

SB 924 Negatively Impacts Texas Cities

Senate Bill 924 violates the Texas Constitution, threatens existing cable franchise revenues, denies cities compensation for the streaming marketplace's private, for-profit use of the public right-of-way, and impacts funding used for critical public services.

Current law requires cable service providers that sell video to customers using cable facilities in the right-of-way to pay municipal franchise fees. This is a rental fee of municipal right-of-way.

This bill redefines what is a "cable service" and creates an exemption for big legacy cable service providers like Spectrum and Comcast to assert that the amended language exempts their existing payment of right of way fees.

SB 924 proposes to amend Chapter 66 of the Utilities Code so that video delivered over the public internet or by direct-to-home satellite is excluded from the definition of "cable" or "video" service for franchise-fee purposes.

SB 924 will lead to cable service providers re-branding their product as a streaming service, which will eventually eliminate existing cable franchise revenues, resulting in multimillion losses for all cities across Texas. These fees are used to pay for public safety and other critical services in this state.

Constitutional Concern

- The Texas Constitution prohibits the gifting of public property.
- Allowing a private, for-profit company to profit from its occupation and use of the public right-of-way without compensation to the municipality conflicts with the Texas Constitution's gift prohibition.
- Therefore, approval of SB 924 would result in a gift of public property and be nothing more than a **taxpayer-funded subsidy** for private, for-profit companies.

Cities	Annual Potential Loss of Cable Franchise Fees
Arlington	\$ 1,757,943
Austin	\$ 7,000,000
Corpus Christi	\$ 2,100,000
Dallas	\$ 5,000,000
Denton	\$ 782,000
El Paso	\$ 3,000,000
Fort Worth	\$ 6,274,726
Frisco	\$ 264,822
Galveston	\$ 669,000
Garland	\$ 1,150,000
Georgetown	\$ 351,000
Grand Prairie	\$ 623,482
Houston	\$ 10,000,000
Irving	\$ 1,000,000
Leander	\$ 173,000
Lubbock	\$ 1,891,770
McKinney	\$ 750,000
Midland	\$ 1,000,000
Plano	\$ 1,822,597
Richardson	\$ 492,634
San Antonio	\$ 7,400,000
Sugar Land	\$ 895,000
Total	\$54,397,974

What are Texas Cities Asking Lawmakers to Do?

We urge lawmakers to reject SB 924 and stop the unconstitutional giving of public property to private entities for free.

SB 924 Statutory Definition Guide

- Texas requires an entity or person seeking to provide **cable service or video service** in this state to file an application for a state-issued certificate of franchise authority (SICFA) with the commission.
 - Texas Utility Code Chapter 66.003
- “Cable service” means the one-way transmission to subscribers of (i) **video programming**, or (ii) other programming service, and (B) subscriber interaction.
 - 47 U.S.C. Section 522(6)
- “Video service” means **video programming services** provided through wireline facilities located at least in part in the public right-of-way **without regard to delivery technology**, including Internet protocol technology.
 - Texas Utility Code Chapter 66.002
- Texas requires SICFA holders to **pay each municipality** in which it provides **cable service or video service** a franchise fee of five percent of gross revenues
 - Texas Utility Code Chapter 66.002
- SB 924 changes the definition of “cable service” and “video service” so that these terms do **“not include** any video programming accessed via a service that enables users to access content, information, e-mail, or other services offered **over the Internet, including streaming content.”**

The Impact

- The SICFA holders that provide cable service and video service are currently delivering video services over the internet.
 - Houston currently receives 5% of the gross revenues from this service
- SB 924 exempts SICFA holders from having to pay the 5% gross revenues on video delivered over the internet.
- This change encourages SICFA holders to convert all their non-internet video services to internet-based video services, eliminating the approximately \$10 million annual franchise fee the city currently collects.

Lawsuit Summary

- Texas cities are arguing that Netflix, Disney, and other video streaming providers should:
 - Have a SICFA
 - Pay cable/video franchise fee going forward
 - Pay fees owed