

Date of Hearing: April 22, 2021

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Ed Chau, Chair

AB 1560 (Daly) – As Amended March 11, 2021

SUBJECT: Distance learning: pupil access: computing devices and broadband internet service

SUMMARY: This bill would require that the Superintendent of Public Instruction (SPI) collect information about pupils' access to computing devices and residential broadband service, and authorizes the California Department of Technology (CDT) to enter into a sponsored service agreement on behalf of a local educational agency (LEA) with a broadband service provider for providing free or reduced-cost residential broadband service to eligible pupils. Specifically, **this bill would:**

- 1) Require, on or before April 1, 2022, and annually thereafter, that the SPI survey each school district, county office of education (COE), and charter school and report to the Legislature on the number of pupils without computing devices that meet the minimum performance standard for distance learning, as established by the SPI, and on the number of pupils from households without residential broadband service.
- 2) Authorize, contingent upon an appropriation in the annual Budget Act or another statute for this purpose, the SPI to provide each eligible pupil in kindergarten or any of grades 1 to 12, inclusive, of a school district, COE, or charter school with a computing device that meets the minimum performance standard for distance learning, as established by the SPI, in order to participate in distance learning.
- 3) Require that the SPI develop a standard to determine which pupils are eligible to receive a computing device. Requires that, at a minimum, a pupil who qualifies for the federal National School Lunch Program be eligible.
- 4) Require that the SPI maintain a list of broadband service options available for eligible low-income Californians, including service options offered voluntarily by broadband service providers and broadband service options offered by providers participating in the state lifeline program administered by the Public Utilities Commission.
 - Require that the SPI maintain the list on the SPI's website and further requires that the SPI distribute the list to the California Department of Education (CDE), COEs, school districts, charter schools, and other education organizations with the request that the list be distributed to all pupils and their families connected to those entities.
 - Require, in order to be included in the list maintained and distributed by the SPI, a provider that voluntarily offers broadband service to eligible low-income Californians provide the SPI current information about the terms of service offerings, and update that information as necessary.
- 5) Authorize, contingent upon an appropriation in the annual Budget Act or another statute for this purpose, the CDT to enter into a sponsored service agreement on behalf of any LEA with

a broadband service provider for the purpose of providing free or reduced-cost residential broadband service to eligible pupils in kindergarten to grade 12.

- 6) Require that, the CDT, in consultation with the CDE, and any participating LEA, develop a standard to determine which pupils are eligible to receive broadband service under a sponsored service agreement. Require a pupil who qualifies for the federal National School Lunch Program be eligible.
- 7) Require that an LEA that elects to participate in a sponsored service agreement provide the broadband service provider with information on eligible pupil households that consent to providing the information so the provider can determine if the household is within the provider's service area and does not currently subscribe to broadband service. Require that the information provided be limited to only that information, such as an address, required to provide service, to verify eligibility, and to prevent fraud.
- 8) Require that information provided by an LEA to a broadband service provider for purposes of a sponsored service agreement be confidential and not be publicly disclosed or used by the provider for any purpose unrelated to providing service under the sponsored service agreement.
- 9) Define the following terms:
 - “Local educational agency” to mean a school district, COE, or charter school.
 - “Sponsored service agreement” to mean a contract that enables the DOT to purchase broadband service from a broadband service provider at a bulk rate, and enables eligible pupils in kindergarten or any of grades 1 to 12, inclusive, to receive the service without the pupils or their families being billed by the provider.

EXISTING LAW:

- 1) Requires that, for the 2020–21 school year, an LEA that offers distance learning comply with the following requirements:
 - Confirmation or provision of access for all pupils to connectivity and devices adequate to participate in the educational program and complete assigned work.
 - Content aligned to grade level standards that is provided at a level of quality and intellectual challenge substantially equivalent to in-person instruction.
 - Academic and other supports designed to address the needs of pupils who are not performing at grade level, or need support in other areas, such as English learners, pupils with exceptional needs, pupils in foster care or experiencing homelessness, and pupils requiring mental health supports.
 - Special education, related services, and any other services required by a pupil's individualized education program with accommodations necessary to ensure that individualized education program can be executed in a distance learning environment.

