

By: Van de Putte

S.B. No. 2222

A BILL TO BE ENTITLED

AN ACT

relating to authorizing the creation of regional military sustainability commissions around military installations.

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

SECTION 1. Subtitle C, Title 12, Local Government Code, is amended by adding Chapter 397A to read as follows:

CHAPTER 397A. REGIONAL MILITARY SUSTAINABILITY COMMISSIONS

RELATING TO MILITARY INSTALLATIONS

Sec. 397A.001. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the areas that surround military installations will be frequented for military, national security, and international training purposes by residents from many parts of the state, nation, and world;

(2) compatible development and use of those areas is of concern to the state and nation; and

(3) without adequate regulation, the areas will tend to become incompatible with military missions and will be used in ways that interfere with:

(A) the proper continued use of those areas as secure locations for military installations and missions; and

(B) the effective operation of the military installations and missions.

(b) The regulatory powers granted under this chapter are for

1 the purposes of:

2 (1) promoting the public health, safety, and general
3 welfare;

4 (2) protecting and preserving places and areas of
5 military and national security importance and significance;

6 (3) protecting critical military missions and
7 operations related to those missions; and

8 (4) ensuring state and national security.

9 (c) This chapter may not be interpreted to grant regulatory
10 powers to administer Chapter 245 or to amend a protection or benefit
11 provided by Chapter 245.

12 Sec. 397A.002. APPLICABILITY. (a) A regulation or
13 compatible development standard adopted under this chapter does not
14 apply to:

15 (1) a tract of land used for a single-family residence
16 that is located outside the boundaries of a platted subdivision;

17 (2) a tract of land in agricultural use;

18 (3) an activity or a structure or appurtenance on a
19 tract of land in agricultural use; or

20 (4) any activity or a project, as that term is defined
21 by Section 245.001, that is:

22 (A) occurring or in existence on the effective
23 date of the Act adding this chapter; or

24 (B) receiving the benefits of or protected under
25 Chapter 245.

26 (b) In this section:

27 (1) "Agricultural use" means use or activity involving

agriculture.

(2) "Agriculture" means:

(A) cultivating the soil to produce crops for human food, animal feed, seed for planting, or the production of fibers;

(B) practicing floriculture, viticulture, silviculture, or horticulture;

(C) raising, feeding, or keeping animals for breeding purposes or for the production of food, fiber, leather, pelts, or other tangible products having commercial value;

(D) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in a government program or normal crop or livestock rotation procedure; or

(E) engaging in wildlife management.

Sec. 397A.003. CREATION OF REGIONAL MILITARY SUSTAINABILITY COMMISSION. (a) All counties with unincorporated area and municipalities with extraterritorial jurisdiction located within five miles of the boundary line of a military installation, each of which, with respect to the same military installation, constitutes a defense community, as defined by Section 397.001, may agree by order, ordinance, or other means to establish and fund a regional military sustainability commission under this chapter in an area that is located:

(1) in the same county as the active military installation; and

(2) in the extraterritorial jurisdiction of the

1 municipality.

2 (b) Defense communities may not establish more than one
3 commission in a county.

4 (c) Except as provided by Subsection (d), a commission's
5 territory consists of the unincorporated area located within two
6 miles of the boundary line of a military installation designated as
7 the commission's territory when the commission is established.

8 (d) If a military installation is engaged in flight training
9 at the time a commission is established under this section, the
10 commission's territory consists of the unincorporated area located
11 within three miles of the boundary line of the military
12 installation.

13 (e) A commission is a political subdivision of the state, is
14 subject to Section 245.006, and is entitled to immunity as
15 described by Chapter 101, Civil Practice and Remedies Code.

16 (f) This chapter shall be narrowly construed in conformity
17 with the findings and purposes under Section 397A.001.

18 Sec. 397A.004. HEARING ON CREATION OF COMMISSION. (a) Not
19 earlier than the 60th day or later than the 30th day before the date
20 the governing body of each participating governmental entity
21 establishes a regional military sustainability commission, each
22 governing body shall hold two public hearings to consider the
23 creation of the proposed commission. Each governing body must, at
24 least seven days before each public hearing, prominently post
25 notice of the hearing in the administrative offices of the
26 governmental entity and publish notice of the hearing in a
27 newspaper of general circulation, if any, in the proposed

1 territory.

2 (b) The notice required by Subsection (a) must:

3 (1) state the date, time, and place for the public
4 hearing;

5 (2) identify the boundaries of the proposed territory,
6 including a map of the proposed territory; and

7 (3) provide a description of the proposed commission's
8 authority.

9 Sec. 397A.005. GOVERNING BODY OF REGIONAL MILITARY
10 SUSTAINABILITY COMMISSION. (a) The governing body of a regional
11 military sustainability commission is composed of not more than
12 nine members.

13 (b) Participating governmental entities may by joint
14 agreement determine the number, qualifications, and method of
15 selecting members of the governing body of a commission.

16 (c) A member of a governing body of a commission may not be
17 an elected official of a participating county or municipality.

18 Sec. 397A.006. COMMISSION REVIEW OF NEW PROJECTS. (a) In
19 this section, "new project" means a project, as that term is defined
20 by Section 245.001, for which an application for a permit that will
21 establish a vesting date under Chapter 245 has not been submitted to
22 a regulatory agency before the effective date of the Act adding this
23 chapter, including a water contract, sewer contract, or master
24 plan.

25 (b) A regional military sustainability commission shall
26 establish an advisory committee and appoint six members to the
27 committee. Three of the members appointed to the committee must

represent the military installation for which the commission is established and three members must represent landowners in the area surrounding the military installation. The committee shall advise the commission on protecting the critical military missions of the military installation with regard to development.

