

Date of Hearing: June 15, 2022

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Sharon Quirk-Silva, Chair

SB 717 (Dodd) – As Amended May 17, 2022

SENATE VOTE: 32-0

SUBJECT: Office of Planning and Research: broadband communications: report

SUMMARY: This bill would direct the Office of Planning and Research (OPR), on or before January 1, 2024, to submit a report to the legislature that reviews and identifies barriers to and opportunities for the expansion of broadband access points and broadband service in various locations and to various communities. Specifically, **this bill:**

- 1) Requires the OPR to conduct and complete the report with input from relevant state agencies and relevant stakeholders, as defined.
- 2) Requires the report to be submitted to the Senate Committee on Energy, Utilities and Communications and the Assembly Committee on Communications & Conveyance.
- 3) Requires that the report shall review and identify barriers to, opportunities for, the investment in, and efficient building of broadband access points on government-owned structures and property, private and public lands and buildings, and public rights of way.
- 4) Requires that the report shall review and identify barriers to, and opportunities for, access to mobile and fixed broadband internet service infrastructure by low-income tribal, urban, and rural customers, and to underserved communities.
- 5) Requires the review to consider the extent to which ten specified factors, at a minimum, serve as barriers to investment or deployment of broadband access points including:
 - a. The process and cost of obtaining electric service to broadband access points.
 - b. Delays, and reasons thereof, in obtaining state, county, or local permits to deploy broadband access points.
 - c. Regulatory and legal obstacles in deploying fiber to transport broadband traffic from broadband access points.
 - d. The cost of leasing access to middle-mile broadband networks.
 - e. California Coastal Commission permitting policies, and delays caused by local coastal plans.
 - f. Air quality management regulations.
 - g. Noise abatement regulations.
- 6) Requires the report to include recommendations on how to overcome identifies barriers.

- 7) Defines “relevant stakeholders” to mean representatives of each of the following: law enforcement agencies, public safety community, public first responder personnel and providers, wireless service and infrastructure providers and their trade associations, cable communications providers and their trade association, wireline communications providers and their trade association, tribes, municipal government or city associations, county governments or county associations, investor-owned utilities, publicly owned utilities, organized labor, California manufacturing associations, and technology associations.
- 8) Defines “relevant state agencies” to mean the Department of Transportation, the Public Utilities Commission, the Department of Technology, the Department of Fire and Forestry, Office of Emergency Services, and the California Coastal Commission.

EXISTING LAW:

- 1) Establishes the Office of Planning and Research (OPR) to serve the Governor and Cabinet as staff for long-range planning and research, with a focus on factors influencing the quality of the state’s environment and declares that it is the intent of the Legislature: (Government Code (GOV) §65040)
 - a. To have one agency at the state level which is responsible for developing state land use policies, coordinating planning of all state agencies, and assisting and monitoring local and regional planning;
 - b. That OPR is the most appropriate state agency to carry out this statewide land use planning function; and,
 - c. To not vest in OPR any direct operating or regulatory powers over land use planning, public works, or other state, regional, or local project or programs. (GOV § 65035)
- 2) Establishes the California 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 § 8885)
- 3) Establishes the Office of Broadband and Digital Literacy in state government, within the California Department of Technology. (GOV § 11549.51)
- 4) Requires the California Public Utilities Commission (CPUC), in collaboration with relevant state agencies, to maintain and update a publicly available interactive map showing the accessibility of broadband service in the state. (Public Utilities Code (PUC) § 281.6(a))

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) *Purpose of the bill.* According to the author, this bill seeks to examine the root causes of barriers to expanding the deployment of broadband access points and provide recommendations on how to accelerate the deployment of broadband infrastructure to increase connectivity for all Californians. The review directed in the bill is intended to arm the Legislature with the required foundation for further action to address these barriers.

