

BILL ANALYSIS

Senate Research Center
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S.B. 914
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DIGEST AND PURPOSE

A number of issues have arisen between railroad companies and a stakeholder group, consisting of the oil and gas industry, specifically pipelines; electric utilities; and telecommunications companies, over agreements regarding railroad rights-of-way. Thus far, discussions between these entities have not yielded a solution. Railroad company actions of greatest concern to the stakeholder group are: changing terms of existing license agreements, substantially increasing lease costs despite the absence of an escalation clause, granting licenses with no property interest rights to convey, termination threats, and an unwillingness to disclose rights and responsibilities granted to the railroad. As proposed, S.B. 914 provides a uniform provision for a utility, common carrier, or energy transporter to use a railroad right-of-way and defines “fair market value” and procedure for valuation. S.B. 914 also requires railroads to provide, upon request, documentation of the extent of their right and title of property.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Establishes the purpose of this Act as creating uniform laws relating to the construction and maintenance of utility, common carrier, and energy transporter facilities along, over, under, or across a railroad right-of-way and to grant those entities certain rights, privileges, and responsibilities, and provide a uniform process for them to obtain the necessary rights to construct and maintain their facilities in railroad rights-of-way in this state.

SECTION 2. Amends Chapter 186, Utilities Code, by adding Subchapter E, as follows:

SUBCHAPTER E. CONSTRUCTION AND MAINTENANCE OF FACILITIES ALONG, OVER, UNDER, OR ACROSS RAILROAD RIGHT-OF-WAY

Sec. 186.051. DEFINITIONS. Defines “common carrier,” “energy transporter,” “fair market value,” “railroad,” “railroad right-of-way,” and “utility.”

Sec. 186.052. EXEMPTIONS. (a) Provides that including an energy transporter in this subchapter does not subject it to regulation as a utility or common carrier.

(b) Provides that including a common carrier in this subchapter does not subject it to regulation as a utility.

Sec. 186.053. CONSTRUCTION AND MAINTENANCE OF UTILITY AND COMMON CARRIER FACILITIES. Grants a utility, common carrier, or energy transporter the right to construct and maintain its facilities along, over, under, or across a railroad or its right-of-way.

Sec. 186.054. DOCUMENTATION OF RIGHTS ACQUIRED. Requires the railroad, if requested, to provide the documentation that demonstrates the extent of its right, title, or interest in property sought to be used by the utility, common carrier, or energy transporter, if the railroad requires it to obtain from the railroad a right to use the railroad right-of-way . Provides that if the railroad has no demonstrable real property interest in or right to grant an easement sought by a utility, common carrier, or energy transporter, then a utility, common carrier, or energy transporter does not owe the railroad compensation for use of the property.

Sec. 186.055. VALUATION OF RIGHTS ACQUIRED. (a) Authorizes a utility, common carrier, or energy transporter to obtain the right to use a railroad right-of-way through eminent domain, in the absence of an agreement for use of the right-of-way.

(b) Provides that the compensation due the railroad under eminent domain is the fair market value of the real property interest to be used. Provides that the value is limited to the value of the property interest owned by the railroad and sought to be used by the utility, common carrier, or energy transporter.

(c) Prohibits the property interest from being valued at more than the valuation for the real property adjacent to the right-of-way.

(d) Authorizes the railroad to recover the cost to repair any damage to its facilities caused by construction or maintenance of the utility, common carrier, or energy transporter facilities.

(e) Provides that payment, determined under this section, by the utility, common carrier, or energy transporter is the only compensation due the railroad for perpetual use of the interest obtained.

Sec. 186.056. RIGHT TO MAINTAIN FACILITIES. Prohibits requiring the utility, common carrier, or energy transporter to remove existing facilities while condemnation proceedings or negotiations to purchase right to use the railroad right-of-way are pending.

Sec. 186.057. CUMULATIVE RIGHTS AND RESPONSIBILITIES. Provides that the rights, privileges, and responsibilities provided by this subchapter are in addition to, not in substitution for, rights granted by any other law of the state.

SECTION 3. Effective date: September 1, 2003.