

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1783
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Business & Commerce
4/6/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, many rural communities lack advanced telecommunications services, such as high-speed Internet access. Advanced service is necessary for increased economic development, particularly in rural areas. C.S.S.B. 1783 provides for the deployment of advanced services by telecommunications companies to rural areas of the state. C.S.S.B. 1783 also reduces the Telecommunications Infrastructure Fund (TIF) assessment and extends the sunset date of TIF.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTIONS 2 (Section 55.4025, Utilities Code) and SECTION 13 (Section 2170.060, Government Code); to the telecommunications infrastructure fund board in SECTION 6 (Section 57.0475, Utilities Code), and to a municipality in SECTION 15 (Sections 51.019, 51.036, 51.053, and 51.080, Local Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 54.202, Utilities Code, as follows:

Sec. 54.202. PROHIBITED MUNICIPAL SERVICES. (c) Authorizes a municipality, pursuant to Public Utility Commission of Texas (commission) approval under Section 55.404, notwithstanding Subsections (a) and (b), to establish and provide advanced services upon obtaining a certificate of operating authority or a service provider certificate of operating authority.

(d) Provides that notwithstanding any other law, the commission has the jurisdiction necessary to enforce this section.

SECTION 2. Amends Chapter 55, Utilities Code, by adding Subchapter L, as follows:

SUBCHAPTER L. DEPLOYMENT OF ADVANCED SERVICES TO RURAL AREAS

Sec. 55.401. POLICY. Sets forth legislative policy regarding the availability of advanced services to rural areas.

Sec. 55.402. DEFINITIONS. Defines “advanced service,” “anchor tenancy,” “commission,” “community networks,” “community technology centers,” “company,” “demand aggregation,” “local solutions,” “market failure,” “rural community,” and “urban.”

Sec. 55.4025. INCENTIVE ELECTION AND PROCESSES TO ASSIST IN MAKING ADVANCED SERVICES AVAILABLE. (a) Provides that this section applies to a company that has elected to Chapter 59.

(b) Provides that upon notification to the commission that a rural community has 75 bona fide requests for an advanced service, the rural community, upon commission

approval, is authorized to utilize funding sources under Section 55.404(b) to attract any provider of advanced services in the state.

(c) Requires the commission to post publicly the number of bona fide requests for an advanced service in each rural community.

(d) Requires the commission, by rule, to determine what constitutes a bona fide request.

(e) Provides that as an incentive to deploy advanced services in the state, a company electing to Chapter 59, without having to elect to Chapter 58, is authorized, upon notification of the commission, to elect to have its services established as basic network services according to Section 58.051, nonbasic services according to Section 58.151, and new services according to Section 58.153. Requires the rate cap provision in Section 58.054, pricing and packaging flexibility in Section 59.031, pricing provisions in Section 58.152, applicable to basic network and nonbasic services to also be applicable. Authorizes a company to elect into this incentive plan only if the company is required to provide services under Subsection (f).

(f) Provides that if 120 days after the posting of 75 bona fide requests for an advanced service by the commission a rural community has not entered into a contract with a provider of advanced services, then a company to which this section applies is required to provide an advanced service to its landline customers within its certificated area that is reasonably comparable to an advanced service provided in its larger exchanges. Requires a company to offer the advanced service under certain conditions.

(g) Prohibits this section from being construed to require a company to perform certain procedures.

(h) Requires the requirements of Subsection (f) to be considered met when certain conditions are achieved.

(i) Provides that the commission has all jurisdiction necessary to enforce this section.

(j) Provides that Section 14.101 does not apply to a company electing to Subsection (e) who has fulfilled the requirements of this section.

Sec. 55.403. PROVISION OF ADVANCED SERVICES. (a) Provides that this section applies to a company as defined in Section 55.402(6).

(b) Provides that upon notification to the commission that a rural community has 75 bona fide requests for an advanced service, the rural community, upon commission approval, is authorized to utilize funding sources under Section 55.404(b) to attract any provider of advanced services in the state.

(c) Requires the commission to post publicly the number of bona fide requests for an advanced service in each rural community.

(d) Provides that if 120 days after the posting of 75 bona fide requests for an advanced service by the commission a community has not entered into a contract with a provider of advanced services, then a company to which this section applies is required to provide an advanced service to its landline customers within its certificated area that is reasonably comparable to the advanced service provided in its larger exchanges. Requires the company upon such request to take certain actions.

(e) Sets forth criteria regarding advanced services to be provided by the company.

(f) Requires the requirements of Subsection (d) to be considered met under certain conditions.

Sec. 55.404. DEPLOYMENT OF ADVANCED SERVICES TO RURAL COMMUNITIES. (a) Sets forth provisions regarding companies and rural communities to encourage local solutions to the deployment of advanced services.

