

By: Geren

H.B. No. 2838

A BILL TO BE ENTITLED

AN ACT

relating to the deployment of network nodes in public rights-of-way; authorizing fees.

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

SECTION 1. Subtitle A, Title 9, Local Government Code, is amended by adding Chapter 284 to read as follows:

CHAPTER 284. DEPLOYMENT OF NETWORK NODES IN PUBLIC RIGHTS-OF-WAY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 284.001. FINDINGS AND POLICY. (a) The legislature finds that:

(1) the design, engineering, permitting, construction, modification, maintenance, and operation of network nodes are instrumental to increasing access to advanced technology and information for the citizens of this state;

(2) this state has delegated to each municipality the fiduciary duty, as a trustee, to manage the public rights-of-way for the health, safety, and welfare of the public, subject to state law;

(3) network nodes often may be deployed most effectively in the public rights-of-way;

(4) network providers' access to public rights-of-way and the ability to attach network nodes to poles and structures in those public rights-of-way allow network providers to densify their networks and provide next-generation services;

1 (5) expeditious processes and reasonable and
2 nondiscriminatory compensation for use of the public rights-of-way
3 for network node deployments are essential to the construction and
4 operation of robust broadband communications networks;

5 (6) network nodes help ensure that this state remains
6 competitive in the global economy;

7 (7) the timely permitting of network nodes in public
8 rights-of-way is a matter of statewide concern and interest; and

9 (8) requirements of this chapter regarding fees,
10 charges, rates, and public rights-of-way management, when
11 considered with fees charged to other public rights-of-way users
12 under this code, are fair and reasonable and in compliance with 47
13 U.S.C. Section 253.

14 (b) It is the policy of this state to promote the adoption of
15 and encourage competition in the provision of telecommunications
16 services, including wireless services, by reducing the barriers to
17 entry for providers of services so that the number and types of
18 services offered by providers continue to increase through
19 competition.

20 (c) It is the policy of this state that municipalities:

21 (1) retain the authority to manage the public
22 rights-of-way to ensure the health, safety, and welfare of the
23 public; and

24 (2) receive from telecommunications providers,
25 including network providers, fair and reasonable compensation for
26 use of the public rights-of-way.

27 Sec. 284.002. DEFINITIONS. In this chapter:

1 (1) "Antenna" means communications equipment that
2 transmits or receives electromagnetic radio frequency signals.

3 (2) "Applicable codes" means:

4 (A) uniform building, fire, electrical,
5 plumbing, or mechanical codes adopted by a recognized national code
6 organization; and

7 (B) local amendments to those codes enacted
8 solely to address imminent threats of destruction of property or
9 injury to persons to the extent not inconsistent with this chapter.

10 (3) "Collocate" and "collocation" mean the
11 installation, mounting, maintenance, modification, operation, or
12 replacement of network nodes in a public right-of-way on or
13 adjacent to an existing pole with the express, discretionary, and
14 written permission of the pole's owner.

15 (4) "Fee" means a one-time cost-recovery charge for
16 services performed. The term includes a charge for reviewing and
17 processing an application for a permit.

18 (5) "Law" means common law or a federal, state, or
19 local law, statute, code, rule, regulation, order, or ordinance.

20 (6) "Municipal pole" means:

21 (A) a pole, other than a municipally owned
22 utility pole, owned or operated by a municipality and located in a
23 public right-of-way, including a pole that supports lighting or
24 traffic control functions or a structure for signage; and

25 (B) a pole or similar structure owned or operated
26 by a municipality, located in a public right-of-way, and supporting
27 only network nodes.

1 (7) "Municipally owned utility pole" means a utility
2 pole owned or operated by a municipally owned utility, as defined by
3 Section 11.003, Utilities Code, and located in a public
4 right-of-way.

5 (8) "Network node" means equipment at a fixed location
6 that enables wireless communications between user equipment and a
7 communications network. The term:

8 (A) includes:

9 (i) equipment associated with wireless
10 communications;

11 (ii) a radio transceiver, an antenna, a
12 battery-only backup power supply, and comparable equipment,
13 regardless of technological configuration; and

14 (iii) coaxial or fiber-optic cable
15 necessary to serve the location, including such cable connecting
16 the network node to the fiber network at a length not to exceed 528
17 feet; and

18 (B) does not include:

19 (i) an electric generator; or

20 (ii) a pole.

