

TO: County Broadband Policy Leads
RE: **Initial Analysis and Guidance on County Policy
Stemming from California's Historic New Broadband Budget and Policy**
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TOPLINES

- [The passage and signing of AB/SB156 was a big win for all Californians](#), especially those in need of fast, reliable and affordable broadband. In a culmination of years of coalition- and power-building work, community advocates from across the state overcame intense cable and telecommunications industry lobbying to win a historic investment in creating a public open-access middle-mile broadband network and giving local governments a more powerful seat at the table.
- **This law establishes a legal framework for the construction of a \$3.25 billion state-owned, open-access “middle mile” network.** This means the state will own the fiber through which almost every community in California can connect to the internet. Because it's publicly owned and legally required to be open-access, it means start-up broadband providers and even local, publicly-owned providers will have state provided capacity to support service delivery to families.

The law provides for \$2 billion for last-mile infrastructure, split equally between urban and rural counties, **and a \$750 million loan loss reserve fund to assist local governments, tribes, and non-profits, and other public entities in accessing long term financing for broadband projects.**

- **As local broadband policy leads, you have options and time to make decisions that best deploy these new resources within your community.** Given supply-line challenges in this sector, do not feel like you have to make immediate decisions. There is time to get educated.
- **Incumbent internet service providers (ISPs) are already shifting strategy to maintain their dominant advantage.** They will be urging quick decisions that maintain their monopoly or near-monopoly control of broadband prices and limit deployment of public assets to close gaps. There is risk in over-weighting industry input into spending the hundreds of millions of dollars that will be allocated to the county to build out infrastructure. Centering equity will require ensuring input and expertise from a much wider range of stakeholders than has historically been involved in broadband infrastructure conversations, and there is time to make sure that happens.
- **While we know the big picture, the details are still in process.** Don't commit until you're sure you're getting the very best deal for your community - assurance that's still TBD.

HEADLINES IN [THE BILL THE GOVERNOR SIGNED INTO LAW ON JULY 20](#)

- 1. Middle-Mile.** This law establishes a legal framework for the construction of a \$3.25 billion state-owned open-access middle mile broadband network coordinated through a third-party nonprofit administrator and overseen by the Department of Technology. The administrator will oversee middle mile construction in California in areas “including [those] that can be built expeditiously, areas with no known middle-mile network access, regions underserved by middle-mile networks, and regions without sufficient capacity to meet future middle-mile needs.” The law further clarifies that the highest priority will be for middle-mile investment that enables “last-mile connections to residences unserved by 25 mbps downstream and 3 mbps upstream.”

Making middle-mile network open-access means it will provide "non-discriminatory access to eligible entities on a technology and competitively neutral basis, regardless of whether the entity is privately or publicly owned." That means the network will make it easier for existing ISPs to expand and for new ISPs to get started, filling in service gaps in some areas and boosting competition and speeds in others.

- 2. Office of Broadband and Digital Literacy.** The law creates a new agency within the Department of Technology called Office of Broadband and Digital Literacy, and a 9-member broadband advisory committee to monitor the construction and establishment of the statewide open-access middle-mile broadband network. The Department will be led by a governor-appointed Deputy Director for Broadband, who will be the chief point of contact to the middle-mile third-party administrator, Department of Transportation, the CPUC, the Legislature and the Advisory Committee.

The Advisory Committee will consist of: a representative of the PUC, a representative of Department of Technology who shall be chair of the Committee, a representative of Department of Transportation, a representative of the Department of Finance, a representative of the Government Operations Agency, four ex officio members who are members of the Assembly two appointed by the Speaker and two appointed by the Senate Committee on Rules.

- 3. Expanded County and Locality Powers:** Authorizes a County, *by act of its board of supervisors*, to acquire, construct, improve and maintain broadband infrastructure and operate a broadband internet access service, and removes limitations on local governments receiving grant funding for broadband infrastructure.
- 4. Last Mile.** The law amends the existing Broadband Infrastructure Grant Account program to allocate \$2 billion for last mile expenditures, with \$1 billion allocated for rural counties and \$1 billion for urban counties.

- The \$1 billion earmarked for urban projects will be allocated as follows: \$5,000,000 for last-mile broadband projects in each urban county, then remaining moneys based on each urban county's proportionate share of the California households without access to broadband internet access service with at least 100 megabits per second download speed.
- Last mile projects should provide for faster speeds than those required for the middle mile project: “Projects eligible for grant awards shall deploy infrastructure capable of providing broadband access at speeds of a minimum of 100 mbps downstream and 20 mbps upstream or the most current broadband definition speed standard set by the Federal Communications Commission from time to time, as determined

appropriate by the commission, whichever broadband access speed is greater, to unserved areas or unserved households.

