

By: Rodriguez

H.B. No. 3787

A BILL TO BE ENTITLED

AN ACT

relating to the relocation of utilities on certain highways and county roads.

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

SECTION 1. Section 181.025, Utilities Code, is amended to read as follows:

Sec. 181.025. TRANSPORTATION COMMISSION REQUIREMENT:
RELOCATION OF GAS FACILITY TO ALLOW CHANGE TO TRAFFIC LANE. (a)
The authority of the Texas Transportation Commission under this section is limited to a gas facility on a state highway not in a municipality. ~~[The authority of the commissioners court under this section is limited to a gas facility on a county road not in a municipality.]~~

(b) The Texas Transportation Commission ~~[or the commissioners court of a county]~~ may require a gas utility to relocate the utility's gas facility, at the utility's own expense, to allow the widening or other changing of a traffic lane.

(c) To impose a requirement under this section, the Texas Transportation Commission ~~[or the commissioners court, as appropriate,]~~ must give to the gas utility 30 days' written notice of the requirement. The notice must identify the gas facility to be relocated and indicate the location on the new right-of-way where the gas utility may place the facility.

(d) The gas utility shall replace the grade and surface of

1 the highway or road at the utility's own expense.

2 SECTION 2. Subchapter B, Chapter 181, Utilities Code, is
3 amended by adding Section 181.0251 to read as follows:

4 Sec. 181.0251. COUNTY REQUIREMENT: RELOCATION OF GAS
5 FACILITY TO ALLOW ROADWAY IMPROVEMENTS. (a) The authority of a
6 county commissioners court under this section is limited to a gas
7 facility on a county road not in a municipality. A commissioners
8 court may act under this section through a designated
9 representative.

10 (b) The commissioners court of a county may require a gas
11 utility to relocate the utility's gas facility, at the utility's own
12 expense, to allow:

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

14 (2) changing a traffic lane;

15 (3) improving a roadbed or roadway;

16 (4) improving a drainage ditch located on a
17 right-of-way; or

18 (5) other construction of or improvements to a public
19 roadway, or construction or improvements in a public roadway
20 right-of-way, necessary for:

21 (A) safe and efficient transportation of people,
22 goods, or services; or

23 (B) compliance with storm water management
24 programs.

25 (c) To impose a requirement under this section, the
26 commissioners court must give to the gas utility written notice of
27 the requirement. The notice must include depictions of:

1 (1) existing visible site conditions and gas and other
2 utility facilities; and

3 (2) proposed site conditions and gas and other utility
4 facilities in the right-of-way the county owns or is in the process
5 of acquiring.

6 (d) Before the 31st day after the date the commissioners
7 court gives notice to a gas utility under Subsection (c), the gas
8 utility shall evaluate the need for a relocation plan for its gas
9 facilities and:

10 (1) begin preparation of a relocation plan in
11 cooperation with the county and any other affected owner of other
12 utility facilities, if a relocation plan is necessary; or

13 (2) notify the county that a relocation plan is not
14 necessary.

15 (e) A gas utility shall complete its relocation plan, if
16 necessary, not later than the 150th day after the date the
17 commissioners court gives the notice under Subsection (c). On
18 completion of its plan, the gas utility shall coordinate with the
19 county to determine a mutually acceptable schedule for beginning
20 and completing the relocation of gas facilities. The schedule must
21 include specific dates for beginning and completing the relocation
22 project.

23 (f) The gas utility may revise an agreed date for beginning
24 or completing the relocation of gas facilities if the commissioners
25 court agrees to the revision.

26 (g) While relocating the gas facilities, the gas utility
27 shall use the Texas State Plane Coordinate System to identify, with

1 sub-meter accuracy, the beginning point, end point, and major angle
2 points of each of the gas utility's relocated gas facilities. The
3 gas utility shall make the coordinate system information available
4 to the county in a computer-aided design and drafting (CADD) format
5 or a format that is readily convertible to that format.

