

BILL ANALYSIS

Senate Research Center

S.B. 652
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Veteran Affairs & Military Installations
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Enrolled

DIGEST AND PURPOSE

Texas' 18 major military installations are important economic contributors to the state, producing a combined fiscal impact of \$43.4 billion in 2001 and employing some 220,000 Texans. The presence of these military bases is important not only economically but also for the increased level of security protection they offer as well as their vital historical and cultural significance.

The Texas Military Preparedness Act of 2003 has been crafted by state government and defense community leaders working together as a proactive response to the evolving transformation of national defense strategies and the infrastructure changes required to support them. The United States Department of Defense (DoD) has announced plans to facilitate this transition largely through dollar savings associated with the 2005 Base Realignment and Closure (BRAC) process which could close as much as 25 percent of DoD's base infrastructure.

S.B. 652 assists local defense communities in identifying and resourcing cooperative economic development initiatives that enhance the real military value of their installations, provides important cost saving options (e.g., reduction of installation utility rates) to reduce overall base operating costs and increase funds for training and mission needs, and institutionalizes the process of investing in Texas' military bases. S.B. 652 combines two existing state organizations to form the Texas Military Preparedness Commission.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Military Preparedness Commission in SECTION 3 (Section 436.154, Government Code) and the Public Utility Commission of Texas in SECTION 23 (Section 39.910, Utilities Code).

SECTION BY SECTION ANALYSIS

SECTION 1. Provides that this act be known as the Military Preparedness Act.

SECTION 2. Sets forth legislative findings regarding the need for the Military Preparedness Act.

SECTION 3. Amends Chapter 436, Government Code, by reorganizing it into Subchapters A-D, as follows:

CHAPTER 436. New heading: TEXAS MILITARY PREPAREDNESS COMMISSION SUBCHAPTER A. GENERAL PROVISIONS

Sec. 436.001. DEFINITION. Redefines "commission."

Sec. 436.002. COMMISSION. Provides that the Military Preparedness Commission (commission) is within the office of the governor and is required to report to the governor or the governor's designee.

Sec. 436.003. SUNSET PROVISION. Provides that the commission is subject to the Texas Sunset Act (Chapter 325), and unless continued in existence by that Act the commission is abolished and this chapter expires September 1, 2007.

[Reserves Sections 436.004-436.050 for expansion.]

SUBCHAPTER B. ORGANIZATION AND ADMINISTRATION

Sec. 436.051. Redesignated from Section 436.003. New heading: COMPOSITION; ELIGIBILITY. (a) Creates this subsection from existing text and sets forth the composition of the Texas Military Preparedness Commission (commission).

(b) Requires a person, to be eligible for appointment as a public member to the commission, to have demonstrated experience in economic development, the defense industry, military installation operation, environmental issues, finance, local government, or the use of airspace or outer space for future military missions.

(c) Requires appointments to the commission to be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 436.052. Redesignated from Section 436.004. TERMS AND OFFICERS. (a) Provides that the nine public members of the commission serve staggered terms of six years, rather than three years, with the terms of one-third of the members expiring February 1 of each odd-numbered year.

(b) Requires the governor to designate a member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor.

Sec. 436.053. Redesignated from Section 436.005. COMPENSATION AND EXPENSES. No changes are made to this section.

Sec. 436.054. Redesignated from Section 436.006. New heading: MEETINGS. (a) Authorizes the commission to meet at other times at the call of the presiding officer or as provided by the rules of the commission.

(b) No changes in this subsection.

Sec. 436.055. CONFLICT OF INTEREST. (a) Defines "Texas trade association."

(b) Prohibits a person from being a public member of the commission and from being a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, under circumstances.

(c) Prohibits a person from being a public member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists) because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

Sec. 436.056. REMOVAL. (a) Sets forth the grounds for removal of a public member from the commission.

(b) Provides that the validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) Requires the director, if the director has knowledge that a potential ground for removal exists, to notify the presiding officer of the commission of the potential ground. Requires the presiding officer to then notify the governor and the attorney general that a potential ground for removal exists. Requires the director, if the potential ground for removal involves the presiding officer, to notify the

next highest ranking officer of the commission, who is required to then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 436.057. **DIRECTOR.** (a) Requires the commission, subject to approval of the governor, to hire a director to serve as the chief executive officer of the commission and to perform the administrative duties of the commission.

(b) Provides that the director serves at the will of the commission.

(c) Authorizes the director to hire staff within guidelines established by the commission.

Sec. 436.058. **PUBLIC ACCESS.** Requires the commission to develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

Sec. 436.059. **EQUAL EMPLOYMENT OPPORTUNITY.** (a) Requires the director or the director's designee to prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) Sets forth the required content of the policy statement.

