the CPUC, beginning on January 1, 2018, to collect over five years an additional \$330 million via the surcharge on telephone bills. The legislation also established a new CASF program goal of providing broadband access to no less than 98% of California households in each “consortium” (regional umbrella organizations made up of public, private and community-based organizations that coordinate efforts to promote deployment, access and adoption of broadband technology.) AB 1665 directed the CPUC to collect from the surcharge no more than \$66 million in any given year, unless “the commission determines that collecting a higher amount in any year will not result in an increase in the total amount of all surcharges collected from telephone customers that year.”

The following table, provided by the CPUC, shows the amount of the CASF surcharge in recent years, as well as the amount collected from the surcharge.

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#### CASF PROGRAM SURCHARGE

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Reporting Period	Surcharge Rate	Surcharge Revenue
CY 2018, Mar-Dec (Actual)	0.56%	\$39 million
CY 2019, Jan-Dec (Actual)	0.56%	\$41 million
CY 2020, Jan-Dec (Estimate)	0.56%	\$41 million
CY 2021, Jan-Dec (Estimate)	0.56%	\$35 million
CY 2022, Jan-Dec (Estimate)	0.56%	\$35 million
Total		\$187 million

As can be seen, at the current surcharge rate, the CPUC expects to collect well short of the \$66 million annual cap currently in statute. To collect \$330 million by 2022, the CPUC would need to collect substantially more than \$66 million in each of the coming years. Current law provides CPUC the option to do so. This bill, however, does not.

(Notably, while the surcharge is higher than it was in past years, surcharge revenue is substantially less than it was in those same past years. For example, in 2014 and 2015, the surcharge rate was, for each year, 0.46%, yet the revenue generated in 2014 and 2015, respectively, was \$60.5 million and \$56.1 million. The CPUC contends the surcharge is levied on a shrinking base of intrastate telecommunication services, as more people switch altogether to wireless telephone service, which is less often an intrastate service. Anecdotally, the CPUC contends the amount of the surcharge on any given customer monthly bill is in many cases less than a dollar or two.)

Relatedly, the funds into which CASF surcharge revenue is placed appear to have substantial fund balances, as can be seen in the following table, again provided by the CPUC. Looking at the chart, one could conclude there is over \$300 million available, collectively, in the various CASF program accounts. However, the CPUC reports the program is actually oversubscribed, noting that, on May 4 of this year, the CPUC received 54 applications requesting approximately \$533 million in total funding from the Infrastructure Grant Account, an amount well beyond the \$276,950,448 currently in that account.

CASF Account, As of 6/28/2020	Since Inception					
	Total Budget Authorized (A)	Expenditure (B)	Awarded, not yet recorded in FISCAL (C)	Total Expenditure (D=B+C)	Remaining Budget Balance (E=A-D)	Total Awarded
Infrastructure	\$565,000,000	\$241,054,524	\$46,995,028	\$288,049,552	\$276,950,448	\$281,622,639
Infra Loan	\$5,000,000	\$2,009,096		\$2,009,096	\$2,990,904	\$600,295
Infra. Line Extension	\$5,000,000	\$262,198		\$262,198	\$4,737,802	\$5,230
Consortia	\$25,000,000	\$15,481,848		\$15,481,848	\$9,518,152	\$13,975,110
Adoption	\$20,000,000	\$14,587,486	\$1,553,487	\$16,140,973	\$3,859,027	\$16,065,945
Pub. Housing	\$25,000,000	\$14,595,737	\$429,467	\$15,025,204	\$9,974,796	\$14,938,115
<b>Total</b>	<b>\$645,000,000</b>	<b>\$287,990,889</b>	<b>\$48,977,982</b>	<b>\$336,968,871</b>	<b>\$308,031,129</b>	<b>\$327,207,334</b>

This bill seeks to expand the areas of the state eligible for CASF program funding and to increase the technical standards applicable to projects eligible for funding, both of which seem very much in keeping with California's existing policy goal of encouraging deployment of high-quality advanced communications to all Californians. Arguably, achievement of the goals and requirements of this bill will require even more money, not less. The author's office generally acknowledges these costs and reports it is exploring sources of funding other than the surcharge on intrastate telecommunication services.

**Analysis Prepared by:** Jay Dickenson / APPR. / (916) 319-2081