6 (h) If a gas utility fails to comply with this section, a
7 requirement imposed by a commissioners court under this section, or
8 a relocation plan schedule, the county attorney of that county may
9 bring suit against the gas utility for:

10 (1) an injunction compelling the utility to comply
11 with this section, the imposed requirement, or the relocation plan
12 schedule;

13 (2) damages in an amount equal to any costs the county
14 incurs as a result of a delay caused by the gas utility's failure to
15 comply with this section, the imposed requirement, or the
16 relocation plan schedule, including:

17 (A) the costs incurred by the county in
18 relocating a gas utility facility with county employees or with a
19 contractor; or

20 (B) the costs incurred by the county in relation
21 to a contractor for the county's roadway project described by
22 Subsection (b), including the county's reimbursement of or payment
23 of costs incurred by the contractor, because of the gas utility's
24 failure to comply; or

25 (3) both an injunction and damages.

26 (i) The county the commissioners court of which imposes a
27 requirement under this section is not liable to a gas utility for

1 damages to property of the gas utility that result from a county
2 project described by Subsection (b), including damages:

3 (1) to any gas utility facility the gas utility
4 determined was not necessary to relocate; or

5 (2) caused by the county in relocating the gas
6 utility's facility to avoid a delay in a roadway project described
7 by Subsection (b) if the gas utility failed to comply with this
8 section, the imposed requirement, or the relocation plan schedule.

9 SECTION 3. Section 181.046, Utilities Code, is amended to
10 read as follows:

11 Sec. 181.046. TRANSPORTATION COMMISSION REQUIREMENT:
12 RELOCATION OF LINE TO ALLOW ROAD OR DITCH IMPROVEMENT. (a) The
13 authority of the Texas Transportation Commission under this section
14 is limited to a line on a state highway not in a municipality. [~~The~~
15 ~~authority of the commissioners court under this section is limited~~
16 ~~to a line on a county road not in a municipality.~~]

17 (b) The Texas Transportation Commission [~~or the~~
18 ~~commissioners court of a county~~] may require an electric utility to
19 relocate a line of the utility, at the utility's own expense, to
20 allow the:

- 21 (1) widening of a right-of-way;
22 (2) changing of a traffic lane;
23 (3) improving of a roadbed [~~road bed~~]; or
24 (4) improving of a drainage ditch located on a
25 right-of-way.

26 (c) To impose a requirement under this section, the Texas
27 Transportation Commission [~~or the commissioners court, as~~

1 ~~appropriate,~~] must give to the electric utility 30 days' written
2 notice of the requirement. The notice must identify the line to be
3 relocated and indicate the location on the new right-of-way where
4 the electric utility may place the line.

5 SECTION 4. Subchapter C, Chapter 181, Utilities Code, is
6 amended by adding Section 181.0461 to read as follows:

7 Sec. 181.0461. COUNTY REQUIREMENT: RELOCATION OF LINE TO
8 ALLOW ROADWAY IMPROVEMENTS. (a) The authority of a county
9 commissioners court under this section is limited to a line on a
10 county road not in a municipality. A commissioners court may act
11 under this section through a designated representative.

12 (b) The commissioners court of a county may require an
13 electric utility to relocate a line of the electric utility, at the
14 utility's own expense, to allow:

15 (1) widening a right-of-way;
16 (2) changing a traffic lane;
17 (3) improving a roadbed or roadway;
18 (4) improving a drainage ditch located on a
19 right-of-way; or

20 (5) other construction of or improvements to a public
21 roadway, or construction or improvements in a public roadway
22 right-of-way, necessary for:

23 (A) safe and efficient transportation of people,
24 goods, or services; or

25 (B) compliance with storm water management
26 programs.

27 (c) To impose a requirement under this section, the

1 commissioners court must give to the electric utility written
2 notice of the requirement. The notice must include depictions of:

3 (1) existing visible site conditions and lines and
4 other utility facilities; and

5 (2) proposed site conditions and lines and other
6 utility facilities in the right-of-way the county owns or is in the
7 process of acquiring.

8 (d) Before the 31st day after the date the commissioners
9 court gives notice to an electric utility under Subsection (c), the
10 electric utility shall evaluate the need for a relocation plan for
11 its line and:

12 (1) begin preparation of a relocation plan in
13 cooperation with the county and any other affected owner of other
14 utility facilities, if a relocation plan is necessary; or

15 (2) notify the county that a relocation plan is not
16 necessary.