(c) Sets forth the process requirements the policy statement must meet.

Sec. 436.060. **QUALIFICATIONS AND STANDARDS OF CONDUCT.** Requires the director or the director's designee to provide to members of the commission and to commission employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 436.061. **STATE EMPLOYEE INCENTIVE PROGRAM.** Requires the director or the director's designee to provide to commission employees information and training on the benefits and methods of participation in the state employee incentive program.

Sec. 436.062. **COMPLAINTS.** (a) Requires the commission to maintain a file on each written complaint filed with the commission. Sets forth the required content of the file.

(b) Requires the commission to provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the commission's policies and procedures relating to complaint investigation and resolution.

(c) Requires the commission, at least quarterly until final disposition of the complaint, to notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Sec. 436.063. **USE OF ALTERNATIVE PROCEDURES.** (a) Requires the commission to develop and implement a policy to encourage the use of negotiated rulemaking procedures under Chapter 2008 (Negotiated Rulemaking) for the adoption of commission rules and appropriate alternative dispute resolution procedures under Chapter 2009 (Alternative Dispute Resolution for Use by Governmental Bodies) to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) Requires the commission's procedures relating to alternative dispute resolution to conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) Requires the commission to designate a trained person to perform certain duties.

Sec. 436.064. TECHNOLOGY POLICY. Requires the commission to develop and implement a policy requiring the director and commission employees to research and propose appropriate technological solutions to improve the commission's ability to perform its functions. Sets forth the required characteristics of the technological solutions.

[Reserves Sections 436.065-436.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Deletes Sec. 436.007. APPLICABILITY OF ADVISORY COMMITTEE LAW

Sec. 436.101. Redesignated from Section 436.008. POWERS AND DUTIES OF COMMISSION. Sets forth the powers and duties of the commission.

Sec. 436.102. CONSULTING AGREEMENTS. Authorizes the commission, with prior approval of the governor, to enter into an agreement with a consulting firm to provide information and assistance on a pending decision of the United States Department of Defense or other federal agency regarding the status of military installations and defense-related businesses located in this state.

Sec. 436.103. ANNUAL REPORT; ANNUAL MEETING. (a) Defines "state agency."

(b) Requires the commission, not later than July 1 of each year, to prepare and submit a report to the governor and the legislature about the active military installations, communities that depend on military installations, and defense-related businesses in this state. Sets forth the required content of the report.

(c) Requires state agencies to cooperate with and assist the commission in the preparation of the report required under Subsection (b), including providing information about regulations, policies, programs, and services that may impact communities dependent on military installations, defense-related businesses, and the viability of existing Texas military missions.

(d) Requires the commission to coordinate annual meetings with the head of each state agency or member of the legislature whose district contains an active, closed, or realigned military installation to discuss the implementation of the recommendations outlined in the report required under Subsection (b).

Sec. 436.104. COORDINATING ASSISTANCE FOR EVALUATION OF MILITARY BASE. Authorizes the base commander, when a commander of a military installation receives a copy of the evaluation criteria for the base under the United States Department of Defense base realignment or closure process, to request that the commission coordinate assistance from other state agencies to assist the commander in preparing the evaluation. Requires the state agency, if the commission asks a state agency for assistance under this section, to make the provision of that assistance a top priority. Deletes Sec. 436.009. ADMINISTRATIVE SUPPORT.

[Reserves Sections 436.105-436.150 for expansion.]

SUBCHAPTER D. FISCAL PROVISIONS

Sec. 436.151. DEFINITIONS. Defines "defense community."

Sec. 436.152. ANALYSIS OF PROJECTS; FINANCING. (a) Authorizes a defense community to submit the community's military value enhancement statement prepared

under Chapter 397, Local Government Code, to the commission.

(b) Requires the commission, on receiving a defense community's military value enhancement statement, to analyze the projects included in the statement using the criteria it has developed. Requires the commission to develop project analysis criteria based on the criteria the United States Department of Defense uses for evaluating military facilities in the department's base realignment and closure process.

(c) Requires the commission to determine whether each project identified in the defense community's military value enhancement statement will enhance the military value of the military facility. Requires the commission to assist the community in prioritizing the projects that enhance the military value of a military facility, giving the highest priority to projects that add the most military value under the commission's project analysis criteria.

(d) Requires the commission to refer the defense community to the appropriate state agency that has an existing program to provide financing for each project identified in the community's military value enhancement statement that adds military value to a military facility. Authorizes the commission, if there is no existing program to finance a project, to provide a loan of financial assistance to the defense community for the project.

