

## BILL ANALYSIS

Senate Research Center  
79R10800 PAM-D

H.B. 843  
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Business & Commerce  
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Engrossed

### AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Cellular companies have business incentives to build large cell towers in unincorporated areas in close proximity to major metropolitan areas. This saves the companies money and time. Such action causes a problem when a tower built close to a subdivision detrimentally impacts the value of homes by being an eyesore and a potential safety hazard.

H.B. 843 requires parties constructing cell towers in excess of 60 feet in height, in unincorporated portions of heavily populated counties (currently Harris, Dallas, and Tarrant) to apply to the county for a variance if there is residential subdivision within a quarter of a mile of the proposed structure sight. H.B. 843 requires the county to hold a public hearing regarding the application for a variance, and requires the county to give affected residents notice of this application. This notice will provide residents an opportunity to ask the county to prevent the construction of the tower if they do not want the structure built.

Failure to advise the county of such a planned structure prior to beginning its construction can result in the constructing entity being cited for a Class C misdemeanor, enabling the county attorney to apply for injunctive relief in county court.

### 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. Amends Chapter 240, Local Government Code, by adding Subchapter E, as follows:

#### SUBCHAPTER E. COMMUNICATION FACILITIES

Sec. 240.081. DEFINITIONS. Defines "community facility structure" and "residential subdivision."

Sec. 240.082. APPLICABILITY. Provides that this subchapter applies only to real property that is located in the unincorporated area of a county with a certain population count and certain location. Sets forth certain structures to which this subchapter does not apply.

Sec. 240.083. AUTHORITY OF COUNTY TO REGULATE. Authorizes a commissioners court of a county subject to this subchapter to regulate the location of a communication facility structure by order. Authorizes the regulations to include a requirement for a permit for the construction or expansion of the communication facility structure and the imposition of fees on regulated persons to recover the cost of administering the regulations.

Sec. 240.084. COUNTY PERMIT. (a) Provides that this section applies only to the issuance of a permit to construct or improve a communication facility structure under a regulation adopted under this subchapter.

(b) Requires the commissioners court to perform certain actions not later than the 45th day after the date the application for the permit is filed.

(c) Requires the commissioners court to grant or deny the permit application not later than the 30th day after the date the applicant received the notice, under certain circumstances.

(d) Sets forth actions to be taken and actions prohibited from being taken by the commissioner's court under certain circumstances.

Sec. 240.085. NOTICE BY SIGN. Requires the application for a permit for a location not previously licensed or permitted to prominently post an outdoor sign at the proposed location, as specified, within a certain period of time. Sets forth the requirements for the sign. Authorizes the county in which the proposed communication facility structure is to be located to require the sign be published in English and other languages, as specified.

Sec. 240.086. VARIANCES. (a) Authorizes a person who proposes to construct or increase the height of a communication facility structure in violation of a regulation adopted by order by a county subject to this subchapter to apply to the commissioners court for a variance from the regulation.

(b) Requires the commissioner court to hold a public hearing on the proposed variance. Authorizes the commissioners court to permit a variance from a regulation if specific findings are made.

(c) Authorizes the commissioners court to impose any reasonable conditions on the variance that the commissioners court deems necessary to accomplish the purposes of this subchapter.

(d) Requires written notice of the hearing to be provided to each owner of property located within one-quarter mile of the proposed location of the communication facility structure, within a specified period of time. Sets forth the required information to be included in the notice.

Sec. 240.087. ADDITIONAL FILING REQUIREMENTS REGARDING CONSTRUCTION. Requires a person proposing to construct a communication facility structure in the unincorporated area of a county subject to this subchapter that is taller than 60 feet to file specific information and documentation with the county officials designated by the commissioners court, within a specified period of time.

Sec. 240.088. OFFENSE. (a) Provides that a person commits an offense if the person violates an order adopted under this subchapter and the order defines the violation as an offense.

(b) Provides that an offense under this section is prosecuted in the same manner as an offense defined under state law.

(c) Provides that an offense under this section is a Class C misdemeanor.

Sec. 240.089. INJUNCTION. Authorizes the county attorney or an attorney representing the county to file an action in a district court to enjoin a violation or threatened violation of an order adopted under this subchapter. Authorizes the court to grant appropriate relief.

SECTION 2. Effective date: upon passage or September 1, 2005.