

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: March 28, 2007

To: The Commission
(Meeting of April 12, 2007)

From: Delaney Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **SB 757 (Ridley-Thomas) - California Teleconnect Fund: grant programs.**
As Introduced: February 23, 2007

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: NEUTRAL

SUMMARY OF BILL:

This bill would expand the California Teleconnect Fund (CTF) program to include two new grant programs - the Community Based Supplemental Education Demonstration Grant Program and the Telemedicine Demonstration Grant Program – to be administered by the California Public Utilities Commission (CPUC) until January 1, 2014. These programs would be funded if and when the General Fund repays any of the outstanding balance of the \$150,000,000 loaned by the CTF to the General Fund in the annual Budget Act of 2003.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

Last year, the Governor vetoed an identical bill, AB 1388, because it would have been “imprudent to expand the eligible programs funded from [the CTF] until its fiscal condition stabilizes.” The condition of the CTF has not changed since last year.

While these grant programs would serve worthy goals and advance the deployment of broadband in California, the Commission can not effectively implement them without a steady, guaranteed funding source. The mere possibility that the \$150 million will be repaid to CTF is not sufficient.

SUMMARY OF SUGGESTED AMENDMENTS (if any):

None.

DIVISION ANALYSIS (OGA):

- The grant programs that would be established by this bill have worthy goals:
 - The Community Based Supplemental Education Demonstration Grant Program would provide “online learning resources” to pupils in grades 6 to 12 that include, among other things, online courses and online tutoring in areas required for graduation from middle school or high school, and employment.
 - The Telemedicine Demonstration Grant Program would provide health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications, consistent with Business and Professions Code Section 2290.5.
- Each grant would cover a five year period for the recipient’s costs for installing circuits able to transmit data at or above 1.54 megabits-per-second, up to an additional 30% discount for services covered by the regular CTF program, and up to a 50% discount for the costs incurred by a community college, California State University campus, or University of California campus for services otherwise covered by the regular CTF program.
- However, the bill contains no specific appropriation and no urgency to establish the two grant programs. Rather, it would tie the repayment of the monies owed to the CTF by the General Fund to a necessarily unspecified level of activity in the two new programs.
- The bill would require the Commission to adopt rules, procedures, and criteria for the programs, which would entail, at a minimum, a resolution, and possibly a rulemaking. This task can be very time consuming and complex.
- While the bill characterizes the CTF Administrative Committee (CTF AC) as an advisory body, SB 757 may change the existing relationship between the Commission and the CTF AC. The bill would require the CPUC to consult with the CTF AC regarding the solicitation of third-party administrators, the development of grant program elements, and the awarding of grants.

PROGRAM BACKGROUND:

- CTF is one of six public-purpose surcharge funds administered by the CPUC. In order to advance universal service, CTF provides a 50% discount on certain telecommunications services for schools, libraries, health-care institutions, and other specified community-based organizations. The covered services range from basic telephone service to high-speed transmission lines for data services.
- The CTF AC is an advisory board that advises the Commission regarding the development, implementation, and administration of the program, and carries out the

program pursuant to the Commission's direction, control, and approval.

LEGISLATIVE HISTORY:

- During the budget crisis in 2003, the Legislature exercised its authority to prioritize the use of limited public funds and directed DOF to make reductions in all funds in order to ensure it met its highest statewide priorities. As a result, \$150 million was loaned from the CTF to the GF.
- The DOF, in the 2006-2007 State Budget, repaid the CTF roughly \$20 million in order to avoid a CTF surcharge increase on telephone ratepayers. However, the bulk of the \$150 million loan has not been paid back because the conditions outlined in Government Code Section 16320 have not been met: the CPUC has not shown a need, and there is still a need for the moneys in GF.
- Under current law, the Commission can only raise surcharge rates under its own authority to fund the CTF program if the Department of Finance (DOF) does not order repayment of the loans to CTF. The DOF has signaled that it will only repay the loan as necessary to avoid surcharge increases.
- Last year, then-Assemblyman Ridley-Thomas introduced AB 1388, which was virtually identical to this bill. The Governor vetoed AB 1388 because his administration prefers to repay the \$150 million to the CTF incrementally in order to avoid surcharge increases for the program.

