

Date of Hearing: April 15, 2026

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Tasha Boerner, Chair

AB 2289 (Boerner) – As Amended April 9, 2026

SUBJECT: Public utilities: Public Utilities Commission: telecommunications: broadband internet access service

SUMMARY: This bill would establish Office of Broadband and Digital Equity (OBDE) within the Government Operations Agency (GovOps) and transfer the responsibility for several existing broadband and telecommunications programs, currently administered by the California Public Utilities Commission (CPUC) or the California Department of Technology (CDT), to the OBDE. This bill would also revise the definition of telephone line, prohibit the CPUC from regulating broadband service, and make various other conforming changes to existing law. Finally, this bill requires the Governor to consider certain diversity factors when making appointments to the CPUC and codifies provisions of the Constitution related to a commissioner's authority. Specifically, **this bill:**

- 1) Establishes the Office of Broadband and Digital Equity ("Office" or "OBDE") in the Government Operations Agency (GovOps) for the purpose of promoting ubiquitous and universal broadband deployment in unserved and underserved areas of the state and to increase broadband adoption throughout the state for the benefit of all Californians.
- 2) Provides that on and after July 1, 2028, the Office is the centralized state department for broadband and digital equity activities within the state and, notwithstanding any other law, is the only state agency authorized to establish rules or regulations for broadband internet access service and internet service providers.
- 3) Prohibits the CPUC from regulating the rates, terms, conditions, characteristics, entry, or exit of broadband internet access service; and establishes that a provider of broadband internet access service is not a public utility within the meaning of the California Constitution.
- 4) Revises the definition of "telephone line" to add the term "voice", to specify that a telephone line is used to facilitate "voice communication by telephone", instead of "communication by telephone".
- 5) Establishes the Broadband and Digital Equity Commission ("Commission") to advise and assist the Office, the agency, and the Legislature in formulating and evaluating state policies and plans for broadband and digital equity programs in the state.
- 6) Establishes that the Commission shall consist of 11 voting members and 2 ex officio members with 7 members appointed by the Governor with the advice and consent of the Senate, two appointed by the Speaker of the Assembly, two appointed by the Senate Committee on Rules, and two ex officio members appointed by the Speaker of the Assembly and Senate Committee on Rules.
- 7) Authorizes the Commission to appoint an Executive Director for the Department, who shall serve at the pleasure of the Commission.

- 8) Authorizes the Commission to form committees. Provides that on July 1, 2028 the members of the California Broadband Council shall collectively become a committee under the administration of the commission.
- 9) Requires, beginning July 1, 2029, the Department to report to the Legislature on the activities of the Office and actions taken by the commission.
- 10) Makes inoperable, and separately recasts, provisions of existing law related to existing broadband and digital equity programs, to specify the Office as the responsible entity as of July 1, 2028 and repealing previous statutes as of January 1, 2029, including the following programs:
 - a. The California Advanced Services Fund, currently administered by the CPUC.
 - b. The California Teleconnect Fund, currently administered by the CPUC.
 - c. The Deaf and Disabled Telecommunications Program, administered by the CPUC.
 - d. The Digital Infrastructure and Video Competition Act, administered by the CPUC.
 - e. The Loan Loss Reserve Fund program, administered by the CPUC.
 - f. The Middle Mile Broadband Initiative, currently administered by the California Department of Technology.
 - g. Broadband mapping requirements, currently administered by the CPUC.
 - h. Various other sections related to or reference the programs above, and related considerations.
- 11) Requires the Governor, in making appointments to the CPUC, to consider specified diversity factors including geographic diversity, gender, professional experience in energy, telecommunications, transportation, and community and labor activism.
- 12) Authorizes the CPUC, subject to statute and due process, to establish its own procedures. Additionally, authorizes a commissioner as designated by the commission may hold a hearing or investigation or issue an order subject to commission approval.
 - a. Specifies that this this section shall only become operative if Assembly Constitutional Amendment 9 of the 2025–26 Regular Session is approved by the voters, becomes operative, and repeals Section 2 of Article XII of the California Constitution.