Sec. 436.153. LOANS. (a) Authorizes the commission to provide a loan of financial assistance to a defense community for a project that will enhance the military value of a military facility located in, near, or adjacent to the defense community. Requires the loan to be made from the Texas military value revolving loan account established under Section 436.156.

(b) Requires the commission, on receiving an application for a loan under this section, to confirm that the project adds military value to the military facility.

(c) Requires the commission, if the commission determines that a project will enhance the military value of the military facility, in accordance with the criteria adopted by the commission under Section 436.154(a), to perform certain duties.

(d) Authorizes the commission, if the commission determines that the funds will be used to enhance the military value of the military facility based on the base realignment and closure criteria and that the project is financially feasible, to award a loan to the defense community for the project. Requires the commission to enter into a written agreement with a defense community that is awarded a loan. Requires the agreement to contain the terms and conditions of the loan, including the loan repayment requirements.

(e) Requires the commission to notify the Texas Public Finance Authority (TPFA) of the amount of the loan and the recipient of the loan and request the authority to issue general obligation bonds in an amount necessary to fund the loan. Requires the commission and TPFA to determine the amount and time of a bond issue to best provide funds for one or multiple loans.

(f) Requires the commission to administer the loans to ensure full repayment of the general obligation bonds issued to finance the project.

(g) Authorizes the commission to provide a loan only for a project that is included in the political subdivision's statement under Section 397.002, Local Government Code, or to prepare a comprehensive defense installation and community strategic impact plan under Section 397.003, Local Government Code.

(h) Requires a project financed with a loan under this section to be completed on

or before the fifth anniversary of the date the loan is awarded.

(i) Prohibits the amount of a loan under this section from exceeding the total cost of the project.

Sec. 436.154. LOAN PROCESS. (a) Requires the commission to adopt rules, in consultation with TPFSA, that contain the criteria for evaluating the credit of a loan applicant and the financial feasibility of a project. Requires the commission to also adopt a loan application form. Sets forth the authorized content of the application form.

(b) Prohibits the commission from accepting an application for a loan from the Texas military value revolving loan account unless the application is submitted in affidavit form by the officials of the defense community. Requires the board to prescribe the affidavit form.

Sec. 436.155. INCURRENCE OF DEBT BY PUBLIC ENTITY. (a) Authorizes a defense community in this state to borrow money from the state, including by direct loan, based on the credit of the defense community to finance a project included in the community's military value enhancement statement.

(b) Authorizes a defense community to enter into a loan agreement with the state to provide financing for a project. Authorizes the defense community to pledge the taxes of the community or provide any other guarantee for the loan.

(c) Requires money borrowed to be segregated from other funds under the control of the defense community and authorizes its use only for purposes related to a specific project.

(d) Provides that the authority granted by this section does not affect the ability of a defense community to incur debt using other statutorily authorized methods.

Sec. 436.156. TEXAS MILITARY VALUE REVOLVING LOAN ACCOUNT. (a) Provides that the Texas military value revolving loan account is an account in the general revenue fund.

(b) Authorizes the account to be used only for loans made under this subchapter.

(c) Requires the commission to deposit to the credit of the account all loan payments made by a political subdivision for a loan under Section 436.153. Requires the loan payments to be used to reimburse the general revenue fund for money appropriated to pay the principal, premium if any, and interest on the bonds issued under Section 436.158. Requires the excess, if loan payments exceed the amounts required for reimbursement, to first be applied to reimburse the expenses of administering the program and secondly deposited to the credit of the Texas military value revolving loan account to fund subsequent loans.

Sec. 436.157. GIFTS AND GRANTS. Authorizes the commission to solicit and accept gifts and grants from any source for the purposes of this chapter. Requires the commission to deposit a gift or grant to the credit of the specific account that is established for the purpose for which the gift or grant was made. Authorizes the commission, if a gift or grant is not made for a specific purpose, to deposit the gift or grant to the credit of any of the commission's accounts created under this chapter.

Sec. 436.158. ISSUANCE OF GENERAL OBLIGATION BONDS AND NOTES FOR MILITARY VALUE ACCOUNT. (a) Authorizes TPFSA to issue and sell general obligation bonds and notes of the state, as authorized by Section 49-n, Article III, Texas Constitution, for the purpose of providing money to establish the Texas military value revolving loan account.

(b) Requires the proceeds of the bonds and notes to be deposited into the Texas military value revolving loan account or into other separate funds as may be required to provide for payment of issuance and administrative costs and may be used as authorized by Section 49-n, Article III, Texas Constitution, including certain actions.

