

Date of Hearing: April 14, 2021

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Miguel Santiago, Chair

AB 34 (Muratsuchi) – As Amended April 6, 2021

SUBJECT: Broadband for All Act of 2022

SUMMARY: Authorizes that the 2022 Broadband for All Act of 2022 be put before the voters on the November, 2022 ballot seeking authorization of \$10 billion from general obligation bonds for grants to eligible entities for projects that deploy broadband infrastructure and broadband internet access services. Specifically, **this bill:**

- 1) Upon approval by the voters, requires the Department of Technology to develop and implement the “Broadband for All” Program to provide grants for broadband infrastructure and services in any area of the state whether served by broadband or not. The Department must:
 - a. Develop guidelines, project application metrics, evaluation processes; monitoring and reporting requirements, conduct public hearings throughout the state and comply with other specified reporting and public processes;
 - b. Give preference to applications that:
 - i. Leverage other private, federal, or local funding or produce the greatest public benefits serve unserved or disadvantaged communities; and,
 - ii. Include multiple benefits including but not limited to the number of anchor institutions serviced, the number of unserved or disadvantaged, and those projects undertaken by a joint power authority.
 - c. Allocate at least 25 percent of the fund to projects serving unserved or disadvantaged communities as defined;
 - d. Require a cost share of not less than 50 percent which may be waived or reduced if the project directly benefits a disadvantaged community or unserved area.
- 2) Eligible grant applicants are defined as any city county, public education district, college or university, joint powers authority, special district or Native American Tribe and they may also provide broadband service. The grant applicants must:
 - a. Identify anchor institutions that have no or inadequate broadband access and that will be served by the project;
 - b. Demonstrate that the eligible entity has sufficient resources to provide broadband internet access service and maintain the broadband infrastructure deployed by the project for at least five years.
 - c. Complete a feasibility study for the project.

- d. Provide anchor institutions served by the project with broadband internet access service free of charge.
 - e. Provide open access to the broadband infrastructure to other internet service providers at a fair and reasonable price.
 - f. Use a skilled and trained workforce to perform the work consistent with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code or have a project labor agreement in place.
 - g. Are prohibited from transferring the ownership, maintenance, control and operation of the infrastructure funded to any private entity;
 - h. Must provide broadband service if:
 - i. The applicant complies with the 53167...is this net neutrality?
 - ii. Provide service to all residents in the area at a minimum speed of 110 Mbps downstream and 20 Mbps upstream at a fair, reasonable, and nondiscriminatory.
 - iii. Develop and implement an outreach plan.
 - i. Are restricted from using fund to acquire land by an eminent domain proceeding.
- 3) Defines anchor institutions as including, but not limited to, public schools, community colleges, public universities, public libraries, parks, general acute care hospitals, rural health clinics, fire stations, police stations, California Highway Patrol offices, sheriff's offices, municipal buildings, state buildings, and fairgrounds.
- 4) Provides authority and direction to the State Treasurer to issue \$10 billion in general obligation bonds for three years after approved by the voters and authorizes loans from the Pool Money Investment Account.

EXISTING LAW:

- 1) Requires the 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 percent of California households in each broadband consortia region in the state by 2022. (Public Utilities 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 six Mbps downstream and one Mbps upstream. (Public Utilities Code § 281[b][1][B])
- 3) Authorizes the acquisition, construction, improvement, maintenance, or operation of broadband internet access service by local governments (county service areas, cities, community services districts, and public and municipal utilities) within its jurisdiction and requires those entities to comply with net neutrality rules.

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

BACKGROUND:

*California Broadband Action Plan*¹ – The Plan was released in December and was 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 plan was developed by the Broadband Council which 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 focuses on achieving 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.

Community or Municipal Broadband (MB) – Municipal broadband, which is promoted by this bill, is a part of the broad concept of “community networks” – which aim to provide high-speed Internet service through nonprofit approaches. MB is also referred to as “community broadband.” These networks are more common in rural areas or mid-size cities with limited or poor internet access and speeds. Some of the earliest attempts focused on providing free wireless “hot spots” in cities. In the early 2000s, as the demand for high-speed internet access grew, and costs of accessing the internet began to rise, some cities began looking at the idea of becoming internet service providers. MB programs typically fall into one of three categories – public,

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

public-private and cooperatives. Indian tribes are also developing their own community broadband programs – some building their own networks and some with external partners.

According to ConnectCalifornia, a market research firm for “broadband and related connected home service companies in the California market,” there are currently 17 MB programs in California, with one more scheduled to come in summer 2021, when the City of Beverly Hills begins its publicly-operated program, Beverly Hills Fiber. ConnectCalifornia describes various forms of these programs in the state.

The majority of municipal broadband networks in California are based in dark fiber [available, but unused fiber-optic cables] owned by the city. Only 2 of the 17 municipal providers in California are utility co-ops: Connect Anza, and Plumas-Sierra Telecommunications. Only 6 of the 17 municipal broadband providers in California offer residential services, with 3 offering FTTH (Fiber to the Home) service in the last mile. The remainder focus on enterprise and business services, or are exclusive to municipal services and anchor institutions like hospitals, libraries, and schools.

