

Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 14 (Aguiar-Curry, et al.) – As Introduced December 7, 2020

SUBJECT: Communications: broadband services: California Advanced Services Fund.

SUMMARY: Extends the California Advanced Services Fund (CASF) and makes various modifications to the fund, and expands the types of projects eligible for CASF funding to include projects that deploy broadband to specified “anchor institutions.” **Specifically, this bill:**

- 1) Continues funding of the CASF beyond 2022, in perpetuity, with a surcharge not to exceed an unspecified percentage of an end user’s intrastate telecommunications service costs.
- 2) Modifies broadband project eligibility to infrastructure capable of providing broadband access at speeds of at least 25 megabits per second (Mbps) downstream and 25 Mbps upstream with a goal of 100 Mbps downstream.
- 3) Directs the California Public Utilities Commission (CPUC) to prioritize specified broadband infrastructure grants to projects in unserved and high poverty areas ahead of projects in underserved and higher income areas.
- 4) Precludes the funding of middle-mile infrastructure until no less than 98% of households in each consortia have broadband access.
- 5) Specifies that tribal governments, special districts, and joint powers authorities are eligible for grants.
- 6) Expands the costs eligible to be covered by a grant to include deployment to anchor institutions, such as schools maintaining kindergarten or any of grades 1 to 12, community colleges, libraries, hospitals, health clinics, fairgrounds, public safety entities, government buildings, and community organizations in the area under specified conditions.
- 7) Requires the CPUC to make a finding that an existing facility-based broadband provider is unwilling or unable to deploy broadband through the project area before funding a grant.
- 8) Creates a sixth account, the Broadband Bond Financing and Securitization account, to facilitate the use of bond funds paid for by future surcharge collections to enable earlier funding of broadband projects.
- 9) Eliminates specific, capped allocations to each broadband account, requiring the Legislature to appropriate funding to each account through the annual state budget.
- 10) Authorizes a local education agency (LEA) to report its pupils’ computing and Internet needs for distance learning to the California Department of Education (CDE). CDE must compile LEAs reported computer and Internet needs and annually post this information on CDE’s website.

- 11) Requires the Governor's Office of Business and Economic Development (GO-Biz) to work with stakeholders to develop recommendations and a model for streamlined local permit processes for broadband infrastructure deployment by June 30, 2022. GO-Biz must post this information on its website, update the recommendations and model, and provide technical assistance to local governments that adopt the model and recommendations.
- 12) Permits the board of supervisors of any county to acquire, construct, improve, maintain, or operate broadband internet access service, and any other communications service necessary to obtain federal or state support for the acquisition, construction, improvement, maintenance, or operation of broadband internet access service and subjects these counties to the net neutrality rules that apply to local agencies that provide broadband service.
- 13) Makes a number of technical and conforming changes, and provides a number of findings and declarations regarding the purposes and intent of this bill.
- 14) Contains an urgency clause.

EXISTING LAW:

- 1) Permits the CPUC to develop, implement, and administer the CASF program to encourage deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and the substantial social benefits of advanced information and communications technologies.
- 2) Sets the goal of the program no later than December 31, 2022, to approve funding for infrastructure projects that will provide broadband access to no less than 98 percent of California households in each consortia region, as identified by the CPUC on or before January 1, 2017.
- 3) Establishes that the CPUC shall be responsible for achieving the goals of the program.
- 4) Defines "unserved household" as a household for which no facility-based broadband provider offers broadband service at speeds of at least 6 megabits per second (mbps) downstream and one mbps upstream.
- 5) Defines "unserved household" for projects funded, in whole or in part, from moneys received from the federal Rural Digital Opportunity Fund, as a household for which no facility-based broadband provider offers broadband service at speeds consistent with the standards established by the Federal Communications Commission.
- 6) Requires the CPUC in approving infrastructure projects to do both of the following:
 - a) Approve projects that provide last-mile broadband access to households that are unserved by an existing facility-based broadband provider; and,
 - b) Give preference to projects in areas where internet connectivity is available only through dial-up service that are not served by any form of wireline or wireless facility-based broadband service or areas with no internet connectivity.

