

By: Guillen

H.B. No. 2700

A BILL TO BE ENTITLED

AN ACT

relating to authorizing certain counties to exercise certain regulatory authority in the unincorporated area of the county; providing a penalty.

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

SECTION 1. Chapter 232, Local Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. REGULATION OF USE, LOCATION, AND CONSTRUCTION IN
BORDER COUNTIES

Sec. 232.121. APPLICABILITY. This subchapter applies only to a county that is adjacent to an international border.

Sec. 232.122. AREA SUBJECT TO REGULATION. This subchapter applies only to the unincorporated area of the county.

Sec. 232.123. EXEMPTIONS. An order adopted under this subchapter does not apply to a building, other structure, or land used for:

(1) recreational or agricultural purposes; or

(2) business, industrial, or residential purposes, if the owner has been issued a permit for that use by a state or federal agency.

Sec. 232.124. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY ORDER. If an order adopted under this subchapter conflicts with an ordinance of a municipality, the municipal ordinance prevails within the municipality's jurisdiction to the extent of the

1 conflict.

2 Sec. 232.125. EXISTING COUNTY AUTHORITY UNAFFECTED. The
3 authority granted under this subchapter does not affect the
4 authority of the commissioners court to adopt an order or ordinance
5 under other law.

6 Sec. 232.126. REGULATORY AUTHORITY. The commissioners
7 court of the county may adopt an order to regulate the following
8 matters if the grant of that authority to the commissioners court is
9 approved at an election under this subchapter:

10 (1) the construction of buildings and other
11 structures; and

12 (2) the use of land and the location and use of
13 buildings and other structures for business, industrial, or
14 residential purposes.

15 Sec. 232.127. PETITION. (a) The voters may file a petition
16 with the county clerk to initiate an election under this
17 subchapter. The petition must:

18 (1) be signed by at least five percent of the
19 registered voters in the unincorporated area of the county;

20 (2) include the voter registration number, printed
21 name, and residence address, including the zip code, of each person
22 signing the petition;

23 (3) include beside each person's signature the date
24 the person signed the petition; and

25 (4) include a statement located on each page of the
26 petition preceding the space reserved for signatures worded
27 substantially similar to the following: "This petition is to

1 request that an election be held in (name of county) to consider
2 whether to authorize the county to regulate in the unincorporated
3 area of the county:

4 (A) the construction of buildings and other
5 structures; and

6 (B) the use of land and the location and use of
7 buildings and other structures for business, industrial, or
8 residential purposes."

9 (b) On or before the 10th day after the date a petition is
10 filed with the county clerk, the county clerk shall verify the
11 petition. A person's signature may not be counted if the person
12 fails to include the date of signing or if the date of signing is
13 before the 30th day before the date the petition is filed.

14 Sec. 232.128. ELECTION. (a) The commissioners court shall
15 order and hold an election in the county on the question of granting
16 the commissioners court the authority described by Section 232.126
17 if:

18 (1) the commissioners court determines regulation is
19 necessary to protect the public health, safety, or welfare; or

20 (2) a petition is verified under Section 232.127.

21 (b) In the election, the ballot shall be prepared to permit
22 voting for or against the proposition: "Granting (name of county)
23 the authority to regulate in the unincorporated area of the county:

24 (1) the construction of buildings and other
25 structures; and

26 (2) the use of land and the location and use of
27 buildings and other structures for business, industrial, or

1 residential purposes."

2 (c) If a majority of the votes received on the question at
3 the election approve the grant of authority, the commissioners
4 court may adopt an order under Section 232.126.

5 Sec. 232.129. DISTRICTS. (a) The commissioners court may
6 divide the unincorporated area of the county into districts of a
7 number, shape, and size the court considers best for carrying out
8 this subchapter.

9 (b) In dividing the unincorporated area under Subsection
10 (a), no portion of an election precinct may be located in more than
11 one district.

12 (c) The commissioners court may exercise the authority
13 provided by this subchapter in each district.

14 Sec. 232.130. FEES. The commissioners court by order may
15 set fees that relate to the administration of this subchapter and
16 that are in amounts sufficient to cover the costs of administering
17 this subchapter.

18 Sec. 232.131. GENERAL ENFORCEMENT PROVISION. The
19 commissioners court may adopt an order to enforce an order adopted
20 under this subchapter.

21 Sec. 232.132. INJUNCTION. The county, in a suit brought by
22 the county attorney or other prosecuting attorney representing the
23 county in the district court, is entitled to appropriate injunctive
24 relief to prevent the violation or threatened violation of an order
25 adopted under this subchapter from continuing or occurring.

26 Sec. 232.133. PENALTY. A person commits an offense if the
27 person violates a restriction or prohibition imposed by an order

1 adopted under this subchapter. An offense under this section is a
2 Class C misdemeanor.

3 SECTION 2. The heading to Chapter 232, Local Government
4 Code, is amended to read as follows:

5 CHAPTER 232. COUNTY REGULATION OF SUBDIVISIONS AND PROPERTY
6 DEVELOPMENT

7 SECTION 3. This Act takes effect September 1, 2003.