

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 12, 2023

TO: Honorable Joan Huffman, Chair, Senate Committee on Finance

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB9 by Ashby (Relating to the development and funding of broadband and telecommunications services; providing for transfers of money for funding.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB9, As Engrossed : an impact of \$0 through the biennium ending August 31, 2025.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2024	\$0
2025	\$0
2026	\$0
2027	\$0
2028	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable (Cost) from Texas Broadband Infrastructure Fund</i>	<i>Probable Revenue Gain from Next Gen 9-1-1 Svc Fund 195</i>	<i>Probable Revenue Gain from Texas Education Agency</i>	<i>Probable Revenue Gain from Broadband Development 5187</i>
2024	(\$1,075,000,000)	\$0	\$0	\$1,000,000,000
2025	(\$489,460,000)	\$109,460,000	\$150,000,000	\$0
2026	(\$494,386,000)	\$114,386,000	\$150,000,000	\$0
2027	(\$499,533,000)	\$119,533,000	\$150,000,000	\$0
2028	(\$504,912,000)	\$124,912,000	\$150,000,000	\$0

<i>Fiscal Year</i>	<i>Probable Revenue Gain from Broadband Pole Replcmt Fnd 188</i>	<i>Probable Revenue Gain from Texas Universal Service Fund</i>
2024	\$75,000,000	
2025	\$0	\$230,000,000
2026	\$0	\$230,000,000
2027	\$0	\$230,000,000
2028	\$0	\$230,000,000

Fiscal Analysis

The bill would amend Government Code Chapter 403, adding Subchapter T regarding the Texas Broadband Infrastructure Fund (BIF).

The BIF, created by House Joint Resolution 125, would be administered by the Comptroller and would consist of appropriations, transfers, dedicated revenue, investment and interest earnings, gifts, grants, and donations. The Texas Treasury Safekeeping Trust Company would actively manage the BIF, maintaining liquidity to meet the needs and preserve the purchasing power of the fund.

Money in the BIF could only be used for purposes of expanding broadband and telecommunications across the state, per Government Code Chapter 490I. This would include providing funding for the Texas Universal Service Fund (TUSF), 9-1-1 and Next Generation 9-1-1 services, the Pole Replacement Program, matching funds for federal money for the Broadband Equity, Access, and Deployment (BEAD) Program, and supporting increased connectivity needs for qualifying schools under the federal Schools and Libraries (E-rate) Program.

The bill would require the Comptroller to transfer to the TUSF from the BIF, amounts necessary to provide the services required of the TUSF, as determined by the Comptroller in consultation with the Public Utilities Commission (PUC).

The bill would require the Comptroller to transfer to the Next Generation 9-1-1 Service Fund No. 0195 from the BIF, an amount equal to the difference between fees collected under 771.0711(b) Health and Safety Code (i.e. the emergency service fee for wireless telecommunications collections), and the amount that would have been collected if the fee had been 85 cents a month for each wireless telecommunications connection from subscribers.

The bill would require the Comptroller to transfer to the Commissioner of Education an amount necessary to match federal funding for the Schools and Libraries Program. The amount would be determined by the Comptroller in consultation with the Texas Education Agency.

The bill would authorize the Comptroller to transfer additional available amounts in the BIF to the Pole Replacement Fund or the Next Generation 9-1-1 Service Fund.

The bill would require the Comptroller to make a one-time transfer from the BIF, \$1,000,000,000 to the Broadband Development Account and \$75,000,000 to the Pole Replacement Fund.

The provisions of the bill would take effect on January 1, 2024, only if 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 takes effect.

Methodology

The Comptroller estimates that \$1,564,460,000 would be transferred out of the BIF during the 2024-25 biennium. This includes one-time transfers to the Pole Replacement Fund and the Broadband Development Account in fiscal year 2024, and transfers in fiscal year 2025 to the Next Generation 9-1-1 Service Fund, the Commissioner of Education, and the TUSF. Estimates are based on the 2024-25 Biennial Revenue Estimate, and estimates from PUC and TEA.

It is assumed that \$109,460,000 would be deposited to Fund 195, Next Generation 9-1-1 Service Fund during the 2024-25 biennium, under the provisions of the bill that direct a transfer to the fund in the amount of the difference between the fees collected under Section 771.0711(b), Health and Safety Code, during the preceding state fiscal year, currently 50 cents per line, and the amount that would have been collected if the amount of the monthly fee was 85 cents. According to the Commission on State Emergency Communications, of these amounts, about \$16 million would be available to support regional planning commissions in the statewide 9-1-1 program.

It is assumed that \$150,000,000 would be transferred to the Commissioner of Education to support a Broadband Matching Grant program administered by TEA under the provision of the bill that direct a transfer to the Commissioner in an amount necessary to provide matching funds to the schools under the federal Schools and Libraries Program. This estimate is based on statistics on unserved and underserved families collected for

Operation Connectivity during the pandemic. Approximately 2.1 million families fall into these categories.

It is assumed that \$230,000,000 would be transferred to the TUSF under the provision of the bill that directs a transfer in an amount necessary to provide the services required under Section 56.021, Utilities Code. The Small and Rural Incumbent Local Exchange Carrier (ILEC) and the Texas High Cost Universal Service Plan (THCUSP) make up the bulk of the cost with each program costing \$7.7 million and \$6.7 million respectively each month.

It is assumed that any administrative or technology costs associated with implementing the bill could be absorbed using existing resources.

It is assumed that the fiscal impact is determined by the required transfers outlined in the bill, and that no other amounts would be appropriated to the BIF. Because future appropriations, transfers, and revenues associated with the BIF, as well as any gifts, grants, or donations are unknown, the total fiscal impact as a result of administering the BIF cannot be determined.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

According to the Commission on State Emergency Communications, out of amounts transferred to the Next Generation 9-1-1 Service Fund, about \$94 million would be distributed to local emergency communications districts (ECDs). No other local impact is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas, 477 Commission on State Emergency Communications, 701 Texas Education Agency

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