SUBJECT: Creating a broadband office and a broadband service investment program

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 11 ayes — Phelan, Deshotel, Guerra, Harless, Holland, Hunter, P. King, Parker, Raymond, E. Rodriguez, Springer

0 nays

2 absent — Hernandez, Smithee

WITNESSES: For — Kenny Scudder, AARP; (*Registered, but did not testify*: Kara Mayfield, Association of Rural Communities in Texas; Marisa Finley, Baylor Scott and White Health; Andrew Wise, Microsoft; Jeremy Fuchs, Texas and Southwestern Cattle Raisers Association; Jennifer Bergland, Texas Computer Education Association; Evan Autry, Texas Electric Cooperatives; Michael Pacheco, Texas Farm Bureau; Patrick Wade, Texas Grain Sorghum Association; Sara Gonzalez, Texas Hospital Association; Dan Finch, Texas Medical Association; Monty Wynn, Texas Municipal League; Ryan Skrobarczyk, Texas Nursery & Landscape Association; Daniel Gonzalez, Texas Realtors; Bay Scoggin, Texas Public Interest Research Group)

Against — Bob Digneo, AT&T Texas; Richard Lawson, Verizon; (*Registered, but did not testify*: Jason Winborn, AT&T; James Hines, Texas Association of Business; Deborah Giles, Texas Technology Consortium and Center for Technology)

On — Francisco Enriquez and Thomas Visco, Glasshouse Policy; Walt Baum, Texas Cable Association; (*Registered, but did not testify*: JP Urban, Public Utility Commission of Texas)

BACKGROUND: Interested parties have raised concerns that a lack of access to broadband service is leaving rural Texas behind with regard to access to education, healthcare services, and economic development opportunities.

DIGEST:

CSHB 2423 would establish a broadband office in the Public Utility Commission of Texas (PUC), require that office to establish a broadband grant program, and create a broadband investment account in the general revenue fund for the purposes of the grant program. The bill would apply only to broadband service provided by a private-sector provider.

Broadband investment account. CSHB 2423 would create the broadband investment account in the general revenue fund. The account would consist of legislative appropriations, gifts, grants, federal grants, donations, and earned interest. Money in the account could be appropriated only to the broadband office for the purposes of the grant program.

Broadband office. The bill would require the broadband office to:

- facilitate and coordinate the efforts of state agencies, hospitals, schools, and local units of government, including regional planning commissions, in connection with broadband projects;
- develop proposals for broadband investment and deployment strategies for unserved areas in rural communities and other areas;
- promote and coordinate public- and private-sector broadband service solutions in support of development goals;
- assist and promote local and regional broadband planning;
- pursue and obtain federal sources of funding;
- develop a framework to measure broadband access and designate unserved areas;
- develop statewide goals for broadband service deployment in unserved areas;
- manage and award funds allocated to the office for projects; and
- serve as an information clearinghouse for federal programs that provide broadband assistance to local entities.

PUC could employ any additional employees necessary to complete these duties.

The bill would not authorize PUC to regulate broadband services or service providers; require service providers to submit information to the commission; or require or authorize the commission to require a service provider to participate in any service planning, activities, or initiatives.

Broadband grant program. CSHB 2423 would require the broadband office to establish a program to provide grants to applicants for the expansion of access to broadband services in unserved areas. The office would divide the state into at least five regions, and it would award grants as equitably across those regions as possible. When practical, the office would prioritize applications for projects for unserved areas in counties with a population of less than 10,000.

The broadband office would be required to establish and publish criteria for grant recipients. Grants could not exceed $250,000 and could not fund more than 30 percent of the total cost of the project.

Grant applications. Eligible applicants would include a for-profit or non-profit organization, including a cooperative, a telecommunications provider, or a facilities-based broadband service or wireless provider.

Applications would be required to have certain information outlined by the bill, including a description of the proposed project territory and the number of homes, farms, schools, public facilities, hospitals, and businesses that would be served by the project. Applicants would be required to provide notice of the application to all political subdivisions, hospitals, and other service providers in the proposed area prior to submission. The office could not deny an application solely because the project had additional sources of funding, nor could it favor a particular technology in awarding grants. Any information not included in the application could not be considered in awarding the grant.

The office could require applicants to consolidate multiple projects that were in a single census block. Grants would be awarded on a competitive basis and would be subject to considerations outlined in the bill, including the potential economic effects of the project and whether the project would delay the provision of broadband in neighboring areas. The office would not be required to approve any applications.

The office would be required to post information regarding the application process and allow for a 30-day comment period on each application. Any protests would be provided to the applicant, who would be required to provide additional information upon request. If the office intended to deny any part of the application, the office would be required to provide the applicant seven days notice to amend the proposal. If the office intended to grant the application, it would be required to notify the protestor no later than 15 days prior to approval.

Program standards. PUC would be required to consider federal standards used by similar, nationwide programs, for minimum broadband service provided by a grant recipient. The standards would have to include requirements that the grant recipient provided broadband at rates reasonably comparable to rates for similar services in urban areas. The recipient could not use caps on data usage in the project's territory. Grants could be provided in conditional installments to ensure the recipient complied with program requirements.

Written agreement with grant recipients. CSHB 2423 would require the broadband office to enter into a written agreement with an entity that was to be awarded a grant. The agreement would be required to specify that, if PUC found the recipient to have not complied with minimum service standards or any of the applicable rules, the recipient would be required to repay the grant. If the recipient had not used the grant money for its intended purpose by a date provided in the agreement, the recipient would have to repay the grant.

Reporting requirements. When a project was completed, the recipient would be required to notify the broadband office and to provide annual reports to the office for three years following project completion to inform the office of the recipient's compliance with program standards. The office could request information from a recipient to verify the reports and would have to make that information publicly available.

By December 1 of each even-numbered year, the broadband office would be required to provide a report to the Legislature that included the amount of money granted through the program, the amount of money approved but not yet distributed, the name of each grantee with a location and description of the project, a progress report of ongoing projects, and a report of all projects that were completed during the reporting period.

The bill would take effect September 1, 2019.

NOTES: According to the Legislative Budget Board, the bill would have a negative impact of about $1.2 million to general revenue related funds through fiscal 2020-21.