

## BILL ANALYSIS

Senate Research Center

S.B. 1261  
By: Armbrister  
Business & Commerce  
6/24/2003  
Enrolled

### 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. S.B. 1261 requires a person wishing to construct a wireless communication facility taller than 100 feet to meet certain 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 Jennings-Payne 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. NOTICE OF CONSTRUCTION. (a) Requires a person proposing to construct a wireless communication facility that is taller than 100 feet to, on or 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. 35.113. EXCEPTIONS. Provides that this subchapter does not apply to certain structures.

Sec. 35.114. EFFECT ON CERTAIN ORDINANCES. Provides that this subchapter does not preempt a local ordinance regulating a wireless communication facility.

SECTION 3. Amends Subchapter B, Chapter 21, 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, with two warning spheres each.

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

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