21 (9) "Network provider" means:

22 (A) a person granted a certificate of convenience
23 and necessity, certificate of authority, or service provider
24 certificate of authority by the Public Utility Commission of Texas
25 to provide telecommunications service in this state; and

26 (B) a person authorized and licensed by the
27 Federal Communications Commission to provide services classified

1 as "mobile services" by 47 C.F.R. Section 20.7.

2 (10) "Node support pole" means a pole installed by a
3 network provider for the primary purpose of supporting a network
4 node.

5 (11) "Permit" means a written authorization required
6 from a municipality before a network provider may perform an action
7 or initiate, continue, or complete a project over which the
8 municipality has regulatory authority.

9 (12) "Pole" means a municipal pole, municipally owned
10 utility pole, node support pole, or utility pole.

11 (13) "Public right-of-way" means the area on, below,
12 or above a public roadway, highway, street, public sidewalk, alley,
13 waterway, or utility easement in which the municipality has an
14 interest. The term does not include the airwaves above a public
15 right-of-way with regard to wireless telecommunications.

16 (14) "Public right-of-way rate" means an annual rental
17 charge paid by a network operator to a municipality for the use of a
18 public right-of-way in the municipality.

19 (15) "Utility pole" means a pole or similar structure
20 that supports a pole attachment, as defined by Section 252.001,
21 Utilities Code, and that provides:

22 (A) electric distribution with a voltage rating
23 of not more than 34.5 kilovolts; or

24 (B) services of a telecommunications utility, as
25 defined by Section 51.002, Utilities Code.

26 Sec. 284.003. LIMITATION ON SIZE OF NETWORK NODES. (a)
27 Except as provided by Section 284.108, a network node to which this

1 chapter applies must conform to the following conditions:

2 (1) each antenna that does not have exposed elements
3 and is attached to an existing structure:

4 (A) must be located inside an enclosure of not
5 more than six cubic feet in volume;

6 (B) may not exceed a height of three feet above
7 the existing structure; and

8 (C) may not protrude from the outer circumference
9 of the existing structure by more than two feet;

10 (2) if an antenna has exposed elements and is attached
11 to an existing structure, the antenna and all of the antenna's
12 exposed elements:

13 (A) must fit within an imaginary enclosure of not
14 more than six cubic feet;

15 (B) may not exceed a height of three feet above
16 the existing structure; and

17 (C) may not protrude from the outer circumference
18 of the existing structure by more than two feet;

19 (3) the cumulative size of other wireless equipment
20 associated with the network node attached to an existing structure
21 may not:

22 (A) be more than 28 cubic feet in volume;

23 (B) exceed a height of three feet above the
24 existing structure; or

25 (C) protrude from the outer circumference of the
26 existing structure by more than two feet;

27 (4) ground-based enclosures may not be higher than

1 four feet from grade, wider than four feet, or deeper than four
2 feet; and

3 (5) pole-mounted enclosures may not be taller than
4 five feet.

5 (b) The following types of associated ancillary equipment
6 are not included in the calculation of equipment volume under
7 Subsection (a):

8 (1) electric meters;

9 (2) concealment elements;

10 (3) telecommunications demarcation boxes;

11 (4) grounding equipment;

12 (5) power transfer switches;

13 (6) cut-off switches; and

14 (7) vertical cable runs for the connection of power
15 and other services.

16 (c) Equipment attached to node support poles may not
17 protrude from the outer circumference of the node support pole by
18 more than three feet.

19 (d) Equipment attached to a utility pole must be installed
20 in accordance with the National Electric Safety Code and the
21 utility pole owner's construction standards.

22 SUBCHAPTER B. USE OF PUBLIC RIGHTS-OF-WAY

23 Sec. 284.051. APPLICABILITY OF SUBCHAPTER. (a) This
24 chapter applies only to activities of a network provider
25 constructing, operating, and maintaining a network node in a public
26 right-of-way and municipal authority in relation to those
27 activities.

1 (b) Use of a public right-of-way for other
2 telecommunications facilities installed by a network provider is
3 governed by Chapter 283.

4 Sec. 284.052. EXCLUSIVE USE PROHIBITED. A municipality may
5 not enter into an exclusive arrangement with any person for use of
6 the public rights-of-way for the construction, operation,
7 marketing, or maintenance of network nodes or node support poles.

