

Date of Hearing: April 14, 2021

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE
Miguel Santiago, Chair
AB 14 (Aguiar-Curry) – As Introduced December 7, 2020

SUBJECT: Communications: broadband services: California Advanced Services Fund

SUMMARY: Extends the California Advanced Services Fund (CASF) and makes various modifications to the program, including increasing the minimum speed of broadband infrastructure deployed by the CASF and proposing a new funding stream. Specifically, **this bill:**

- 1) Continues funding of the CASF beyond 2022, in perpetuity, with a surcharge not to exceed an unspecified percentage of an end user's intrastate telecommunications service costs;
- 2) Modifies broadband project eligibility to infrastructure capable of providing broadband access at speeds of at least 25 megabits per second (Mbps) downstream and 25 Mbps upstream with a goal of 100 Mbps downstream;
- 3) Directs the California Public Utilities Commission (CPUC) to prioritize specified broadband infrastructure grants to projects in unserved and high poverty areas ahead of projects in underserved and higher income areas;
- 4) Precludes the funding of middle-mile infrastructure until no less than 98% of households in each consortia have broadband access;
- 5) Specifies that tribal governments, special districts and joint powers authorities are eligible for grants;
- 6) Expands the costs eligible to be covered by a grant to include deployment to anchor institutions in the area under specified conditions;
- 7) Requires the CPUC to make a finding that an existing facility-based broadband provider is unwilling or unable to deploy broadband through the project area before funding a grant;
- 8) Creates a sixth account, the Broadband Bond Financing and Securitization account, to facilitate the use of bond funds paid for by future surcharge collections to enable earlier funding of broadband projects;
- 9) Eliminates specific, capped allocations to each broadband account requiring the Legislature to appropriate funding to each account through the annual state budget;
- 10) Authorizes a local education agency (LEA) to report its pupils' computing and Internet needs for distance learning to the California Department of Education (CDE). CDE must compile LEAs reported computer and Internet needs and annually post this information on CDE's website; and

- 11) Requires the Governor's Office of Business and Economic Development (GO-Biz) to work with stakeholders to develop recommendations and a model for streamlined local land use approval and permitting for broadband infrastructure deployment by June 30, 2021. GO-Biz must post this information on its website, update the recommendations and model, and provide technical assistance to local governments that adopt the model and recommendations.

EXISTING LAW:

- 1) Requires the CPUC to administer the CASF program to deploy high-quality, advanced communications services and specifies that the goal of the CASF program is to approve funding no later than December 31, 2022, for infrastructure projects that will provide broadband access to no less than 98 percent of California households in each broadband consortia region in the state. (Public Utilities Code § 281)
- 2) Defines an "unserved household" for the purposes of the CASF as a household for which no facility-based broadband provider offers broadband service at speeds of at least six megabits per second (Mbps) downstream and one Mbps upstream. (Public Utilities Code § 281(b)(1)(B))
- 3) Requires the CPUC take certain steps when prioritizing CASF grants, including approve projects to provide broadband to households that are unserved, give preference to areas where internet service is completely unavailable or only available only through dial-up and meet certain service goals before allocating any remaining infrastructure funds for underserved households. (Public Utilities Code §281(b)(2))
- 4) Gives incumbent facilities-based broadband provider 180 days to demonstrate that it intends to install or upgrade infrastructure to expand access to an area proposed for CASF project funding. (Public Utilities Code § 281(f)(4))
- 5) Authorizes the CPUC to collect a surcharge on consumers' telecommunications bill to fund the CASF. Under existing law, the CPUC may collect a total of \$330 million. Between January 1, 2018, and December 31, 2022, the CPUC may not collect more than \$66 million in surcharges annually unless it determines that doing so would not result in an increase in the total amount of surcharges collected that year. CASF monies will be available upon appropriation of the Legislature. (Public Utilities Code § 281(d-e))
- 6) Specifies the criteria a project must meet to obtain funds from the CASF's Broadband Infrastructure Grant Account, including, but not limited to, establishing a minimum speed requirement of 10 Mbps downstream and one Mbps upstream for service provided by CASF-funded infrastructure. (Public Utilities Code § 281(f)(11))
- 7) Establishes various deadlines for the CASF program, including, but not limited to, deadlines for annual stakeholder meetings and audit reports regarding the performance of the program. (Public Utilities Code §§ 281 and 914.7)

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

BACKGROUND:

The Digital Divide – The CPUC provides the following data for the availability of broadband to California households:

