

House Bill 9
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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.

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

(5) "Universal service fund" means the fund established under Section 56.021, Utilities 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) appropriations from the legislature for deposit to the credit of the fund;

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

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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.

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(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:

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- (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) The fund shall be administered by the comptroller who, after taking into account any transfer required by this subchapter, 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 to the universal service fund for the purposes described by Section 56.021, Utilities Code;
- (3) providing funding for 9-1-1 and next generation 9-1-1 services under Chapter 771, 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, Health and Safety Code;
- (5) 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;
- (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

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- (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;

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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) 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.

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(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.

() For the purposes of Subsection (c)(5), the comptroller:

(1) shall consider an applicant's potential contribution toward matching the funds for federal money provided for the Broadband Equity, Access, and Deployment Program; and

(2) may only provide state matching funds if a state contribution is necessary for the economic feasibility of a proposed project. [FA2]

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 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. [FA1(1)]

(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.

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(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. TRANSFERS TO UNIVERSAL SERVICE FUND. Not later than September 15 of each year, the comptroller shall transfer from the fund to the universal

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(d) In managing the assets of the fund, 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. [FA1(2A)-(2B)]

(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.

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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. Not later than September 15 of each year, the comptroller shall 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), 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. Not later than September 15 of each year, the comptroller shall 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. The comptroller may adopt rules as necessary to administer this subchapter.

SECTION 2. Section 403.502, Government Code, as added by Chapter 659 (H.B. 1505), Acts of the 87th Legislature,

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

No equivalent provision.

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Regular Session, 2021, is amended by adding Subsection (b-1) to read as follows:

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

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

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

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

No equivalent provision.

SECTION 4. Section 56.022, Utilities Code, is repealed.

No equivalent provision.

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

(b) The comptroller of public accounts shall make a one-time transfer in the amount of \$75 million from the broadband infrastructure fund established under Section 49-

No equivalent provision.

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d-16, Article III, Texas Constitution, to 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) The comptroller of public accounts shall 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. 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 assist in the financing of broadband and telecommunications services projects in the state takes effect. If that amendment is not approved by the voters, this Act has no effect.

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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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