8 Sec. 284.053. PUBLIC RIGHT-OF-WAY RATE OR FEE FOR USE OF
9 PUBLIC RIGHTS-OF-WAY. (a) A public right-of-way rate or fee for
10 use of the public rights-of-way may not exceed an annual amount
11 equal to \$1,000 multiplied by the number of node support poles and
12 utility poles, other than municipally owned utility poles, inside
13 the municipality's corporate boundaries on which the network
14 provider has installed a network node.

15 (b) At the municipality's discretion, the municipality may
16 charge a network provider a lower rate or fee if the lower rate or
17 fee is:

18 (1) nondiscriminatory;

19 (2) related to the use of the public rights-of-way;

20 and

21 (3) not a prohibited gift of public property.

22 Sec. 284.054. PUBLIC RIGHT-OF-WAY RATE OR FEE ADJUSTMENT.
23 A municipality shall adjust the amount of the public right-of-way
24 rate or fee annually to reflect the previous year's annual rate of
25 inflation as determined by the Public Utility Commission of Texas.
26 The new rate or fee takes effect for the first payment due to the
27 municipality on or after the 60th day after the date the commission

1 makes the determination.

2 Sec. 284.055. PUBLIC RIGHT-OF-WAY RATE OR FEE APPLICABLE TO
3 TELECOMMUNICATIONS NETWORK. (a) The right-of-way fee provisions
4 of Subchapter B, Chapter 283, apply to the use of a public
5 right-of-way for telecommunications network facilities, other than
6 network nodes, installed by a network provider.

7 (b) For the purposes of calculating the right-of-way fee
8 under Subchapter B, Chapter 283:

9 (1) each network node is considered to be an end-use
10 customer termination point as specified in the definition of
11 "access line" in Section 283.002(1)(A)(ii); and

12 (2) the exception provided by Section 283.002(1)(B)
13 does not apply.

14 (c) Notwithstanding Section 283.056, a network provider is
15 responsible for paying both the public right-of-way rate or fee
16 required by this chapter and any applicable right-of-way fee
17 required by Chapter 283.

18 SUBCHAPTER C. ACCESS AND APPROVALS

19 Sec. 284.101. RIGHT OF ACCESS TO PUBLIC RIGHTS-OF-WAY. (a)
20 Except as specifically provided by this chapter and, subject to the
21 requirements of this chapter and the approval of a permit
22 application, if required, a network provider is entitled, as a
23 permitted use that is not subject to zoning review or similar
24 approval, and is not subject to further land use approval in an area
25 that is not zoned, to do the following in the public rights-of-way:

26 (1) construct, modify, maintain, and operate a network
27 node;

1 (2) construct, modify, maintain, and operate a utility
2 pole or network support pole; and

3 (3) collocate on a pole with the discretionary,
4 nondiscriminatory, and express written consent of the pole's owner.

5 (b) A network provider taking an action authorized by
6 Subsection (a) is subject to applicable codes.

7 Sec. 284.102. GENERAL CONSTRUCTION AND MAINTENANCE
8 REQUIREMENTS. A network provider shall construct and maintain
9 structures and facilities described by Section 284.101 in a manner
10 that does not:

11 (1) obstruct, impede, or hinder the usual travel or
12 public safety on a public right-of-way;

13 (2) obstruct the legal use of a public right-of-way by
14 other utility providers;

15 (3) violate applicable codes;

16 (4) violate or conflict with the municipality's
17 publicly disclosed public rights-of-way design specifications; or

18 (5) violate the federal Americans with Disabilities
19 Act of 1990 (42 U.S.C. Section 12101 et seq.).

20 Sec. 284.103. GENERAL LIMITATION ON PLACEMENT OF POLES. A
21 network provider shall ensure that each new, modified, or
22 replacement utility pole or node support pole installed in a public
23 right-of-way in relation to which the network provider received
24 approval of a permit application:

25 (1) does not exceed the greater of:

26 (A) 10 feet in height above the tallest existing
27 utility pole located within 500 linear feet of the new pole in the

1 same public right-of-way; or

2 (B) 50 feet above ground level; and

3 (2) is spaced at least 300 linear feet from the nearest
4 existing pole that is capable of supporting network nodes and is
5 located in a public right-of-way.

