

Date of Hearing: June 26, 2024

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Tasha Boerner, Chair

SB 424 (Durazo) – As Amended June 11, 2024

SENATE VOTE: 40-0

SUBJECT: Get Connected California Act of 2024

SUMMARY: This bill would require a broadband deployment grant awardee receiving funds from the California Advanced Services Fund (CASF) to offer home internet service costing no more than \$30 per month to eligible households, as defined, across the awardee's service territory as a condition of receiving the grant. Additionally, this bill sets specified goals for adoption of those plans and outreach requirements.

Specifically, **this bill:**

- 1) Establishes definition for relevant terms:
 - a. "Affordable home internet service" means internet service costing no more than \$30 per month and that meets minimum speed requirements.
 - b. "Minimum speed requirements" means at least 100 megabits per second downstream and 20 megabits per second upstream and sufficient speed and latency to support distance learning and telehealth services. Authorizes the California Public Utilities Commission (CPUC) to subsequently increase the minimum speed requirement to correspond with updated state or federal policies.
 - c. "Eligible household" means a resident in a group home or congregate care facility within the deployment grant awardee's California service territory participating in a qualified public assistance program, or a household within the deployment grant awardee's California service territory with at least one resident of the household participating in a qualified public assistance program.
 - d. "Overall goals for adoption" means that at least 90% of eligible households receive affordable home internet service by January 1, 2026 and at least 95% of eligible households receive affordable home internet service by January 1, 2029.
 - e. "Qualified public assistance programs" means the California Alternate Rates for Energy program, the National School Lunch Program, the State Supplementary Payment Program, the Temporary Assistance for Needy Families Program, CalFresh, Covered California, Medi-Cal, Supplemental Security Income, and financial aid for postsecondary education.
- 2) Requires the CPUC to ensure that all deployment grant awardees, as a condition of receiving a deployment grant, offer affordable home internet service to all eligible households in its service territory within 90 days of receiving funding.
- 3) Requires the CPUC to monitor the progress towards achieving the overall goals for adoption.

- 4) Requires that an eligible household shall be allowed to immediately convert to affordable home internet service during the month the household qualifies as an eligible household.
- 5) Requires a deployment grant awardee to establish a telephone number with trained personnel to sign up eligible households in no more than 30 minutes.
- 6) Requires a deployment grant awardee to advertise the availability of affordable home internet and the federal Affordable Connectivity Program in various specific manners, including in multiple languages, in print, and online. Requires the advertisements to be run until there is documented awareness of the availability of affordable home internet by at least 80% of all eligible households or 95% of all eligible households are connected.
- 7) Requires a deployment grant awardee to meet with the CPUC and the California Broadband Council in an open workshop with key stakeholders to confer on how to achieve the overall goals for adoption, among other things.
- 8) Imposes new reporting requirements on deployment grant awardees regarding the number of eligible households that signed up for affordable home internet service.
- 9) States that the provisions of this bill are severable.

EXISTING LAW:

- 1) Requires the California Public Utilities Commission (CPUC) to develop, implement, and administer the California Advanced Services Fund (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))
- 2) Provides that projects funded pursuant to the Federal Funding Account (FFA) of the CASF 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. This bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

- 1) *Problem statement.* Reputable studies have found that the affordability of broadband service is a persistent challenge, especially for low-income households, which leads to suppressed adoption of broadband service in those households. Federal and state policies have attempted to address this issue in various manners, most notably through the Affordable Connectivity Program (ACP). However, due to Congress' inaction to commit more funds to the program, the benefit has expired, leaving millions of California households without assistance to afford their broadband bills. This bill is an attempt to reduce the negative impact on California households and ensure ongoing affordable connectivity options for those households.

According to the author: "California needs a back-up plan to ensure affordable high-speed Internet access for all residents, a critical element of achieving Digital Equity. Over 5.8

million low-income households in California need affordable internet to improve their quality of life, public safety, and economic empowerment. California led the nation by enrolling nearly 3 million households in ACP, yet more than 2.8 million eligible households remain unenrolled, with many unaware of the program according to the 2023 Statewide Digital Equity Survey. This highlights the need for targeted advertising in multiple languages and cultures.” The author also comments that, “SB 424 ensures ISPs continue to offer affordable internet subscriptions for low-income households.”

