

By: West, Royce

S.B. No. 756

A BILL TO BE ENTITLED

AN ACT

relating to relocating or adjusting certain utility facilities.

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

SECTION 1. Section 251.102, Transportation Code, is amended to read as follows:

Sec. 251.102. COST OF RELOCATING OR ADJUSTING UTILITY FACILITY. (a) In this section, "eligible utility facility" means:

(1) a utility facility the relocation or adjustment of which is required by improvement of a highway in this state that is established by appropriate authority as part of the National System of Interstate and Defense Highways and the relocation or adjustment is eligible for federal participation; or

(2) a utility facility:

(A) the relocation or adjustment of which is required by the construction or improvement of a segment of a county road; and

(B) that is located on land in which the utility that owns the facility has a compensable property interest.

(b) A county shall include the cost of relocating or adjusting an eligible utility facility in the expense of right-of-way acquisition.

(c) This section does not waive a county's sovereign immunity to lawsuits or liability.

SECTION 2. Chapter 11, Utilities Code, is amended by adding

1 Section 11.010 to read as follows:

2 Sec. 11.010. COST OF RELOCATING OR ADJUSTING UTILITY  
3 FACILITY. (a) Except as provided by Subsection (b), a utility  
4 shall relocate or adjust at the utility's expense a utility  
5 facility that is located in a public right-of-way if:

6 (1) the utility does not have a compensable property  
7 interest in the land occupied by the facility; and

8 (2) a governmental entity requests that the utility  
9 facility be relocated or adjusted to allow:

10 (A) the widening or other changing of a traffic  
11 lane; or

12 (B) the construction, reconstruction, operation,  
13 maintenance, repair, or replacement of a road, drainage facility,  
14 or other public project.

15 (b) If the relocation or adjustment of the utility facility  
16 is required by improvement of a highway in this state that is  
17 established by appropriate authority as part of the National System  
18 of Interstate and Defense Highways and the relocation or adjustment  
19 is eligible for federal participation, a utility shall relocate or  
20 adjust its facility at the expense of the state.

21 SECTION 3. Section 181.024(a), Utilities Code, is amended  
22 to read as follows:

23 (a) A gas utility proposing under this subchapter to locate  
24 a gas facility in the right-of-way of a state highway or a county  
25 road [~~not in a municipality~~] shall give notice of the proposal to:

26 (1) the Texas Transportation Commission if the  
27 proposal relates to a state highway; or

1           (2) the commissioners court of the county if the  
2 proposal relates to a county road.

3           SECTION 4. Sections 181.025(a) and (b), Utilities Code, are  
4 amended to read as follows:

5           (a) The authority of the Texas Transportation Commission  
6 under this section is limited to a gas facility on a state highway  
7 not in a municipality. The authority of the commissioners court  
8 under this section is limited to a gas facility on a county road not  
9 in a municipality unless the road:

10                   (1) was constructed by the county;

11                   (2) is improved or maintained by the county; or

12                   (3) is listed on the county road log.

13           (b) The Texas Transportation Commission or the  
14 commissioners court of a county may require a gas utility to  
15 relocate the utility's gas facility, at the utility's own expense,  
16 to allow the:

17                   (1) widening or other changing of a traffic lane; or

18                   (2) construction, reconstruction, operation,  
19 maintenance, repair, or replacement of a road, drainage facility,  
20 or other public project.

21           SECTION 5. Section 181.044(a), Utilities Code, is amended  
22 to read as follows:

23           (a) An electric utility proposing under this subchapter to  
24 construct a line along the right-of-way of a state highway or a  
25 county road [~~not in a municipality~~] shall give notice of the  
26 proposal to:

27                   (1) the Texas Transportation Commission if the

1 proposal relates to a state highway; or

2 (2) the commissioners court of the county if the  
3 proposal relates to a county road.

4 SECTION 6. Sections 181.046(a) and (b), Utilities Code, are  
5 amended to read as follows:

6 (a) The authority of the Texas Transportation Commission  
7 under this section is limited to a line on a state highway not in a  
8 municipality. The authority of the commissioners court under this  
9 section is limited to a line on a county road not in a municipality  
10 unless the road:

11 (1) was constructed by the county;

12 (2) is improved or maintained by the county; or

13 (3) is listed on the county road log.

14 (b) The Texas Transportation Commission or the  
15 commissioners court of a county may require an electric utility to  
16 relocate a line of the utility, at the utility's own expense, to  
17 allow the:

18 (1) widening of a right-of-way;

19 (2) changing of a traffic lane;

20 (3) improving of a road bed; [~~or~~]

21 (4) improving of a drainage ditch located on a  
22 right-of-way; or

23 (5) construction, reconstruction, operation,  
24 maintenance, repair, or replacement of a road, drainage facility,  
25 or any other public project.

26 SECTION 7. Section 181.082, Utilities Code, is amended to  
27 read as follows:

1           Sec. 181.082. AUTHORITY TO INSTALL FACILITY IN RELATION TO  
2 PUBLIC PROPERTY. (a) A telephone or telegraph corporation may  
3 install a facility of the corporation along, on, or across a public  
4 road, a public street, or public water in a manner that does not  
5 inconvenience the public in the use of the road, street, or water.

6           (b) The authority of the Texas Transportation Commission  
7 under this section is limited to a line on a state highway not in a  
8 municipality. The authority of the commissioners court under this  
9 section is limited to a line on a county road not in a municipality  
10 unless the road:

11                   (1) was constructed by the county;

12                   (2) is improved or maintained by the county; or

13                   (3) is listed on the county road log.

14           (c) The Texas Transportation Commission or the  
15 commissioners court of a county may require an electric utility to  
16 relocate a line of the utility at the utility's expense to allow  
17 the:

18                   (1) widening of a right-of-way;

19                   (2) changing of a traffic lane;

20                   (3) improving of a road bed;

21                   (4) improving of a drainage ditch located on a  
22 right-of-way; or

23                   (5) construction, reconstruction, operation,  
24 maintenance, repair, or replacement of a road, drainage facility,  
25 or other public project.

26           SECTION 8. Section 181.104(b), Utilities Code, is amended  
27 to read as follows:

1           (b) The Texas Department of Transportation or the  
2 commissioners court of a county may require a person who has  
3 installed equipment in the right-of-way of a state highway or  
4 county road to relocate the person's equipment at the person's sole  
5 expense to allow the:

- 6                   (1) widening or other changing of a traffic lane; or  
7                   (2) construction, reconstruction, operation,  
8 maintenance, repair, or replacement of a road, drainage facility,  
9 or other public project.

10           SECTION 9. (a) The changes in law made by this Act apply to  
11 the payment of an expense incurred in relocating or adjusting any  
12 equipment or utility facility only if the expense is incurred on or  
13 after the effective date of this Act.

14           (b) The payment of an expense incurred before the effective  
15 date of this Act is governed by the law in effect on the date the  
16 expense was incurred, and that law is continued in effect for that  
17 purpose.

18           SECTION 10. This Act takes effect September 1, 2007.