EXISTING LAW:

- 1) Establishes the California Public Utilities Commission (CPUC) and vests the agency with regulatory authority over public utilities, including telephone corporations. (Article 12 of the California Constitution)
- 2) Establishes the Public Utilities Act. (Public Utilities Code §201 et. seq.)
- 3) Defines a “public utility” to include every common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph

corporation, water corporation, sewer system corporation, and heat corporation, where the service is performed for, or the commodity is delivered to, the public or any portion thereof. (Public Utilities Code §216)

- 4) Defines a “telephone corporation” to include every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state. (Public Utilities Code § 234)
- 5) Defines a “telephone line” to include all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telephone, whether such communication is had with or without the use of transmission wires. (Public Utilities Code §233)
- 6) Declares the finding of the Legislature that the public interest is best served by a CPUC that is appropriately funded and staffed, that can thoroughly examine the issues before it, and that can take timely and well-considered action on matters before it. Additionally, funding the commission by means of a reasonable fee imposed upon regulated entities helps to achieve those goals and is, therefore, in the public interest. (Public Utilities Code § 401-410)
- 7) Requires all charges demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. (PU Code §451)
- 8) Authorizes the commission to supervise and regulate every public utility in the State and may do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction. (PU Code §701)
- 9) Requires the CPUC to require telephone corporations to provide customer service to telecommunication customers that includes, but is not limited to, all the following (Public Utilities Code § 2896):
 - a. Sufficient information upon which to make informed choices among telecommunications services and providers.
 - b. Reasonable statewide service quality standards, including, but not limited to, standards regarding network technical quality, customer service, installation, repair, and billing.
 - c. Information concerning the regulatory process and how customers can participate in that process, including the process of resolving complaints.
- 10) Establishes the Video Infrastructure and Video Competition Act of 2006 (DIVCA), establishing the CPUC as the sole franchising authority in the state, and establishes the finding of the legislature that increasing competition for video and broadband services is a matter of statewide concern. (Public Utilities Code § 5800 et. seq.)
- 11) Requires the CPUC to adopt customer service requirements for a holder of a state franchise and adjudicate any customer complaints. (Public Utilities Code § 5800 et. seq.)

- 12) Requires the 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)
- 13) Establishes the Office of Broadband and Digital Literacy (OBDL) within the Department of Technology (CDT) to oversee the acquisition and management of contracts for the development and construction of a statewide open-access middle-mile broadband network, colloquially known as the middle-mile broadband initiative (MMBI). (Government Code § 11549.50)
- 14) Requires CDT to establish the Middle-Mile Advisory Committee (MMAC) to monitor the construction and establishment of the MMBI. (Government Code § 11549.58)
- 15) Establishes the California Broadband Council (CBC) in state government for the purpose of promoting broadband deployment in unserved and underserved areas of the state, as defined by the Public Utilities Commission, and broadband adoption throughout the state for the benefit of all Californians. (Government Code § 8885)
- 16) Establishes internet neutrality requirements for internet service providers (ISPs) providing broadband internet access service to customers in California. The requirements prohibit ISPs from taking certain actions that interfere with consumers' ability to lawfully access internet content. (Civil Code § 3100 et. seq.)

FISCAL EFFECT: Unknown. This bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

- 1) *Author's statement.* "Broadband policy in California is a complicated web of different policies and programs split between two agencies that are not meeting consumer needs and leaves broadband providers with different levels of regulatory oversight. The Office of Broadband and Digital Equity will bring ALL of the state's broadband initiatives – infrastructure grant making, consumer protection, and digital equity - under one structure of governance to achieve better outcomes for consumers. This bill will also work in tandem with my ACA 9 to reform, redirect and refocus the CPUC on the pressing issues Californians care about like energy affordability, meeting our climate goals, and safer utilities."
- 2) *This bill would enact structural reforms.* At a high-level this bill would enact a structural reorganization to the state's existing regulatory and administrative scheme for telecommunications and broadband programs, which currently rest primarily under the California Public Utilities Commission (CPUC) and to a lesser degree the California Department of Technology (CDT). This bill accomplishes this lofty objective in several distinct, but interconnected, ways.