Speed Benchmarks (Mbps)	Percentage of Total Households with Broadband Availability			Unserviced Households				
				Number of Unserviced Households			Percentage of Unserviced Households	
	Urban	Rural	Statewide	Urban	Rural	Statewide	Urban	Rural
>=6/1	98.0%	82.7%	97.2%	252,604	119,143	371, 747	2.0%	17.3%
>=25/3	97.8%	73.8%	96.5%	281,507	180,922	462,4 29	2.2%	26.2%
>=100 down	97.5%	48.7%	94.9%	320,504	354,226	674,7 30	2.5%	51.3%

*California Broadband Action Plan*¹ – Developed by the Broadband Council, the Plan was released in December and prepared in response to an executive order from the Governor. The foundation of the plan is that broadband is essential to economic and workforce development, public safety, education, and an engaged public. The Broadband Council solicited extensive engagement and input from state and local agencies, state legislative leaders, tribal nations, broadband industry leaders, nonprofits, and members of the public. The Plan sets establishes three long-term goals:

- Goal 1: All Californians have high-performance broadband available at home, schools, libraries, and businesses;
- Goal 2: All Californians have access to affordable broadband and necessary devices; and
- Goal 3: All Californians can access training and support to enable digital inclusion.

The Plan identified five roadblocks preventing Californians from accessing or adopting broadband:

- 1) Availability (speed and reliability):
 - a. The need for high-performance broadband continues to increase;
 - b. Rural, tribal and some urban communities lack high-performance broadband, network resiliency, and redundancy;
 - c. Delivering Gigabit Service to unserved and underserved Californians will require at least \$6.8 billion in new private, federal, and state investments;
- 2) Affordability – the service cost is just one component; there are also taxes, surcharges, rental charges for modems and routers, and the cost of devices used for getting online such as laptops and tablets;
- 3) Devices – As we focus on creating digital equity, we must look at not only what is available and affordable, but also how Californians access the internet. In 2019, only 82 percent of California households had a desktop or laptop at home;
- 4) Digital Skills – it requires more than a device to access affordable, available broadband. It also requires digital skills; and
- 5) Data about costs, gaps, speeds, and access to broadband in California is disparate and subjective.

¹ Available at: <https://broadbandcouncil.ca.gov/wp-content/uploads/sites/68/2020/12/BB4All-Action-Plan-Final.pdf>

CASF – The CASF is a universal service program created by the CPUC and statutorily established by the Legislature through SB 1193 (Padilla) Chapter 393, Statutes of 2008, to encourage the deployment of broadband services in unserved areas of the state. The program has seen several major revisions and have received additional funding since its inception, including in SB 1040 (Padilla) Chapter 317, Statutes of 2010; AB 1299 (Bradford) Chapter 507, Statutes of 2013; SB 740 (Padilla) Chapter 522, Statutes of 2013; and most recently in AB 1665 (E. Garcia) Chapter 851, Statutes of 2017. Since its inception \$645 million has been authorized for CASF.

The CASF is funded through a surcharge collected on all telecommunication end-users. As of February 2019, the CASF surcharge rate was set at 0.56 percent. CASF funding is allocated into four accounts:

Infrastructure Account – Authorized to collect \$565 million to fund capital costs of broadband infrastructure projects in unserved areas since its inception;

Consortia Account – Authorized to collect \$25 million to fund the cost of broadband deployment activities other than the capital cost of facilities since its inception;

Public Housing Account – Authorized to collect \$25 million to provide grants and loans dedicated to broadband access in publicly supported housing communities since its inception. The remaining funds were automatically scheduled to transfer back to the Infrastructure Account by December 31, 2020; and

Adoption Account – Authorized to collect \$20 million to provide funding to increase publicly available or after-school broadband access and digital inclusion since its inception.

CASF Awards and Expenditures in 2020

Table 1 details the CASF total grants, awards, and expenditures since inception in 2008 and in 2020.

Table 1: CASF Awards and Expenditures

CASF Account	Since 2008				In 2020		
	Total Budget Authorized	Total Awarded	Total Expenditure ^[1]	Total Grants	Total Grants	Total Awarded	Total Expenditure ^[2]
Infrastructure	\$565,000,000	\$254,893,316	\$163,522,436	87	11	\$37,471,711	\$26,328,323
Infra. Loan ^[3]	\$5,000,000	\$600,295	\$2,013,895	1	0	0	\$475,673
Infra. Line Extension	\$5,000,000	\$5,230	\$248,639	1	1	\$5,230	\$159,146
Consortia	\$25,000,000	\$18,192,472	\$14,205,656	45	2	\$900,000	\$1,533,066
Adoption	\$20,000,000	\$16,244,725	\$5,980,380	205	60	\$8,145,786	\$5,625,075
Pub. Housing	\$25,000,000	\$13,940,626	\$12,503,795	450	3	\$148,049	\$2,060,204
Total	\$645,000,000	\$303,876,664	\$198,474,801	789	77	\$46,670,776	\$36,181,487

^[1] Total expenditures as of June 30, 2020, reflect Fiscal Year (FY) data, and include project disbursements and administrative expenses for each account. This does not include outstanding liabilities and award commitments (see Table 4).

