HOUSE RESEARCH ORGANIZATION bill analysis

3/24/97

SB 249
Sibley (S. Turner)
(CSSB 249 by S. Turner)

SUBJECT:	Telecommunications Infrastructure Fund revisions
COMMITTEE:	State Affairs — committee substitute recommended
VOTE:	12 ayes — Wolens, S. Turner, Carter, Counts, Craddick, Danburg, Hilbert, Hunter, Longoria, McCall, Ramsay, Stiles 0 nays 3 absent — Alvarado, Brimer, D. Jones
SENATE VOTE:	On final passage, February 4 — 30-0
WITNESSES:	For — Henry Flores, Texas Telephone Association; Kathy Grant, PrimeCo Personal Company; Kelsi Reeves, Time Warner Communications; Lyn Kamerman, GTE; Nancy McMurrey, Texas Cable and Telecom Association; Richard Hardy, MCI; Robert Johnson, Paging Companies for Fair Assessment; Shanna Igo, Texas Municipal League; Tom Jones, Sprint; Vaugh Aldredge, AT&T Against —None
BACKGROUND:	In 1995, the 74th Legislaturein HB 2128 by Seidlits, which revised state telecommunications regulation, created the Telecommunications Infrastructure Fund (TIF) to finance broader access to advanced telecommunications technology. TIF was set up to receive $150 million from the telecommunications industry each year for 10 years, with total funding ultimately of $1.5 billion. The fund is divided into two accounts: one to fund wiring and equipping public elementary and secondary schools with telecommunications capabilities, supported by a $75 million-a-year assessment on the wired telephone industry; the other, funded by a $75-million-a year assessment on cellular phone companies, to support training, program development, distance learning, library-sharing programs and telemedicine. The fund has collected $134 million to date.

In January 1996, an Austin district court ruled that assessing cellular telephone services, a smaller industry, the same amount for the TIF as the much larger wired services industry was unconstitutionally inequitable.

DIGEST:

CSSB 249 would assess sales receipts of all telecommunications utility and commercial mobile service provider at a rate of 1.25 percent to fund the TIF, beginning the first calendar quarter after the bill became law.

The TIF would be capped at $1.5 billion. Once it reached $1.2 billion, excluding interest and loan repayments, the comptroller would be required to adjust the assessment for the following fiscal year at a rate that would raise the amount necessary to reach $1.5 billion. The bill would prohibit the comptroller from collecting the assessment in any fiscal year once the fund reached $1.49 billion if any assessment imposed would collect more than $1.5 billion total.

Half the funds collected would be placed in the public schools account, formerly known as the telecommunications utilities account, and the other half would go into the qualifying entities account, previously called the commercial mobile service providers account. All the funds in the former accounts would be transferred to the new accounts.

The bill would require the TIF board to adopt a five-year master plan for infrastructure development, including time lines and resource allocation targets. The board would have to update the plan annually and publish any amendments to the plan in the *Texas Register*.

The bill would require a board member who was an employee of an entity applying for a grant or loan from the TIF to disclose that information to the board and would prohibit the board member from voting on the award. The applying entity would not be eligible for an award from the TIF if the board member voted on the award.

The bill would define a “public school” eligible for TIF awards to mean a public elementary or secondary school, including an open-enrollment charter school, a home-rule school district school, and a school with a campus or campus program charter, and “school district” to include independent and common school districts and rural high school districts.

The bill would take immediate effect if finally approved by two-thirds record vote of the membership of each house.

SUPPORTERS SAY:

CSSB 249 would resolve the legal and financial issues surrounding a very forward-looking program for the state. It would equalize the assessment rate on regular telephone companies and cellular phone companies, thereby addressing the constitutional issue of unequal taxation, and ensure that TIF will eventually collect its $1.5 billion endowment.

The flat assessment rate on all telecommunications providers would accelerate collections into the TIF fund so that the fund could reach $1.2 billion by the end of 2005. Once the desired funding level of $1.5 billion was achieved, the comptroller would be required to adjust the assessment.

Besides addressing the financial issues, CSSB 249 would put into place some strong management tools for promoting the viability and responsiveness of the program. By requiring the TIF board to adopt a five-year master plan, the bill would would ensure that an overall comprehensive program was in place to meet the telecommunication infrastructure needs of schools, hospitals and libraries, complete with project descriptions, time lines, and resource allocation targets for each year, updated on an annual basis. The plan and amendments would be publicized in the *Texas Register* to elicit public participation and comment.

CSSB 249 would work the kinks out of a program telephone companies agreed to last session when they opted for incentive regulation through HB 2128 and agreed in principle to an infrastructure commitment for schools, hospitals and libraries. Phone service costs are diminishing, so the TIF assessment should not present a financial burden on large local telephone companies, which have large customer bases and can afford to more easily absorb the assessment costs than smaller cellular and paging companies.

OPPONENTS SAY:

Cellular, paging, and long-distance companies were originally assessed a higher rate precisely because they can pass the TIF costs on to their customers. By opting for incentive regulation in 1995, however, telephone companies agreed to a cap on their rates for four years. They would be unable to pass on the TIF assessment and would be placed at an unfair competitive disadvantage by this change in the TIF assessment.

NOTES: The committee substitute defined public schools, required the TIF board to set up a five-year master plan, and added the conflict of interest provisions governing TIF board members.