FISCAL IMPACT:

If and when enough money is repaid to the CTF for the purpose of this bill, the CPUC estimates costs in the range of \$482,000 for the first couple of years, with on-going costs of \$330,000 annually.

STATUS:

This bill has been assigned to the Senate Energy, Utilities & Communications Committee, but no hearing date has been set.

SUPPORT/OPPOSITION:

Sponsor: California Community Technology Policy Group.

STAFF CONTACTS:

Pam Loomis
OGA

pcl@cpuc.ca.gov
(916) 327-8441

Date: March 28, 2007

BILL LANGUAGE:

BILL NUMBER: SB 757 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Ridley-Thomas

FEBRUARY 23, 2007

An act to add and repeal Section 280.1 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 757, as introduced, Ridley-Thomas. Telecommunications: California Teleconnect Fund Administrative Committee Fund: grant programs.

(1) Existing law establishes the California Teleconnect Fund Administrative Committee to advise the Public Utilities Commission regarding the commission's responsibilities for the development, implementation, and administration of a program to advance universal telephone service by providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations. Existing law establishes the California Teleconnect Fund Administrative Committee Fund in the State Treasury, and provides that moneys in the fund, collected by telephone corporations in utility rates authorized by the commission and deposited into the fund, may only be expended for the purposes authorized, upon appropriation in the annual Budget Act. The annual Budget Act for 2003 provided for a loan of \$150,000,000 to the General Fund from the California Teleconnect Fund Administrative Committee Fund. Existing law provides for the repayment of that loan.

This bill would authorize the commission to establish, until January 1, 2014, a Community Based Supplemental Education Demonstration Grant Program and a Telemedicine Demonstration Grant Program, meeting certain requirements, with all funding for the programs coming from the moneys repaid to the fund from the moneys loaned by the fund to the General Fund in the annual Budget Act of 2003. Awards under the grant programs would be for the purpose of providing advanced telecommunications network services to community technology programs and to public libraries, as defined, that deliver supplemental education services to pupils, and to health care facilities, as defined, that provide telemedicine services.

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 280.1 is added to the Public Utilities Code, to read:

280.1. (a) Moneys paid to the California Teleconnect Fund Administrative Committee Fund in repayment of the one hundred fifty million dollar (\$150,000,000) loan to the General Fund made pursuant to Item 8660-011-0493 of Section 2.00 of the Budget Act of 2003 (Chapter 157 of the Statutes of 2003) shall be deposited into the fund and, upon appropriation by the Legislature, may be expended for the purpose of providing advanced telecommunication network services to community technology programs and to public libraries, that deliver supplemental education services to pupils in grades 6 to 12, inclusive, and to health care facilities that offer telemedicine services. Moneys repaid to the fund shall not be expended for any purpose other than as authorized by this section or Section 280.

(b) For purposes of this section, the following terms have the following meanings:

(1) "Administering entity" means the entity selected pursuant to subdivision (c).

(2) "Community college off-campus center" means a center providing services and functions pursuant to Chapter 5 (commencing with Section 88530) of Part 52 of the Education Code.

(3) "Community technology program" means a program that is provided by a community-based organization that has tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code and is engaged in diffusing telecommunications technology in local communities and training local communities in the use of telecommunications technology, that otherwise would have no access, or only limited access, to the Internet and other advanced telecommunications technologies.

(4) "Health care facility" means a facility that has tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code and that provides health care services directly to patients, including, but not limited to, a hospital, as defined in subdivision (a) of Section 124840 of the Health and Safety Code, or located in a rural Medical Study Area, as defined by the Office of Statewide Health Planning and Development and in accordance with the most recent census, a licensed primary care clinic, as defined in paragraph (1) of subdivision (a) of Section 1204 of the Health and Safety Code, a hospital outpatient department located in a health care shortage area and certified as a Rural Health Clinic by the Secretary of Health and Human Services, a tribal health clinic exempt from state licensing pursuant to subdivision (c) of Section 1206 of the Health and Safety Code, a diagnostic or treatment center, a neuropsychiatric or mental health facility, a hospice, or a nursing home.

(5) "Local educational agency" means a school district, including each school within the district, or a county office of education.

