

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2021-2022 Regular Session**

AB 1349 (Mathis)  
Version: June 18, 2021  
Hearing Date: June 29, 2021  
Fiscal: Yes  
Urgency: No  
AWM

**SUBJECT**

California Advanced Services Fund: Broadband Adoption Account

**DIGEST**

This bill adds nonprofit religious organizations to the list of organizations eligible for money from the state's Broadband Adoption Account.

**EXECUTIVE SUMMARY**

California has multiple programs to help address and eliminate the "digital divide," the persistent gap in broadband access and digital literacy that exists in many parts of the state. One such program is the Broadband Adoption Account, which is part of the California Advanced Services Fund. The Broadband Adoption Account, among other things, awards grants to increase publicly available, or after-school broadband, access and digital inclusion in communities with limited broadband adoption, including low-income communities, senior communities, and communities facing socioeconomic barriers to broadband adoption. Under current law, entities eligible to apply for these grants are local governments, senior centers, schools, public libraries, nonprofit organizations, and community-based organizations. This bill clarifies that nonprofit religious organizations are eligible to apply for Broadband Adoption Account grants to provide such publicly available or after-school programming.

This bill is sponsored by the author. There is no known opposition. This bill was passed by the Senate Energy, Utilities and Communications Committee with a 13-0 vote.

**PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Establishes, and requires the Public Utilities Commission (PUC) to develop, implement, and administer the California Advanced Services Fund (CASF) to encourage deployment of high-quality advanced services communications to all Californians that will promote economic job growth, job creation, and the substantial social benefits of advanced information and communications technologies. (Pub. Util. Code, § 281(a).)
- 2) Establishes the Broadband Adoption Account in the CASF to award grants to increase publicly available or after school broadband access and digital inclusion, such as grants for digital literacy training programs and public education, to communities with limited broadband adoption, including low-income communities, senior communities, and communities facing socioeconomic barriers to broadband adoption. (Pub. Util. Code, § 281(d).)
- 3) Provides that monies in the Broadband Adoption Account shall be available to the PUC to award grants to increase publicly available, or after-school, broadband access and digital inclusion, such as grants for digital literacy training programs and public education in communities with limited broadband adoption, including low-income communities, senior communities, and communities facing socioeconomic barriers to broadband adoption. (Pub. Util. Code, § 281(j)(1).)
- 4) Provides that entities eligible to apply for Broadband Adoption Account grants are local governments, senior centers, schools, public libraries, nonprofit organizations, and community-based organizations with programs to increase publicly available or after-school broadband access and digital inclusion, such as digital literacy training programs. (Pub. Util. Code, § 281(j)(2).)

This bill:

- 1) Specifies that nonprofit religious organizations are included as nonprofit organizations eligible to apply for Broadband Adoption Account grants.
- 2) Makes other nonsubstantive technical and conforming changes.

## COMMENTS

### 1. Author's statement

According to the author:

For many small communities, especially within rural areas, the building of a religious organization is not simply a place of worship, but a building that is central to the wellbeing and functioning of the community.

These buildings are commonly used for numerous non-religious activities and events, including after-school clubs and programs, a place where elderly groups meet, and as the venue for organizations that provide emotional support and addiction recovery services.

In allowing religious organizations to be eligible for funds within the Broadband Adoption Account, AB 1349 will increase broadband access and digital inclusion for the most vulnerable and remote regions of California.

### 2. This bill, to the extent it modifies existing law, does not appear to impinge on the Establishment Clause by making nonprofit religious organizations with publicly available or after-school broadband access and digital inclusion programs eligible for Broadband Adoption Account grants

The digital divide persists in California. While 84 percent of Californians had high-speed internet in their homes in 2019, certain demographic groups – including Latino and Black households, as well as seniors and persons living in rural areas – lag behind the state adoption rate.<sup>1</sup> The COVID-19 pandemic exacerbated the cost of no internet access: when schools and colleges switched to remote instruction in 2020, 26 percent of K-12 students, and nearly 40 percent of low-income students, did not have reliable internet access.<sup>2</sup>

According to the author, this bill will help expand access to high-speed internet, especially in rural areas, by allowing otherwise-eligible nonprofit religious organizations to apply for grants from the Broadband Adoption Account. There is some question as to whether this bill is necessary: a review of the PUC's grants under the Broadband Adoption Account shows that awards have already been granted to religiously affiliated organizations providing community development and digital literacy classes.<sup>3</sup> This is likely because the Broadband Adoption Account does not

---

<sup>1</sup> Gao & Hayes, *California's Digital Divide*, Public Policy Institute of California (Feb. 2021), at p. 1.

