

SUBJECT: Establishing the broadband infrastructure fund

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Hunter, Hernandez, Anchía, Geren, Guillen, Metcalf,
Raymond, Slawson, Smithee, Spiller, S. Thompson, Turner

0 nays

1 absent — Dean

WITNESSES: For — David Tate, AT&T; Trey Mendez, City of Brownsville; Scott McGriff, Community Internet Providers LLC; Scott Calderwood, El Paso County 911 District; Mitrah Avini, Texas 2036; Megan Mauro, Texas Association of Business; Jon Hockenyos, Texas Broadband Now; Walt Baum, Texas Cable Association; Julia Harvey, Texas Electric Cooperatives; Monica Andry, Texas Hispanic Chamber Coalition; Daniel Gibson, Texas Statewide Telephone Cooperatives, Inc; Russell (Rusty) Moore, Texas Telephone Association / Big Bend Telephone Co.; Joseph McGrath, Texoma Communications, LLC dba TekWav; Mike Hunsucker, Windstream (*Registered, but did not testify*: Tim Morstad, AARP; Sharon Mayer, Allen Fairview Chamber of Commerce; Jim Bellina, AMA Communications; J Lawrence Collins, Amerigroup Texas; Tricia Cave, Association of Texas Professional Educators (ATPE); John T. Montford, AT&T; Denise Davis, Austin Chamber of Commerce; Martha Landwehr, BASF Corporation; Ginger Averitt, Bexar County Education Coalition; Lauren Fairbanks, Brazoria Telephone, Southwest Texas Communications; Rebecca Montgomery, Center for Transforming Lives; Todd Baxter, Charter Communications; Guadalupe Cuellar, City of El Paso; TJ Patterson, City of Fort Worth; Cynthia Garza Reyes, Michael Vargas, City of Pharr; Nadia Islam, City of San Antonio; Rebecca Young Montgomery, Coalition of East Tarrant Chambers; Dennis Borel, Coalition of Texans with Disabilities; Velma Cruz, Comcast; Adam Haynes, Conference of Urban Counties; Kari Gibson, ConocoPhillips; Janis Carter, Dallas Citizens Council; Matthew Garcia, Dallas Regional Chamber; Larry Gonzales, Dell Technologies; Michael Dole, Driscoll

Health System; Wes Robinson, Eastex Telephone Cooperative, Inc; David Stout, Elisa Tamayo, El Paso County; Cary Roberts, Etex Communications LLC; Rebecca Montgomery, Frisco Chamber of Commerce; Jennifer Carter, Goodwill Central Texas; Christian Bionat, Greater Houston Partnership; Stephen Scurlock, Independent Bankers Association of Texas; Ron Simmons, Invest Texas Council; Sarah Floerke, Lower Colorado River Authority; Christine Yanas, Methodist Healthcare Ministries; Andrea Shepard, Montgomery County Emergency Communication District; Hannah Gill, NAMI Texas; Gilbert Gonzalez, NCIC Phone Systems; Nicholas Tuccio, Nextlink Internet; Annie Spilman, NFIB; Cary Roberts, Nortex Communications; Patrick Brophey, North Texas Commission; Michael D. Lozano, Permian Basin Petroleum Association; Cary Roberts, Poka Lambro Telephone Cooperative Inc.; John Pitts, Jr, Project Lead the Way; Timothy Ottinger, St. Luke's Health; Todd Morgan, T-Mobile; Jessica Schleifer, Teaching Hospitals of Texas; Servando Esparza, TechNet; Lauren Fairbanks, Texas 9-1-1 Alliance; Kyle Jackson, Texas Apartment Association; Gabriella McDonald, Texas Appleseed; Lori Henning, Texas Association of Goodwills; Jason Baxter, Texas Association of Health Plans; Fred Shannon, Texas Association of Manufacturers; Ruben Longoria, Texas Association of School Boards; Tricia Stinson, Texas Broadband Now; Matthew Russell, Texas Computer Education Association; Leela Rice, Texas Council of Community Centers; Nora Belcher, Texas e-Health Alliance; Charlie Leal, Texas Farm Bureau; Marcus Mitias, Texas Health Resources; Sara Gonzalez, Texas Hospital Association; Michelle Romero, Texas Medical Association; Monty Wynn, Texas Municipal League; Suzi Kennon, Texas PTA; Julia Parenteau, Texas Realtors; Heather Sheffield, Texas Rural Broadband Coalition (TRBC); Kelty Garbee, Texas Rural Funders; Jennifer Emerson, Texas Rural Water Association; John Hubbard, Ian Randolph, Mark Seale, Texas Telephone Association; Jennifer Prather, Totelcom Communications; Julie Wheeler, Travis County Commissioners Court; Kenneth Sumberlin, TSAEW/IBEW; Ashley Harris, United Ways of Texas; Elisa Hernandez, University Medical Center of El Paso; Richard Lawson, Verizon; John Pitts, Jr, Western Governors University - Texas; David Zumwalt, WISPA | Broadband Without Boundaries; Diego Gonzalez; Shahmeen Khan; Thomas Parkinson; Bill Paxton; Susan

Stewart)

Against — None

On — Harrison Hiner, Communications Workers of America; Glenn Hegar, Comptroller of Public Accounts (*Registered, but did not testify*; Kelli Merriweather, Commission on State Emergency Communications; David Cruz, Greg Conte, Comptroller of Public Accounts; Thomas Gleeson, Public Utility Commission)

DIGEST: CSHB 9 would establish the broadband infrastructure fund as a special fund in the state treasury outside the general revenue fund, consisting of:

- appropriations from the Legislature;
- money transferred or deposited to the credit of the fund by the constitution or general law;
- revenue that the Legislature by general law dedicated to the fund;
- investment earnings and interest earned on money in the fund; and
- gifts, grants, and donations.