- 2) *Californians struggling to afford broadband service are losing federal support.* Broadband affordability is an issue for many low-income California households. According to the Broadband for All Action Plan completed by the California Broadband Council in December of 2020, broadband affordability and adoption remains a large challenge to achieving broadband for all in the state. According to the report, 23% of California housing units—home to 8.4 million residents—do not have broadband subscriptions. To put that in context, broadband infrastructure is available to an upwards 95% of California households. According to *CETF-USC Statewide Broadband Adoption Survey* over two-thirds of respondents cited affordability as the reason they chose not to subscribe to broadband, with the lack of an appropriate computing device also being relevant factors.

In response to the COVID-19 pandemic and through the Bipartisan Infrastructure Investment and Jobs Act (IIJA), Congress established the Affordable Connectivity Program (ACP) in 2021. ACP helped ensure that households were able to afford the broadband they needed for work, school, healthcare and more. The ACP benefit provided a discount of up to \$30 per month toward internet service for eligible households and up to \$75 per month for households on qualifying Tribal lands. Eligible households could also receive a one-time discount of up to \$100 to purchase a laptop, desktop computer, or tablet from participating providers if they contributed more than \$10 and less than \$50 toward the purchase price. The Affordable Connectivity Program was limited to one monthly service discount and one device discount per household. Due to a lack of additional funding from Congress, the Affordable Connectivity Program has ended for now. Effective June 1, 2024, households will no longer receive an ACP discount.

In California, there were nearly 3 million households enrolled in the program across all the counties. While enrollment rates varied from county to county, the statewide figure represented about half of all eligible households. The county with the highest enrollment rate in California was Imperial County, with data showing that 100% of eligible households in that county were enrolled in the program. The success of the ACP demonstrates the need for affordable broadband options and the value of public assistance to ensure connectivity. Also, compared to the California Lifeline program, which only has about 1 million households enrolled, which represents about a third of eligible households, the ACP was clearly a more popular program. The expiration of the program will almost certainly result in California households losing connectivity, particularly those low-income households who were only able to afford the service because of the subsidy.

- 3) *California Advanced Services Fund Overview.* This bill would impose new requirements on entities (“grantees”) receiving awards from the California Advanced Services Fund (CASF), in order to ensure affordable plans are available in the marketplace. The CASF Broadband Infrastructure Grant Account (IGA) and the Federal Funding Account (FFA) both provide

grants to fund broadband infrastructure. However, the IGA and FFA are distinct funds with different funding sources, statutory requirements and program goals as summarized below.

The IGA, which existed since the inception of the CASF, is funded through state surcharges collected by the CPUC on telephone bills. Authorized use of IGA funds has its basis in existing state law. The goal of the IGA is to provide broadband access to 98% of households in each consortia region by December 31, 2032.

The FFA, on the other hand, is a newer account. 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 to fund grants for last-mile broadband infrastructure projects. Pursuant to state law under SB 156, the FFA must be spent corresponding with federal rules and requirements. For example, federal guidelines require the federal fund portions of FFA funds to be encumbered by December 31, 2024 and spent by December 31, 2026.

Both the FFA and IGA include some affordability provisions, but they are not consistent among the two programs. Additionally, the Broadband, Equity, Access and Deployment (BEAD) program, which is a last-mile broadband infrastructure program that will also be administered by the CPUC, will have its own requirements for low-cost offerings too. The table below summarizes the affordable or low-cost offerings for each program compared to the requirements proposed by this bill, which would impose this bill’s requirements on the FFA and IGA only.

	CASF IGA	CASF FFA	BEAD	SB 424
Affordable/Low-Cost Plan Required?	NO	YES	YES	YES
Price	\$15	\$40	\$30	\$30
Speed	Not specified.	50/20mbps	100/20mbps	100/20mbps
Eligibility	Low-income households.	All households.	All households.	Low-income households.
Plan availability	Project area only.	Project area only.	Project area only.	Entire service territory.

