

By: Ashby

H.B. No. 1446

A BILL TO BE ENTITLED

AN ACT

relating to the expansion of broadband services to certain areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 490H.002(a), Government Code, is amended to read as follows:

(a) The council is composed of one nonvoting member appointed by the broadband development office and the following 17 voting members:

(1) two representatives of separate Internet service provider industry associations, including at least one representative of an association that primarily represents small providers, as defined by Section 56.032, Utilities Code, appointed by the governor;

(2) one representative of the health information technology industry, appointed by the governor;

(3) two representatives of unaffiliated nonprofit organizations that advocate for elderly persons statewide, appointed by the governor;

(4) two representatives of unaffiliated nonprofit organizations that have a demonstrated history of working with the legislature and the public to identify solutions for expanding broadband to rural, unserved areas of this state, appointed by the governor;

(5) one representative of an agricultural advocacy

1 organization in this state, appointed by the governor;

2 (6) one representative of a hospital advocacy
3 organization in this state, appointed by the governor;

4 (7) one representative of a medical advocacy
5 organization in this state, appointed by the governor;

6 (8) one county official who serves in an elected
7 office of a county with a population of less than 35,000, appointed
8 by the governor;

9 (9) one municipal official who serves in an elected
10 office of a municipality with a population of less than 20,000
11 located in a county with a population of less than 60,000, appointed
12 by the governor;

13 (10) one representative of an institution of higher
14 education that has its main campus in a county with a population of
15 less than 60,000, appointed by the governor;

16 (11) one representative of a school district with a
17 territory that includes only counties with a population of less
18 than 60,000, appointed by the governor;

19 (12) one representative from a library association,
20 appointed by the governor;

21 (13) one member of the house of representatives,
22 appointed by the speaker of the house of representatives; and

23 (14) one state senator, appointed by the lieutenant
24 governor.

25 SECTION 2. Section [490H.006\(a\)](#), Government Code, is amended
26 to read as follows:

27 (a) The council shall:

- 1 (1) research the progress of:
- 2 (A) broadband development in unserved areas; and
- 3 (B) deployment of broadband services statewide;
- 4 (2) identify barriers to residential and commercial
- 5 broadband deployment in unserved areas;
- 6 (3) study:
- 7 (A) technology-neutral solutions to overcome
- 8 barriers identified under Subdivision (2); and
- 9 (B) industry and technology trends in broadband
- 10 services;
- 11 (4) analyze how statewide access to broadband would
- 12 benefit:
- 13 (A) economic development;
- 14 (B) the delivery of educational opportunities in
- 15 higher education and public education;
- 16 (C) state and local law enforcement;
- 17 (D) state emergency preparedness; and
- 18 (E) the delivery of health care services,
- 19 including telemedicine and telehealth; and
- 20 (5) study the outcomes of programs administered by the
- 21 broadband development office.

22 SECTION 3. Subtitle F, Title 4, Government Code, is amended

23 by adding Chapter 490I to read as follows:

24 CHAPTER 490I. BROADBAND DEVELOPMENT OFFICE

25 Sec. 490I.0101. DEFINITION. In this chapter, "broadband

26 service" means Internet service provided directly to end user

27 retail customers and capable of providing:

1 (1) a download speed of 25 megabits per second or
2 faster; and

3 (2) an upload speed of 3 megabits per second or faster.

4 Sec. 490I.0102. OFFICE. (a) The broadband development
5 office is an office within the comptroller's office.

6 (b) The comptroller may employ additional employees
7 necessary for the discharge of the duties of the broadband
8 development office.

9 (c) The broadband development office:

10 (1) is under the direction and control of the
11 comptroller;

12 (2) shall promote the policies enumerated in this
13 chapter; and

14 (3) may perform any action authorized by state or
15 federal law.

16 Sec. 490I.0103. POWERS AND DUTIES. The broadband
17 development office shall:

18 (1) serve as a resource for information regarding
19 broadband service in this state; and

20 (2) engage in outreach to communities regarding the
21 expansion and adoption of broadband service and the programs
22 administered by the office.

23 Sec. 490I.0104. BROADBAND DEVELOPMENT MAP. (a) The
24 broadband development office shall create, update annually, and
25 publish on the comptroller's Internet website a map designating
26 each census block in this state as:

27 (1) an eligible area, if fewer than 80 percent of the

1 addresses in the block have access to broadband service; or

2 (2) an ineligible area, if 80 percent or more of the
3 addresses in the block have access to broadband service.

4 (b) The map must display:

5 (1) the number of broadband service providers that
6 serve each census block; and

7 (2) for each eligible area, an indication of whether
8 the area has access to Internet service that is not broadband
9 service, regardless of the technology used to provide the service.

10 (c) Except as provided by Subsection (d), the office shall
11 use information available from the Federal Communications
12 Commission to create or update the map.

13 (d) If information from the Federal Communications
14 Commission is not sufficient for the office to create or update the
15 map, the office may request the necessary information from a
16 political subdivision or broadband service provider, and the
17 subdivision or provider shall report the information to the office.
18 The office may not require a subdivision or provider to report
19 information in a format that is substantially different from the
20 format required by the Federal Communications Commission.