(c) Requires the bonds and notes to be issued in accordance with and subject to the provisions of Chapters 1201 (Public Security Procedures Act), 1207 (Refunding Bonds), 1231 (Bond Review Board), 1232 (Texas Public Finance Authority), and 1371 (Obligations for Certain Public Improvements).

(d) Authorizes TPFAs, in connection with bonds or notes issued under this section, to enter into one or more credit agreements at any time for a period and on conditions TPFAs approve.

Sec. 436.159. APPROPRIATION REQUIRED. Provides that in accordance with Section 49-n, Article III, Texas Constitution, general revenue is to be appropriated to the TPFAs in an amount determined by the authority to be necessary to pay the principal, premium if any, and interest on the bonds, and that amount shall be specified in biennial appropriations acts.

SECTION 4. Amends Section 486.051(3), Government Code, to redefine "office."

SECTION 5. Amends Section 486.052, Government Code, by adding Subsection (d), as follows:

(d) Requires the Texas Military Preparedness Commission (office) to give first priority to awarding loans under the program according to the economic development needs of eligible communities with neighboring federal military installations that, after the effective date of the legislation enacting this subsection and before January 1, 2006, are publicly proposed for action by the department of defense or applicable military department under the base realignment or closure process. Provides that this subsection expires September 1, 2007.

SECTION 6. Amends Section 2056.002(b), Government Code, to require the Legislative Budget Board (LBB) and the Governor's Office of Budget, Policy, and Planning to determine the elements required to be included in each agency's strategic plan. Includes an analysis of the agency's expected expenditures that relate to federally owned or operated military installations or facilities, or communities where a federally owned or operated military installation or facility is located in the required content for a plan. Makes conforming and nonsubstantive changes.

SECTION 7. Amends Chapter 2056, Government Code, by adding Section 2056.0065, as follows:

Sec. 2056.0065. GOALS: EMPHASIS ON ENHANCING MILITARY FACILITIES.

(a) Requires the state agency, in establishing the goals of a state agency, to consider the enhancement of military value to federally owned or operated military installations or facilities. Provides that the state agency is encouraged to make this evaluation using the most current criteria provided by the office.

(b) Requires the state agency, if the state agency determines that an expenditure will enhance the military value of a federally owned or operated military installation or facility based on the base realignment and closure criteria, to make that expenditure a high priority.

SECTION 8. Amends Subchapter A, Chapter 2167, Government Code, by adding Section 2167.009, as follows:

Sec. 2167.009. CONSIDERATION TO MILITARY INSTALLATION. Requires the commission or the private brokerage or real estate firm assisting the commission, in

leasing space for the use of a state agency, to give consideration to a federally owned or operated military installation or facility.

SECTION 9. Amends Subtitle C, Title 12, Local Government Code, by adding Chapter 397, as follows:

CHAPTER 397. STRATEGIC PLANNING RELATING TO MILITARY INSTALLATIONS

Sec. 397.001. DEFINITIONS. Defines "defense base" and "defense community."

Sec. 397.002. DEFENSE BASE MILITARY VALUE ENHANCEMENT

STATEMENT. (a) Requires a defense community that applies for financial assistance from the Texas military value revolving loan account to prepare, in consultation with the authorities from each defense base associated with the community, a defense base military value enhancement statement that illustrates specific ways the funds will enhance the military value of the installations and must include certain information for each project.

(b) Authorizes the Texas Military Preparedness Commission (commission) to require a defense community to provide any additional information the commission requires to evaluate the community's request for financial assistance under this section.

(c) Authorizes two or more defense communities near the same defense base that apply for financial assistance from the Texas military value revolving loan account to prepare a joint statement.

(d) Requires a copy of the defense base military value enhancement statement to be distributed to the authorities of each defense base included in the statement and to the commission.

(e) Provides that this section does not prohibit a defense community that is not applying for financial assistance from preparing a defense base military value enhancement statement under this section.

Sec. 397.003. COMPREHENSIVE DEFENSE INSTALLATION AND COMMUNITY STRATEGIC IMPACT PLAN. (a) Authorizes a defense community to request financial assistance from the Texas military value revolving loan account to prepare a comprehensive defense installation and community strategic impact plan that states the defense community's long-range goals and development proposals relating to certain purposes.

(b) Provides that the comprehensive defense installation and community strategic impact plan should include, if appropriate, maps, diagrams, and text to support its proposals and requires the plan to include certain elements as they relate to each defense base included in the plan.

(c) Authorizes two or more defense communities near the same defense base to prepare a joint plan.

