

By: Nichols, et al.
(Ashby)

S.B. No. 1405

Substitute the following for S.B. No. 1405:

By: King

C.S.S.B. No. 1405

A BILL TO BE ENTITLED

AN ACT

relating to increasing access to and reducing taxation of Internet services.

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

SECTION 1. Sections 403.553(a)(3) and (4), Government Code, are amended to read as follows:

(3) "Qualifying broadband service" means broadband service as defined by Section 4901.0101 ~~[retail wireline or wireless broadband service capable of providing:~~

~~[(A) a download speed of 25 megabits per second or faster, and~~

~~[(B) an upload speed of 3 megabits per second or faster].~~

(4) "Unserved area" means a location that lacks access to ~~[a]~~ retail fixed, terrestrial, wireline, or wireless qualifying broadband service ~~[Internet service capable of providing:~~

~~[(A) a download speed of 25 megabits per second or faster, and~~

~~[(B) an upload speed of 3 megabits per second or faster].~~

SECTION 2. Section 403.553(o), Government Code, is amended to read as follows:

(o) Not later than November 1 of each year ~~[the 60th day after the date the pole replacement fund receives money for the pole~~

~~replacement program~~], the comptroller shall ~~[maintain and]~~ publish on the comptroller's Internet website:

(1) statistics on the number of applications received, processed, and rejected by the program in the preceding state fiscal year;

(2) statistics on the size, number, and status of reimbursements awarded by the program in the preceding state fiscal year, including the retail broadband service providers and pole owners receiving reimbursements; and

(3) the estimated amount of money available for grants from the program as of the last day of the preceding state fiscal year ~~[remaining in the pole replacement fund]~~.

SECTION 3. Section [490I.0101](#)(a), Government Code, is amended to read as follows:

(a) For purposes of this chapter, subject to Subsection (b), "broadband service" means Internet service with the capability of providing a:

(1) speed of not less than 100 ~~[25]~~ megabits per second for a download;

(2) speed of not less than 20 ~~[three]~~ megabits per second for an upload; and

(3) network round-trip latency of less than or equal to 100 milliseconds based on the 95th percentile of speed measurements.

SECTION 4. Sections [490I.0105](#)(a), (c), (f), and (q), Government Code, are amended to read as follows:

(a) The broadband development office shall create, update

annually, and publish on the comptroller's Internet website a map classifying each broadband serviceable location in this state as:

(1) an unserved location if the location:

(A) does not have access to reliable broadband service capable of providing:

(i) ~~the~~ speeds matching standards adopted by the Federal Communications Commission if required by the comptroller under Section 490I.0101(b); or

(ii) if the comptroller has not exercised the comptroller's authority under Section 490I.0101(b), speeds described by Section 490I.0101(a); or

(B) is a public school or community anchor institution and does not have access to reliable gigabit-level broadband service;

(2) an underserved location if the location is not an unserved location but does not have access to reliable broadband service with the capability of providing:

(A) a speed of not less than 100 megabits per second for a download;

(B) a speed of not less than 20 megabits per second for an upload; and

(C) a network round-trip latency of less than or equal to 100 milliseconds based on the 95th percentile of speed measurements; or

(3) a served location if the location is neither an unserved nor an underserved location.

(c) The ~~[After creation of the initial map described in~~

1 ~~Subsection (a), the~~ office may evaluate the usefulness of the
2 standards for unserved and underserved locations outlined in
3 Subsection (a) and, if appropriate, make a recommendation to the
4 legislature to revise the standards.

5 (f) The ~~[Except as provided by Subsection (g), the]~~ office
6 shall use the best available data, including information available
7 from the Federal Communications Commission, to create or update the
8 map.

9 (q) The office is not required to create, update, or publish
10 a map under this section if the office adopts a map produced by the
11 Federal Communications Commission ~~[produces a map]~~ that~~+~~

12 ~~[(1)]~~ enables the office to identify unserved,
13 underserved, and served locations ~~[eligible and ineligible areas,]~~
14 as described by Subsection (a) ~~[, and~~

15 ~~[(2) meets the requirements of Subsection (d)].~~

16 SECTION 5. Section [490I.0106](#), Government Code, is amended
17 by amending Subsections (a), (a-1), (a-2), (a-3), (b), (d), (f),
18 and (h) and adding Subsection (j) to read as follows:

19 (a) The broadband development office shall establish a
20 program to award contracts, grants, low-interest loans, and other
21 financial incentives ~~[to applicants]~~ for the purpose of expanding
22 access to and adoption of broadband service.