21 (e) Information a broadband service provider reports to the
22 office under Subsection (d) is confidential and not subject to
23 disclosure under Chapter 552. The office may not share information
24 reported under Subsection (d) with a third party or contract with a
25 third party to collect, analyze, or use information reported under
26 Subsection (d).

27 (f) A broadband service provider or political subdivision

1 may petition the office to redesignate a census block on the map as
2 an eligible area or ineligible area. The office shall provide
3 notice of the petition to each broadband service provider that
4 provides broadband service to the census block and post notice of
5 the petition on the comptroller's Internet website.

6 (g) Not later than the 45th day after the date that a
7 broadband provider receives notice under Subsection (f), the
8 provider shall provide information to the office showing whether
9 the census block should or should not be redesignated.

10 (h) Not later than the 75th day after the date that a
11 broadband provider receives notice under Subsection (f), the office
12 shall determine whether to redesignate the census block on the map
13 and update the map as necessary. A determination made by the office
14 under this subsection is not a contested case for purposes of
15 Chapter 2001.

16 (i) The office is not required to create, update, or publish
17 a map under this section if the Federal Communications Commission
18 produces a map that:

19 (1) enables the office to identify eligible and
20 ineligible areas, as described by Subsection (a); and

21 (2) meets the requirements of Subsection (b).

22 Sec. 490I.0105. BROADBAND DEVELOPMENT PROGRAM. (a) The
23 broadband development office shall establish a program to award
24 grants, low-interest loans, and other financial incentives to
25 applicants for the purpose of expanding access to and adoption of
26 broadband service in census blocks determined to be eligible areas
27 by the office under Section 490I.0104.

1 (b) The office shall establish and publish eligibility
2 criteria for award recipients. The criteria must require that
3 grants, loans, and other financial incentives awarded through the
4 program be used only for capital expenses, purchase or lease of
5 property, and other expenses, including backhaul and transport,
6 that will facilitate the provision or adoption of broadband
7 service.

8 (c) The office may not:

9 (1) favor a particular broadband technology in
10 awarding grants, loans, or other financial incentives;

11 (2) award grants, loans, or other financial incentives
12 to a broadband provider that does not report information requested
13 by the office under Section 490I.0104;

14 (3) award a grant, loan, or other financial incentive
15 to a noncommercial provider of broadband service for an eligible
16 area if a commercial provider of broadband service has submitted an
17 application for the eligible area; or

18 (4) take into consideration distributions from the
19 state universal service fund established under Chapter 56,
20 Utilities Code, when deciding to award grants, loans, or other
21 financial incentives.

22 (d) An award granted under this section does not affect
23 distributions received by a broadband provider from the state
24 universal service fund established under Chapter 56, Utilities
25 Code.

26 Sec. 490I.0106. BROADBAND DEVELOPMENT ACCOUNT. (a) The
27 broadband development account is an account in the general revenue

1 fund.

2 (b) The account consists of:

3 (1) appropriations of money to the account by the
4 legislature;

5 (2) gifts, donations, and grants, including federal
6 grants; and

7 (3) interest earned on the investment of the money in
8 the account.

9 (c) The comptroller shall deposit to the credit of the
10 account federal money received by the state for the purpose of
11 broadband development, to the extent permitted by federal law.

12 (d) Money in the account may be appropriated only to the
13 broadband development office for purposes of:

14 (1) administering the broadband development program;

15 or

16 (2) creating or updating the map described by Section
17 490I.0104.

18 (e) The account is exempt from the application of Section
19 404.071.

20 Sec. 490I.0107. RULEMAKING. The comptroller may adopt
21 rules as necessary to implement this chapter.

22 SECTION 4. (a) Not later than the first anniversary of the
23 effective date of this Act, the broadband development office
24 established by Section 490I.0102, Government Code, as added by this
25 Act, shall prepare a state broadband plan that establishes
26 long-term goals for greater access to and adoption of broadband
27 service in this state.

1 (b) In developing the state broadband plan, the office
2 shall:

3 (1) collaborate, to the extent possible, with state
4 agencies, political subdivisions, broadband industry stakeholders
5 and representatives, and community organizations that focus on
6 broadband services;

7 (2) incorporate the policy recommendations of the
8 governor's broadband development council;

9 (3) favor policies that are technology-neutral and
10 protect all members of the public; and

11 (4) explore state and regional approaches to broadband
12 development.

13 SECTION 5. (a) The broadband development office
14 established by Section 490I.0102, Government Code, as added by this
15 Act, shall publish the map required by Section 490I.0104,
16 Government Code, as added by this Act, on the comptroller's
17 Internet website not later than September 1, 2022.

18 (b) Not later than January 1, 2022, the office shall publish
19 on the comptroller's Internet website:

20 (1) a map created by the Federal Communications
21 Commission that displays the number of broadband service providers
22 that serve each census block; or

23 (2) a link to a map described by Subdivision (1) of
24 this subsection.

25 (c) For the purpose of administering the broadband
26 development program established by Section 490I.0105, Government
27 Code, as added by this Act, the office shall use a map described by

1 Subsection (b) of this section to determine whether an area is
2 eligible until the office publishes the map required by Section
3 490I.0104, Government Code, as added by this Act.

4 SECTION 6. This Act takes effect September 1, 2021.