

By: Uresti

S.B. No. 2439

A BILL TO BE ENTITLED

AN ACT

relating to granting certain local governments general zoning authority around certain military facilities; providing a penalty.

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

SECTION 1. Subtitle C, Title 7, Local Government Code, is amended by adding Chapter 241A to read as follows:

CHAPTER 241A. MUNICIPAL AND COUNTY ZONING AUTHORITY AROUND  
AIR FORCE FACILITY

Sec. 241A.001. DEFINITIONS. In this chapter:

(1) "Air force facility" means a base or station of the United States Air Force.

(2) "Centerline" and "compatible land use" have the meanings assigned by Section 241.003.

(3) "Controlled compatible land use area" means an area of land located outside airport boundaries and within a rectangle bounded by lines located not more than five nautical miles from the centerline of the landing strip and lines located not more than five nautical miles from each end of the paved surface of the landing strip.

Sec. 241A.002. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the area that surrounds an air force facility will be frequented for military and national security purposes by residents from many parts of the state and nation;

1           (2) an air force facility is essential to the economic  
2 viability of the surrounding local community, the state, and the  
3 nation;

4           (3) orderly development and use of the area is of  
5 concern to the entire state;

6           (4) without adequate development regulations, the  
7 area will tend to become congested and to be used in ways that  
8 interfere with the proper use of the area as a secure location for  
9 the continuation of a military establishment; and

10           (5) it is imperative for the local community to  
11 protect the viability of current and future missions at an air force  
12 facility by ensuring compatible land uses are developed within the  
13 controlled compatible land use area.

14           (b) The powers granted under this chapter are for the  
15 purposes of:

16           (1) promoting the public health, safety, peace,  
17 morals, and general welfare;

18           (2) protecting and preserving places and areas of  
19 military and national security importance and significance; and

20           (3) encouraging state and national security.

21           Sec. 241A.003. AREAS SUBJECT TO REGULATION. This chapter  
22 applies only to the area that extends not more than five nautical  
23 miles from the centerline and not more than five nautical miles from  
24 each end of the paved surface of the landing strip at an air force  
25 facility located in a county with a population of 60,000 or less.

26           Sec. 241A.004. DEVELOPMENT REGULATIONS GENERALLY. (a) The  
27 governing bodies of a municipality and the county in the regulated

1 area through a joint airport zoning board established under Section  
2 241A.005 may regulate:

3 (1) the height, number of stories, and size of  
4 buildings and other structures;

5 (2) the percentage of a lot that may be occupied;

6 (3) the size of yards, courts, and other open spaces;

7 (4) population density;

8 (5) the location and use of buildings, other  
9 structures, and land for business, industrial, residential, or  
10 other purposes; and

11 (6) the placement of water and sewage facilities,  
12 landfills, parks, and other required public facilities.

13 (b) A regulation adopted under this chapter does not apply  
14 to a land use that relates to agricultural, irrigation, or hunting  
15 activities unless the joint airport zoning board makes a finding,  
16 confirmed by each governing body, that the regulation is necessary  
17 to regulate an agricultural, irrigation, or hunting activity that  
18 interferes with an activity on the air force facility.

19 Sec. 241A.005. JOINT AIRPORT ZONING BOARD. (a) To exercise  
20 the authority granted under this chapter, the governing bodies of a  
21 municipality and the county in the regulated area shall appoint a  
22 joint airport zoning board to assist in the implementation and  
23 enforcement of development regulations adopted under this chapter.

24 (b) The membership of the board is composed of:

25 (1) two members appointed by the county judge of the  
26 county;

27 (2) two members appointed by the presiding officer of

1 the governing body of the municipality;

2 (3) one member who owns land in the regulated area  
3 appointed jointly by the county judge of the county and the  
4 presiding officer of the governing body of the municipality;

5 (4) one member who owns at least 500 acres in the  
6 regulated area appointed jointly by the county judge of the county  
7 and the presiding officer of the governing body of the  
8 municipality; and

9 (5) one member appointed jointly by the members  
10 appointed under Subdivisions (1) through (4), who serves as the  
11 presiding officer of the board.

