

By: Bolton, Coleman, Leibowitz, Pierson,
et al.

H.B. No. 4175

Substitute the following for H.B. No. 4175:

By: Alvarado

C.S.H.B. No. 4175

A BILL TO BE ENTITLED

AN ACT

1
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 236 to read as follows:

8 CHAPTER 236. REGULATION OF LAND DEVELOPMENT IN CERTAIN COUNTIES

9 Sec. 236.001. PURPOSE. The powers granted under this
10 chapter are for the purpose of promoting the public health, safety,
11 or general welfare.

12 Sec. 236.002. APPLICABILITY. This chapter applies only to
13 a county with a population of more than 800,000 in which a
14 municipality with a population of more than 500,000 is primarily
15 located.

16 Sec. 236.003. DEFINITIONS. In this chapter:

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

19 (2) "Agriculture" means:

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

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

1 (C) raising, feeding, or keeping animals for
2 breeding purposes or for the production of food, fiber, leather,
3 pelts, or other tangible products having commercial value, with the
4 exception of feedlots;

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

9 (E) wildlife management.

10 (3) "Buffer zone" means the distance between a
11 structure, device, item, equipment, or enclosure used for an
12 activity at the site of an industry and the nearest property
13 boundary of a land use described by Section 236.004(a).

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

15 (A) manufacturing;

16 (B) light or heavy industry;

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

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

21 (E) warehousing.

22 Sec. 236.004. BUFFER ZONE REGULATION. (a) Except as
23 provided by Subsection (c), the commissioners court of a county may
24 adopt a regulation under this chapter to require a buffer zone
25 between an industry and a residential area, hospital, elder-care
26 facility, school, day-care facility, church, or similar land use
27 that the commissioners court finds to be incompatible with the

1 industry.

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

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

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

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

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

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

12 (3) land used for an activity described by Section
13 81.051, Natural Resources Code; or

14 (4) an interstate gas pipeline facility as defined by
15 49 U.S.C. Section 60101.

16 Sec. 236.005. COMPLIANCE WITH COUNTY COMPREHENSIVE PLAN. A
17 buffer zone regulation adopted under this chapter must be:

18 (1) adopted in accordance with a county comprehensive
19 plan adopted under Section 236.007; and

20 (2) coordinated with the comprehensive plans of
21 municipalities located in the county.

22 Sec. 236.006. PROCEDURE GOVERNING ADOPTION OF
23 REGULATIONS. (a) The commissioners court shall establish a
24 technical advisory committee to develop and recommend buffer zone
25 regulations to the court. The commissioners court shall appoint
26 the members of the committee. The committee must include industry
27 representatives.

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

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

9 Sec. 236.007. COMPREHENSIVE PLAN. (a) The commissioners
10 court may adopt a comprehensive plan for land development in the
11 unincorporated area of the county.

12 (b) The comprehensive plan must be designed to:
13 (1) lessen congestion in the streets;
14 (2) secure safety from fire, panic, and other dangers;
15 (3) promote health and the general welfare;
16 (4) provide adequate light and air; or
17 (5) facilitate the adequate provision of
18 transportation, water, sewers, schools, parks, and other public
19 requirements.

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

22 Sec. 236.008. INCENTIVES. The commissioners court may
23 provide incentives to a person who develops land in the
24 unincorporated area of the county in compliance with the county
25 comprehensive plan adopted under Section 236.007.

26 Sec. 236.009. SPECIAL EXCEPTION. (a) A person aggrieved
27 by a buffer zone regulation adopted under this chapter may petition

1 the commissioners court for a special exception to the regulation
2 adopted by the commissioners court.

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

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

11 Sec. 236.010. ENFORCEMENT; PENALTY. (a) The commissioners
12 court may adopt orders to enforce this chapter or an order or buffer
13 zone regulation adopted under this chapter.

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

20 Sec. 236.011. COOPERATION WITH MUNICIPALITIES. The
21 commissioners court by order may enter into agreements with any
22 municipality located in the county to assist in the implementation
23 and enforcement of buffer zone regulations adopted under this
24 chapter.

25 Sec. 236.012. EXISTING AUTHORITY UNAFFECTED. The authority
26 granted by this chapter does not affect the authority of the
27 commissioners court to adopt an order to regulate land development

1 under other law.

2 Sec. 236.013. CONFLICT WITH OTHER LAWS. If a buffer zone
3 regulation adopted under this chapter imposes higher standards than
4 those required under another statute or local order or regulation,
5 the regulation adopted under this chapter controls. If the other
6 statute or local order or regulation imposes higher standards, that
7 statute, order, or regulation controls.

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