(b) Provides that in addition to the provisions of Subsection (a), and in accordance with Sections 55.4025 and 55.403, a rural community is authorized to seek to fund advanced services through certain means.

(c) Provides that upon a showing to the commission that market failure has occurred, and that the incentive and local solutions processes under this subchapter have been unsuccessful in encouraging the deployment of advanced services in a rural community, the appropriate local governmental body or residents, upon petition of 25 percent of the residents, may request of the commission permission to perform certain procedures.

Sec. 55.405. STATEWIDE ADVANCED SERVICES STRATEGIC PLANNING. (a) Provides that the commission is responsible for strategic planning for the deployment of advanced services to end use customers in rural areas.

(b) Requires the commission to coordinate with and provide direction to other agencies regarding the deployment of advanced services or issues that may affect the deployment of advanced services throughout the state.

(c) Authorizes the commission, in order to perform strategic planning, to collect and make use of data and information deemed reasonably necessary to verify the most efficient deployment of advanced services throughout the state.

(d) Requires information obtained pursuant to this subchapter to be confidential, to not be disclosed, and to be excepted from public disclosure under Chapter 552 (Public Information), Government Code.

Sec. 55.406. COMMISSION AUTHORITY. Provides that notwithstanding any other provision of this title, the commission has all jurisdiction necessary to enforce this subchapter.

SECTION 3. Amends Section 57.042, Utilities Code, as follows:

Sec. 57.042. DEFINITIONS. Defines “advanced service,” “community technology centers,” and “rural community.”

SECTION 4. Amends Section 57.046, Utilities Code, as follows:

Sec. 57.046. USE OF ACCOUNTS. (b) Requires the telecommunications infrastructure fund board (board) to use money in the qualifying entities account for any purpose authorized by this subchapter, including infrastructure and related costs for the provision of community technology centers or an advanced service to a rural community pursuant to Sections 55.4025, 55.403 and 55.404.

SECTION 5. Amends Section 57.047, Utilities Code, as follows:

Sec. 57.047. GRANT AND LOAN PROGRAM. (a) Authorizes the board to award a grant to a project or proposal that provides equipment and infrastructure necessary for certain criteria, including the provision of community technology centers or an advanced service in a rural community pursuant to Sections 55.4025, 55.403 and 55.404.

(c) Requires the board, in awarding a grant or loan under this subchapter, to give priority to a project or proposal that among other things, will establish or enhance the provision of an advanced service to a rural community.

(f) Provides that a grant or loan awarded under this section is subject to the limitations prescribed by Sections 57.046 and 57.0475.

SECTION 6. Amends Chapter 57C, Utilities Code, by adding Section 57.0475, as follows:

Sec. 57.0475. GRANTS TO RURAL COMMUNITIES FOR ADVANCED SERVICES.

(a) Sets forth provisions regarding the policy of this state.

(b) Authorizes any public or governmental entity or political subdivision within a rural community to perform certain duties.

(c) Requires the board to adopt rules to implement this section in cooperation with the commission and the Department of Information Resources. Requires the rules to include the coordination of requests for access under this section from different parties in the same rural community.

SECTION 7. Amends Sections 57.048, 57.050, and 57.051, Utilities Code, as follows:

Sec. 57.048. ASSESSMENTS AND COLLECTIONS. Deletes text regarding amounts deposited to the fund and changes the assessment rate to .625 percent.

Sec. 57.050. ASSISTANCE OF OTHER AGENCIES. Requires certain agencies, in consultation with the board, to adopt policies and procedures that are designed to aid the board in achieving the purposes of this subchapter.

Sec. 57.051. SUNSET PROVISION. Provides that unless continued in existence as provided by Chapter 325 (Texas Sunset Act), Government Code, the board is abolished and this subchapter expires September 1, 2010, rather than 2005.

SECTION 8. Amends Section 58.253, Utilities Code, to require an electing company, on customer request, to provide private network services to certain entities, including a project funded by the telecommunications infrastructure fund under Chapter 57C, except for projects authorized or permitted pursuant to Chapter 55L.

SECTION 9. Amends Section 2054.206, Government Code, as follows:

Sec. 2054.206. ADVISORY AGENCIES. Requires certain state agencies to formally advise the telecommunications planning group and send representatives to meetings of the group.

SECTION 10. Amends Section 2170.004, Government Code, as follows:

Sec. 2170.004. CONTRACTS WITH ENTITIES OTHER THAN STATE AGENCIES. Authorizes the General Services Commission (commission) to contract for use of the consolidated telecommunications system with certain entities or agencies, including any person or entity the PUC approves for use that resides within a rural area of this state as provided by Section 2170.060.