17 (e) An electric utility shall complete its relocation plan,
18 if necessary, not later than the 150th day after the date the
19 commissioners court gives the notice under Subsection (c). On
20 completion of its plan, the electric utility shall coordinate with
21 the county to determine a mutually acceptable schedule for
22 beginning and completing the relocation of the line. The schedule
23 must include specific dates for beginning and completing the
24 relocation project.

25 (f) The electric utility may revise an agreed date for
26 beginning or completing the relocation of the line if the
27 commissioners court agrees to the revision.

1 (g) While relocating the electric utility's line, the
2 electric utility shall use the Texas State Plane Coordinate System
3 to identify, with sub-meter accuracy, the beginning point, end
4 point, and major angle points of each of the electric utility's
5 relocated lines. The electric utility shall make the coordinate
6 system information available to the county in a computer-aided
7 design and drafting (CADD) format or a format that is readily
8 convertible to that format.

9 (h) If an electric utility fails to comply with this
10 section, a requirement imposed by a commissioners court under this
11 section, or a relocation plan schedule, the county attorney of that
12 county may bring suit against the electric utility for:

13 (1) an injunction compelling the utility to comply
14 with this section, the imposed requirement, or the relocation plan
15 schedule;

16 (2) damages in an amount equal to any costs the county
17 incurs as a result of a delay caused by the electric utility's
18 failure to comply with this section, the imposed requirement, or
19 the relocation plan schedule, including:

20 (A) the costs incurred by the county in
21 relocating a line with county employees or with a contractor; or

22 (B) the costs incurred by the county in relation
23 to a contractor for the county's roadway project described by
24 Subsection (b), including the county's reimbursement of or payment
25 of costs incurred by the contractor, because of the electric
26 utility's failure to comply; or

27 (3) both an injunction and damages.

1 (i) The county the commissioners court of which imposes a
2 requirement under this section is not liable to an electric utility
3 for damages to property of the electric utility that result from a
4 county project described by Subsection (b), including damages:

5 (1) to a line the electric utility determined was not
6 necessary to relocate; or

7 (2) caused by the county in relocating the electric
8 utility's line to avoid a delay in a roadway project described by
9 Subsection (b) if the utility failed to comply with this section,
10 the imposed requirement, or the relocation plan schedule.

11 SECTION 5. Subchapter E, Chapter 181, Utilities Code, is
12 amended by adding Section 181.090 to read as follows:

13 Sec. 181.090. COUNTY REQUIREMENT: RELOCATION OF LINE OR
14 FACILITY TO ALLOW ROADWAY IMPROVEMENTS. (a) The authority of a
15 county commissioners court under this section is limited to a line
16 or other facility on a county road not in a municipality. A
17 commissioners court may act under this section through a designated
18 representative.

19 (b) The commissioners court of a county may require a
20 telephone or telegraph corporation to relocate the corporation's
21 line or facility, at the corporation's own expense, to allow:

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

23 (2) changing a traffic lane;

24 (3) improving a roadbed or roadway;

25 (4) improving a drainage ditch located on a
26 right-of-way; or

27 (5) other construction of or improvements to a public

1 roadway, or construction or improvements in a public roadway
2 right-of-way, necessary for:

3 (A) safe and efficient transportation of people,
4 goods, or services; or

5 (B) compliance with storm water management
6 programs.

7 (c) To impose a requirement under this section, the
8 commissioners court must give to the telephone or telegraph
9 corporation written notice of the requirement. The notice must
10 include depictions of:

11 (1) existing visible site conditions, corporation
12 lines and facilities, and other utility facilities; and

13 (2) proposed site conditions, corporation lines and
14 facilities, and other utility facilities in the right-of-way the
15 county owns or is in the process of acquiring.

16 (d) Before the 31st day after the date the commissioners
17 court gives notice to a telephone or telegraph corporation under
18 Subsection (c), the corporation shall evaluate the need for a
19 relocation plan for its lines or facilities and:

20 (1) begin preparation of a relocation plan in
21 cooperation with the county and any other affected owner of other
22 utility facilities, if a relocation plan is necessary; or

23 (2) notify the county that a relocation plan is not
24 necessary.

