

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: May 3, 2006

To: The Commission
(Meeting of May 11, 2006)

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

Subject: **SB 1788 (Bowen) – CTF: SB 720 program: statutory clean-up.**
As Amended March 28, 2006

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: Support with amendments.

SUMMARY OF BILL:

This bill would modify a \$ 3 million program administered by the California Public Utilities Commission (CPUC) pursuant to SB 720 (Chapter 531, 2003), which provides a 40% discount on the installation of high speed internet service to eligible customers. Currently, eligible customers are those entities that have been approved for discounted services through the California Teleconnect Fund (CTF) but do not have access to advanced telecommunications services. This bill would expand the SB 720 program by allowing the 40% discount for upgraded and additional installations of high speed internet service, while limiting eligibility to nonprofit community technology programs.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

Almost a year after implementation, the SB 720 program has disbursed less than \$100,000 of the allocated \$3 million for high speed internet installation discounts, due in large part to overly restrictive requirements in the original legislation. SB 1788 would loosen those requirements to allow the discount to be applied to installation costs for additional high speed internet lines and to upgrades. These changes should enable the full expenditure of the \$3 million and the implementation of the SB 720 program as originally intended by the Legislature.

FISCAL IMPACT ON THE CPUC:

SB 1788, as amended March 28, 2006, would require the CPUC to allocate two staff members, at a PURA II level, full-time to the development, implementation, and review of applications for the SB 720 program that are specific to qualifying nonprofit community technology programs for a total cost to the CPUC of approximately \$161,794.

However, if SB 1788 was amended to allow all CTF-eligible Community Based Organizations (CBOs), not just nonprofit community technology programs (CTPs), to be eligible for the SB 720 program, then the cost to the CPUC would be minor and absorbable.

SUMMARY OF SUGGESTED AMENDMENTS:Eligibility

This bill should be amended to allow all CTF-eligible Community Based Organizations (CBOs), not just nonprofit community technology programs (CTPs), to be eligible for the SB 720 program. This change would facilitate a quick and efficient application of the discount to a broad array of arguably equally deserving community organizations. Without this amendment, administration of the SB 720 program will be delayed as the CPUC secures additional staff resources, institutes a new application process that is CTP-specific, and approves CTPs for the SB 720 program.

In the alternative, this bill should be amended to provide up to 5% of the \$3 million allocated for the SB 720 program for CPUC administration costs.

CTP Definition

This bill should also be amended to minimize ambiguities in the definition of “nonprofit community technology programs.” For example, what is meant by “limited access” or “other technologies”?

DIVISION ANALYSIS (OGA & Telco Div):

- On the one hand, this bill would facilitate the disbursement of the nearly \$3 million left in the SB 720 program by allowing the 40% discount to apply to installation costs for additional high speed internet lines and to upgrades. For example, CTF-eligible entities that already have basic DSL could still receive the discount for installing one or more T-1 lines.
 - Public Utilities Code section 884 currently limits eligibility for the SB 720 program to “entities that do not have access to advanced telecommunications services.”

However, most CTF-eligible entities have at least one DSL line or T-1 circuit, which makes them ineligible for the SB 720 program discounts. Consequently, less than \$100,000 of the \$3 million in the SB 720 program has been expended.

- On the other hand, this bill would increase the administrative burden on the CPUC by narrowing eligibility for the SB 720 program from all CTF-eligible “entities” to only “nonprofit community technology programs (CTPs).”
 - Currently, all CTF-approved entities are automatically eligible for the SB 720 program so long as they do not have any advanced telecommunications services. Since the entity’s carrier knows whether the entity has advanced telecommunications services and can check the CPUC’s website to see if the entity is CTF-approved, the SB 720 program has been easy to administer.
 - The CPUC approves entities for the CTF program in five categories: Public K-12, Nonprofit Private K-12, Libraries, Government Owned Hospitals and Health Clinics, and Community-Based Organizations (CBOs). Once an entity has been approved, its name and application number is posted on the CPUC’s website so that its telecommunications carrier can verify that the entity should be given the discount. The carrier provides the entity the discount, and then applies to the CPUC for reimbursement from the CTF Administrative Fund.
 - Nonprofit community technology programs (CTPs) are a subset of CBOs, and are not separately identified on the CPUC’s website of CTF-approved entities. As such, narrowing the eligibility for the SB 720 program to nonprofit CTPs would require the CPUC to either reevaluate approximately 600 CTF program applications by CBOs or institute an application process specifically for the SB 720 program.
 - Either option creates an administrative burden on the CPUC that will inevitably delay the application of the discount as CPUC staff sorts through hundreds of CTF applications on file to determine which CBOs are eligible nonprofit CTPs or implements a new CTP-specific application process.
- The program modifications proposed by this bill will be pointless unless the Legislature reauthorizes the expenditure of the remaining SB 720 program funds.
 - The CPUC’s authority to spend the \$3 million allocated to the SB 720 program expires on June 30, 2006. (For more information, see the last bullet on page 4.)

