

Introduced by Senator Schiff
(Principal coauthor: Assembly Member Wright)

February 25, 1999

An act to repeal and add Chapter 10 (commencing with Section 8800) of Division 1 of Title 2 of the Government Code, relating to public broadcasting.

LEGISLATIVE COUNSEL'S DIGEST

SB 844, as introduced, Schiff. California Public Broadcasting Act of 1999.

The California Public Broadcasting Act of 1975 establishes the California Public Broadcasting Commission, to develop and support statewide policy for the growth and development of public broadcasting in the state, and sets forth the powers and duties of the commission in that regard.

This bill would repeal those provisions and instead would enact the California Public Broadcasting Act of 1999. It would establish the California Public Broadcasting Council, and set forth the duties of the council in the development of a plan for public broadcasting services and necessary levels of funding for those services. It would express the intent of the Legislature that funds be made available through the annual Budget Act for specified grants and projects according to specified criteria, and require the Controller to perform certain duties in regard to the disbursement of those funds, with the assistance of the council. It would authorize state agencies to provide assistance and services to the council to the extent resources permit.

The bill would provide that any person or organization knowingly and willfully filing false information in an attempt to secure funding under these provisions is guilty of a misdemeanor. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. The Legislature finds and declares the
2 following:

3 (a) Public broadcasting provides great benefits to the
4 citizens and governmental agencies of the State of
5 California, because it does all of the following:

6 (1) Assists in informing and educating citizens
7 concerning public issues and thereby helps them
8 participate in the democratic process.

9 (2) Provides time for extended debate of political
10 issues and provides time for political candidates to explain
11 their positions to the voters.

12 (3) Provides educational basic-skills programming
13 that prepares young people for school and assists schools
14 in their primary mission.

15 (4) Provides high school equivalency education and
16 advanced skills education to the citizens of this state,
17 delivered directly to their homes, thus providing
18 additional opportunities for workers and assistance to
19 industry in maintaining a highly skilled work force.

20 (5) Brings general educational and cultural
21 programming to every home and automobile in
22 California.



(6) Respects the cultural diversity of this state by producing and distributing programs and educational materials that reflect many points of view.

(7) Assists in the economic development of this state by providing basic training, adult education, and literacy training for adult workers.

(8) Provides cost-effective educational resources to colleges and universities and assists in management of explosive college enrollment patterns.

(9) Provides agricultural information of benefits to one of California's most important industries.

(10) Provides mechanisms for statewide delivery of emergency information and dissemination of instructions for maintenance of public safety.

(11) Enriches the quality of life and makes life-long learning opportunities available to California citizens.

(b) The federally mandated conversion to digital television broadcasting will provide even greater opportunities for service, including economic development, assistance to California industry, educational assistance for day-care providers, education, and training for prison inmates, and multilingual training, and that this conversion and future operations will require substantial expenditures by public broadcasting stations for equipment and program material.

SEC. 2. Chapter 10 (commencing with Section 8800) of Division 1 of Title 2 of the Government Code is repealed.

SEC. 3. Chapter 10 (commencing with Section 8800) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 10. CALIFORNIA PUBLIC BROADCASTING ACT OF
1999

Article 1. General Provisions and Definitions

8800. This chapter shall be known and may be cited as the California Public Broadcasting Act of 1999.

1 8801. For purposes of this chapter, the following
2 definitions shall apply, unless the context requires
3 otherwise:

4 (a) “Audited financial statement” means a report that,
5 among other things, provides data concerning a station’s
6 nonfederal, nonstate financial support and the
7 expenditure of any funds provided under this chapter.
8 This data shall be audited and prepared as a report by a
9 certified public accountant who is licensed in the State of
10 California and is independent of the station being
11 audited. The statement shall also verify the integrity of
12 the station’s financial operations and the integrity of the
13 station’s report of its use of funds provided under this
14 chapter.

15 (b) “Council” means the California Public
16 Broadcasting Council established pursuant to Section
17 8810.

18 (c) “Eligible radio station” means a radio station that,
19 at the time of applying for a grant under this chapter, has
20 met all of the following requirements for a period of two
21 years:

22 (1) It is licensed by the Federal Communications
23 Commission as a noncommercial educational station, or
24 is operating under program test authority pending the
25 grant of a license.

