

By: Averitt

S.B. No. 40

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a comprehensive study of right-of-way use compensation
3 paid to governmental entities by communications and technology
4 providers.

5 SECTION 1. The Legislature shall conduct a study on
6 right-of-way use compensation paid to governmental entities by
7 communications and technology service providers. The study shall
8 be conducted by the newly created JOINT LEGISLATIVE OVERSIGHT
9 COMMITTEE ON COMMUNICATIONS AND TECHNOLOGY.

10 SECTION 2. JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON
11 COMMUNICATIONS AND TECHNOLOGY. (a) In this Act, "committee" means
12 the Joint Legislative Oversight Committee on Communications and
13 Technology.

14 (b) The committee is composed of nine members as follows:

15 (1) the chair of the Senate Committee on Business and
16 Commerce;

17 (2) the chair of the House Committee on Regulated
18 Industries;

19 (3) three members of the senate appointed by the
20 lieutenant governor;

21 (4) three members of the house of representatives
22 appointed by the speaker of the house of representatives; and

23 (5) the chief executive of the Office of Public
24 Utility Counsel.

1 (c) The members must be appointed by the appropriate
2 appointing official to the committee by November 1, 2005. An
3 appointed member of the committee serves at the pleasure of the
4 appointing official.

5 (d) The committee shall conduct a comprehensive study and
6 file a report with the legislature not later than November 1, 2006,
7 containing the committee's revenue-neutral, technology-neutral,
8 and competitively neutral recommendations concerning compensation
9 paid to governmental entities, including but not limited to
10 municipalities, from communications and technology service
11 providers. The report shall address the following items:

12 (1) all sources of compensation historically paid to
13 municipalities, and other governmental entities, from
14 communications and technology service providers for the use of the
15 public rights-of-way;

16 (2) the types of communications and technology
17 services available to consumers within municipalities without
18 regard to the technology used to deliver such services;

19 (3) alternative funding mechanisms, including but not
20 limited to the possibility of a new communications and technology
21 assessment that would include all types of communications and
22 technology service providers, that would be revenue-neutral to the
23 municipalities, technology-neutral, and competitively neutral in
24 application to the providers, their services, and consumers;

25 (4) the mechanism for assessment, collection, and
26 payment of any fee, including franchise fees and right-of-way use
27 compensation paid to municipalities;

1 (5) the advantages and disadvantages of a state-issued
2 franchises for the provision of cable and video services versus
3 municipally issued franchises for the provision of cable and video
4 services;

5 (6) the proper terms and conditions of a state-issued
6 franchise for the provision of cable and video service if the
7 franchise is recommended and how the terms and conditions would be
8 imposed and enforced;

9 (7) the proper state agency for issuing a state-issued
10 franchise for the provision of cable and video service if such
11 franchise is recommended;

12 (8) the role of a municipality if the state issues a
13 franchise authorizing the provision of cable and video service
14 within the municipality, if franchising by the state is
15 recommended;

16 (9) whether any cable and video service provider
17 should be exempt from the application of a franchise requirement,
18 and, if so, the reasons for such exemption;

19 (10) issues with regard to the imposition of state
20 highway right-of-way charges on communications and technology
21 service providers; and

22 (11) review of how utility relocation costs are
23 apportioned among communications and technology service providers
24 when a utility relocation in the public right-of-way is
25 necessitated by a public improvement project.

26 (d) The Public Utility Commission shall:

27 (1) assist with the collection and compilation of

1 information as necessary to conduct the study under this section;

2 (2) maintain the confidentiality of information
3 collected under this section that is claimed to be confidential for
4 competitive purposes; and

5 (3) provide a summary of any congressional or federal
6 agency actions that impact issues reviewed by the committee.

7 (e) Information that is claimed to be confidential under
8 Subsection (d) is exempt from disclosure under Chapter 552,
9 Government Code.

10 (f) The committee may request reports and other information
11 from the Public Utility Commission, governmental entities, and from
12 communications and technology service providers as necessary to
13 carry out this section.

14 SECTION 3. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect on the 91st day after the last day of the
19 legislative session.