- 7) Establishes the following accounts within the fund:
 - a) The Broadband Infrastructure Grant Account;
 - b) The Rural and Urban Regional Broadband Consortia Grant Account;
 - c) The Broadband Public Housing Account; and
 - d) The Broadband Adoption Account.
- 8) Consult with regional consortia, stakeholders, local governments, existing facility-based broadband providers, and consumers regarding unserved areas and cost-effective strategies to achieve the broadband access goal through public workshops conducted at least annually no later than April 30 of each year through year 2022.
- 9) Offer annually an existing facility-based broadband provider the opportunity to demonstrate that it will deploy broadband or upgrade existing facilities to a delineated unserved area within 180 days.
- 10) Provide each applicant, and any party challenging an application, the opportunity to demonstrate actual levels of broadband service in the project area.
- 11) Establishes that a local governmental agency may be eligible for an infrastructure grant only if the infrastructure project is for an unserved household or business, the CPUC has conducted an open application process, and no other eligible entity applied.

FISCAL EFFECT: This bill is keyed fiscal and contains a state-mandated local program.

COMMENTS:

- 1) **Bill Summary.** This bill extends the CASF and makes various modifications to the fund, including increasing the minimum speed standards for CASF-funded infrastructure, expanding the definition of an “unserved” area eligible for grants, and expanding the types of projects eligible for CASF funding to include projects that deploy broadband to specified “anchor institutions.”

The bill specifies that tribal governments, special districts, and joint powers authorities are eligible for grants, and requires a local government with an area of a regional consortium to consult that regional consortium regarding planning, application, and implementation of a project. The bill also allows counties to provide broadband service and subjects these counties to the net neutrality rules that apply to local agencies that provide broadband service.

The bill also requires GO-Biz to work with stakeholders to develop recommendations and a model for streamlined local permit processes for broadband infrastructure deployment by June 30, 2022. GO-Biz must post this information on its website, update the recommendations and model, and provide technical assistance to local governments that adopt the model and recommendations.

This bill is sponsored by the author.

- 2) **Author's Statement.** According to the author, "The heartbreaking reality is that 1 in 8 California homes do not have internet access and communities of color face even higher numbers of students and families who remain disconnected. Only miles from our State Capitol there are areas of our state where Californians have no access to broadband connectivity. In partnership with Senator Gonzalez and nearly two dozen of our legislative colleagues, we seek to modernize and sufficiently fund the CASF to provide sufficient service to meet the current and future internet needs of all Californians."
- 3) **Background.** While the digital divide is not new, the Covid-19 pandemic highlighted the extent to which lack of broadband access persists for many communities. Urban, suburban, and rural areas each face unique obstacles to obtaining broadband service. According to a study by the University of California at Riverside, approximately 30% of California households lacked broadband access prior to the pandemic. For about five percent of Californians, the lack of broadband comes from the absence of broadband infrastructure in their community. However, even in areas where broadband infrastructure exists, 25% of California's households still cannot access it due to cost.

While cost is a significant barrier to broadband access across all communities, the absence of broadband infrastructure in communities disproportionately impacts rural Californians and low-income communities. Fixed infrastructure costs and lower population density in rural areas disincentives internet service providers (ISPs) from investing significant capital in broadband deployment for rural communities. Digital redlining has led ISPs to refrain from upgrading and deploying broadband infrastructure in low-income urban communities where companies are less likely to sell market-rate internet plans.

According to a survey conducted by the Pew Research Center, 53% of Americans believe that broadband has been essential during the Covid-19 pandemic. The same survey also showed that 22% of parents said that their children have to find public Wi-Fi to finish their schoolwork during mandatory distance learning because they do not have a reliable internet connection at home. According to the survey, 43% of lower-income parents said their children would have to do schoolwork on cellphones, and 40% said they had to go find public Wi-Fi to ensure their kids could complete their schoolwork due to a lack broadband service at home.

The CASF, administered by the CPUC, helps address the extent to which the lack of infrastructure is a barrier to broadband access by funding the deployment of broadband infrastructure. In addition to financing infrastructure, the CASF also includes accounts that support specific broadband deployment and adoption efforts, including projects that connect public housing communities to broadband networks and digital literacy resources.