26 (2) It has its community of license and principal
27 administrative offices in this state and is not owned,
28 controlled, managed, or primarily financed by any
29 corporation or entity outside of this state.

30 (3) It provides a program service that meets the
31 requirements for a Community Service Grant from the
32 Corporation for Public Broadcasting.

33 (4) It provides significant locally originated
34 programming in its community of license.

35 (5) It broadcasts not less than 18 hours per day, 365
36 days per year.

37 (6) It participates in statewide public broadcasting
38 projects and the work and deliberations of the California
39 Public Broadcasting Council.

(7) It has provided, prior to its application for a grant under this chapter, an audited financial statement for the years on which the grant is based.

(8) It does either of the following:

(A) Meets the criteria for receipt of a Community Service Grant from the Corporation for Public Broadcasting that were in effect on June 30, 1995.

(B) Has a full-time staff of at least two professionals paid not less than the California minimum wage, and is certified by the council as providing a needed service to its community of license.

(d) “Eligible television station” means a television station that, at the time of applying for a grant under this chapter, has met all of the following requirements for a period of two years:

(1) It is licensed by the Federal Communications Commission as a noncommercial educational television station, or is operating under program test authority pending the grant of a license.

(2) It has its community of license and principal administrative offices in this state, and is not owned, controlled, managed, or primarily financed by any corporation or entity outside of this state.

(3) It provides a program service that meets the requirements for a Community Service Grant from the Corporation for Public Broadcasting.

(4) It provides substantial and significant locally originated programming in its community of license.

(5) It broadcasts not less than 3,000 hours per year.

(6) It participates in statewide public broadcasting projects and the work and deliberations of the California Public Broadcasting Council.

(7) It meets the criteria for receipt of a Community Service Grant from the Corporation for Public Broadcasting that were in effect on June 30, 1995.

(8) It has provided, prior to its application for a grant under this chapter, an audited financial statement for the years on which the grant is based.

(e) “Nonfederal financial support” means the total sum of revenues from nonfederal sources derived by a

1 licensee in a fiscal year and reported in an audited
2 financial statement thereof, and does not include in-kind
3 services, funds received for the purpose of constructing
4 or remodeling a building, funds received from other
5 public broadcasting stations or networks for the
6 production of programming or for other services to those
7 stations or networks, or funds provided to stations under
8 this chapter. Interest income generated from any source
9 may be included in “nonfederal financial support.”

10 (f) “Station” or “public broadcasting station” means
11 any eligible radio or television station.
12

13 Article 2. California Public Broadcasting Council 14

15 8810. (a) The California Public Broadcasting Council
16 is hereby established as a body corporate and politic
17 within the state.

18 (b) The council shall be governed by a board of
19 directors consisting of one representative of each
20 participating eligible radio station, as defined in
21 subdivision (c) of Section 8801, and each eligible
22 television station, as defined in subdivision (d) of Section
23 8801. The directors shall serve without pay, but may be
24 reimbursed by the council for reasonable and necessary
25 expenses as determined by the board.

26 (c) The council shall function under bylaws that shall
27 be written by the initial board of directors and amended
28 as necessary from time to time. The bylaws shall be in
29 conformity with the laws of this state and the provisions
30 of this chapter.

31 (d) The bylaws of the California Public Broadcasting
32 Council shall provide for the election of any officers as
33 may be required.

34 (e) The meetings of the council shall be subject to the
35 Ralph M. Brown Act (Chapter 9 (commencing with
36 Section 54950) of Part 1 of Division 2 of Title 5), and its
37 records subject to the California Public Records Act
38 (Chapter 3.5 (commencing with Section 6250) of
39 Division 7 of Title 1).

(f) Expenses of the council shall be paid by the licensees represented on its board of directors, in the proportion as may be determined by the board.

8811. The California Public Broadcasting Council shall do all of the following:

(a) Notwithstanding Section 7550.5, report annually to the Governor and the Legislature concerning the use of funds provided to eligible stations and to the council under this chapter.

(b) Provide annually to the Governor and the Legislature an updated comprehensive plan for future public broadcasting services to the citizens of California and necessary levels of funding in future years.

