

AMENDED IN SENATE JULY 16, 2003  
AMENDED IN ASSEMBLY JUNE 2, 2003  
AMENDED IN ASSEMBLY MAY 6, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**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, *to amend Section 280 of*, 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 amended, Firebaugh. *Telecommunications: Wireless telecommunications: access to state property for wireless facilities: California Teleconnect Fund Administrative Committee Fund: Digital Divide Account.*

(1) Existing law requires the Director of General Services, with the approval of the state agency concerned, to negotiate, in the name of the state, access to state-owned property not used for highway purposes, 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 of General Services 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.

Existing law imposes similar requirements on the Director of Transportation with respect to state-owned highway rights-of-way.

This bill would require the Director of General Services, within 120 days of the operative date of the bill, to compile and maintain an inventory of state-owned real property, excluding state-owned highway rights-of-way 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~~ upon request, in a cost-effective manner. It would authorize the director to negotiate and enter into an agreement for the lease of certain *department-managed* and state-owned real property to any provider of wireless telecommunications services for location of its facilities, subject to specified conditions.

(2) *Existing law establishes the California Teleconnect Fund Administrative Committee to advise the Public Utilities Commission regarding the development, implementation, and administration of a program to advance universal service by providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations, consistent with an uncodified statute requiring the commission to open and conclude a proceeding relative to the implementation of universal service in telecommunications. Existing law establishes the California Teleconnect Fund Administrative Committee Fund in the State Treasury and provides that moneys in the fund, collected by telephone corporations in utility rates authorized by the commission and deposited into the fund, may only be expended for the purposes authorized, upon appropriation in the annual Budget Act.*

*This bill would require the commission to develop, implement, and administer a program to advance universal service by providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations.*

(3) 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 account 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)~~

(4) 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  
13 wireless telecommunications service and minimize the aesthetic  
14 impact of wireless telecommunications towers and, facilities, or  
15 other wireless repeaters, amplifiers, regenerative repeaters, or  
16 regenerators that have the shape of natural or manmade structures  
17 or objects.

18 SEC. 2. Section 14666.8 is added to the Government Code, to  
19 read:

20 14666.8. (a) The director shall, within 120 days of the  
21 operative date of this section, compile and maintain an inventory  
22 of state-owned real property that may be available for lease to  
23 providers of wireless telecommunications services for location of  
24 wireless telecommunications facilities. This inventory shall be the



1 state's sole inventory of state-owned real property available for  
2 this purpose. The term "state-owned real property," as used in this  
3 section, excludes state-owned highway rights-of-way.

4 (b) The director shall make the inventory available ~~on the~~  
5 ~~department's Web site upon request, in a cost-effective manner.~~

6 (c) On behalf of the state, the director may negotiate and enter  
7 into an agreement to lease ~~state-owned real property, not subject~~  
8 ~~to an existing state franchise, department-managed and~~  
9 ~~state-owned real property~~ to any provider of wireless  
10 telecommunications services for location of its facilities. A lease  
11 for this purpose shall do all of the following:

12 (1) Provide for ~~a reasonable rental fee~~ *fair market value* to be  
13 paid to the state to the extent permitted under existing law.

14 (2) Designate a lease term that is acceptable to the director *and*  
15 *the state agency that has control over the property. The duration*  
16 *of the initial lease term for any wireless facility shall not exceed 10*  
17 *years, and the lease may provide for a negotiated number of*  
18 *renewal terms, not to exceed five years for each term.*

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

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

26 SEC. 3. *Section 280 of the Public Utilities Code is amended*  
27 *to read:*

28 280. (a) *The commission shall develop, implement, and*  
29 *administer a program to advance universal service by providing*  
30 *discounted rates to qualifying schools, libraries, hospitals, health*  
31 *clinics, and community organizations, consistent with Chapter*  
32 *278 of the Statutes of 1994.*

33 (b) There is hereby created the California Teleconnect Fund  
34 Administrative Committee, which is an advisory board to advise  
35 the commission regarding the development, implementation, and  
36 administration of a program to advance universal service by  
37 providing discounted rates to qualifying schools, libraries,  
38 hospitals, health clinics, and community organizations, consistent  
39 with Chapter 278 of the Statutes of 1994, and to carry out the



1 program pursuant to the commission's direction, control, and  
2 approval.