6 Sec. 284.104. INSTALLATION IN RESIDENTIAL AREAS. (a) A
7 network provider may not install a new node support pole in a
8 public right-of-way without the municipality's discretionary,
9 nondiscriminatory, and written consent if the public right-of-way
10 is adjacent to a street or thoroughfare:

11 (1) that is not more than 50 feet wide; and

12 (2) both sides of which are adjacent to single-family
13 residential lots or other multifamily residences.

14 (b) In addition to the requirement prescribed by Subsection
15 (a), a network provider installing a network node or node support
16 pole in a public right-of-way described by Subsection (a) shall
17 comply with private deed restrictions and other private
18 restrictions in the area that apply to those facilities.

19 Sec. 284.105. EQUIPMENT CABINETS. A network provider shall
20 ensure that the vertical height of an equipment cabinet installed
21 as part of a network node does not exceed the height limitation
22 prescribed by Section 284.003, subject to approval of the pole's
23 owner if applicable.

24 Sec. 284.106. COMPLIANCE WITH UNDERGROUNDING REQUIREMENT.

25 (a) A network provider shall, in relation to installation for which
26 the municipality approved a permit application, comply with
27 nondiscriminatory undergrounding requirements, including

1 municipal ordinances, zoning regulations, state law, private deed
2 restrictions, and other public or private restrictions, that
3 prohibit installing aboveground structures in a public
4 right-of-way without first obtaining zoning or land use approval.

5 (b) A requirement or restriction described by Subsection
6 (a) may not be interpreted to prohibit a network provider from
7 replacing an existing structure.

8 Sec. 284.107. DESIGN MANUAL. (a) A municipality may adopt
9 a design manual for the installation and construction of network
10 nodes and new node support poles in the public rights-of-way that
11 includes additional installation and construction details that do
12 not conflict with this chapter.

13 (b) A network provider shall comply with the design manual
14 in relation to work for which the municipality approved a permit
15 application.

16 Sec. 284.108. EXCEPTIONS. Subject to Subchapter D, a
17 network provider may construct, modify, or maintain in a public
18 right-of-way a network node or network support pole that exceeds
19 the height or distance limitations prescribed by this chapter only
20 if the municipality approves the construction, modification, or
21 maintenance subject to all applicable zoning or land use
22 regulations and applicable codes.

23 Sec. 284.109. DISCRIMINATION PROHIBITED. A municipality,
24 in the exercise of the municipality's administrative and regulatory
25 authority related to the management of and access to the public
26 rights-of-way, must be competitively neutral with regard to other
27 users of the public rights-of-way.

1 SUBCHAPTER D. APPLICATIONS AND PERMITS

2 Sec. 284.151. PROHIBITION OF CERTAIN MUNICIPAL ACTIONS.

3 (a) Except as otherwise provided by this chapter, a municipality
4 may not prohibit, regulate, or charge for the installation or
5 collocation of network nodes in a public right-of-way.

6 (b) A municipality may not directly or indirectly require,
7 as a condition for issuing a permit required under this chapter,
8 that the applicant perform services unrelated to the installation
9 or collocation for which the permit is sought, including in-kind
10 contributions such as reserving fiber, conduit, or pole space for
11 the municipality.

12 (c) A municipality may not institute an express or de facto
13 moratorium on:

- 14 (1) filing, receiving, or processing applications; or
15 (2) issuing permits or other approvals, if any, for
16 the installation of network nodes or node support poles.

17 Sec. 284.152. AUTHORITY TO REQUIRE PERMIT. (a) A
18 municipality may require a network provider to obtain one or more
19 permits to install a network node or node support pole in a public
20 right-of-way if the permit:

21 (1) is of general applicability to users of the public
22 rights-of-way; and

23 (2) does not apply exclusively to network nodes.

24 (b) A network provider that wants to install or collocate
25 multiple network nodes inside the territorial jurisdiction of a
26 single municipality is entitled to file a consolidated permit
27 application with the municipality for not more than 30 network

1 nodes and receive a single permit for the installation or
2 collocation of those network nodes.

3 Sec. 284.153. GENERAL PROCESS RELATING TO PERMIT
4 APPLICATION. (a) Except as otherwise provided by this section, a
5 municipality may not require an applicant to provide more
6 information to obtain the permit than a telecommunications utility
7 that is not a network provider is required to provide.

