

By: Rodriguez

H.B. No. 4375

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 (15) one representative from an electric cooperative
26 providing broadband, appointed by the governor; and

27 (16) one representative of a nonprofit organization

1 that has a demonstrated history of facilitating broadband adoption
2 by offering digital literacy training or providing access to
3 broadband technology, appointed by the governor.

4 SECTION 2. Section 490H.006(a), Government Code, is amended
5 to read as follows:

6 (a) The council shall:

7 (1) research the progress of:

8 (A) broadband development in unserved areas;

9 (B) deployment of broadband statewide; and

10 (C) purchase of broadband by residential and
11 commercial customers;

12 (2) identify barriers to residential and commercial
13 broadband deployment in unserved areas;

14 (3) study:

15 (A) technology-neutral solutions to overcome
16 barriers identified under Subdivision (2); and

17 (B) industry and technology trends in broadband;
18 and

19 (4) analyze how statewide access to broadband would
20 benefit:

21 (A) economic development;

22 (B) the delivery of educational opportunities in
23 higher education and public education;

24 (C) state and local law enforcement;

25 (D) state emergency preparedness; and

26 (E) the delivery of health care services,
27 including telemedicine and telehealth.

1 SECTION 3. Subtitle F, Title 4, Government Code, is amended
2 by adding Chapter 490I to read as follows:

3 CHAPTER 490I. BROADBAND DEVELOPMENT OFFICE

4 Sec. 490I.0101. THRESHOLD SPEED FOR BROADBAND SERVICE. (a)

5 For purposes of this chapter, subject to Subsection (b), "broadband
6 service" means Internet service with the capability of providing:

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

9 (2) an upload speed of three megabits per second or
10 faster.

11 (b) If the Federal Communications Commission adopts upload
12 or download threshold speeds for advanced telecommunications
13 capability under 47 U.S.C. Section 1302 that are different than
14 those specified by Subsection (a), the governor by rule may require
15 Internet service to be capable of providing download or upload
16 speeds that match or exceed that federal threshold in order to
17 qualify under this chapter as "broadband service."

18 (c) Not later than the 60th day after the date the governor
19 adjusts the minimum download or upload speeds required for Internet
20 service to qualify as "broadband service," the broadband
21 development office shall publish on the governor's Internet website
22 the adjusted minimum download and upload speeds.

23 Sec. 490I.0102. OFFICE. (a) The broadband development
24 office is an office within the governor's office.

25 (b) The governor may employ additional employees necessary
26 for the discharge of the duties of the broadband development
27 office.

1 (c) The broadband development office:

2 (1) is under the direction and control of the
3 governor;

4 (2) shall promote the policies enumerated in this
5 chapter; and

6 (3) may perform any action authorized by state or
7 federal law.

8 Sec. 490I.0103. POWERS AND DUTIES. (a) The broadband
9 development office shall:

10 (1) serve as a resource for information regarding
11 broadband service in this state;

12 (2) engage in outreach to communities regarding the
13 expansion and adoption of broadband service and the programs
14 administered by the office; and

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

18 (b) The office has the powers necessary to carry out the
19 duties of the office under this chapter, including the power to
20 enter into contracts and other necessary instruments.

21 (c) This chapter does not grant the governor authority to
22 regulate broadband services or broadband service providers or,
23 except as required of an applicant or recipient under Section
24 490I.0106, to require broadband service providers to submit
25 information to the governor.

26 Sec. 490I.0104. PARTICIPATION IN PROCEEDINGS OF THE FEDERAL
27 COMMUNICATIONS COMMISSION. (a) The broadband development office

1 may monitor, participate in, and provide input in proceedings of
2 the Federal Communications Commission related to the geographic
3 availability and deployment of broadband service in this state to
4 ensure that:

5 (1) the information available to the Federal
6 Communications Commission reflects the current status of
7 geographic availability and deployment of broadband service in this
8 state; and

9 (2) this state is best positioned to benefit from
10 broadband service deployment programs administered by federal
11 agencies.

