

AMENDED IN ASSEMBLY MARCH 9, 2006

AMENDED IN SENATE JANUARY 24, 2006

AMENDED IN SENATE JANUARY 5, 2006

AMENDED IN SENATE MARCH 30, 2005

SENATE BILL

No. 850

Introduced by Senator Escutia

February 22, 2005

An act to ~~add Section 12019.5 to the Government Code, and to amend Section 280.5 of, and to add Section 871.9 to, the Public Utilities Code,~~ relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 850, as amended, Escutia. Broadband telecommunications service.

~~(1) Under existing law, the State Chief Information Officer is part of the Governor's Office, and acts as the special advisor to the Governor on information technology issues.~~

~~This bill would require the State Chief Information Officer, on or before January 1, 2008, to prepare and submit to the Legislature a report that analyzes the need for broadband telecommunications service accessible in all areas of the state and which assesses, by area, the extent of the digital divide. The bill would require that specified information relating to financing alternatives also be included in the report.~~

~~(2) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law imposes various duties on the commission~~

with regard to the provision of universal telephone and telecommunications service.

~~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 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 creates the Digital Divide Account within the California Teleconnect Fund Administrative Committee Fund in the State Treasury. Existing law 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, except for revenues from fees collected from a lease agreement for access to Department of Transportation property or a lease agreement existing prior to January 1, 2004, 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 declare that the state's universal service policy should include the concept of universal availability of broadband service to all areas of the state, and would authorize moneys appropriated from the Digital Divide Account to be utilized to fund the costs incurred by the State Chief Information Officer to prepare and submit the broadband service strategy.~~

~~*This bill would make Legislative findings and declarations relating to telecommunication services, and would state the intent of the Legislature to enact legislation relating to encouraging fair competition in the provision of video service, encouraging the widespread build-out of state-of-the-art video service, providing for a state-issued franchise as an alternative to obtaining a local franchise, and permitting existing cable operators to transition to a new state-issued franchise, as provided. The bill would also state the Legislature's intent that legislation enacted to achieve those purposes not alter local governmental control of the local right of way with regard to the construction of telephone lines, as provided.*~~

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

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

1 SECTION 1. (a) *The Legislature finds and declares all of the*
2 *following:*
3 (1) *California telecommunications policy has encouraged the*
4 *ubiquitous availability of a wide choice of state-of-the-art*
5 *services for more than 10 years.*
6 (2) *California telecommunications policy also encourages the*
7 *removal of barriers to open and competitive markets and*
8 *promotes fair competition to encourage lower prices and more*
9 *consumer choice.*
10 (3) *California and federal law require that access to cable*
11 *television service not be denied to any area because of the*
12 *income of residents in that area.*
13 (4) *California law also requires any competing cable*
14 *television provider to offer service in a sequence that does not*
15 *discriminate against lower income or minority residents.*
16 (b) *It is the intent of the Legislature to enact legislation that*
17 *does all of the following:*
18 (1) *Encourage fair competition in the provision of video*
19 *service by establishing a level playing field so that all*
20 *competitors bear similar burdens and are offered similar*
21 *opportunities.*
22 (2) *Encourage the widespread build-out of state-of-the-art*
23 *video networks so that all communities, whether rich or poor, or*
24 *urban or rural, have access to broadband service and*
25 *competitive video service. Legislation enacted to achieve this*
26 *purpose should apply to all providers of video service, though the*
27 *mechanism for ensuring this outcome need not be identical for*
28 *all competitors.*
29 (3) *Provide for a state-issued franchise as an alternative to*
30 *obtaining a local franchise. Under a state-issued franchise, a*
31 *telephone company should be permitted to obtain a franchise for*
32 *its entire telephone service area, pay a 5 percent franchise fee*
33 *payable directly to the local government, provide monetary*
34 *payments directly to the local government in lieu of other*
35 *monetary franchise obligations that the incumbent provider*

1 bears, carry existing public education and government channels,
2 and comply with existing customer service standards.