^[2] FY 2019-20 expenditures including project disbursements and administrative expenses for each account.

^[3] AB 1665 eliminated the Infrastructure Revolving Loan Account and required the transfer of the remaining unencumbered moneys as of January 1, 2018, and moneys collected into the Broadband Infrastructure Grant Account.

Status of the CASF Fund – The Governor’s proposed budget for CASF estimates the projected fund balance at June 30, 2022 is \$99.4 M. This includes local assistance (awards) expenditures of \$72.6M per fiscal year 2020-21 and 2021-22. The \$99.4M is based on intrastate revenue projections and the increase in the CASF surcharge rate from 0.56% to 1.019% in December 2020 (see CPUC Resolution T-17709). The budget year revenue projection was increased from \$50.511M to \$61.972M, an increase of \$11.461M, and combined with the anticipated repayment of the \$60M loan from the general fund minus all the budgeted expenses.

For the CASF Infrastructure Account, the CPUC anticipates approximately \$170 million available for awards for the remainder of the program through 2022. This includes canceling Inyo Network’s Digital 299 project, \$30M in new grants approved in the current fiscal year thus far, and assumes the surcharge collection until December 2022 pursuant to CPUC Resolution T-17709). The funding is largely committed with \$494M in pending CASF applications.

CASF Goal – Arguably since the creation of CASF, most areas served by CASF funds are projects in which applicants felt that their cost, combined with CASF funds, warranted an investment in deploying broadband in an area. However, this left most of the remaining unserved areas of state, mostly in rural and small communities, still without broadband connectivity due to the lack of investment by providers who feel that the difficulties associated with deploying and maintaining such a network in an area for a limited amount of potential customers, even combined with CASF funds, would not result in a positive return on investment.

In light of the difficulties in serving the remaining unserved areas, AB 1665 (E. Garcia) of 2017 revised the goal of CASF to approve funding for infrastructure projects that would provide broadband access to no less than 98 percent of households in each consortia region by December 31, 2022. The intent was to ensure that the most difficult to reach areas of the state would be prioritized and served even as the overall statewide percentage of served household increased. As of December 2018, three consortia regions have met the 98 percent goal; the Bay Area, the East Bay Broadband Consortium; and the Los Angeles County Regional Broadband Consortium. Many of the rural consortiums still remain behind with the Upstate California Connect Consortium at 78.7 percent; the Inyo/Mono Broadband Consortium at 82.1 percent, and the Northeast California Connect Consortium at 89 percent, among the lowest.

COMMENTS:

- 1) Author’s Statement. The heartbreaking is reality that 1 in 8 California homes do not have internet access and communities of color face even higher numbers of students and families who remain disconnected. Only miles from our State Capitol there are areas of our state where Californians have no access to broadband connectivity. In partnership with Senator Gonzalez and nearly two dozen of our legislative colleagues, we seek to modernize and sufficiently fund the CASF to provide sufficient service to meet the current and future internet needs of all Californians.
- 2) Other Issues to Consider. There are several broadband bills moving through the Legislature this year which set the foundation for a critical conversation about the funding of broadband deployment in the state. As the conversation proceeds and this and other bills are discussed, the following issues and impacts should be considered:

- a. Speed – The minimum speed buildout for a project that only deploys infrastructure. Should a minimum threshold be established? The Broadband Task Force recommends infrastructure capable of providing broadband access at speeds at a baseline definition to match the FCC standard of 25/3 Mbps with a goal of 100/20 Mbps that reflects the Governor’s executive order of a minimum of 100 Mbps upstream.
- b. Surcharge – The CASF is funded by a surcharge rate on revenues collected by telecommunications carriers from end-users for intrastate telecommunications services. Should the charge be flat? Should the charge be capped? Should the CPUC have the authority to adjust the surcharge going forward based on need?
- c. Technology – The conversation about broadband infrastructure has focused on DSL, cable and fiber but satellites may also have a place in the discussion. Satellites provide the backbone of the service but ground stations (gateways) are needed to facilitate the transmission of the signal in local areas. Should this infrastructure also be considered for eligibility?
- d. Budget or Continuous Appropriations? – Current law terminates funding authority for the CASF in 2022 acting as a form of sunset. This bill proposes that the allocations to separate broadband accounts are made by the Legislature on an annual basis through the budget process. Will this provide flexibility to ensure that varying needs are met on an ongoing basis? Or will the funding of accounts on an annual basis create uncertainty and wariness in the communities seeking project support that funding will continue to be available?
- e. Deployed v Connected – The deployment of broadband infrastructure doesn’t mean that households will have the means and tools to connect. How can connectivity also be ensured?
- f. Line Extension Eligibility – Broadband infrastructure does exist in some areas which is just barely beyond the reach of many households but too many cannot afford a line extension. Although a funding stream was provided in the CASF for this purpose, it has barely been used. Should the program parameters be modified to increase access?
- g. Layering of Preferences & Priorities – There are many funding preferences and priorities in this bill for grant eligibility. Are funding priorities a type of rationing? If sufficient funding is available to meet the overall goal, are the many preferences and priorities needed? If priorities and preferences are necessary, it’s important to consider that each one of those adds another layer of decision-making and complexity to the CPUC’s administrative process and thus delays for grant recipients.
- h. CASF Program Performance – Current law requires the CPUC to conduct interim and final financial and performance audits. The interim audits were due in April 2020. The final audits are due in April 2023. A financial audit performed by the State Controller for the period ending in 2018 and was submitted to the Legislature in February. A performance audit by the Controller is pending.

