

By: Bolton

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
4 penalties.

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 and not more than
14 1.3 million.

15 Sec. 236.003. 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) wildlife management.

9 (3) "Industry" means use or activity involving:

10 (A) manufacturing;

11 (B) light or heavy industry;

12 (C) transportation facilities, including
13 trucking depots, marinas, or airports;

14 (D) resource extraction, including mining or
15 construction materials processing; or

16 (E) warehousing.

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

24 (b) A buffer zone adopted under this chapter must be
25 reasonably necessary to protect public health, safety, or general
26 welfare.

27 (c) A commissioners court may not regulate under this

1 chapter:

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

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

5 (3) land used for an activity described by Section
6 81.051, Natural Resources Code; or

7 (4) an interstate gas pipeline facility as defined by
8 49 U.S.C. Section 60101.

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

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

13 (2) coordinated with the comprehensive plans of
14 municipalities located in the county.

15 Sec. 236.006. PROCEDURE GOVERNING ADOPTION OF
16 REGULATIONS. (a) A buffer zone regulation under this chapter is
17 not effective until the regulation is adopted by the commissioners
18 court after a public hearing. Before the 15th day before the date
19 of the hearing, the commissioners court must publish notice of the
20 hearing in a newspaper of general circulation in the county.

21 (b) The commissioners court may establish or amend a buffer
22 zone regulation only by an order passed by a majority vote of the
23 full membership of the court.

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

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

- 1 (1) lessen congestion in the streets;
- 2 (2) secure safety from fire, panic, and other dangers;
- 3 (3) promote health and the general welfare;
- 4 (4) provide adequate light and air;
- 5 (5) prevent the overcrowding of land;
- 6 (6) avoid undue concentration of population; or
- 7 (7) facilitate the adequate provision of
- 8 transportation, water, sewers, schools, parks, and other public
- 9 requirements.

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

12 Sec. 236.008. INCENTIVES. The commissioners court may
13 provide incentives to a person who develops land in the
14 unincorporated area of the county in compliance with the county
15 comprehensive plan adopted under Section 236.007.

16 Sec. 236.009. SPECIAL EXCEPTION. (a) A person aggrieved
17 by a buffer zone regulation adopted under this chapter may petition
18 the commissioners court for a special exception to the regulation
19 adopted by the commissioners court.

20 (b) The commissioners court may grant a special exception
21 that mitigates or offsets a buffer zone if the person subject to the
22 buffer zone requirement can demonstrate that the mitigation or
23 offset adequately protects the public health, safety, or general
24 welfare.

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

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

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

10 Sec. 236.011. COOPERATION WITH MUNICIPALITIES. The
11 commissioners court by order may enter into agreements with any
12 municipality located in the county to assist in the implementation
13 and enforcement of buffer zone regulations adopted under this
14 chapter.

15 Sec. 236.012. EXISTING AUTHORITY UNAFFECTED. The authority
16 granted by this chapter does not affect the authority of the
17 commissioners court to adopt an order to regulate land development
18 under other law.

19 Sec. 236.013. CONFLICT WITH OTHER LAWS. If a buffer zone
20 regulation adopted under this chapter imposes higher standards than
21 those required under another statute or local order or regulation,
22 the regulation adopted under this chapter controls. If the other
23 statute or local order or regulation imposes higher standards, that
24 statute, order, or regulation controls.

25 SECTION 2. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2009.