5. **Loan Loss Fund.** This law creates a continuously appropriated loan-loss fund to assist local governments, Tribes, and non-profits in financing broadband service projects. The budget includes \$750 million in total funds for this purpose. The law also authorizes a joint powers authority to issue revenue bonds for deployment of broadband by a public or nonprofit organization that are supported by the Broadband Loan Loss Reserve.
6. **CPUC Authorizations and Requirements:** Requires the CPUC to provide technical assistance to local governments and providers, assist in developing grant applications, and assist in preparing infrastructure plans; Authorizes the CPUC to require a local government agencies and/or nonprofit organizations to demonstrate ability to reasonably finance and implement proposed infrastructure projects supported in whole or in part by funds allocated pursuant to this law; Revises “low-income” community eligibility to include publicly supported housing developments, and other housing developments or mobile home parks with low-income residents, as determined by the commission for use of the Broadband Public Housing Account.

IMMEDIATE IMPLICATIONS

- **Counties, municipalities, non-profits, Tribes, and other agencies operating for the public good have broad new powers and authorities to advance fast, reliable, and affordable broadband access for their communities.** You have many models to choose from, including fully public networks, public networks open for lease by private ISPs, public-private build-outs, and everything in between. Now is a moment to be creative, learn from broadband projects around the country, and leverage new latitude to apply newly available public dollars to solve problems for the public good.
- **Counties, municipalities, and other agencies can begin planning for publicly-owned broadband assets at a wide variety of scale and comprehensiveness,** ranging from building publicly owned broadband to support publicly operated internet service to developing partnerships with private companies to build open access infrastructure that can be leased by other providers, and a wide range of options in between. Just a few of the many possible models the County could deploy (note that any of these options or others could be deployed county-wide or just in targeted areas, and in collaboration with cities, COGs, nonprofits, or other entities, including incumbent ISPs):
 - [Public Infrastructure/Private Service](#) - “The public entity funds, builds, and owns the underlying communications infrastructure and the private entity does the rest: It provides the electronics and service over that infrastructure and deals with the complexities of running a broadband business. This model puts the locality in the business of building infrastructure, a business cities and counties know well after a century of building roads, bridges, and utilities. The model leaves to the private sector most aspects of network operations, equipment provisioning, and service delivery.”
 - [Open access infrastructure](#) - An entity operates an open-access last mile network to create an exchange of providers that leverage the infrastructure. The entity itself is structurally separated from selling broadband service.
 - [Fund/Contract with nonprofits or cooperatives](#) to build and provide services on a targeted network

- [Build public fiber-to-the-home \(FTTH\)](#) network that's run as a public utility, or leased and operated by private providers
- Read more in-depth case studies on each of these models in [Six Community Broadband Networks Demonstrate Diversity of Approaches to Connectivity Challenges](#)
- **The CPUC has new resources and authorities to be a partner to local governments and other agencies in closing the digital divide.**
- **The specific applications and mechanisms for distribution of the state dollars for last mile infrastructure and the loan loss program are being determined right now** - it'll be important to have the planning process underway, but no commitments need to be made right now.
- **The law provides for technical assistance and support** for counties, municipalities, and other agencies looking to build out these public assets for their communities - ISPs are not the only sources of information or expertise, and should not be relied upon as such. This echoes the approach of electrification where the government partnered with local communities to teach them how to build and operate their own local infrastructure.

WHAT'S NEXT:

- In the coming weeks, state regulators, department leaders and staff, and legislators will pick up the work of clarifying the law, adding details and implementation plans, and building out the processes for local governments to engage.
- CPUC staff are still working through the legislation and determining which proceedings (and so also when) relevant actions will fall under.
- Two additional pieces of legislation will continue their path through the legislature after the summer recess:
 - SB4 - will complement the \$6 billion budget provision by ensuring long term funding to the California Advanced Services Fund (CASF.)
 - SB28 - will provide a mechanism for the CPUC to better enforce cable broadband providers' adherence to their obligations under statewide franchises, and requires the state to make available public broadband assets to assist in new deployment.
- We will continue to update this analysis and guidance as new information and clarifications become available.

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