

AMENDED IN SENATE JULY 19, 2004

AMENDED IN SENATE JUNE 16, 2004

AMENDED IN SENATE MAY 28, 2004

AMENDED IN ASSEMBLY MARCH 24, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2172

Introduced by Assembly Member Levine

February 18, 2004

An act to amend Section 14666.8 of the Government Code, to amend Section 280.5 of the Public Utilities Code, and to amend Section 1 of Chapter 820 of the Statutes of 2003, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 2172, as amended, Levine. Telecommunications: lease of state property for wireless facilities: Digital Opportunities Account in the California Teleconnect Fund Administrative Committee Fund.

Existing law requires the Director of General Services, to compile and maintain an inventory of state-owned real property, excluding certain property, that may be available for lease to providers of wireless telecommunications services for location of wireless telecommunications facilities, and to provide a requesting party, upon payment of any applicable fee, with a copy of the inventory. Existing law authorizes 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.

Existing law requires, notwithstanding any other provision of law, that any revenue collected from a lease entered into pursuant to these provisions to use property that was acquired with money in a fund other than the General Fund, be deposited into the fund from which it was obtained. Existing law requires that moneys received and deposited in those funds be available upon appropriation by the Legislature notwithstanding any other provision of law.

Existing law establishes the California Teleconnect Fund Administrative Committee to advise the Public Utilities Commission regarding the commission's responsibilities for the development, implementation, and administration of a program to advance universal telephone service by providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations.

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. Existing law creates the Digital Divide Account within the fund, and requires 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 the above-described provisions, with certain exceptions, be deposited in the Digital Divide Account, to be available, upon appropriation by the Legislature, to finance digital divide projects through the Digital Divide Grant Program.

This bill would respectively rename the Digital Divide Account and the Digital Divide Grant Program; *as* the Digital Opportunities Account and the Digital Opportunities Grant Program. 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 the above-described provisions, *excepting a lease for location of facilities on real property acquired with funds from the Water Resources Development System*, be deposited into the Digital Opportunities Account to be used for the Digital Opportunities Grant Program. The bill would require that 85% of the revenues from fees from a lease agreement to access property, *excepting a lease for location of facilities on real property acquired with funds from the Water Resources Development System*, be deposited into that fund. *The bill would provide that all revenues from a lease for*



locating facilities on property acquired with funds from the Water Resources Development System be deposited into the appropriate State Water Resources Development Bond fund. The bill would require the written approval of the Department of Water Resources for the director to enter into a lease agreement to lease real property that is part of the State Water Resources Development System to a provider of wireless telecommunications services. The bill would require the written approval of the Reclamation Board for the director to enter into a lease agreement to lease real property that is part of the Sacramento River and San Joaquin River flood control system to a provider of wireless telecommunications services. The bill would require the director to charge an application fee sufficient to reimburse the Department of Water Resources and the Reclamation Board for their costs for review and analysis of proposed encroachments that are incurred pursuant to a request of a provider of wireless telecommunications services. The bill would require the commission to consult with the California Teleconnect Fund Administrative Committee in providing grants and establishing criteria for the distribution of funds under the Digital Opportunities Grant Program. The bill would authorize the commission to use moneys in the California Teleconnect Fund Administrative Committee Fund to administer the grant program.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 14666.8 of the Government Code is
2 amended to read:
3 14666.8. (a) The director shall, within 120 days of the
4 operative date of this section, compile and maintain an inventory
5 of state-owned real property that may be available for lease to
6 providers of wireless telecommunications services for location of
7 wireless telecommunications facilities. This inventory shall be the
8 state’s sole inventory of state-owned real property available for
9 this purpose. The term “state-owned real property,” as used in this
10 section, excludes property owned or managed by the Department
11 of Transportation and property subject to Section 7901 of the
12 Public Utilities Code.



1 (b) The director shall provide, in a cost-effective manner, upon
2 payment of any applicable fee, a requesting party a copy of the
3 inventory.

4 (c) On behalf of the state, the director may negotiate and enter
5 into an agreement to lease department-managed and state-owned
6 real property to any provider of wireless telecommunications
7 services for location of its facilities. *The director may only*
8 *negotiate and enter into an agreement to lease real property to a*
9 *provider of wireless telecommunications services for location of*
10 *facilities on real property that is a part of the State Water Resources*
11 *Development System, with the written approval of the Department*
12 *of Water Resources. The director may only negotiate and enter into*
13 *an agreement to lease real property to a provider of wireless*
14 *telecommunications services for location of facilities on real*
15 *property that is a part of the Sacramento River and San Joaquin*
16 *River flood control system, with the written approval of the*
17 *Reclamation Board. The director shall charge an application fee*
18 *sufficient to reimburse the Department of Water Resources and the*
19 *Reclamation Board for their costs for review and analysis of*
20 *proposed encroachments that are incurred pursuant to a request of*
21 *a provider of wireless telecommunications services. A lease for*
22 *this purpose shall do all of the following:*

23 (1) Provide for fair market value to be paid by the provider of
24 wireless telecommunications service to the state to the extent
25 permitted under existing state law.

