

AMENDED IN SENATE APRIL 27, 2021  
AMENDED IN SENATE APRIL 12, 2021  
AMENDED IN SENATE MARCH 16, 2021

**SENATE BILL**

**No. 556**

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**Introduced by Senator Dodd**

February 18, 2021

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An act to add Division 2.6 (commencing with Section 5980) to the Public Utilities Code, relating to communications.

LEGISLATIVE COUNSEL'S DIGEST

SB 556, as amended, Dodd. Street light poles, traffic signal poles: small wireless facilities attachments.

Existing law requires a local publicly owned electric utility to make appropriate space and capacity on and in ~~their~~ *its* utility poles, as defined, and support structures available for use by cable television corporations, video service providers, and telephone corporations. Existing law requires fees adopted to cover the costs to provide this use, and terms and conditions of access, to meet specified requirements, and specifies the manner in which these fees and terms and conditions of access could be challenged.

This bill would prohibit a local government or local publicly owned electric utility from unreasonably denying the leasing or licensing of its street light poles or traffic signal poles to communications service providers for the purpose of placing small wireless facilities on those poles. The bill would require that street light poles and traffic signal poles be made available for the placement of small wireless facilities under fair, reasonable, and nondiscriminatory fees, ~~subject to specified requirements, consistent with a specified decision of the Federal~~

~~Communications Commission fees.~~ The bill would specify time periods for various actions relative to requests for placement of a small wireless facility by a communications service provider on a street light pole or traffic signal pole. *The bill would authorize a local publicly owned electric utility or local government to deny an application for use of a street light pole or traffic signal pole, as applicable, because of insufficient capacity or safety, reliability, or engineering concerns subject to certain conditions.* By placing additional requirements upon local publicly owned electric utilities and local governments, the 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.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. (a) This act shall be known, and may be cited
- 2 as, *cited, as the California Connectivity Act.*
- 3 (b) The Legislature finds and declares all of the following:
- 4 (1) Communities across California face a multitude of barriers
- 5 to the deployment of resilient and accessible broadband networks.
- 6 Broadband internet access service in urban communities varies by
- 7 neighborhood, with great discrepancies in infrastructure
- 8 technology. Communities in rural areas often lack sufficient
- 9 broadband internet access service, as well as the backhaul
- 10 infrastructure, to provide broadband services.
- 11 (2) The COVID-19 pandemic has highlighted the extent to which
- 12 broadband access is essential for education, telehealth, remote
- 13 working, public safety, public health and welfare, and economic
- 14 resilience. The pandemic adds greater urgency to develop new
- 15 strategies and expand on existing successful measures to deploy
- 16 reliable networks. Connection to the internet at reliable speeds is
- 17 also crucial to California's economic recovery from the impact of
- 18 COVID-19. Millions of children are attending classes remotely,
- 19 telehealth visits have skyrocketed, and many more Californians
- 20 are telecommuting from their places of residence. Additionally,

1 with unprecedented growth in unemployment caused by COVID-19  
2 and the need to participate in all aspects of society from home, the  
3 demand for reliable broadband internet access service has  
4 significantly increased as millions of additional Californians need  
5 access to successfully weather the pandemic and to recover.

6 (3) Wireless broadband internet access is critical to distance  
7 learning. Just as important, wireless broadband internet access is  
8 needed to address the digital divide. In 2017, for example, 73  
9 percent of households accessed the internet using a cellular  
10 telephone. The Federal Communications Commission reports that  
11 nearly 70 percent of teachers assign homework that requires  
12 broadband access. Although California has made progress closing  
13 the digital divide at schools, internet access at home is still a  
14 challenge. Almost 16 percent of schoolage children, about 945,000,  
15 had no internet connection at home in 2017 and 27 percent, about  
16 1.7 million, did not have broadband connections. Access varies  
17 significantly by family income, parental education, race or  
18 ethnicity, and geography. For example, 22 percent of low-income  
19 households with schoolage children did not have any internet  
20 connection at home and 48 percent reported no broadband  
21 subscription at home.

