

BILL ANALYSIS

Senate Research Center
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S.B. 1783
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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. As proposed, S.B. 1783 provides for the deployment of advanced services by telecommunications companies to rural areas of the state. 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 55.014, Utilities Code) and 13 (Section 2170.060, Government Code), to the telecommunications infrastructure fund board in 7 (Section 57.0475, Utilities Code), and to a municipality in SECTION 15 (Section 51.019, 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 Section 55.014, Utilities Code, as follows:

(a) Provides that this section applies to a company electing under Chapter 58, Chapter 59, or a company that holds a certificate of operating authority or service provider certificate of operating authority. Deletes definition of "advanced service." Deletes text regarding a company offering advanced telecommunication services. Deletes text requiring a company to offer caller identification service and custom calling features.

(c) 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 to 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 (d).

(d) Provides that if 120 days after the posting of 50 bona fide requests by the commission a community is unsuccessful in attracting a provider of advanced services, then a company to which this section applies is required to provide advanced services to its landline customers that are reasonably comparable to the advanced services provided in their larger exchanges. Requires the company to offer the advanced services pursuant to certain conditions.

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

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

(g) Requires the requirements of Subsection (d) to be considered met if certain services are provided.

(h) Provides that notwithstanding any other provisions of this title, the commission has all jurisdiction necessary to enforce this section.

(i) Defines “advanced services.”

(j) Provides that Section 14.01 does not apply to a company electing to this subsection. Deletes text regarding commission jurisdiction.

SECTION 3. 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 services,” “anchor tenancy,” “commission,” “community networks,” “community technology centers,” “company,” “demand aggregation,” “local solutions,” “market failure,” “rural,” and “urban.”

Sec. 55.4025. COMMUNITY INCENTIVES. (a) Provides that upon notification by the commission that a rural community has 50 bona fide requests for advanced services, 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.

(b) Requires the commission to post publicly the number of bona fide requests for advanced services in rural communities.

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

(b) Provides that if 120 days after the posting of 50 bona fide requests for advanced services by the commission a community is unsuccessful in attracting a provider of advanced services, then the company is required to provide advanced services to landline customers in the community within its certified area that are reasonably comparable to the advanced services provided in their larger exchanges. Requires the company upon such request to perform certain procedures.

(c) Sets forth criteria for advanced services to be provided by the company.

Sec. 55.404. DEPLOYMENT OF ADVANCED SERVICES TO RURAL AREAS. (a) Sets forth provisions regarding companies and communities to encourage local solutions to the

deployment of advanced services.

(b) Authorizes rural communities with populations less than 20,000, in accordance with Section 55.4025 and in addition to the provisions of Subsection (a), 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 local solutions 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.

(d) Provides that in rural communities with populations less than 2,000, beginning January 1, 2002, 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.

(e) Provides that rural communities under Subsection (d) are not required to demonstrate market failure to the commission prior to requesting the provisions under Subsection (d).

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) Requires the commission, in order to perform strategic planning, to collect and make use of data and information deemed necessary to ensure the most efficient deployment of advanced services throughout the state.

(d) Requires information obtained pursuant to this subchapter to be confidential, 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 4. Amends Section 57.042, Utilities Code, as follows:

Sec. 57.042. DEFINITIONS. Defines “advanced services” and “community technology centers.”

SECTION 5. 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 advanced services to rural areas of this state pursuant to Sections 55.4025 and 55.404.

SECTION 6. 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 advanced services in rural areas of the state pursuant to Sections 55.4025 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 advanced services to rural areas of this state.

(e) Provides that a grant or loan awarded under this section is subject to the limitations prescribed by Sections 57.046 and 57.0475. Deletes text regarding board member.

SECTION 7. Amends Chapter 57C, Utilities Code, by adding Section 57.0475, as follows:

Sec. 57.0475. GRANTS TO RURAL AREAS FOR ADVANCED TELECOMMUNICATIONS SERVICES. (a) Sets forth provisions regarding the policy of this state.

(b) Authorizes any public or governmental entity or political subdivision, or person, association, or entity, within a rural area, as defined by Section 55.402, to seek funds for certain provisions.

(c) Requires the board to adopt rules to implement this section in cooperation with the Public Utility Commission of Texas 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 area.

SECTION 8. Amends Sections 57.048, 57.050, 57.051, Utilities Code, as follows:

Sec. 57.048. ASSESSMENTS AND COLLECTIONS. Deletes text regarding amounts deposited to the fund.

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 that chapter, the board is abolished and this subchapter expires September 1, 2010, rather than 2005.

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 2120.060.

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 any 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 delete text regarding policy of the state.

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

Sec. 2170.060. RURAL AREA ACCESS TO CONSOLIDATED TELECOMMUNICATIONS SYSTEM. (a) Sets forth provisions regarding state policy.

(b) Requires the General Services Commission to coordinate its duties and responsibilities with the telecommunications infrastructure fund and permit access, pursuant to Public Utility Commission of Texas approval under Section 55.404, Utilities Code.

(c) 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 area.

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 use eminent domain authority to appropriate real property, rights-of-way, or other property as necessary to efficiently carry out those objects. 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 use eminent domain authority to appropriate real property, rights-of-way, or other property as necessary to efficiently carry out those objects. 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 use eminent domain authority to appropriate real property, rights-of-way, or other property as necessary to efficiently carry out those objects. 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 use eminent domain authority to appropriate real property, rights-of-way, or other property as necessary to efficiently carry out those objects. Authorizes the municipality to adopt rules, not inconsistent with existing state law, it considers advisable for the provisioning of advanced services.

SECTION 16. Effective date: September 1, 2001.