

BILL ANALYSIS

Senate Research Center

H.B. 9
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Finance
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to recent studies conducted by the state broadband development office, almost 2.8 million Texas households, or roughly seven million Texans, lack broadband Internet access. This means that nearly a quarter of Texans do not have the quality of Internet access necessary to attend online classes, see a healthcare provider from their living room, complete an online job application, start a business online, or access digital marketplaces from their kitchen table. These barriers negatively affect Texans' quality of life and limit economic opportunities for the people of Texas and the state overall. Given the ever-increasing demand for access to the Internet, both in Texas and across the world, H.B. 9 seeks to create the broadband infrastructure fund with the hopes of distinguishing the State of Texas with a bold and ambitious investment to support a holistic, state-driven approach toward addressing the state's connectivity needs.

H.B. 9 amends current law relating to the development and funding of broadband and telecommunications services and provides for transfers of money for funding.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Comptroller of Public Accounts of the State of Texas in SECTION 1 (Section 403.608, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 403, Government Code, by adding Subchapter T, as follows:

SUBCHAPTER T. TEXAS BROADBAND INFRASTRUCTURE FUND

Sec. 403.601. DEFINITIONS. Defines "Broadband Equity, Access, and Deployment Program," "fund," "next generation 9-1-1 service fund," "office," and "universal service fund."

Sec. 403.602. LEGISLATIVE FINDINGS; PUBLIC PURPOSE. Provides that the legislature finds that:

(1) the creation of the broadband infrastructure fund (fund) will meet an imperative public need and serve the economic, educational, and health care needs of this state; and

(2) the use of the fund is in furtherance of the public purpose of expanding and ensuring access to reliable, high-speed broadband and telecommunications connectivity.

Sec. 403.603. BROADBAND INFRASTRUCTURE FUND. (a) Provides that the fund is a special fund in the state treasury outside the general revenue fund. Provides that the fund consists of:

(1) appropriations from the legislature for deposit to the credit of the fund;

- (2) money transferred or deposited to the credit of the fund by the constitution or by general law;
- (3) revenue that the legislature by general law dedicates for deposit to the credit of the fund;
- (4) investment earnings and interest earned on money in the fund; and
- (5) gifts, grants, and donations to the fund.

(b) Requires that the fund be administered by the Comptroller of Public Accounts of the State of Texas (comptroller) who, after taking into account any transfer required by this subchapter, is authorized to use money from the fund for any purpose authorized by Subsection (c).

(c) Authorizes the fund to be used only for:

- (1) a purpose described by Chapter 490I (Broadband Development Office);
- (2) providing funding to the universal service fund for the purposes described by Section 56.021 (Universal Service Fund Established), Utilities Code;
- (3) providing funding for 9-1-1 and next generation 9-1-1 services under Chapter 771 (State Administration of Emergency Communications), Health and Safety Code;
- (4) supporting the deployment of next generation 9-1-1 service, including its costs of equipment, operations, and administration, as provided by Section 771.0713 (Next Generation 9-1-1 Service Fund), Health and Safety Code;
- (5) supporting the Texas Broadband Pole Replacement Program established under Section 403.503 (Texas Broadband Pole Replacement Program), as added by Chapter 659 (H.B. 1505), Acts of the 87th Legislature, Regular Session, 2021;
- (6) providing matching funds for federal money provided for the Broadband Equity, Access, and Deployment Program;
- (7) supporting increased connectivity needs for qualifying schools under the federal Schools and Libraries Program ("E-rate program") as provided by 47 C.F.R. Part 54, Subpart F, or similar legislation providing federal funding for broadband and telecommunications initiatives;
- (8) improving public safety telecommunications connectivity, including support for school safety;
- (9) expanding access to broadband service in economically distressed communities to support increased connectivity needs in those areas and promote economic development, job growth, and development of advanced mobile and transportation-based broadband technology in those areas; and
- (10) administering and enforcing this subchapter.

Sec. 403.604. MANAGEMENT AND INVESTMENT OF FUND. (a) Defines "trust company."

(b) Requires the Texas Treasury Safekeeping Trust Company (trust company) to hold and invest the fund, and any accounts established in the fund, for and in the name of the comptroller, taking into account the purposes for which money in the fund is authorized to be used. Authorizes the fund to be invested with the state treasury pool and to be pooled with other state assets for purposes of investment.

(c) Provides that the overall objective for the investment of the fund is to maintain sufficient liquidity to meet the needs of the fund while striving to preserve the purchasing power of the fund over a full economic cycle.

