

the proposal to the National Telecommunication Information Administration (NTIA). This bill also requires the CPUC to begin accepting applications for BEAD-funded projects within 45 days of receiving NTIA approval for the initial plan.

- 2) Requires the CPUC to approve or deny a BEAD application within 180 days of either of the following: 1) the application deadline or 2) the application's date of submittal, depending on whichever is later.
- 3) Requires each BEAD applicant to meet at least five of the following seven "affordability" criteria to receive approval for an application:
 - a) The applicant participates in the Affordable Connectivity program, or a successor federal program.
 - b) The applicant participates in the California Lifeline Program.
 - c) The applicant offers one all-inclusive subscription plan providing broadband service at speeds of at least 25/3 Mbps or 100/20 Mbps. This plan may not include data caps, extra taxes, fees, or charges to the consumer. This bill requires the CPUC to set the monthly rate for this all-inclusive plan and specifies that the CPUC's monthly rate may not be set lower than \$30 per month.
 - d) The applicant offers subscription plans based on nationwide pricing, with choices among multiple tiers of services and prices.
 - e) The applicant offers broadband service plans that require no contract and are subject to the same acceptable use plans as other home broadband subscriptions.
 - f) The applicant offers home broadband installation for free with no equipment rental fees for low-income households in the project area for three years.
 - g) The applicant offers one free device to low-income households in the project area for a period of three years.
- 4) Authorizes the CPUC to establish additional affordability options but prohibits the CPUC from requiring applicants to comply with additional affordability options.
- 5) Requires the CPUC to develop a plan for addressing middle-class affordability.
- 6) Authorizes the CPUC to prioritize applications where the applicant commits to more than five affordability options.

- 7) Requires the CPUC to set an “extremely high cost” threshold for projects and requires the CPUC to consider certain cost factors when approving fiber broadband projects.
- 8) Prohibits the use of state moneys, including any monies in the CASF IGA as matching funds unless a project is on tribal lands or exceeds the extremely high cost threshold.
- 9) Requires the CPUC to submit a report by January 10, 2024, to the relevant legislative policy committees on opportunities to combine applications for multiple broadband programs and statutory changes needed to better coordinate different last-mile broadband funding programs.
- 10) Prohibits the CPUC from adopting any rules, processes, procedures, prohibitions, funding prioritizations, or eligibility criteria that are not specified in this bill or required by federal guidelines.

Background

BEAD provides additional broadband infrastructure funding. The federal Infrastructure Investment and Jobs Act (IIJA) included approximately \$42 billion in funding for last-mile broadband infrastructure. Under the IIJA, states’ allocations of BEAD funding are based on each state’s share of the nation’s households that remain unserved by broadband infrastructure. Since the enactment of the IIJA, federal agencies and stakeholders have been analyzing broadband access to identify each state’s share of the BEAD funding and develop initial requirements for spending BEAD moneys. In June 2022, On June 26, 2023, the NTIA announced its BEAD funding allocations. California’s allocation is approximately \$1.8 billion. Under federal guidance, states must submit their initial proposal for spending BEAD funds by December 26, 2023. California must also submit a Five-Year Action Plan for implementing the BEAD program in August 2023, and this action plan must align with the state’s initial proposal for spending its BEAD funds.

Legislative engagement on BEAD plans. The Legislature has taken an active role in shaping how broadband infrastructure moneys are spent in the state. However, federal guidelines and timelines for implementing BEAD limit the extent to which the Legislature can establish requirements that diverge from those guidelines or substantially change the initial implementation plans submitted by the CPUC to NTIA. To address the Legislature’s need for additional ongoing engagement and

information about the status of BEAD implementation, this year's Budget Act requires the CPUC to submit its initial proposal, Five-Year Action Plan, and final proposal for implementing BEAD to the Legislative Analyst's Office (LAO) and the relevant legislative and budget committees within 10 days of submitting these documents to NTIA. This bill would also require the CPUC to submit its initial proposal to the relevant legislative policy committees 45 days before the CPUC submits this proposal to NTIA. However, the CPUC may submit its initial proposal before this bill is enacted.

Building the plane while landing it? This bill establishes a set of requirements for the CPUC's administration of BEAD funding while prohibiting the CPUC from adopting any implementation steps that are not included in this bill or in federal guidelines for the BEAD program. However, the CPUC is already in the process of developing rules for the BEAD program and will submit both its initial proposal and Five-Year Action Plan for implementation before this bill is enacted. While BEAD guidelines set forth certain specific requirements, the guidelines also enable states to tailor their requirements to their own needs. For example, federal BEAD guidelines require each applicant to offer an affordable plan; however, federal guidelines require the CPUC to submit a proposal for what types of plans will constitute an "affordable" plan for BEAD. As a result, the CPUC has wide latitude to determine the scope of plans that may be considered affordable. In February 2023, the CPUC opened a proceeding (R. 23-02-016) to adopt rules for implementing the BEAD program. Since April 2023, the CPUC has held a number of workshops to solicit input on BEAD. This bill may establish requirements that are contrary to those developed pursuant to the stakeholder workshops conducted by the CPUC. It is unclear how the CPUC could incorporate the all changes required by this bill and meet deadlines to submit its implementation plans to NTIA.

