

By: Nichols, et al.

S.B. No. 5

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 state 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 state 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. STATE 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 state broadband
5 development office is established to promote the expansion of
6 access to broadband service in this state.

7 (b) The state broadband development office is
8 administratively attached to The University of Texas System. The
9 system may employ additional employees necessary for the discharge
10 of the duties of the office.

11 (c) The state broadband development office:

12 (1) is under the direction and control of the board of
13 advisors established by Section 490I.0104;

14 (2) shall promote the policies enumerated in this
15 chapter; and

16 (3) may perform any action authorized by state or
17 federal law.

18 Sec. 490I.0103. POWERS AND DUTIES. The state broadband
19 development office shall:

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

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

25 Sec. 490I.0104. BOARD OF ADVISORS. (a) In this section, a
26 "rural area" means a county with a population of less than 100,000
27 that is not adjacent to a county with a population of more than

1 300,000.

2 (b) The state broadband development office board of
3 advisors is composed of 11 members, appointed as follows:

4 (1) three members appointed by the lieutenant
5 governor, including one member who resides in a rural area and one
6 member representing the education community;

7 (2) three members appointed by the speaker of the
8 house of representatives, including one member who resides in a
9 rural area and one member representing the health and telemedicine
10 industry;

11 (3) one member appointed by the governor;

12 (4) one member appointed by the board of regents of the
13 University of Houston System;

14 (5) one member appointed by the board of regents of The
15 Texas A&M University System;

16 (6) one member appointed by the board of regents of the
17 Texas Tech University System; and

18 (7) one member appointed by the board of regents of The
19 University of Texas System.

20 (c) Members of the board of advisors serve at the pleasure
21 of the appointing authority for staggered two-year terms, with the
22 terms of the members described by Subsections (b)(1) and (2)
23 expiring February 1 of each odd-numbered year and the terms of the
24 members described by Subsections (b)(3), (4), (5), (6), and (7)
25 expiring February 1 of each even-numbered year. A member may serve
26 more than one term.

27 (d) Not later than the 30th day after the date a member's

1 term expires, the appropriate appointing authority shall appoint a
2 replacement in the same manner as the original appointment.

3 (e) If a vacancy occurs on the board of advisors, the
4 appropriate appointing authority shall appoint a successor in the
5 same manner as the original appointment to serve for the remainder
6 of the unexpired term. The appropriate appointing authority shall
7 appoint the successor not later than the 30th day after the date the
8 vacancy occurs.

9 (f) The board of advisors shall meet at least once per month
10 with representatives from the state broadband development office
11 for the purpose of directing and overseeing the work of the office
12 in implementing the provisions of this chapter.

13 (g) Meetings of the board of advisors are subject to Chapter
14 551.

15 Sec. 490I.0105. BROADBAND DEVELOPMENT MAP. (a) The state
16 broadband development office shall develop and maintain a public
17 Internet website.

18 (b) The office shall create, update annually, and publish on
19 the office's Internet website a map designating each census block
20 in this state as:

21 (1) an eligible area, if fewer than 80 percent of the
22 addresses in the block have access to broadband service; or

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

25 (c) The map must display:

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

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

4 (d) Except as provided by Subsection (e), the office shall
5 use information available from the Federal Communications
6 Commission to create or update the map.

7 (e) If information from the Federal Communications
8 Commission is not sufficient for the office to create or update the
9 map, the office may request the necessary information from a
10 political subdivision or broadband service provider, and the
11 subdivision or provider shall report the information to the office.
12 The office may not require a subdivision or provider to report
13 information in a format that is substantially different from the
14 format required by the Federal Communications Commission.

15 (f) Information a broadband service provider reports to the
16 office under Subsection (e) is confidential and not subject to
17 disclosure under Chapter 552. The office may not share information
18 reported under Subsection (e) with a third party or contract with a
19 third party to collect, analyze, or use information reported under
20 Subsection (e).

21 (g) A broadband service provider or political subdivision
22 may petition the office to redesignate a census block on the map as
23 an eligible area or ineligible area. The office shall provide
24 notice of the petition to each broadband service provider that
25 provides broadband service to the census block and post notice of
26 the petition on the office's Internet website.

27 (h) Not later than the 45th day after the date that a

1 broadband provider receives notice under Subsection (g), the
2 provider shall provide information to the office showing whether
3 the census block should or should not be redesignated.