(1) The plan shall have been discussed and voted upon by the board of directors of the council.

(2) The plan shall take into account changing technologies, changing needs of California citizens and institutions, changing capabilities of the council and its member stations, and available funding.

(c) Certify annually to the Controller the eligibility of any station applying for a grant under this chapter, and attesting that each station applying for a grant has participated significantly in the work and deliberations of the council as required by paragraph (6) of subdivision (c) or paragraph (6) of subdivision (d), as applicable, of Section 8801.

(d) Assist the Controller in carrying out the requirements of this chapter by providing information and technical advice.

(e) Coordinate and assist efforts of stations engaged in multistation projects funded under this chapter.

(f) Encourage the development of public broadcasting in California and the development of services for the citizens of this state.

8812. (a) Recognizing the necessity of converting California stations to the technologies of digital broadcasting and the continuing need for replacement of broadcasting equipment, the Legislature intends that funds may be made available through the annual Budget Act for the purchase of equipment by eligible stations, the

1 installation of that equipment, or purchase of other
2 materials related to that equipment.

3 (b) (1) Seventy-five percent of any equipment
4 purchase funds appropriated pursuant to subdivision (a)
5 shall be placed in an equipment grant pool for eligible
6 television stations, and 25 percent shall be placed in an
7 equipment grant pool for eligible radio stations.

8 (2) Fifty percent of the funds in each grant pool shall
9 be divided equally among the stations in that grant pool.

10 (3) The remaining 50 percent of the funds in each
11 grant pool shall be divided among stations in that grant
12 pool in proportion to their nonfederal financial support.

13 (c) (1) Funds provided under this section shall be
14 granted on a matching basis, with each station required
15 to raise from other sources an amount equal to the funds
16 provided to it under this section.

17 (2) If any funds remain in either grant pool because of
18 the limitations set forth in paragraph (1), the remaining
19 funds shall be returned to the same pool for distribution
20 to other stations that have raised the required matching
21 funds, in amounts proportionate to the nonfederal
22 financial support of those stations.

23 8813. (a) Recognizing the many educational,
24 informational, and cultural benefits provided by
25 California public broadcasting stations to all citizens of
26 the state, and the economic benefits provided to the state
27 by these stations, the Legislature intends that funds may
28 be made available through the annual Budget Act for the
29 operation of eligible stations and to assist these stations in
30 improving their services to the citizens of the State of
31 California.

32 (b) (1) Seventy-five percent of the operating grant
33 funds shall be placed in a grant pool for eligible television
34 stations, and 25 percent shall be placed in a grant pool for
35 eligible radio stations.

36 (2) Within each pool, 50 percent of the funds shall be
37 distributed equally among the eligible stations as a base
38 grant, and the remaining 50 percent shall be distributed
39 as an incentive grant among the eligible stations in



1 proportion to their nonfederal, nonstate financial
2 support, thus encouraging their local fundraising efforts.

3 (3) No station may receive funds under this section
4 that would constitute more than 25 percent of its
5 nonfederal financial support for the second previous
6 fiscal year. Any amount forfeited under this limitation
7 shall be returned to the grant pool for distribution to the
8 remaining stations in the pool in proportion to their
9 nonfederal financial support.

10 8814. (a) Recognizing the benefits to the people of
11 the state and the efficiency of cooperative projects, the
12 Legislature intends that “multistation project funds” may
13 be made available through the annual Budget Act for use
14 by more than one station in execution of projects
15 benefiting the listeners or viewers of several stations in
16 the system. These multistation project funds shall be
17 provided to the council, which shall manage the funds in
18 the best interest of the citizens of this state in determining
19 which projects shall be funded and the appropriate level
20 of funding for each project.

21 (b) Upon the determination of the council, some
22 portion of available funds in this pool may be used to assist
23 stations that do not meet one or more of the eligibility
24 criteria to become eligible stations as defined in
25 subdivision (c) or subdivision (d), as applicable, of
26 Section 8801. However, that assistance may not be
27 provided to any one station for more than two years.

28 (c) Upon the determination of the council, funds
29 provided to the council under this section may be used to
30 purchase equipment that can be shared by eligible
31 stations or used for the generation of revenue to benefit
32 the council and eligible stations.