Unequal application of the CASF surcharge endangers the fund's future and makes securitization infeasible without additional changes. The CASF is one of several universal service programs funded by a surcharge assessed on consumers' intrastate calls. While the CPUC sets the percentage surcharge amount, telecommunications providers are responsible for applying this surcharge to intrastate calls and collecting the revenue for deposit in the CASF. Increasingly, telecommunications providers have been classifying all calls made from wireless and Voice over Internet Protocol (VoIP) phones as interstate calls – regardless of whether the caller is dialing a local or in-state number. As a result, many wireless and VoIP

consumers are not paying an accurate amount of surcharges into universal service funds, including the CASF.

However, consumers who use traditional wireline telephone service are still charged a percentage of their intrastate calls. As more consumers shift from wireline to wireless and VoIP calling, the surcharge is increasingly cost-shifted to wireline consumers. This cost shift leads to wireless consumers paying a few cents towards the CASF each month while wireline customers pay dollars' worth of surcharges each month. This cost shift is still insufficient to keep funding for the CASF stable, and the total surcharge revenue is in decline.

- 4) **Urgency Clause.** This bill contains an urgency clause and requires a 2/3 vote of each house.
- 5) **Related Legislation.** AB 1349 (Mathis) would add churches to the list of organizations eligible for grant funding from the CASF's broadband adoption account. The bill is currently pending in the Assembly.

AB 1426 (Mathis) would delete the existing right of an incumbent ISP to block a CASF grant in an area that that incumbent ISP plans to deploy broadband. The bill is currently pending in the Assembly.

SB 4 (Gonzalez) extends and makes various modifications to the CASF, including increasing the minimum speed of broadband infrastructure, expanding the communities eligible for grants, and allowing the CPUC to issue bonds secured by CASF revenues. This bill is pending in the Senate Appropriations Committee.

SB 732 (Bates) would establish a \$10 billion Rural Broadband Infrastructure fund, administered by the CPUC to deploy high-speed broadband to unserved rural areas. The bill is currently pending in the Senate Committee on Energy, Utilities and Communications.

SB 740 (Borgeas) would clarify that a local government's broadband deployment project is eligible for CASF grant funding, and it would shorten the time frame – from 180 days to 60 days – in which an incumbent ISP may block a CASF applicant's grant by demonstrating that that the incumbent ISP plans deploy broadband to the applicant's area. The bill is currently pending in the Senate Committee on Energy, Utilities and Communications.

- 6) **Previous Legislation.** AB 82 (Committee on Budget, Chapter 14, Statutes of 2020) made various changes to implement the 2020 State Budget, including deleting restrictions that prevented the CPUC from leveraging CASF grants with federal funding.

AB 570 (Aguiar-Curry, 2020) would have extended and modified the CASF, including increasing the minimum speed standards for CASF-funded infrastructure, expanding the communities eligible for CASF monies, allowing the CPUC to collect additional CASF revenue, and authorizing the issuance of up to \$1 billion in bonds secured by the CASF. The bill was held in the Senate.

SB 1130 (Gonzalez, 2020) would have extended and modified the CASF, including increasing minimum speed standards for CASF-funded infrastructure, expanded the communities eligible for the CASF, and set open access requirements for certain infrastructure projects. The bill died in the Assembly.

AB 1665 (Eduardo Garcia, et al.) Chapter 851, Statutes of 2017, revised the goal of CASF to approve funding for infrastructure projects that will provide broadband access to no less than 98% of California households in each consortia region, revised the eligibility requirements for projects and project applicants, created the Broadband Adoption Account (Adoption Account) to increase broadband access and digital inclusion, and required additional program audits and reporting.

SB 1193 (Padilla) Chapter 393, Statutes of 2008, established CASF and gave the CPUC authority to assess a surcharge on communication service ratepayers receiving intrastate telecommunication services to fund the program.

