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Small Cell Implementation: More Information

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Senate Bill 1004, passed during the regular session and effective September 1, requires a city to allow access for cellular antennae and related equipment (“small cell nodes”) in city rights-of-way, and it also entitles cell companies and others to place equipment on city light poles, traffic poles, street signs, and other poles.

Questions about how the new law will be implemented are rampant. Because the industry sought compressed timelines, most agree that there hasn’t been sufficient time for stakeholder input at the city level. The implementation of the bill may be the classic “be careful what you ask for” for cell providers. If you are confused by the bill’s requirements, and how they will work in practice, rest assured that you are not alone. Hopefully, the information in this article will be of assistance.

Small cell nodes are not yet a replacement for the large “macro towers” that dot our landscape. Rather, the nodes are meant to expand network bandwidth in densely populated areas. S.B. 1004 allows cell companies and others to place the nodes in city rights-of-way, but cities in rural areas may not be affected immediately – if at all.

The bill grants some control to cities by allowing them to, among other things:

1. Adopt a “design manual,” which can include things like aesthetics, insurance, and recommended placement locations;
2. Create an “attachment agreement” governing how nodes are attached to city facilities; and
3. Create “design districts” that can have more stringent aesthetic requirements.

Most cities will also need to review their right-of-way management ordinance and may need to create or modify permit application forms for right-of-way access. The documents can be very simple or very complex, depending on the needs of each city.

The League has obtained example [documents, timelines, and other materials](#) that were prepared for the Texas Coalition of Cities for Utility Issues and others. The documents are comprehensive, but they do not include a right-of-way management ordinance because so many of those are different and need individual attention. They do include a “short form” implementation ordinance that has been drafted and circulated by AT&T, but no city should ever adopt that ordinance without careful practical and legal review.

Probably the best place to start is an [overview paper](#) that was recently presented to the Texas City Attorneys Association. Keep in mind that the documents are simply a starting place for staff and attorneys to develop city-specific regulations. Each city should consult with legal counsel prior to adoption, and many cities may need to seek expert help to do so. (A list of attorneys with expertise in this area is available on the documents page linked above.)