25 (e) A telephone or telegraph corporation shall complete its
26 relocation plan, if necessary, not later than the 150th day after
27 the date the commissioners court gives the notice under Subsection

1 (c). On completion of its plan, the corporation shall coordinate
2 with the county to determine a mutually acceptable schedule for
3 beginning and completing the relocation of lines or facilities.
4 The schedule must include specific dates for beginning and
5 completing the relocation project.

6 (f) The telephone or telegraph corporation may revise an
7 agreed date for beginning or completing the relocation of lines or
8 facilities if the commissioners court agrees to the revision.

9 (g) While relocating the telephone or telegraph
10 corporation's lines or facilities, the corporation shall use the
11 Texas State Plane Coordinate System to identify, with sub-meter
12 accuracy, the beginning point, end point, and major angle points of
13 each of the corporation's relocated lines or facilities. The
14 corporation shall make the coordinate system information available
15 to the county in a computer-aided design and drafting (CADD) format
16 or a format that is readily convertible to that format.

17 (h) If a telephone or telegraph corporation fails to comply
18 with this section, a requirement imposed by a commissioners court
19 under this section, or a relocation plan schedule, the county
20 attorney of that county may bring suit against the corporation for:

21 (1) an injunction compelling the corporation to comply
22 with this section, the imposed requirement, or the relocation plan
23 schedule;

24 (2) damages in an amount equal to any costs the county
25 incurs as a result of a delay caused by the corporation's failure to
26 comply with this section, the imposed requirement, or the
27 relocation plan schedule, including:

1 (A) the costs incurred by the county in
2 relocating a line or facility of the corporation with county
3 employees or with a contractor; or

4 (B) the costs incurred by the county in relation
5 to a contractor for the county's roadway project described by
6 Subsection (b), including the county's reimbursement of or payment
7 of costs incurred by the contractor, because of the corporation's
8 failure to comply; or

9 (3) both an injunction and damages.

10 (i) The county the commissioners court of which imposes a
11 requirement under this section is not liable to a telephone or
12 telegraph corporation for damages to property of the corporation
13 that result from a county project described by Subsection (b),
14 including damages:

15 (1) to any line or facility the corporation determined
16 was not necessary to relocate; or

17 (2) caused by the county in relocating the
18 corporation's line or facility to avoid a delay in a roadway project
19 described by Subsection (b) if the corporation failed to comply
20 with this section, the imposed requirement, or the relocation plan
21 schedule.

22 SECTION 6. Section 181.104, Utilities Code, is amended to
23 read as follows:

24 Sec. 181.104. DEPARTMENT OF TRANSPORTATION REQUIREMENT:
25 RELOCATION OF EQUIPMENT TO ALLOW CHANGE TO TRAFFIC LANE. (a) The
26 authority of the Texas Department of Transportation under this
27 section is limited to equipment installed in connection with a

1 state highway. [~~The authority of the commissioners court under~~
2 ~~this section is limited to equipment installed in connection with a~~
3 ~~county road.~~]

4 (b) The Texas Department of Transportation [~~or the~~
5 ~~commissioners court of a county~~] may require a person who has
6 installed equipment in the right-of-way of a state highway or
7 county road to relocate the person's equipment to allow the
8 widening or other changing of a traffic lane.

9 (c) To impose a requirement under this section, the Texas
10 Department of Transportation [~~or the commissioners court, as~~
11 ~~appropriate,~~] must give to the person written notice of the
12 requirement not later than the 45th day before the date the
13 relocation is to be made. The notice must identify the equipment to
14 be relocated and indicate the location in the right-of-way where
15 the person may reinstall the equipment.

16 (d) The person shall pay the cost of repairing a state
17 highway or county road damaged by the relocation.

18 SECTION 7. Subchapter F, Chapter 181, Utilities Code, is
19 amended by adding Section 181.1041 to read as follows:

20 Sec. 181.1041. COUNTY REQUIREMENT: RELOCATION OF EQUIPMENT
21 TO ALLOW ROADWAY IMPROVEMENTS. (a) The authority of a county
22 commissioners court under this section is limited to equipment
23 installed in connection with a county road. A commissioners court
24 may act under this section through a designated representative.

