

Date of Hearing: April 27, 2022

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Sharon Quirk-Silva, Chair

AB 2750 (Mia Bonta) – As Introduced February 18, 2022

SUBJECT: Department of Technology: digital equity plan

SUMMARY: This bill would require the California Department of Technology (CDT) to develop a state digital equity plan by January 1, 2024. The bill would require that the plan include, among other things, the identification of barriers to digital equity faced by specified populations, as provided, and measurable objectives towards achieving digital equity among those populations. Specifically, **this bill:**

- 1) Requires CDT, in consultation with the public, the California Public Utilities Commission (CPUC), and the California Broadband Council, to develop a state digital equity plan and seek all available federal funding for purposes of developing and implementing the state digital equity plan.
- 2) The state digital equity plan shall include the following:
 - a. The identification of barriers to digital equity faced by covered populations in this state, as specified.
 - b. Measurable objectives for documenting and promoting digital equity among covered populations located in the state.
 - c. An assessment of how the objectives described will impact and interact with the following:
 - i. Economic and workforce development goals, plans, and outcomes of the state.
 - ii. Educational and health outcomes.
 - iii. Civic and social engagement.
 - iv. Delivery of other essential services.
 - v. A description of how the department plans to collaborate with key stakeholders, as specified.
 - vi. A list of organizations with which the department collaborated in developing and implementing the state digital equity plan.
- 3) Defines “covered populations” to mean demographics that are underserved in regards to internet access and digital literacy, and includes, but is not limited to, the following:
 - a. Households whose income is 150 percent of the federal poverty level or less for the prior calendar year.

- b. Individuals 65 years of age or older.
- c. Incarcerated individuals, other than individuals who are incarcerated in a federal correctional facility.
- d. Veterans.
- e. Individuals with disabilities.
- f. Individuals with language barriers, such as English learners and individuals with low literacy levels.
- g. Members of a racial or ethnic minority groups.
- h. Residents of rural areas.

EXISTING LAW:

- 1) Requires the California Public Utilities Commission (CPUC) to develop and administer the California Advanced Services Fund (CASF) with the goal of the funding infrastructure projects to provide broadband access to no less than 98 % of California households in each broadband consortia region in the State by 2022. (Pub. Util. Code § 281.)
- 2) For the purposes of the CASF, defines an “unserved household” as one for which facility-based broadband provider offers broadband serve at speeds of at least 25 Mbps downstream and 3 Mbps upstream. (Pub. Util. Code § 281(b)(1)(B).)
- 3) Establishes, within the Government Operations Agency, the Department of Technology (CDT), and generally tasks the department with the approval and oversight of information technology (IT) projects, and with improving the governance and implementation of IT by standardizing reporting relationships, roles, and responsibilities for setting IT priorities. (Gov. Code § 11545, et seq.)
- 4) Finds that the unique aspects of IT goods and services and their importance to state programs warrant a separate body of governing statutes that should enable the timely acquisition of IT goods and services to meet the state’s needs in the most value effective manner. (Pub. Con. Code § 12100(a).)
- 5) Provides that all contracts for the acquisition of IT goods and services related to IT projects, as defined, shall be made by or under the supervision of CDT as provided, and endows CDT with the final authority for all of the following: the acquisition of IT goods and services related to IT projects; the determination of IT procurement policy; the determination of IT procurement procedures applicable to IT acquisitions and telecommunications procurements; and the determination of procurement policy in telecommunications procurements. (Pub. Con. Code § 12100(b)-(e).)
- 6) Establishes the Broadband Council 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. (Gov. Code § 8885)

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) **Purpose of this bill:** This bill seeks to ensure that California is eligible for federal funding under the Digital Equity Act and the Infrastructure Investment and Jobs Act (IIJA) by requiring CDT to create a state digital equity plan and seek all available federal funding, as specified. This bill is author-sponsored.
- 2) **Author's statement:** According to the author:

A state digital equity plan is needed for the state to become eligible for federal funding under the Digital Equity Act and the Infrastructure Investment and Jobs Act.

Despite recent and planned advances in broadband expansion, California continues to need further investments in broadband infrastructure. According to the LAO report in the April 6, 2022 hearing on last mile broadband, 6% of households remain underserved in not having access to broadband at speeds of 100 Mbps down / 25 Mbps up. Moreover, simply being in an area served by broadband does not guarantee the affordability of the service, or the presence of a computer in the home rather than a cell phone or other device. In order for California to take an intentional, equitable approach to universal digital access and functional digital literacy, the state needs a digital equity plan under AB 2750.

- 3) **Background:** The Infrastructure Investment and Jobs Act (IIJA), as recently passed by Congress, appropriates over \$65 billion to states, local governments, community organizations, and other entities for a range of digital inclusion activities. All states will receive a minimum of \$100 million as part of the Broadband Equity Access and Deployment Program (BEAD) which is a grant program that makes \$42.45 billion available to states for broadband infrastructure deployment and other digital inclusion activities such as device programs and broadband adoption. The remaining BEAD dollars are allocated based on formulas detailed in the IIJA. States will also receive money from the State Digital Equity Capacity Grant Program based on formulas detailed in the IIJA. Notably, states must apply for both of these programs in order to receive funds.

The Digital Equity Act (DEA) establishes two grant programs for digital inclusion activities. First, the DEA makes \$60 million available to states in planning grants, for the purpose of developing a State Digital Equity Plan. The DEA establishes a State Digital Equity Capacity Grant Program, which will award \$1.44 billion to states for the purpose of implementing their plan. The DEA also establishes a Digital Equity Competitive Grant Program, which makes available \$1.25 billion in grant awards (not through states) for digital inclusion activities.

