

A BILL TO BE ENTITLED

AN ACT

relating to authorizing the creation of regional military sustainability commissions around military installations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

CHAPTER 397A. REGIONAL MILITARY SUSTAINABILITY COMMISSIONS

RELATING TO MILITARY INSTALLATIONS

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

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

(2) compatible development and use of those areas is of concern to the state and nation; and

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

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

(B) the effective operation of the military installations and missions.

(b) The regulatory powers granted under this chapter are for

1 the purposes of:

2 (1) promoting the public health, safety, and general
3 welfare;

4 (2) protecting and preserving places and areas of
5 military and national security importance and significance;

6 (3) protecting critical military missions and
7 operations related to those missions; and

8 (4) ensuring state and national security.

9 (c) This chapter may not be interpreted to grant regulatory
10 powers to administer Chapter 245 or to amend a protection or benefit
11 provided by Chapter 245.

12 Sec. 397A.002. APPLICABILITY. (a) A regulation or
13 compatible development standard adopted under this chapter does not
14 apply to:

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

17 (2) a tract of land in agricultural use;

18 (3) an activity or a structure or appurtenance on a
19 tract of land in agricultural use; or

20 (4) any activity or a project, as that term is defined
21 by Section 245.001, that is:

22 (A) occurring or in existence on the effective
23 date of the Act adding this chapter; or

24 (B) receiving the benefits of or protected under
25 Chapter 245.

26 (b) In this section:

27 (1) "Agricultural use" means use or activity involving

1 agriculture.

2 (2) "Agriculture" means:

3 (A) cultivating the soil to produce crops for
4 human food, animal feed, seed for planting, or the production of
5 fibers;

6 (B) practicing floriculture, viticulture,
7 silviculture, or horticulture;

8 (C) raising, feeding, or keeping animals for
9 breeding purposes or for the production of food, fiber, leather,
10 pelts, or other tangible products having commercial value;

11 (D) planting cover crops, including cover crops
12 cultivated for transplantation, or leaving land idle for the
13 purpose of participating in a government program or normal crop or
14 livestock rotation procedure; or

15 (E) engaging in wildlife management.

16 Sec. 397A.003. CREATION OF REGIONAL MILITARY
17 SUSTAINABILITY COMMISSION. (a) A county with unincorporated area
18 located within five miles of the boundary line of a military
19 installation, and a municipality with a population of 1.1 million
20 or more and with extraterritorial jurisdiction located within five
21 miles of the boundary line of a military installation, each of
22 which, with respect to the same military installation, constitutes
23 a defense community as defined by Section 397.001, may agree by
24 order, ordinance, or other means to establish and fund a regional
25 military sustainability commission under this chapter in an area
26 that is located:

27 (1) in the same county as the active military

1 installation; and

2 (2) in the extraterritorial jurisdiction of the
3 municipality.

4 (b) Defense communities may not establish more than one
5 commission in a county.

6 (c) Except as provided by Subsection (d), a commission's
7 territory consists of the unincorporated area located within two
8 miles of the boundary line of a military installation designated as
9 the commission's territory when the commission is established.

10 (d) If a military installation is engaged in flight training
11 at the time a commission is established under this section, the
12 commission's territory consists of the unincorporated area located
13 within three miles of the boundary line of the military
14 installation.

15 (e) A commission is a political subdivision of the state, is
16 subject to Section 245.006, and is entitled to immunity as
17 described by Chapter 101, Civil Practice and Remedies Code.

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

20 Sec. 397A.004. HEARING ON CREATION OF COMMISSION. (a) Not
21 earlier than the 60th day or later than the 30th day before the date
22 the governing body of each participating governmental entity
23 establishes a regional military sustainability commission, each
24 governing body shall hold two public hearings to consider the
25 creation of the proposed commission. Each governing body must, at
26 least seven days before each public hearing, prominently post
27 notice of the hearing in the administrative offices of the

1 governmental entity and publish notice of the hearing in a
2 newspaper of general circulation, if any, in the proposed
3 territory.

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

5 (1) state the date, time, and place for the public
6 hearing;

7 (2) identify the boundaries of the proposed territory,
8 including a map of the proposed territory; and

9 (3) provide a description of the proposed commission's
10 authority.

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

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

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

20 Sec. 397A.006. COMMISSION REVIEW OF NEW PROJECTS. (a) In
21 this section, "new project" means a project, as that term is defined
22 by Section 245.001, for which an application for a permit that will
23 establish a vesting date under Chapter 245 has not been submitted to
24 a regulatory agency before the effective date of the Act adding this
25 chapter, including a water contract, sewer contract, or master
26 plan.

27 (b) A regional military sustainability commission shall

1 establish an advisory committee and appoint six members to the
2 committee. Three of the members appointed to the committee must
3 represent the military installation for which the commission is
4 established and three members must represent landowners in the area
5 surrounding the military installation. The committee shall advise
6 the commission on protecting the critical military missions of the
7 military installation with regard to development.

