

SUBJECT: Revising sources of uniform charge for the universal service fund

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 11 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Lucio, Raymond, Slawson, Smithee

0 nays

2 absent — Metcalf, Shaheen

WITNESSES: For — Charlie Cano, Etex Telephone Cooperative; Mark Washington, Five Area Telephone Coop. and TSTCI; Mark Seale, Texas Telephone Association; Daniel Gibson, TSTCI; Mike Hunsucker, Windstream; (*Registered, but did not testify*: Jim Bellina, AMA TechTel; Shayne Woodard, Big Bend Telephone Company and Brazoria Telephone Company; Barry Haenisch, Texas Association of Community Schools; Kenneth Hodges, Texas Corn Producers; Charlie Leal, Texas Farm Bureau; Monty Wynn, Texas Municipal League; Don McBeath, Texas Organization of Rural and Community Hospitals; John Hubbard and Ian Randolph, Texas Telephone Association; Weldon Gray, TSTCI; Grover Campbell, Texas Association of School Boards; Russell Parish)

Against — Joseph Gillan, Texas Cable Association; (*Registered, but did not testify*: Richard Lawson, Verizon)

On — Thomas Gleeson, Public Utility Commission of Texas

BACKGROUND: Utilities Code ch. 56 establishes the Telecommunications Assistance and Universal Service Fund (TUSF) to assist telecommunications providers in providing basic local telecommunications service at reasonable rates in high cost rural areas under two plans:

- the Texas High Cost Universal Service Plan; and
- the Small and Rural Incumbent Local Exchange Company Universal Service Plan.

The TUSF is operated by the Public Utility Commission (PUC) and funded by a statewide uniform charge payable by each telecommunications provider that has access to the customer base. The uniform charge is on services and at rates determined by the PUC.

DIGEST:

CSHB 2667 would expand the providers required to pay the uniform charge to fund the Telecommunications Assistance and Universal Service Fund (TUSF) to include providers of Voice over Internet Protocol service that had access to high cost rural areas.

The bill would allow the uniform charge to be in the form of a fee or an assessment on revenues. In establishing the charge and the services to which the charge would apply, the Public Utility Commission (PUC) could not:

- assess the charge in a manner that was not technology-neutral or that granted an unreasonable preference based on technology; or
- assess a charge for the service, as a fee or otherwise, on a device that a consumer of the service used to access the service.

The bill would define "high cost rural area" as it related to the TUSF to mean:

- an area served by certain incumbent local exchange companies or cooperatives; or
- an exchange receiving support under the Texas High Cost Universal Service Plan or the Small and Rural Incumbent Local Exchange Company Universal Service Plan and designated by PUC rule.

The designation of an exchange as a high cost rural area would have to take into account the number of providers serving the exchange, the population density in the exchange, and the number of customers served per route mile of plant in service used to provide basic telecommunications service.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

**SUPPORTERS
SAY:**

CSHB 2667 would address funding shortages of the Texas Universal Service Fund (TUSF) and restore its ability to meet regulatory and statutory obligations by requiring providers of Voice over Internet Protocol (VoIP) service operating in high cost rural areas to pay the uniform charge.

Currently, all Texas landline and wireless providers and customers pay the TUSF assessment, which is a charge on a phone bill collected from all users and redistributed to the networks that carry broadband signals in rural areas where the customer density is too low and the cost is too high to otherwise be able to provide service, helping to keep rural Texans connected. However, the manner in which revenues have been collected has been inconsistent, leading to the current fund shortfall.

The Public Utility Commission (PUC) has discretion to update the funding methodology for TUSF but it has not taken action to address the insolvency of the fund, which could be done by applying the assessment to voice services of all technologies, including VoIP, which is a technology that allows users to make and receive phone calls over the internet. In addition, PUC has refrained from considering a flat fee connections-based assessment, which is a technology- and provider-neutral methodology that has been adopted in other states and would ease the burden on Texans.

The bill would clarify that PUC could move away from revenue assessments to a fee or implement a potential connections-based flat fee, which could prevent a disproportionate burden from being placed on a small group of consumers. Additionally, the bill would not mandate a change in methodology, and any shift to a flat fee connections-based methodology would have to be implemented through rulemaking at PUC, allowing input from the industry and consumers.

This bill is not intended to be an overall policy look or overhaul of TUSF, but rather address an immediate problem by taking an obligation PUC already has under law and providing legislative direction. PUC currently has a mandate to fund all obligations of the TUSF that are set in law, but PUC has expressed concerns that the current assessment rate methodology is not working and burdens certain consumers over others. Rather than PUC exercising its authority to raise the assessment rate, use rulemaking to modernize contribution methodology, or make sure the current assessment is technology- or provider-neutral, the TUSF has been allowed to be depleted. The bill would provide clarification that options were available and the PUC should exercise its authority.

**CRITICS
SAY:**

CSHB 2667 would not adequately address the problems with the TUSF. Before any action is taken to address the issues with the fund, there should be a holistic review that looked at both contributions to the fund and disbursements from the fund. Further, expanding the fund to require VoIP providers to pay the uniform charge would not solve the problem as it would not take into account changes in customers' preferences. The bill would assess and capture a connections fee between providers and customers by expanding the TUSF uniform charge to include a fee. Before increasing costs by expanding the uniform charge, the fund should be reviewed.