

Date of Hearing: March 20, 2017

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 980 (Wood) – As Introduced February 16, 2017

SUBJECT: Department of Transportation: broadband: fiber optic cables: priority areas

SUMMARY: Requires the California Department of Transportation (Caltrans), as part of each project located in a "priority area," as defined, to install broadband conduit; defines key terms.

EXISTING LAW:

- 1) Makes legislative findings and declarations setting forth policies related to telecommunications in California that strive for ubiquitous availability to high-quality telecommunications services in California.
- 2) As set forth in a 2006 Governor's Executive Order (S-23-06), created the California Broadband Task Force to facilitate widespread deployment of state-of-the-art telecommunications technology. The Executive Order specifically required, in part:
 - a) The Business, Transportation, and Housing (BTH) Agency to establish a database of current and prospective projects for deploying broadband. The database was to be available for use by broadband providers, state entities, and municipalities;
 - b) State agencies to place broadband conduit in their infrastructure projects for use by multiple government entities and broadband providers; and,
 - c) State agencies to expedite permitting for broadband providers' requests for access to rights-of-way.
- 3) Generally authorizes Caltrans to lease to public agencies or private entities the use of areas above or below state highways, subject to any reservations, restrictions, and conditions that the department deems necessary to ensure adequate protection to the safety and the adequacy of highway facilities.
- 4) Requires Caltrans, under certain conditions, to notify companies or organizations, as defined, of anticipated construction projects for the purpose of encouraging collaborative broadband installations.
- 5) Authorizes companies or organizations to collaborate with the department to install broadband conduit as part of a project.
- 6) Requires Caltrans, by January 1, 2018, to develop guidelines to facilitate the installation of broadband conduit on state highway rights of way.

FISCAL EFFECT: Unknown

COMMENTS: Long-standing federal and state policies encourage wide-scale deployment of advanced telecommunication capabilities. However, according to a report issued in February 2015 by the Federal Communications Commission (FCC), broadband deployment in the United

States – especially in rural areas – is failing to keep pace with today’s advanced, high-quality voice, data, graphics, and video offerings. According to the FCC, 17% of all Americans lack access to high-speed telecommunication services. In rural areas, that number grows to 53%.

Strategies for facilitating rapid broadband deployment typically include providing easy, quick access to public rights-of-way, particularly longitudinal rights of way such as streets and roads. However, according to the FCC, the largest cost of deploying broadband is burying fiber optic cables and conduit underground. In fact, the Federal Highway Administration indicates that 90% of the cost of deploying broadband is due to the cost of roadway excavation. As a result, in 2012 President Obama issued an executive order directing the U.S. Department of Transportation to facilitate expeditious access to highway rights-of-way at minimal cost to telecommunications providers.

Caltrans, as a part of the California Broadband Initiative developed in response to Governor Schwarzenegger's Executive Order in 2006, instituted a policy to encourage broadband co-location within the state highway rights-of-way. For seven years, the department announced each upcoming highway project and invited telecommunications providers to lay conduit as a part of the project. In the end, not one provider participated in the project, and Caltrans disbanded the effort.

Telecommunications providers can still access Caltrans' rights-of-way to install conduit via the department's encroachment permit process, however. Furthermore, on the wireless side of the telecommunications industry, Caltrans has an active program to facilitate the build-out and co-location of public and private wireless telecommunication systems. The department participates in the state's central data base of state-owned, non-highway properties available for use by telecommunications providers, and it has policies and procedures in place to streamline the necessary encroachment permits.

Last session, the author introduced AB 1549 (Wood), Chapter 505, Statutes of 2016, to direct Caltrans to be more proactive in collaborating with others to provide for the installation of broadband conduit on state highway rights of way. AB 980 seeks to build on that effort by outright directing Caltrans to include broadband conduit, capable of supporting fiber optic communications, as a part of each project located in a "priority area." AB 980 defines "priority area" as an area listed on a specific California Public Utilities Commission resolution. That resolution, Resolution T-17443, *Implementation of New Timelines for California Advanced Services Fund Applicants*, lists over 180 communities in 47 counties as priority areas.

Committee comments and concerns:

- 1) The Federal Highway Administration released a study in 2013 documenting successful practices that may assist state departments of transportation and local agencies to implement policies that facilitate broadband deployment. Included in the strategies were some used successfully by the Utah Department of Transportation (UDOT). UDOT installs empty conduit during highway construction. They found that if the state installs small sections of conduit, telecommunication companies have cooperated in helping to extend the infrastructure and provide services to rural communities. By using this approach, the state has been able to provide most of their regions with a connection. Furthermore, UDOT has been able to leverage their infrastructure by trading it for fiber that has been used to connect state-operated facilities such as intelligent transportation systems, cameras, weather stations,

etc. In fact, UDOT found that trading assets with the telecommunication companies has resulted in significant payback for the state.

- 2) AB 1549 from last year requires Caltrans, in consultation with stakeholders, to develop guidelines by January 1, 2018, to facilitate the installation of broadband conduit on state highway rights-of-way. AB 980 may be premature, given that the guidelines will likely be coming out later this year.
- 3) Despite the potential to realize benefits similar to UDOT, there will undoubtedly be at least initial costs for Caltrans to implement broadband conduit. These costs should be considered in light of the current transportation funding situation, wherein the state's highway maintenance and rehabilitation efforts are already underfunded by nearly \$6 billion annually, and Caltrans' emergency storm-related contracts this year are nearing \$700 million.

Double-referral: This bill will be referred to the Assembly Committee on Communications and Conveyance should it pass out of this committee.

Previous legislation: AB 1549 (Wood), Chapter 505, Statutes of 2016, requires Caltrans to take specific actions to facilitate further deployment of broadband communications.

The Broadband Conduit Deployment Act of 2015 (H.R. 3805) by Representative Eschoo (D-Calif.), would have expanded high-speed internet access. The bill would have required federal-aid highway projects to include broadband conduit beneath paved surfaces if an evaluation determines that there will be a need to install conduit sometime within the next 15 years. Similar legislation had been introduced twice before but was equally unsuccessful in securing passage.

REGISTERED SUPPORT / OPPOSITION:

Support

California Center for Rural Policy
The Utility Reform Network

Opposition

None on file

Analysis Prepared by: Janet Dawson / TRANS. /