

By: Hancock

S.B. No. 1515

A BILL TO BE ENTITLED

AN ACT

relating to the authority to install a small wireless facility in a public right-of-way.

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

SECTION 1. Chapter 181, Utilities Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. PROVISIONS APPLYING TO WIRELESS SERVICE PROVIDERS

Sec. 181.151. DEFINITIONS. In this subchapter:

(1) "Small wireless facility" means a wireless facility in which:

(A) each antenna is located inside an enclosure of not more than six cubic feet in volume or, if an antenna has exposed elements, the antenna and all of the antenna's exposed elements could fit within an imaginary enclosure of not more than six cubic feet; and

(B) all other wireless equipment associated with the wireless facility is cumulatively not more than 28 cubic feet in volume after excluding the following associated ancillary equipment:

(i) electric meters;  
(ii) concealment elements;  
(iii) telecommunications demarcation boxes;

(iv) ground-based enclosures;

1                   (v) grounding equipment;  
2                   (vi) power transfer switches;  
3                   (vii) cutoff switches; and  
4                   (viii) vertical cable runs for the  
5 connection of power and other services.

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

9                   (A) includes small wireless facilities and:

10                   (i) equipment associated with wireless  
11 communications; and

12                   (ii) radio transceivers, antennas, coaxial  
13 or fiber optic cable, regular and backup power supplies, and  
14 comparable equipment, regardless of technological configuration;  
15 and

16                   (B) does not include the structure or  
17 improvements on, under, or within which equipment is collocated.

18           (3) "Wireless service provider" means a carrier  
19 licensed by the Federal Communications Commission to provide  
20 wireless services.

21           (4) "Wireless services" means a service provided to  
22 the public using a wireless facility, regardless of whether the  
23 service is at a fixed location or mobile.

24           (5) "Wireless support structure" means a utility pole  
25 or other existing or proposed structure designed to support  
26 wireless facilities.

27           Sec. 181.152. AUTHORITY TO INSTALL WIRELESS FACILITIES AND

1 WIRELESS SUPPORT STRUCTURES ON PUBLIC RIGHT-OF-WAY. (a) A  
2 wireless service provider may install wireless facilities and  
3 wireless support structures in a right-of-way owned or managed by a  
4 political subdivision or municipally owned utility in a manner that  
5 does not inconvenience the public in the use of the right-of-way.

6 (b) A political subdivision or municipally owned utility  
7 may not require a wireless service provider that installs a  
8 wireless facility or wireless support structure under Subsection  
9 (a) to compensate the political subdivision or municipally owned  
10 utility at a rate that is higher than a rate that is sufficient to  
11 cover the direct cost of managing the right-of-way.

12 SECTION 2. (a) In this section, "wireless facility,"  
13 "wireless service provider," and "wireless support structure" have  
14 the meanings assigned by Section 181.151, Utilities Code, as added  
15 by this Act.

16 (b) Except as provided by Subsection (c) of this section,  
17 this Act does not apply to an agreement for the use of a public  
18 right-of-way entered into before the effective date of this Act.  
19 That agreement is governed by the law in effect on the date the  
20 agreement was entered into, and the former law is continued in  
21 effect for that purpose.

22 (c) Notwithstanding the terms of an agreement described by  
23 Subsection (b) of this section, a wireless service provider may  
24 elect to compensate the political subdivision or municipally owned  
25 utility in accordance with Section 181.152(b), Utilities Code, as  
26 added by this Act, for wireless facilities and wireless support  
27 structures deployed on or after the effective date of this Act.

1           (d) If an agreement described by Subsection (b) of this  
2 section is terminated in accordance with the agreement's terms, the  
3 wireless service provider may elect to apply the rates and terms  
4 provisions of Subchapter G, Chapter 181, Utilities Code, as added  
5 by this Act, to wireless facilities and wireless support structures  
6 deployed before that termination.

7           SECTION 3. This Act takes effect immediately if it receives  
8 a vote of two-thirds of all the members elected to each house, as  
9 provided by Section 39, Article III, Texas Constitution. If this  
10 Act does not receive the vote necessary for immediate effect, this  
11 Act takes effect September 1, 2017.