

1-1 By: Van de Putte S.B. No. 2223  
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 27, 2009, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 4,  
1-6 Nays 1; April 27, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 2223 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

2-1 (E) engaging in wildlife management.

2-2 Sec. 397A.003. CREATION OF REGIONAL MILITARY

2-3 SUSTAINABILITY COMMISSION. (a) A municipality with a population

2-4 of 1.1 million or more and each county that, with respect to the

2-5 same active military installation, constitute a defense community,

2-6 as defined by Section 397.001, may agree by order, ordinance, or

2-7 other means to establish and fund a regional military

2-8 sustainability commission under this chapter in an area that is:

2-9 (1) in the same county as the active military

2-10 installation; and

2-11 (2) in the municipality's extraterritorial

2-12 jurisdiction.

2-13 (b) Defense communities may not establish more than one

2-14 commission in a county.

2-15 (c) A commission's territory consists of the unincorporated

2-16 area located within five miles of the boundary line of a military

2-17 installation designated as the commission's territory when the

2-18 commission is established.

2-19 (d) A commission is a political subdivision of the state and

2-20 is entitled to immunity as described by Chapter 101, Civil Practice

2-21 and Remedies Code.

2-22 (e) This chapter shall be liberally construed in conformity

2-23 with the findings and purposes under Section 397A.001.

2-24 Sec. 397A.004. HEARING ON CREATION OF COMMISSION. (a) Not

2-25 earlier than the 60th day or later than the 30th day before the date

2-26 the governing body of each participating governmental entity

2-27 establishes a regional military sustainability commission, each

2-28 governing body shall hold two public hearings to consider the

2-29 creation of the proposed commission. Each governing body must, at

2-30 least seven days before each public hearing, prominently post

2-31 notice of the hearing in the administrative offices of the

2-32 governmental entity and publish notice of the hearing in a

2-33 newspaper of general circulation in the proposed territory, if any.

2-34 (b) The notice required by Subsection (a) must:

2-35 (1) state the date, time, and place for the public

2-36 hearing;

2-37 (2) identify the boundaries of the proposed territory,

2-38 including a map of the proposed territory; and

2-39 (3) provide a description of the proposed commission's

2-40 authority.

2-41 Sec. 397A.005. GOVERNING BODY OF REGIONAL MILITARY

2-42 SUSTAINABILITY COMMISSION. (a) The governing body of a regional

2-43 military sustainability commission is composed of not more than

2-44 nine members.

2-45 (b) Participating governmental entities may by joint

2-46 agreement determine the number, qualifications of, and method of

2-47 selecting members of the governing body of a commission.

2-48 (c) A member of a governing body of a commission may not be

2-49 an elected official of a participating county or municipality.

2-50 Sec. 397A.006. REGULATORY AUTHORITY. (a) A regional

2-51 military sustainability commission has the authority granted to a

2-52 municipal zoning commission and a board of adjustment under Chapter

2-53 211 in the regional military sustainability commission's

2-54 territory, including the area that is within the boundaries of a

2-55 municipality's extraterritorial jurisdiction. On annexation of an

2-56 area of the commission's territory for full or limited purposes by a

2-57 municipality, the commission's authority to regulate the area under

2-58 Chapter 211 expires. The commission regains the authority in an

2-59 area if the municipality disannexes the area.

2-60 (b) A commission shall establish an advisory committee and

2-61 appoint not more than five members to the committee. Three of the

2-62 members appointed to the committee must represent the military

2-63 installation for which the commission is established. The

2-64 committee shall advise the commission on protecting the critical

2-65 military missions of the military installation with regard to

2-66 development.

2-67 (c) The participating governmental entities shall determine

2-68 the procedures under Chapter 211 that apply to the review and

2-69 approval of a zoning regulation under this chapter. The

3-1 governmental entity with jurisdiction in the area to which a  
 3-2 proposed zoning regulation applies makes the final decision under  
 3-3 this chapter regarding a proposed zoning regulation.

3-4 Sec. 397A.007. REGIONAL PLAN. (a) A regional military  
 3-5 sustainability commission shall recommend and adopt a plan for the  
 3-6 territory. The commission shall consider and may adopt as part of  
 3-7 the regional plan the Federal Aviation Administration regulations  
 3-8 regarding height restrictions, standards, and density limitations  
 3-9 surrounding a military installation that services aircraft and  
 3-10 helicopters. After adoption, the commission shall submit the plan  
 3-11 to the participating governmental entities for approval.