- 2) *Broadband connectivity is an issue for hundreds of thousands in households in California.* According to recent analysis¹ by the Legislative Analyst Office (LAO), based on data provided by the CPUC, there are 353,494 households in California unserved by broadband service providers at minimum speeds; this figure represents approximately 3% of the state's households. Unserved households are located in every county in the state, although most unserved households are located in urban counties. As a percentage of total households, rural counties have the highest rates of unserved households with the percentage of unserved households being significantly higher too. For example, there are 14 counties where 10% or more of the population are unserved and all are rural counties. The numbers are even worse if the standard is raised to underserved. Underserved households are those households that have a minimum level of broadband service, but do not exceed certain performance metrics to reliably support advanced capabilities like video streaming and multiple devices. According to the same LAO report, nearly 750,000 households in California are underserved by broadband service; that figure represents about 6% of the state's households. As this bill affirms in the finds and declarations, there is an urgent need accelerate the deployment of broadband access points to meet current demand and address the next generation of broadband internet access service
- 3) *The report will review factors that are barriers to broadband infrastructure deployment and investment.* The bill requires the report to include the review of, at a minimum, ten specified factors that serve as barriers to investment or deployment of broadband access points and service. Several of the factors to be reviewed as barriers have an explicit financial aspect, such as the cost of leasing middle-mile broadband capacity or the cost of obtaining electric service to broadband access points; these factors are likely to be easily quantifiable. However, a majority of the factors listed in the bill fall within the realm of government processes and public administration such as permitting, land use, and health and safety requirements; these factors will likely be complex to quantify. For example, quantifying or measuring the extent to which noise abatement regulations, air quality management regulations, or local coastal plans are barriers to broadband to deployment and investment will take deeper analysis to measure. Additionally, those particular factors pertaining to public administration and the extent to which particular processes or requirements cause delays will likely vary from jurisdiction to jurisdiction.

Furthermore, given that the report will mostly be focused on reviewing the extent to which public administration practices are barriers to broadband deployment and investment, the report is not as comprehensive as it could be. Consider that there are also significant factors outside of government's direct control that are barriers to broadband deployment. For example, the business reasoning for whether to build or invest in broadband infrastructure in underserved areas could be better understood with further study. Nonetheless, those factors are outside the explicit scope of this bill, leaving less opportunity to find common ground and solutions to those barriers.

- 4) *Some of the potential barriers identified by this bill are being addressed by state government in other capacities.* The purpose of this bill is to better understand the factors that are barriers to the deployment and investment in broadband infrastructure and broadband service. To the extent to which some of the barriers are already well understood, such as permitting delays,

¹ LAO. "Overview of Last-Mile Broadband Infrastructure Project Administration and Funding."
<https://lao.ca.gov/handouts/socservices/2022/Last-Mile-Broadband-Infrastructure-040622.pdf>

state government is already taking action to address some of the barriers that would be reviewed in this study. For example, the California Broadband Council, which has existed since 2012, has a statutory role of promoting broadband deployment in unserved and underserved areas of the state. Pursuant to Governor Newsom's Executive Order N-73-20², the Broadband Council was directed to develop a statewide Broadband Action Plan and promote digital equity throughout California.

The Broadband Council's Broadband for All Action Plan³ was published in late 2020. The plan directed several state agencies to take various actions to simplify processes and leverage existing assets and construction to support broadband infrastructure deployment. Some of the work is complete and some remains ongoing. The California Department of Technology maintains an interactive tracker on their website to monitor the progress of implementing the executive order. For example, California Broadband Council staff report to this committee that the California State Transportation Agency completed work to improve the state encroachment permitting processes and rights-of-way management to accelerate broadband deployment projects that will serve unserved and under-connected communities. The California Department of Technology is also undertaking ongoing work to explore various actions to enhance permitting processes at all levels of government through meaningful partnerships. Additionally, the Department of General Services is also working on identifying state property for possible use for broadband infrastructure, based on specific criteria identified by the CPUC, Caltrans and other relevant agencies, to accelerate broadband deployment. Although the Broadband Action Plan does not cover all the factors that would be reviewed in the report and some work is not yet completed, some of the recommendations that would come out of the report might be duplicative, especially if undertaken by a state agency other than CDT.