22 (4) Over 2,000,000 Californians lack access to high-speed  
23 broadband at benchmark speeds of 100 megabits per second  
24 download, including 50 percent of rural housing units. More than  
25 14,000,000 Californians, over one-third of the population, do not  
26 subscribe to broadband at the minimum benchmark speed to  
27 support distance learning and technologies that depend on upload  
28 speed. Only 34 percent of adults over 60 years of age use the  
29 internet, excluding older adults from access to telemedicine, social  
30 services, and other support.

31 (5) The Centers for Medicare and Medicaid Services define  
32 telehealth as “a two-way, real-time interactive communication  
33 between a patient and a physician or practitioner at a distant site  
34 through telecommunications equipment that includes, at a  
35 minimum, audio and visual equipment.” Telemedicine encompasses  
36 a growing number of applications and technologies, including  
37 two-way live or streaming video, videoconferencing,  
38 store-and-forward imaging along with the internet, email,  
39 smartphones, wireless tools, and other forms of  
40 telecommunications. These technologies facilitate and leverage

1 the latest innovations in computer, network, and peripheral  
2 equipment to promote the health of patients around the world.  
3 Critical to its success is reliable broadband internet access.

4 (6) Telehealth technology permits health care services to be  
5 delivered without in-person contact, reducing the risk of disease  
6 transmission to both patients and health care workers, and frees  
7 up in-person resources for COVID-19 patients. Telehealth allows  
8 patients to receive health services away from settings where the  
9 potential for contracting COVID-19 is high, such as hospitals,  
10 health clinic waiting rooms, private practices, and other medical  
11 facilities. Telehealth can also expand the reach of resources to  
12 communities that have limited access to needed services.

13 (7) Due to widespread restrictions, and with fewer elective  
14 procedures occurring in California and around the country to  
15 reserve beds for COVID-19 patients, the telehealth share of total  
16 medical claim lines, which is the individual service or procedure  
17 listed on an insurance claim, increased 8,336 percent nationally  
18 from April 2019, to April 2020. Similar percentage increases have  
19 occurred in California.

20 (8) Millions of Californians are working from home while  
21 sheltering in place. Even employers that had not previously  
22 permitted remote-work arrangements have changed their policies  
23 during the pandemic. The Department of General Services reports  
24 that 83.9 percent of state workers are working from home. Survey  
25 data indicates that nearly two-thirds of those who still had jobs  
26 during the pandemic were almost exclusively working from home.  
27 That compares with just 13 percent of workers who said they did  
28 so even a few times a week prior to the COVID-19 pandemic.  
29 Telework is expected to continue at rates much higher than before  
30 COVID-19 even after the pandemic is over. Among those workers  
31 surveyed who had previously not regularly worked from home,  
32 62 percent said they were enjoying the change, and 75 percent  
33 expect their employers to continue to provide flexibility in where  
34 they work after the pandemic has passed. Indeed, the State of  
35 California, one of California's largest employers, has stated the  
36 desire for 75 percent of the state's workforce to remain home, at  
37 least part time, for the foreseeable future. The Metropolitan  
38 Transportation Commission in the San Francisco Bay Area voted  
39 to adopt a strategy to have large, office-based companies require  
40 people to work from home three days a week as a way to slash

1 emissions of greenhouse gases from car commutes. Critical to the  
2 success of telework is reliable broadband internet access.

3 (9) The enormous increases in distance learning, telehealth, and  
4 telework require a significant boost in broadband infrastructure,  
5 especially near the homes where these activities take place. To  
6 promote wireless broadband internet access near homes, it is in  
7 the interest of the state to ensure the deployment of wireless  
8 facilities on street light poles and traffic signal poles. It is in the  
9 interest of the state to ensure that local publicly owned electric  
10 utilities and local governments that own or control traffic signal  
11 poles or street light poles make them available to communications  
12 service providers for the placement of small wireless facilities,  
13 under reasonable rates, terms, and conditions.