8 (b) As part of the standard form for a permit application, a
9 municipality may require the applicant to include applicable
10 construction and engineering drawings and information to confirm
11 that the applicant will comply with the municipality's publicly
12 disclosed public rights-of-way design specifications and
13 applicable codes.

14 (c) A municipality may require an applicant to provide:

15 (1) information reasonably related to the provider's
16 use of the public rights-of-way under this chapter:

17 (A) to ensure compliance with this chapter; and

18 (B) as reasonably necessary to demonstrate that
19 the proposed network node will comply with applicable regulations
20 of the Federal Communications Commission; and

21 (2) reasonable evidence that the proposed network node
22 will be placed into active commercial service by or for a provider
23 of retail telecommunications service immediately after the date the
24 construction and final testing of the network node is completed.

25 Sec. 284.154. MUNICIPAL REVIEW PROCESS. (a) A
26 municipality shall process each permit application on a
27 nondiscriminatory basis.

1 (b) Not later than the 30th day after the date the
2 municipality receives an application, the municipality shall
3 determine whether the application is complete and notify the
4 applicant of that determination. If the municipality determines
5 that the application is not complete, the municipality shall
6 specifically identify the missing information.

7 (c) A municipality shall approve an application that does
8 not require zoning or land use approval under this chapter unless
9 the application or the corresponding work to be performed under the
10 permit does not comply with the municipality's applicable codes.

11 (d) A municipality must approve or deny a complete
12 application for a new node support pole not later than the 150th day
13 after the date the municipality receives the application. The
14 municipality must approve or deny all other complete applications
15 not later than the 90th day after the date the municipality receives
16 the application.

17 (e) A municipality that denies a complete application must
18 document the basis for the denial, including the specific
19 applicable code provisions on which the denial was based. The
20 municipality shall send the documentation to the applicant on or
21 before the date the authority denies the application.

22 (f) Not later than the 30th day after the date the
23 municipality denies the application, the applicant may cure the
24 deficiencies identified in the denial documentation and resubmit
25 the application without paying an additional application fee, other
26 than a fee for actual costs incurred by the municipality.
27 Notwithstanding Subsection (d), the municipality shall approve or

1 deny the revised application not later than the 45th day after the
2 date the municipality receives the revised application. The
3 municipality's review of the revised application is limited to the
4 deficiencies cited in the denial documentation.

5 Sec. 284.155. TIME OF INSTALLATION. (a) A network provider
6 shall begin the installation for which a permit is granted not later
7 than the 90th day after the date the permit is approved and shall
8 complete the installation not later than the 180th day after the
9 date the installation begins.

10 (b) Notwithstanding Subsection (a), the municipality may
11 place a longer time limit on completion or grant reasonable
12 extensions of time as requested by the network provider.

13 Sec. 284.156. APPLICATION FEES. (a) A municipality may
14 charge an application fee for a permit only if the municipality
15 requires the payment of the fee for similar types of commercial
16 development inside the municipality's territorial jurisdiction
17 other than a type for which application or permit fees are not
18 allowed by law.

19 (b) The amount of an application fee charged by a
20 municipality must be:

21 (1) based on the actual, direct, and reasonable costs
22 the municipality determines are incurred in granting or processing
23 an application; and

24 (2) reasonably related in time to the time the costs of
25 granting or processing an application are incurred.

26 (c) In determining for purposes of Subsection (b) the amount
27 of the actual, direct, and reasonable costs, the municipality:

1 (1) may include reasonable and direct reimbursement of
2 costs incurred by the municipality in relation to third-party legal
3 or engineering review of an application, including reasonable and
4 necessary travel expenses in this state; and

5 (2) may not include direct payments or reimbursement
6 of third-party public right-of-way rates or fees charged on a
7 contingency basis or under a result-based arrangement.

8 (d) Payment by a network provider of applicable application
9 fees under this chapter does not affect the provisions of Section
10 283.056 that prohibit a municipality from requiring the provider to
11 pay application or permit fees in relation to telecommunications
12 facilities, other than network nodes, that the provider installs in
13 the public rights-of-way.

14 Sec. 284.157. CERTAIN WORK EXEMPTED. (a) A municipality
15 may not require a network provider to submit an application for:

16 (1) routine maintenance that does not require
17 excavation or closing of sidewalks or vehicular lanes in a public
18 right-of-way; or

19 (2) replacing or upgrading a network node or pole with
20 a node or pole that is substantially similar in size or smaller and
21 that does not require excavation or closing of sidewalks or
22 vehicular lanes in a public right-of-way.