23 (a-1) The office may award contracts, grants, low-interest
24 loans, and other financial incentives ~~[to applicants]~~ for eligible
25 broadband infrastructure projects designed to provide qualifying
26 broadband service to unserved and underserved locations. For the
27 purposes of this subsection, an eligible broadband infrastructure

1 project includes a project in which not less than 80 percent of the
2 broadband serviceable locations to be served by the project are
3 unserved and underserved locations.

4 (a-2) The office may award contracts, grants, low-interest
5 loans, and other financial incentives [~~to applicants~~] for
6 middle-mile broadband infrastructure projects.

7 (a-3) The office may award contracts, grants, low-interest
8 loans, and other financial incentives [~~to applicants~~] for projects
9 not involving the deployment of broadband infrastructure that
10 expand the accessibility, affordability, or adoption of broadband
11 service, including education, training, community outreach, remote
12 learning or telehealth facilities, equipment purchases, or any
13 other use permitted by the applicable funding source.

14 (b) In making an award under this section, the office shall,
15 to the extent applicable [~~The office shall establish eligibility~~
16 ~~and award criteria for making awards under this chapter for each~~
17 ~~applicable notice of funds availability. The comptroller by rule~~
18 ~~may prescribe the manner in which the office shall provide notice to~~
19 ~~applicants of the applicable criteria. In establishing~~
20 ~~eligibility and award criteria, the office shall~~]:

21 (1) take into consideration grants and other financial
22 incentives awarded by the federal government for the deployment of
23 broadband service;

24 (2) prioritize [~~the~~] applications [~~of applicants~~]
25 that will expand access to and adoption of broadband service in
26 designated areas in which the highest percentage of broadband
27 serviceable locations are unserved or underserved locations;

1 (3) prioritize ~~[the]~~ applications ~~[of applicants]~~
2 that will expand access to broadband service in public and private
3 primary and secondary schools and institutions of higher education;

4 (4) give preference to an applicant that provided the
5 information requested by the office under Section ~~[490I.0105 or]~~
6 [490I.01061](#); and

7 (5) take into consideration whether an applicant has
8 forfeited federal funding for defaulting on a project to deploy
9 qualifying broadband service.

10 (d) The office may not:

11 (1) except as provided by Section [490I.01062](#), favor a
12 particular broadband technology in awarding contracts, grants,
13 loans, or other financial incentives;

14 (2) award a contract, grant, loan, or other financial
15 incentive for the deployment of last-mile broadband service to a
16 noncommercial provider of broadband service for a broadband
17 serviceable location if an eligible commercial provider of
18 broadband service has submitted an application for the same
19 location;

20 (3) take into consideration distributions from the
21 state universal service fund established under Section [56.021](#),
22 Utilities Code, when deciding to award contracts, grants, loans, or
23 other financial incentives; or

24 (4) except as provided by Section [490I.01061](#), award a
25 contract, grant, loan, or other financial incentive for deployment
26 of last-mile broadband service for a location that is subject to an
27 existing ~~[a]~~ federal commitment to deploy qualifying broadband

1 service on the date the application is submitted or during the
2 application process.

3 (f) During the 30-day posting period described by
4 Subsection (e) for an application, the office shall accept from any
5 interested party, other than a broadband service provider that does
6 not report information requested by the office under Section
7 ~~[490I.0105 or]~~ 490I.01061, a written protest of an ~~[the]~~
8 application submitted for a contract, grant, loan, or other
9 financial incentive under Subsection (a-1) relating to whether the
10 broadband-serviceable locations contained in the application are
11 eligible to receive funding ~~[applicant or project is eligible for~~
12 ~~an award or should not receive an award based on the criteria~~
13 ~~prescribed by the office]~~.

14 (h) The office shall establish and publish criteria for
15 award recipients. The criteria must include requirements that
16 contracts, grants, loans, and other financial incentives awarded
17 through the program for the deployment of broadband infrastructure
18 may be used only for capital expenses, purchase or lease of
19 property, and other expenses, including backhaul and transport,
20 that will facilitate the provision or adoption of broadband
21 service.

22 (j) The office shall publish on the comptroller's Internet
23 website information regarding each grant awarded under Subsection
24 (a-1), including the grant recipient's name, the area targeted for
25 expanded broadband service access, the amount of the grant award,
26 the status of the grant award, including incremental completion
27 status, and any other information the office considers relevant.

SECTION 6. Section 490I.0110(i), Government Code, is amended to read as follows:

(i) A person who is professionally affiliated with a person serving as a member of the board of advisors is not eligible for funding from the broadband development program under Section 490I.0106 if the member is involved in decisions regarding the award of contracts, grants, loans, or other financial incentives under that section.