3 (4) Permit existing cable operators to transition to a new
4 state-issued franchise.

5 (c) It is further the intent of the Legislature that legislation
6 enacted pursuant to subdivision (b) not alter local governmental
7 control of the local right of way with regard to the construction
8 of telephone lines by telephone corporations.

9 ~~SECTION 1. Section 12019.5 is added to the Government~~
10 ~~Code, to read:~~

11 ~~12019.5. (a) Notwithstanding Section 7550.5, the State Chief~~
12 ~~Information Officer shall prepare and submit to the Legislature,~~
13 ~~on or before January 1, 2008, a report that analyzes making~~
14 ~~broadband telecommunications service accessible in all areas of~~
15 ~~the state. That report shall include all of the following:~~

16 ~~(1) An assessment of the need for broadband~~
17 ~~telecommunications that are accessible in all areas of the state.~~
18 ~~The report shall also assess, by area, the extent of the digital~~
19 ~~divide.~~

20 ~~(2) A description of the alternatives for private and public~~
21 ~~financing of the need identified pursuant to paragraph (1). The~~
22 ~~description shall include partnerships or cooperative~~
23 ~~arrangements of public and private financing.~~

24 ~~(3) An analysis of the cost-effectiveness of the financing~~
25 ~~alternatives identified in paragraph (2).~~

26 ~~SEC. 2. Section 280.5 of the Public Utilities Code is amended~~
27 ~~to read:~~

28 ~~280.5. (a) Of the revenues from fees collected pursuant to~~
29 ~~Section 14666.8 of the Government Code after the operative date~~
30 ~~of this section, except for revenues from fees from a lease~~
31 ~~agreement for access to Department of Transportation property~~
32 ~~or a lease agreement existing prior to the operative date of the~~
33 ~~section, 15 percent shall be available, upon appropriation by the~~
34 ~~Legislature, for the purpose of addressing the state's digital~~
35 ~~divide.~~

36 ~~(b) Revenues described in subdivision (a) shall be deposited in~~
37 ~~the Digital Divide Account, which is hereby established in the~~
38 ~~California Teleconnect Fund Administrative Committee Fund~~
39 ~~established pursuant to Section 270, to be used only for digital~~
40 ~~divide pilot projects and payment of the cost incurred to prepare~~

1 and submit the broadband service strategy incurred pursuant to
2 Section 12019.5 of the Government Code. Not more than 5
3 percent of the revenues described in subdivision (a) may be used
4 to pay the costs incurred in connection with the administration of
5 digital divide pilot projects by the commission.

6 (e) (1) The Digital Divide Grant Program is hereby
7 established subject to the availability of funding pursuant to this
8 section. The commission may not implement the grant program
9 until the commission projects that at least five hundred thousand
10 dollars (\$500,000) will be available in the Digital Divide
11 Account during the calendar year following implementation,
12 based on money collected pursuant to Section 14666.8 of the
13 Government Code.

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

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

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

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

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

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

39 (2) Developing content relevant to the interests and wants of
40 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. 3. Section 871.9 is added to the Public Utilities Code, to read:~~

~~871.9. (a) The Legislature finds and declares all of the following:~~

~~(1) California has long had a policy of universal telephone service that resulted in programs that helped individuals obtain affordable access to basic telephone service.~~

~~(2) Broadband telecommunications service, whether provided by cable, fiber optic line, or wirelessly, provides much greater capability than basic telephone service.~~

~~(3) Broadband telecommunications service has been rapidly adopted, with about 30,000,000 broadband customers nationwide.~~

~~(4) However, broadband service is not offered in many areas of this state. About 25 percent of cities in this state do not have any broadband access.~~

~~(5) Broadband service is the foundation for our nation's continued technological and economic leadership.~~

~~(6) The absence of broadband is a barrier to economic development.~~

~~(7) The President of the United States has declared that the country should have universal, affordable broadband access by 2007.~~

~~(b) The Legislature further finds and declares that this state's universal service policy should include the concept of universal availability of broadband service to all areas of the state.~~