



I. CONFLICT & PREEMPTION (state and federal laws)

City of Houston v. Southern Crushed Conc.,

398 S.W.3d 676 (Tex. 2013)

• City ordinance:

Restricted locations for concrete crushing



• State law:

City *could not make unlawful* a condition or act approved or authorized under the Texas Clean Air Act . . . or by TCEQ

I. CONFLICT & PREEMPTION (state and federal laws)

• Executive: Governor calls for specific preemptions and

even categorical preemptions

Attorney General opinions

• Legislative: 2015 bill preempted local regulation of

oil and gas exploration, production, processing, transporting, etc., including,

e.g. "fracking"

2017 preemptive bills: Uber-Lyft regs, "bathroom" bill, tax levy bill, vested-rights,

"bathroom" bill, tax levy bill, vested-rights, tree ordinances, manufactured housing,

cellular facilities in public ROW

(etc.)

I. CONFLICT & PREEMPTION (state and federal laws)

• **SB 1004:** Curtails municipal regulation of wireless

"network nodes," poles, cables, etc.

in public ROW.

Extensive, prescriptive rules; caps on

fees and compensation to cities.

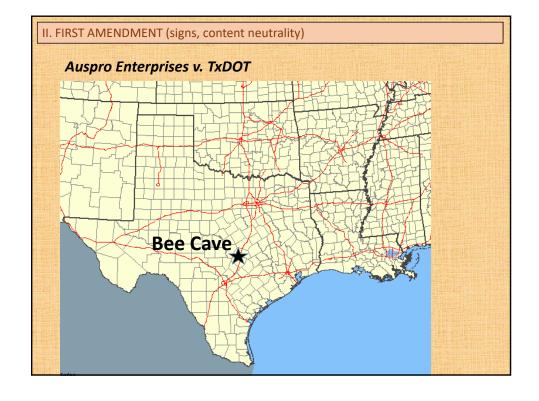
Overrides ordinance and restrictions

• Court challenge: City of Austin v. Texas, 2017 U.S. Dist. LEXIS

141140 (W.D., No. 1:17-CV-806-RP)

City argued SB 1004 preempted by federal Telecommunications Act: 47 U.S.C. § 253 [fair compensation] and §332 [must act

within a reasonable time].





Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the <u>UT Law CLE eLibrary (utcle.org/elibrary)</u>

Title search: Land Use Update

Also available as part of the eCourse 2017 Bernard O. Dow Leasing Institute eConference

First appeared as part of the conference materials for the 2017 Bernard O. Dow Leasing Institute session "Land Use Update"