

Date of Hearing: April 27, 2022

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Sharon Quirk-Silva, Chair

AB 2751 (Eduardo Garcia) – As Amended April 19, 2022

SUBJECT: Affordable Internet and Net Equality Act of 2022

SUMMARY: This bill requires the California Department of Technology (CDT) to develop and establish the Net Equality Program to ensure the state and state agencies shall only do business with an internet service provider (ISP) that offers affordable home internet service, as specified. Specifically, **this bill:**

- 1) Requires CDT to establish the Net Equity Program in consultation with the California Public Utilities Commission (CPUC) and the Department of General Services (DGS).
- 2) Defines “eligible household” to mean a resident in a group home or congregate care facility within the qualified internet service provider’s California service territory participating in a qualified public assistance program, or a household within the qualified internet service provider’s California service territory with at least one resident of the household participating in a qualified public assistance program.
- 3) Defines “affordable home internet service” to mean internet service costing no more than forty dollars (\$40) per month and that meets the minimum speed requirements.
- 4) Defines “minimum speed requirements” to mean at 25 megabits per second downstream and 3 megabits per second upstream (25/3 mbps) with sufficient speed and latency to support distance learning and telehealth services
 - a. Authorizes CDT to increase the minimum speed requirements for purposes of aligning the minimum service requirements with updated state or federal policies.
- 5) Defines a “qualified internet service provider” to mean an ISP doing with the state or state agency.
- 6) Requires CDT to ensure that the “overall goals for adoption” are met.
 - a. Defines “overall goals for adoption” to mean that at least 90% of eligible households receive affordable home internet service by January 1, 2024 and at least 95% of eligible households receive affordable home internet service by January 1, 2027.
- 7) Provides that all eligible households shall be allowed to convert to affordable home internet service within the month they are eligible, and requires an internet service provider to sign up an eligible household in no more than 30 minutes by phone with trained personnel.
- 8) Requires qualified internet service providers to advertise the availability of affordable home internet and the federal Affordable Connectivity Program (ACP), including by placing various print and online advertisements in multiple languages.

- a. Provides that advertising may stop when there is documented awareness of the availability of affordable home internet service by at least 80 percent of all eligible households according to a reputable statewide survey.
- 9) Provides that the program does not apply to the Department of Forestry and Fire Protection or to the Office of Emergency Services.
- 10) Requires that a qualified internet service provider shall meet annually with CDT and the California Broadband Council in an open workshop with key stakeholders to confer on how to achieve the overall goals for adoption and other specified topics.

EXISTING LAW:

- 1) 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.)
- 2) 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).)
- 3) 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).)
- 4) Establishes the Affordable Connectivity Program, under the administration of the Federal Communications, which provides a \$30 broadband subsidy to eligible households and a \$75 broadband subsidy to eligible tribal households. (Infrastructure Investment and Jobs Act. Public Law 117-58)

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) *Purpose of the bill.* This bill seeks to increase the availability of low-cost broadband options for Californians by leveraging the state's business and procurements contracts with internet service providers, specifically by requiring those ISPs to offer \$40 plans at minimum speeds.
- 2) *Author's statement.* According to the author,

“The Affordable Internet and Net Equality Act of 2022 is a landmark piece of legislation to ensure California continues to be a national leader in broadband affordability. Internet access should be treated as a right, not a luxury. It is a basic necessity to access

education, health care, economic opportunity, and other necessary services. This bill will ensure vulnerable communities across the state are not left behind in the 21st century and have an affordable option before them.”

- 3) *The digital divide is an infrastructure problem and an adoption problem.* In broadband terminology, when we speak of unserved households, it generally means a household for which no facility-based broadband provider offers broadband service at minimum speeds. In other words, there is no infrastructure. However, there are also households for which broadband infrastructure is available but it is not accessible – this is a broadband adoption problem. According to the *Broadband for All Action Plan*¹ 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 percent 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 percent of California households. According to *CETF-USC Statewide Broadband Adoption Survey*² 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.
- 4) *Broadband subsidies are helping eligible families afford broadband.* This bill proposes to define affordable home internet to mean service costing no more than \$40 per month and that meets the minimum speed requirements of 25/3 mbps. To put those numbers into context, the \$40 threshold is consistent with the CPUC’s low-cost broadband definition adopted as part of the California Advanced Services Fund Federal Funding Account program rules; however, the minimum speed thresholds of this bill are significantly lower. In any case, regarding the cost, controlling rates is not the only approach to ensuring affordability. Historically, California law and federal policies have favored subsidy programs, as opposed to rate control, as a means of helping needy families afford essential services like broadband. The most notable subsidy program examples are the federal Lifeline and California Lifeline programs, programs that work in tandem to offer free phone and mobile broadband service to eligible households.

