SENATE COMMITTEE ON ENERGY, UTILITIES AND COMMUNICATIONS
Senator Steven Bradford, Chair
2023 - 2024 Regular

Bill No:	AB 1588	**Hearing Date:**	7/2/2024
Author:	Wilson		
Version:	6/10/2024 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Sarah Smith		

SUBJECT: Communications: fees: lifeline service: broadband

DIGEST: This bill makes various changes to law to allow the California Public Utilities Commission (CPUC) to use funds from the California Lifeline program to fund subsidies for broadband service. This bill also expands the CPUC's authority to assess various surcharges by expanding the number of telecommunications lines subject to a surcharge, deleting existing law that sets the basis for applying these surcharges, and authorizes the CPUC to set its own methodology for calculating and collecting these surcharges.

ANALYSIS:

Existing law:

1) Establishes the following universal service programs at the CPUC to support the state's universal telecommunications service goals:

    a) California High Cost Fund – A (Public Utilities Code §275)

    b) California High Cost Fund – B (Public Utilities Code §276)

    c) Moore Universal Telephone Service program/ California Lifeline (Public Utilities Code §871)

    d) Deaf and Disabled Telecommunications Program (Public Utilities Code §278)

    e) California Teleconnect Fund (Public Utilities Code §280)

    f) California Advanced Services Fund (Public Utilities Code §281)

2) Establishes the basis for which the CPUC must assess telecommunication surcharges that fund universal service programs. Under existing law, these surcharges apply to both traditional telephone lines and Voice over Internet Protocol (VoIP) counted as 9-1-1 access lines, as specified. (Public Utilities Code §285)

3) Requires the CPUC to designate a class of Lifeline service necessary to meet minimum communications needs and set rates and eligibility criteria for that service. Existing law establishes requirements for setting Lifeline telephone rates. (Public Utilities Code §§873, 874, 877, 879)

4) Existing law permits only one Lifeline subscription per household and defines a household as any group of individuals, including the subscriber, who are living together at the same address and as one economic unit. A household may include related and unrelated persons. If an adult has no, or minimal, income and lives with someone who provides financial support to that adult, both persons shall be part of the same household. A child under 18 years of age and living with a parent or guardian shall be part of the same household as the parent or guardian. Existing law allows multiple Lifeline subscriptions at the same address if those subscribers are not part of the same household. (Public Utilities Code §878)

5) Requires the CPUC to adopt a portability freeze rule for the Lifeline program, limiting a subscriber's ability to change providers until the freeze period expires. (Public Utilities Code §878.5)

6) Establishes the Public Utilities Commission Utilities Reimbursement Account (PUCURA), which funds the CPUC's administrative costs. Existing law authorizes the CPUC to assess the PUCURA over specified public utilities, which includes telephone and telegraph corporations. Existing law specifies that the annual fee must be established to produce revenue equal to the amount needed for the CPUC's authorized budget for that year. Existing law specifies that the PUCURA surcharge applied to telephone and telegraph corporations must be based on each corporation's gross intrastate revenues. Under existing law, the CPUC must establish uniform PUCURA fees for public utilities with gross intrastate revenues at or below $750,000. Existing law also establishes a schedule for utilities to pay their PUCURA fees. (Public Utilities Code §§401-410 and §§431-435)

This bill:

1) Makes various changes to law to enable the CPUC to expand and increase surcharges for the PUCURA, including the following:

   a) Expands PUCURA collection to VoIP lines based on the federal definition of these lines.

   b) Authorizes the CPUC to set its own methodology for determining the PUCURA surcharge assessed on telecommunications providers.

   c) Deletes existing law requiring the CPUC to set uniform annual PUCURA fees for utilities with annual gross intrastate revenue at or below $750,000, and instead authorizes the CPUC to set PUCURA fees for these utilities at their discretion.

   d) Allows the CPUC to schedule utilities' PUCURA payments as it determines appropriate.

2) Deletes existing law that establishes the basis for how the CPUC may collect surcharges to fund the universal service programs, including the California Lifeline program.

3) Expands the scope of communications lines subject to the Lifeline surcharge and allows the CPUC to use Lifeline surcharge revenues to subsidize broadband plans.

4) Renames the California Lifeline program as the Moore Universal Communications Service Act.

5) Requires the CPUC to provide broadband subsidies using Lifeline funds.

6) Grants the CPUC to take any action it deems appropriate in order to do the following:

   a) Offer standalone subsidies for broadband internet service.

   b) Where appropriate, combine the state lifeline and federal lifeline subsidies and any other federal funds.

   c) Consider whether companies that do not qualify as eligible telecommunications carriers (ETCs) can participate in the California Lifeline program.

   d) Ensure that broadband plans receiving a subsidy pursuant to this bill meet or exceed 100/20 Megabits per second (Mbps), or the highest speed offered by the service provider at the customer's location if no other plan is available.