First, as of July 1, 2028 this bill establishes a new state entity, the Office of Broadband and Digital Equity (OBDE), to be overseen by a Broadband and Digital Equity Commission (Commission). This bill provides that the OBDE would be the centralized state entity for broadband and digital equity activities within the state and the state entity with jurisdiction to establish rules or regulations for broadband internet access service and internet service

providers. This bill would vest the OBDE with responsibility to administer several existing broadband programs and initiatives. Among those programs that would be reassigned to OBDE are last-mile and middle-mile broadband infrastructure programs, the Deaf and Disabled Telecommunications Program, the California Teleconnect Fund, and cable franchising powers under the Digital Infrastructure and Video Competition Act. The California Lifeline program, the High-Cost Fund programs, and regulation of voice communications would remain at the CPUC. In accordance with the reassignment of those statutes and programs, this bill would make inoperable and repeal existing law related the CPUC and CDT's role and responsibilities in the administration of the programs being moved.

Under this bill, the CPUC would continue to exist and have a more limited purview of regulatory authority and responsibility related to telephone corporations and voice communications. Accordingly, the second bucket of changes this bill proposes are reforms to the CPUC itself. This bill attempts to narrow the scope of the CPUC's regulatory authority to voice communications and telephone corporations by revising the definition of "telephone line". Accordingly, this bill also expressly prohibits the CPUC from regulating broadband service. Related to CPUC commissioners and their authority, this bill would impose new requirements on the Governor when making appointments for CPUC commissioners. This bill also recasts provisions of the Constitution into the Public Utilities Code, which would otherwise be repealed pursuant to Assembly Constitutional Amendment 9. By including those provisions in this bill while repealing them in ACA 9, this bill would have the effect of retaining those specific provisions as state law but instead return the power to the Legislature to make future revisions through subsequent legislation.

The last group of policy changes included within this bill are conforming changes to various provisions of existing law to reflect the existence of the OBDE, instead of CPUC or CDT.

- 3) *What problem is this bill addressing?* The rationale for this bill rests on a belief that the current structure for administering the state's broadband and telecommunications programs, which primarily rests under the supervision of the CPUC but is shared with CDT, has room for improvement. Those challenges, in this view, are significant enough to justify structural changes at the CPUC and the creation of a separate government entity specifically focused on broadband and digital equity policy. The author also implies that this bill would have indirect benefits to other, more pressing problems, such as reducing energy costs through better oversight of power utilities and stronger oversight of utility infrastructure. While these are big claims, and big changes always raise big questions, there is evidence to support the author's position.

The program implementation challenges in this space are apparent and well documented. For example, over the last five years this committee has conducted close oversight of the implementation of the state's very ambitious last-mile and middle-mile broadband infrastructure programs under SB 156. In that time, this committee has seen firsthand the challenges those programs have faced such as with mapping, timelines, and transparency. Under SB 156, administration of the state's last-mile and middle-mile broadband programs was bifurcated between the CPUC and CDT. The CPUC remained responsible for last-mile programs such as the California Advanced Services Fund, while CDT was assigned duties for development of the state's open-access middle-mile broadband network. While there were always concerns about interagency coordination, the two initiatives were meant to work in

conjunction to provide greater access to high-speed broadband across the state, and especially in unserved and underserved areas. However, the state has not yet realized the objectives for those programs as they have been significantly delayed along the way, which will be discussed in the next section.

