

**ASSEMBLY BILL**

**No. 855**

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**Introduced by Assembly Members Firebaugh and Levine**

February 20, 2003

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An act to add Section 14666.8 to the Government Code, and to add Section 709.5 to the Public Utilities Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 855, as introduced, Firebaugh. Wireless telecommunications: access to state property.

(1) Existing law requires the Director of General Services, with the approval of the state agency concerned, and the Director of Transportation to negotiate, in the name of the state, access to state-owned property, including highway rights-of-way, for those purposes and subject to those conditions, limitations, restrictions, and reservations determined by the director to be in the interest of the state. Existing law provides that this requirement to negotiate access applies to telecommunications and information technologies. Existing law requires, to the extent permitted under existing law, the director to determine the amount of consideration for, and means of access, which means shall include, but not be limited to, lease, permit, or other form of providing a monetary or service consideration for the access.

This bill would require the Director of General Services to, within 120 days of the operative date of the bill, compile and maintain an inventory of state-owned real property that may be available for lease to providers of wireless telecommunications services for location of wireless telecommunications facilities, and to make the inventory

available on the Department of General Services’ Web site. It would authorize the director to negotiate and enter into an agreement for the lease of certain state-owned real property to any provider of wireless telecommunications services for location of its facilities, subject to specified conditions.

(2) Existing law requires the Public Utilities Commission to develop a plan to encourage the widespread availability and use of advanced communications infrastructure consistent with the state policy of bridging the digital divide.

The bill would require that 15% of the revenues from fees collected from the lease of state-owned real property to the providers of wireless telecommunication services pursuant to its provisions, with certain exceptions, be deposited in the Digital Divide Account established by the bill in the California Teleconnect Fund Administrative Committee Fund. It would require the revenues deposited in the fund to be available, upon appropriation by the Legislature, to be administered by the commission to finance digital divide projects through the Digital Divide Grant Program established by the bill. The bill would require the commission to report to the Legislature and Governor annually on the effectiveness of the program.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Wireless telecommunications service is a critical part of
- 4 California’s infrastructure.
- 5 (b) The rapid deployment of wireless telecommunications
- 6 facilities is critical to ensure network access and quality of service.
- 7 (c) It is in the public interest to minimize the aesthetic impact
- 8 of wireless telecommunications towers and facilities necessary to
- 9 support wireless networks.
- 10 (d) Use of property owned by the state, local government
- 11 agencies, and other public entities for location of wireless
- 12 telecommunications facilities will expedite deployment of



1 wireless telecommunications service and minimize the aesthetic  
2 impact of wireless telecommunications towers and facilities.

3 SEC. 2. Section 14666.8 is added to the Government Code, to  
4 read:

5 14666.8. (a) The director shall, within 120 days of the  
6 operative date of this section, compile and maintain an inventory  
7 of state-owned real property that may be available for lease to  
8 providers of wireless telecommunications services for location of  
9 wireless telecommunications facilities. This inventory shall be the  
10 state's sole inventory of state-owned real property available for  
11 this purpose.

12 (b) The director shall make the inventory available on the  
13 department's Web site.

14 (c) On behalf of the state, the director may negotiate and enter  
15 into an agreement to lease state-owned real property, not subject  
16 to an existing state franchise, to any provider of wireless  
17 telecommunications services for location of its facilities. A lease  
18 for this purpose shall do all of the following:

19 (1) Provide for a reasonable rental fee to be paid to the state to  
20 the extent permitted under existing law.

21 (2) Designate a lease term that is acceptable to the director.

22 (3) Provide for the use of the wireless provider's facilities  
23 located on the state-owned real property by any appropriate state  
24 agency if technically, legally, aesthetically, and economically  
25 feasible.

26 (4) Facilitate, to the greatest extent possible, agreements  
27 among providers of wireless telecommunications services for  
28 colocation of their facilities on state-owned real property.

29 (d) The director shall develop and distribute materials for use  
30 by local government agencies that encourage these agencies to  
31 compile and maintain inventories of local agency-owned real  
32 property that may be available to providers of wireless  
33 telecommunications services for the location of wireless  
34 telecommunications facilities.

35 SEC. 3. Section 709.5 is added to the Public Utilities Code, to  
36 read:

37 709.5. (a) Of the revenues from fees collected pursuant to  
38 Section 14666.8 of the Government Code after the operative date  
39 of this section, except for revenues from fees from a lease  
40 agreement for access to Department of Transportation property or



1 a lease agreement existing prior to the operative date of the section,  
2 15 percent shall be available, upon appropriation by the  
3 Legislature, for the purpose of addressing the state’s digital divide.

4 (b) (1) Revenues described in subdivision (a) shall be  
5 deposited in the Digital Divide Account, which is hereby created  
6 in the California Teleconnect Fund Administrative Committee  
7 Fund established pursuant to Section 270, to be used only for  
8 digital divide pilot projects.

9 (2) The Public Utilities Commission may use not more than 5  
10 percent of the amounts deposited in the account to pay the costs of  
11 administering this section.

12 (c) (1) The Digital Divide Grant Program is hereby  
13 established subject to the availability of funding pursuant to this  
14 section.

15 (2) The Public Utilities Commission shall provide grants  
16 pursuant to this subdivision on a competitive basis subject to  
17 criteria to be established by the commission and in a way that  
18 disburses the funds widely, including urban and rural areas. Grants  
19 shall be awarded to community-based nonprofit organizations that  
20 are exempt from taxation under Section 501(c)(3) of the Internal  
21 Revenue Code for the purpose of funding community technology  
22 programs.

23 (3) Recipients of grants pursuant to this subdivision shall report  
24 to the commission annually on the effectiveness of the grant  
25 program.

26 (4) The commission shall report to the Legislature and the  
27 Governor annually on the effectiveness of the program  
28 administered pursuant to this subdivision.

29 (d) For purposes of this section, “community technology  
30 programs” means a program that is engaged in diffusing  
31 technology in local communities and training local communities  
32 in the use of technology, especially local communities that  
33 otherwise would have no access or limited access to the Internet  
34 and other technologies.

35 (e) For purposes of this section, “digital divide projects”  
36 means community technology programs involved in activities that  
37 include, but are not limited to, the following:

38 (A) Providing open access to and opportunities for training in  
39 technology.



1 (B) Developing content relevant to the interests and wants of  
2 the local community.

3 (C) Preparing youth for opportunities in the new economy  
4 through multimedia training and skills.

5 (D) Harnessing technology for e-government services.

6 (f) Nothing in this section shall be construed to alter any  
7 existing rights of telephone corporations under Section 7901.

8 SEC. 4. This act is an urgency statute necessary for the  
9 immediate preservation of the public peace, health, or safety  
10 within the meaning of Article IV of the Constitution and shall go  
11 into immediate effect. The facts constituting the necessity are:

12 In order to make state-owned real property available for lease,  
13 and to make the resulting revenues available for addressing the  
14 state's digital divide, at the earliest possible time, it is necessary for  
15 this act to go into immediate effect.

