

By: Rodriguez

H.B. No. 662

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to authorizing certain counties to adopt buffer zone  
3 regulations and comprehensive land development plans; providing a  
4 penalty.

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

6 SECTION 1. Subtitle B, Title 7, Local Government Code, is  
7 amended by adding Chapter 231A to read as follows:

8 CHAPTER 231A. REGULATION OF LAND DEVELOPMENT IN CERTAIN COUNTIES

9 Sec. 231A.001. PURPOSE. The powers granted under this  
10 chapter are for the purpose of promoting the public health, safety,  
11 or general welfare.

12 Sec. 231A.002. APPLICABILITY. This chapter applies only to  
13 a county with a population of more than one million in which a  
14 national wildlife refuge is wholly or partly located.

15 Sec. 231A.003. DEFINITIONS. In this chapter:

16 (1) "Agricultural use" means use or activity involving  
17 agriculture.

18 (2) "Agriculture" means:

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

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

24 (C) raising, feeding, or keeping animals for

1 breeding purposes or for the production of food, fiber, leather,  
2 pelts, or other tangible products having commercial value, with the  
3 exception of feedlots;

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

8 (E) engaging in wildlife management.

9 (3) "Buffer zone" means the distance between a  
10 structure, device, item, equipment, or enclosure used for an  
11 activity at the site of an industry and the nearest property  
12 boundary of a land use described by Section 231A.004(a).

13 (4) "Industry" means use or activity involving:

14 (A) manufacturing;

15 (B) light or heavy industry;

16 (C) transportation facilities, including  
17 trucking depots, marinas, or airports;

18 (D) resource extraction, including mining or  
19 construction materials processing; or

20 (E) warehousing.

21 Sec. 231A.004. BUFFER ZONE REGULATION. (a) Except as  
22 provided by Subsection (c), the commissioners court of a county may  
23 adopt a regulation under this chapter to require a buffer zone  
24 between an industry and a residential area, hospital, elder-care  
25 facility, school, day-care facility, church, or similar land use  
26 that the commissioners court finds to be incompatible with the  
27 industry.

1 (b) A buffer zone adopted under this chapter must be:

2 (1) reasonably necessary to protect public health,  
3 safety, or general welfare; and

4 (2) related and in proportion to the impact the  
5 industry has on public health, safety, or general welfare.

6 (c) A commissioners court may not regulate under this  
7 chapter:

8 (1) a tract of land devoted to agricultural use;

9 (2) an activity or a structure or appurtenance on a  
10 tract of land devoted to agricultural use;

11 (3) land used for:

12 (A) operating a pipeline, including a common  
13 carrier pipeline as defined by Section 111.002, Natural Resources  
14 Code, over which the Railroad Commission of Texas has jurisdiction;  
15 or

16 (B) drilling or operating an oil or gas well; or

17 (4) an interstate gas pipeline facility as defined by  
18 49 U.S.C. Section 60101.

19 Sec. 231A.005. COMPLIANCE WITH COUNTY COMPREHENSIVE PLAN.

20 A buffer zone regulation adopted under this chapter must be:

21 (1) adopted in accordance with a county comprehensive  
22 plan adopted under Section 231A.007; and

23 (2) coordinated with the comprehensive plans of  
24 municipalities located in the county.

25 Sec. 231A.006. PROCEDURE GOVERNING ADOPTION OF  
26 REGULATIONS. (a) The commissioners court shall establish a  
27 technical advisory committee to develop and recommend buffer zone

1 regulations to the court. The commissioners court shall appoint  
2 the members of the committee. The committee must include industry  
3 representatives.

4 (b) A buffer zone regulation under this chapter is not  
5 effective until the regulation is adopted by the commissioners  
6 court after a public hearing. Before the 15th day before the date  
7 of the hearing, the commissioners court must publish notice of the  
8 hearing in a newspaper of general circulation in the county.

9 (c) The commissioners court may establish or amend a buffer  
10 zone regulation only by an order passed by a majority vote of the  
11 full membership of the court.

12 Sec. 231A.007. COMPREHENSIVE PLAN. (a) The commissioners  
13 court may adopt a comprehensive plan for land development in the  
14 unincorporated area of the county.

15 (b) The comprehensive plan must be designed to:

- 16 (1) lessen congestion in the streets;  
17 (2) secure safety from fire, panic, and other dangers;  
18 (3) promote health and the general welfare;  
19 (4) provide adequate light and air; or  
20 (5) facilitate the adequate provision of  
21 transportation, water, sewers, schools, parks, and other public  
22 requirements.

23 (c) A comprehensive plan must be consistent with the  
24 comprehensive plans of municipalities located in the county.

25 Sec. 231A.008. INCENTIVES. The commissioners court may  
26 provide incentives to a person who develops land in the  
27 unincorporated area of the county in compliance with the county

1 comprehensive plan adopted under Section 231A.007.

2 Sec. 231A.009. SPECIAL EXCEPTION. (a) A person aggrieved  
3 by a buffer zone regulation adopted under this chapter may petition  
4 the commissioners court for a special exception to the regulation  
5 adopted by the commissioners court.

6 (b) The commissioners court may grant a special exception  
7 that allows for the reduction or elimination of a buffer zone if the  
8 person subject to the buffer zone requirement can demonstrate that  
9 the reduction or elimination of the buffer zone adequately protects  
10 the public health, safety, or general welfare.

11 (c) The commissioners court shall adopt procedures  
12 governing applications, notice, hearings, and other matters  
13 relating to the grant of a special exception.

14 Sec. 231A.010. ENFORCEMENT; PENALTY. (a) The  
15 commissioners court may adopt orders to enforce this chapter or an  
16 order or buffer zone regulation adopted under this chapter.

17 (b) A person commits an offense if the person violates an  
18 order or regulation adopted under this chapter. An offense under  
19 this subsection is a misdemeanor punishable by a fine of not less  
20 than \$500 or more than \$1,000. Each day that a violation occurs  
21 constitutes a separate offense. Trial shall be in the district  
22 court.

23 Sec. 231A.011. COOPERATION WITH MUNICIPALITIES. The  
24 commissioners court by order may enter into agreements with any  
25 municipality located in the county to assist in the implementation  
26 and enforcement of buffer zone regulations adopted under this  
27 chapter.

1       Sec. 231A.012. EXISTING AUTHORITY UNAFFECTED. The  
2 authority granted by this chapter does not affect the authority of  
3 the commissioners court to adopt an order to regulate land  
4 development under other law.

5       Sec. 231A.013. CONFLICT WITH OTHER LAWS. If a buffer zone  
6 regulation adopted under this chapter imposes higher standards than  
7 those required under another statute or local order or regulation,  
8 the regulation adopted under this chapter controls. If the other  
9 statute or local order or regulation imposes higher standards, that  
10 statute, order, or regulation controls.

11       SECTION 2. This Act takes effect immediately if it receives  
12 a vote of two-thirds of all the members elected to each house, as  
13 provided by Section 39, Article III, Texas Constitution. If this  
14 Act does not receive the vote necessary for immediate effect, this  
15 Act takes effect September 1, 2011.