- 4) *Administration of Last-Mile Broadband Programs.* To date the CPUC has awarded over \$1 billion dollars in last-mile broadband grants for projects spanning 52 counties across California, which is a big accomplishment worthy of recognition. However, the first grants were not awarded until June 2024, over two years after the program rules were adopted in April 2022. In that period, this committee had sent several letters to the CPUC about the delay in opening the first grant round and also the delay in awarding the first grants. Prior, when the program rules were adopted, the CPUC acted unilaterally to adopt rules that completely excluded support for wireless projects. That policy decision significantly raised the cost to connect households under the program, and in turn will result in less households becoming connected to high-speed internet. The critical view is the CPUC's efforts have taken more time and will connect less households than the Legislature intended when it passed SB 156. As for other last-mile programs, the CPUC was also delayed several years in implementing the Loan-Loss Reserve Fund program. Ultimately, the only entity awarded funds under the program, the Golden State Connect Authority, was communicating openly earlier this year that they would be unable to utilize the funds because of administrative challenges with rules proposed by the CPUC.

As for implementation of the middle-mile broadband initiative, CDT recently announced delivery of the first segment of the 8,100 mile network. The 423 miles segment called "Digital 395" was a previously built middle-mile network segment that the state acquired through a purchase. As for the remaining chunk of miles, about 42% of fiber installation has been completed and about 2,000 miles that are stuck in permitting. The CDT has already announced that the project will not meet the initial December 31, 2026 deadline. In turn, this has impacted the ability of last-mile funded projects to connect to the state's middle-mile. In summary, the challenges that have faced the state's broadband programs are numerous.

- 5) *A structural solution to structural challenges.* On one hand, criticisms about the timeliness and effectiveness of government programs is unfortunately commonplace. Under that view, the issues facing the state's implementation of its broadband programs may appear, to some, rather unremarkable or unworthy of a significant amount of attention, especially compared to other challenges constituents bring up the most. On the other hand, this bill pushes a comprehensive set of policy challenges intended to shake up the structure of the state's broadband programs. A central belief that the author has articulated in the past during oversight hearings, is that the state's administrative capacity for addressing broadband policy challenges is limited and unfocused because of the structure of the CPUC itself and the splitting with CDT. Under the Constitution, the CPUC itself is limited to five commissioners who must spread their limited attention to very pressing matters like energy affordability and utility safety. In fact, part of the rationale for splitting the middle-mile program to CDT when SB 156 passed is because there were doubts about the CPUC's administrative capacity even then. Towards creating more capacity at the commissioner level, the author has separately proposed a constitutional amendment to expand the numbers of commissioners at the CPUC and open the door to full restructuring telephone regulation as well. It is conceivable that the state's broadband programs could benefit from a more focused management structure and a

simpler administrative process outside of the CPUC. The rationale to support a structural solution seems apparent given this committee's recent experience.

For example, in the recent past this committee has had challenges with confirming the participation of CPUC commissioners in this committee's work. In response, this committee worked collaboratively to pass legislation that required the CPUC to submit more granular data to the Legislature about CPUC Commissioner's attendance at their own hearings and meetings. The recent data suggests mixed results regarding commissioner attendance. Based on the data in the report, the commissioners appear to have nearly perfect attendance for voting meetings, but as for every other type of public meeting their rates of attendance are highly variable. For evidentiary hearings, 2 of the 5 commissioners attended only one hearing each the entire year. The others did not attend at all. For public participation hearings, the most active commissioners attended more than 10 each and the least active attended only 1 each. For workshops, the most active commissioner attended 35 and the least active attended 5. The commissioners themselves are clearly quite busy, but the data suggests they are stretched thin and may benefit from a more focused breadth of issues under their jurisdiction.

The CPUC's complex and highly formalized process also creates a barrier to robust public participation. To address this problem, the Legislature established an intervenor compensation program intended to help community-based and consumer organizations navigate the process. Unfortunately, that program has its own barriers too. According to a recent report¹ from the National Association of Regulatory Utility Commissioners on the program:

“In a recent telecommunications case [before the CPUC] about phone rates for incarcerated individuals, some prison and family advocate groups provided value and expertise on the subject that other groups, like TURN, do not have; however, these groups do not have the specific language in their bylaws required to be eligible for intervenor compensation....In TURN's opinion, the price of admission for new entrants is enormous and virtually prohibitive.”