In order to ensure that California is able to take advantage of these federal funding opportunities, this bill would require CDT, in consultation with the public, the CPUC, and the California Broadband Council, to develop a state digital equity plan. The bill would require that the plan include, among other things, the identification of barriers to digital equity faced by specified populations, as provided, and measurable objectives towards achieving digital equity among those populations. The bill would require CDT to seek all available federal funding, such as DEA funding, for purposes of developing and implementing the plan.

- 4) **The California Broadband Council:** The California Broadband Council (Council) is managed by the CDT's office of Broadband and Digital Literacy (BDLO). BDLO provides support to the Council by managing the statewide ecosystem of individuals and organizations dedicated to closing the digital divide. In March of 2020, the Council released an action plan¹ focused on achieving three long-term goals: All Californians have high performance broadband available at home, schools, libraries, and businesses; All Californians have access to affordable broadband and the devices necessary to access the internet; and All Californians can access training and support to enable digital inclusion. To achieve these goals the Council plans to leverage the state's full range of tools, including policy, programs, funding, partnerships, and collaborations with federal, local, and tribal governments. This bill would task the Council to work with CDT in the development of a state digital equity plan.

Importantly, the Council's action plan is closely aligned with the requirements of this bill, and the Council is experienced at engaging with the public for input. Therefore, they would seem to be the logical entity within CDT to handle the responsibilities of this bill. However, as noted by the California Cable and Telecommunications Association (CCTA), the Legislature should carefully consider which entity is tasked with implementing the Plan in this bill. In their "support, if amended letter," CCTA asks the Legislature to carefully "consider which state agency is best positioned to be the official 'administering entity' of the State Digital Equity Plan, recognizing that the IJA specifies that this entity is *not* eligible for a grant from the Digital Equity Competitive Grant Program."

Accordingly, as this bill moves through the Legislative process, the author should continue to engage with stakeholders to determine which entity is the most appropriate entity to administer the State Digital Equity Plan, given the limitation on that entity's eligibility to receive grants. An alternative could be the California Public Utilities Commission, which manages other broadband adoption grant programs.

- 5) **This bill requires the creation of a state digital equity plan:** Internet access has been hailed as the civil rights issue of the 21st century. More Americans are online than ever before and use the internet to access healthcare, education, entertainment, and work. Unfortunately, the web is not universally accessible. Digital equity generally refers to the ability of people to access and effectively use the technology necessary to participate in modern society. Another phrase, "digital inclusion," denotes efforts to remedy deficits in digital equity. This bill would require CDT, in consultation with the public, the CPUC, and the California Broadband Council, to develop a state digital equity plan and would require CDT to seek all available federal funding for purposes of developing and implementing the plan.

The bill outlines numerous factors and considerations that must be taken into account in the formulation of the digital equity plan, to ensure fair representation of California's diverse population. Notably, AB 2750 requires CDT, the CPUC, and the Broadband Council to identify barriers to digital equity faced by covered populations. Barriers include, but are not limited to, the availability and affordability of access to fixed and wireless broadband technology; accessibility and inclusivity of online public resources and services; digital literacy; and the availability and affordability of consumer devices and technical support for those devices.

¹ Broadband for All Action Plan. California Broadband Council. <https://broadbandcouncil.ca.gov/wp-content/uploads/sites/68/2020/12/BB4All-Action-Plan-Final.pdf>

The bill would also require CDT to include measurable objectives for documenting and promoting digital equity among covered populations, and an assessment of how the objectives described will impact and interact with various goals, plans, and outcomes of the State. Finally, the plan must include a description of how CDT plans to collaborate with key stakeholders, including, but not limited to, local governments, local educational agencies, Native American tribes, civil rights organizations, and organizations that represent covered populations.

- 6) **Arguments in support.** NextGen California writes in support that this bill would because it would satisfy the various eligibility requirements of the State Digital Equity Capacity Grant Program. This \$1.5 billion in grant funding will be used to promote internet adoption among vulnerable populations and assess the plan's impact on state economic, workforce, education, and health goals. NextGen is especially interested in the plan because it incorporates collaboration with anchor institutions and community centers, which are key to digital navigation technical support and workforce development service

7) **Related/similar legislation.**

- a. AB 2748 (Holden, 2022) proposes various comprehensive reforms to Digital Infrastructure and Video Competition Act, including strengthening existing anti-discrimination standards and expanding the role of the CPUC in reviewing cable franchise applications. Coincidentally, cable companies are among the largest broadband service providers in the state. This bill is pending in this committee.
- b. AB 2749 (Quirk-Silva, 2022) proposes to streamline the California Advanced Services Fund (CASF) application review process, to expedite the deployment of broadband infrastructure and leverage federal funds by their expiration. This bill is pending in this committee.
- c. AB 2751 (E. Garcia, 2022) would establish the Affordable Internet and Net Equality Act of 2022. The bill would require the state to only do business with internet service providers offering affordable home internet service, as provided. This bill is pending in this committee.
- d. AB 2753 (Reyes, 2022) would establish the Digital Equity Bill of Rights, which pertains to broadband and is applicable to all residents of the state. This bill also requires the California Public Utilities Commission (CPUC) to ensure that all residents of the state benefit from equal access to broadband internet service and directs the CPUC to adopt rules, as specified.

REGISTERED SUPPORT / OPPOSITION:

Support

Nextgen California

Opposition

None on file

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