- Designated and integrated instruction in English language development for English learners, including assessment of English language proficiency, support to access curriculum, the ability to reclassify as fully English proficient, and, as applicable, support for dual language learning.
 - Daily live interaction with certificated employees and peers for purposes of instruction, progress monitoring, and maintaining school connectedness. This interaction may take the form of internet or telephonic communication, or by other means permissible under public health orders. If daily live interaction is not feasible as part of regular instruction, the governing board or body of the local educational agency shall develop, with parent and stakeholder input, an alternative plan for frequent live interaction that provides a comparable level of service and school connectedness. (Ed. Code Sec. 43503.)
- 2) Requires LEAs offering in-person instruction for the 2020-21 school year to include all prioritized pupil groups. Prioritized pupil groups include all of the following:
- Pupils at risk for abuse, neglect, or exploitation;
 - Homeless pupils;
 - Foster youth;
 - English learners; and
 - Pupils without access to a computing device, software, and high-speed internet necessary to participate in online instruction, as determined by the LEA. (Ed. Code Sec. 43521.)
- 3) Establishes, within the Government Operations Agency, the Department of Technology (CDT), and generally tasks the department with the approval and oversight of information technology (IT) projects, and with improving the governance and implementation of IT by standardizing reporting relationships, roles, and responsibilities for setting IT priorities. (Gov. Code Sec. 11545, et seq.)
- 4) Finds that the unique aspects of IT goods and services and their importance to state programs warrant a separate body of governing statutes that should enable the timely acquisition of IT goods and services to meet the state's needs in the most value effective manner. (Pub. Con. Code Sec. 12100(a).)
- 5) Provides that all contracts for the acquisition of IT goods and services related to IT projects, as defined, shall be made by or under the supervision of CDT as provided, and endows CDT with the final authority for all of the following: the acquisition of IT goods and services related to IT projects; the determination of IT procurement policy; the determination of IT procurement procedures applicable to IT acquisitions and telecommunications procurements; and the determination of procurement policy in telecommunications procurements. (Pub. Con. Code Sec. 12100(b)-(e).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Purpose of this bill:** This bill seeks to ensure that local education agencies (LEAs) can use the bargaining power and leverage of the State to provide broadband service to children enrolled in California schools. This bill is sponsored by the California Cable and Telecommunications Association (CCTA).

- 2) **Author's statement:** According to the author:

The COVID-19 pandemic has underscored the depth of disadvantages students face when they do not have Internet access in their homes. Even after our students can return to their classrooms, Internet access will remain paramount to accessing education opportunities, employment and everyday life. Therefore, efforts must continue to bring all Californians online. This bill removes barriers to broadband adoption and provides more K-12 students with immediate access to equal learning, employment, social and health opportunities they need to keep pace in today's world.

- 3) **Students' access to broadband in California:** On March 4, 2020, Governor Newsom proclaimed a State of Emergency in California as a result of the threat of the COVID-19 virus. An Executive Order issued on March 13, 2020 authorized, but did not require, LEAs to close schools for in-person instruction to help stop the spread of COVID-19. The State subsequently began using a color-coded tiered system to determine when schools could reopen for in-person instruction. Except for LEAs located in the highest tier of virus spread, the decision regarding whether to close or re-open schools was left to each LEA in consultation with local public health officials. The vast majority of California public schools closed for in-person instruction through the end of the 2019-20 school year, and many began the 2020-21 school year by offering only, or mostly, remote instruction. As of January 2021, due to increasing surges in the rates of COVID-19, many schools throughout the State, including those in the largest school districts, remained closed for in-person instruction.

According to the Public Policy Institute of California, in the spring of 2020 more than 25% of California students did not always have internet access available. The share was larger among children in low-income (43%), African American (39%), and Latino (33%) families. A third of all households did not always have a device available for learning, including half of low-income households. In spite of efforts to improve access, PPI reports that "internet access remains a widespread problem. More than 30% of Latino students still lack reliable home internet, as do nearly 40% of low-income students—essentially unchanged from the spring."

The Learning Loss Mitigation Fund (LLMF) established by SB 98 (Comm. Budget, Ch. 24, Stats. 2020) appropriated \$5.3 billion to be allocated to LEAs in order to support pupil academic achievement and mitigate learning loss related to COVID-19 school closures. Funding is authorized for activities that directly support pupil academic achievement and mitigate learning loss related to COVID-19 school closures, including providing additional academic services for pupils. These academic services may include the purchase of devices or connectivity for the provision of in-classroom and distance learning.