8 (c) On receipt of an application for a permit for a new
9 project in the commission's territory, the governing body of the
10 participating governmental entity shall review the application and
11 request a report from the commission regarding the proposed
12 project. The commission, with the advice of the advisory
13 committee, shall review the compatibility of the new project with
14 the military installation's military missions and related
15 operations based on the commission's compatible development
16 standards. The commission shall submit a report of its findings,
17 including a recommendation regarding compatibility, to the
18 reviewing governmental entity not later than the 30th calendar day
19 after the date the request was made. The report must include an
20 estimate of the fiscal impact on the affected property of any
21 recommendations submitted by the commission, if the fiscal impact
22 is determinable based on the project description and other
23 information provided by the developer.

24 (d) The reviewing governmental entity may not take action on
25 the permit application until it receives the report of the
26 commission. If the commission finds that the proposed new project
27 is not compatible with the military installation's missions and

1 recommends denial of the permit application, the reviewing
2 governmental entity may disapprove the permit application.

3 (e) On annexation of an area in the commission's territory
4 for full or limited purposes by a municipality, the commission's
5 authority over the area expires. The commission regains the
6 authority in an area if the municipality disannexes the area.

7 Sec. 397A.007. REGIONAL COMPATIBLE DEVELOPMENT STANDARDS.

8 (a) Before exercising the authority granted by Section 397A.006, a
9 regional military sustainability commission shall recommend and
10 adopt compatible development standards for the territory. The
11 commission must consider and may adopt, as part of the regional
12 compatible development standards, standards required by the
13 Federal Aviation Administration regulations for military
14 installations that service aircraft and helicopters. The
15 commission shall submit compatible development standards adopted
16 under this section to the participating governmental entities for
17 approval.

18 (b) Before taking action to approve or reject the compatible
19 development standards proposed by the commission, the
20 participating governmental entities shall:

21 (1) provide notice of the commission's proposed
22 compatible development standards to property owners in the
23 commission's territory, as determined by the most recent county tax
24 roll; and

25 (2) publish notice of the commission's proposed
26 compatible development standards in a newspaper of general
27 circulation, if any, in the commission's territory.

1 (c) The failure of notice to reach each property owner under
2 Subsection (b) does not invalidate compatible development
3 standards adopted under this section.

4 (d) The compatible development standards are final after
5 approval by a majority vote of each participating governmental
6 entity. Notice of the final compatible development standards must
7 be provided to all appropriate taxing entities for filing in the
8 real property records of the county.

9 (e) The commission may include in the compatible
10 development standards a recommendation to a participating
11 governmental entity to purchase property in the commission's
12 territory as practical to protect a critical military mission.

13 (f) The commission may recommend and approve amendments to
14 approved compatible development standards. The participating
15 governmental entities may approve the commission's amended
16 standards under procedures adopted by the entities.

17 Sec. 397A.008. COORDINATION WITH OTHER PLANS AND STUDIES.
18 The compatible development standards and regulations adopted under
19 this chapter must be coordinated with:

20 (1) the county plan for growth and development of the
21 participating county or a county located in the regional military
22 sustainability commission's territory;

23 (2) the comprehensive plan of the participating
24 municipality; and

25 (3) the most recent Joint Land Use Study, if the
26 commission makes a finding that the conclusions of the study
27 accurately reflect circumstances in the territory.

1 Sec. 397A.009. CONFLICT WITH OTHER LAWS. Except with
2 respect to Chapter 245, if a regulation adopted under this chapter
3 conflicts with a standard imposed under another statute or local
4 order or regulation, the more stringent standard controls.

5 Sec. 397A.010. FUNDS. (a) A regional military
6 sustainability commission does not have power to tax.

7 (b) A participating governmental entity may appropriate
8 funds to the commission for the costs and expenses required in the
9 performance of the commission's purposes.

10 (c) A commission may apply for, contract for, receive, and
11 expend for its purposes a grant or funds from a participating
12 governmental entity, the state, the federal government, or any
13 other source.

14 Sec. 397A.011. RESTRICTIONS. (a) A regional military
15 sustainability commission shall comply with laws applicable to
16 participating governmental entities relating to:

17 (1) reimbursement for travel expenses;

18 (2) nepotism;

19 (3) conflicts of interest; and

20 (4) registration of lobbyists.

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

25 Sec. 397A.012. WITHDRAWAL FROM COMMISSION. A participating
26 governmental entity may withdraw from a regional military
27 sustainability commission:

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

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

5 Sec. 397A.013. EXPIRATION AFTER MILITARY INSTALLATION
6 CLOSURE. A regional military sustainability commission that
7 regulates territory around a military installation that is closed
8 by the federal government and the regional compatible development
9 standards adopted by the commission may continue in effect until
10 the fourth anniversary of the date the military installation is
11 closed.

12 Sec. 397A.014. JUDICIAL REVIEW OF COMMISSION OR
13 GOVERNMENTAL ENTITY DECISION. Notwithstanding any other provision
14 of this chapter, a landowner aggrieved by a report submitted by the
15 regional military sustainability commission or by a permit
16 application decision of the participating governmental entity
17 under this chapter may appeal all or part of the report or permit
18 application decision to a district court. The court may reverse or
19 modify, wholly or partly, the report submitted by the commission or
20 the permit application decision that is appealed.

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