Sec. 397.004. PLANNING MANUAL. Provides that a defense community that has prepared a comprehensive defense installation and community strategic impact plan described by Section 397.003 is encouraged to develop, in coordination with the authorities of each defense base associated with the community, a planning manual based on the proposals contained in the plan. Provides that the manual should adopt guidelines for community planning and development to further the purposes described under Section 397.002. Provides that the defense community should, from time to time, consult with defense base authorities regarding any changes needed in the planning manual guidelines adopted under this section.

Sec. 397.005. CONSULTATION WITH DEFENSE BASE AUTHORITIES. Requires the defense community. if a defense community determines that an ordinance, rule, or plan proposed by the community may impact a defense base or the military exercise or training activities connected to the base, to seek comments and analysis from the defense base authorities concerning the compatibility of the proposed ordinance, rule, or plan with base operations. Requires the defense community to consider and analyze the comments and analysis before making a final determination relating to the proposed ordinance, rule, or plan.

SECTION 10. Amends Section 31.1571, Natural Resources Code, by adding Subsection (c), as follows:

(c) Authorizes any unused or underused state property to be sold or leased, or an easement over the property to be granted, to the United States for the use and benefit of the United States armed forces if the commissioner or the commissioner's designee, after consultation with appropriate military authorities, determines that the sale, lease, or easement would materially assist the military in accomplishing its mission. Requires a sale, lease, or easement under this subsection to be at market value. Requires the state to retain all minerals it owns with respect to the land, but it authorizes the state to relinquish the right to use the surface to extract them.

SECTION 11. Amends Section 32.101, Natural Resources Code, to prohibit sales and leases of upland within 2,500 feet of a military base from being made unless the commissioner or the commissioner's designee, after consultation with appropriate military authorities, determines that the sale or lease will not adversely affect the mission of the military base.

SECTION 12. Amends Section 33.103, Natural Resources Code, as follows:

Sec. 33.103. INTERESTS WHICH MAY BE GRANTED BY THE BOARD. (a)
Creates this subsection from existing text.

(b) Prohibits the Veterans' Land Board from granting any interest in land within 2,500 feet of a military base unless the commissioner or the commissioner's designee, after consultation with appropriate military authorities, determines that the grant will not adversely affect the mission of the military base.

SECTION 13. Amends Section 51.011, Natural Resources Code, as follows:

Sec. 51.011. SALE AND LEASE OF PUBLIC SCHOOL AND ASYLUM LAND. (a)
Creates this subsection from existing text.

(b) Prohibits land within 2,500 feet of a military base, notwithstanding any other provision of this chapter, from being sold or leased and prohibits an easement over the land from being granted unless the commissioner or the commissioner's designee, after consultation with appropriate military authorities, determines that the grant will not adversely affect the mission of the military base.

(c) Authorizes any public land to be sold or leased, or an easement over the property to be granted, to the United States for the use and benefit of the United States armed forces if the commissioner or the commissioner's designee, after consultation with appropriate military authorities, determines that the sale, lease, or easement would materially assist the military in accomplishing its mission. Requires a sale, lease, or easement under this subsection to be at market value. Requires the state to retain all minerals it owns with respect to the land, but authorizes it to relinquish the right to use the surface to extract them.

(d) Requires the commissioner to determine whether a conveyance under this section takes priority over any preference otherwise granted by law, including the preferential right of a surrounding landowner. Requires the commissioner, in

making the determination, to consider only the interests of preference holders who assert their preferences in writing after notice of the proposed conveyance is published in a newspaper of general circulation in the area. Requires the commissioner, in the commissioner's discretion, to balance the competing interests of the preference holders and the military. Provides that the commissioner's determination is final. Provides that after land is conveyed to the military, all competing preferences terminate.

SECTION 14. Amends Section 53.011, Natural Resources Code, to prohibit a person from prospecting from a location within 2,500 feet of a military base, but prospectors may, from a location more than 2,500 feet from a base, look for minerals within the 2,500-foot strip.

SECTION 15. Amends Section 53.016(b), Natural Resources Code, to require any lease covering land adjacent to a military base to require the lessee to forego the right to use the surface within 2,500 feet of the military base while exploiting the minerals.

SECTION 16. Amends Section 53.064(a), Natural Resources Code, to require a lease covering land adjacent to a military base to require the lessee to forego the right to use the surface within 2,500 feet of the military base while exploiting the minerals.

SECTION 17. Amends Section 53.151, Natural Resources Code, is amended to read as follows:

Sec. 53.151. LEASE OF CERTAIN AREAS. (a) Creates this subsection from existing text.

(b) Prohibits the lease from being granted for any land within 2,500 feet of a military base.

