

By: Truitt

H.B. No. 843

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain counties to regulate wireless communication facilities in certain circumstances; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 240, Local Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. WIRELESS COMMUNICATION FACILITIES

Sec. 240.081. DEFINITIONS. In this subchapter:

(1) "Residential subdivision" means a subdivision:

(A) for which a plat is recorded in the county real property records; and

(B) in which the majority of the lots are subject to deed restrictions limiting the lots to residential use.

(2) "Wireless communication facilities" means:

(A) antenna support structures for mobile and land-based telecommunication facilities, whip antennas, panel antennas, microwave dishes, or receive-only satellite dishes;

(B) cell enhancers and related equipment for wireless transmission from a sender to one or more receivers for mobile telephones, mobile radio systems facilities, commercial radio service, or other services or receivers;

(C) a monopole tower, a steel lattice tower, or any other communication tower; or

1                    (D) any type of communication equipment shelter.

2                    Sec. 240.082. APPLICABILITY. This subchapter applies only  
3 to real property that is located in the unincorporated area of a  
4 county with a population of 1.4 million or more and located within:

5                    (1) the extraterritorial jurisdiction of a  
6 municipality; and

7                    (2) one-quarter mile of a residential subdivision.

8                    Sec. 240.083. AUTHORITY OF COUNTY TO REGULATE. (a) The  
9 commissioners court of a county subject to this subchapter may by  
10 order regulate wireless communication facilities, including  
11 collocated or shared facilities.

12                    (b) The regulations may include a requirement for a permit  
13 for the construction, expansion, or removal of a tower or other  
14 facility and may impose fees on regulated persons to recover the  
15 cost of administering the regulations.

16                    (c) The regulations may include the regulation of the  
17 height, location, lighting, and removal of towers and other  
18 facilities.

19                    Sec. 240.084. FILING REQUIREMENTS REGARDING CONSTRUCTION.

20                    (a) Before the 180th day before the date construction begins, a  
21 person proposing to construct a wireless communication facility  
22 that is taller than 60 feet shall file with the county official  
23 designated by the commissioners court:

24                    (1) a statement informing the county that the  
25 construction is proposed and providing the date on or after which  
26 the construction will begin;

27                    (2) copies of any necessary permits from the Federal

1 Communications Commission;

2 (3) any necessary engineered drawings that have been  
3 approved by the Federal Aviation Administration;

4 (4) the correct phone number and address of each  
5 entity involved in the construction; and

6 (5) maps of existing wireless communication services  
7 and facilities in the area and the links that will be created.

8 (b) Before the 120th day before construction begins, the  
9 person proposing to construct the wireless communication facility  
10 shall publish a notice of a public hearing the person shall hold  
11 about the wireless communication facility. The notice must be  
12 published in a local newspaper of general circulation in the county  
13 stating:

14 (1) the date, time, and place of the public hearing;

15 (2) the site, height, and proposed use of the wireless  
16 communication facility; and

17 (3) the name and phone number of a person whom  
18 interested persons may contact to receive information about the  
19 construction.

20 (c) The public hearing must take place after the 20th day  
21 following the date of publication but before the 30th day following  
22 the publication date.

23 (d) Before the 60th day before the date the construction  
24 begins, the person proposing to construct the wireless  
25 communication facility shall mail a letter to each resident and  
26 each owner of land within one-quarter mile of the location of the  
27 wireless communication facility stating:

1           (1) the site, height, and proposed use of the wireless  
2 communication facility; and

3           (2) the name and phone number of a person whom  
4 interested persons may contact to receive information about the  
5 construction.

6           Sec. 240.085. OFFENSE. (a) A person commits an offense if  
7 the person violates an order adopted under this subchapter and the  
8 order defines the violation as an offense.

9           (b) An offense under this section is prosecuted in the same  
10 manner as an offense defined under state law.

11           (c) An offense under this section is a Class C misdemeanor.

12           Sec. 240.086. INJUNCTION. The county attorney or an  
13 attorney representing the county may file an action in a district  
14 court to enjoin a violation or threatened violation of an order  
15 adopted under this subchapter. The court may grant appropriate  
16 relief.

17           SECTION 2. This Act takes effect immediately if it receives  
18 a vote of two-thirds of all the members elected to each house, as  
19 provided by Section 39, Article III, Texas Constitution. If this  
20 Act does not receive the vote necessary for immediate effect, this  
21 Act takes effect September 1, 2005.