PROGRAM BACKGROUND:

- CTF is one of five 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.
- SB 720 (Chapter 531, 2003) established an additional 40% discount on installation costs of advanced telecommunications services for CTF-eligible customers. This program was limited to a total of \$3 million and predicated on the existence of a surplus in the CTF Administrative Committee Fund based on the amounts appropriated in the annual Budget Acts for the 2003-2004 and 2004-2005 fiscal years.
- By June of 2005, the CPUC determined that there was enough of a surplus based on the 2003-2004 Budget Act, created the SB 720 program by Administrative Letter No. 8, and allocated the full \$3 million to the program. According to the original administrative letter, the SB 720 program was open to all CTF-eligible entities that had no advanced telecommunications services. The program was modified in Administrative Letter 8A to eliminate switched 56 and ISDN technologies because they did not meet the minimum requirements set by the Federal Communications Commission's (FCC) definition of advanced telecommunications services.
- As of March 2006, the CPUC has processed 4 claims for SB 720 program funds totaling \$5,637, and has a number of outstanding claims totaling \$54,857. As such, most of the program's \$3 million is still available for expenditure.
- There are two main reasons why most of the \$3 million is still available:
 1. Many carriers have been unwilling to apply for SB 720 reimbursement for DSL installation. The carriers argue that DSL is federally regulated, and that accepting reimbursement from a state program might open the door to state regulation. Therefore, CTF-eligible customers that would have qualified for the program by purchasing DSL have been denied participation by the carriers.
 2. Public Utilities Code section 884 limited qualified entities to those which did not have any advanced services. As a result, CTF-eligible customers that already have DSL have been precluded from being reimbursed for upgrading to a T-1 line, and those that already have a T-1 line have been precluded from being reimbursed for adding lines.
- The CPUC's authority to spend the \$3 million allocated to the SB 720 program expires on June 30, 2006. Pursuant to Government Code section 16304, if no period is specified, an appropriation is available to be spent within 3 years after it became available for encumbrance. Since the \$3 million allocated to the SB 720 program is based on the surplus from the 2003-2004 Budget Act, the CPUC's authority to spend it expires on June 30, 2006. However, the unexpended money will remain in the CTF account.

LEGISLATIVE HISTORY:

SB 720 (Chapter 531, 2003) by Senator Bowen established a 40% discount on installation costs of advanced telecommunications services in PU Code section 884.

STATUS: This bill passed the Senate Energy, Utilities and Communications Committee 7-0, and is set to be heard by the Senate Appropriations Committee on May 8, 2006.

SUPPORT/OPPOSITION:

Support: California Community Technology Policy Group

Opposition: None.

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Date: May 3, 2006

BILL LANGUAGE:

BILL NUMBER: SB 1788 AMENDED
BILL TEXT

AMENDED IN SENATE MARCH 28, 2006

INTRODUCED BY Senator Bowen

FEBRUARY 24, 2006

An act to amend Section ~~1203.097 of the Penal~~
~~884 of the Public Utilities Code, relating to~~
~~domestic violence.~~ broadband services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1788, as amended, Bowen ~~Domestic violence: probation~~
~~conditions.~~ Broadband services.

Existing law establishes the California Teleconnect Fund Administrative Committee to advise the Public Utilities Commission regarding the implementation, development, and administration of a program to advance universal service by providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations, and to carry out the program pursuant to the commission's direction, control, and approval. Existing law establishes the California Teleconnect Fund Administrative Committee Fund in the State Treasury, and requires that moneys from the fund may only be expended upon appropriation in the annual Budget Act and requires that the moneys appropriated be utilized exclusively by the commission for the authorized programs. Existing law authorizes the commission to expend up to \$3,000,000 for up to an additional 40% of the one-time installation costs of advanced telecommunications services, as defined, for certain entities that do not have access to those services, from the unencumbered difference between what is appropriated and what is expended by the commission from the California Teleconnect Fund Administrative Committee Fund for the 2003-04 and 2004-05 fiscal years.

This bill would authorize the commission to expend up to \$3,000,000 for up to an additional 40% of the nonrecurring installation costs of high-speed broadband services, as defined, for nonprofit community technology programs, as defined, from the unencumbered difference between what is appropriated and what is expended by the commission from the California Teleconnect Fund Administrative Committee Fund for the 2003-04 and 2004-05 fiscal years.

~~Existing law requires a person who is granted probation in a domestic violence case to file a proof of enrollment in a batterer's program within 30 days of conviction.~~

~~This bill would specify that this proof must be filed with the court by personal appearance.~~

~~Existing law provides that a person granted probation in a domestic violence case must complete a batterer's program which shall make progress reports to the court every 3 months or less.~~

~~— This bill would require the defendant to personally appear when these progress reports are made which shall take periodically, at the court's discretion. This bill would also provide that the victim may address the court when these progress reports are made.~~

~~— Because this bill would change the terms of probation imposed for commission of a crime, this bill would impose a state mandated local program.~~

~~— 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~~ no .

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

SECTION 1. Section 884 of the Public Utilities Code is amended to read:

884. (a) It is the intent of the Legislature that any program administered by the commission that addresses the inequality of access to ~~advanced telecommunications~~ *high-speed broadband* services by providing those services to schools and libraries at a discounted price, provide comparable discounts to a nonprofit community technology program.

(b) If the moneys expended from the California Teleconnect Fund Administrative Committee Fund are less than the amounts appropriated in the annual Budget Act for the 2003-04 and 2004-05 fiscal years, from the unencumbered difference between what was appropriated and what was expended, notwithstanding any other law or existing program of the commission but consistent with the purposes for which those funds are appropriated, the commission may expend up to three million dollars (\$3,000,000) for up to an additional 40 percent of the ~~one-time nonrecurring installation costs for entities that do not have access to advanced telecommunications services~~ *high-speed broadband services for nonprofit community technology programs* .

(c) For the purpose of this section:

(1) ~~"Advanced telecommunications services" includes high speed communications services such as digital subscriber line (DSL) services and T-1 technology.~~ *"High-speed broadband services" means a system for the digital transmission of information over the Internet at a speed of at least 384 kilo-bits per second.*

(2) "Nonprofit community technology program" means a community-based nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and engages in diffusing technology into local communities and training local communities that have no access to, or have limited access to, the Internet and other technologies.