(6) "Online learning resources" means community technology programs involved in activities that include one or more of the following:

(A) Providing pupils with access to online courses in subject areas required for graduation from middle school or high school.

(B) Providing pupils with access to online tutoring or to support pupils' work in subject areas required for graduation from middle school or high school.

(C) Providing pupils with a tutor that provides assistance with accessing online information and digital resources for use as part of homework assignments.

(D) Providing pupils with a tutor who will provide remedial instruction using online resources.

(E) Preparing pupils for employment using online courses or materials, or by enabling online collaboration with industry professionals.

(F) Online coaching provided by high school or college counselors or financial aid experts.

(G) Providing teachers with training in technology so they have the capacity to assist students in accessing online resources.

(7) "Public library" means a library, or two or more libraries, operated as a single entity by one or more public jurisdictions and that serve the general public without distinction.

(8) "Telemedicine" means the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications.

(c) The commission, in consultation with the California Teleconnect Fund Administrative Committee, may appoint a third-party administrator, or more than one administrator, to administer the grant programs that may be established under this section. Any third-party administrator appointed by the commission shall demonstrate all of the following:

(1) Experience working with low-income or underserved communities.

(2) Knowledge about, and experience in, community technology programs.

(3) The ability to implement a process for applying for and recommending the awarding of grants that results in grants being awarded based upon merit.

(4) Experience and responsibility in managing and administering public trust or charitable funds.

(d) (1) Not more than five hundred thousand dollars (\$500,000) per fiscal year may be expended for the state's administration pursuant to this section.

(2) Upon notification by the commission, the Controller shall pay all grant awards, for the purposes enumerated in this section from the moneys appropriated pursuant to this section. The eligibility of each award shall be determined by the commission, consistent with any procedures or rules adopted by the commission in consultation with the California Teleconnect Fund Administrative Committee.

(e) (1) Upon the appropriation of moneys in the annual Budget Act for the purposes of this section, the commission may establish the Community Based Supplemental Education Demonstration Grant Program to demonstrate the benefits of community technology programs and public libraries that use the advanced telecommunications networks of California's educational entities to deliver supplemental educational services to pupils.

(2) Consistent with any procedures or rules established by the commission, in consultation with the California Teleconnect Fund Administrative Committee, the commission may provide community

technology programs and public libraries with grants pursuant to the Community Based Supplemental Education Demonstration Grant Program. Grants shall be awarded on the basis of competitive merit, subject to criteria to be established by the commission, in consultation with the California Teleconnect Fund Administrative Committee. In any fiscal year in which a grant is awarded, the amount of the grant shall cover a five-year period. The criteria shall ensure that funds are widely disbursed, and available to both urban and rural areas. Grants shall be awarded to qualifying community-based organizations that are exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, and public libraries, for the purpose of funding projects that demonstrate the capacity for community technology programs and public libraries to increase the academic achievement of pupils in grades 6 to 12, inclusive, through the use of online learning resources. Grants may be renewed on an ongoing basis, every five years, provided that the community technology program or public library can demonstrate that the program has contributed to the academic achievement of pupils served.

(3) A community technology program or public library may apply for and receive grants pursuant to the Community Based Supplemental Education Demonstration Grant Program, to pay costs associated with all of the following:

(A) All of the one-time costs for installing circuits, including special construction charges that may be required by a service provider, that transmit data at or above 1.54 megabits-per-second between the site of a community technology program or public library and a county office of education, a campus of the California Community Colleges, a community college off-campus center, a campus of the California State University, or a campus of the University of California.

(B) Up to an additional 30 percent discount for the costs of the qualifying services the public library or community technology program is otherwise eligible to receive pursuant to this section and Section 280.

(C) Up to 50 percent of the estimated cost of the qualifying services that a campus of the California Community Colleges, a community college off-campus center, a campus of the California State University, or a campus of the University of California would otherwise be eligible to receive if the campus were eligible to receive discounts pursuant to Section 280 and had a 155 megabit per second connection from the campus to the backbone network used by local educational agencies and the higher education segments, not including any costs related solely to telephone service.