3 ~~(b)~~

4 (c) All revenues collected by telephone corporations in rates  
5 authorized by the commission to fund the program specified in  
6 subdivision (a) shall be submitted to the commission pursuant to  
7 a schedule established by the commission. Commencing on  
8 October 1, 2001, and continuing thereafter, the commission shall  
9 transfer the moneys received, and all unexpended revenues  
10 collected prior to October 1, 2001, to the Controller for deposit in  
11 the California Teleconnect Fund Administrative Committee Fund.  
12 All interest earned by moneys in the fund shall be deposited in the  
13 fund.

14 ~~(e)~~

15 (d) Moneys appropriated from the California Teleconnect  
16 Fund Administrative Committee Fund to the commission shall be  
17 utilized exclusively by the commission for the program specified  
18 in subdivision (a), including all costs of the board and the  
19 commission associated with the administration and oversight of  
20 the program and the fund.

21 *SEC. 4.* Section 709.5 is added to the Public Utilities Code, to  
22 read:

23 709.5. (a) Of the revenues from fees collected pursuant to  
24 Section 14666.8 of the Government Code after the operative date  
25 of this section, except for revenues from fees from a lease  
26 agreement for access to Department of Transportation property or  
27 a lease agreement existing prior to the operative date of the section,  
28 15 percent shall be available, upon appropriation by the  
29 Legislature, for the purpose of addressing the state's digital divide.

30 (b) Revenues described in subdivision (a) shall be deposited in  
31 the Digital Divide Account, which is hereby established in the  
32 California Teleconnect Fund Administrative Committee Fund  
33 established pursuant to Section 270, to be used only for digital  
34 divide pilot projects.

35 (c) (1) The Digital Divide Grant Program is hereby  
36 established subject to the availability of funding pursuant to this  
37 section. The commission ~~shall~~ *may* not implement the grant  
38 program until at least two hundred thousand dollars (\$200,000)  
39 has been deposited into the Digital Divide Account.

1 (2) The commission shall provide grants pursuant to this  
2 subdivision on a competitive basis subject to criteria to be  
3 established by the commission and in a way that disburses the  
4 funds widely, including urban and rural areas. Grants shall be  
5 awarded to community-based nonprofit organizations that are  
6 exempt from taxation under Section 501(c)(3) of the Internal  
7 Revenue Code for the purpose of funding community technology  
8 programs.

9 (3) Recipients of grants pursuant to this subdivision shall report  
10 to the commission annually on the effectiveness of the grant  
11 program.

12 (4) The commission shall report to the Legislature and the  
13 Governor annually on the effectiveness of the program  
14 administered pursuant to this subdivision.

15 (d) For purposes of this section, “community technology  
16 programs” means a program that is engaged in diffusing  
17 technology in local communities and training local communities  
18 in the use of technology, especially local communities that  
19 otherwise would have no access or limited access to the Internet  
20 and other technologies.

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

24 ~~(A)–~~

25 (1) Providing open access to and opportunities for training in  
26 technology.

27 ~~(B)–~~

28 (2) Developing content relevant to the interests and wants of  
29 the local community.

30 ~~(C)–~~

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

33 ~~(D)–~~

34 (4) Harnessing technology for e-government services.

35 ~~(f) Nothing in this section may be construed to alter any  
36 existing rights of telephone corporations under Section 7901.~~

37 ~~SEC. 4.—~~

38 SEC. 5. This act is an urgency statute necessary for the  
39 immediate preservation of the public peace, health, or safety



1 within the meaning of Article IV of the Constitution and shall go  
2 into immediate effect. The facts constituting the necessity are:  
3 In order to make state-owned real property available for lease,  
4 and to make the resulting revenues available for addressing the  
5 state's digital divide, at the earliest possible time, it is necessary for  
6 this act to go into immediate effect.

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