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McAllen to Lead Rio Grande Valley Coalition in Litigation, Objecting to Constitutionality of SB1004

Senate bill could hinder municipalities from regulation and collecting millions in fees

(McAllen, TX) At last night's McAllen City Commission meeting, commissioners authorized the City Attorney's Office to respond to Senate Bill 1004. The bill significantly restricts municipalities from regulating the construction, development and maintenance of network structures and wireless facilities (or nodes) in the public right-of-way and prohibits municipalities from entering into franchise agreements with these companies for the use of public right-of-way (ROW), creating statutory caps on fees charged for installing these nodes within the ROW. This bill takes effect September 1, 2017.

"SB1004 has pre-empted cities from negotiating reasonable compensation as adequate compensation for the use of public property," said City of McAllen Mayor Jim Darling. "According to the Texas Municipal League, the potential loss of right-of-way fees to municipalities is estimated to be \$813 million annually."

The City Attorney's Office has been in communication with numerous cities across the state about creating a unified coalition to fight this bill.

Over the next few months, a lawsuit will be filed by the City of McAllen, likely joined by other municipalities from across the state, against the State of Texas to object to the constitutionality of SB1004.

"Any successful constitutional challenge on SB1004 is going to require a coordinated effort from every available Texas municipality," said McAllen City Attorney Kevin Pagan.

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