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H.B. No. 9

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the development and funding of broadband and
3 telecommunications services; providing for transfers of money for
4 funding.

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

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

8 SUBCHAPTER T. TEXAS BROADBAND INFRASTRUCTURE FUND

9 Sec. 403.601. DEFINITIONS. In this subchapter:

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

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

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

19 (4) "Office" means the broadband development office
20 established under Section 490I.0102.

21 (5) "Universal service fund" means the fund
22 established under Section 56.021, Utilities Code.

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

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

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

7 Sec. 403.603. BROADBAND INFRASTRUCTURE FUND. (a) The
8 broadband infrastructure fund is a special fund in the state
9 treasury outside the general revenue fund. The fund consists of:

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

12 (2) money transferred or deposited to the credit of
13 the fund by the constitution or by general law;

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

16 (4) investment earnings and interest earned on money
17 in the fund; and

18 (5) gifts, grants, and donations to the fund.

19 (b) The fund shall be administered by the comptroller who,
20 after taking into account any transfer required by this subchapter,
21 may use money from the fund for any purpose authorized by Subsection
22 (c).

23 (c) The fund may be used only for:

24 (1) a purpose described by Chapter 490I;

25 (2) providing funding to the universal service fund
26 for the purposes described by Section 56.021, Utilities Code;

27 (3) providing funding for 9-1-1 and next generation

1 9-1-1 services under Chapter 771, Health and Safety Code;

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

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

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

11 (7) supporting increased connectivity needs for
12 qualifying schools under the federal Schools and Libraries Program
13 ("E-rate program") as provided by 47 C.F.R. Part 54, Subpart F, or
14 similar legislation providing federal funding for broadband and
15 telecommunications initiatives;

16 (8) improving public safety telecommunications
17 connectivity, including support for school safety;

18 (9) expanding access to broadband service in
19 economically distressed communities to support increased
20 connectivity needs in those areas and promote economic development,
21 job growth, and development of advanced mobile and
22 transportation-based broadband technology in those areas; and

23 (10) administering and enforcing this subchapter.

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

27 (b) The trust company shall hold and invest the fund, and

1 any accounts established in the fund, for and in the name of the
2 comptroller, taking into account the purposes for which money in
3 the fund may be used. The fund may be invested with the state
4 treasury pool and may be pooled with other state assets for purposes
5 of investment.

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

10 (d) The trust company has any power necessary to accomplish
11 the purposes of managing and investing the assets of the fund. In
12 managing the assets of the fund, through procedures and subject to
13 restrictions the trust company considers appropriate, the trust
14 company may acquire, exchange, sell, supervise, manage, or retain
15 any kind of investment that a prudent investor, exercising
16 reasonable care, skill, and caution, would acquire or retain in
17 light of the purposes, terms, distribution requirements, and other
18 circumstances of the fund then prevailing, taking into
19 consideration the investment of all the assets of the fund rather
20 than a single investment.

21 (e) The trust company shall recover the costs incurred in
22 managing and investing the fund only from the fund.

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

26 (g) The trust company shall adopt a written investment
27 policy that is appropriate for the fund. The trust company shall

1 present the investment policy to the investment advisory board
2 established under Section 404.028. The investment advisory board
3 shall submit to the trust company recommendations regarding the
4 policy.

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

10 (i) The trust company shall disburse money from the fund as
11 directed by the comptroller.

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

18 Sec. 403.606. TRANSFERS TO NEXT GENERATION 9-1-1 SERVICE
19 FUND. Not later than September 15 of each year, the comptroller
20 shall transfer from the fund to the next generation 9-1-1 service
21 fund an amount equal to the difference between the fees collected
22 under Section 771.0711(b), Health and Safety Code, during the
23 preceding state fiscal year and the amount that would have been
24 collected during that preceding state fiscal year if the amount of
25 the monthly fee under Section 771.0711(b), Health and Safety Code,
26 were 85 cents, as determined by the comptroller in consultation
27 with the Commission on State Emergency Communications.

1 Sec. 403.607. TRANSFERS TO TEXAS EDUCATION AGENCY. Not
2 later than September 15 of each year, the comptroller shall
3 transfer to the commissioner of education an amount necessary to
4 provide matching funds to schools under the federal Schools and
5 Libraries Program ("E-rate program") as provided by 47 C.F.R. Part
6 54, Subpart F, or similar legislation providing federal funding for
7 broadband and telecommunications initiatives, as determined by the
8 comptroller in consultation with the Texas Education Agency.

9 Sec. 403.608. RULEMAKING. The comptroller may adopt rules
10 as necessary to administer this subchapter.

11 SECTION 2. Section [403.502](#), Government Code, as added by
12 Chapter 659 (H.B. 1505), Acts of the 87th Legislature, Regular
13 Session, 2021, is amended by adding Subsection (b-1) to read as
14 follows:

15 (b-1) In addition to the money transferred under Subsection
16 (b), the comptroller may transfer to the credit of the pole
17 replacement fund an available amount from the broadband
18 infrastructure fund established under Section 49-d-16, Article
19 III, Texas Constitution.

20 SECTION 3. Section [771.0713](#), Health and Safety Code, is
21 amended by adding Subsection (b-1) and amending Subsection (g) to
22 read as follows:

23 (b-1) In addition to the money transferred under Subsection
24 (b), the comptroller may transfer to the credit of the next
25 generation 9-1-1 service fund an available amount from the
26 broadband infrastructure fund established under Section 49-d-16,
27 Article III, Texas Constitution.

1 (g) This section expires September 1, 2035 [~~2025~~].

2 SECTION 4. Section [56.022](#), Utilities Code, is repealed.

3 SECTION 5. (a) The comptroller of public accounts shall
4 make a one-time transfer in the amount of \$1 billion from the
5 broadband infrastructure fund established under Section 49-d-16,
6 Article III, Texas Constitution, to the broadband development
7 account established under Section 490I.0108, Government Code.

8 (b) The comptroller of public accounts shall make a one-time
9 transfer in the amount of \$75 million from the broadband
10 infrastructure fund established under Section 49-d-16, Article
11 III, Texas Constitution, to the broadband pole replacement fund
12 established under Section [403.502](#), Government Code, as added by
13 Chapter 659 (H.B. 1505), Acts of the 87th Legislature, Regular
14 Session, 2021.

15 (c) The comptroller of public accounts shall transfer the
16 amounts described by Subsections (a) and (b) of this section not
17 later than the 30th day after the effective date of this Act.

18 SECTION 6. This Act takes effect January 1, 2024, if the
19 constitutional amendment proposed by the 88th Legislature, Regular
20 Session, 2023, creating the broadband infrastructure fund to assist
21 in the financing of broadband and telecommunications services
22 projects in the state takes effect. If that amendment is not
23 approved by the voters, this Act has no effect.