

BILL ANALYSIS

S.B. 2222
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Defense & Veterans' Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Development is impinging upon the critical mission capability of some military installations in the state of Texas. It is important for the sustainability of military installations that a method to reconcile a city's growth with the maintenance of the installation's mission is developed. Military installations provide an invaluable contribution to a community's diversity and economic stability. Ensuring their continued operation is critical to the well-being of some communities.

SB 2222 amends current law relating to authorizing the creation of regional military sustainability commissions around military installations.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 2222 amends the Local Government Code to provide legislative findings regarding regional military sustainability commissions relating to military installations, sets forth the purposes for the regulatory powers granted under these provisions, and prohibits these provisions from being interpreted to grant regulatory powers to administer or to amend a protection or benefit provided by local government regulatory authority provisions relating to the issuance of local permits. The bill exempts from a regulation or compatible development standard under the bill's provisions a tract of land used for a single-family residence that is located outside the boundaries of a platted subdivision, a tract of land in agricultural use, an activity or a structure or appurtenance on a tract of land in agricultural use, or any activity or a project occurring or in existence on the effective date of this bill or receiving the benefits of or protected under the provisions relating to the issuance of local permits. The bill defines "agricultural use" and "agriculture" for the purposes of regional military sustainability commissions.

S.B. 2222 authorizes 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, to agree by order, ordinance, or other means to establish and fund a regional military sustainability commission in an area that is located in the same county as the active military installation and in the extraterritorial jurisdiction of the municipality. The bill prohibits defense communities from establishing more than one commission in a county. The bill specifies that a commission's territory consists of the unincorporated area located within two miles of the boundary line of a military installation designated as the commission's territory when the commission is established, except if a military installation is engaged in flight training at the time a commission is established, in which case the commission's territory consists of the unincorporated area located within three miles of the military installation's boundary line. The bill requires its provisions to be narrowly construed in conformity with the bill's legislative findings and purposes. The bill establishes that a commission is a political subdivision of Texas subject to certain immunity provisions of state law.

S.B. 2222 sets forth requirements relating to public hearings on the creation of a commission and the creation of a governing body of a commission. The bill requires a commission to establish

an advisory committee to advise the commission on protecting the critical military missions of the military installation with regard to development, and sets forth the commission review process for new projects proposed in the commission's territory. The bill requires the governing body of the participating governmental entity, on receipt of an application for a permit for a new project in the commission's territory, to review the application and request a report from the commission regarding the proposed project, and requires the commission, with the advice of the advisory committee, to 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 bill requires the commission to submit a report of its findings to the reviewing governmental entity not later than the 30th calendar day after the date the request was made, and requires the report to include an estimate of the fiscal impact on the affected property of any recommendations submitted by the commission if such information is determinable. The bill prohibits the reviewing governmental entity from taking action on the permit application until it receives the report of the commission, and authorizes the reviewing governmental entity to disapprove the permit application 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 bill establishes that the commission's authority over an area expires if an area in the commission's territory is annexed for full or limited purposes by a municipality, and provides that the commission regains the authority in an area if the municipality disannexes the area. The bill defines "new project" for the purposes of the commission's review of new projects.

S.B. 2222 requires a commission to recommend and adopt compatible development standards for the territory before exercising its authority and, in adopting those regional standards, requires the commission to consider, and authorizes the commission to adopt, standards required by the Federal Aviation Administration regulations for military installations that service aircraft and helicopters. The bill requires the commission to submit these compatible development standards to participating governmental entities for approval, and requires the participating governmental entities, before taking action to approve or reject the standards proposed by the commission, to provide and publish to property owners in the commission's territory certain notice relating to the proposed compatible development standards. The bill specifies that the failure of notice to reach each property owner does not invalidate compatible development standards. The bill establishes that the compatible development standards are final after approval by a majority of the participating governmental entities, and requires notice of the final compatible development standards to be provided to all appropriate taxing entities for filing in the real property records of the county. The bill authorizes the commission to include in the compatible development standards a recommendation to a participating governmental entity to purchase property in the commission's territory as practical to protect a critical military mission, and authorizes the commission to recommend and approve amendments to approved compatible development standards. The bill authorizes participating governmental entities to approve the commission's amended standards under procedures adopted by the entities. The bill requires the compatible development standards and regulations to be coordinated with certain county plans for growth and development, the comprehensive plan of a participating municipality, and the most recent Joint Land Use Study, if the commission makes a finding that the conclusions of the study accurately reflect circumstances in the territory.

S.B. 2222 establishes that, if a regulation adopted under these provisions conflicts with a standard imposed under another statute or local order or regulation, the more stringent standard controls, except with respect to provisions relating to the issuance of local permits. The bill requires a commission to comply with laws applicable to participating governmental entities relating to reimbursement for travel expenses, nepotism, conflicts of interest, and registration of lobbyists. The bill establishes that a commission does not have power to tax, but authorizes a participating governmental entity to appropriate funds to the commission for the costs and expenses required in the performance of the commission's purposes. The bill authorizes a commission to apply for, contract for, receive, and expend for its purposes a grant or funds from a participating governmental entity, the state, the federal government, or any other source. The bill establishes a procedure authorizing a participating governmental entity to withdraw from a commission, and authorizes a commission that regulates territory around a military installation that is closed by the federal government and the regional compatible development standards adopted by the commission to continue in effect until the fourth anniversary of the date the military installation is closed. The bill authorizes a landowner aggrieved by a report submitted by the commission or by a permit application decision of the participating governmental entity to

appeal all or part of the report or permit application decision to a district court, and authorizes the court to reverse or modify, wholly or partly, the report submitted by the commission or the permit application decision.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2009.