While some may take the report's findings as a rationale to reform the program itself, this bill posits that it's the process and structure itself that is in need of reform.

Under the Constitution, the CPUC has the authority to establish its own procedures which it has utilized to create its archaic procedures that were established independent of other state agencies. In response to instances of potential corruption and improper relationships between the CPUC and regulated entities, the Legislature has also imposed ex-parte rules on the CPUC's processes. While those rules do help protect the process for improper influence by parties, especially for rate-regulated entities, they also apply to non-rate regulated entities like the telecommunications providers. In turn, these entities, and the public, have less access to commissioners in related proceedings. It raises the question then whether another process that still serves the public interest is possible. For example, most other regulatory agencies in California follow the Administrative Procedures Act. The Administrative Procedure Act (APA) establishes rulemaking procedures and standards that are significantly different, and

¹ National Association of Regulatory Utility Commissioners. December 2021. “State Approaches to Intervenor Compensation”. <https://pubs.naruc.org/pub/B0D6B1D8-1866-DAAC-99FB-0923FA35ED1E>

yet sufficient, to accomplish the state's public policy objectives. To the extent that the state's broadband programs remain under the CPUC, it is their procedures that will continue to be followed. This bill proposes a different reality that could open the door to more robust public participation in the state's broadband programs.

- 6) *How will the new agency be funded?* This bill does not propose a mechanism to fund the operations of the Office of Broadband and Digital Equity, nor the Broadband and Digital Equity Commission. While this bill has not been analyzed by a fiscal committee, previous bills with similar provisions were estimated to cost millions. This raises an important question of how the agency would be funded. Very often, regulatory and administrative agencies in state government are funded through program fees or surcharges assessed to regulated entities. For example, existing law authorizes the CPUC to impose a reasonable surcharge on regulated entities to fund its operations. The fee is paid by all regulated entities, including telephone corporations and regulated entities providing other telecommunications services. It is conceivable that the OBDE could be funded by a similar mechanism, but there are notable challenges. First, federal law under the Internet Tax and Freedom Act generally prohibits state governments from assessing taxes on internet access. Therefore, it is possible that the state would be preempted from assessing a charge to fund the OBDE similarly to how the CPUC and its programs are funded. The second challenge is that some entities, specifically telephone corporations that also are broadband providers (which almost all are), would still be required to pay the CPUC fees even while some programs they participate in move over the OBDE. Moving forward, this bill would certainly benefit from more detail around the funding mechanism.
- 7) *What happens to the CPUC's existing proceedings?* The CPUC is currently involved in rulemaking proceedings that will impact the telecommunications industry broadly. For example, in one proceeding the CPUC is considering imposing service quality regulations on wireless voice telecommunications services and on broadband services. In another, the CPUC is considering updating telecommunications resiliency rules by examining existing telecommunications emergency preparedness and network resiliency regulations. Under this bill, the CPUC would retain jurisdiction over voice communications and telephone corporations, as that authority is vested in the Constitution. However, this bill would limit the CPUC's authority over broadband and non-voice telecommunications services. In practice though, voice communication services and broadband services are almost always provided over literally the same physical infrastructure. So, while legislation can create an important legal distinction between two types of services, it cannot split the physical wire (and wireless) connections customers rely on to access their voice or broadband services. This would seem to create a challenge for this bill's effective implementation. The Utility Reform Network writes in its letter of opposition that establishing split authority over [voice and broadband] services provided over the same infrastructure would likely create confusion. Nonetheless, this problem may be addressed in future legislation should ACA 9 pass. Under ACA 9, the Legislature would retain the authority to reorganize all telecommunications regulation into the OBDE. However, without a constitutional amendment, the CPUC will always retain its authority over telephone corporations, and therefore splitting broadband from telephone regulation could possibly create challenges of its own.
- 8) *There is precedent for legislation that consolidates or moves government functions into new or different agencies.* The California Constitution provides that authority may be granted, by statute, to the Governor to assign and reorganize functions among executive officers and