Municipalization of broadband can take many forms:

- Wholesale service (“middle-mile” infrastructure, where retail providers connect into the municipal network);
- “Last mile” retail service directly to customers, or both;
- Serving only anchor institutions or also include businesses and residences;
- Serve only within municipal boundaries or extend to surrounding municipalities and counties; and
- Provide data or data bundled with video and/or voice, or may include smart grid capacity.

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

Wireline and Fixed Wireless Broadband Availability as of December 31, 2019 Extension Account.

Speed Benchmarks (Mbps)	Percentage of Total Households with Broadband Availability			Unserved Households				
				Number of Unserved Households			Percentage of Unserved 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%

COMMENTS:

- 1) Author’s Statement. California needs to go big and bold to close the digital divide and jumpstart the economic recovery. This pandemic has highlighted enormous disparities in access to affordable, reliable, high-speed internet, especially in rural and low-income urban communities. As the Innovation State, California should lead by significantly increasing its investment in public broadband infrastructure – the Infrastructure of the 21st Century – to provide affordable and reliable access to the internet for all Californians.
- 2) An Alternative? As noted by the Broadband Council, the Covid-19 pandemic has only reinforced our reliance on broadband – and the importance of closing the digital divide. With school, work, and health care increasingly – or completely – available online as a public

health imperative, Californians' ability to access and use broadband became the difference between being able to fully engage in life, and being cut off.

Several bills have been introduced in this session to address the Digital Divide. Most propose direct support through the CASF and other programs. The general obligation bond and grant structure proposed by this bill has introduced a different approach to the issue. It would provide funding to local governments and public schools, colleges and universities to build-out their own broadband infrastructure and also provide broadband service.

The bill would not meet the immediate needs of unserved areas and households. If approved by the voters on the November, 2022 ballot, the Department of Technology would need to develop the program, promote and educate governmental entities on the bond program, and then receive and approve grants (assuming bonds are issued on a timely basis). This would take years – 2, 3, 4?

- 3) Overbuild or Competition? This measure requires that, a minimum, 25% of the bonds are granted to serve disadvantaged communities and unserved areas. Unlike the current CASF, the bond funds are not proposed to be directed to unserved households. Additionally, the bonds could be used by any local government or public school institution to offer municipal broadband in an area already being served by a private internet service provider. Is this overbuilding? Or is this building competition? Would this push the private sector to build-out and upgrade broadband infrastructure to dissuade MB? Would this duplicate service in some areas while too many continue to be unserved?
- 4) 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. Municipalization – Has the need for broadband become so critical that it should be managed like or by a public utility? Should the state use general obligation bonds for that purpose? If a local agency is going to also be a service provider, do they need state general obligation bond funding? Local governments have bonding authority and would have a revenue stream to pay the bonds. Several local governments in the state have already done so without any apparent state support.
 - b. CASF – Should the bond grants be in lieu of the CASF grants, and other direct support, or supplement those approaches? If the bond grants would supplement CASF, should an area be eligible for both grants to serve the same need? Should there be one applicant, or should the programs be able to support competition in an area? Should access to one of the funding streams preclude access to the other?
 - c. Eligible Grantees – Should public school districts, county offices of education, community colleges, or public universities be in the broadband business providing infrastructure and retail service to communities? Where does a consumer pay the bill or lodge a complaint? A school board meeting?
 - d. Anchor Institutions – Should buildout to public schools, community colleges, public universities, public libraries, parks, general acute care hospitals, rural health clinics,

fire stations, police stations, California Highway Patrol offices, sheriff's offices, municipal buildings, state buildings, and fairgrounds be prioritized over unserved households which are not referenced in the measure?

- e. Speed – If a grantee also provides broadband service, this measure requires that the grantee provide service at 100 Mbps upstream and 20 Mbps downstream. How feasible is upstream 20? How many projects will qualify? Will this future proof areas or because 75% of the funds can go where service is already available? Will this exacerbate the digital divide?

There is no minimum speed buildout for a project that only deploys infrastructure. Should a minimum threshold be established? The Broadband Task Force recommends the infrastructure be 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 download.

- 5) 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.

- 6) Double-referral: This bill will be referred to the Assembly Committee on Privacy & Consumer Protection should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of School Business Officials (CASBO)
California Charter Schools Association
California Collaborative for Long-term Services and Supports
California County Superintendents Educational Services Association (CCSESA)
California School Boards Association
California State Association of Counties

City Council Member, City of Gilroy
City of Torrance
Dolores Huerta Foundation
First 5 California
San Pablo; City of
South Bay Cities Council of Governments
State Council on Developmental Disabilities
Superintendent of Public Instruction Tony Thurmond
The Utility Reform Network (TURN)
Torrance Unified School District
Torrance; City of
One individual

Support if Amended

Electronic Frontier Foundation (EFF)

Oppose Unless Amended

California Cable & Telecommunications Association (CCTA)

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