SECTION 18. Amends Section 312.204, Tax Code, adding Subsection (g), as follows:

(g) Authorizes the governing body of a municipality eligible to enter into tax abatement agreements under Section 312.002 (Eligibility of Taxing Unit to Participate in Tax Abatement), notwithstanding the other provisions of this chapter, to agree in writing with the owner of real property that is located in a reinvestment zone to exempt from taxation for a period not to exceed five years a portion of the value of the real property or of tangible personal property located on the real property, or both, that is used to provide housing for military personnel employed at a military facility located in or near the municipality. Authorizes an agreement to provide for the exemption of the real property in each year covered by the agreement only to the extent its value for that year exceeds its value for the year in which the agreement is executed. Authorizes an agreement to provide for the exemption of tangible personal property located on the real property in each year covered by the agreement other than tangible personal property that was located on the real property at any time before the period covered by the agreement with the municipality and other than inventory or supplies. Authorizes the governing body of the municipality to adopt guidelines and criteria for tax abatement agreements entered into under this subsection that are different from the guidelines and criteria that apply to tax abatement agreements entered into under another provision of this section. Provides that tax abatement agreements entered into under this subsection are not required to contain identical terms for the portion of the value of the property that is to be exempt or for the duration of the exemption as tax abatement agreements entered into with the owners of property in the reinvestment zone under another provision of this section.

SECTION 19. Amends Section 35.101(2), Utilities Code, to redefine "public retail customer."

SECTION 20. Amends Section 35.102, Utilities Code, as follows:

Sec. 35.102. New heading: STATE AUTHORITY TO SELL OR CONVEY POWER OR NATURAL GAS. (a) Includes natural gas in the lists of what a member of the Public Utility Commission (commissioner) is authorized to sell.

(b) Requires the commissioner, to ensure that the state receives the maximum benefit from the sale of power or natural gas generated from royalties taken in kind, to use all feasible means to sell that power or natural gas first to public retail customers that are military installations of the United States, agencies of this state, institutions of higher education, or public school districts. Authorizes the remainder of the power or natural gas, if any, to be sold to public retail customers that are political subdivisions of this state or to a United States Department of Veterans Affairs facility.

SECTION 21. Amends Subchapter H, Chapter 36, Utilities Code, by adding Section 36.354, as follows:

Sec. 36.354. DISCOUNTED RATES FOR MILITARY BASES. (a) Requires each municipally owned utility, electric cooperative, or electric utility in an area where customer choice is not available or the Public Utility Commission (PUC) has delayed the implementation of full customer choice in accordance with Section 39.103 (Commission Authority to Delay Competition and Set New Rates), notwithstanding any other provision of this title, to discount charges for electric service provided to a military base.

(b) Provides that the discount under Subsection (a) is a 20 percent reduction of the base commercial rate that the municipally owned utility, electric cooperative, or electric utility would otherwise charge the military installation.

(c) Authorizes an electric utility, municipally owned utility, or electric cooperative to assess a surcharge to all of the utility's retail customers in the state to recover the difference in revenue between the revenues from the discounted rate for military bases provided under Subsection (a) and the base commercial rate. Provides that this subsection does not apply to an electric utility, municipally owned utility, or electric cooperative that was providing electric service to a military base on December 31, 2002, at a rate constituting a discount of 20 percent or more from the utility's base commercial rate that the utility would otherwise charge the military base.

(d) Requires each electric utility to file a tariff with PUC reflecting the discount required by Subsection (a) and authorizes each electric utility to file a tariff reflecting the surcharge provided by Subsection (c). Requires PUC, not later than the 30th day after the date PUC receives the electric utility's tariff reflecting the surcharge, to approve the tariff. Provides that a proceeding under this subsection is not a rate change for purposes of Subchapter C.

(e) Provides that an electric utility, municipally owned utility, or electric cooperative is exempt from the requirements of Subsection (a) under certain circumstances.

(f) Requires each electric utility to provide the Texas Military Preparedness Commission (commission) with the base commercial rate that the utility would otherwise charge the military base and the rate the utility is charging the military base.

(g) Defines "military base."

SECTION 22. Amends Subchapter H, Chapter 39, Utilities Code, by adding Section 39.3535, as follows:

Sec. 39.3535. MILITARY BASES AGGREGATORS. (a) Defines "military bases aggregator."

(b) Provides that it is the policy of this state to encourage military bases located in areas of the state offering customer choice under this chapter to aggregate their

facilities into a single purchasing unit as a method to reduce costs of electricity consumed by those bases. Requires PUC to provide assistance to a military bases aggregator regarding the evaluation of offers from retail electric providers on the request of the military bases aggregator.

(c) Authorizes an aggregator registered under another section of this subchapter to provide aggregation services to military bases.

(d) Authorizes a person, including a state agency, to register as a military bases aggregator to provide aggregation services exclusively to military bases located in areas of the state offering customer choice under this chapter.

