

Date of Hearing: March 29, 2023

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Tasha Boerner Horvath, Chair

AB 1461 (Jim Patterson) – As Introduced February 17, 2023

**SUBJECT:** California Advanced Services Fund: Federal Funding Account

**SUMMARY:** This bill strikes existing law requiring the California Public Utilities Commission (CPUC) to initially allocate specified funding levels to rural and urban counties through June 30, 2023 for purposes of administering the California Advanced Services Fund (CASF) Federal Funding Account (FFA). Specifically, **this bill:**

- 1) Strikes existing law authorizing any moneys allocated to the CASF FFA that are not encumbered on or before June 30, 2023 to be made available anywhere in the state.
- 2) Clarifies that this bill applies to the \$2,000,000,000 appropriated to the commission or any other funds otherwise committed for purposes of enacting the FFA.

**EXISTING LAW:**

- 1) Establishes the CASF in the State Treasury; requires that the moneys are held in trust and may only be expended pursuant to existing law and upon appropriation in the annual Budget Act or upon supplemental appropriation. (Public Utilities Code § 270)
- 2) Requires the CPUC to develop, implement, and administer the CASF program to encourage deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and substantial social benefits of advanced information and communications technologies, as provided in specific decisions of the CPUC and in the CASF statute. (Public Utilities Code § 281(a))
- 3) Requires the commission to establish specified accounts within the CASF (Public Utilities Code § 281(c)):
  - a. The Broadband Infrastructure Grant Account (IGA)
  - b. The Rural and Urban Regional Consortia Grant Account (Consortia Account)
  - c. The Broadband Public Housing Account (PHA)
  - d. The Broadband Adoption Account (Adoption Account)
  - e. The Federal Funding Account (FFA)
- 4) Appropriates two billion (\$2,000,000,000) to the CASF Federal Funding Account (FFA).
  - a. Requires the CPUC to initially allocate \$1,000,000,000 for projects in rural counties and \$1,000,000,000 for projects in urban counties through June 30, 2023. Provides that thereafter FFA funds will be available anywhere in the state.
- 5) Requires the CPUC to implement the FFA account to expeditiously connect unserved and underserved communities by applicable federal deadlines. (Public Utilities Code § 281 (n))

- 6) Provides that projects funded pursuant to the FFA shall be implemented consistent with applicable federal regulations and any condition or guidelines applicable to the one-time federal infrastructure moneys. (Public Utilities Code § 281 (n))

**FISCAL EFFECT:** Unknown.

**COMMENTS:**

- 1) *Background on the Federal Funding Account of the CASF.* The CASF program was first established in 2008 pursuant to SB 1193 (Padilla, Chapter 393, Statutes of 2008). That legislation authorized the CPUC to develop, implement, and administer the CASF program to encourage the deployment of high-quality advanced services to all Californians in order to promote economic growth, job creation, and societal benefits. Notably, the CASF program consists of several accounts to support local broadband consortia, broadband in public housing, broadband infrastructure, and broadband adoption. This bill particularly applies to the Federal Funding Account (FFA) of the CASF. The FFA was established in 2021 pursuant to SB 156 (Committee on Budget and Fiscal Review, Chapter 112 of 2021). Pursuant to that legislation and the companion budget agreement, the FFA received \$2 billion over three fiscal years, starting in 2021-22, to fund grants for last-mile broadband infrastructure projects. SB 156 included a requirement that initially apportioned the \$2-billion dollars equally, \$1 billion each, for projects in rural and urban counties.
- 2) *June 30, 2023 encumbrance deadline.* Although SB 156 required an initial rural and urban county funding as discussed above, SB 156 also required that all FFA moneys not encumbered on or before June 30, 2023 should be made available for projects anywhere in the state. In other words, the equal split expires after that date and the moneys would no longer be restricted in their use thereafter. This bill would strike that date from existing law, thus preserving the equal split for projects in urban and rural counties in perpetuity. In testimony before this committee, the President of the CPUC has represented that they intend to honor the initial apportionment past the deadline.

The commitment from the CPUC is a reasonable move, considering that the CPUC has yet to open an initial funding round for the \$2-billion dollar program. Most recently, the CPUC has committed to opening a funding round sometime in June 2023. Therefore, preserving the initial allocation past that date would make sense for the initial funding round. However, there is still a question as to whether the CPUC would honor the split in subsequent funding rounds; this bill would require the CPUC to do so.

- 3) *Potential unintended consequences.* Although the funding split among rural and urban counties creates parity among those areas, it could also have an unintended consequence of restricting funds if there are not equal amounts of project applications in rural and urban counties. For example, if the CPUC receives more than \$1-billion worth of funding requests for projects in rural counties but only receives half that amount in urban counties, this bill does not provide any flexibility for the CPUC to reallocate dollars among rural and urban counties. As a result, excess funds may end up locked up if there are no projects in the corresponding counties. This scenario is particularly concerning considering that the FFA is partially funded with federal dollars that expire at the end of 2026. As we move closer to that date, it might be reasonable for the CPUC to have some flexibility in allocating dollars in order to avoid returning funds to the federal government. Although this scenario is purely

speculative, and assumes the FFA program will not be oversubscribed, it is worth noting considering the potential risks.

4) *Related/prior legislation.*

- a) AB 1065 (Patterson) would expressly authorize an otherwise eligible wireless broadband service provider to apply for and receive funding from two accounts of the California Advanced Services Fund (CASF) program. This bill is also under consideration in this committee.
- b) SB 156 (Committee on Budget and Fiscal Review. Chapter 112 of 2021) established the Federal Funding Account and required the CPUC to allocate \$1 billion in funding each for rural and urban counties.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Independent Telephone Companies

**Opposition**

None on file

**Analysis Prepared by:** Emilio Perez / C. & C. / (916) 319-2637