12 (b) The office may participate in a process established by
13 the Federal Communications Commission allowing governmental
14 entities to challenge the accuracy of the commission's information
15 regarding the geographic availability and deployment of broadband
16 service.

17 (c) The office shall establish procedures and a data
18 collection process in accordance with rules established by the
19 Federal Communications Commission for the Digital Opportunity Data
20 Collection that will enable the office to participate in the
21 process described by Subsection (b).

22 Sec. 490I.0105. BROADBAND DEVELOPMENT MAP. (a) The
23 broadband development office shall create, update annually, and
24 publish on the governor's Internet website a map classifying each
25 designated area in this state as:

26 (1) an eligible area, if fewer than 80 percent of the
27 addresses in the designated area have access to broadband service;

1 or

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

4 (b) The governor by rule may determine the scope of a
5 designated area under Subsection (a).

6 (c) The map required by Subsection (a) must display:

7 (1) the number of broadband service providers that
8 serve each designated area;

9 (2) for each eligible area, an indication of whether
10 the area has access to Internet service that is not broadband
11 service, regardless of the technology used to provide the service;
12 and

13 (3) each public school in this state and an indication
14 of whether the public school has access to broadband service.

15 (d) The office must create, update, and publish the map in a
16 manner consistent with the most current mapping methodology adopted
17 by the Federal Communications Commission.

18 (e) Except as provided by Subsection (c), the office shall
19 use information available from the Federal Communications
20 Commission to create or update the map.

21 (f) If information from the Federal Communications
22 Commission is not available or not sufficient for the office to
23 create or update the map, the office may request the necessary
24 information from a political subdivision or broadband service
25 provider, and the subdivision or provider may report the
26 information to the office. The office may not require a subdivision
27 or provider to report information in a format different from the

1 format required by the most current mapping methodology adopted by
2 the Federal Communications Commission.

3 (g) Information a broadband service provider reports to the
4 office under Subsection (f) and information provided by the Federal
5 Communications Commission, if not publicly available, is
6 confidential and not subject to disclosure under Chapter 552.

7 (h) The office may contract with a private consultant or
8 other appropriate person who is not associated or affiliated with a
9 commercial broadband provider, including a local governmental
10 entity, to provide technical or administrative assistance to the
11 office for the purpose of creating or updating the map.

12 (i) The office may release information reported under
13 Subsection (f) to a contractor providing services under Subsection
14 (h). The contractor shall:

15 (1) keep the information confidential; and
16 (2) return the information to the office on the
17 earliest of the following dates:

18 (A) the date the contract expires;
19 (B) the date the contract is terminated; or
20 (C) the date the mapping project for which the
21 contractor is providing services is complete.

22 (j) A person who contracts under Subsection (h) may not
23 provide services for a broadband provider in this state before the
24 second anniversary of the last day the person was under the
25 contract.

26 (k) The office shall establish criteria for determining
27 whether a designated area should be reclassified as an eligible

1 area or an ineligible area. The criteria must include an evaluation
2 of Internet speed test data and information on end user addresses.

3 (l) A broadband service provider or political subdivision
4 may petition the office to reclassify a designated area on the map
5 as an eligible area or ineligible area. The office shall provide
6 notice of the petition to each broadband service provider that
7 provides broadband service to the designated area and post notice
8 of the petition on the governor's Internet website.

9 (m) Not later than the 45th day after the date that a
10 broadband provider receives notice under Subsection (l), the
11 provider shall provide information to the office showing whether
12 the designated area should or should not be reclassified.

13 (n) Not later than the 75th day after the date that a
14 broadband provider receives notice under Subsection (l), the office
15 shall determine whether to reclassify the designated area on the
16 map and update the map as necessary. A determination made by the
17 office under this subsection is not a contested case for purposes of
18 Chapter 2001.

19 (o) The office is not required to create, update, or publish
20 a map under this section if the Federal Communications Commission
21 produces a map that:

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

24 (2) meets the requirements of Subsection (c).