(e) Provides that a person registered as a military bases aggregator under Subsection (d) is not required to comply with customer protection provisions, disclosure requirements, or marketing guidelines prescribed by this title or established by the commission while providing aggregation services exclusively to military bases.

(f) Requires PUC to expedite consideration of an application submitted by an applicant for registration under Subsection (d).

SECTION 23. Amends Subchapter Z, Chapter 39, Utilities Code, by adding Section 39.910, as follows:

Sec. 39.910. INCENTIVE PROGRAM AND GOAL FOR ENERGY EFFICIENCY FOR MILITARY BASES. (a) Requires PUC by rule to establish an electric energy efficiency incentive program under which each electric utility in an area where customer choice is not available will provide incentives sufficient for military bases, retail electric providers, or competitive energy service providers to install energy efficiency devices or other alternatives at military bases. Requires PUC to design the program to provide military bases with a variety of choices for cost-effective energy efficiency devices and other alternatives from the market to reduce energy consumption and energy costs.

(b) Requires PUC to establish a goal for the program to reduce, before January 1, 2005, the consumption of electricity by military bases in this state by five percent as compared to consumption levels in 2002.

(c) Requires PUC to approve a nonbypassable surcharge or other rate mechanism to recover costs associated with the program established under this section.

(d) Requires an electric utility to administer the electric energy efficiency incentive program in a market-neutral, nondiscriminatory manner. Prohibits an electric utility from offering underlying competitive services.

SECTION 24. Amends Section 25.005, Education Code, as follows:

Sec. 25.005. RECIPROCITY AGREEMENTS REGARDING MILITARY PERSONNEL AND DEPENDENTS. (a) Requires, rather than authorizes, the Texas Education Agency (TEA), to facilitate the transfer of military personnel and their dependents to and from the public schools of this state, the agency to pursue reciprocity agreements with other states governing the terms of those transfers.

(b) Includes in the list of procedures required to be addressed in a reciprocity agreement, permitting a student to satisfy the requirements of Section 39.025 (Exit Level Performance Required) through successful performance on comparable exit-level assessment instruments administered in another state. Makes nonsubstantive changes.

SECTION 25. Repealer: Sections 481.0065 (Office of Defense Affairs), 482.002 (Sunset

Provision), 482.003 (General Powers and Duties of the Commission), and 482.004 (Spaceport Trust Fund), Government Code, and Section 502.271 (Texas Aerospace Commission License Plates), Transportation Code, are repealed.

SECTION 26. (a) Requires the governor, not later than the 90th day after the effective date of this Act, to appoint the initial members of the Texas Military Preparedness Commission in accordance with Chapter 436, Government Code, as amended by this Act. Requires the governor to appoint three members for a term expiring February 1, 2005, three members for a term expiring February 1, 2007, and three members for a term expiring February 1, 2009. Prohibits the Texas Military Preparedness Commission (commission) from taking action until a majority of the appointed members have taken office.

(b) Requires the commission, not later than the 30th day after the date that a majority of the initial appointed members of the Texas Military Preparedness Commission take office, to employ a director in accordance with Chapter 436, Government Code, as amended by this Act.

(c) Requires the governor, as soon as possible after the effective date of this Act, the governor to select a presiding officer for the commission.

SECTION 27. (a) Provides that on the date on which a majority of the initial appointed members of the Texas Military Preparedness Commission have taken office, the Office of Defense Affairs is abolished and all powers, duties, obligations, rights, contracts, leases, records, property, and unspent and unobligated appropriations and other funds of the Office of Defense Affairs are transferred to the Texas Military Preparedness Commission.

(b) Provides that the abolishment of the Office of Defense Affairs does not affect the validity of a right, privilege, or obligation accrued, a contract or acquisition made, any liability incurred, a permit or license issued, any penalty, forfeiture, or punishment assessed, a rule adopted, a proceeding, investigation, or remedy begun, a decision made, or other action taken by or in connection with the Office of Defense Affairs.

(c) Provides that all rules, policies, procedures, and decisions of the Office of Defense Affairs are continued in effect as rules, policies, procedures, and decisions of the commission until superseded by a rule or other appropriate action of the commission.

(d) Provides that any action or proceeding before the Office of Defense Affairs is transferred without change in status to the commission, and the commission assumes, without a change in status, the position of the Office of Defense Affairs in any action or proceeding to which the Office of Defense Affairs is a party.

(e) Provides that the commission is authorized to employ the same number of full-time equivalent employees as the Office of Defense Affairs to exercise the powers and perform the duties transferred under this section.