(c) On receipt of an application for a permit for a new project in the commission's territory, the governing body of the participating governmental entity shall review the application and request a report from the commission regarding the proposed project. The commission, with the advice of the advisory committee, shall review the compatibility of the new project with the military installation's military missions and related operations based on the commission's compatible development standards. The commission shall submit a report of its findings, including a recommendation regarding compatibility, to the reviewing governmental entity not later than the 30th calendar day after the date the request was made. The report must include an estimate of the fiscal impact on the affected property of any recommendations submitted by the commission if the fiscal impact is determinable based on the project description and other information provided by the developer.

(d) The reviewing governmental entity may not take action on the permit application until it receives the report of the commission. If the commission finds that the proposed new project is not compatible with the military installation's missions and recommends denial of the permit application, the reviewing governmental entity may disapprove the permit application.

1 (e) On annexation of an area in the commission's territory
2 for full or limited purposes by a municipality, the commission's
3 authority over the area expires. The commission regains the
4 authority in an area if the municipality disannexes the area.

5 Sec. 397A.007. REGIONAL COMPATIBLE DEVELOPMENT STANDARDS.

6 (a) Before exercising the authority granted by Section 397A.006, a
7 regional military sustainability commission shall recommend and
8 adopt compatible development standards for the territory. The
9 commission must consider and may adopt, as part of the regional
10 compatible development standards, standards required by the
11 Federal Aviation Administration regulations for military
12 installations that service aircraft and helicopters. The
13 commission shall submit compatible development standards adopted
14 under this section to the participating governmental entities for
15 approval.

16 (b) Before taking action to approve or reject the compatible
17 development standards proposed by the commission, the
18 participating governmental entities shall:

19 (1) provide notice of the commission's proposed
20 compatible development standards to property owners in the
21 commission's territory, as determined by the most recent county tax
22 roll; and

23 (2) publish notice of the commission's proposed
24 compatible development standards in a newspaper of general
25 circulation, if any, in the commission's territory.

26 (c) The failure of notice to reach each property owner under
27 Subsection (b) does not invalidate compatible development

1 standards adopted under this section.

2 (d) The compatible development standards are final after
3 approval by a majority of the participating governmental entities.
4 Notice of the final compatible development standards must be
5 provided to all appropriate taxing entities for filing in the real
6 property records of the county.

7 (e) The commission may include in the compatible
8 development standards a recommendation to a participating
9 governmental entity to purchase property in the commission's
10 territory as practical to protect a critical military mission.

11 (f) The commission may recommend and approve amendments to
12 approved compatible development standards. The participating
13 governmental entities may approve the commission's amended
14 standards under procedures adopted by the entities.

15 Sec. 397A.008. COORDINATION WITH OTHER PLANS AND STUDIES.
16 The compatible development standards and regulations adopted under
17 this chapter must be coordinated with:

18 (1) the county plan for growth and development of a
19 participating county or a county located in the regional military
20 sustainability commission's territory;

21 (2) the comprehensive plan of a participating
22 municipality; and

23 (3) the most recent Joint Land Use Study, if the
24 commission makes a finding that the conclusions of the study
25 accurately reflect circumstances in the territory.

26 Sec. 397A.009. CONFLICT WITH OTHER LAWS. Except with
27 respect to Chapter 245, if a regulation adopted under this chapter

1 conflicts with a standard imposed under another statute or local
2 order or regulation, the more stringent standard controls.

3 Sec. 397A.010. FUNDS. (a) A regional military
4 sustainability commission does not have power to tax.

5 (b) A participating governmental entity may appropriate
6 funds to the commission for the costs and expenses required in the
7 performance of the commission's purposes.

8 (c) A commission may apply for, contract for, receive, and
9 expend for its purposes a grant or funds from a participating
10 governmental entity, the state, the federal government, or any
11 other source.

12 Sec. 397A.011. RESTRICTIONS. (a) A regional military
13 sustainability commission shall comply with laws applicable to
14 participating governmental entities relating to:

15 (1) reimbursement for travel expenses;

16 (2) nepotism;

17 (3) conflicts of interest; and

18 (4) registration of lobbyists.

19 (b) To the extent of a conflict between laws applicable to
20 participating governmental entities relating to a subject
21 described by Subsection (a), the more stringent requirement
22 controls.

23 Sec. 397A.012. WITHDRAWAL FROM COMMISSION. A participating
24 governmental entity may withdraw from a regional military
25 sustainability commission:

26 (1) by a two-thirds vote of its governing body; and

27 (2) after providing notice to the relevant military

1 installation commander not later than the 45th day before the date
2 of the vote under Subdivision (1).

3 Sec. 397A.013. EXPIRATION AFTER MILITARY INSTALLATION
4 CLOSURE. A regional military sustainability commission that
5 regulates territory around a military installation that is closed
6 by the federal government and the regional compatible development
7 standards adopted by the commission may continue in effect until
8 the fourth anniversary of the date the military installation is
9 closed.

10 Sec. 397A.014. JUDICIAL REVIEW OF COMMISSION OR
11 GOVERNMENTAL ENTITY DECISION. Notwithstanding any other provision
12 of this chapter, a landowner aggrieved by a report submitted by the
13 regional military sustainability commission or by a permit
14 application decision of the participating governmental entity
15 under this chapter may appeal all or part of the report or permit
16 application decision to a district court. The court may reverse or
17 modify, wholly or partly, the report submitted by the commission or
18 the permit application decision that is appealed.

19 SECTION 2. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2009.