While the requirements for BEAD are subject to approval by the federal government, because BEAD is a federal program, both the FFA and IGA are state programs for which the grant requirements could be changed through legislation. Notably, neither program’s affordability requirements have their basis in statute, rather the CPUC exercised its administrative discretion, based on comments from stakeholders, to adopt program rules that included affordability requirements. If signed, this bill would be the first time broadband service plans of a specific price were required statutorily of the CASF program. Regarding speeds, the IGA statute specifically requires that eligible projects provide a minimum service speed of 100/20mbps.

- 4) *This committee has voted down similar provisions of this bill.* It has been clear to stakeholders and the public since at least 2023 that Congress would likely fail to appropriate additional funding to extend the life of the ACP program. In advance of the ACP expiring,

earlier this year this committee passed with amendments Assembly Bill 1588 by Assemblymember Wilson. That bill is still active and pending hearing in the Senate. As originally introduced, AB 1588 included provisions that were substantially similar to the provisions of this bill. For example, AB 1588 proposed to adopt a definition of affordable home internet that was also priced at \$30 per month, and also would have only been available to eligible households as similarly defined by this bill. AB 1588 also proposed to require an overall goal for adoption that is identical to this bill, plus outreach and coordination requirements that are similar to this bill. However, before passing the bill the committee adopted amendments that struck those ancillary parts of the bill, such as the outreach and coordination requirements, while retaining the core affordability requirements. Nonetheless, this bill proposes provisions that are substantially similar or identical to the provisions that were amended out of AB 1588 in this same committee.

Nonetheless, there are key differences between AB 1588 and this bill that are worth mentioning. For example, AB 1588 proposed to establish a new program called the Net Equality Program, which would have been under the administration of the California Department of Technology (CDT). This bill does not purport to establish a new program, but rather places new requirements on an existing program under the administration of the CPUC. Nonetheless, this bill still establishes enrollment goals for the affordable plan proposed by this bill and ties the outreach and coordination requirements to adoption of those affordable plans by low-income households. Thus, similar question must be raised: is the overall goal for adoption reasonable and is it reasonable to tie outreach and coordination to adoption of a single type of plan? The answer: arguably not, for a few reasons described below.

First and foremost, all consumers, even low-income consumers, ought to have a choice to choose the plan that best suits their needs. The advantage of the ACP, unlike the Lifeline program, is that consumers received a portable benefit that they could apply to the broadband service plan of their choosing. Under this bill, the goal would be to enroll eligible low-income households into a specific plan that is affordable but offers relatively low-speed. However, some low-income consumers may wish to buy purchase more expensive plans given the needs of their families or household. Secondly, this bill proposes to tie outreach and coordination activities to low-income households' enrollment or awareness of the affordable plan offering. Specifically, this bill sets a goal of 95% enrollment in affordable plans; ACP achieved about 50% enrollment of eligible households and lifelines hovers at around 30%. While almost nobody would disagree that targeted outreach is beneficial for reaching low-income and diverse communities, tying that outreach to a questionable and arguably unrealistic goal may lead to unintended consequences. Lastly, outreach to new customers is already inherently a part of the CASF programs. Given that areas that are awarded CASF grants previously had no internet service, the grantees that are awarded funds will already market their services to their potential new customers in their service territory. Given all these reasons, the committee may wish to consider striking the outreach and coordination requirements proposed by this bill.

- 5) *This bill may delay CASF-funded projects.* In response to the passage of several pieces of legislation during the 2021 legislative session, in April 2022 the CPUC adopted the most recent program requirements for the FFA and in November 2022 the CPUC did the same for the IGA. Following adoption of the updated CASF rules, about a year later the CPUC opened project application windows that ended on September 29, 2023 for the FFA, and June 1, 2023

for the IGA. Since then, the CPUC has slowly began awarding grants from each account. For example, the first FFA final awards and proposed awards totaling about \$105 million, or 5% of total funding, were announced only as of June 7, 2024; this is over two years after the program rules were initially adopted. Needless to say, the pace has been very slow, and this bill could potentially cause further delay.