SECTION 7. Sections 151.00394(b) and (c), Tax Code, are amended to read as follows:

(b) "Internet access service" does not include ~~[and the exemption under Section 151.325 does not apply to]~~ any ~~[other]~~ taxable service listed in Section 151.0101(a), unless the taxable service is provided in conjunction with and is merely incidental to the provision of Internet access service.

(c) ~~[On and after October 1, 1999,]~~ "Internet access service" is not included in the definitions of "data processing service" and "information service."

SECTION 8. Section 151.0101(a), Tax Code, is amended to read as follows:

(a) "Taxable services" means:

- (1) amusement services;
- (2) cable television services;
- (3) personal services;
- (4) motor vehicle parking and storage services;
- (5) the repair, remodeling, maintenance, and restoration of tangible personal property, except:

1 (A) aircraft;

2 (B) a ship, boat, or other vessel, other than:

3 (i) a taxable boat or motor as defined by

4 Section 160.001;

5 (ii) a sports fishing boat; or

6 (iii) any other vessel used for pleasure;

7 (C) the repair, maintenance, and restoration of a

8 motor vehicle; and

9 (D) the repair, maintenance, creation, and

10 restoration of a computer program, including its development and

11 modification, not sold by the person performing the repair,

12 maintenance, creation, or restoration service;

13 (6) telecommunications services;

14 (7) credit reporting services;

15 (8) debt collection services;

16 (9) insurance services;

17 (10) information services;

18 (11) real property services;

19 (12) data processing services;

20 (13) real property repair and remodeling;

21 (14) security services;

22 (15) telephone answering services; and

23 (16) ~~[Internet access service, and~~

24 ~~[(17)]~~ a sale by a transmission and distribution

25 utility, as defined in Section 31.002, Utilities Code, of

26 transmission or delivery of service directly to an electricity

27 end-use customer whose consumption of electricity is subject to

1 taxation under this chapter.

2 SECTION 9. Section 171.10132, Tax Code, is amended by
3 amending Subsection (a) and adding Subsection (a-1) to read as
4 follows:

5 (a) In this section, "qualifying broadband grant" means a
6 grant for broadband deployment in this state received by a taxable
7 entity:

8 (1) under the Broadband Equity, Access, and Deployment
9 Program established under 47 U.S.C. Section 1702;

10 (2) under the State Digital Equity Capacity Grant
11 Program established under 47 U.S.C. Section 1723;

12 (3) under the Digital Equity Competitive Grant Program
13 established under 47 U.S.C. Section 1724;

14 (4) under the provisions of 47 U.S.C. Section 1741
15 providing for middle mile grants;

16 (5) under the broadband loan and grant pilot program
17 authorized under Section 779, Title VII, Div. A, Consolidated
18 Appropriations Act, 2018 (Pub. L. No. 115-141, 132 Stat. 399), from
19 funds made available for that program under the heading "Distance
20 Learning, Telemedicine, and Broadband Program," "Rural Utilities
21 Service," "Rural Development Programs" in Title I, Infrastructure
22 Investments and Jobs Appropriations Act (Title I, Div. J, Pub. L.
23 No. 117-58, 135 Stat. 1351);

24 (6) under Section 905, Division N, Consolidated
25 Appropriations Act, 2021 (Pub. L. No. 116-260, 134 Stat. 2136);
26 [~~or~~]

27 (7) from a state, territory, tribal government, or

unit of local government to the extent the grant was:

(A) funded by amounts provided under 42 U.S.C. Section 802, 803, or 804; and

(B) provided for the stated purposes of making investments in broadband infrastructure; or

(8) from the comptroller under Subchapter S, Chapter 403, Government Code, or Chapter 490I of that code.

(a-1) For purposes of Subsection (a)(8), a reimbursement award received by a taxable entity under Subchapter S, Chapter 403, Government Code, is considered a grant for broadband development in this state.

SECTION 10. The following provisions are repealed:

(1) Chapter 490H, Government Code;

(2) Sections 490I.0105(g), (h), (i), (j), (k), (l), (n), (o), and (p), Government Code; and

(3) Section 151.325, Tax Code.

SECTION 11. The changes in law made by this Act do not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 12. Section 171.10132, Tax Code, as amended by this Act, applies only to a report originally due on or after January 1, 2026.

SECTION 13. This Act takes effect July 1, 2025, if it receives a vote of two-thirds of all the members elected to each

C.S.S.B. No. 1405

1 house, as provided by Section 39, Article III, Texas Constitution.
2 If this Act does not receive the vote necessary for effect on that
3 date, this Act takes effect September 1, 2025.