

BILL ANALYSIS

H.B. 2859
By: Wohlgemuth
Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

To repeal Chapter 25, Transportation Code, to eliminate the authority of the Texas Department of Transportation (TxDOT) to regulate the height of towers as potential obstacles to air navigation.

In 1983 the 68th Legislature passed the predecessor of this chapter, which directed the Texas Aeronautics Commission to establish a permitting process for certain towers over 200 feet high. This permitting process does not apply to structures that are regulated by the Federal Communications Commission or the Federal Aviation Administration, and it does not apply to structures within an area regulated by airport hazard zoning.

Although the Texas Aeronautics Commission adopted rules for this program, the permitting process was never implemented. The aeronautics commission recognized that in light of the exemptions, few if any towers would actually be subject to the permitting process. In addition, the legislature has never appropriated funds to administer the program.

In 1991 the Texas Aeronautics Commission was merged into TxDOT. TxDOT adopted the preexisting rules, but took no further steps to implement the permitting process.

Chapter 25 imposes a permitting process that has never been implemented. As a result, there is a risk of legal liability to the state because of the possibility that there may be an accident involving a tower that would fall under Chapter 25, but not under one of its exemptions. Moreover, the passage of time since the initial enactment has shown that it is unnecessary to superimpose an additional level of state regulation on existing federal regulation governing this subject.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2859 repeals Chapter 25, Transportation Code, to eliminate the permitting process for certain towers.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

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