In order to implement this bill, the CPUC would likely stop issuing grants while it took the necessary steps of updating the program rules to align with the provisions of this bill. While some may assert that the CPUC could simply enforce the provisions of this bill without going through the process of updating new program rules, procedurally that is not how the CPUC implements bills. Therefore, there is a legitimate risk that this bill as currently drafted may cause delay. In order to address the issues with possible delays, the committee may wish to amend this bill provided that the requirements of this bill shall not be applied to applications submitted prior to the effective date of this section. Further, given that the CPUC representatives have communicated publicly on multiple occasions that the agency is ready to begin awarding grants, the committee may also wish to amend this bill to require the CPUC to propose project funding totaling \$1 billion dollars for both accounts. This figure represents about half of the total funding available in the FFA alone, and the committee has confirmed with the Assembly Budget Committee and Legislative Analyst Office that there are sufficient funds for the CPUC to meet the obligation if this bill should be signed.

- 6) *Aligning the rules for the FFA and IGA is reasonable, but this bill could go further.* As was summarized in the table above, the IGA, FFA, and BEAD all have different requirements for applications, including the service affordability requirements. This bill proposes to impose uniform affordability requirements on the FFA and IGA, but not BEAD given that it is a federal program with requirements that must be aligned with and approved by the federal government. Nonetheless, given that the functions of the FFA, IGA, and also BEAD are essentially the same, it is reasonable that the different accounts should have the same, or substantially similar, requirements as this bill proposes to do.

However, affordability requirements are only one aspect of the IGA and FFA application requirements. Other provisions such as eligible areas, eligible technology types, and matching fund requirements also are different among the different programs. In order to align other aspects of the programs as well, the committee may also wish to amend this bill to require the CPUC to in the future conform the rules for the FFA and IGA to the extent that doing so would not prohibit state or federal law.

- 7) *Committee amendments.* The committee may wish to consider the following amendments:
 - a. Revise terminology from “affordable home internet service” to “low-cost broadband service option” to align with existing terminology used by the CPUC.
 - b. Revise requirement to provide affordable home internet service in the entire service territory to qualified households, and instead require low-cost broadband service option in the project area only. Accordingly, the definitions of eligible household and qualified public assistance program would also be deleted as they would be inoperable.
 - c. Establish the date of January 1, 2026, as the date by which the CPUC must ensure deployment grate awardees must comply with the provisions of this bill, and clarify

- that the requirements shall not be applied to applications submitted to the CPUC before the effective date of this section.
- d. Strike various sections of this bill that were previously amended out of AB 1588, including the overall goal for adoption, requirements for the CPUC to monitor the progress towards achieving the goal, the requirement for the CPUC to post specified information on its internet website, and the various outreach, coordination, and reporting activities imposed on deployment grant awardees.
 - e. Clarify language that authorizes a household to immediately convert to a low-cost broadband service option, specifying that the timeline is following the next month's billing cycle from the time of enrollment.
 - f. Add provisions require the CPUC to issue proposed decisions of awards totaling at least \$1,000,000,000 in project funding from the FFA and IGA by January 1, 2025.
 - g. Add provisions requiring the CPUC, by January 1, 2027, to adopt updated rules for the FFA and IGA to bring the program requirements into conformity to extent it is not prohibited by state or federal law.

8) *Similar/related legislation.*

- a. AB 1588 (Wilson) of this legislative session.
- b. AB 662 (Boerner) would have require the CPUC to strictly follow federal guidelines established by the National Telecommunications and Information Administration (NTIA) for use of federal Broadband Equity, Access, and Deployment (BEAD) Program funds. The bill was held in Senate Appropriations Committee.
- c. AB 2749 (Quirk-Silva) would have require the CPUC to review California Advanced Services Fund (CASF) FFA grant applications within 120 days, and provides that applications are deemed approved if the commission does not deny the application or meet the 120 day deadline. The bill also expressly authorized the CPUC to adopt affordability requirements. The bill was vetoed by the Governor.
- d. AB 2751 (E. Garcia) of the 2022 legislative session would have required the California Department of Technology to establish a program that required internet service providers doing business in California to offer affordable home internet as defined. That bill failed passage in the Senate Governmental Organization Committee.
- e. 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 Emerging Technology Fund

Opposition

Calbroadband

Calcom Association

CTIA

United States Telecom Association Dba Ustelecom - the Broadband Association

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