

1-1 By: Averitt S.B. No. 40
1-2 (In the Senate - Filed June 24, 2005; June 24, 2005, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 July 6, 2005, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; July 6, 2005,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 40 By: Carona

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to a comprehensive study of right-of-way use compensation
1-11 paid to governmental entities by communications and technology
1-12 providers.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON
1-15 COMMUNICATIONS AND TECHNOLOGY. (a) The Joint Legislative
1-16 Oversight Committee on Communications and Technology is created.

1-17 (b) The committee shall conduct a study on right-of-way use
1-18 compensation paid to governmental entities by communications and
1-19 technology service providers.

1-20 (c) In this Act, "committee" means the Joint Legislative
1-21 Oversight Committee on Communications and Technology.

1-22 SECTION 2. COMMITTEE COMPOSITION. (a) The committee is
1-23 composed of nine members as follows:

1-24 (1) the chair of the Senate Committee on Business and
1-25 Commerce;

1-26 (2) the chair of the House Committee on Regulated
1-27 Industries;

1-28 (3) three members of the senate appointed by the
1-29 lieutenant governor;

1-30 (4) three members of the house of representatives
1-31 appointed by the speaker of the house of representatives; and

1-32 (5) the chief executive of the Office of Public
1-33 Utility Counsel.

1-34 (b) The appointed members of the committee shall be
1-35 appointed not later than November 1, 2005. An appointed member of
1-36 the committee serves at the pleasure of the appointing official.

1-37 SECTION 3. STUDY; REPORT. (a) The committee shall conduct
1-38 a comprehensive study and file a report with the legislature not
1-39 later than November 1, 2006, containing the committee's
1-40 revenue-neutral, technology-neutral, and competitively neutral
1-41 recommendations concerning compensation paid to governmental
1-42 entities, including municipalities, by communications and
1-43 technology service providers. The report shall address the
1-44 following items:

1-45 (1) all sources of compensation historically paid to
1-46 municipalities and other governmental entities by communications
1-47 and technology service providers for the use of the public
1-48 rights-of-way;

1-49 (2) the types of communications and technology
1-50 services available to consumers within municipalities, without
1-51 regard to the technology used to deliver such services;

1-52 (3) alternative funding mechanisms, including the
1-53 possibility of a new communications and technology assessment that
1-54 would include all types of communications and technology service
1-55 providers and that would be technology-neutral, revenue-neutral to
1-56 the municipalities, and competitively neutral in application to the
1-57 providers, their services, and consumers;

1-58 (4) the mechanism for the assessment, collection, and
1-59 payment of any fee, including franchise fees and right-of-way use
1-60 compensation paid to municipalities;

1-61 (5) the advantages and disadvantages of state-issued
1-62 franchises for the provision of cable and video services versus
1-63 municipally issued franchises for the provision of those services;

2-1 (6) the proper terms and conditions of a state-issued
2-2 franchise for the provision of cable and video service if such
2-3 franchise is recommended, and how the terms and conditions would be
2-4 imposed and enforced;

2-5 (7) the proper state agency for issuing a state-issued
2-6 franchise for the provision of cable and video service if such
2-7 franchise is recommended;

2-8 (8) the role of a municipality if the state issues a
2-9 franchise authorizing the provision of cable and video service
2-10 within the municipality, if franchising by the state is
2-11 recommended;

2-12 (9) whether any cable and video service provider
2-13 should be exempt from the application of a franchise requirement,
2-14 and, if so, the reasons for such exemption;

2-15 (10) issues with regard to the imposition of state
2-16 highway right-of-way charges on communications and technology
2-17 service providers; and

2-18 (11) a review of how utility relocation costs are
2-19 apportioned among communications and technology service providers
2-20 when a utility relocation in the public right-of-way is
2-21 necessitated by a public improvement project.

2-22 (b) The Public Utility Commission of Texas shall:

2-23 (1) assist with the collection and compilation of
2-24 information necessary to conduct the study under this section;

2-25 (2) maintain the confidentiality of information
2-26 collected under this section that is claimed to be confidential for
2-27 competitive purposes; and

2-28 (3) provide a summary of any congressional or federal
2-29 agency actions that have an impact on issues reviewed by the
2-30 committee.

2-31 (c) Information that is claimed to be confidential under
2-32 Subsection (b) of this section is exempt from disclosure under
2-33 Chapter 552, Government Code.

2-34 (d) The committee may request reports and other information
2-35 from the Public Utility Commission of Texas, from governmental
2-36 entities, and from communications and technology service providers
2-37 as necessary to carry out this section.

2-38 SECTION 4. EFFECTIVE DATE. This Act takes effect
2-39 immediately if it receives a vote of two-thirds of all the members
2-40 elected to each house, as provided by Section 39, Article III, Texas
2-41 Constitution. If this Act does not receive the vote necessary for
2-42 immediate effect, this Act takes effect on the 91st day after the
2-43 last day of the legislative session.

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