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

Bill No: SB 717 **Hearing Date:** 8/30/2022
Author: Dodd
Version: 8/22/2022 Amended
Urgency: No **Fiscal:** Yes
Consultant: Sarah Smith

PURSUANT TO SENATE RULE 29.10

SUBJECT: Department of Technology: broadband communications: report

DIGEST: This bill requires the California Department of Technology (CDT) to submit a report to the Legislature by May 1, 2024, regarding specified barriers to broadband infrastructure deployment.

ANALYSIS:

Existing law:

- 1) Establishes CDT as the state agency responsible for creating and enforcing state information technology strategic plans, policies, and standards. (Government Code §11545)
- 2) Establishes the Office of Broadband and Digital Literacy in CDT to oversee the construction of a state-owned, open access middle mile broadband network. (Government Code §11549.51)
- 3) Requires the Governor’s Office of Business and Economic Development (GO-Biz) to coordinate with state and local agencies and national organizations to identify ways to streamline local land use approvals and construction permit processes for projects related to broadband infrastructure deployment and connectivity. (Government Code §12096.3.5)

This bill:

- 1) Defines wireless and wireline “broadband access points” as the telecommunications facilities, buildings, property, towers, poles, structures, and base stations upon which these facilities are installed.

- 2) Requires CDT to submit by May 1, 2024, a report on barriers to broadband infrastructure deployment to the Senate Energy, Utilities and Communications Committee and the Assembly Communications and Conveyance Committee.
- 3) Specifies that this report must identify barriers to constructing broadband access points on private and government-owned property, private and public lands and buildings, and public rights of way. The report must also identify barriers to providing low-income, tribal, urban, rural and underserved communities with mobile and fixed broadband access.
- 4) Specifies that the report must consider the extent to which the following poses a barrier to the deployment of broadband access points:
 - a) Provision and cost of electric service to broadband infrastructure.
 - b) Obtaining state or local permits to deploy infrastructure.
 - c) Regulatory and legal obstacles to deploying fiber optic lines.
 - d) Costs for leasing property to deploy broadband access points.
 - e) Cost of leasing access to middle-mile infrastructure.
 - f) California Coastal Commission permitting rules.
 - g) Permitting rules for deploying infrastructure on port authority property.
 - h) Local air quality management permitting requirements
 - i) Noise abatement rules.
 - j) Income of local communities and economic feasibility to recovering costs for providing internet service in those communities.
- 5) Specifies that CDT must coordinate input from the following stakeholder groups for the report:
 - a) Law enforcement, public safety, and first responders
 - b) Wireless and wireline telecommunications service providers
 - c) Tribes and local governments
 - d) Utilities
 - e) Organized labor
 - f) In-state manufacturing and technology associations
 - g) Ratepayer advocates

Background

Lack of broadband access is driven by multiple factors. Multiple factors impact the extent to which communities lack broadband access; however, the absence of broadband infrastructure and the affordability of service plans remain significant challenges to ensuring that Californians have broadband access and can adopt services. To address the lack of sufficient broadband infrastructure, the Legislature passed a package of bills in 2021 that provide a combined \$6 billion for building

new broadband networks. This \$6 billion includes funding to help local governments develop plans and develop infrastructure grant proposals, \$2 billion in last mile infrastructure, and over \$3 billion allocated for the creation of a state-owned, open access middle mile broadband network administered by CDT. However, even in areas where sufficient infrastructure exists, costs for internet service plans can put internet service, particularly fixed broadband service, out of reach for lower income households.

Permitting obstacles may exist, but the key barriers remain elusive. This bill requires CDT to submit a report to the Legislature on barriers to broadband infrastructure deployment, including certain permitting restrictions, legal hurdles, and costs. This bill is one of several recent measures aimed at addressing the extent to which permitting restrictions pose a barrier to deploying broadband infrastructure. While multiple measures have sought to address specific permitting delays and obstacles, it is unclear which permitting requirements remain the greatest hurdles for deploying broadband infrastructure.

Who's on first: which agency is responsible for coordinating broadband permitting recommendations? In August 2020, the governor issued Executive Order N-73-20 to direct state agencies to take steps to expand broadband access. The order directed the California Broadband Council to create a new Broadband Action Plan for the state. The Executive Order specified that the plan must include, "...a roadmap to accelerate the deployment and adoption of broadband by state agencies and to support such deployment and adoption by local governments." The Broadband Action Plan developed pursuant to EO N-73-20 acknowledged that permitting challenges existed on an anecdotal basis; however, the plan noted that more analysis was needed to identify specific barriers and appropriate policy changes. The plan recommended that CDT lead the following activities:

- Explore ways to improve government permitting processes
- Convene semi-annual meetings with broadband providers and local governments to address local government needs and permitting barriers.
- Establish a state-federal partnership to prioritize permits for broadband construction on federal lands.