Recently, under the Infrastructure Investment and Jobs Act (IIJA), Congress made permanent an existing temporary broadband subsidy program, the Emergency Broadband Benefit (EBB), established at the beginning of the pandemic. The Affordable Connectivity Program, or ACP, is an FCC benefit program that helps ensure that households can afford the broadband they need for work, school, healthcare and more. The generous benefit provides 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. Notably, the ACP benefit can be combined with the California Lifeline benefit of up to \$9.25 per month. Similar to California Lifeline, The Affordable Connectivity Program is limited to one monthly service discount and one device discount per household. Under ACP, eligible households can also receive a one-time discount of up to \$100 to purchase a laptop, desktop computer, or tablet from participating providers if they contribute more than \$10 and less than \$50 toward the

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>

² *CETF-USC Statewide Broadband Adoption Survey*. California Emerging Technology Fund. <https://www.cetfund.org/wp-content/uploads/2021/03/Statewide-Survey-on-Broadband-Adoption-CETF-Report.pdf>

purchase price. A household is eligible for the Affordable Connectivity Program if the household income is at or below 200% of the Federal Poverty Guidelines or if a member of the household participates in various other federal assistance programs such as Lifeline, Medicaid, or housing assistance. The bill's definition of an eligible household for purposes of the Net Equity Program are very similar to the ACP, except the Net Equity Programs ties eligibility to state public assistance programs such as CalFresh and Covered California.

- 5) *Greater enrollment in ACP could benefit consumer, but this bill takes a different approach to affordability.* Despite broadband affordability being such a pressing need for so many California households, many have not taken advantage of the ACP. For example, the FCC estimates that at least 3.7 million California households are eligible for federally funded digital access assistance. However, preliminary data show that as of March 2022, only 1.2 million California households participated in the EBB or ACP. According to analysis from the Public Policy Institute of California³, several factors have contributed to the low take-up rates. First, awareness is very low: nationwide, only 23% of adults have heard “a lot” or “some” about the Emergency Broadband Benefit. Second, many households may be discouraged by the multi-step application process, which requires them to first apply for funding and then arrange for a participating internet service provider to apply the subsidy. Third, some internet service providers initially required enrollees to upgrade their existing data plans to more expensive plans, so some households may have decided not to apply for fear of higher bills if they lose eligibility or the program ends.

To encourage participation, under the IJA law, ISPs participating in ACP are required to promote the program to eligible households through various means. Non-profits and other organizations are also stepping in with strategies to increase participation. For example, the California Emergency Technology Fund partnered with Los Angeles County to invest money in a culturally and linguistically competent advertising pilot campaign and 24/7 call center that resulted in outstanding growth in enrollments in those areas. According to CETF's reporting of their efforts, prior to the pilot the call center had received an average of 1,400 calls/month and by the end it had received 5,013. Examples like this point to the opportunity ACP presents for low-income California households, and the benefit of a focused response to enrolling more households.

This bill does borrow some of the tactics of the California Emerging Technology Fund's example, such as requiring ISPs to advertise the availability of affordable home internet by placing various print and online advertisements in multiple languages and requirements for expeditious phone sign-ups. However, instead of leveraging the affordability benefits of the ACP and expanding on promising strategies to increase enrollment, the bill instead proposes to utilize rate controls to provide affordability to eligible households.

- 6) *Arguments in Support.* Many of the various organizations expressing support for the legislation view broadband as an essential service, and cite to statistics about low broadband adoption rates in low-income communities and communities of color. The California Pan-Ethnic Health Network points out that the COVID-19 pandemic further exacerbated the negative impacts of inequitable internet access, such as by limiting the educational opportunities of students. Given those negative impacts, supporters of this legislation are in

³ *Commentary: Narrowing the Digital Divide with Pandemic Benefits.* Public Policy Institute of California. <https://calmatters.org/commentary/2022/01/narrowing-the-digital-divide-with-pandemic-benefits/>

favor of this bill's approach to ensuring the affordability of broadband service for low-income households.

- 7) *Arguments in Opposition.* Telecommunications and internet services providers oppose this bill; they argue that the bill would create various unintended consequences for consumers and state government entities. For example, the California Cable and Telecommunications Association points out that the low-cost plan defined by this bill has different requirements than low-cost plans from other state broadband programs, which may confuse consumers and lead to less adoption.
- 8) *Committee amendments.* The following suggested amendments are substantive in nature and would revise the responsibilities of CDT pertaining to the overall goals for adoption proposed by the bill.
 - a. Strike "ensure that" from Section 11548.5(c)(2) of the bill and replace with "monitor the progress towards achieving".

REGISTERED SUPPORT / OPPOSITION:

Support

American Gi Forum of California
 Association of California Healthcare Districts; the
 California Emerging Technology Fund
 California Pan - Ethnic Health Network
 Common Sense Media
 Community Clinic Association of Los Angeles County (CCALAC)
 Community Corporation of Santa Monica
 Community Development INC
 County Welfare Directors Association of California (CWDA)
 Eah Housing
 Everyoneon
 Libby Schaaf, Mayor of Oakland
 Modesto City Schools District
 National Association of Social Workers, California Chapter
 Newstart Housing Corporation
 Nextgen California
 People's Self-help Housing Corporation
 Sbx Youth & Family Services
 Southeast Community Development Corporation
 Tahoe Prosperity Center
 Tom Torlakson
 Union Station Homeless Services
 United Way of Greater Los Angeles

Opposition

California Cable & Telecommunications Association
 CTIA

United States Telecom Association Dba Ustelecom - the Broadband Association

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