(d) Provides that the trust company has any power necessary to accomplish the purposes of managing and investing the assets of the fund. Authorizes the trust company, in managing the assets of the fund, through procedures and subject to restrictions the trust company considers appropriate, to acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

(e) Requires the trust company to recover the costs incurred in managing and investing the fund only from the fund.

(f) Requires the trust company annually to provide a written report to the comptroller with respect to the investments of the fund.

(g) Requires the trust company to adopt a written investment policy that is appropriate for the fund. Requires the trust company to present the investment policy to the investment advisory board established under Section 404.028 (Investment Advisory Board). Requires the investment advisory board to submit to the trust company recommendations regarding the policy.

(h) Requires the comptroller to annually provide to the trust company a forecast of the cash flows into and out of the fund. Requires the comptroller to provide updates to the forecasts as appropriate to ensure that the trust company is able to achieve the fund's objective specified by Subsection (c).

(i) Requires the trust company to disburse money from the fund as directed by the comptroller.

Sec. 403.605. TRANSFERS TO UNIVERSAL SERVICE FUND. Requires the comptroller, not later than September 15 of each year, to transfer from the fund to the universal service fund an amount necessary to provide the services required under Section 56.021, Utilities Code, as determined by the comptroller in consultation with the Public Utility Commission of Texas.

Sec. 403.606. TRANSFERS TO NEXT GENERATION 9-1-1 SERVICE FUND. Requires the comptroller, not later than September 15 of each year, to transfer from the fund to the next generation 9-1-1 service fund an amount equal to the difference between the fees collected under Section 771.0711(b) (relating to requiring a wireless service provider to collect the emergency service fee in a certain amount and to pay the money collected to the comptroller by a certain date), Health and Safety Code, during the preceding state fiscal year and the amount that would have been collected during that preceding state fiscal year if the amount of the monthly fee under Section 771.0711(b), Health and Safety Code, were 85 cents, as determined by the comptroller in consultation with the Commission on State Emergency Communications.

Sec. 403.607. TRANSFERS TO TEXAS EDUCATION AGENCY. Requires the comptroller, not later than September 15 of each year, to transfer to the commissioner of education an amount necessary to provide matching funds to schools under the federal

Schools and Libraries Program ("E-rate program") as provided by 47 C.F.R. Part 54, Subpart F, or similar legislation providing federal funding for broadband and telecommunications initiatives, as determined by the comptroller in consultation with the Texas Education Agency.

Sec. 403.608. RULEMAKING. Authorizes the comptroller to adopt rules as necessary to administer this subchapter.

SECTION 2. Amends Section 403.502, Government Code, as added by Chapter 659 (H.B. 1505), Acts of the 87th Legislature, Regular Session, 2021, by adding Subsection (b-1), as follows:

(b-1) Authorizes the comptroller, in addition to the money transferred under Subsection (b) (relating to requiring the comptroller to make a one-time transfer from certain money to the credit of the pole replacement fund), to transfer to the credit of the pole replacement fund an available amount from the fund.

SECTION 3. Amends Section 771.0713, Health and Safety Code, by adding Subsection (b-1) and amending Subsection (g), as follows:

(b-1) Authorizes the comptroller, in addition to the money transferred under Subsection (b) (relating to requiring the comptroller to transfer to the credit of the next generation 9-1-1 service fund a certain amount), to transfer to the credit of the next generation 9-1-1 service fund an available amount from the fund.

(g) Provides that this section expires September 1, 2035, rather than September 1, 2025.

SECTION 4. Repealer: Section 56.022 (Uniform Change), Utilities Code.

SECTION 5. (a) Requires the comptroller to make a one-time transfer in the amount of \$1 billion from the fund to the broadband development account established under Section 490I.0108 (Broadband Development Account), Government Code.

(b) Requires the comptroller to make a one-time transfer in the amount of \$75 million from the fund the broadband pole replacement fund established under Section 403.502, Government Code, as added by Chapter 659 (H.B. 1505), Acts of the 87th Legislature, Regular Session, 2021.

(c) Requires the comptroller to transfer the amounts described by Subsections (a) and (b) of this section not later than the 30th day after the effective date of this Act.

SECTION 6. Effective date: January 1, 2024, contingent upon the passage of the constitutional amendment proposed by the 88th Legislature, Regular Session, 2023, creating the broadband infrastructure fund to assist in the financing of broadband and telecommunications services projects in the state.