23 (b) For purposes of Subsection (a)(2):

24 (1) a pole or network node is considered to be
25 "substantially similar" if:

26 (A) the new or upgraded pole will not be more than
27 10 percent higher than the existing pole, provided that the

1 increase may not result in the pole exceeding the applicable height
2 limitations prescribed by Section 284.103; and

3 (B) the new or upgraded network node, including
4 the antenna or other equipment element, will not be more than 10
5 percent larger than the existing node, provided that the increase
6 may not result in the node exceeding the size limitations provided
7 by Section 284.003;

8 (2) the replacement or upgrade does not include
9 replacement of an existing node support pole; and

10 (3) the replacement or upgrade does not defeat
11 existing concealment elements of a node support pole.

12 (c) The determination under Subsection (b)(1) of whether a
13 replacement or upgrade is substantially similar is made by
14 measuring from the dimensions of the network node or node support
15 pole as approved by the municipality.

16 (d) Notwithstanding Subsection (a):

17 (1) a municipality may require advance notice of work
18 described by that subsection; and

19 (2) a network provider may replace or upgrade a pole
20 only with the approval of the pole's owner.

21 SUBCHAPTER E. ACCESS TO AUTHORITY STRUCTURES

22 Sec. 284.201. USE NOT MANDATED. This chapter may not be
23 construed to require that a municipality allow collocation of
24 network nodes on a municipal pole or a municipally owned utility
25 pole.

26 Sec. 284.202. NONDISCRIMINATORY USE OF MUNICIPAL POLES. A
27 municipality that chooses to allow collocation of network nodes on

1 municipal poles must comply with Section 54.204, Utilities Code.

2 SUBCHAPTER F. GENERAL CONDITIONS OF ACCESS

3 Sec. 284.251. LOCAL POLICE-POWER-BASED REGULATIONS. (a)

4 Subject to this chapter and applicable federal and state law, a
5 municipality may continue to exercise zoning, land use, planning,
6 and permitting authority in the municipality's boundaries,
7 including with respect to utility poles.

8 (b) A municipality may exercise that authority to impose
9 police-power-based regulations for the management of the public
10 rights-of-way that apply to all persons subject to the
11 municipality.

12 (c) A municipality may impose police-power-based
13 regulations in the management of the activities of network
14 providers in the public rights-of-way only to the extent that the
15 regulations are reasonably necessary to protect the health, safety,
16 and welfare of the public.

17 Sec. 284.252. INDEMNIFICATION. The indemnification
18 provisions of Sections 283.057(a) and (b) apply to a network
19 provider accessing a public right-of-way under this chapter.

20 Sec. 284.253. RELOCATION. A network provider shall
21 relocate or adjust network nodes in a timely manner and without cost
22 to the municipality if the municipality requires the relocation or
23 adjustment to accommodate public improvements constructed on
24 behalf of the municipality in a public right-of-way.

25 Sec. 284.254. INTERFERENCE. (a) A network provider shall
26 operate all network nodes in accordance with all applicable laws,
27 including regulations adopted by the Federal Communications

1 Commission.

2 (b) A network provider shall ensure that the operation of a
3 network node does not cause any harmful radio frequency
4 interference to a Federal Communications Commission-authorized
5 mobile telecommunications operation of the municipality operating
6 at the time the network node was initially installed or
7 constructed. On written notice, a network provider shall take all
8 steps reasonably necessary to remedy any harmful interference.

9 SECTION 2. (a) In this section, "collocation," "fee,"
10 "network node," "node support pole," "public right-of-way," and
11 "public right-of-way rate" have the meanings assigned by Section
12 284.002, Local Government Code, as added by this Act.

13 (b) Not later than the first anniversary of the effective
14 date of this Act, each municipality that charges a public
15 right-of-way rate or fee to construct, install, mount, maintain,
16 modify, operate, or replace a network node or node support pole in a
17 public right-of-way, including collocation in a public
18 right-of-way, shall:

19 (1) determine whether the rate or fee complies with
20 the requirements prescribed by Section 284.053, Local Government
21 Code, as added by this Act; and

22 (2) if the rate or fee does not comply, amend the rate
23 or fee for all persons in any manner necessary for compliance.

24 SECTION 3. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2017.