SECTION 11. Amends Chapter 2170A, Government Code, by adding Section 2170.0045, as follows:

Sec. 2170.0045. PUBLIC ENTITY ACCESS TO CONSOLIDATED

TELECOMMUNICATIONS SYSTEM. Requires the General Services Commission, upon approval by the Public Utility Commission of Texas, to allow access to, and contract the use of, the consolidated telecommunications system to an approved public or governmental entity or political subdivision of this state as provided by Section 2170.060. Authorizes the commission to require the public or governmental entity or political subdivision to contract with the commission pursuant to the Interlocal Cooperation Act, Chapter 791, Government Code.

SECTION 12. Amends Section 2170.058, Government Code, to set forth legislative policy.

SECTION 13. Amends Chapter 2170B, Government Code, by adding Section 2170.060, as follows:

Sec. 2170.060. RURAL COMMUNITY ACCESS TO CONSOLIDATED TELECOMMUNICATIONS SYSTEM. (a) Defines “rural community.”

(b) Sets forth provisions regarding state policy.

(c) Requires the General Services Commission to coordinate its duties and responsibilities with the Telecommunications Infrastructure Fund Board and permit access, pursuant to Public Utility Commission of Texas approval under Section 55.404, Utilities Code.

(d) Requires the Public Utility Commission of Texas to adopt rules to implement this section in cooperation with the telecommunications planning group and the General Services Commission. Requires the rules to include the coordination of requests for access under this section from different parties in the same rural community.

SECTION 14. Amends Section 2(11)(A), Development Corporation Act of 1979 (Article 5190.6, V.T.C.S.), to redefine “project.”

SECTION 15. Amends Chapter 51, Local Government Code, by adding Sections 51.019, 51.036, 51.053, and 51.080, as follows:

Sec. 51.019. PROVISION OF ADVANCED SERVICES. Authorizes a Type-A municipality to buy, own, construct inside or outside the municipal limits, and maintain and operate a certificated facility designed to provide reasonably comparable access to advanced services for its residents pursuant to Section 55.404, Utilities Code. Authorizes the municipality to require and receive compensation for such services furnished for private purposes or otherwise. Authorizes the municipality to adopt rules, not inconsistent with existing state law, it considers advisable for the provisioning of advanced services.

Sec. 51.036. PROVISION OF ADVANCED SERVICES. Authorizes a Type-B municipality to buy, own, construct inside or outside the municipal limits, and maintain and operate a certificated facility designed to provide reasonably comparable access to advanced services for its residents pursuant to Section 55.404, Utilities Code. Authorizes the municipality to require and receive compensation for such services furnished for private purposes or otherwise. Authorizes the municipality to adopt rules, not inconsistent with existing state law, it considers advisable for the provisioning of advanced services.

Sec. 51.053. PROVISION OF ADVANCED SERVICES. Authorizes a Type-C municipality to buy, own, construct inside or outside the municipal limits, and maintain and operate a certificated facility designed to provide reasonably comparable access to advanced services for its residents pursuant to Section 55.404, Utilities Code. Authorizes the municipality to require and receive compensation for such services furnished for private purposes or otherwise. Authorizes the municipality to adopt rules, not inconsistent with existing state law, it considers advisable for the provisioning of advanced services.

Sec. 51.080. PROVISION OF ADVANCED SERVICES. Authorizes a home-rule municipality to buy, own, construct inside or outside the municipal limits, and maintain and operate a certificated facility designed to provide reasonably comparable access to advanced services for its residents pursuant to Section 55.404, Utilities Code. Authorizes the municipality to require and receive compensation for such services furnished for private purposes or otherwise. Authorizes the municipality to adopt rules, not inconsistent with existing state law, it considers advisable for the provisioning of advanced services.

SECTION 16. Repealer: Section 55.014 (Provision of Advanced Telecommunications Services), Utilities Code.

SECTION 17. Effective date: September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

SECTION 1. No change.

Deletes original SECTION 2, which amended Section 55.014, Utilities Code.

SECTION 2. Redesignated from SECTION 3 in the original. Amends proposed Chapter 55L, Utilities Code.

Redesignates SECTIONS 4-8 of the original as SECTIONS 3-7 and makes conforming and nonsubstantive changes.

SECTION 8. Adds new proposed Section 58.253, Utilities Code.

SECTION 9. No change.

SECTION 10. New change.

SECTION 11. Makes conforming and nonsubstantive changes to proposed Chapter 2170A, Government Code.

SECTION 12. Amends proposed Section 2170.058(c), Government Code, rather than deleting it as in the original.

SECTION 13. Makes conforming and nonsubstantive changes to proposed Chapter 2170.060, Government Code.

SECTION 14. Makes a conforming change.

SECTION 15. Deletes the eminent domain power granted in proposed Sections 51.019, 51.036, 51.013, and 51.080, Local Government Code, in the original.

SECTION 16. Adds a repealer.

SECTION 17. No change.