

# HOUSE BILL REPORT

## HB 2584

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**As Passed House:**

February 14, 2002

**Title:** An act relating to leases for personal wireless communication facilities.

**Brief Description:** Exempting land leases for personal wireless communication facilities from the subdivision act.

**Sponsors:** By Representatives Reardon, Crouse, Morris, Delvin, Ruderman, Anderson, Berkey, Linville, Schindler and Esser.

**Brief History:**

**Committee Activity:**

Technology, Telecommunications & Energy: 2/5/02, 2/6/02 [DP].

**Floor Activity:**

Passed House: 2/14/02, 97-0.

**Brief Summary of Bill**

- Creates an additional exception to the state subdivision laws for property leased for placement of personal wireless facilities.

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### HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

**Majority Report:** Do pass. Signed by 19 members: Representatives Morris, Chair; Ruderman, Vice Chair; Crouse, Ranking Minority Member; Anderson, Berkey, Bush, Casada, DeBolt, Delvin, Esser, Hunt, Linville, Lysen, Nixon, Pflug, Reardon, Romero, Sullivan and Wood.

**Staff:** Pam Madson (786-7166); Ken Conte (786-7102).

**Background:**

The state subdivision law governs the manner in which cities and counties administer the division of land into parcels for the purpose of sale, lease, or other transfers of ownership. When the division is of five or more parcels, it is considered a long subdivision and four or fewer parcels is considered a short subdivision. Property divisions are accomplished by the review and approval of plats which are detailed maps

that show the parcel division and such things as streets, parks, and alleys. In some cases, public hearings are required.

There are seven exceptions from the requirements of the state subdivision law. They are property divisions for cemeteries and burial plots, certain divisions of five acres or larger, divisions resulting from a will or inheritance, certain divisions for industrial or commercial use, certain divisions by lease where no residential structures other than mobile homes or trailers will be placed on the land, divisions to adjust boundaries, and certain divisions for condominium developments.

Local zoning ordinances reflect the appropriate use of land as determined and administered by city and county governments. Proposed subdivisions must conform to local zoning determinations. The location of personal wireless services facilities, such as cell towers, are governed by local zoning ordinances and may involve the use of a small parcel of land that is held under a lease or easement. Some local governments require wireless companies to use the subdivision process when property is held under a lease for the placement of cell towers.

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**Summary of Bill:**

An additional exception to the state subdivision law is established for leases of land used for locating personal wireless services facilities. The exception continues as long as the leased land is used for that purpose. Personal wireless services are defined as any federally licensed personal wireless service. Facilities are unstaffed facilities used for transmission and reception of wireless communication services such as antenna arrays, transmission cables, equipment shelters and support structures.

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**Appropriation:** None.

**Fiscal Note:** Not Requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This legislation pertains only to wireless facilities and no other land uses. If the land is no longer used for a wireless facility it no longer is subject to the exemption. It in no way alters the obligation of wireless carriers to comply with all applicable zoning laws and wireless facility ordinances. We feel that the State Subdivision Act was not intended to apply to non-inhabitable structures like wireless facilities. But a strict interpretation of the law would argue that the law does apply meaning that wireless facilities have to meet certain requirements, such as minimum lot sizes, that really don't make any sense. We've worked with cities and counties to develop a simple amendment that we think will add clarity to this issue. I've talked to a

number of planners at counties and they are supportive.

**Testimony Against:** None.

**Testified:** (In support) Representative Reardon, prime sponsor; and Dan Youmans, AT&T Wireless.