7) Removes technological neutrality from factors the CPUC must consider when conducting a proceeding to modify universal service to include broadband services.

8) Requires the CPUC to do the following to the Lifeline program, as it deems appropriate:

   a) Establish minimum service standards for Lifeline services, including any broadband service offered through Lifeline.

b) Set a maximum out-of-pocket cost for customer for different tiers of lifeline service.

c) Set rates and charges for Lifeline service.

d) Set eligibility criteria for Lifeline service.

e) Assess progress towards broadband adoption by income, ethnicity and geography.

9) Deletes existing law that sets requirements for establishing rates for Lifeline services.

10) Modifies eligibility criteria for the Lifeline program to authorize the CPUC to provide Lifeline subsidies to certain individuals, regardless of law limiting Lifeline subscriptions to one subscription per household. This bill requires the CPUC to determine whether the following groups are eligible:

a) Individuals using domestic violence shelters.

b) Formerly incarcerated persons.

c) Unhoused individuals.

d) Persons at least 60 years of age or older.

e) Farm workers.

f) Tribal members.

g) Disabled veterans.

h) Students eligible under the federal National School Lunch Program.

i) Any other person who is a member of a vulnerable or disadvantaged group commonly presenting complex guardianship or household compositions that could benefit from Lifeline, as determined by the CPUC.

11) Specifies that foster youth are eligible for Lifeline service and authorizes the CPUC to set requirements necessary to provide subsidies to foster youth for both the Lifeline service and any devices needed to access broadband.

12) Prohibits any surcharges on Lifeline service.

13) Deletes existing law requiring the CPUC to establish a portability freeze on Lifeline enrollments.

14) Modifies the definition of VoIP service for the purposes of assessing local pre-paid telephone taxes.

Background

The end of the ACP. According to the author, this bill is aimed at addressing affordability issues facing lower income Californians in the wake of the end of the federally-funded Affordable Connectivity Program. The Covid-19 pandemic underscored the extent to which the lack of broadband access impacts Californians' ability to access services. Multiple factors can limit consumers' ability to access broadband; however, multiple studies indicate that access to broadband infrastructure and the cost of internet service plans or data subscriptions are major drivers of access gaps. In 2021, Congress appropriated funding to the FCC to help low-income consumers access broadband services and devices during the ongoing pandemic. The Federal Communication Commission (FCC) established the Emergency Broadband Benefit (EBB), which provided a $50 discount for broadband services for eligible consumers. The passage of the Infrastructure, Investment and Jobs Act (IIJA) provided additional funds for the EBB and required the FCC to modify the program's rules. These changes resulted in the EBB's transition to the Affordable Connectivity Program (ACP) in December 2021. The ACP provided a $30 discount on monthly broadband service and a one-time $100 discount for a broadband device for most eligible subscribers. Since the passage of the IIJA, Congress has not appropriated any additional funding for the ACP. As a result, the ACP ceased accepting applications on February 7, 2024, and the program ceased operation on June 1, 2024. As of February 2024, California had the greatest number of households enrolled in the ACP of any state; Over 2.9 million California households enrolled in the ACP.

While the ACP has stopped providing subsidies for internet service, multiple providers have committed to retaining a $30 plan with no fees or data caps until the end of the year. On May 31, 2024, the White House announced it had received commitments to continue offering these plans from many large internet service providers (ISPs), including AT&T, Cox, Comcast, Charter Communications, and Verizon.

The Lifeline programs: federal and state. Lifeline is one of several universal service programs addressing the affordability of communications services. California Lifeline subscribers can participate in both the federal Lifeline program and a California Lifeline program. The federal Lifeline program is regulated by the FCC, and the state Lifeline program is regulated by the CPUC. Both programs are funded through surcharges on telephone bills.

Prior to the 1984 break-up of the Bell telephone system, long-distance services helped subsidize local telephone costs. Following AT&T's divestment of the Bell Operating Companies, long-distance and local telephone services were separated. The

Reagan FCC established the Lifeline program to address concerns about the affordability of local telephone service for after this separation. The Lifeline program provides households at or below 135 percent of the federal poverty level with a monthly subsidy to obtain one fixed or wireless line with a participating communications provider, which may include a data package. California Lifeline subscribers may receive $19 per month from the state program in addition to the $9.25 from the federal program. As a result, California participants can receive a total of $28 per month towards their Lifeline service if they can stack both the federal and state programs.