Currently, LEAs may enter into agreements with internet service providers to either: 1) connect students in households without broadband access with ISPs for low-cost plans (with the household paying for the internet service), or 2) provide internet access at no cost to the

household without broadband access (with the LEA paying for the internet service). In doing so, LEAs must follow applicable information and privacy laws. Although there is no formal data collection of the number of LEAs participating in these two types of agreements, it is likely that there has been an increase in response to the COVID-19 pandemic and due to the increase in funding made available through the LLMF and other sources. The rates and terms of agreements between an LEA and an ISP also likely vary, and there may be a benefit to a state entity entering into a sponsored service agreement on behalf of an LEA to ensure the terms and costs remain fair and reasonable.

By ensuring that the expertise of CDT is available to LEAs seeking to secure broadband access for unserved students, this bill seeks to ensure that school districts are able to band together to get the best rates on broadband for their districts, and in turn, students.

- 4) **California Department of Technology oversees contracts for the acquisition of information technology goods and services:** The Legislature has charged the Department of General Services (DGS) and the California Department of Technology (CDT) with overseeing the State's procurement of goods and services on a statewide level. Specifically, DGS is responsible for overseeing the majority of the State's procurements, while CDT is responsible for overseeing acquisitions of information technology (IT) and telecommunications goods and services. Although noncompetitive contracts are appropriate in some situations, state law generally requires agencies to use the competitive bidding process when possible in order to ensure fair competition and to eliminate favoritism, fraud, and corruption. Further, economic experts agree that competition in public procurement benefits taxpayers and consumers by providing lower prices, greater innovation, and improved products and services.

LEAs, however, as a function of local government, are generally not required or permitted to use CDT for IT procurement, and as a result, do not benefit from the competitive bidding process the State has mandated for statewide IT projects. This bill seeks to use both the bargaining power multiple LEAs can leverage when banded together, along with the expertise of CDT in procuring IT contracts, to provide cost-efficient broadband to unserved students within California's public school system.

The sponsor of this bill, the California Cable and Telecommunications Association (CCTA), writes in support:

AB 1560 would authorize the California Department of Technology, on behalf of local school districts, to negotiate and pay for bulk rate residential broadband service to ensure all students have services to the internet. These "sponsored service agreements" are a proven model for getting eligible students and their families connected quickly without each school district incurring the burden, expense and delay of entering into an individual contract. Through state-level review and pre-qualification of service providers, the state will be in control to ensure students get the level of service they need. Under a sponsored service agreement, any eligible K-12 student household within a provider's service area will automatically get service -- but will not get a monthly bill.

At the time of this writing, this bill is still under review by CDT, who has not yet weighed in on the practicalities of the measure. Staff notes that this Committee is charged with oversight of CDT and therefore has an interest in how the requirements under this bill could affect other obligations charged to CDT. That being said, the objectives of AB 1560 appear to be laudable

and prudent. The Committee therefore suggests that as the bill moves through the legislative process, the author and sponsor continue to engage with CDT to ensure that the goals of this legislation are practically feasible.

- 5) **Current legislation:** AB 1176 (Eduardo Garcia) would establish the California Connect Fund in the State Treasury. The bill, until January 1, 2031, would require the PUC to develop, implement, and administer the California Connect Program to ensure that high-speed broadband service is available to every household in the state at affordable rates.

SB 732 (Bates) would require the CDE to develop and implement a program for COEs, school districts, and charter schools to issue no-cash value vouchers to be distributed to households with eligible pupils, to be used during the 2021–22 fiscal year to assist those households with the impacts of distant or remote learning due to the COVID-19 pandemic, as specified.

- 6) **Prior legislation:** AB 82 (Committee on Budget, Ch. 14, Stats. 2020) in pertinent part, made statutory changes to allow the CPUC to provide matching funds through the CASF to broadband providers as they pursue funding through the federal Rural Digital Opportunity Fund.

AB 570 (Aguiar-Curry, 2020) would have made numerous changes to CASF, to encourage deployment of broadband technology to all areas of the state. This bill was held on the Senate Floor.

SB 1130 (Lorena Gonzalez, 2020) would have made numerous changes to CASF, to encourage deployment of broadband technology to all areas of the state. This bill was held on the Assembly Floor.

AB 1665 (Eduardo Garcia, Ch. 851, Stats. 2017) revises the goal of the CASF to approve funding by December 31, 2022 for infrastructure projects that will provide broadband access to no less than 98% of California households in each consortia region, as identified by the PUC, among other provisions.

- 7) **Double referral:** This bill was double-referred to the Assembly Education Committee where it was heard on April 7, 2021 and passed out unanimously.

REGISTERED SUPPORT / OPPOSITION:

Support

California Cable & Telecommunications Association (sponsor)

Opposition

None on file

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