14 (10) The state has a compelling interest in ensuring that local  
15 publicly owned electric utilities and local governments provide  
16 access to traffic signal poles and street light poles, with  
17 nondiscriminatory fees that recover reasonable actual costs,  
18 consistent with applicable federal regulations barring localities  
19 from denying reasonable, nondiscriminatory access to their pole  
20 infrastructure for small wireless facility attachments at reasonable  
21 and cost-based rates. Therefore, it is the intent of the Legislature  
22 that this act supersedes all conflicting local laws and this act shall  
23 apply in charter cities.

24 (11) Time is of the essence to approve small wireless facility  
25 siting applications given the immediate need for broadband internet  
26 access, as amplified by the COVID-19 pandemic.

27 (c) It is the intent of the Legislature to facilitate the deployment  
28 of wireless broadband internet access and to bridge the digital  
29 divide by connecting students, families, and communities with  
30 reliable internet connectivity that will remain a necessity after the  
31 COVID-19 pandemic has abated.

32 SEC. 2. Division 2.6 (commencing with Section 5980) is added  
33 to the Public Utilities Code, to read:

34

35 **DIVISION 2.6. CALIFORNIA CONNECTIVITY ACT**

36

37 5980. For purposes of this division, the following terms have  
38 the following meanings:

39 (a) “Annual costs of ownership” means the annual capital costs  
40 and annual operating costs of a street light pole or traffic signal

1 pole, which shall be the average costs of all similar street light  
2 poles and traffic signal poles owned or controlled by the local  
3 government or publicly owned electric utility. The basis for the  
4 computation of annual capital costs shall be historical capital costs  
5 less depreciation. The accounting upon which the historical capital  
6 costs are determined shall include a credit for all reimbursed capital  
7 costs. Depreciation shall be based upon the average service life of  
8 the street light pole or traffic signal pole. Annual cost of ownership  
9 does not include costs for any property not necessary for use by  
10 the small wireless facility.

11 (b) “Communications service provider” means a cable television  
12 corporation, video service provider, or telephone corporation.

13 (c) “Governing body” means the governing body of a local  
14 government or local publicly owned electric utility, including,  
15 where applicable, a board appointed by a city council.

16 (d) “Local government” means a city, including a charter city,  
17 county, or city and county.

18 (e) “Small wireless facility” has the same definition as defined  
19 in subsection (l) of Section 1.6002 of Title 47 of the Code of  
20 Federal Regulations.

21 (f) “Street light pole” means a pole, arm, or fixture used  
22 primarily for street, pedestrian, or security lighting.

23 (g) “Traffic signal pole” means a pole, arm, or fixture used  
24 primarily for signaling traffic flow.

25 (h) “Usable space” means the space above the minimum grade  
26 that can be used for the attachment of antennas and associated  
27 ancillary equipment.

28 5981. (a) A local government or local publicly owned electric  
29 utility shall not unreasonably deny the leasing or licensing of its  
30 street light poles or traffic signal poles to communications service  
31 providers for the purpose of placing small wireless facilities. Street  
32 light poles and traffic signal poles shall be made available for the  
33 placement of small wireless facilities under fair, reasonable, and  
34 nondiscriminatory fees, subject to the requirements in Section  
35 5982. Access to street light poles or traffic signal poles may also  
36 be subject to other reasonable terms and ~~conditions, which may~~  
37 ~~include reasonable aesthetic and safety standards, consistent with~~  
38 ~~the Federal Communications Commission’s Declaratory Ruling~~  
39 ~~and Third Report and Order (September 26, 2018) FCC 18-133,~~  
40 ~~In the Matter of Accelerating Wireline Broadband Deployment by~~

1 ~~Removing Barriers to Infrastructure Investment, WT Docket No.~~  
2 ~~17-79 and WC Docket No. 17-84. conditions.~~