Following the issuance of the Broadband Action Plan, the Legislature passed SB 4 (Gonzalez, Chapter 671, Statutes of 2021) and AB 14 (Aguiar-Curry, Chapter 658, Statutes of 2021) to extend and update the California Advanced Services Fund (CASF), California's primary long-term program funding broadband infrastructure and adoption projects. In addition to updating the CASF, SB 4 also required GO-Biz to coordinate with public agencies and other stakeholders to explore ways to streamline local land use approvals and permits for broadband infrastructure deployment. This bill may align with the Broadband Action Plan's

recommendations for CDT to lead efforts to convene stakeholders and better identify permitting barriers and potential solutions. However, this bill may also establish statutory conflicts between duties assigned to GO-Biz in existing law and similar duties assigned to CDT under this bill.

Bill is one of several expanding the role of CDT over broadband planning. Under existing law, CDT is the primary state agency responsible for state information technology procurement and related policies; however, recent legislation has expanded CDT's duties to include more broadband policy and planning duties. SB 156 (Committee on Budget and Fiscal Review, Chapter 112, Statutes of 2021) established the Office of Broadband and Digital Literacy and required CDT to oversee the construction of the state-owned middle mile broadband network. In addition to overseeing the middle mile, AB 2750 (Mia Bonta, 2022) also requires CDT to develop a state digital equity plan, which must address barriers to fixed and wireless broadband infrastructure. This bill further expands the broadband planning role that CDT must exercise. However, CDT is not a regulator of telecommunications services and may largely rely on the California Public Utilities Commission (CPUC) for data on broadband services and expertise on utility rights of way policies.

Prior/Related Legislation

AB 2750 (Mia Bonta, 2022) requires CDT to develop a specified state digital equity plan. The bill specifies that the plan must address barriers to broadband adoption, including, but not limited to, access to fixed and wireless broadband infrastructure. The bill is currently in Engrossing and Enrolling.

SB 4 (Gonzalez, Chapter 671, Statutes of 2021) and AB 14 (Aguiar-Curry, Chapter 658, Statutes of 2021) extended and revised the CASF, 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. In addition to these changes, SB 4 also required GO-Biz to coordinate with public agencies and other stakeholders to explore ways to streamline local land use approvals and permits for broadband infrastructure deployment.

SB 156 (Committee on Budget and Fiscal Review, Chapter 112, Statutes of 2021) made various changes necessary to implement the Budget Act of 2021. The bill established the Office of Broadband and Digital Literacy within CDT and required the office to oversee the construction of a state-owned, open-access middle mile broadband network. The bill allocated \$3.25 billion for the creation this middle

mile network, and it allocated a further \$2 billion of federal funds to the CPUC to fund last mile broadband infrastructure.

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

SUPPORT:

Pasadena Chamber of Commerce
T-Mobile
Verizon

OPPOSITION:

City and County of San Francisco

ARGUMENTS IN SUPPORT: According to the Author:

More than ever, Californians increasingly depend on broadband for distance learning, telehealth, public safety, remote work and accessing vital government services. Californians who cannot benefit from the digital age are at an inherent disadvantage, creating disparities in education, health care and the workforce.

As more Americans use more broadband internet services, demand for new technologies, coverage, and capacity will necessarily increase. Therefore, it is critical that the deployment of wireline and wireless infrastructure is not stymied by unreasonable barriers that can intensify the digital divide by inhibiting investment and deployment of broadband access points. High-speed broadband internet access services will transform the California economy through increased use of high-bandwidth and low-latency applications and through the growth of the Internet of Things. Broadband networks increasingly have required the deployment of more broadband access points to support expansion of coverage and increased usage and capacity. This trend will increase with next-generation networks, as demand continues to grow, and providers deploy broadband in local communities across the state.

There is an urgent need to accelerate the deployment of broadband access points to meet current demand and future growth. California must act to reduce barriers to the deployment of broadband infrastructure to maintain its leadership in advanced wireline and wireless broadband services and technology and to help address the digital divide.

ARGUMENTS IN OPPOSITION: Opponents argue that the study required by this bill will misrepresent the barriers to broadband access. The City and County of San Francisco is opposed to this bill unless it amended to require the study to examine the extent to which broadband companies' projected revenues for serving a given area limit these companies' incentives to deploy service to the area.

In opposition, the City and County of San Francisco state:

“The City and County of San Francisco is concerned that the study as proposed is too narrowly focused on regulatory barriers to broadband deployment and presumes that local permitting costs and approval timeframes inhibit investment in rural and disadvantaged communities. Due to this assumption, the results of the study will not reflect the impacts of nonregulatory barriers on broadband deployment, including carriers' business decisions.”

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