
**SENATE COMMITTEE ON ENERGY, UTILITIES AND
COMMUNICATIONS**
Senator Ben Hueso, Chair
2021 - 2022 Regular

Bill No: AB 1426 **Hearing Date:** 6/14/2021
Author: Mathis
Version: 2/19/2021 Introduced
Urgency: No **Fiscal:** Yes
Consultant: Sarah Smith

SUBJECT: California Advanced Services Fund

DIGEST: This bill eliminates existing law allowing an incumbent internet service provider (ISP) to block California Advanced Services Fund (CASF) broadband infrastructure grants to areas where the ISP intends to expand service.

ANALYSIS:

Existing law:

- 1) Establishes the CASF, which is administered by the California Public Utilities Commission (CPUC) to fund broadband infrastructure deployment in unserved areas through December 31, 2022. (Public Utilities Code §281(a-b)).
- 2) Provides incumbent ISPs with the ability to object to and block a CASF application on an annual basis if the ISP intends to upgrade or extend service to the project area within six months. If the ISP does not extend or upgrade the service within six months, the ISP must update the CPUC with information about its progress towards providing service. If the CPUC finds that the ISP is making progress towards providing or upgrading service, the CPUC must extend the ISP's six-month right of first refusal period. (Public Utilities Code §281(f))

This bill deletes existing law allowing incumbent ISPs to object to a block CASF grants for projects where an ISP intends to extend or upgrade broadband service.

Background

The CASF's Role in Addressing the Digital Divide. The CASF is administered by the CPUC to provide grants for broadband infrastructure and adoption. Lack of broadband access generally stems from two primary causes: a lack of sufficient infrastructure and a lack of affordable broadband service. The CASF helps address the degree to which a lack of infrastructure limits broadband access. The CASF is

funded by an end user surcharge on in-state telecommunications services. Under existing law, the CASF is scheduled to sunset on December 31, 2022. This bill does not extend the operation of the CASF or provide additional revenue for the program; however, it would modify an element of the CASF grant process until the 2022 sunset.

This bill eliminates the “right of first refusal.” Existing law provides an incumbent ISP with the ability to challenge any proposed CASF grant if the ISP intends to upgrade service in or extend service to the project’s area within six months. This rebuttal process is known as the “right of first refusal. While the right of first refusal may be intended to ensure that CASF grants are provided only to unserved areas that would not otherwise obtain broadband infrastructure through private capital, the process has been used to challenge the majority of proposed CASF grants in recent years. The lengthy rebuttal process can significantly delay a CASF project, increasing project costs and limiting grant recipients’ ability to leverage multiple funding sources, including federal funds. Eliminating the right of first refusal could help streamline and accelerate the CASF grant process and provide successful grant applicants with greater certainty that they will be able obtain funds in a timely manner.

Prior/Related Legislation

SB 4 (Gonzalez, 2021) would extend the CASF and make various changes to the program, including increasing the minimum speed of CASF-funded infrastructure to 100/20 mbps, expanding the definition of an unserved area, updating the program’s funding mechanism, and eliminating the right of first refusal. The bill is currently pending in the Assembly.

AB 14 (Aguiar-Curry, 2021) would make various modifications to the CASF, including eliminating the right of first refusal, increasing the minimum speed standards for CASF-funded infrastructure, expanding the definition of an unserved area eligible for grants, and expanding the types of projects eligible for CASF funding to include projects that deploy broadband to specified “anchor institutions.” The bill is currently pending referral in the Senate.

AB 1349 (Mathis, 2021) would add religious organizations to the list of groups eligible for grant funding from the CASF’s broadband adoption account. The bill is currently pending consideration in the Senate Committee on Energy, Utilities and Communications.

SB 1130 (Gonzalez, 2020) would have extended and modified the CASF, including increasing minimum speed standards for CASF-funded infrastructure,

expanded the communities eligible for the CASF, and set open access requirements for certain infrastructure projects. The bill died in the Assembly.

AB 570 (Aguiar-Curry, 2020) would have extended and modified the CASF, including increasing the minimum speed standards for CASF-funded infrastructure, expanding the communities eligible for CASF monies, allowing the CPUC to collect additional CASF revenue, and authorizing the issuance of up to \$1 billion in bonds secured by the CASF. The bill died in the Senate.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT:

Sierra Business Council
The Rural Caucus of the California Democratic Party

OPPOSITION:

None received

ARGUMENTS IN SUPPORT: According to the author:

Covid-19 has highlighted the deep digital divide within the state of California, and the urgent need for broadband infrastructure development. AB 1426 enables greater broadband deployment and access by removing the 180 day right of first refusal offered to an existing facility-based broadband provider which can unnecessarily delay a CASF project, increase costs and reduce competition.

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