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**SENATE COMMITTEE ON ENERGY, UTILITIES AND  
COMMUNICATIONS**  
**Senator Steven Bradford, Chair**  
**2023 - 2024 Regular**

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**Bill No:** AB 414 **Hearing Date:** 6/20/2023  
**Author:** Reyes  
**Version:** 5/18/2023 Amended  
**Urgency:** No **Fiscal:** No  
**Consultant:** Sarah Smith

**SUBJECT:** Communications: Digital Equity Bill of Rights

**DIGEST:** This bill defines equal access to broadband service and establishes a state policy of supporting subscribers' equal access to broadband services.

**ANALYSIS:**

Existing law:

- 1) Establishes California's universal telecommunications service policy, which specifies that it is the state's policy to provide affordable and accessible high-quality telecommunications services to all Californians. This policy also encourages the closure of the digital divide and the removal of barriers to market competition and greater consumer choice. (Public Utilities Code §709)
- 2) Defines broadband internet access service as a mass market retail communications service capable of transmitting data to and from all Internet endpoints, including any functional equivalent of broadband service. Existing law specifies that this definition does not include dial-up Internet access service. (Civil Code §3100)
- 3) Establishes net neutrality requirements by prohibiting internet service providers (ISPs) from engaging in blocking or throttling internet traffic, requiring consideration to transmit internet traffic, engaging in paid prioritization, and zero-rating certain internet content. (Civil Code §3101)

This bill:

- 1) Defines "equal access" as the opportunity to subscribe to an offered service that provides comparable speeds, capacities, latency, and other quality-of-service metrics in a given geographical area, for comparable terms and conditions.

- 2) States that it is the policy of the state that broadband internet subscribers benefit from equal access to broadband service within a broadband provider's given service territory.
- 3) Specifies that nothing in this bill establishes a private right of action against the state to enforce digital equity rights, and nothing in this bill establishes an obligation of the state to enforce this bill's principles or policies.
- 4) States that it is the principle of state that residents shall have access to broadband service that meets specified characteristics, including, but not limited to broadband that has speeds capable of reliably supporting online educational, telehealth, and remote working opportunities.

## **Background**

*Bill is consistent with federal law prohibiting digital discrimination.* The federal Infrastructure Investment and Jobs Act (IIJA) established various provisions aimed at preventing digital discrimination. These provisions included establishing a definition "equal access" for the purposes of broadband service and requiring the Federal Communications Commission (FCC) to adopt rules to facilitate equal access of broadband services. This bill adopts a definition of equal access that is substantially similar to the definition on federal law.

*California's existing telecommunications policy supports universal service.* Both federal and state law have adopted policies supporting universal telecommunications service; however, existing state and federal law do not establish a right to broadband service or create a regulatory framework in which broadband is more strictly regulated as a utility. Under existing federal regulations, broadband service is considered an "information" service, which is distinct from "common carrier" utilities. Generally, common carriers are distinguished from other services by an obligation to serve any customer that requests service and more strict oversight and regulation by regulatory bodies. To encourage the growth of broadband services and the provision of essential telecommunications services to low-income Californians, California has adopted the following universal service programs, which are administered by the California Public Utilities Commission (CPUC) and funded by surcharges on in-state telecommunications services.

- California Lifeline Program: provides phone services to low-income households.

- California Advanced Services Fund: funds broadband projects for unserved households.
- California High Cost Funds A and B: provides rate relief in high-cost telephone service areas
- California Teleconnect Fund: provides discounted broadband service to educational, community-based, and government operated facilities.
- Deaf and Disabled Telecommunications Program: provides telecommunications devices and services to individuals with disabilities and hearing and speech limitations.

This bill differs from existing state telecommunications policy by focusing on establishing rights specific to broadband service outside the CPUC's universal service policy. This bill more closely aligns its Digital Equity Bill of Rights to California's net neutrality laws, which are enforced by the Attorney General.

*Bill establishes policy, but it does not require enforcement.* While federal law requires the FCC to adopt rules to prevent digital discrimination, this bill does not require the CPUC to take similar steps. At this time, it is unclear what rules the FCC will adopt to prevent digital discrimination. The FCC has opened a rulemaking and convened a task force to address the IIJA's requirements. To the extent that the FCC adopts rules to address digital discrimination at the federal level, states may be able to align their actions to those of the FCC. Alternatively, some state actions may be preempted by federal rules.

### **Prior/Related Legislation**

AB 41 (Holden, 2023) would make various changes to cable franchise requirements, including prohibiting a cable franchise from denying equal access to services to any type of subscriber in the franchise's service territory. The bill does not define the term "equal access;" however, it defines the terms "equal" and "access" separately and requires the CPUC to enforce equal access to cable services. The bill is pending before this committee.

AB 2748 (Holden 2022) would have made various changes to cable franchise requirements, including prohibiting cable franchises from denying consumers within their service territories equal access to services on the basis of the consumers' incomes. The bill also would have established a definition of "equal access" that is substantially similar to the definition in this bill. The bill died in this committee.

AB 2753 (Reyes, 2022) contained certain provisions substantially similar to those in this bill. The bill would have established a Digital Equity Bill of Rights, allowed individuals to petition for relief under these rights, and required the CPUC to adopt rules to facilitate equal access to broadband services. The bill died in the Assembly Appropriations Committee.

SB 822 (Weiner, Chapter 976, Statutes of 2018) defined broadband internet access service and established California's net neutrality policy by prohibiting ISPs from engaging in certain acts that limit internet traffic and favor certain applications over others.

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

**SUPPORT:**

California Emerging Technology Fund, Sponsor

AARP

BizFed Institute

Broadband Consortium Pacific Coast

California Health+ Advocates

California Human Development

California School Boards Association

California Telehealth Policy Coalition

California WIC Association

Center for Employment and Training

Central Valley Opportunity Center

Chapa-De Indian Health

Coalición de la Buena Salud y Bienestar

Community Clinic Association of Los Angeles

Corporation for Education Network Initiatives in California

Economic Development Collaborative

EveryoneOn

Farmworkers Institute of Education & Leadership Development

First Day Foundation

Inland Coalition for Immigrant Justice

Inland Empire Regional Broadband Consortium

La Cooperativa Campesina de California

Los Amigos de la Comunidad

Los Angeles/Orange County Regional Broadband Collaborative

Los Angeles Unified School District

MADIA Tech Launch

Manchester Community Technologies  
Media Alliance  
Mercy Housing California  
North Bay/North Coast Broadband Consortium  
Northeastern & Upstate California Connect Consortia  
North State Planning & Development Collective  
Orange County Business Council  
Partners in Care Foundation  
Proteus, Inc.  
San Bernardino Community Service Center, Inc.  
San Joaquin Valley Regional Broadband Consortium  
Santa Barbara Foundation  
Sierra Business Council  
Southeast Community Development Corporation  
Southern Border Broadband Consortium  
Tech Exchange  
The Utility Reform Network, if amended  
Valley Vision  
An Individual

**OPPOSITION:**

None received

**ARGUMENTS IN SUPPORT:** According to the author:

As time moves forward, access to affordable and reliable broadband technology is going to become a staple in modern society. California needs to ensure that all of our residents are able to reasonably participate in this new digital world.

AB 414 would make it the policy of the state for broadband to be sufficient, reliable, affordable, and ubiquitous. It would ensure that broadband provides educational, economic, public safety, and democratic benefits to all residents in California. Digital inequities became incredibly apparent for historically under resourced communities during the pandemic and will continue to occur if we don't take bold proactive steps to resolve them. Digital access is a 21st century civil right and should be treated as such.

**-- END --**