

By: Anderson, King of Uvalde, Nevárez, Price,
Cyrrier

H.B. No. 2423

Substitute the following for H.B. No. 2423:

By: Phelan

C.S.H.B. No. 2423

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation of the broadband office within the Public
3 Utility Commission of Texas and the establishment of a broadband
4 service investment grant program.

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

6 SECTION 1. Subtitle A, Title 2, Utilities Code, is amended
7 by adding Chapter 18 to read as follows:

8 CHAPTER 18. BROADBAND OFFICE

9 Sec. 18.0101. DEFINITIONS. In this chapter:

10 (1) "Account" means the broadband investment account.

11 (2) "Broadband service" means Internet service with
12 the capability of providing:

13 (A) a download speed of 25 megabits per second or
14 faster; and

15 (B) an upload speed of three megabits per second
16 or faster.

17 (3) "Grant program" means the program established by
18 the broadband office under Section 18.0105.

19 (4) "Rural community" means a municipality with a
20 population of less than 50,000 or a county with a population of less
21 than 200,000.

22 (5) "Unserved area" means a census block that is not
23 served by wireline or fixed wireless broadband service, according
24 to publicly available maps and data sets.

1 Sec. 18.0102. APPLICABILITY. This chapter applies only to
2 broadband service provided by a private sector provider.

3 Sec. 18.0103. OFFICE. (a) The broadband office is an
4 office within the commission.

5 (b) The commission may employ additional employees
6 necessary for the discharge of the duties of the broadband office.

7 Sec. 18.0104. POWERS AND DUTIES. (a) The broadband office
8 shall:

9 (1) facilitate and coordinate the efforts of state
10 agencies, hospitals, schools, and local units of government,
11 including regional planning commissions, in connection with
12 broadband service projects;

13 (2) develop proposals for broadband service
14 investment and deployment strategies for unserved areas in rural
15 communities and other areas of this state;

16 (3) promote and coordinate public sector and private
17 sector broadband service solutions in support of statewide
18 broadband service development goals;

19 (4) assist and promote local and regional broadband
20 service planning;

21 (5) pursue and obtain federal sources of broadband
22 service funding;

23 (6) develop a framework to measure broadband service
24 access in this state and designate unserved areas of this state;

25 (7) develop statewide goals for broadband service
26 deployment in unserved areas in rural communities and other
27 unserved areas designated under Subdivision (6);

1 (8) manage and award funds allocated to the broadband
2 office for broadband service projects; and

3 (9) serve as an information clearinghouse in relation
4 to federal programs providing assistance to local entities with
5 respect to broadband service.

6 (b) This chapter does not:

7 (1) grant the commission authority to regulate
8 broadband services or broadband service providers or, except as
9 required of a grant applicant or recipient under Section 18.0105,
10 to require broadband service providers to submit information to the
11 commission; or

12 (2) require or authorize the commission to require a
13 broadband service provider or telecommunications provider to
14 participate in any broadband service planning, activities, or
15 initiatives conducted by the broadband office or the commission.

16 Sec. 18.0105. BROADBAND GRANT PROGRAM. (a) The broadband
17 office shall establish a grant program to provide grants to
18 applicants for the expansion of access to broadband service in
19 areas that are unserved in relation to broadband services. The
20 broadband office may provide a grant under this section only for a
21 project to provide broadband service in an unserved area.

22 (b) The broadband office shall establish and publish
23 eligibility criteria for grant recipients. The criteria must
24 require that a grant applicant may be only:

25 (1) an organization operated for profit or not for
26 profit, including a cooperative;

27 (2) a telecommunications provider; or

1 (3) a facilities-based broadband service provider,
2 including a wireless provider.

3 (c) A grant application must include:

4 (1) a description of the type of broadband service
5 infrastructure to be deployed;

6 (2) a description of the proposed project territory
7 and the number of homes, farms, schools, public facilities,
8 hospitals, and businesses that would be served by the project;

9 (3) evidence that the proposed project territory
10 includes only unserved areas;

11 (4) evidence that the applicant provided the notice
12 required by Subsection (d);

13 (5) the total cost of the proposed project and an
14 estimated time frame for completion; and

15 (6) any sources of money that would supplement the
16 grant for that project, such as a federal grant.

17 (d) Before submitting a grant application, an entity must
18 provide notice of the entity's intent to submit an application to:

19 (1) all political subdivisions and hospitals that
20 provide services in or adjacent to the proposed project territory;
21 and

22 (2) any broadband service providers that provide
23 broadband service adjacent to the proposed project territory.

24 (e) The broadband office may not:

25 (1) deny an application solely because the deployment
26 project has additional sources of funding or other grants that can
27 be used for the project;

1 (2) favor a particular technology in awarding grants;

2 or

3 (3) except as otherwise provided by this section,
4 evaluate applications based on information about the applicant that
5 is not included in the application.

6 (f) The broadband office shall:

7 (1) divide the state into at least five regions;

8 (2) award grants as equitably across regions as
9 possible; and

10 (3) prioritize applications for projects for unserved
11 areas in counties with a population of less than 10,000 when
12 practical.

