

Date of Hearing: April 6, 2022

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Sharon Quirk-Silva, Chair

AB 2753 (Reyes) – As Amended March 24, 2022

SUBJECT: Communications: Digital Equity Bill of Rights

SUMMARY: This bill establishes 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. Specifically, **this bill:**

- 1) Makes findings and declarations regarding digital equity, including that digital equity requires the deployment and adoption of information technologies enabled by high-speed internet infrastructure.
- 2) Establishes that California residents have a right to broadband in various forms and functions, to ensure digital equity for all residents of the state.
- 3) Establishes the policy of the state that broadband internet subscribers benefit from equal access to broadband internet service.
 - a. Defines “equal access” to mean the equal opportunity to subscribe to an offered service that provides comparable speeds, capacities, latency, and other quality-of-life metrics in a given geographical area, for comparable terms and conditions.
- 4) Requires the CPUC, on or before January 1, 2025, to adopt rules that facilitate equal access to broadband internet service, as specified.
- 5) Requires the CPUC to develop model policies and best practices that local government entities may use to ensure that broadband internet service providers do not engage in digital discrimination.
- 6) Requires the CPUC to revise its complaint process to accept complaints from consumers or other members of the public relating to digital discrimination.

EXISTING LAW:

- 1) Establishes the policy of the United States that, insofar as technically and economically feasible, broadband internet subscribers should benefit from equal access to broadband internet service. (Infrastructure Investment and Jobs Act § 60506 – Public Law 117-58)
- 2) Declares that the offering of high-quality basic telephone service at affordable rates to the greatest number of citizens has been a longstanding goal of the state. (Public Utilities Code § 871.5)

- 3) Requires the CPUC to require telephone corporations to provide customer service to telecommunications customers that includes reasonable statewide service quality standards. (Public Utilities Code § 2896)
- 4) Directs the CPUC to adopt customer service requirements for a holder of a state franchise and adjudicate any customer complaints. (Public Utilities Code § 5895(b))
- 5) Establishes the policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. (Water Code § 106.3(a))

FISCAL EFFECT: Unknown.

BACKGROUND:

- 1) *Broadband portions of the Infrastructure Investment and Jobs Act.* In November 2021, Congress passed and President Biden signed into law the Infrastructure Investment and Jobs Act (IIJA). The IIJA is a sweeping piece of legislation broadly focused on improving the nation's infrastructure through billions of dollars of funding to state and federal agencies for various infrastructure projects, including broadband infrastructure. In addition to infrastructure funding, the IIJA also included novel policies regarding digital discrimination and funding specifically for digital equity purposes. Portions of this bill regarding digital discrimination borrow directly from the text of the IIJA, particularly the definition of equal access in the context of broadband service. Further, the IIJA also directed the Federal Communications Commission (FCC) to adopt rules to prevent digital discrimination, including model policies for local governments. This bill would direct the CPUC to do something similar.

COMMENTS:

- 1) *Establishing a Right to Broadband.* This bill declares the policy of the state that all residents have the right to broadband, specifically in the various forms and functions enumerated in the bill. For example, a right to broadband that is reliable, affordable, ubiquitous, ensures public safety, and supports economic prosperity. No other state in the United State has adopted such a policy, let alone with such specificity as to what the broadband should enable. However, California has been at the forefront of civil rights before. For example, in 2012 California was the first state in the nation to legislatively recognize the human right to water. Although the language in this bill concerning broadband is much more prescriptive than the statute establishing the right to water, both recognize accessibility and affordability as key tenets.

Further, pursuant to the Moore Universal Telephone Service Act, it has long been the goal of the state that high-quality basic telephone service at affordable rates are offered to the greatest number of citizens. At the time this legislation was passed in 1983 broadband did not yet exist, however the Legislature acknowledged that universal access to telecommunications services had social benefits such as improving the quality of life of residents, expanding access to education, training and commerce, and assisting in bridging the digital divide. To that end, portions of this bill establishing a right to broadband would complement existing law regarding water and other telecommunications services.

- 2) *Requirements of this bill could complement federal efforts.* This bill would require the CPUC to adopt rules that facilitate equal access to broadband service by January 2025, something the FCC has already begun working on. In March 2022, the FCC opened a new proceeding on how to prevent and eliminate digital discrimination to ensure that all Americans have equal access to broadband internet access service¹. As part of that process, the FCC is fielding comments from the public on how to promote equal access to broadband regardless of income level, ethnicity, race, religion, or national origin. In addition to the proceeding, the FCC Chairwoman formed a cross-agency task force that will oversee the development of model policies and best practices that states and local governments can adopt to ensure ISPs do not engage in digital discrimination. In accordance with the IJJA, both initiatives must be completed by November 2023.

Although, to some extent, requiring the CPUC to undertake similar work to the FCC can be viewed as a duplicative effort, there are various reasons why it could be beneficial to the state to undertake its own efforts on digital discrimination. Firstly, the FCC will adopt their rules well in advance of the CPUC, so any rules the CPUC adopts would be complementary to the adopted federal rules. Further, because the leadership of the FCC turns over with changes in federal administrations, California adopting its own rules may help provide extra protection for California consumers. Nonetheless, there is also some chance that whatever rules the CPUC adopts may be preempted by some future administration's FCC rules.

- 3) *Arguments in support.* Various organizations expressing support for this legislation view the need for this bill through the experience of too many Californians during the COVID-19 pandemic. Households and individuals that did not have reliable and affordable access to broadband service may have experienced a loss of education and economic opportunities as the world transitioned to digital work and school to accommodate social distancing. Additionally, the California Emerging Technology fund in their letter of support note that more than 4,500 organizations and individuals have signed a petition to support the enactment of their similar Digital Equity Bill of Rights, which this bill is modeled from.
- 4) *Arguments in opposition.* The California Cable and Telecommunications Association (CCTA) argues that creating a right to broadband that a state agency is required to guarantee can give rise to lawsuits against the state. CCTA also raises concern about the CPUC undertaking similar work as the FCC, arguing that the duplicate proceeding would take focus away from harnessing currently available funding resources in a timely manner.
- 5) *Double referral.* This bill will be referred to the Assembly Committee on the Judiciary should it pass this committee.
- 6) *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.

¹FCC-22-21. *Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination*. <https://www.fcc.gov/document/fcc-initiates-inquiry-preventing-digital-discrimination>

- 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 2750 (Bonta, 2022) directs the California Department of Technology, in consultation with the California Public Utilities Commission, to develop a statewide digital equity plan for purposes of leveraging federal digital equity funding established through the IJA. This bill is currently pending in the Assembly Committee on Privacy & Consumer Protection and will be referred to this committee next, should it pass.
- d. 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.

REGISTERED SUPPORT / OPPOSITION:**Support**

American GI Forum of California
California Emerging Technology Fund
California Foundation for Independent Living Centers
California School Boards Association
Digital Literacy Rocks!
Everyoneon
Jobtrain
Los Angeles County Superintendent of Schools, Dr. Debra Duardo
Southern Border Broadband Consortium
United Way of Greater Los Angeles
Valley Vision

Opposition

California Cable & Telecommunications Association

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