

BILL ANALYSIS

Senate Research Center
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S.B. 1261
By: Armbrister
Business & Commerce
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DIGEST AND PURPOSE

As the demand for wireless services grows, wireless providers are increasing the construction of new towers. Residents in rural areas may have little or no notice when a new tower is scheduled for construction. As proposed, S.B. 1261 requires a person wishing to construct a wireless communication facility taller than 100 feet to meet certain filing requirements regarding construction. This bill also requires notice of construction to be provided to certain individuals and entities.

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. Authorizes this Act to be cited as the LeClair-Jennings Act.

SECTION 2. Amends Chapter 35, Business & Commerce Code, by adding Subchapter J, as follows:

SUBCHAPTER J. WIRELESS COMMUNICATION FACILITY

Sec. 35.111. DEFINITION. Defines "wireless communication facility."

Sec. 35.112. FILING REQUIREMENTS REGARDING CONSTRUCTION. (a) Requires a person wishing to construct a wireless communication facility that is taller than 100 feet to, before the 30th day before the date construction begins, file certain information with the county clerk or the county official designated by the commissioners court of the county in which the person wishes to construct a wireless communication facility.

(b) Requires a person wishing to construct a wireless communication facility to assign each proposed wireless communication facility a unique identification and to provide the county clerk or official with that unique identification.

Sec. 35.113. NOTICE OF CONSTRUCTION. (a) Requires a person proposing to construct a wireless communication facility that is taller than 100 feet to, before the 30th day before the date the construction begins, mail a letter to certain individuals and entities.

(b) Requires the letter to state certain information.

Sec. 35.114. TRANSFER OF OWNERSHIP. Requires the lessee of the real property used for the wireless communication facility to give written notice to the county clerk or official of the county of construction and the lessor of the real property, if a transfer of ownership of a wireless communication facility occurs that results in a change in the information required under Section 35.113(b)(2), (3), or (4).

Sec. 35.115. REMOVAL. Requires a contract entered into by a property owner that

conveys to a person a property interest for the purpose of allowing the person to construct a wireless communication facility to contain a provision relating to the removal of the facility and any appurtenances to the facility that prescribes the circumstances under which removal is required to be accomplished.

Sec. 35.116. EXCEPTIONS. Provides that this subchapter does not apply to certain structures.

Sec. 35.117. EFFECT ON CERTAIN ORDINANCES. Provides that this subchapter does not preempt a local ordinance regulating a wireless communication facility.

SECTION 3. Amends Chapter 21B, Transportation Code, by adding Section 21.070, as follows:

Sec. 21.070. MARKING OF WIRELESS COMMUNICATION FACILITY. (a) Defines "cultivated field" and "wireless communication facility."

(b) Provides that absence of plants, seedlings, or a crop on a temporary basis due to crop rotation or other farm management techniques does not remove an open area from the definition of "cultivated field."

(c) Provides that this section applies only to an antenna structure that is used to provide commercial wireless communications services and that is located in a cultivated field or within 100 feet of a cultivated field.

(d) Requires a person who proposes to construct a wireless communication facility that is at least 100 feet but not more than 200 feet in height above ground level to mark the highest guy wires on the facility, if any. Requires the markings required under this section to be of a kind generally used for marking antennae structures.

SECTION 4. (a) Makes application of this Act prospective.

(b) Effective date: upon passage or September 1, 2003.