- 7) **Arguments in Support.** According to the League of California Cities, “AB 14 is a step in the right direction, ensuring the continued collection of an essential source of broadband funding. This measure not only authorizes the ongoing collection of the existing CASF surcharge but also makes it easier for local governments to access these grants. Additionally, AB 14 would create a Broadband Bond Financing and Securitization Account to fund broadband infrastructure deployment by local governments. These funding opportunities would allow local governments to continue to play a vital role in deploying broadband infrastructure in their communities.

“In addition to these essential funding opportunities, AB 14 also would expand the definition of ‘unserved.’ Expanding this definition increases eligibility for CASF grants, which are currently reserved for areas with internet at dial-up speeds or lower, leaving out many communities where Californians struggle to stay connected with slightly faster but still obsolete speeds. This measure would also take important steps to address local education agencies’ connectivity needs, increase service plan transparency by internet service providers, and ensures anchor institutions are eligible for CASF funding.”

- 8) **Arguments in Opposition.** According to the California Taxpayers Association, “AB 14, which would authorize the Public Utilities Commission to impose an indefinite tax-like “surcharge” based upon an unspecified percentage of an end user’s intrastate telecommunications service costs, with the revenue earmarked to expand broadband infrastructure. AB 14 would add an additional tax to the phone bill, in perpetuity, further increasing the cost of communication.

“Now that California will receive American Recovery and Rescue Plan funds, which includes funds that are specifically earmarked for broadband infrastructure projects, the state should not impose a tax increase to fund the project, as this would result in taxpayers paying twice for the same project. In addition to the significant funding being provided by the federal government, the state is projected to have a record \$22 billion reserve, which is why the governor and administration officials have stated that additional taxes are unnecessary in the current environment. California enjoyed an estimated \$15 billion revenue windfall this fiscal year, and during the first eight months of the current fiscal year, general fund revenue was \$14.3 billion higher than projected in the January budget proposal. Now is the wrong time to add another tax that would exacerbate California’s high tax burden and cost of living.”

REGISTERED SUPPORT / OPPOSITION:**Support**

3Core
Association of California Healthcare Districts
Association of California School Administrators
California Association of Public Authorities for IHSS
California Commission on the Status of Women & Girls
California Department of Education
California Economic Summit
California Forward Action Fund
California Pan-Ethnic Health Network
California Partnership for the San Joaquin Valley
California State Association of Counties
California State Student Association
California Telehealth Policy Coalition
CaliforniaHealth + Advocates
Central Valley Community Foundation
City of San Pablo
City of Torrance
City of Walnut Creek
City of West Sacramento
Community Clinic Association of Los Angeles County
County of El Dorado
County of Imperial
County of Mariposa
County of Monterey
County of Napa
County of San Diego
County of San Luis Obispo Board of Supervisors
County of Santa Clara
County of Tulare
County of Yuba
Digital Equity Coalition
Economic Development Collaborative
Economic Vitality Corp.
Eden Housing
Education Trust-West
Fresno Business Council
Fresno State Connect Initiative
Generation Up
Gilroy City Council Member Office of Zach Hilton
Imperial County Board of Supervisors
Imperial County Transportation Commission
Inland Empire Community Foundation
League of California Cities
Los Angeles Community College District
National Association of Social Workers, California Chapter

North Bay Leadership Council
North State Planning & Development Collective
OCHIN
Parent Institute of Quality Education
Reach
Regional Council of the Southern California Association of Governments
Rural Caucus of the California Democratic Party
San Joaquin Valley Regional Broadband Consortium
San Joaquin Valley Rural Development Center
Santa Clara County Board of Supervisors, District 2
Sierra Business Council
Siskiyou Works
South Bay Cities Council of Governments
Stanislaus Community Foundation
Tahoe Prosperity Center
Teach Plus California
TechEquity Collaborative
Tenet Healthcare
The Fresno Center
Triple P America (Positive Parenting Program)
Unite LA
United Ways of California
Valley Vision
Western Center on Law and Poverty
Yolo Healthy Aging Alliance

Support if Amended

California Cable & Telecommunications Association
The Utility Reform Network (TURN)

Opposition

California Taxpayers Association

Analysis Prepared by: Angela Mapp & Brooke Pritchard / L. GOV. / (916) 319-3958