The Eligible Telecommunications Carrier (ETC) issue. While this bill requires the CPUC to take all steps necessary to include broadband in the California Lifeline program, this bill does not clearly require a mechanism by which an ISP that does not offer a regulated voice service can become a Lifeline provider. Federal universal service rules require every Lifeline provider to obtain certification as an ETC before the provider can participate in Lifeline. Federal rules specify that a provider cannot become an ETC unless it provides a regulated voice service, subject to certain conditions. Federal rules also specify that state utility commissions are responsible for assigning ETCs in their respective jurisdictions. In alignment with federal rules, California's Lifeline program also requires each provider to become an ETC to provide Lifeline services. In many cases, obtaining ETC designation in California can take more than a year even when a provider already offers regulated telephone service. Large ISPs may not offer any telephone services that match ETC requirements; as a result, many large ISPs have no pathway to participate in Lifeline – even if standalone broadband is an eligible service. If no mechanism enabling large ISPs to participate in the Lifeline program is established pursuant to this bill, the majority of eligible subscribers may not be able to apply Lifeline subsidies to their internet plans because there may not be an ISP in their communities that can participate in the Lifeline program.

While California can modify ETC requirements for the state Lifeline program, it cannot modify federal ETC requirements for the federal Lifeline subsidy. To the extent that non-ETCs become Lifeline providers, they can only draw the state subsidy of $19 and they are ineligible for the $9.25 federal subsidy. Those providers who are ETCs will be eligible to stack both subsidies. As a result, Lifeline subscribers that obtain broadband service from an ISP that is also an ETC may receive a larger discount on their monthly plan than those subscribers that are only served by non-ETC companies.

Bill grants the CPUC broad authority, but may not ensure necessary changes are made. This bill addresses the different regulatory frameworks between voice and internet services by granting the CPUC broad authority to apply certain requirements in the bill as it deems appropriate. As a result, this bill does not establish a clear framework for how broadband companies would become Lifeline providers, how enrollment processes may change, or what rules would apply to each type of Lifeline service. This bill also implies that the CPUC may establish different tiers of Lifeline service; however, it is unclear what those tiers would provide. For example, the CPUC could establish different cost tiers, different tiers of data plans, or different internet speed tiers. All these tiers may not be available through all providers and in all geographic locations of the state. A lack of clarity about program rules may disincentivize participation from providers, and a lack of guarantees about services and costs may discourage eligible households from subscribing.

Bill modifies multiple surcharges, enabling the CPUC to collect substantial new funds from telecommunications consumers. This bill modifies the basis for applying surcharges for all universal service programs, including the California Lifeline program. This bill also expands the basis for assessing PUCURA fees for both telecommunications providers and small utilities, regardless of sector. While the universal service funds are funded by a surcharge on telecommunications lines to support programs that help close gaps in universal service, PUCURA funds the CPUC's administrative costs. Historically, both the universal service funds and PUCURA have collected surcharges on telephone services based on in-state revenues; however, the ongoing rise in internet-based communications has resulted in lower consistent surcharge revenues and increasing surcharge rates for those customers who retain traditional telephone service. To reduce ongoing cost shifts and ensure lasting support for the universal service funds, the Legislature passed bills that updated the basis for assessing universal service funds in 2021. The CPUC updated its surcharges for the universal service funds pursuant to this legislation in April 2023. While the Legislature passed legislation adjusting surcharges for universal service programmatic needs, these bill did not adjust the PUCURA. This bill would delete existing law establishing the surcharge basis for telecommunications companies' PUCURA fees, expand the PUCURA surcharge to VoIP lines, and authorize the CPUC to establish its own method for calculating the amount of revenue it receives from PUCURA telecommunications charges. This bill would also delete existing law establishing this surcharge mechanism for the universal service funds and instead allow the CPUC to assess universal service fund surcharges based on CPUC discretion. While some universal service fund program have statutory caps on the amount of surcharge revenue that can be collected to fund the programs, other universal service funds do not have such caps.

The modification and expansion of these surcharges may have substantial impacts for telecommunications consumers since the potential costs of providing all the subsidies potentially authorized under this bill are unclear. The Governor's 2024-25 May Revise included approximately $377 million for Lifeline, which includes $30 million in state operations funding. If the nearly 3 million California households enrolled in the ACP became subscribers in the California Lifeline program, the CPUC would likely need at least $700 million annually to maintain existing state operations and provide sufficient subsidies. This amount would not include any reserve for unexpected costs and does not include any other surcharge increases related to other universal service programs or the PUCURA.

Need for amendments. As currently drafted, this bill contains numerous provisions that are unrelated and unnecessary to permit the use of the state Lifeline subsidy for broadband service. Additionally, while this bill seeks to add standalone broadband service to the Lifeline program, the bill removes existing statutory requirements for existing Lifeline services and rates and instead gives the CPUC to set program requirements at its discretion. Despite providing the CPUC with broad authority to establish broadband subsidies within Lifeline, the bill does not fully address those policy issues needed to ensure that broadband providers can or will participate in the program. *As a result, the author and committee may wish to amend this bill to delete the current text of the bill and instead require the CPUC to establish an expedited process by which an existing regulated telephone service provider that offers broadband services or has an affiliate that offers broadband services can become an ETC for the purposes of providing Lifeline services.*

Prior/Related Legislation

SB 4 (Gonzalez, Chapter 671, Statutes of 2021) and AB 14 (Aguiar-Curry, Chapter 658, Statutes of 2021) made various changes to update and extend the operation of the CASF to 2032, including updating the mechanism for collecting surcharges funding universal service programs to include VoIP lines.