33 (d) It is recognized that some program projects and
34 facilities improvement projects may take a considerable
35 length of time to complete. Therefore, funds provided
36 under this section and not expended by the end of any
37 fiscal year shall be placed in escrow by the council and
38 expended in subsequent years for the purposes set forth
39 in this section.

1 8815. The Legislature recognizes that projects
2 undertaken by the council and its member stations may
3 be sufficiently large and complex as to require more than
4 one year to complete, or may require more funding than
5 is available in a single fiscal year, and encourages the
6 council and its member stations to use funds provided
7 under this chapter and interest that may be generated
8 from unexpended funds in the best and most productive
9 way, to benefit the citizens of this state.

10 8816. All funds appropriated for the purposes of this
11 chapter shall be appropriated to the Controller. Funds
12 appropriated for allocation and distribution under this
13 chapter shall be distributed under the formulas set forth
14 in this chapter. The Controller shall perform only the
15 following duties in this regard:

16 (a) Determining, in consultation with the council, the
17 form in which applications for funding shall be presented
18 and the date by which the applications shall be submitted.

19 (b) Determining that each applicant has provided the
20 necessary audited financial statement as required by
21 paragraph (7) of subdivision (c) or paragraph (8) of
22 subdivision (d), as applicable, of Section 8801.

23 (c) Determining that the council has certified the
24 eligibility of each applicant.

25 (d) Determining compliance with the certification
26 requirements of Section 8810, when needed.

27 (e) Calculating the funding for which each grantee is
28 eligible under the formulae set forth in this chapter.

29 (f) Making timely payment of the funds for which
30 each grantee is eligible under the formulae set forth in
31 this chapter.

32 8817. Nothing in this chapter shall be construed to
33 confer upon any officer, employee, or elected official of
34 the state any authority to influence or attempt to
35 influence the content or scheduling of any program or
36 programs produced or broadcast by any eligible station,
37 whether or not any such influence or attempted
38 influence is related in any way to receipt of a grant under
39 this chapter. It is the intent of the Legislature that all
40 decisions relating to content and scheduling of

1 programming shall be solely the responsibility of each
2 licensee and shall be free from improper influence.

3 8818. It is the intent of the Legislature that any funds
4 provided to stations under this chapter shall supplement,
5 rather than supplant, funds provided from other sources.
6 To that end, institutions that have heretofore provided
7 funding to stations licensed to them shall certify, in
8 applying for grants under this chapter, that they have not
9 previously and will not in the future use funds provided
10 under this chapter to supplant institutional support of
11 their stations.

12 8819. (a) No station that is eligible under this chapter
13 shall be required to participate in the work or projects of
14 the council. Any station choosing not to participate shall
15 forfeit its right to funding under this chapter. Any station
16 choosing not to participate, or any station that withdraws
17 from the work of the council, shall be considered
18 ineligible for funding under this chapter for a period of
19 not less than two years following its nonparticipation or
20 withdrawal from the work of the council.

21 (b) The council shall have sole responsibility for
22 determining by majority vote of its board of directors
23 whether an otherwise eligible station has adequately
24 participated in the work of the council as required under
25 this chapter, and shall report to the Controller any
26 determination that a station has not adequately
27 participated and is therefore ineligible under this section.

28 8820. It is the intent of the Legislature to support the
29 services provided by public broadcasting stations of this
30 state, and to augment the ability of eligible stations to
31 serve their local communities and the citizens of this
32 state. To that end, state agencies may render assistance
33 and provide services to the council to the extent resources
34 permit.

35 8821. Any person or organization knowingly and
36 willfully filing false information in an attempt to secure
37 funding under this chapter shall be guilty of a
38 misdemeanor.

39 SEC. 4. No reimbursement is required by this act
40 pursuant to Section 6 of Article XIII B of the California

1 Constitution because the only costs that may be incurred
2 by a local agency or school district will be incurred
3 because this act creates a new crime or infraction,
4 eliminates a crime or infraction, or changes the penalty
5 for a crime or infraction, within the meaning of Section
6 17556 of the Government Code, or changes the definition
7 of a crime within the meaning of Section 6 of Article
8 XIII B of the California Constitution.

