

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1937  
By: Lucio  
Economic Development  
4-30-97  
Committee Report (Substituted)

### **DIGEST**

Currently, cities negotiate franchise fee contracts with telecommunications utilities to pay for use of city rights-of-way. With the development of local telephone competition cities will be encountering the presence of more than one local exchange telephone utility. This situation will require cities to enter into franchise fee contracts with all telephone utilities in the city. Likewise, telephone utilities will have to enter into franchise fee contracts with every municipality in which they want to provide service. S.B. 1937 would require a joint interim committee to be appointed to investigate, report and make legislative recommendations regarding the state franchise policy for municipalities with respect to telecommunications services provided wholly within municipalities by telecommunications utilities.

### **PURPOSE**

As proposed, C.S.S.B. 1937 requires a joint interim committee to be appointed to investigate, report and make legislative recommendations regarding the state franchise policy for municipalities with respect to telecommunications services provided wholly within municipalities by telecommunications utilities.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Title IIIF, Article 1446c-0, V.T.C.S. (Public Utility Regulatory Act of 1995), by adding Section 3.270, as follows:

Sec. 3.270. INTERIM COMMITTEE ON THE USE OF MUNICIPAL RIGHTS-OF-WAY FOR THE PROVISION OF TELECOMMUNICATIONS SERVICES WHOLLY WITHIN MUNICIPALITIES BY TELECOMMUNICATIONS UTILITIES. (a) Provides that it is the policy of the State of Texas to encourage competition among telecommunication utilities providing telecommunications services wholly within municipalities in a competitively neutral, non-discriminatory manner, to reduce the barriers to entry for such telecommunications utilities by eliminating any conditions which prohibit or have the effect of prohibiting the ability of any telecommunications utility to provide telecommunications services wholly within municipalities, to ensure that any compensation to municipalities for the telecommunications utilities' use of municipal rights-of-way or other public property to provide telecommunications services wholly within municipalities is fair and reasonable to telecommunications utilities and municipal residents who own the public property or right-of-way; and to ensure that consumers benefit from such competition.

(b) Requires a joint interim committee to be appointed to investigate, report and make legislative recommendations regarding the state franchise policy for municipalities with respect to telecommunications services provided wholly within municipalities by telecommunications utilities.

(c) Sets forth the composition of the committee.

(d) Requires the joint committee to investigate the need for consistency in terms and conditions to be included in municipal franchise agreements across the state; the impact of existing municipal fee agreements, ordinances, charters or other municipal requirements on the provision of competitive telecommunications services wholly within municipalities by telecommunications utilities and the authority of the legislature to establish a basis for and require modification of those agreements, ordinances, charters or other municipal requirements; the type and amount of cost incurred by municipalities by virtue of the use of municipalities' rights of way and public property by telecommunications utilities providing telecommunications services wholly within the municipalities; the type, basis for, and amount of revenue received by municipalities from telecommunications utilities providing telecommunications services wholly within the municipalities; the authority of municipalities to impose conditions on or require compensation from telecommunications utilities providing telecommunications services wholly within the municipalities by resale of telecommunications services or the use of facilities of other telecommunications utilities; and such other issues as are necessary to promote the public interest and effectuate the policies in support of competition by telecommunications utilities in the provision of telecommunications services wholly within municipalities as set forth in Subsection (a) above.

(e) Requires the joint committee to develop a report that analyzes the state's policies with respect to issues described above and that includes recommended rule or statutory changes to implement the policy options. Authorizes the joint committee to make preliminary reports, but shall make a final report no later than November 1, 1998. Provides that the affected parties are placed on notice that any terms and conditions of municipal fee agreements, ordinances, charters or other municipal requirements, now or hereinafter in existence, may be superseded or subject to amendment, to the extent inconsistent with the terms of legislation hereinafter enacted.

(f) Requires the Public Utility Commission of Texas (commission), the Texas Legislative Council, the governor's office, the senate, and the house of representatives, on request of the committee, to provide staff as necessary to carry out the duties of the joint committee. Requires the commission to conduct such investigations and provide such information and reports as are necessary for the committee to make the determinations required by Subsections (d)(3) and (d)(4) above. Requires the commission to provide the information and final reports to the committee no later than June 1, 1998.

(g) Provides that the committee is given such authority as is necessary to carry out the duties assigned by this section, and in connection therewith may call and hold hearings and compel the attendance of witnesses and the production of information and documents.

(h) Authorizes the committee, if necessary to the discharge of its duties, to request the assistance of additional state agencies, departments, or offices. Requires the agencies, departments, or offices to provide the requested assistance.

(i) Provides that the committee is abolished on the date it issues its final report under Subsection (e) of this section.

SECTION 2. Effective date: September 1, 1997.

SECTION 3. Provides that this Act expires: September 1, 1999.

SECTION 4. Emergency clause.

## **SUMMARY OF COMMITTEE CHANGES**

SECTION 1.

Adds Section 3.279, Article 1446c-0, V.T.C.S., relating to the interim committee on the use of municipal rights-of-way for the provision of telecommunications services wholly within

municipalities by telecommunications utilities. Omits proposed text requiring this Act to be known as the Telecommunications Access to Right-of-Way Act of 1997.

#### SECTION 2.

Sets forth the effective date originally set forth in SECTION 4. Omits proposed Subsections 3.002(1), (9), and (11), Article 1446c-0, V.T.C.S., setting forth certain definitions.

#### SECTION 3.

Sets forth the expiration date. Omits proposed Sections 3.270-3.278, Article 1446c-0, V.T.C.S., prohibiting discrimination in the use of public rights-of-way; establishing the requirements for use of public right-of-way; and relating to permissible fees and charges for engaging in business and using public rights-of-way and pole attachments within municipalities.

#### SECTION 4.

Sets forth the emergency clause. Omits SECTIONS 5 and 6, originally setting forth the expiration date and the emergency clause.