SB 156 (Committee on Budget, Chapter 112, Statutes of 2021) implemented broadband infrastructure spending approved in the 2021 Budget Act. The bill established the Federal Funding Account within the CASF to fund broadband infrastructure projects using one-time funds. The bill made a number of changes to the CASF. The bill also required the CDT to oversee the construction of a state-owned, open access middle mile broadband network.

SB 394 (Hueso, Chapter 765, Statutes of 2021) modified the definition of a "household" for the purposes of the Lifeline program to conform California's definition to the definition adopted by the FCC for the federal Lifeline program.

SB 704 (Bradford, 2019) among other changes to Lifeline enrollment, the bill would have modified the definition of a "household" for the purposes of the Lifeline program. The bill also would have allowed the following persons to obtain a lifeline subscription without regard to the restriction on one subscription per household: (1) foster youth, (2) formerly incarcerated individuals, (3) members of a Native American tribe, (4) veterans, (5) individuals with limited hearing, (6) individuals with disabilities, or (7) a member of another vulnerable or disadvantaged group commonly presenting complex guardianship or household compositions that would benefit from inclusion in the lifeline program, as determined by the commission. The bill was vetoed.

AB 2570 (Quirk, Chapter 577, Statutes of 2016) required the CPUC to adopt a portability freeze rule for the Lifeline program by January 15, 2017. The bill required the CPUC to consider a 60-day freeze as part of its proceeding.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT:

California Association of Public Authorities for IHSS
California Emerging Technology Fund
California Human Development
Center for Employment Training
CFT- A Union of Educators & Classified Professionals, AFT, AFL-CIO
First Day Foundation
Inland Coalition for Immigrant Justice
La Cooperativa Campesina de California
Los Amigos de la Comunidad, Inc.
Proteus, Inc.
Saban Community Clinic

OPPOSITION:

California Broadband & Video Association
California Communications Association, unless amended
US Telecom-The Broadband Association

ARGUMENTS IN SUPPORT: According to the Author:

> Millions of Californians lack access to affordable, high-speed internet all across the state, with a particular impact to our disadvantaged communities. The digital divide exacerbates existing inequities for low-income Californians who increasingly need internet access for everything from education, school, banking, work, entertainment, social lives, and health & safety. As the ACP expired this year and with no additional funding in sight, millions more are at

risk – or have already – lost access. AB 1588 would help reduce the digital divide by expanding the CA lifeline program to include subsidies for standalone or bundled broadband. California must act to address the inequities that pervade through the digital divide.

ARGUMENTS IN OPPOSITION: The California Broadband and Video Association (CalBroadband) and US Telecom oppose this bill, stating that it will unnecessarily increase consumer costs while providing insufficient direction to the CPUC to create an effective broadband subsidy. In opposition, CalBroadband and US Telecom state:

> Expanding LifeLine to include broadband services could significantly increase the number of LifeLine customers and the Program's required budget, driving up surcharges needed to address those seeking a broadband benefit. It is not just raising the surcharge to incorporate any new potential participants that is concerning; AB 1588 also unfairly includes an open-ended proposition to allow the CPUC to increase the surcharges and fees on telephone customer bills to fund administrative costs that have no relation to the LifeLine program. Californians should not be forced to pay higher telephone bills to fund the CPUC.

The California Communications Association (CalCom) is opposed to this bill unless it is amended to more closely mirror federal broadband subsidy programs, address state requirements for ETC designations, and establish a pilot program to facilitate Lifeline support for broadband and telephone service for low-income customers of the small independent local exchange carriers (ILECs). CalCom states:

> AB 1588 should take a page from the ACP's playbook by minimizing barriers to ISP participation and allowing participation to be voluntary. The bill should not allow the CPUC to set rates for broadband service, i.e., it should not set an out-of-pocket maximum cost for LifeLine subscribers. Rather, AB 1588 should promote consumer choice and competitive neutrality by directing to the CPUC to allow LifeLine subscribers to choose to apply their state support amount to either wireline phone service, wireless phone service, or broadband service from the provider of their choice.
>
> Finally, we respectfully request that AB 1588 include a pilot program to establish an enhanced LifeLine support amount for the low-income customers of the small telephone companies that are rate-of-return regulated by the CPUC and their ISP affiliates. LifeLine discounts are particularly important in rural areas, where costs of service are higher, the customer base is smaller, and the service alternatives fewer.

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