The funds would be administered by the comptroller and used only for:

- purposes of the Broadband Development Office;
- providing funding to the Texas universal service fund (TUSF);
- providing funding for 9-1-1 and next-generation 9-1-1 services;
- supporting the deployment of next-generation 9-1-1;
- supporting the Texas Broadband Pole Replacement Program;
- providing matching funds for federal money through the Broadband Equity, Access, and Deployment Program (BEAD);
- supporting increased connectivity needs for qualifying schools under the federal Schools and Libraries Program (E-rate) or similar legislation;
- improving public safety telecommunications connectivity; and
- administering and enforcing the fund's establishing statute.

The bill would require the Texas Treasury Safekeeping Trust Company to hold and invest the fund on behalf of the comptroller. It also would provide for the overall investment objective of the fund and establish the powers of the trust company.

The trust company would have to provide an annual written report on investments of the fund to the comptroller and prepare and submit to the comptroller's investment advisory board a written investment policy. The advisory board would have to submit recommendations on the policy to the trust company. The comptroller would have to provide an annual forecast of fund cash flows and appropriate updates to the trust company.

CSHB 9 would require the comptroller to make the following transfers from the fund by September 15 each year:

- to the TUSF, an amount necessary to provide the services of the fund;
- to the next-generation 9-1-1 service fund, an amount equal to the difference between fees collected for the preceding fiscal year under the fund, and the amount that would have been collected if the fee were 85 cents;
- to the commissioner of education, an amount necessary to provide matching funds to schools under the federal Schools and Libraries Program (E-rate) or similar legislation.

The bill also would authorize the comptroller to transfer additional amounts as available from the broadband infrastructure fund to the pole replacement fund and the next-generation 9-1-1 service fund.

Provisions of the Utilities Code establishing the current funding mechanism for the TUSF would be repealed.

CSHB 9 would direct the comptroller to make one-time transfers from the broadband infrastructure fund of:

- \$1 billion from the broadband development account under the

- Broadband Development Office; and
- \$75 million to the broadband pole replacement fund.

The transfers would have to be made no later than 30 days after the bill's effective date.

The bill would take effect January 1, 2024, but only if the constitutional amendment proposed by HJR 125 by Ashby, creating the broadband infrastructure fund, was approved by voters.

**SUPPORTERS
SAY:**

CSHB 9, along with CSHJR 125, would increase broadband access and affordability across Texas by enabling the state to make major investments in broadband and telecommunications infrastructure in coordination with federal funding programs. The bill also would make crucial investments in emergency response technology and connectivity in schools.

Millions of Texans currently lack broadband internet, limiting their access to education, telehealth, and employment opportunities online. Lack of access disproportionately affects rural communities, people of color, and low-income families. The fund established by CSHB 9 would provide resources to close this digital divide, which in turn would improve quality of life and spur significant economic growth, including higher personal incomes, job creation, and increased state revenue.

At a time when the state has the advantage of a budget surplus, supporting broadband expansion would be a sound investment. While substantial federal funds for broadband expansion are available, many communities that are in need of reliable, affordable internet will struggle to meet federal fund matching requirements or attract private investment. Cost-sharing at the state level would ensure that Texas received the maximum benefit from these funding opportunities.

CSHB 9 would ensure the continuation of state support for vital telecommunications and broadband services in high-cost areas and reduce the financial burden on consumers by replacing TUSF's current funding

mechanism based on utility charges with money from the broadband infrastructure fund. By allocating money from the fund to support 9-1-1 services, including the deployment of next-generation 9-1-1 technology, the bill also would help first responders provide better 9-1-1 service and cover increased costs related to technological changes and population growth.

All available tools, including both fiber and wireless technology, are needed to close the digital divide across Texas. Each technology has advantages and disadvantages, but efforts to support the growth of broadband should retain the flexibility needed to determine which technologies and investments are feasible for different areas of the state depending on topography, population density, and other factors. The bill's holistic approach would promote competition and maximize efficiency.

Including a specific statutory provision on labor standards is unnecessary because federal regulations already require states to include fair labor practices in their broadband development programs, and the federal Broadband Equity, Access, and Deployment (BEAD) program also requires states to develop a plan aimed at achieving a diverse and sufficiently skilled workforce to build and maintain broadband infrastructure.

CRITICS
SAY:

CSHB 9 should require the broadband infrastructure fund to prioritize projects that develop fiber optic broadband infrastructure, as fiber may be faster, safer, and more durable and reliable than wireless broadband.

OTHER
CRITICS
SAY:

In order to ensure that broadband investment in Texas is successfully implemented by a skilled and properly trained workforce, CSHB 9 should incorporate federally recommended labor standards for broadband projects that call for a directly employed, rather than subcontracted, workforce. Subcontracting can create problems for quality of service and accountability. The state should include fair labor standards, including robust in-house training requirements, in the criteria for awarding grants.

NOTES:

CSHB 9 is the enabling legislation for CSHJR 125 by Ashby, which would create the broadband infrastructure fund. CSHJR 125 is set for second reading consideration today.

According to the Legislative Budget Board, CSHJR 125 and CSHB 9 would have an estimated negative impact to general revenue related funds of \$436,285,000 through fiscal 2024-2035, with a negative impact of about \$4.8 billion through the following biennium.