Need for amendments. As currently written, this bill establishes BEAD implementation requirements that may require revisions to plans that the CPUC is already in the process of developing with stakeholders. *To the extent that the author and committee wish to adopt BEAD implementation requirements while limiting the bill's impact to deadlines for submitting implementation plans, the author and committee may wish to amend this bill to do the following:*

- *Clarify that the CPUC must act on a BEAD funding application within 180 days of deeming the application complete.*
- *Delete provisions of this bill specifying the types of affordable plan criteria an applicant must offer and instead clarify that the CPUC must adopt at least one affordable option pursuant to the federal guidelines.*

- *Clarify that applicants may not add surcharges or recurring fees to an affordable plan, unless otherwise permitted by the federal guidelines.*
- *Clarify provisions requiring the CPUC to develop a plan to address the middle-class affordability of broadband services.*
- *Delete provisions requiring the CPUC to set an extremely high cost threshold and specifying the criteria for setting that threshold.*

Prior/Related Legislation

AB 102 (Ting, 2023) makes various changes needed to implement the Budget Act, including establishing reporting requirements for broadband infrastructure expenditures by CPUC and the California Department of Technology. The bill requires the CPUC to submit its initial proposal, Five-Year Action Plan, and final proposal for implementing BEAD to the LAO and the relevant legislative and budget committees within 10 days of submitting these documents to NTIA. The bill is currently in the enrollment process.

AB 2749 (Quirk-Silva, 2022) would have required the CPUC to take various steps regarding applications for the FFA, and the bill would have clarified that otherwise eligible wireless providers are eligible for grants from the FFA. The bill was vetoed.

SB 4 (Gonzalez, Chapter 671, Statutes of 2021) and AB 14 (Aguilar-Curry, Chapter 658, Statutes of 2021) revised and extended the CASF by increasing speed standards for CASF-funded infrastructure to 100/20 Mbps, expanded eligibility to communities that lack broadband service meeting federal standards, expanded local governments' eligibility for CASF grants, and extended CASF's operation and funding until 2032.

SB 156 (Committee on Budget, Chapter 112, Statutes of 2021) implemented broadband infrastructure spending approved in the 2021 Budget Act. The bill established the FFA within CASF, set forth funding allocations for the FFA, and created technical assistance and additional broadband funding opportunities for local governments. The bill also established the Office of Broadband and Digital Literacy and required the office to oversee the construction of a state-owned, open access middle mile broadband network.

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

SUPPORT:

None received

OPPOSITION:

#OaklandUndivided
California Alliance for Digital Equity
California Community Foundation
Common Sense Media
Electronic Frontier Foundation
Media Alliance
Michelson Center for Public Policy
NextGen California
Rural County Representatives of California
The Children's Partnership
The Greenlining Institute
The Utility Reform Network

ARGUMENTS IN SUPPORT: According to the author:

Addressing broadband connectivity for unserved and underserved Californians continues to be a top priority for state government. While we have existing state programs established by the Legislature to expand broadband infrastructure, BEAD is a federal program that could potentially circumvent any consultation with the Legislature and the legislative process. With potentially billions of dollars that will be awarded to California and administered by the California Public Utilities Commission, it is imperative to adopt requirements for the CPUC to follow. Without any guardrails for this funding, the CPUC could potentially impose requirements and procedures for accessing the funds that are beyond what is necessary or reasonable. Instead, this bill would require the CPUC to strictly follow federal guidelines and to the extent any discretion exists, aim to adopt California specific rules that reduce barriers to participation.

ARGUMENTS IN OPPOSITION: Opponents argue that this bill is unnecessary, inflexible and may conflict with federal guidance to states for the BEAD program. In opposition, The Utility Reform Network (TURN) states:

The BEAD Program can significantly advance the promise of 21st-century high-speed internet access for all Californians. However, AB 662 introduces

uncertainty in a dynamic process currently underway. The bill would effectively surrender the state's partnership role and potentially interrupt, delay, or even halt the state's ability to meet the state's unique broadband needs and aggressive NTIA timelines. For the reasons stated above, the Committee should not advance AB 662.

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