3 (b) (1) A local publicly owned electric utility or local  
4 government shall respond to a request for placement of a small  
5 wireless facility by a communications service provider on a street  
6 light pole or traffic signal pole, or multiple poles, owned or  
7 controlled by the local publicly owned electric utility or local  
8 government within 45 days of the date of receipt of the request,  
9 or within 60 days if the request is to attach to over 300 poles. If  
10 the request is denied, the local publicly owned electric utility or  
11 local government shall provide in the response the reason for the  
12 denial and the remedy to gain access to the street light poles or  
13 traffic signal poles. If a request to attach is accepted, the local  
14 publicly owned electric utility or local government, within 14 days  
15 after acceptance of the request, shall provide a cost estimate, based  
16 on actual cost, for any necessary make-ready work required to  
17 accommodate the small wireless facility. The requesting party  
18 shall accept or reject the make-ready cost estimate within 14 days.  
19 Within 60 days of acceptance of the cost estimate, the local publicly  
20 owned electric utility or local government shall notify any existing  
21 third-party attachers that make-ready work for a new attacher needs  
22 to be performed. The requesting party shall have the responsibility  
23 to coordinate with third-party existing attachers for make-ready  
24 work to be completed. All parties shall complete all make-ready  
25 work within 60 days of the notice, or within 105 days in the case  
26 of a request to attach to over 300 poles. The local publicly owned  
27 electric utility or local government may complete make-ready  
28 work without the consent of the existing attachers, if the existing  
29 attachers fail to move their attachments by the end of the  
30 make-ready timeline requirements specified in this paragraph.

31 (2) The timelines described in paragraph (1) may be extended  
32 under special circumstances upon agreement of the local publicly  
33 owned electric utility or local government and the communications  
34 service provider.

35 ~~(e) Unless the communication service provider agrees to replace~~  
36 ~~the street light pole or traffic signal pole, a~~

37 (c) (1) A local publicly owned electric utility or local  
38 government may deny an application for use of a street light pole  
39 or traffic signal pole, as applicable, because of insufficient capacity

1 or safety, reliability, or engineering concerns. ~~In concerns, subject~~  
2 *to both of the following conditions:*

3 (A) *The capacity, safety, and reliability concerns can be*  
4 *addressed through the replacement of the street light pole or traffic*  
5 *signal pole but the communication service provider is unable or*  
6 *unwilling to replace the pole or a replacement of the pole would*  
7 *not sufficiently mitigate the safety, engineering or capacity*  
8 *concerns.*

9 (B) *The local publicly owned electric utility or local government*  
10 *identifies the concerns, provides the communication service*  
11 *provider with an opportunity to remedy the concerns, and the*  
12 *communication service provider declines to adopt the remedies.*

13 (2) *In denying an application, a local publicly owned electric*  
14 *utility or local government may also take into account the manner*  
15 *in which a request from a communications service provider under*  
16 *this division could impact an approved project for future use by*  
17 *the local publicly owned electric utility or the local government*  
18 *of its street light poles or traffic signal poles for delivery of the*  
19 *core service related to a street light pole or traffic signal pole, as*  
20 *applicable.*

21 (d) *This division does not limit the authority of a local publicly*  
22 *owned electric utility or local government to ensure compliance*  
23 *with all applicable law in determining whether to approve or*  
24 *disapprove use of a street light pole or traffic signal pole, as*  
25 *applicable.*

26 5982. (a) *A local government or local publicly owned electric*  
27 *utility is entitled to fair and reasonable compensation that recovers*  
28 *a reasonable approximation of the direct and actual costs related*  
29 *to the communication service provider's placement of small*  
30 *wireless facilities on street light poles or traffic signal poles,*  
31 *consistent with the Federal Communications Commission's*  
32 *Declaratory Ruling and Third Report and Order (September 26,*  
33 *2018) FCC 18-133, In the Matter of Accelerating Wireline*  
34 *Broadband Deployment by Removing Barriers to Infrastructure*  
35 *Investment, WT Docket No. 17-79 and WC Docket No. 17-84.*  
36 *The compensation may include both of the following:*

37 (1) *The local government or local publicly owned electric utility*  
38 *may assess an annual attachment rate per pole that is a reasonable*  
39 *approximation of the direct and actual costs and does not exceed*  
40 *an amount resulting from both of the following requirements:*

1 (A) The local government or local publicly owned electric utility  
2 shall calculate the rate by multiplying the percentage of the total  
3 usable space that would be occupied by the small wireless facility  
4 attachment by the annual costs of ownership of the street light pole  
5 or traffic signal pole.

