

## **BILL ANALYSIS**

S.B. 1710  
By: Perry  
State Affairs  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

In 1987, the 70th Texas Legislature established the Texas Universal Service Fund (TUSF), as the state's equivalent of the federal Universal Service Fund. The purpose of the TUSF is to implement a competitively neutral mechanism to enable all Texas residents to obtain the basic telecommunications services needed to communicate with other residents, businesses, and governmental entities. TUSF support is meant to ensure that rates in rural areas are not significantly higher than in urban areas. However, there are certain incumbent local exchange companies receiving TUSF support that are serving areas that were previously rural but that are now suburban.

In an effort to ensure that the TUSF best serves its intended purpose, the 83rd Texas Legislature enacted S.B. 583, which established a needs test for TUSF support. Since then, additional suburban expansion has occurred and there are additional companies and cooperatives in formerly rural areas that are no longer in need of TUSF support. Accordingly, S.B. 1710 seeks to reinstate this needs test to phase out support for these companies and cooperatives.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 1710 amends the Utilities Code to reinstate the needs testing for certain incumbent local exchange companies or cooperatives receiving support from the Texas Universal Service Fund (TUSF) under the Texas High Cost Universal Service Plan that was originally instituted in 2013. Under the reinstated needs testing scheme, an incumbent local exchange company or cooperative that served greater than 31,000 access lines in Texas on September 1, 2022, or a company or cooperative that is a successor to such a company or cooperative, will have the TUSF support it receives under that plan reduced to zero by 2027 according to the following schedule:

- on January 1, 2024, the support level is reduced to 75 percent of the level of support the company or cooperative is eligible to receive on December 31, 2023;
- on January 1, 2025, the support level is reduced to 50 percent of the level of support the company or cooperative is eligible to receive on December 31, 2023;
- on January 1, 2026, the support level is reduced to 25 percent of the level of support the company or cooperative is eligible to receive on December 31, 2023; and

- on January 1, 2027, the support level is reduced to zero percent of the level of support the company or cooperative is eligible to receive on December 31, 2023.

S.B. 1710 reinstates the process for such a company or cooperative whose support is slated to be reduced to petition the Public Utility Commission of Texas (PUC) to initiate a contested case hearing and demonstrate a financial need for continued support from the TUSF. The bill limits the amount of support that may be allowed for a company or cooperative that has successfully demonstrated such a need to the following:

- 100 percent of the amount of support that the company or cooperative will be eligible to receive on December 31, 2023, if the petition is filed before January 1, 2024;
- 75 percent of the amount of support that the company or cooperative will be eligible to receive on December 31, 2023, if the petition is filed on or after January 1, 2024, and before January 1, 2025;
- 50 percent of the amount of support the company or cooperative is eligible to receive on December 31, 2023, if the petition is filed on or after January 1, 2025, and before January 1, 2026;
- 25 percent of the amount of support that the company or cooperative is eligible to receive on December 31, 2023, if the petition is filed on or after January 1, 2026, and before January 1, 2027; or
- zero percent of the amount of support that the company or cooperative is eligible to receive on December 31, 2023, if the petition is filed on or after January 1, 2027, and before January 1, 2028.

Not later than September 1 of every fourth year beginning September 1, 2023, the PUC must review and may adjust the standards and criteria to demonstrate financial need for continued support from the TUSF.

S.B. 1710 reinstates the needs testing for certain incumbent local exchanges companies that are electing companies or cooperatives receiving TUSF support through the Small and Rural Incumbent Local Exchange Company Universal Service Plan. Under the reinstated needs testing scheme, an incumbent local exchange company that is an electing company or a cooperative that served greater than 31,000 access lines in this state on September 1, 2022, or a company or cooperative that is a successor to such a company or cooperative, will have the TUSF support it receives under that plan reduced to zero by 2028 according to the following schedule:

- on January 1, 2025, the support level is reduced to 75 percent of the level of support the company or cooperative is eligible to receive on December 31, 2024;
- on January 1, 2026, the support level is reduced to 50 percent of the level of support the company or cooperative is eligible to receive on December 31, 2024;
- on January 1, 2027, the support level is reduced to 25 percent of the level of support the company or cooperative is eligible to receive on December 31, 2024; and
- on January 1, 2028, the support level is reduced to zero percent of the level of support the company or cooperative is eligible to receive on December 31, 2024.

S.B. 1710 reinstates the process for such a company or cooperative whose support is slated to be reduced to petition the PUC to initiate a contested case hearing and demonstrate a financial need for continued support from the TUSF. The bill limits the amount of support that may be allowed for a company or cooperative that has successfully demonstrated such a need to the following:

- 100 percent of the amount of support that the company or cooperative will be eligible to receive on December 31, 2024, if the petition is filed before January 1, 2025;
- 75 percent of the amount of support that the company or cooperative will be eligible to receive on December 31, 2024, if the petition is filed on or after January 1, 2025, and before January 1, 2026;
- 50 percent of the amount of support the company or cooperative is eligible to receive on December 31, 2024, if the petition is filed on or after January 1, 2026, and before January 1, 2027;

- 25 percent of the amount of support that the company or cooperative is eligible to receive on December 31, 2024, if the petition is filed on or after January 1, 2027, and before January 1, 2028; or
- zero percent of the amount of support that the company or cooperative is eligible to receive on December 31, 2024, if the petition is filed on or after January 1, 2028, and before January 1, 2029.

Not later than September 1 of every fourth year beginning September 1, 2024, the PUC must review and may adjust the standards and criteria to demonstrate financial need for continued support from the TUSF.

S.B. 1710 establishes that a cooperative or an affiliate of a cooperative that is receiving continued support from the TUSF under the Texas High Cost Universal Service Plan for services in an incumbent local exchange company that is ineligible for support from the TUSF through either that plan or the Small and Rural Incumbent Local Exchange Company Universal Service Plan is entitled to continued support through December 31, 2023, at the same monthly per line support amount as the provider is receiving as of the date the support ceases for that exchange. This support ceases December 31, 2023.

S.B. 1710 requires that the support provided to an incumbent local exchange company or cooperative from the TUSF that before December 31, 2022, was reduced to 25 percent of the amount the company or cooperative was otherwise eligible to receive under the initial needs testing scheme to be further reduced to zero on December 31, 2024.

S.B. 1710 authorizes an eligible telecommunications provider to notify the PUC that the provider relinquishes the support it is entitled to receive from the TUSF. After notice by the provider, the PUC must require the entity administering the TUSF to terminate support to the provider. If the PUC does not notify the administrator of the provider's request before the 90th day after the date the PUC receives the request, the provider is entitled to stop receiving the support on that date.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.