12 (c) The board shall perform the duties assigned under this  
13 chapter and other duties as requested by the governing bodies to  
14 implement this chapter.

15 Sec. 241A.006. PROCEDURE GOVERNING ADOPTION OF REGULATIONS  
16 AND DISTRICT BOUNDARIES. (a) A development regulation adopted  
17 under this chapter is not effective until it is adopted by the  
18 governing bodies of a municipality and the county in the regulated  
19 area after a joint public hearing. Before the 15th day before the  
20 date of the hearing, the governing bodies of the municipality and  
21 the county must publish notice of the hearing in a newspaper of  
22 general circulation in the county.

23 (b) The governing bodies of a municipality and the county in  
24 the regulated area may prohibit or restrict development in the area  
25 based on recommendations issued in a resolution adopted by the  
26 joint airport zoning board. The board's recommendations must be  
27 based on the most recent Air Installation Compatible Use Zone Study

1 and the most recent Joint Land Use Study. The governing bodies of a  
2 municipality and the county may amend regulations adopted under  
3 this chapter:

4 (1) based on amended recommendations issued in a  
5 resolution adopted by the joint airport zoning board as the studies  
6 are periodically updated; and

7 (2) if each governing body makes findings that the  
8 conclusions of the studies on which each governing body is basing  
9 its findings accurately reflect development circumstances in the  
10 subject area.

11 (c) The governing bodies of a municipality and the county in  
12 the regulated area may adopt or amend a development regulation only  
13 by an order passed by a majority vote of the full membership of each  
14 governing body.

15 Sec. 241A.007. COMPLIANCE WITH STUDIES AND PLANS.  
16 Development regulations must be:

17 (1) adopted in accordance with the most recent Air  
18 Installation Compatible Use Zone Study and the most recent Joint  
19 Land Use Study for growth and development surrounding the air force  
20 facility;

21 (2) adopted in accordance with the county plan for  
22 growth and development of the county; and

23 (3) coordinated with the comprehensive plan of the  
24 municipality.

25 Sec. 241A.008. DISTRICTS. (a) The joint airport zoning  
26 board may divide the area regulated under this chapter into  
27 districts of a number, shape, and size the board considers best for

1 carrying out this chapter.

2 (b) Development regulations may vary from district to  
3 district.

4 Sec. 241A.009. SPECIAL EXCEPTION. (a) A person aggrieved  
5 by a development regulation adopted under this chapter may petition  
6 the governing bodies of a municipality and the county in the  
7 regulated area for a special exception to the development  
8 regulation. The grant of a special exception requires a majority  
9 vote of the full membership of each governing body.

10 (b) The governing bodies of a municipality and the county in  
11 the regulated area shall adopt procedures governing applications,  
12 notice, hearings, and other matters relating to the grant of a  
13 special exception.

14 Sec. 241A.010. ENFORCEMENT; PENALTY. (a) The governing  
15 bodies of a municipality and the county in the regulated area shall  
16 adopt ordinances, orders, or development regulations, as  
17 applicable, to enforce this chapter.

18 (b) A person commits an offense if the person violates this  
19 chapter or an ordinance, order, or development regulation adopted  
20 under this chapter. An offense under this subsection is a  
21 misdemeanor punishable by a fine of not less than \$500 or more than  
22 \$1,000. Each day that a violation occurs constitutes a separate  
23 offense. Trial shall be in the district court.

24 Sec. 241A.011. COOPERATION AMONG LOCAL ENTITIES. The  
25 governing bodies of a municipality and the county in the regulated  
26 area and the joint airport zoning board may enter into an agreement  
27 to cooperate in the drafting, implementation, and enforcement of

1 development regulations adopted under this chapter.

2 SECTION 2. This Act takes effect September 1, 2009.