13 (g) The broadband office shall award grants on a competitive
14 basis and only after considering the following:

15 (1) the relative need for broadband service
16 infrastructure and existing Internet service speeds in the proposed
17 project territory;

18 (2) the percentage of the homes, farms, schools,
19 public facilities, hospitals, and businesses in the proposed
20 project territory that will be provided access to broadband service
21 by the project;

22 (3) the geographic diversity of the proposed projects
23 of all applicants under consideration;

24 (4) the potential economic effects of granting an
25 application for the territory of a proposed project;

26 (5) the applicant's total proposed budget for the
27 proposed project, including the amount or percentage of matching

1 money, if any;

2 (6) local support for the proposed project, including
3 any documentation or evidence that the applicant has coordinated
4 with the local community to be served or notified the local
5 community to be served of the applicant's proposed project;

6 (7) the ability of the proposed broadband service
7 provider to maintain broadband service quality while increasing
8 parameters relating to the size of the provider's network, such as
9 the number of users, the number of network nodes, the number of
10 services provided, or the network's geographic spread;

11 (8) whether the proposed project will delay the
12 provision of broadband service to any neighboring areas; and

13 (9) any other factors the broadband office determines
14 are relevant to the proposed project.

15 (h) The broadband office is not required to approve any
16 grant applications.

17 (i) The broadband office shall:

18 (1) post on the commission's Internet website
19 information about the application process and the receipt of
20 funding and shall update that information as necessary; and

21 (2) make each application available on the
22 commission's Internet website for a period of at least 30 days
23 before the office makes a decision on the application.

24 (j) During the 30-day posting period described by
25 Subsection (i) for an application, the broadband office shall
26 accept from any interested party a written protest of the
27 application relating to whether the applicant or project is

1 eligible for a grant or should not receive a grant based on the
2 criteria prescribed by the office. The broadband office:

3 (1) shall provide a copy of the protest to the
4 applicant;

5 (2) may request additional information from the
6 applicant relating to the protest;

7 (3) shall, if the office intends to deny any part of
8 the application based on a protest regarding the proposed project
9 territory or budget:

10 (A) notify the applicant; and

11 (B) allow the applicant not more than seven days
12 to amend the territory or budget in response to the protest; and

13 (4) shall, if the office intends to grant the
14 application, issue a written notice of that intent to the protestor
15 not later than the 15th day before the date the office grants the
16 application.

17 (k) A single grant:

18 (1) may not exceed \$250,000; and

19 (2) may fund not more than 30 percent of the total cost
20 of the proposed project.

21 (l) The broadband office may require an applicant to
22 consolidate multiple projects in a single census block into one
23 grant application.

24 (m) The broadband office may provide a grant in conditional
25 installments to ensure that a grant recipient complies with any
26 grant program requirements.

27 (n) The commission by rule shall adopt minimum service

1 standards for broadband service provided by a grant recipient in
2 the project territory. The commission shall consider standards used
3 by the Federal Communications Commission for recipients of money
4 from the Connect America Fund. The standards must require that
5 during the three-year period following the completion of a project,
6 the grant recipient:

7 (1) must provide broadband service in the project
8 territory at rates reasonably comparable to rates for comparable
9 services in urban areas; and

10 (2) may not establish a cap on data usage in the
11 project territory.

12 (o) Before awarding a grant under this section, the
13 broadband office shall enter into a written agreement with the
14 entity to be awarded the grant money specifying that:

15 (1) if the commission finds that the grant recipient
16 has not complied with minimum service standards adopted under
17 Subsection (n) or any other applicable rules or standards of the
18 commission adopted under this section:

19 (A) the recipient shall repay the grant or a
20 prorated portion of the grant to the state at an agreed rate and on
21 agreed terms; and

22 (B) the broadband office will not distribute to
23 the recipient any grant money that remains to be distributed to the
24 recipient; and

25 (2) if, as of a date provided in the agreement, the
26 grant recipient has not used grant money awarded under this section
27 for the purposes for which the grant was intended, the recipient

1 shall repay that amount to the state at an agreed rate and on agreed
2 terms.

3 (p) A grant recipient shall:

4 (1) notify the broadband office when the project is
5 complete; and

6 (2) provide annual reports to the broadband office
7 during the three-year period following the completion of the
8 project on the recipient's compliance with the requirements of this
9 section.

10 (q) The broadband office may request information from a
11 grant recipient to verify the completion of a project and shall make
12 reports submitted under Subsection (p) publicly available.

13 (r) The broadband office shall provide a report to the
14 legislature not later than December 1 of each even-numbered year
15 that includes:

16 (1) the amount of money granted under this section
17 during the reporting period;

18 (2) any amount of money approved under this section
19 during the reporting period but not yet disbursed;

20 (3) for each grant awarded during the reporting
21 period, the name of the grantee and the location and a description
22 of the project;

23 (4) a progress report on ongoing projects; and

24 (5) a report on all projects completed during the
25 reporting period.

26 Sec. 18.0106. BROADBAND INVESTMENT ACCOUNT. (a) The
27 broadband investment 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, grants, including federal grants, and other
6 donations received under Section 18.0107; and

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

9 (c) Money in the account may be appropriated only to the
10 broadband office for purposes of the grant program.

11 (d) The account is exempt from the application of Section
12 404.071, Government Code.

13 Sec. 18.0107. GIFTS, GRANTS, AND DONATIONS. The broadband
14 office may accept gifts, grants, and donations from any source that
15 are made for the purposes of the grant program. The broadband
16 office shall deposit to the credit of the account money received
17 under this section.

18 Sec. 18.0108. RULEMAKING. The commission by rule shall
19 implement and administer the grant program.

20 SECTION 2. This Act takes effect September 1, 2019.