

## ASSEMBLY THIRD READING

AB 955 (Quirk)

As Amended May 24 , 2021

Majority vote

**SUMMARY**

Establishes additional procedures for the Department of Transportation (Caltrans) to review an application for an encroachment permit for a broadband facility.

**Major Provisions**

- 1) Requires Caltrans to provide public notice in writing of all utility encroachment permit criteria.
- 2) Restricts Caltrans from imposing new or different permit application criteria after an applicant has submitted an application.
- 3) Requires Caltrans to notify the applicant within 30 days after application submission if the application is deemed complete.
- 4) Requires Caltrans, if it deems an application incomplete, to:
  - a) Provide a written notice to the applicant explaining why the application is incomplete and describing the information necessary to complete the application.
  - b) Meet with the applicant within 14 days to discuss any outstanding supplemental information necessary to complete the application, if such a meeting is requested by the applicant.
  - c) Provide the applicant with at least 30 days to resubmit its application with the supplemental information that Caltrans identified in the notice.
  - d) Approve or deny the permit application within 30 days of receiving supplemental information.
- 5) Provides that permits will be deemed approved, if Caltrans fails to notify an applicant of its status within the 30-day period, regardless of whether Caltrans considers the application complete or incomplete.
- 6) Requires Caltrans to act as the lead agency for purposes of ensuring compliance with the California Environmental Quality Act, if a proposed broadband facility requires an encroachment permit, but does not require any additional approval from a city or county.

**COMMENTS**

Broadband development is a priority for local, state, and federal governments as exemplified by various state and federal Executive Orders (EO) that have been issued. In 2006, Governor Schwarzenegger issued EO S-23-06: Twenty-First Century Government, which created the California Broadband Task Force (of which Caltrans is a member) to bring together public and private stakeholders to better facilitate broadband installation, identify opportunities for

increased broadband adoption, and enable access to and deployment of new advanced communication technologies. In 2013, President Obama issued EO 13616: Progress on Accelerating Broadband Infrastructure Deployment, which studied the challenges to deploying wired and wireless broadband including; barriers to deploying broadband for communities and the issuance of government permits, created the Broadband Deployment on Federal Property Working Group, required each department which sits on the working group to develop a broadband strategy for efficient deployment of broadband, and required the U.S. department of Transportation to review and implement "dig once requirements."

Broadband accelerates improvements in infrastructure, public safety, the economy, and makes for an engaged citizenry. The COVID-19 pandemic and the increased need for people to distance from one another has demonstrated a greater need for reliable broadband for work, health, and school. Over 2 million Californians lack access to broadband service, including 50% of rural housing units. As of December 2018, 23% of California's 8.4 million residents do not have broadband subscriptions. Approximately 674,000 households in the state lack high capacity broadband, with about 305,000 located in urban areas and 369,000 located in rural areas.

Broadband deployment continues to be a challenge. Urban California covers about 8,200 square miles and contains just under 95% of the population, while rural California is home to 5% of the population spread across more than 147,000 square miles. Access to broadband correlates with higher education and income levels, disability status, age, and race and ethnicity. Lack of broadband deployment has been attributed to: increased need for high-performance broadband, network resiliency, and redundancy. There are varying needs for broadband across California, from no broadband to poor quality broadband to decent broadband service. The cost of deployment is also a challenge, for example delivering Gigabit Service to unserved and underserved Californians is estimated to require at least \$6.8 billion in new private, federal and state investments

This bill does not change the requirement that Caltrans approve or deny an encroachment permit within 60 days of a complete application. However, this bill requires Caltrans to identify in advance all criteria needed for approval and requires that Caltrans not impose any new or different application criteria after the initial application is submitted. In addition, Caltrans, upon an applicant's request, must meet with the applicant. These measures may improve communication between Caltrans and broadband providers and thereby accelerate the permitting process, but Caltrans' permitting process is not the only barrier to broadband deployment statewide.

Broadband projects are more likely to be in the urban parts of the state and can therefore rely on the right-of-way associated with state highways to install infrastructure needed for broadband deployment. However, in more rural regions where broadband is lacking, state highways may not exist. If the state is to achieve its goal of "broadband for all", in certain parts of the state, broadband providers will need to deploy strategies that do not necessarily exclusively rely on Caltrans' right-of-way. However, there are other challenges because these are often the most expensive connections to make, the cost of connection is often not profitable for the broadband providers, and there can also be community resistance to the installation of broadband-related infrastructure.

**According to the Author**

"While the deployment of broadband has always been an industry priority, there has never been more pressure to get Californians connected to the internet than seen during the COVID-19 pandemic. As part of a comprehensive broadband solution to get more Californians internet access, AB 955 makes significant but reasonable improvements to the current Caltrans 60-day encroachment permit process. AB 955 would simply require Caltrans to notify encroachment permit applicants of all application requirements, set a 30-day milestone to verify whether that application is complete, and clarify that Caltrans will act as the lead agency for the CEQA process in the event that no other local agency takes that role. These improvements to the Caltrans encroachment permitting process will make the deployment of broadband infrastructure more efficient and help to address the broader Digital Divide."

**Arguments in Support**

The California Cable and Telecommunications Association writes, "CCTA supports Assembly Bill 955, which would expedite encroachment permits for the deployment of broadband facilities within Department of Transportation ("Caltrans") rights-of-way. With the onset of the COVID-19 pandemic, there has never been a greater urgency to deploy broadband to unserved communities. Utilizing Caltrans rights-of-way is one of the fastest means to deploy broadband to unserved communities."

**Arguments in Opposition**

Towards an Internet of Living Things writes, "...the great likelihood of increased wildfires if this 5G infrastructure is allowed to move ahead, without proper oversight from local governments. Since the people of California have already suffered so greatly as a result of out of control wildfires, we thought it would be helpful to remind you of the fiscal costs to the state..."

**FISCAL COMMENTS**

According to the Assembly Appropriations Committee, annual cost to Caltrans of an unknown amount, but potentially in the millions of dollars, for augmented staffing to allow Caltrans to serve as the lead CEQA agency on a greater number of broadband projects (special fund). Actual costs will depend on the effectiveness of this bill in facilitating a greater number of broadband deployment projects. Eventually, Caltrans will be able to recover these costs from fees on broadband utility providers.

**VOTES****ASM TRANSPORTATION: 15-0-0**

**YES:** Friedman, Fong, Berman, Cunningham, Daly, Davies, Gipson, Kalra, Lee, Medina, Nazarian, Nguyen, O'Donnell, Ward, Wicks

**ASM COMMUNICATIONS AND CONVEYANCE: 13-0-0**

**YES:** Santiago, Patterson, Boerner Horvath, Cervantes, Davies, Eduardo Garcia, Holden, Low, Quirk-Silva, Rodriguez, Valladares, Bennett, Ting

**ASM APPROPRIATIONS: 12-0-4**

**YES:** Lorena Gonzalez, Calderon, Carrillo, Chau, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Holden, Luz Rivas

**ABS, ABST OR NV:** Bigelow, Megan Dahle, Davies, Fong

**UPDATED**

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CONSULTANT: Julia Kingsley / TRANS. / (916) 319-2093

FN: 0000714