By:  Ashby, et al. (Senate Sponsor - Huffman) H.B. No. 9

(In the Senate - Received from the House May 1, 2023; May 2, 2023, read first time and referred to Committee on Finance; May 16, 2023, reported adversely, with favorable Committee Substitute by the following vote: Yeas 16, Nays 1; May 16, 2023, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Huffman              X

Hinojosa             X

Bettencourt          X

Campbell             X

Creighton            X

Flores               X

Hall                 X

Hancock              X

Hughes               X

Kolkhorst            X

Nichols              X

Paxton               X

Perry                X

Schwertner               X

West                 X

Whitmire             X

Zaffirini            X

COMMITTEE SUBSTITUTE FOR H.B. No. 9 By:  Huffman

A BILL TO BE ENTITLED

AN ACT

relating to the development and funding of broadband and telecommunications services.

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

SECTION 1.  Chapter 403, Government Code, is amended by adding Subchapter T to read as follows:

SUBCHAPTER T. TEXAS BROADBAND INFRASTRUCTURE FUND

Sec. 403.601.  DEFINITIONS. In this subchapter:

(1)  "Broadband Equity, Access, and Deployment Program" means the federal Broadband Equity, Access, and Deployment Program established by the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58).

(2)  "Fund" means the broadband infrastructure fund established under Section 49-d-16, Article III, Texas Constitution.

(3)  "Next generation 9-1-1 service fund" means the fund established under Section 771.0713, Health and Safety Code.

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

(1)  the creation of the 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) The broadband infrastructure fund is a special fund in the state treasury outside the general revenue fund. The fund consists of:

(1)  money transferred or deposited to the credit of the fund by the constitution, general law, or the General Appropriations Act;

(2)  revenue that the legislature by general law dedicates for deposit to the credit of the fund;

(3)  investment earnings and interest earned on money in the fund; and

(4)  gifts, grants, and donations to the fund.

(b)  The fund shall be administered by the comptroller who may use money from the fund for any purpose authorized by Subsection (c).

(c)  The fund may be used only for:

(1)  a purpose described by Chapter 490I;

(2)  providing funding for 9-1-1 and next generation 9-1-1 services under Chapter 771, Health and Safety Code;

(3)  supporting the deployment of next generation 9-1-1 service, including its costs of equipment, operations, and administration, as provided by Section 771.0713, Health and Safety Code;

(4)  supporting the Texas Broadband Pole Replacement Program established under Section 403.503, as added by Chapter 659 (H.B. 1505), Acts of the 87th Legislature, Regular Session, 2021;

(5)  providing matching funds for federal money provided for the Broadband Equity, Access, and Deployment Program;

(6)  expanding access to broadband service in economically distressed communities to support increased connectivity needs in those areas; and

(7)  administering and enforcing this subchapter.

Sec. 403.604.  MANAGEMENT AND INVESTMENT OF FUND. (a) In this section, "trust company" means the Texas Treasury Safekeeping Trust Company.

(b)  The trust company shall 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 may be used. The fund may be invested with the state treasury pool and may be pooled with other state assets for purposes of investment.

(c)  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)  The trust company has any power necessary to accomplish the purposes of managing and investing the assets of the fund. In managing the assets of the fund, through procedures and subject to restrictions the trust company considers appropriate, the trust company may 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)  The trust company shall recover the costs incurred in managing and investing the fund only from the fund.

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

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

(h)  The comptroller annually shall provide to the trust company a forecast of the cash flows into and out of the fund. The comptroller shall 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)  The trust company shall disburse money from the fund as directed by the comptroller.

Sec. 403.605.  RULEMAKING. The comptroller may adopt rules as necessary to administer this subchapter.

SECTION 2.  This Act takes effect January 1, 2024, if the constitutional amendment proposed by the 88th Legislature, Regular Session, 2023, creating the broadband infrastructure fund to expand high-speed broadband access and assist in the financing of connectivity projects takes effect. If that amendment is not approved by the voters, this Act has no effect.

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