25 (b) The commissioners court of a county may require a person
26 to relocate the person's equipment, at the person's own expense, to
27 allow:

- 1 (1) widening a right-of-way;
- 2 (2) changing a traffic lane;
- 3 (3) improving a roadbed or roadway;
- 4 (4) improving a drainage ditch located on a
5 right-of-way; or

6 (5) other construction of or improvements to a public
7 roadway, or construction or improvements in a public roadway
8 right-of-way, necessary for:

9 (A) safe and efficient transportation of people,
10 goods, or services; or

11 (B) compliance with storm water management
12 programs.

13 (c) To impose a requirement under this section, the
14 commissioners court must give to the person written notice of the
15 requirement. The notice must include depictions of:

16 (1) existing visible site conditions and equipment and
17 other utility facilities; and

18 (2) proposed site conditions and equipment and other
19 utility facilities in the right-of-way the county owns or is in the
20 process of acquiring.

21 (d) Before the 31st day after the date the commissioners
22 court gives notice to a person under Subsection (c), the person
23 shall evaluate the need for a relocation plan for the person's
24 equipment and:

25 (1) begin preparation of a relocation plan in
26 cooperation with the county and any other affected owner of other
27 utility equipment or facilities, if a relocation plan is necessary;

1 or

2 (2) notify the county that a relocation plan is not
3 necessary.

4 (e) The person shall complete the person's relocation plan,
5 if necessary, not later than the 150th day after the date the
6 commissioners court gives the notice under Subsection (c). On
7 completion of the plan, the person shall coordinate with the county
8 to determine a mutually acceptable schedule for beginning and
9 completing the relocation of equipment. The schedule must include
10 specific dates for beginning and completing the relocation project.

11 (f) The person may revise an agreed date for beginning or
12 completing the relocation of equipment if the commissioners court
13 agrees to the revision.

14 (g) While relocating the person's equipment, the person
15 shall use the Texas State Plane Coordinate System to identify, with
16 sub-meter accuracy, the beginning point, end point, and major angle
17 points of the person's relocated equipment. The person shall make
18 the coordinate system information available to the county in a
19 computer-aided design and drafting (CADD) format or a format that
20 is readily convertible to that format.

21 (h) If a person fails to comply with this section, a
22 requirement imposed by a commissioners court under this section, or
23 a relocation plan schedule, the county attorney of that county may
24 bring suit against the person for:

25 (1) an injunction compelling the person to comply with
26 this section, the imposed requirement, or the relocation plan
27 schedule;

1 (2) damages in an amount equal to any costs the county
2 incurs as a result of a delay caused by the person's failure to
3 comply with this section, the imposed requirement, or the
4 relocation plan schedule, including:

5 (A) the costs incurred by the county in
6 relocating the person's equipment with county employees or with a
7 contractor; or

8 (B) the costs incurred by the county in relation
9 to a contractor for the county's roadway project described by
10 Subsection (b), including the county's reimbursement of or payment
11 of costs incurred by the contractor, because of the person's
12 failure to comply; or

13 (3) both an injunction and damages.

14 (i) The county the commissioners court of which imposes a
15 requirement under this section is not liable to a person for damages
16 to equipment of the person that result from a county project
17 described by Subsection (b), including damages:

18 (1) to any equipment the person determined was not
19 necessary to relocate; or

20 (2) caused by the county in relocating the person's
21 equipment to avoid a delay in a roadway project described by
22 Subsection (b) if the person failed to comply with this section, the
23 imposed requirement, or the relocation plan schedule.

24 SECTION 8. Chapter 13, Water Code, is amended by adding
25 Subchapter O to read as follows:

26 SUBCHAPTER O. RELOCATION OF FACILITY FOR CERTAIN IMPROVEMENTS

27 Sec. 13.521. RELOCATION OF FACILITY TO ALLOW ROADWAY

1 IMPROVEMENTS. (a) The authority of a commissioners court under
2 this section is limited to a facility on a county road not in a
3 municipality.

4 (b) The commissioners court of a county may require a
5 utility or a water supply or sewer service corporation to relocate
6 the utility's or corporation's facility, at the utility's or
7 corporation's own expense, to allow:

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

9 (2) changing a traffic lane;

10 (3) improving a roadbed or roadway;

11 (4) improving a drainage ditch located on a
12 right-of-way; or

13 (5) other construction of or improvements to a public
14 roadway, or construction or improvements in a public roadway
15 right-of-way, necessary for:

16 (A) safe and efficient transportation of people,
17 goods, or services; or

18 (B) compliance with storm water management
19 programs.

