

1-1 By: Van de Putte S.B. No. 2222
1-2 (In the Senate - Filed March 13, 2009; March 31, 2009, read
1-3 first time and referred to Committee on Veteran Affairs and
1-4 Military Installations; April 24, 2009, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 4,
1-6 Nays 1; April 24, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 2222 By: Van de Putte

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

1-10 relating to authorizing the creation of regional military
1-11 sustainability commissions around military installations.

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

1-13 SECTION 1. Subtitle C, Title 12, Local Government Code, is
1-14 amended by adding Chapter 397A to read as follows:

1-15 CHAPTER 397A. REGIONAL MILITARY SUSTAINABILITY COMMISSIONS

1-16 RELATING TO MILITARY INSTALLATIONS

1-17 Sec. 397A.001. LEGISLATIVE FINDINGS; PURPOSE. (a) The
1-18 legislature finds that:

1-19 (1) the areas that surround military installations
1-20 will be frequented for military, national security, and
1-21 international training purposes by residents from many parts of the
1-22 state, nation, and world;

1-23 (2) compatible development and use of those areas is
1-24 of concern to the entire state and nation; and

1-25 (3) without adequate regulation, the areas will tend
1-26 to become incompatible with military missions and to be used in ways
1-27 that interfere with:

1-28 (A) the proper continued use of those areas as
1-29 secure locations for military installations and missions; and

1-30 (B) the effective operation of the military
1-31 installations and missions.

1-32 (b) The regulatory powers granted under this chapter are for
1-33 the purpose of:

1-34 (1) promoting the public health, safety, and general
1-35 welfare;

1-36 (2) protecting and preserving places and areas of
1-37 military and national security importance and significance;

1-38 (3) protecting critical military missions and
1-39 operations related to those missions; and

1-40 (4) ensuring state and national security.

1-41 Sec. 397A.002. APPLICABILITY. (a) A regulation adopted
1-42 under this chapter does not apply to:

1-43 (1) a tract of land used for a single-family residence
1-44 that is located outside the boundaries of a platted subdivision;

1-45 (2) a tract of land in agricultural use; or

1-46 (3) an activity or a structure or appurtenance on a
1-47 tract of land in agricultural use.

1-48 (b) In this section:

1-49 (1) "Agricultural use" means use or activity involving
1-50 agriculture.

1-51 (2) "Agriculture" means:

1-52 (A) cultivating the soil to produce crops for
1-53 human food, animal feed, seed for planting, or the production of
1-54 fibers;

1-55 (B) practicing floriculture, viticulture,
1-56 silviculture, or horticulture;

1-57 (C) raising, feeding, or keeping animals for
1-58 breeding purposes or for the production of food, fiber, leather,
1-59 pelts, or other tangible products having commercial value;

1-60 (D) planting cover crops, including cover crops
1-61 cultivated for transplantation, or leaving land idle for the
1-62 purpose of participating in a government program or normal crop or
1-63 livestock rotation procedure; or

(E) engaging in wildlife management.

Sec. 397A.003. CREATION OF REGIONAL MILITARY SUSTAINABILITY COMMISSION. (a) All counties with unincorporated area and municipalities with extraterritorial jurisdiction located within five miles of the boundary line of a military installation and that each, with respect to the same military installation, constitute a defense community, as defined by Section 397.001, and for which a Joint Land Use Study has been completed by September 1, 2010, may agree by order, ordinance, or other means to establish and fund a regional military sustainability commission under this chapter.

(b) A commission may not be established under this chapter unless at least one municipality with extraterritorial jurisdiction within which the proposed boundaries of the commission's territory is located consents to the establishment of the commission. Defense communities may not establish more than one commission in a county.

(c) A commission's territory consists of the unincorporated area located within five miles of the boundary line of a military installation designated as the commission's territory when the commission is established.

(d) A commission is a political subdivision of the state and is entitled to immunity as described by Chapter 101, Civil Practice and Remedies Code.

(e) A commission has only the powers granted under this chapter.

(f) This chapter shall be liberally construed in conformity with the findings and purposes under Section 397A.001.

Sec. 397A.004. HEARING ON CREATION OF COMMISSION. (a) Not earlier than the 60th day or later than the 30th day before the date the governing body of each participating governmental entity establishes a regional military sustainability commission, each governing body shall hold two public hearings to consider the creation of the proposed commission. Each governing body must, at least seven days before each public hearing, prominently post notice of the hearing in the administrative offices of the governmental entity and publish notice of the hearing in a newspaper of general circulation in the proposed territory, if any.

(b) The notice required by Subsection (a) must:

- (1) state the date, time, and place for the public hearing;
- (2) identify the boundaries of the proposed territory, including a map of the proposed territory; and
- (3) provide a description of the proposed commission's authority.

Sec. 397A.005. GOVERNING BODY OF REGIONAL MILITARY SUSTAINABILITY COMMISSION. (a) The governing body of a regional military sustainability commission is composed of not more than nine members.

(b) Participating governmental entities may by joint agreement determine the number of, qualifications of, and method of selecting members of the governing body of a commission.

(c) A member of a governing body of a commission may not be an elected official of a participating county or municipality.

