AMENDED IN SENATE AUGUST 18, 2003

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AMENDED IN ASSEMBLY MAY 6, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

# ASSEMBLY BILL No. 855

**Introduced by Assembly Members Firebaugh and Levine**

February 20, 2003

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: 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 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.

(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:*

SECTION 1. The Legislature finds and declares all of the following:

(a) Wireless telecommunications service is a critical part of California's infrastructure.

(b) The rapid deployment of wireless telecommunications facilities is critical to ensure network access and quality of service.

(c) It is in the public interest to minimize the aesthetic impact of wireless telecommunications towers and facilities necessary to support wireless networks.

(d) Use of property owned by the state, local government agencies, and other public entities for location of wireless telecommunications facilities will expedite deployment of wireless telecommunications service and minimize the aesthetic impact of wireless telecommunications towers and, facilities, or other wireless repeaters, amplifiers, regenerative repeaters, or regenerators that have the shape of natural or manmade structures or objects.

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

14666.8. (a) The director shall, within 120 days of the operative date of this section, 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. This inventory shall be the state's sole inventory of state-owned real property available for this purpose. The term ''state-owned real property,'' as used in this section, excludes state-owned highway rights-of-way.

(b) The director shall make the inventory available upon request, in a cost-effective manner.

(c) On behalf of the state, the director may negotiate and enter into an agreement to lease department-managed and state-owned real property to any provider of wireless telecommunications services for location of its facilities. A lease for this purpose shall do all of the following:

(1) Provide for fair market value to be paid to the state to the extent permitted under existing law.

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

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

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

*(d) Nothing in this section alters any existing rights of telegraph or telephone corporations pursuant to Section 7901 of the Public Utilities Code.*

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

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

(b) There is hereby created the California Teleconnect Fund Administrative Committee, which is an advisory board to advise the 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 Chapter 278 of the Statutes of 1994, and to carry out the program pursuant to the commission's direction, control, and approval.

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

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

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

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

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

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

(2) The commission shall provide grants pursuant to this subdivision on a competitive basis subject to criteria to be established by the commission and in a way that disburses the

funds widely, including urban and rural areas. Grants shall be awarded to community-based nonprofit organizations that are exempt from taxation under Section 501(c)(3) of the Internal Revenue Code for the purpose of funding community technology programs.

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

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

(d) For purposes of this section, ‘‘community technology programs’’ means a program that is engaged in diffusing technology in local communities and training local communities in the use of technology, especially local communities that otherwise would have no access or limited access to the Internet and other technologies.

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

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

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

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

(4) Harnessing technology for e-government services.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

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

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