- 5) *The Office of Planning and Research has limited administrative capacity to complete this study.* As currently drafted, the bill assigns the responsibilities of creating the report to OPR. However, OPR has never undertaken a study on the topic of broadband and the topic is outside the scope of its current projects. It is of course possible that OPR could hire qualified staff to undertake the study. However, staffing up would take additional time and the bill already provides a narrow window to submit the report to the legislature. Furthermore, given that the CDT and the Broadband Council are already equipped and undertaking similar work, transferring the responsibility of this report to CDT could be a more efficient undertaking.
- 6) *Arguments in support.* Various internet service providers have written in support of the bill highlighting the various delays faced in deploying broadband infrastructure. CTIA writes, "Unfortunately, these impediments negatively impact the very communities that need access the most, putting them at a distinct disadvantage in this digital age and potentially depriving them of opportunities for online education, health care and professional growth. A variety of business advocacy organizations, including CalChamber, also support the bill because they believe expanded broadband access is essential for businesses – large and small – to be able to reach their customers and help expand their services."

² Executive Order N-73-20. <https://www.gov.ca.gov/wp-content/uploads/2020/08/8.14.20-EO-N-73-20.pdf>

³ California Broadband Council. "Broadband for All Action Plan". <https://broadbandcouncil.ca.gov/wp-content/uploads/sites/68/2020/12/BB4All-Action-Plan-Final.pdf>

- 7) *Arguments in opposition.* Various organizations oppose the bill because they argue the report would not take a balanced look at the factors affecting broadband deployment and investment. For example, a coalition of local government that includes the Rural County Representatives, the League of Cities, and the California State Association of Counties argue that the provisions of SB 717 create a process with a predetermined conclusion about what is driving delays in expansion of broadband infrastructure and service. Other organizations, such as Media Alliance, highlight that some aspects of the bill are duplicative of ongoing efforts to address digital equity.
- 8) *Similar/related legislation.*
- a. AB 2751 (Bonta) of this session would direct the California Department of Technology to develop a state digital equity plan, which would include the identification of barriers to digital equity faced by covered populations in this state.
 - b. SB 556 (Dodd, 2021) would have established permitting requirements for the placement of small wireless facilities on street light and traffic signal poles owned by local governments, including specified timelines for approving and attaching infrastructure, limitations on fees for attachments, and restrictions on local governments' ability to prohibit small wireless facility attachments. The bill was vetoed by Governor Newsom.
- 9) *Need for amendments.* The following are recommended amendments:
- a. To reduce duplicative work and align the bill with ongoing state efforts to address the expansion of broadband infrastructure and service, the author may wish to amend the bill to reassign the duties to the California Department of Technology.
 - b. To ensure the report reviews a more expansive list of barriers to investment and building of broadband access points, the author may wish to require the report to additionally require a review of barriers to building broadband access points on private structures and property.
 - c. To broaden the scope of the factors reviewed in the report, the author may wish to explicitly require the report to include a review of the extent to which household income in areas and economic feasibility are barriers to broadband deployment.
 - d. To broaden the scope of “relevant stakeholders” participating in the report, the author may to additionally include consumer and ratepayer advocacy organizations in the list of relevant stakeholder, and authorize both local governments and their associations to participate as relevant stakeholders.

REGISTERED SUPPORT / OPPOSITION:

Support

Bizfed Institute
Calchamber
California Asian Pacific Chamber of Commerce (CAPCC)
California Emerging Technology Fund

California Grocers Association
California Hispanic Chambers of Commerce
California Retailers Association
Central City Association of Los Angeles
Crown Castle and Its Affiliates
CTIA
Los Angeles Area Chamber of Commerce
Los Angeles County Business Federation (BIZ-FED)
Orange County Business Council
San Diego Regional Chamber of Commerce
Silicon Valley Leadership Group
T-mobile Usa, INC.
Telacu
The Bay Area Council
United States Telecom Association DbA Ustelecom - the Broadband Association
Valley Industry and Commerce Association (VICA)
Verizon Communications, INC. And its Affiliates

Opposition

Access Humboldt
Californians for Safe Technology
California State Association of Counties (CSAC)
Emf Safety Network
Environmental Working Group
Facts: Families Advocating for Chemical & Toxins Safety
League of California Cities
Media Alliance
Next Century Cities
Rural County Representatives of California (RCRC)
Safe Technology for Santa Rosa
Safetech4santarosa.org

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