

By: King of Hemphill, et al.

H.B. No. 669

Substitute the following for H.B. No. 669:

By: Phelan

C.S.H.B. No. 669

A BILL TO BE ENTITLED

AN ACT

relating to the use of the universal service fund for the provision of broadband service in underserved rural areas.

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

SECTION 1. Section 56.001, Utilities Code, is amended by adding Subdivisions (3) and (4) to read as follows:

(3) "Broadband service" means a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints. The term includes any capabilities that are incidental to and enable the operation of the communications service but does not include dial-up Internet access service.

(4) "Broadband service provider" means a provider of broadband service.

SECTION 2. Subchapter A, Chapter 56, Utilities Code, is amended by adding Section 56.003 to read as follows:

Sec. 56.003. JURISDICTION OVER BROADBAND SERVICE PROVIDERS. (a) The commission has jurisdiction relating to broadband service providers only as necessary to enforce this chapter and rules adopted under this chapter.

(b) This chapter does not otherwise grant the commission authority to regulate broadband services or broadband service providers.

SECTION 3. Section 56.021, Utilities Code, is amended to

1 read as follows:

2           Sec. 56.021. UNIVERSAL SERVICE FUND ESTABLISHED.     The  
3 commission shall adopt and enforce rules requiring local exchange  
4 companies, and only those broadband service providers that elect to  
5 participate in the program under Subchapter I, to establish a  
6 universal service fund to:

7           (1) assist telecommunications providers in providing  
8 basic local telecommunications service at reasonable rates in high  
9 cost rural areas under two plans:

10                   (A) the Texas High Cost Universal Service Plan  
11 (16 T.A.C. Section 26.403); and

12                   (B) the Small and Rural Incumbent Local Exchange  
13 Company Universal Service Plan (16 T.A.C. Section 26.404);

14           (2) reimburse the telecommunications carrier that  
15 provides the statewide telecommunications relay access service  
16 under Subchapter D;

17           (3) finance the specialized telecommunications  
18 assistance program established under Subchapter E;

19           (4) reimburse the department and the commission for  
20 costs incurred in implementing this chapter and Chapter 57;

21           (5) reimburse a telecommunications carrier providing  
22 lifeline service as provided by 47 C.F.R. Part 54, Subpart E, as  
23 amended;

24           (6) finance the implementation and administration of  
25 the identification process under Section 17.007 for  
26 telecommunications services;

27           (7) reimburse a designated provider under Subchapter

1 F;

2 (8) reimburse a successor utility under Subchapter G;

3 [~~and~~]

4 (9) finance the program established under Subchapter

5 H; and

6 (10) provide support for the rural broadband service  
7 program established under Subchapter I.

8 SECTION 4. Section 56.022, Utilities Code, is amended to  
9 read as follows:

10 Sec. 56.022. UNIFORM CHARGE. (a) The universal service  
11 fund is funded by a statewide uniform charge payable by each:

12 (1) telecommunications provider that has access to the  
13 customer base; and

14 (2) broadband service provider only to the extent the  
15 provider elects to participate in the program under Subchapter I.

16 (b) Each [A] telecommunications provider and each broadband  
17 service provider that elects to participate in the program under  
18 Subchapter I shall pay the charge in accordance with procedures  
19 approved by the commission.

20 (c) The uniform charge is on services and at rates the  
21 commission determines. In establishing the charge and the services  
22 to which the charge will apply, the commission may not:

23 (1) grant an unreasonable preference or advantage to a  
24 telecommunications provider or a broadband service provider that  
25 elects to participate in the program under Subchapter I;

26 (2) assess the charge on pay telephone service; or

27 (3) subject a telecommunications provider or electing

1 broadband service provider to unreasonable prejudice or  
2 disadvantage.

3 (d) The commission may establish separate uniform charges  
4 for telecommunications providers and broadband service providers.

5 (e) Funds from the uniform charge on telecommunications  
6 providers may only be used to fund programs under Sections  
7 56.021(1) through (9). Funds from the uniform charge on broadband  
8 service providers that elect to participate in the program under  
9 Subchapter I may only be used to fund the rural broadband service  
10 program under Section 56.021(10).

11 (f) The commission may assess a uniform charge on a  
12 broadband service provider only if the provider notifies the  
13 commission of the provider's election to participate in the program  
14 established under Subchapter I.

15 (g) A broadband service provider may notify the commission  
16 at any time of the provider's intention to discontinue its  
17 participation. The election is effective on the 60th day after the  
18 date of the notification.

19 SECTION 5. Subchapter B, Chapter 56, Utilities Code, is  
20 amended by adding Section 56.0235 to read as follows:

21 Sec. 56.0235. COMMISSION POWERS AND DUTIES RELATING TO  
22 ELECTING BROADBAND SERVICE PROVIDERS. In addition to the powers  
23 and duties provided by Section 56.023, the commission shall:

24 (1) adopt eligibility criteria for broadband service  
25 providers that elect to participate in the program under Subchapter  
26 I and review procedures, including a method for administrative  
27 review, the commission finds necessary to manage crediting the

1 broadband charge receipts to the universal service fund in  
2 accordance with Section 56.022(f) for the purposes of Subchapter I  
3 and to make distributions of the broadband charge receipts from  
4 that fund to electing broadband service providers;

5 (2) determine which electing broadband service  
6 providers meet the eligibility criteria; and

7 (3) approve procedures for the collection and  
8 disbursal to electing broadband service providers of the broadband  
9 charge receipts the universal service fund received from electing  
10 broadband service providers.

11 SECTION 6. Sections 56.024(a) and (b), Utilities Code, are  
12 amended to read as follows:

13 (a) The commission may require a telecommunications  
14 provider, or a broadband service provider that elects to  
15 participate in the program under Subchapter I, to provide a report  
16 or information necessary to assess contributions, broadband  
17 charges, and disbursements to the universal service fund.

18 (b) A report or information the commission requires a  
19 telecommunications provider, or a broadband service provider that  
20 elects to participate in the program under Subchapter I, to provide  
21 under Subsection (a) is confidential and not subject to disclosure  
22 under Chapter 552, Government Code.

23 SECTION 7. Chapter 56, Utilities Code, is amended by adding  
24 Subchapter I to read as follows:

25 SUBCHAPTER I. RURAL BROADBAND SERVICE PROGRAM

26 Sec. 56.351. SUPPORT FOR BROADBAND SERVICES IN UNDERSERVED  
27 RURAL AREAS. (a) The commission shall provide from broadband

1 charge receipts from electing providers, support for broadband  
2 service providers to offer retail broadband service in underserved  
3 rural areas of this state at rates comparable to the benchmark rates  
4 established by the Federal Communications Commission.

5 (b) Support received under this subchapter may not be used  
6 for a purpose other than a purpose described by Subsection (a).

7 (c) The commission by rule shall adopt criteria for areas of  
8 this state to qualify as underserved rural areas for the purposes of  
9 this subchapter.

10 (d) A broadband service provider must notify the commission  
11 of the provider's election to participate in the program  
12 established under this subchapter and pay the uniform charge under  
13 Section 56.022 before the provider may receive financial assistance  
14 under this subchapter.

15 Sec. 56.352. NETWORK STANDARDS. The commission by rule  
16 shall establish standards for networks built or maintained using  
17 support disbursed under this subchapter. The standards must  
18 require a network to provide broadband service and be consistent  
19 with standards established by the federal government.

20 Sec. 56.353. ACCOUNTING. The commission shall adopt rules  
21 to ensure that support provided under this subchapter is calculated  
22 in a manner that is consistent with standard accounting principles.

23 SECTION 8. This Act takes effect September 1, 2019.