6 (B) The local government or local publicly owned electric utility  
7 shall not levy a rate that exceeds the estimated amount required  
8 to provide use of the street light pole or traffic signal pole for which  
9 the annual recurring rate is levied. If the rate creates revenues in  
10 excess of actual costs, the local government or local publicly owned  
11 electric utility shall use those revenues to reduce the rate.

12 (2) The local government or local publicly owned electric utility  
13 may assess a one-time reimbursement fee for actual costs incurred  
14 by the local government or publicly owned electric utility for  
15 rearrangements performed at the request of the communications  
16 service provider.

17 (b) A local publicly owned electric utility or local government  
18 establishes a rebuttable presumption that its attachment fees comply  
19 with subdivision (a) if the attachment fees are equal to or less than  
20 the presumptively reasonable attachment fee set forth in paragraph  
21 79(b) of the Federal Communications Commission’s Declaratory  
22 Ruling and Third Report and Order (September 26, 2018) FCC  
23 18-133, In the Matter of Accelerating Wireline Broadband  
24 Deployment by Removing Barriers to Infrastructure Investment,  
25 WT Docket No. 17-79 and WC Docket No. 17-84.—This  
26 presumptively reasonable attachment fee shall be offered, and if  
27 accepted, applied for small wireless attachments by  
28 communications service providers pending the adoption of a rate  
29 pursuant to this section.

30 (c) Unless the communications service provider and local  
31 government otherwise agree, if existing contractual attachment  
32 rates exceed the presumptively reasonable attachment fee set forth  
33 in paragraph 79(b) of the Federal Communications Commission’s  
34 Declaratory Ruling and Third Report and Order (September 26,  
35 2018) FCC 18-133, In the Matter of Accelerating Wireline  
36 Broadband Deployment by Removing Barriers to Infrastructure  
37 Investment, WT Docket No. 17-79 and WC Docket No. 17-84,  
38 the rates, terms, and conditions that are specified in a contract  
39 executed before January 14, 2019, shall remain valid only for small  
40 wireless facilities already attached to a street light pole or traffic

1 signal pole by a communications service provider before January  
2 1, 2022, and only until the contract, rate, term, or condition expires  
3 or is terminated according to its terms by one of the parties.

4 5983. This division does not prohibit a local publicly owned  
5 electric utility or local government from requiring a one-time fee  
6 to process a request for attachment, if the one-time fee does not  
7 exceed the actual cost of processing the request.

8 5984. This division does not prohibit a communications service  
9 provider and a local government from mutually agreeing to a rate,  
10 charge, term, or condition that is different from that provided in  
11 this division. Either party may withdraw from a negotiation for an  
12 agreement upon written notice to the other party.

13 5985. If the communication service provider requests a  
14 rearrangement of a street light pole or traffic signal pole, owned  
15 and controlled by a local government or local publicly owned  
16 electric utility, the local government or local publicly owned  
17 electric utility may charge a one-time reimbursement fee for the  
18 actual costs incurred for the rearrangement.

19 5986. A local publicly owned electric utility shall use the  
20 procedures established in Section 9516 for the adoption of the  
21 attachment fee described in subdivision (a) of Section 5982, except  
22 that the local publicly owned electric utility may avoid the  
23 procedure of Section 9516 by applying the provision of subdivision  
24 (b) of Section 5982. Any person or entity may follow the  
25 procedures of Section 9517 to protest the adoption of a fee adopted  
26 by a local publicly owned electric utility pursuant to Section 5982  
27 and not adopted pursuant to subdivision (b) of that section. The  
28 procedures for judicial action or proceeding to attack, review, set  
29 aside, void, or annul a fee pursuant to Section 9518 and requests  
30 for audits of fees in Section 9519 apply to attachment fees adopted  
31 by a local publicly owned electric utility pursuant to Section 5982  
32 and not adopted pursuant to subdivision (b) of that section.

33 SEC. 3. No reimbursement is required by this act pursuant to  
34 Section 6 of Article XIII B of the California Constitution because  
35 a local agency or school district has the authority to levy service  
36 charges, fees, or assessments sufficient to pay for the program or  
37 level of service mandated by this act, within the meaning of Section  
38 17556 of the Government Code.

O