4 (i) Not later than the 75th day after the date that a
5 broadband provider receives notice under Subsection (g), the office
6 shall determine whether to redesignate the census block on the map
7 and update the map as necessary. A determination made by the office
8 under this subsection is not a contested case for purposes of
9 Chapter 2001.

10 (j) The office is not required to create, update, or publish
11 a map under this section if the Federal Communications Commission
12 produces a map that:

13 (1) enables the office to identify eligible and
14 ineligible areas, as described by Subsection (b); and

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

16 Sec. 490I.0106. BROADBAND DEVELOPMENT PROGRAM. (a) The
17 state broadband development office shall establish a program to
18 award grants, low-interest loans, and other financial incentives to
19 applicants for the purpose of expanding access to and adoption of
20 broadband service in census blocks determined to be eligible areas
21 by the office under Section 490I.0105.

22 (b) The office shall establish and publish eligibility
23 criteria for award recipients. The criteria must require that
24 grants, loans, and other financial incentives awarded through the
25 program be used only for capital expenses, purchase or lease of
26 property, and other expenses, including backhaul and transport,
27 that will facilitate the provision or adoption of broadband

1 service.

2 (c) The office may not:

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

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

8 (3) award a grant, loan, or other financial incentive
9 to a noncommercial provider of broadband service for an eligible
10 area if a commercial provider of broadband service has submitted an
11 application for the eligible area; or

12 (4) take into consideration distributions from the
13 state universal service fund established under Chapter 56,
14 Utilities Code, when deciding to award grants, loans, or other
15 financial incentives.

16 (d) An award granted under this section does not affect
17 distributions received by a broadband provider from the state
18 universal service fund established under Chapter 56, Utilities
19 Code.

20 Sec. 490I.0107. BROADBAND DEVELOPMENT ACCOUNT. (a) The
21 broadband development account is an account in the general revenue
22 fund.

23 (b) The account consists of:

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

26 (2) gifts, donations, and grants, including federal
27 grants; and

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

3 (c) The comptroller shall deposit to the credit of the
4 account federal money received by the state for the purpose of
5 broadband development, to the extent permitted by state and federal
6 law.

7 (d) Money in the account may be appropriated only to the
8 state broadband development office for purposes of:

9 (1) administering the broadband development program;
10 or

11 (2) creating or updating the map described by Section
12 490I.0105.

13 (e) The account is exempt from the application of Section
14 404.071.

15 Sec. 490I.0108. RULEMAKING. The state broadband
16 development office may adopt rules necessary to implement this
17 chapter. Rules must be:

18 (1) proposed and adopted according to Chapter 2001;
19 and

20 (2) approved by a majority vote of the board of
21 advisors.

22 SECTION 4. Not later than November 1, 2021, each appointing
23 authority shall appoint the members of the state broadband
24 development office board of advisors as required by Section
25 490I.0104, Government Code, as added by this Act. The board of
26 advisors may not take action until a majority of the members have
27 taken office.

1 SECTION 5. (a) Not later than the first anniversary of the
2 effective date of this Act, the state broadband development office
3 established by Section 490I.0102, Government Code, as added by this
4 Act, shall prepare a state broadband plan that establishes
5 long-term goals for greater access to and adoption of broadband
6 service in this state.

7 (b) In developing the state broadband plan, the office
8 shall:

9 (1) collaborate, to the extent possible, with state
10 agencies, political subdivisions, broadband industry stakeholders
11 and representatives, and community organizations that focus on
12 broadband services;

13 (2) incorporate the policy recommendations of the
14 governor's broadband development council;

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

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

19 SECTION 6. (a) The state broadband development office
20 established by Section 490I.0102, Government Code, as added by this
21 Act, shall publish the map required by Section 490I.0105,
22 Government Code, as added by this Act, on the office's Internet
23 website not later than September 1, 2022.

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

26 (1) a map created by the Federal Communications
27 Commission that displays the number of broadband service providers

1 that serve each census block; or

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

4 (c) For the purpose of administering the broadband
5 development program established by Section 490I.0106, Government
6 Code, as added by this Act, the office shall use a map described by
7 Subsection (b) of this section to determine whether an area is
8 eligible until the office publishes the map required by Section
9 490I.0105, Government Code, as added by this Act.

10 SECTION 7. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2021.