

Proposition 8

(H.J.R. 125, 88th Leg., R.S.)

The constitutional amendment creating the broadband infrastructure fund to expand high-speed broadband access and assist in the financing of connectivity projects.

SUMMARY ANALYSIS

H.J.R. 125 proposes the addition of Section 49-d-16, Article III, Texas Constitution, to create the broadband infrastructure fund for the expansion of access to and adoption of broadband and telecommunications services. The proposed amendment takes effect January 1, 2024, and expires on September 1, 2035, unless extended for 10 years by a concurrent resolution approved by a record vote of two-thirds of the members of each house of the legislature. The legislature has appropriated \$1.5 billion to the proposed fund contingent on voter approval of the proposed amendment.

BACKGROUND AND DETAILED ANALYSIS

The constitutional amendment proposed by H.J.R. 125 creates the broadband infrastructure fund as a special fund in the state treasury outside the general revenue fund and authorizes the comptroller of public accounts to administer the fund. The fund consists of money transferred or deposited to the credit of the fund by the constitution, general law, or the General Appropriations Act, revenue dedicated by general law for deposit to the credit of the fund, investment earnings and interest earned on money in the fund, and gifts, grants, and donations to the fund.

The proposed amendment prescribes that the money in the fund may be used, without further appropriation, only for the expansion of access to and adoption of broadband and telecommunications services, including the development, construction, reconstruction, expansion, operation, and provision of broadband and telecommunications infrastructure or services. The proposed amendment authorizes transfers of money from the fund to another fund to be used only as provided by general law for the expansion of access to and adoption of broadband. Money in the

fund may be used in conjunction with other state or federal funds in accordance with procedures, standards, and limitations established by federal and general law.

Finally, the proposed amendment requires the comptroller to transfer to the general revenue fund any unexpended and unobligated balance remaining in the broadband infrastructure fund before the expiration date of proposed Section 49-d-16, Article III, Texas Constitution.

H.B. 9, 88th Legislature, Regular Session, enacts Subchapter T, Chapter 403, Government Code, providing for the administration of the broadband infrastructure fund, including the specific purposes for which the comptroller may disburse money from the fund. H.B. 9 takes effect only if this proposed constitutional amendment is approved by the voters.

The 2023 General Appropriations Act (Rider 18.05, page IX-122, H.B. 1, 88th Legislature, Regular Session, 2023) appropriates \$1.5 billion in general revenue to the proposed broadband infrastructure fund in fiscal year 2024. The appropriation is contingent on the enactment of H.B. 9 and voter approval of this proposed constitutional amendment.

SUMMARY OF COMMENTS

The following comments supporting or opposing the proposed amendment reflect positions that were presented in committee proceedings, during house or senate floor debate, or in the analysis of the resolution prepared by the House Research Organization (HRO) when the resolution was considered by the House of Representatives.

Comments by Supporters

- Establishing a fund to support broadband expansion and infrastructure investment would provide resources to close the digital divide in Texas, which in turn could help to improve quality of life and lead to increased economic growth.
- Without reliable access to broadband Internet, millions of Texans are at a disadvantage in seeking employment opportunities and accessing certain educational and health care services that are increasingly going virtual.

- By investing state dollars in the expansion of broadband infrastructure, the state would be well positioned to draw down funds from the federal Broadband Equity, Access, and Deployment (BEAD) Program, which matches state dollars on a four-to-one basis.
- A state funding source for broadband expansion will provide much-needed flexibility in achieving broadband attainment goals that is missing with federal programs that come with certain added constraints.

Comments by Opponents

- The broadband infrastructure fund should be required to prioritize projects that develop fiber optic broadband infrastructure, which may be faster, safer, and more durable and reliable than wireless broadband.
- Texas has previously allocated \$600 million for broadband purposes, and the state is likely to receive billions of dollars from the federal BEAD program for these purposes. Creating a costly new broadband fund with state taxpayer dollars is excessive and fiscally irresponsible.

Text of H.J.R. 125

A JOINT RESOLUTION

proposing a constitutional amendment creating the broadband infrastructure fund to expand high-speed broadband access and assist in the financing of connectivity projects.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article III, Texas Constitution, is amended by adding Section 49-d-16 to read as follows:

Sec. 49-d-16. (a) In this section:

(1) "Comptroller" means the comptroller of public accounts of the State of Texas or its successor.

(2) "Fund" means the broadband infrastructure fund.

(b) The broadband infrastructure fund is created as a special fund in the state treasury outside the general revenue fund.

(c) The fund consists of:

(1) money transferred or deposited to the credit of the fund by this constitution, general law, or the General Appropriations Act;

(2) revenue that the legislature by general law dedicates for deposit to the credit of the fund;

(3) investment earnings and interest earned on money in the fund;
and

(4) gifts, grants, and donations to the fund.

(d) Money in the fund shall be administered by the comptroller. Money from the fund may be used, without further appropriation, only for the expansion of access to and adoption of broadband and telecommunications services, including:

(1) the development, construction, reconstruction, and expansion of broadband and telecommunications infrastructure or services;

(2) the operation of broadband and telecommunications infrastructure;

(3) the provision of broadband and telecommunications services;
and

(4) the reasonable expenses of administering and managing the investments of the fund.

(e) The legislature by general law shall provide for the manner in which the assets of the fund may be used, subject to the limitations of this section. Money in the

fund may be used in conjunction with other funds or financial resources, including money from the federal government, in accordance with procedures, standards, and limitations established by federal law and general law of this state.

(f) The comptroller may transfer money from the fund to another fund as provided by general law. The state agency that administers the fund to which the money is transferred as authorized by this subsection may use the money without further appropriation only for the expansion of access to and adoption of broadband and telecommunications services as provided by general law.

(g) Unless extended by adoption of a concurrent resolution approved by a record vote of two-thirds of the members of each house of the legislature, this section expires on September 1, 2035. A resolution suspends the expiration of this section until September 1 of the 10th year following the adoption of the resolution.

(h) Immediately before the expiration of this section, the comptroller shall transfer any unexpended and unobligated balance remaining in the fund to the general revenue fund.

(i) For purposes of Section 22, Article VIII, of this constitution:

(1) money in the fund is dedicated by this constitution; and

(2) an appropriation of state tax revenues for the purpose of depositing money to the credit of the fund is treated as if it were an appropriation of revenues dedicated by this constitution.

SECTION 2. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the amendment to Article III of this constitution as proposed by the 88th Legislature, Regular Session, 2023, creating the broadband infrastructure fund to expand high-speed broadband access and assist in the financing of connectivity projects.

(b) The change made to Article III of this constitution by the amendment described in Subsection (a) of this section takes effect January 1, 2024.

(c) This temporary provision expires January 1, 2025.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2023. The ballot shall be printed to permit voting for or against the proposition: “The constitutional amendment creating the broadband infrastructure fund to expand high-speed broadband access and assist in the financing of connectivity projects.”

House Author: Ashby

Senate Sponsor: Huffman

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