

By: Larson

H.B. No. 3533

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) "Agricultural use" means use or activity involving agriculture.

(2) "Agriculture" means:

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

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

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

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

1           (E) engaging in wildlife management, including  
2 the management and control of hunting, fishing, bird-watching,  
3 sightseeing, and other outdoor recreational activities.

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

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

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

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

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

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

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

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

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

5           (b) The powers granted under this chapter are for the  
6 purposes of:

7           (1) promoting the public health, safety, peace,  
8 morals, and general welfare;

9           (2) protecting and preserving places and areas of  
10 military and national security importance and significance; and

11           (3) encouraging state and national security.

12           Sec. 241A.003. AREAS SUBJECT TO REGULATION. This chapter  
13 applies only to the area that extends not more than five nautical  
14 miles from the centerline and not more than five nautical miles from  
15 each end of the paved surface of the landing strip at an air force  
16 facility under the command of the Air Education and Training  
17 Command.

18           Sec. 241A.004. DEVELOPMENT REGULATIONS GENERALLY. (a) The  
19 governing bodies of a municipality and the county in the regulated  
20 area through a joint airport zoning board established under Section  
21 241A.005 may regulate:

22           (1) the height, number of stories, and size of  
23 buildings and other structures;

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

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

26           (4) population density;

27           (5) the location and use of buildings, other

1 structures, and land for business, industrial, residential, or  
2 other purposes; and

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

5 (b) A regulation adopted under this chapter does not apply  
6 to:

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

8 (2) a structure on a developed tract of land that  
9 existed on September 1, 2011.

10 (c) The governing bodies of a municipality and the county in  
11 the regulated area shall prepare a written takings impact  
12 assessment in the manner provided by Section 2007.043, Government  
13 Code, of a proposed regulation under this chapter.

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

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

20 (1) two members appointed by the county judge of the  
21 county;

22 (2) two members appointed by the presiding officer of  
23 the governing body of the municipality;

24 (3) one member who owns less than 500 acres of land in  
25 the regulated area appointed jointly by the county judge of the  
26 county and the presiding officer of the governing body of the  
27 municipality;

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

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

8           (c) The board shall perform the duties assigned under this  
9 chapter and other duties as requested by the governing bodies to  
10 implement this chapter.

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

19           (b) The governing bodies of a municipality and the county in  
20 the regulated area may prohibit or restrict development in the area  
21 based on recommendations issued in a resolution adopted by the  
22 joint airport zoning board. The board's recommendations must be  
23 based on the most recent Air Installation Compatible Use Zone Study  
24 and the most recent Joint Land Use Study. The governing bodies of a  
25 municipality and the county may amend regulations adopted under  
26 this chapter:

27           (1) based on amended recommendations issued in a

1 resolution adopted by the joint airport zoning board as the studies  
2 are periodically updated; and

3 (2) if each governing body makes findings that the  
4 conclusions of the studies on which each governing body is basing  
5 its findings accurately reflect development circumstances in the  
6 subject area.

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

11 Sec. 241A.007. COMPLIANCE WITH STUDIES AND PLANS.  
12 Development regulations must be:

13 (1) adopted in accordance with the most recent Air  
14 Installation Compatible Use Zone Study and the most recent Joint  
15 Land Use Study for growth and development surrounding the air force  
16 facility;

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

19 (3) coordinated with the comprehensive plan of the  
20 municipality.

21 Sec. 241A.008. DISTRICTS. (a) The joint airport zoning  
22 board may divide the area regulated under this chapter into  
23 districts of a number, shape, and size the board considers best for  
24 carrying out this chapter.

25 (b) Development regulations may vary from district to  
26 district.

27 Sec. 241A.009. SPECIAL EXCEPTION. (a) A person aggrieved

1 by a development regulation adopted under this chapter may petition  
2 the governing bodies of a municipality and the county in the  
3 regulated area for a special exception to the development  
4 regulation. The grant of a special exception requires a majority  
5 vote of the full membership of each governing body.

6 (b) The governing bodies of a municipality and the county in  
7 the regulated area shall adopt procedures governing applications,  
8 notice, hearings, and other matters relating to the grant of a  
9 special exception.

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

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

20 Sec. 241A.011. COOPERATION AMONG LOCAL ENTITIES. The  
21 governing bodies of a municipality and the county in the regulated  
22 area and the joint airport zoning board may enter into an agreement  
23 to cooperate in the drafting, implementation, and enforcement of  
24 development regulations adopted under this chapter.

25 SECTION 2. This Act takes effect September 1, 2011.