agencies and their employees. Pursuant to Government Code Section 12080 et. seq. the Governor was delegated some specific authorities and procedures to reorganize state agencies. Nonetheless, the Legislature still retains the authority, through legislation, to transfer, abolish, consolidate, and coordinate the powers of state agencies. There is recent and historical precedent for the Legislature exercising such powers. For example, SB 156 created the Office of Broadband and Digital Literacy within the Department of Technology. AB 111 (Committee on Budget, 2019) created the Office of Energy Infrastructure Safety within the Natural Resources Agency, which transferred some existing work related to utility wildfire mitigation plans from the California Public Utilities Commission (CPUC). There was also legislation passed in 1975, the Warren-Alquist Act, that established the California Energy Commission (CEC). Similarly, this bill proposes to establish a new office within state government that would consolidate some existing functions into one agency. According to the author, this would create efficiencies and better administration of the state's programs.

- 9) *Comparing the Broadband and Digital Equity Commission to the CPUC.* This bill would establish the Broadband and Digital Equity Commission to advise and assist the OBDE and the Legislature in formulating and evaluating state policies and plans for broadband and digital equity programs in the state. The Commission would consist of 11 voting members and 2 ex officio non-voting members. Among the 11 voting members, 7 would be appointed by the Governor and 2 each by each house of the Legislature. Of the 7 members appointed by the Governor, certain positions would be reserved for members with particular characteristics like being a member of a California Native American tribe, having a background in labor advocacy, having a background in consumer advocacy, and also spots for industry representatives.

This Commission would be significantly different from the CPUC, most importantly because it consists of more members with specialized experience. One criticism of the CPUC is that with only five commissioners, there is less space for a diverse range of experiences and in recent past most commissioners appointed to the CPUC have primarily had energy policy backgrounds. Notably, this bill also includes provisions that would require the Governor to consider diversity factors when making appointments to the CPUC. If this bill is implemented in tandem with ACA 9, which would also increase the size of the CPUC from 5 to 9 members, it would open the door to more diverse representation on the CPUC too. However, even without ACA 9, this bill would still ensure diverse and direct involvement with a range of appointees within the OBDE.

10) *Similar/related legislation.*

- a. ACA 9 (Boerner) of this session would increase the size of the CPUC from 5 to 9 members, remove telephone and telegraph corporations from being designated as a public utility under the Constitution, and repeal provisions of the Constitution related to the CPUC's authority. The bill is pending a hearing.
- b. AB 1532 (Committee on Communications & Conveyance, Statutes of 2025) revised the CPUC's reporting requirement on commissioner attendance at hearings and public meetings, to require more granular information.
- c. AB 693 (Boerner) of 2024 would be substantially similar to this bill, and would have established the Department of Broadband and Digital Equity and moved various

broadband programs to its administration. The bill was held in Assembly Appropriations.

- d. SB 156 (Committee on Budget and Fiscal Review, Statutes of 2021) established the statutory framework to implement the broadband provisions contained in the 2021 Budget Package. Included in this legislation was the establishment of the Federal Funding Account (FFA) of the California Advanced Services Fund (CASF) and the Middle-Mile Broadband Initiative (MMBI).
- e. AB 111 (Committee on Budget, Statutes of 2019) created the Office of Energy Infrastructure Safety within the Natural Resources Agency, which transferred some existing work related to utility wildfire mitigation plans from the California Public Utilities Commission (CPUC).
- f. ACA 11 (Gatto) of 2016 would have authorized the Legislature to reallocate or reassign all or a portion of the functions of the CPUC to other state agencies, departments, boards, or other entities, consistent with specified purposes. The measure would direct the Legislature to adopt appropriate structures to provide greater accountability for the public utilities of the state and provide the necessary guidance to the commission to focus its regulatory efforts on safety, reliability, and ratesetting and to implement statutorily authorized programs for reducing emissions of greenhouse gases.

REGISTERED SUPPORT / OPPOSITION:**Support**

None on file.

Opposition

Communication Workers of America
The Utility Reform Network (TURN)

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