3-12 (b) Before taking action to approve or reject the plan, the  
 3-13 participating governmental entities shall:

3-14 (1) provide notice of the commission's proposed plan  
 3-15 to property owners in the commission's territory, as determined by  
 3-16 the most recent county tax roll; and

3-17 (2) publish notice of the commission's proposed plan  
 3-18 in a newspaper of general circulation in the commission's  
 3-19 territory, if any.

3-20 (c) The failure of notice to reach each property owner under  
 3-21 Subsection (b) does not invalidate a plan adopted under this  
 3-22 section.

3-23 (d) The plan is final after approval by a majority of the  
 3-24 participating governmental entities. Notice of the final plan must  
 3-25 be provided to all appropriate taxing entities for filing in the  
 3-26 real property records of the county.

3-27 (e) The plan may include a recommendation to a participating  
 3-28 governmental entity to purchase property in the commission's  
 3-29 territory as practical to protect a critical military mission.

3-30 (f) The commission may amend an approved plan after  
 3-31 providing notice of the amended plan and holding hearings in the  
 3-32 same manner as provided by the procedures described by Section  
 3-33 397A.006(c). The participating governmental entities may approve  
 3-34 the commission's amended plan under the procedures adopted by  
 3-35 Section 397A.006(c) for the approval of zoning regulations.

3-36 Sec. 397A.008. COORDINATION WITH OTHER PLANS AND STUDIES.  
 3-37 The plan and regulations adopted under this chapter must be  
 3-38 coordinated with:

3-39 (1) the county plan for growth and development of a  
 3-40 participating county or a county located in the commission's  
 3-41 territory;

3-42 (2) the comprehensive plan of a participating  
 3-43 municipality; and

3-44 (3) the most recent Joint Land Use Study, if the  
 3-45 commission makes a finding that the conclusions of the study  
 3-46 accurately reflect circumstances in the territory.

3-47 Sec. 397A.009. DORMANT PROJECTS. (a) Notwithstanding  
 3-48 Section 245.005(b), a project, as defined by Section 245.001, in  
 3-49 the commission's territory shall have not more than four years to  
 3-50 show progress towards completion, as determined under Section  
 3-51 245.005(c).

3-52 (b) This section does not prohibit a project developer from  
 3-53 applying to the commission for a new permit or other form of  
 3-54 authorization required to complete a project.

3-55 Sec. 397A.010. CONFLICT WITH OTHER LAWS. If a regulation  
 3-56 adopted under this chapter conflicts with a standard imposed under  
 3-57 another statute or local order or regulation, the more stringent  
 3-58 standard controls.

3-59 Sec. 397A.011. FUNDS. (a) A commission does not have  
 3-60 power to tax.

3-61 (b) A participating governmental entity may appropriate  
 3-62 funds to the commission for the costs and expenses required in the  
 3-63 performance of its purposes.

3-64 (c) A commission may apply for, contract for, receive, and  
 3-65 expend for its purposes a grant or funds from a participating  
 3-66 governmental entity, the state, the federal government, or other  
 3-67 source.

3-68 Sec. 397A.012. RESTRICTIONS. (a) A commission shall  
 3-69 comply with laws applicable to participating governmental entities

4-1 relating to:  
4-2 (1) reimbursement for travel expenses;  
4-3 (2) nepotism;  
4-4 (3) conflicts of interest; and  
4-5 (4) registration of lobbyists.  
4-6 (b) To the extent of a conflict between laws applicable to  
4-7 governmental entities relating to a subject described by Subsection  
4-8 (a), the more stringent requirement controls.  
4-9 Sec. 397A.013. WITHDRAWAL FROM COMMISSION. A participating  
4-10 governmental entity may withdraw from a commission:  
4-11 (1) by a two-thirds vote of its governing body; and  
4-12 (2) after providing notice to the relevant military  
4-13 installation commander not later than the 45th day before the date  
4-14 of the vote under Subdivision (1).  
4-15 Sec. 397A.014. EXPIRATION AFTER MILITARY INSTALLATION  
4-16 CLOSURE. A commission that regulates territory around a military  
4-17 installation that is closed by the federal government and the  
4-18 regional plan and zoning regulations adopted by the commission may  
4-19 continue in effect until the fourth anniversary of the date the  
4-20 military installation is closed.  
4-21 Sec. 397A.015. EXEMPTION FROM OTHER LAW. Chapter 2007,  
4-22 Government Code, does not apply to an action by a regional military  
4-23 sustainability commission or a participating governmental entity  
4-24 under this chapter.  
4-25 SECTION 2. This Act takes effect immediately if it receives  
4-26 a vote of two-thirds of all the members elected to each house, as  
4-27 provided by Section 39, Article III, Texas Constitution. If this  
4-28 Act does not receive the vote necessary for immediate effect, this  
4-29 Act takes effect September 1, 2009.

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