20 (c) To impose a requirement under this section, the
21 commissioners court must give to the utility or the water supply or
22 sewer service corporation written notice of the requirement. The
23 notice must include depictions of:

24 (1) existing visible site conditions, utility or
25 corporation facilities, and other utility facilities; and

26 (2) proposed site conditions, utility or corporation
27 facilities, and other utility facilities in the right-of-way the

1 county owns or is in the process of acquiring.

2 (d) Before the 31st day after the date the commissioners
3 court gives notice to a utility or water supply or sewer service
4 corporation under Subsection (c), the utility or corporation shall
5 evaluate the need for a relocation plan for its facilities and:

6 (1) begin preparation of a relocation plan in
7 cooperation with the county and any other affected owner of other
8 utility facilities, if a relocation plan is necessary; or

9 (2) notify the county that a relocation plan is not
10 necessary.

11 (e) A utility or a water supply or sewer service corporation
12 shall complete its relocation plan, if necessary, not later than
13 the 150th day after the date the commissioners court gives the
14 notice under Subsection (c). On completion of its plan, the utility
15 or corporation shall coordinate with the county to determine a
16 mutually acceptable schedule for beginning and completing the
17 relocation of facilities. The schedule must include specific dates
18 for beginning and completing the relocation project.

19 (f) The utility or the water supply or sewer service
20 corporation may revise an agreed date for beginning or completing
21 the relocation of facilities if the commissioners court agrees to
22 the revision.

23 (g) While relocating its facilities, the utility or the
24 water supply or sewer service corporation shall use the Texas State
25 Plane Coordinate System to identify, with sub-meter accuracy, the
26 beginning point, end point, and major angle points of each of the
27 relocated facilities. The utility or corporation shall make the

1 coordinate system information available to the county in a
2 computer-aided design and drafting (CADD) format or a format that
3 is readily convertible to that format.

4 (h) If a utility or a water supply or sewer service
5 corporation fails to comply with this section, a requirement
6 imposed by a commissioners court under this section, or a
7 relocation plan schedule, the county attorney of that county may
8 bring suit against the utility or corporation for:

9 (1) an injunction compelling the utility or
10 corporation to comply with this section, the imposed requirement,
11 or the relocation plan schedule;

12 (2) damages in an amount equal to any costs the county
13 incurs as a result of a delay caused by the utility's or
14 corporation's failure to comply with this section, the imposed
15 requirement, or the relocation plan schedule, including:

16 (A) the costs incurred by the county in
17 relocating a facility of the utility or corporation with county
18 employees or with a contractor; or

19 (B) the costs incurred by the county in relation
20 to a contractor for the county's roadway project described by
21 Subsection (b), including the county's reimbursement of or payment
22 of costs incurred by the contractor, because of the utility's or
23 corporation's failure to comply; or

24 (3) both an injunction and damages.

25 (i) The county the commissioners court of which imposes a
26 requirement under this section is not liable to a utility or water
27 supply or sewer service corporation for damages to a facility of the

1 utility or corporation that result from a county project described
2 by Subsection (b), including damages:

3 (1) to any facility the utility or corporation
4 determined was not necessary to relocate; or

5 (2) caused by the county in relocating the utility's or
6 corporation's facility to avoid a delay in a roadway project
7 described by Subsection (b) if the utility or corporation failed to
8 comply with this section, the imposed requirement, or the
9 relocation plan schedule.

10 SECTION 9. (a) The changes in law made by this Act apply
11 only to:

12 (1) a notice to relocate received on or after the
13 effective date of this Act; and

14 (2) relocation planning and activities undertaken on
15 or after the effective date of this Act.

16 (b) A notice to relocate received before the effective date
17 of this Act and relocation planning and activities undertaken
18 before the effective date of this Act are governed by the law in
19 effect on the date the notice is received or the planning or
20 activity is undertaken. The former law is continued in effect for
21 that purpose.

22 SECTION 10. This Act takes effect September 1, 2009.