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By:  Perry S.B. No. 154

A BILL TO BE ENTITLED

AN ACT

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

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

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

CHAPTER 18. BROADBAND OFFICE

Sec. 18.0101.  DEFINITIONS. In this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b)  This chapter does not:

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

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

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

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

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

(2)  a telecommunications provider; or

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

(c)  A grant application must include:

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

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

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

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

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

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

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

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

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

(e)  The broadband office may not:

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

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

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

(f)  The broadband office shall:

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

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

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

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

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

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

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

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

(5)  the applicant's total proposed budget for the proposed project, including the amount or percentage of matching money, if any;

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

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

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

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

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

(i)  The broadband office shall:

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

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

(j)  During the 30-day posting period described by Subsection (i) for an application, the broadband office shall accept from any interested party a written protest of the application relating to whether the applicant or project is eligible for a grant or should not receive a grant based on the criteria prescribed by the office. The broadband office:

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

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

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

(A)  notify the applicant; and

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

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

(k)  A single grant:

(1)  may not exceed $250,000; and

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

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

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

(n)  The commission by rule shall adopt minimum service standards for broadband service provided by a grant recipient in the project territory. The commission shall consider standards used by the Federal Communications Commission for recipients of money from the Connect America Fund. The standards must require that during the three-year period following the completion of a project, the grant recipient:

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

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

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

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

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

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

(2)  if, as of a date provided in the agreement, the grant recipient has not used grant money awarded under this section for the purposes for which the grant was intended, the recipient shall repay that amount to the state at an agreed rate and on agreed terms.

(p)  A grant recipient shall:

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

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

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

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

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

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

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

(4)  a progress report on ongoing projects; and

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

Sec. 18.0106.  BROADBAND INVESTMENT ACCOUNT. (a) The broadband investment account is an account in the general revenue fund.

(b)  The account consists of:

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

(2)  gifts, grants, including federal grants, and other donations received under Section 18.0107; and

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

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

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

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

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

SECTION 2.  This Act takes effect September 1, 2021.