Sec. 397A.006. REGULATORY AUTHORITY. (a) A regional military sustainability commission has the authority granted to a municipal zoning commission and a board of adjustment under Chapter 211 in the regional military sustainability commission's territory, including any area that is within the boundaries of a municipality's extraterritorial jurisdiction. On annexation of an area of the commission's territory for full or limited purposes by a municipality, the commission's authority to regulate the area under Chapter 211 expires. The commission regains the authority in an area if the municipality disannexes the area.

(b) A commission shall establish an advisory committee and appoint not more than five members to the committee. Three of the members appointed to the committee must represent the military installation for which the commission is established. The committee shall advise the commission on protecting the critical

3-1 military missions of the military installation with regard to
3-2 development.

3-3 (c) The participating governmental entities shall determine
3-4 the procedures under Chapter 211 that apply to the review and
3-5 approval of a zoning regulation under this chapter. The
3-6 governmental entity with jurisdiction in the area to which a
3-7 proposed zoning regulation applies makes the final decision under
3-8 this chapter regarding a proposed zoning regulation.

3-9 Sec. 397A.007. REGIONAL PLAN. (a) A regional military
3-10 sustainability commission shall recommend and adopt a plan for the
3-11 territory. The commission shall consider and may adopt as part of
3-12 the regional plan the Federal Aviation Administration regulations
3-13 regarding height restrictions, standards, and density limitations
3-14 surrounding a military installation that services aircraft and
3-15 helicopters. After adoption, the commission shall submit the plan
3-16 to the participating governmental entities for approval.

3-17 (b) Before taking action to approve or reject the plan, the
3-18 participating governmental entities shall:

3-19 (1) provide notice of the commission's proposed plan
3-20 to property owners in the commission's territory, as determined by
3-21 the most recent county tax roll; and

3-22 (2) publish notice of the commission's proposed plan
3-23 in a newspaper of general circulation in the commission's
3-24 territory, if any.

3-25 (c) The failure of notice to reach each property owner under
3-26 Subsection (b) does not invalidate a plan adopted under this
3-27 section.

3-28 (d) The plan is final after approval by a majority of the
3-29 participating governmental entities. Notice of the final plan must
3-30 be provided to all appropriate taxing entities for filing in the
3-31 real property records of the county.

3-32 (e) The plan may include a recommendation to a participating
3-33 governmental entity to purchase property in the commission's
3-34 territory as practical to protect a critical military mission.

3-35 (f) The commission may amend an approved plan after
3-36 providing notice of the amended plan and holding hearings in the
3-37 same manner as provided by the procedures described by Section
3-38 397A.006(c). The participating governmental entities may approve
3-39 the commission's amended plan under the procedures adopted by
3-40 Section 397A.006(c) for the approval of zoning regulations.

3-41 Sec. 397A.008. COORDINATION WITH OTHER PLANS AND STUDIES.
3-42 The plan and regulations adopted under this chapter must be
3-43 coordinated with:

3-44 (1) the county plan for growth and development of a
3-45 participating county or a county located in the regional military
3-46 sustainability commission's territory;

3-47 (2) the comprehensive plan of a participating
3-48 municipality; and

3-49 (3) the most recent Joint Land Use Study, if the
3-50 regional military sustainability commission makes a finding that
3-51 the conclusions of the study accurately reflect circumstances in
3-52 the territory.

3-53 Sec. 397A.009. DORMANT PROJECTS. (a) Notwithstanding
3-54 Section 245.005(b), a project, as defined by Section 245.001, in
3-55 the regional military sustainability commission's territory shall
3-56 have not more than four years to show progress towards completion,
3-57 as determined under Section 245.005(c).

3-58 (b) This section does not prohibit a project developer from
3-59 applying to the commission for a new permit or other form of
3-60 authorization required to complete a project.

3-61 Sec. 397A.010. CONFLICT WITH OTHER LAWS. If a regulation
3-62 adopted under this chapter conflicts with a standard imposed under
3-63 another statute or local order or regulation, the more stringent
3-64 standard controls.

3-65 Sec. 397A.011. FUNDS. (a) A regional military
3-66 sustainability commission does not have power to tax.

3-67 (b) A participating governmental entity may appropriate
3-68 funds to the commission for the costs and expenses required in the
3-69 performance of its purposes.

(c) A commission may 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 other source.

Sec. 397A.012. RESTRICTIONS. (a) A regional military sustainability commission shall comply with laws applicable to participating governmental entities relating to:

(1) reimbursement for travel expenses;

(2) nepotism;

(3) conflicts of interest; and

(4) registration of lobbyists.

(b) To the extent of a conflict between laws applicable to governmental entities relating to a subject described by Subsection (a), the more stringent requirement controls.

Sec. 397A.013. WITHDRAWAL FROM COMMISSION. A participating governmental entity may withdraw from a regional military sustainability commission:

(1) by a two-thirds vote of its governing body; and

(2) after providing notice to the relevant military installation commander not later than the 45th day before the date of the vote under Subdivision (1).

Sec. 397A.014. EXPIRATION AFTER MILITARY INSTALLATION CLOSURE. A regional military sustainability commission that regulates territory around a military installation that is closed by the federal government and the regional plan and zoning regulations adopted by the commission may continue in effect until the fourth anniversary of the date the military installation is closed.

Sec. 397A.015. EXEMPTION FROM OTHER LAW. Chapter 2007, Government Code, does not apply to an action by a regional military sustainability commission or a participating governmental entity under this chapter.

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

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