(f) Provides that a fund, foundation, or account administered by the Office of Defense Affairs is not considered to be abolished and re-created by this Act but is considered to be transferred to the commission.

(g) Provides that until the date the Office of Defense Affairs is abolished as provided by Subsection (a) of this section, the Office of Defense Affairs shall continue to exercise the powers and perform the duties assigned to the Office of Defense Affairs under the law as it existed immediately before the effective date of this Act or as modified by another Act of the 78th Legislature, Regular Session, 2003, that becomes law, and the former law is continued in effect for that purpose.

SECTION 28. (a) Provides that on the date on which a majority of the initial appointed members of the Texas Military Preparedness Commission have taken office, the Texas Strategic Military Planning Commission is abolished and all powers, duties, obligations, rights, contracts, leases,

records, personnel, property, and unspent and unobligated appropriations and other funds of the Texas Strategic Military Planning Commission are transferred to the Texas Military Preparedness Commission.

(b) Provides that the abolishment of the Texas Strategic Military Planning Commission does not affect the validity of a right, privilege, or obligation accrued, a contract or acquisition made, any liability incurred, a permit or license issued, any penalty, forfeiture, or punishment assessed, a rule adopted, a proceeding, investigation, or remedy begun, a decision made, or other action taken by or in connection with the Texas Strategic Military Planning Commission.

(c) Provides that all rules, policies, procedures, and decisions of the Texas Strategic Military Planning Commission are continued in effect as rules, policies, procedures, and decisions of the Texas Military Preparedness Commission until superseded by a rule or other appropriate action of the Texas Military Preparedness Commission.

(d) Provides that any action or proceeding before the Texas Strategic Military Planning Commission is transferred without change in status to the Texas Military Preparedness Commission, and the Texas Military Preparedness Commission assumes, without a change in status, the position of the Texas Strategic Military Planning Commission in any action or proceeding to which the Texas Strategic Military Planning Commission is a party.

(e) Provides that the Texas Military Preparedness Commission is authorized to employ the same number of full-time equivalent employees as the Texas Strategic Military Planning Commission to exercise the powers and perform the duties transferred under this section.

(f) Provides that a fund, foundation, or account administered by the Texas Strategic Military Planning Commission is not considered to be abolished and re-created by this Act but is considered to be transferred to the Texas Military Preparedness Commission.

(g) Requires the Texas Strategic Military Planning Commission, until the date the Texas Strategic Military Planning Commission is abolished as provided by Subsection (a) of this section, to continue to exercise the powers and perform the duties assigned to the Texas Strategic Military Planning Commission under the law as it existed immediately before the effective date of this Act or as modified by another Act of the 78th Legislature, Regular Session, 2003, that becomes law, and the former law is continued in effect for that purpose.

SECTION 29. (a) Requires TEA, in implementing Section 25.005, Education Code, as amended by this Act, to give priority to pursuing reciprocity agreements with Florida, Georgia, North Carolina, and Virginia.

(b) Requires TEA, not later than January 1, 2004, to report the results of its efforts to enter into reciprocity agreements in compliance with Section 25.005, Education Code, as amended by this Act, to the presiding officers of the Senate Committee on Veteran Affairs and Military Installations and the House of Representatives Committee on Defense Affairs and State-Federal Relations. Requires the report, if the agency has been unable to enter into a reciprocity agreement with each state identified in Subsection (a) of this section by the date of the report, to include certain information for each state with which the agency did not enter into an agreement.

SECTION 30. Authorizes the director of the Texas Military Preparedness Commission to change the duties of any employee who is transferred to the Texas Military Preparedness Commission.

SECTION 31. Requires the Office of the Governor to resolve any disputes about which obligations, rights, contracts, leases, records, personnel, property, and unspent and unobligated appropriations or other funds are entitled to be transferred to the Texas Military Preparedness

Commission.

SECTION 32. Makes application of Section 397.005, Local Government Code, as added by this Act, prospective.

SECTION 33. Provides that the community infrastructure development revolving loan account described by Section 486.053, Government Code, is re-created as a separate account in the general revenue fund. Provides that any money in the account is rededicated for the purposes described by Subsection (b), Section 486.053, Government Code.

SECTION 34. Provides that Sections 436.158 and 436.159, Government Code, as added by this Act, take effect only if the constitutional amendment proposed by the 78th Texas Legislature, Regular Session, 2003, authorizing the issuance of general obligation bonds to provide loans to defense-related communities for economic development projects, including projects that enhance the military value of military installations is approved by the voters. Provides that if that amendment is not approved by the voters, Sections 436.158 and 436.159, Government Code, have no effect.

SECTION 35. Effective date: upon passage or September 1, 2003.