<sup>2</sup> *Ibid.*

<sup>3</sup> See, e.g., PUC, California Advanced Services Fund (CASF) Adoption Account, Pre-Award Submissions and Funded Projects, Broadband Adoption Program Applicants Approved for the March 1, 2019 Round,

provide grants to the eligible entities for broadband access *generally*, but only for eligible entities offering publicly available or after-school broadband access and digital inclusion programs. Thus, it appears that nonprofit religious organizations offering such public or after-school classes and programs already qualify as eligible nonprofit or community organizations.

Nevertheless, to the extent this bill will substantively change the scope of eligible entities, the Energy, Utilities and Communication Committee has considered the policy goals of the bill and its effectiveness as a means of expanding broadband access. This analysis considers the latent constitutional issue posed by the bill: whether, by making nonprofit religious organizations eligible for grant funding, the bill runs afoul of the Establishment Clause of the First Amendment.<sup>4</sup>

The short answer is no. The United States Supreme Court has held that government funds may be provided to a religious organization if (1) the statute has a secular legislative purpose, (2) the statute's primary effect is one that neither advances nor inhibits religion, and (3) the statute must not foster "an excessive government entanglement with religion."<sup>5</sup> The bill appears to satisfy these requirements. First, the Broadband Adoption Account serves a secular purpose of increasing high-speed internet access; the provision specifically at issue provides grants to organizations with publicly available or after-school broadband access and digital inclusion programs. Next, the statute's primary effect neither advances nor inhibits religion – it advances broadband access and digital inclusion. Finally, there does not appear to be evidence that the bill would foster an excessive government entanglement with religion. In particular, the narrow circumstances in which this bill makes a nonprofit religious organization eligible for a grant – not for sectarian activities, but only for providing publicly available or after-school broadband access and digital inclusion programs – makes the distance between the government funding and the excessive entanglement with religion consistent with the Supreme Court's Establishment Clause jurisprudence. And because the bill makes grants available to nonprofit religious organizations on the same terms that are available to private groups, there does not appear to be a constitutional impediment to this bill.

### SUPPORT

None known

---

the August 31, 2019 Round, and the July 1, 2020 Round,  
<https://www.cpuc.ca.gov/General.aspx?id=6442457502> [last visited Jun. 25, 2021].

<sup>4</sup> See U.S. Const., 1st amend.

<sup>5</sup> *Lemon v. Kurtzman* (1971) 403 U.S. 602, 612-613; *Agostini v. Felton* (1997) 521 U.S. 203, 222-223. To the extent the continued viability of *Lemon* is in question, the Supreme Court's recent case law has been more permissive of government funding for sectarian organizations, not less. (E.g., *Espinoza v. Montana Department of Revenue* (2020) 140 S. Ct. 2246, 2255-2256.)

**OPPOSITION**

None known

**RELATED LEGISLATION**

**Pending Legislation:**

SB 4 (Gonzalez, 2021) among other things, modifies the funding mechanism for the CASF, including for the Broadband Adoption Account. SB 4 is pending before the Assembly Committee on Communications and Conveyance.

AB 14 (Aguiar-Curry, 2021) among other things, authorizes the PUC to award grants from the Broadband Adoption Account for certain educational purposes and to request program-specific information from grant applicants. AB 14 is pending before the Senate Energy, Utilities and Communications Committee.

**Prior Legislation:**

AB 570 (Aguiar-Curry, 2019) was substantially similar to AB 14 (Aguiar-Curry, 2021) and would have authorized the PUC to award grants from the Broadband Adoption Account for certain educational purposes and to request program-specific information from grant applicants. AB 1570 died on the Senate inactive file.

AB 1665 (Eduardo Garcia, Ch. 851, Stats. 2017) replaced the Broadband Infrastructure Revolving Loan Account with the Broadband Adoption Account, and established its current eligibility requirements.

**PRIOR VOTES:**

Senate Energy, Utilities and Communications Committee (Ayes 13, Noes 0)

Assembly Floor (Ayes 76, Noes 0)

Assembly Appropriations Committee (Ayes 16, Noes 0)

Assembly Judiciary Committee (Ayes 11, Noes 0)

Assembly Communications and Conveyance Committee (Ayes 13, Noes 0)

\*\*\*\*\*