

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1512
By: Flores
Transportation
4/4/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Many Texas Department of Transportation (TxDOT) projects require the relocation of utilities that exist on the state highway system. Section 203.092, Transportation Code, lists the instances in which the state is financially responsible for the relocation of those utilities. If the utility facility relocation involves a highway improvement project that is part of the National System of Interstate and Defense Highways and the relocation is eligible for federal participation, if the utility company has a compensable property interest in the land needed for highway improvement project, or if the highway segment was designated by the Texas Transportation Commission (TTC) as a turnpike prior to September 1, 2005, the relocation is at the expense of the state.

Section 203.0921, Transportation Code, allows TxDOT to require the relocation of utilities that are not eligible for TxDOT payment or reimbursement under Section 203.092, Transportation Code. In the instance of utility relocations that are not eligible for payment or reimbursement by TxDOT, the utility operators must either relocate the utilities on their own or reimburse TxDOT for moving the utilities. If utility operators have a short-term financial condition that prevents them from immediate payment or reimbursement, TxDOT and the utility may work out an agreement with the oversight of TTC. If TxDOT moves the utility, it must be reimbursed for the costs of removal, in addition to six percent interest per year from the date of completion to the date of the final payment.

The State Infrastructure Bank (SIB) was created to encourage public and private investment in transportation facilities that contribute to transportation capabilities of the state. Many cities and counties use the SIB to assist them with loans to finance utility relocation.

Some municipalities are unable to afford the relocation of their utilities or qualify for a SIB loan for utility relocation due to their inability to repay the loan obligation. The inability to pay for the relocation or otherwise qualify for a SIB Loan delays the construction project while the utility fruitlessly attempts to secure other means of funding. Ultimately, TxDOT is forced to relocate the utilities at its expense and seek reimbursement from the utility, which is often an uncollectible debt.

Proposed Statutory Change:

Amend Section 203.092, Transportation Code, to allow TTC to include, as a cost of the state, utility relocations of utilities owned by cities, counties, or statutorily created utility districts that cannot afford the relocation and do not otherwise qualify for an SIB loan. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1512 amends current law relating to payment of costs related to the relocation of certain political subdivision utility facilities for state highway projects.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 203.092, Transportation Code, by adding Subsection (a-4), as follows:

(a-4) Requires a utility, notwithstanding another provision of this section, to make a relocation of a utility facility required by improvement of the state highway system at the expense of this state if the Texas Transportation Commission (TTC) determines that:

(1) the utility is a political subdivision or is owned or operated by a political subdivision;

(2) a financial condition would prevent the utility from being able to pay the cost of relocation in full or in part at the time of relocation or, if paid at that time, the payment would adversely affect the utility's ability to operate or provide essential services to its customers; and

(3) the utility is ineligible for a state infrastructure bank loan under Subchapter D (State Infrastructure Bank), Chapter 222 (Funding and Federal Aid), to finance the cost of relocation and is otherwise unable to finance the cost of the relocation.

(e) Prohibits the total amount paid by the Texas Department of Transportation for the relocation of utility facilities under Subsection (a-4) from exceeding \$10 million in any fiscal year.

SECTION 2. Effective date: upon passage or September 1, 2019.