The last performance audit was released in 2015 and:

...assessed the effectiveness of the program's implementation and administration, compliance with laws and regulations applicable to the program, adequacy of its management control system for measuring, reporting, and monitoring expenditures and effectiveness. The audit also determined whether the program produced the intended results and benefits established by the California State Legislature and the CPUC.

A performance audit is pending by the State Controller the results of which may want to be prioritized to consider any further program changes for the CASF.

- 3) The Big Outlier, How Much Federal Funding Will be Available? Federal funding has and will dramatically increase for broadband. The Federal Communications Commission established the Rural Digital Opportunity Fund (RDOF) to award up to \$20.4 billion for support of broadband infrastructure deployment and network operations over a 10-year period. Funds are awarded for eligible areas around the country that lack broadband service of at least 25 Mbps down and 3 Mbps up (25/3). Funding is underway.

The state will also receive funding from the American Rescue Plan Act which can be used for several purposes and allocated through the state budget.

Additionally, President Biden has proposed a significant infrastructure package to Congress. According to a fact sheet from The White House "it will bring affordable, reliable, high-speed broadband to every American, including the more than 35 percent of rural Americans who lack access to broadband at minimally acceptable speeds."

These funding streams could have a significant impact on the Digital Divide in California and should be considered since federal funds could reduce the need for customer surcharges and/or general fund support.

- 4) Double-referral. This bill will be referred to the Assembly Committee on Local Government should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

3core

Association of California Healthcare Districts; the

Association of California School Administrators

Broadband Connect Initiative

California Association of Public Authorities for IHSS

California County Superintendents Educational Services Association (CCSESA)

California Economic Summit

California Forward Action Fund

California Legislative Women's Caucus

California Partnership for The San Joaquin Valley

California Senior Legislature

California State Association of Counties

California Telehealth Policy Coalition
CaliforniaHealth+ Advocates
Central Valley Community Foundation
City Council Member, City of Gilroy
City of Torrance
Community Clinic Association of Los Angeles County (CCALAC)
County of El Dorado
County of Imperial
CSU Fresno, Office of Community and Economic Development
Digital Equity Coalition
Economic Development Collaborative, Ventura County
Economic Vitality Corporation, San Luis Obispo County
Eden Housing
Fresno Business Council
Fresno State Connect Initiative
Generation Up
Imperial County Transportation Commission
Imperial; County of
Inland Empire Community Foundation
League of California Cities
Libby Schaaf, Mayor of Oakland
Mariposa; County of
Monterey; County of
National Association of Social Workers, California Chapter
North Bay Leadership Council
North State Planning and Development Collective
Ochin, INC.
Reach Central Coast
Ricardo Lara Insurance Commissioner
San Joaquin Valley Redevelopment Center
San Joaquin Valley Regional Broadband Consortium
San Joaquin Valley Rural Development Center
San Luis Obispo; County of
San Pablo; City of
Sierra Business Council
Siskiyou Works
South Bay Cities Council of Governments
Southern California Association of Governments (SCAG)
Stanislaus Community Foundation
Superintendent of Public Instruction Tony Thurmond
Supervisor Cindy Chavez, District 2, County of Santa Clara
Tahoe Prosperity Center
Teach Plus - California
Techequity Collaborative
Tenet Healthcare Corporation
The Education Trust - West
The Fresno Center
Torrance; City of
Triple P America INC.

Tulare; County of
Unite-la, INC.
United Ways of California (UWCA)
Valley Vision, INC.
Walnut Creek; City of
West Sacramento; City of
Western Center on Law & Poverty, INC.
One individual

Support if Amended

California Cable & Telecommunications Association
The Utility Reform Network (TURN)

Opposition

California Taxpayers Association

Analysis Prepared by: Kellie Smith / C. & C. / (916) 319-2637