

1-1 By: Corte (Senate Sponsor - Van de Putte) H.B. No. 1852
1-2 (In the Senate - Received from the House April 10, 2007;
1-3 April 11, 2007, read first time and referred to Committee on
1-4 Veteran Affairs and Military Installations; April 27, 2007,
1-5 reported adversely, with favorable Committee Substitute by the
1-6 following vote: Yeas 4, Nays 0; April 27, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1852 By: Van de Putte

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the authority of a county to regulate the installation
1-11 and use of lighting in certain areas.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 240.031, Local Government Code, is
1-14 amended by adding Subdivision (4) to read as follows:

1-15 (4) "Agricultural use" has the meaning assigned by
1-16 Section 23.51, Tax Code.

1-17 SECTION 2. The heading to Subchapter B, Chapter 240, Local
1-18 Government Code, is amended to read as follows:

1-19 SUBCHAPTER B. OUTDOOR LIGHTING NEAR

1-20 OBSERVATORIES AND MILITARY INSTALLATIONS

1-21 SECTION 3. Section 240.032, Local Government Code, is
1-22 amended by adding Subsection (b-1) and amending Subsections (c) and
1-23 (d) to read as follows:

1-24 (b-1) On the request of a United States military
1-25 installation, base, or camp commanding officer, the commissioners
1-26 court of a county, any part of which is located immediately adjacent
1-27 to the installation, base, or camp, may adopt orders regulating the
1-28 installation and use of outdoor lighting within five miles of the
1-29 installation, base, or camp in any unincorporated territory of the
1-30 county.

1-31 (c) The orders must be designed to protect against the use
1-32 of outdoor lighting in a way that interferes with scientific
1-33 astronomical research of the observatory or military and training
1-34 activities of the military installation, base, or camp. In the
1-35 orders, the commissioners court may:

1-36 (1) require that a permit be obtained from the county
1-37 before the installation and use of certain types of outdoor
1-38 lighting in a regulated area;

1-39 (2) establish a fee in an amount to cover the costs of
1-40 administrating the order for the issuance of the permit;

1-41 (3) prohibit the use of a type of outdoor lighting that
1-42 is incompatible with the effective use of the observatory or
1-43 military installation, base, or camp;

1-44 (4) establish requirements for the shielding of
1-45 outdoor lighting; and

1-46 (5) regulate the times during which certain types of
1-47 outdoor lighting may be used.

1-48 (d) The commissioners court may apply more stringent
1-49 standards for areas in which the use of outdoor lighting has a
1-50 greater impact on observatory or military installation, base, or
1-51 camp activities.

1-52 SECTION 4. Subchapter B, Chapter 240, Local Government
1-53 Code, is amended by adding Section 240.0325 to read as follows:

1-54 Sec. 240.0325. EXCEPTION FOR CERTAIN OUTDOOR LIGHTING. The
1-55 commissioners court may not adopt an order under Section 240.032
1-56 regulating the installation and use of outdoor lighting that is
1-57 located within five miles of a military installation, base, or camp
1-58 located in the unincorporated area of a county and:

1-59 (1) was installed or used before the effective date of
1-60 the order and is necessary for the operations of:

1-61 (A) an electric utility, power generation
1-62 company, or transmission and distribution utility, as those terms
1-63 are defined by Section 31.002, Utilities Code;

2-1 (B) an electric cooperative or a municipally
2-2 owned utility, as those terms are defined by Section 11.003,
2-3 Utilities Code;

2-4 (C) a gas utility, as defined by Section 101.003
2-5 or 121.001, Utilities Code;

2-6 (D) surface coal mining and reclamation
2-7 operations, as defined by Section 134.004, Natural Resources Code;

2-8 (E) a telecommunications provider, as defined by
2-9 Section 51.002, Utilities Code, or its affiliates; or

2-10 (F) a manufacturing facility required by Texas
2-11 Commission on Environmental Quality rule to hold a permit; or

2-12 (2) is owned or maintained for the purpose of
2-13 illuminating:

2-14 (A) a tract of land that is maintained as a single
2-15 family residence and that is located outside the boundaries of a
2-16 platted subdivision;

2-17 (B) a tract of land maintained for agricultural
2-18 use;

2-19 (C) an activity that takes place on a tract of
2-20 land maintained for agricultural use;

2-21 (D) structures or related improvements located
2-22 on a tract of land maintained for agricultural use; or

2-23 (E) a correctional facility operated by or under
2-24 a contract with the Texas Department of Criminal Justice.

2-25 SECTION 5. This Act takes effect immediately if it receives
2-26 a vote of two-thirds of all the members elected to each house, as
2-27 provided by Section 39, Article III, Texas Constitution. If this
2-28 Act does not receive the vote necessary for immediate effect, this
2-29 Act takes effect September 1, 2007.

2-30 * * * * *