25 Sec. 490I.0106. BROADBAND DEVELOPMENT PROGRAM. (a) The
26 broadband development office shall establish a program to award
27 grants, low-interest loans, and other financial incentives to

1 applicants for the purpose of expanding access to and adoption of
2 broadband service in designated areas determined to be eligible
3 areas by the office under Section 490I.0105.

4 (b) The office shall establish and publish criteria for
5 making awards under Subsection (a). The office shall take into
6 consideration grants and other financial incentives received by an
7 applicant for the deployment of broadband service in a designated
8 area.

9 (c) The office may not:

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

12 (2) award grants, loans, or other financial incentives
13 to a broadband provider that does not report information requested
14 by the office under Section 490I.0105.

15 (d) The office shall:

16 (1) post on the governor's Internet website
17 information about the application process and the receipt of awards
18 and shall update that information as necessary; and

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

22 (e) During the 30-day posting period described by
23 Subsection (d) for an application, the office shall accept from any
24 interested party a written protest of the application relating to
25 whether the applicant or project is eligible for an award or should
26 not receive an award based on the criteria prescribed by the office.

27 (f) The office shall establish and publish criteria for

1 award recipients. The criteria must include requirements that:

2 (1) grants, loans, and other financial incentives
3 awarded through the program be used only for capital expenses,
4 purchase or lease of property, and other expenses, including
5 backhaul and transport, that will facilitate the provision or
6 adoption of broadband service; and

7 (2) an award recipient, when using grants, loans, and
8 other financial incentives awarded through the program, prioritize
9 eligible areas in which the lowest percentage of addresses have
10 access to broadband service.

11 (g) An award granted under this section does not affect the
12 eligibility of a telecommunications provider to receive support
13 from the state universal service fund under Section 56.021,
14 Utilities Code.

15 Sec. 490I.0107. STATE BROADBAND PLAN. (a) The broadband
16 development office shall prepare, update, and publish on the
17 governor's Internet website a state broadband plan that establishes
18 long-term goals for greater access to and adoption of broadband
19 service in this state.

20 (b) In developing the state broadband plan, the office
21 shall:

22 (1) to the extent possible, collaborate with state
23 agencies, political subdivisions, broadband industry stakeholders
24 and representatives, and community organizations that focus on
25 broadband services;

26 (2) consider the policy recommendations of the
27 governor's broadband development council;

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

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

5 Sec. 490I.0108. BROADBAND DEVELOPMENT ACCOUNT. (a) The
6 broadband development account is an account in the general revenue
7 fund.

8 (b) The account consists of:

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

11 (2) gifts, donations, and grants, including federal
12 grants; and

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

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

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

20 (1) creating or updating the map described by Section
21 490I.0105;

22 (2) administering the broadband development program
23 under Section 490I.0106;

24 (3) creating or updating the state broadband plan
25 under Section 490I.0107; or

26 (4) engaging in outreach to communities regarding the
27 expansion and adoption of broadband service and the programs

1 administered by the office.

2 (e) The account is exempt from the application of Sections
3 403.095, 403.0956, and 404.071.

4 Sec. 490I.0109. RULEMAKING. The governor may adopt rules
5 as necessary to implement this chapter.

6 SECTION 4. (a) The broadband development office
7 established by Section 490I.0102, Government Code, as added by this
8 Act, shall publish the map required by Section 490I.0105,
9 Government Code, as added by this Act, on the governor's Internet
10 website not later than September 1, 2022.

11 (b) Not later than January 1, 2022, the office shall publish
12 on the governor's Internet website:

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

16 (2) a link to a map described by Subdivision (1) of
17 this subsection.

18 (c) For the purpose of administering the broadband
19 development program established by Section 490I.0106, Government
20 Code, as added by this Act, the office shall use a map described by
21 Subsection (b) of this section to determine whether an area is
22 eligible until the office publishes the map required by Section
23 490I.0105, Government Code, as added by this Act.

24 SECTION 5. The broadband development office established by
25 Section 490I.0102, Government Code, as added by this Act, shall
26 prepare the initial state broadband plan required by Section
27 490I.0107, Government Code, as added by this Act, not later than

H.B. No. 4375

1 September 1, 2022.

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