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

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

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

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



1 (e) Notwithstanding any other provision of law, 85 percent of
2 any revenue collected from a lease entered into pursuant to this
3 section, including a special fund established pursuant to Chapter
4 2 (commencing with Section 16346), *but excluding a lease on real*
5 *property that is a part of the State Water Resources Development*
6 *System*, shall be deposited into the fund from which the money was
7 obtained. Fifteen percent of any revenue collected from a lease
8 entered into pursuant to this section, *excluding any revenues from*
9 *a lease on real property that is a part of the State Water Resources*
10 *Development System*, shall be deposited into the Digital
11 Opportunities Account in the California Teleconnect Fund
12 Administrative Committee Fund, to be used for digital opportunity
13 projects pursuant to Section 280.5 of the Public Utilities Code. *If*
14 *a wireless telecommunications facility or other facility is sited on*
15 *real property acquired with funds from the Water Resources*
16 *Development System, all revenue generated from any lease or*
17 *other real property transaction shall be deposited into the*
18 *appropriate State Water Resources Development Bond fund.*

19 SEC. 2. Section 280.5 of the Public Utilities Code is amended
20 to read:

21 280.5. (a) The Digital Opportunities Account is hereby
22 established in the California Teleconnect Fund Administrative
23 Committee Fund established pursuant to Section 270, to be used
24 only for digital opportunities pilot projects. Not more than 5
25 percent of the revenues in this account, may be used to pay the
26 costs incurred in connection with the administration of digital
27 opportunities pilot projects by the commission.

28 (b) (1) The Digital Opportunities Grant Program is hereby
29 established subject to the availability of funding pursuant to this
30 section. The commission may not implement the grant program
31 until the commission projects that at least five hundred thousand
32 dollars (\$500,000) will be available in the Digital Opportunities
33 Account during the calendar year following implementation,
34 based on money collected pursuant to Section 14666.8 of the
35 Government Code.

36 (2) The commission shall, in consultation with the California
37 Teleconnect Fund Administrative Committee, provide grants
38 pursuant to this subdivision on a competitive basis subject to
39 criteria to be established by the California Teleconnect Fund
40 Administrative Committee and the commission and in a way that



1 disburses the funds widely, including urban and rural areas. Grants
 2 shall be awarded to nonprofit community technology programs, as
 3 defined in Section 884, for the purpose of funding community
 4 technology programs in underserved communities.

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

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

11 (5) The commission may use moneys from the California
 12 Teleconnect Fund Administrative Committee Fund to administer
 13 the grant program. Any revenues used from this fund for
 14 administration shall count against the 5-percent limitation in
 15 subdivision (a).

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

22 ~~(e)~~

23 (d) For purposes of this section, “digital opportunities
 24 projects” means community technology programs involved in
 25 activities that include, but are not limited to, the following:

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

28 (2) Developing content that is available through the Internet
 29 and is relevant to the interests and wants of the local community.

30 (3) Preparing youth for opportunities in the new economy
 31 through employment training and skills, including multimedia
 32 skills and access to educational assistance beyond the regular
 33 schoolday or school year.

34 (4) Using technology for access to e-government services and
 35 educational opportunities.

36 SEC. 3. Section 1 of Chapter 820 of the Statutes of 2003 is
 37 amended to read:

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



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

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

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

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

16 (e) Today, many Americans are using the Internet to conduct
17 daily activities, including job searches, job training, accessing
18 e-government services, and educational enhancement.

19 (f) Raising the level of digital access and opportunities by
20 increasing the number of Californians using the technology tools
21 of the digital age is a high priority for the State of California.

22 (g) Access through the Internet to governmental services and
23 educational programs can provide a cost-effective method of
24 service delivery.

25 (h) Community technology programs prepare Californians for
26 the digital age and the resulting economic and educational
27 opportunities that fuel California's economy, and can provide
28 access to governmental services in a cost-effective manner.

29 (i) *The State Water Resources Development System serves a*
30 *critical state infrastructure function in providing for the*
31 *conservation, development, distribution, and utilization of water,*
32 *with the incidental generation of electricity, as well as other public*
33 *benefits. The State Water Resources Development System was*
34 *constructed and is operated and maintained primarily on real*
35 *property acquired by the Department of Water Resources.*

36 (j) *Revenue derived from the sale or lease of real property that*
37 *was acquired for the State Water Resources Development System*
38 *is required to be deposited into the appropriate State Water*
39 *Resources Development Bond fund (Section 11595 of the Water*



1 Code) and the California Water Resources Development Bond Act
2 (Section 12937 of the Water Code).

3 (k) The flood control system for the Sacramento River and San
4 Joaquin River watersheds, as authorized in Article 2 (commencing
5 with Section 12648) of Chapter 2 of Part 6 of Division 6 of the
6 Water Code, serves a critical state infrastructure function for flood
7 management. This flood control system was constructed primarily
8 on real property acquired by the Sacramento and San Joaquin
9 Drainage District, acting by and through the State Reclamation
10 Board.

11 (l) It is in the public interest to control, manage, and minimize
12 any adverse encroachments that may affect the State Water
13 Resources Development System and the Sacramento River and San
14 Joaquin River flood control system in order to avoid impacts on
15 public health and safety. These critical infrastructure systems
16 deserve unique treatment to protect the beneficiaries of these
17 systems and the state's financial investment in these systems.