(4) Recipients of grants under the Community Based Supplemental Education Demonstration Grant Program shall be required, as a condition for the receipt of moneys under the program, to annually report to the commission by January 1 of each year, that information required by the commission to evaluate the effectiveness of the program.

(5) The commission shall report to the Governor and the Legislature by April 1 of each year, on the results of the Community Based Supplemental Education Demonstration Grant Program, including the effect of the program on broadband subscription.

(6) The procedures and rules for awarding grants shall ensure that the grants awarded do not exceed annual moneys available to support the program and that no one applicant receive more than 25 percent of the designated program funds in a single fiscal year.

(7) Any costs associated with the Community Based Supplemental Education Demonstration Grant Program shall only be paid from the California Teleconnect Fund Administrative Committee Fund.

(f) (1) Upon appropriation of moneys in the annual Budget Act for the purposes of this section, the commission may establish the Telemedicine Demonstration Grant Program to demonstrate the benefits of health care facilities that use advanced telecommunications networks of California educational entities or other public networks to deliver telemedicine services.

(2) Consistent with any procedures or rules established by the commission, in consultation with the California Teleconnect Fund Administrative Committee, the commission may provide health care facilities with telemedicine grants pursuant to the Telemedicine Demonstration Grant Program. Grants shall be awarded on the basis of competitive merit, subject to criteria to be established by the commission, in consultation with the California Teleconnect Fund Administrative Committee. In any fiscal year in which a grant is awarded, the amount of the grant shall cover a five-year period. The criteria shall ensure that funds are widely disbursed, and available to both urban and rural areas. Grants shall be awarded to a qualifying health care facility approved for discounts pursuant to Section 280. Grants may be renewed on an ongoing basis every five years, provided that the health care facility can demonstrate effective utilization of telemedicine resources by the local community.

(3) A qualifying health care facility may apply for and receive grants pursuant to the Telemedicine Demonstration Grant Program, to pay costs associated with all of the following:

(A) All of the one-time costs for installing circuits, including special construction charges that may be required by a service provider, that transmit data at or above 1.54 megabits-per-second between the health care facility and a county office of education, a campus of the California Community Colleges, a community college off-campus center, a campus of the California State University, or a campus of the University of California that agrees to provide a gateway to the education network or to provide telemedicine services as defined in Section 2290.5 of the Business and Professions Code. The purpose of providing the gateway is to provide the eligible health care facility access to telecommunications services needed to provide telemedicine services and to provide access to high-speed Internet services.

(B) Up to an additional 30-percent discount for the costs of the qualifying services the health care facility is otherwise eligible to receive pursuant to the higher of this section or Section 280.

(C) Up to 50 percent of the estimated cost of the qualifying services that a campus of the California Community Colleges, a community college off-campus center, a campus of the California State University, or a campus of the University of California would otherwise be eligible to receive if the campus were eligible to receive discounts pursuant to Section 280 and had a 155 megabit-per-second connection from the campus to the backbone network used by local educational agencies and the higher education segments, not including any costs related solely to telephone service.

(4) Recipients of grants under the Telemedicine Demonstration Grant Program shall be required, as a condition for receipt of moneys under the program, to annually report to the commission by January 1

of each year, that information required by the commission to evaluate the effectiveness of the program.

(5) The commission shall report to the Governor and the Legislature by April 1 of each year, on the results of the Telemedicine Demonstration Grant Program.

(6) The procedures and rules for awarding grants shall ensure that the grants awarded do not exceed annual moneys available to support the program and that no one applicant receives more than 25 percent of the designated program funds in a single fiscal year.

(7) Any costs associated with the Telemedicine Demonstration Grant Program shall only be paid from the California Teleconnect Fund Administrative Committee Fund.

(g) The commission may, when necessary to provide network access pursuant to subdivision (e) or (f), reimburse local educational agencies and California Community Colleges for the one-time costs of installing new or enhancement of existing circuits that transmit data at or above 1.54 megabits per second between the local educational agency or California Community College off-campus center and the appropriate access point to the backbone network used by local educational agencies and the higher education segments.

(h) The commission shall not increase the rates authorized by the commission to fund the California Teleconnect Fund Administrative Committee Fund above the rates in effect as of June 30, 2005, in order to fund the programs authorized by this section.

(i) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

- END -