

## **BILL ANALYSIS**

C.S.H.B. 605  
By: Lozano  
County Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

While wind turbines and wind farms are helpful in meeting U.S. energy needs, interested observers report that wind turbines jam military radar through bounce incurred from the turbine blades and restrict the ability of radar monitoring systems to accurately oversee aircraft. According to a study of the impact of wind farms conducted by the National Oceanic and Atmospheric Administration's National Weather Service Radar Operations Center, the following impacts on radar users and operators can occur: false radar-estimated precipitation amounts due to reflection from towers or turbines or beam blockage, false echoes downrange from wind farms due to multipath effects, false storm identification due to reflection from towers or turbines, and incorrect velocity values due to contamination by turbine blade motion. C.S.H.B. 605 seeks to give certain political subdivisions the option to adopt regulations that address wind farm placement and encroachment.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 605 amends the Local Government Code, in a provision granting extraterritorial airport zoning authority to a certain political subdivision in which an airport used in the public interest to the benefit of the political subdivision is located, to extend that extraterritorial airport zoning authority to a municipality located in a county that has a population of more than 32,000 and less than 32,300 and that includes wholly or partly within its boundaries or extraterritorial jurisdiction an airport with a radar system owned and operated by the federal government or a defense agency of the federal government or the state. The bill authorizes such a municipality to adopt, administer, or enforce an airport hazard area zoning regulation only in such a county, and clarifies that, for purposes of such airport zoning authority, an airport located in such a municipality's extraterritorial jurisdiction is located in the municipality. The bill makes the provisions granting the extraterritorial airport zoning authority no longer applicable if each airport with a radar system owned and operated by the federal government or a defense agency of the federal government or the state that is located wholly or partly within the boundaries or extraterritorial jurisdiction of such a municipality converts to a satellite system.

C.S.H.B. 605 grants such a municipality authority to acquire an air right, aviation easement, or other estate or interest in property or in a nonconforming structure or use under certain prescribed circumstances if the property or nonconforming structure or use is located outside the municipality and in an airport hazard area subject to extraterritorial zoning regulation by the municipality.

C.S.H.B. 605 redefines "airport hazard" for purposes of the Airport Zoning Act as a structure or object of natural growth that is more than 100 feet in height or any electronic emission or visual effect that obstructs or limits, or has the potential to obstruct or limit, the operation of aircraft to,

from, or in the vicinity of the airport. The bill redefines "airport hazard area" to encompass such hazardous areas located inside or outside airport boundaries.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 605 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### INTRODUCED

SECTION 1. Section 241.002, Local Government Code, is amended.

SECTION 2. Sections 241.003(2) and (3), Local Government Code, are amended to read as follows:

(2) "Airport hazard" means a structure or object of natural growth or any electronic emission or visual effect that obstructs or limits, or has the potential to obstruct or limit, the operation of aircraft to, from, or in the vicinity of the airport, including anything that:

(A) obstructs the air space required for the taking off, landing, or maneuvering [~~and flight~~] of aircraft; or

(B) [~~that~~] interferes with visual, radar, radio, navigation, or other systems for tracking, acquiring data relating to, monitoring, or controlling aircraft.

(3) "Airport hazard area" means an area of land or water located inside or outside airport boundaries on which an airport hazard could exist.

SECTION 3. Section 241.011(b), Local Government Code, is amended to read as follows:

(b) To prevent the creation of an airport hazard obstruction or interference, the [~~The~~] airport hazard area zoning regulations may divide an airport hazard area into zones and for each zone:

- (1) specify the land uses permitted;
- (2) regulate the type of structures; and
- (3) restrict the height of structures and objects of natural growth [~~to prevent the~~

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Sections 241.003(2) and (3), Local Government Code, are amended to read as follows:

(2) "Airport hazard" means a structure or object of natural growth **that is more than 100 feet in height** or any electronic emission or visual effect that obstructs or limits, or has the potential to obstruct or limit, the operation of aircraft to, from, or in the vicinity of the airport, including anything that:

(A) obstructs the air space required for the taking off, landing, or maneuvering [~~and flight~~] of aircraft; or

(B) [~~that~~] interferes with visual, radar, radio, navigation, or other systems for tracking, acquiring data relating to, monitoring, or controlling aircraft.

(3) "Airport hazard area" means an area of land or water located inside or outside airport boundaries on which an airport hazard could exist.

**No equivalent provision.**

~~creation of an obstruction to flight operations or air navigation].~~

SECTION 4. The heading to Section 241.013, Local Government Code, is amended.

SECTION 5. Section 241.013, Local Government Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), and (a-3) to read as follows:

(a) A political subdivision described by Subsection (a-2) ~~[with a population of more than 45,000]~~ in which an airport used in the interest of the public to the benefit of the political subdivision is located may adopt, administer, and enforce:

(1) airport hazard area zoning regulations applicable to an airport hazard area relating to the airport and located outside the political subdivision; and

(2) airport compatible land use zoning regulations applicable to a controlled compatible land use area relating to the airport and located outside the political subdivision.

(a-1) For purposes of Subsection (a), an airport that is located in the extraterritorial jurisdiction of a political subdivision described by Subsection (a-2)(2) is located in the political subdivision.

(a-2) This section applies only to a political subdivision that:

(1) has a population of more than 45,000; or

(2) has a population of more than 26,000 and includes wholly or partly within its boundaries or, as applicable, within its extraterritorial jurisdiction an airport with a radar system owned and operated by the federal government or a defense agency of the federal government or the state.

(a-3) A political subdivision described by Subsection (a-2)(2) may not adopt, administer, or enforce an airport hazard area zoning regulation under this section in an area that is located more than 25 nautical miles from a federally owned and operated radar system.

No equivalent provision.

SECTION 3. Same as introduced version.

SECTION 4. Section 241.013, Local Government Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

(a) A political subdivision described by Subsection (a-2) ~~[with a population of more than 45,000]~~ in which an airport used in the interest of the public to the benefit of the political subdivision is located may adopt, administer, and enforce:

(1) airport hazard area zoning regulations applicable to an airport hazard area relating to the airport and located outside the political subdivision; and

(2) airport compatible land use zoning regulations applicable to a controlled compatible land use area relating to the airport and located outside the political subdivision.

(a-1) For purposes of Subsection (a), an airport that is located in the extraterritorial jurisdiction of a municipality described by Subsection (a-2)(2) is located in the municipality.

(a-2) This section applies only to:

(1) a political subdivision that has a population of more than 45,000; or

(2) a municipality located in a county that has a population of more than 32,000 and less than 32,300 and that includes wholly or partly within its boundaries or extraterritorial jurisdiction an airport with a radar system owned and operated by the federal government or a defense agency of the federal government or the state.

(a-3) A municipality described by Subsection (a-2)(2) may adopt, administer, or enforce an airport hazard area zoning regulation under this section only in a county described by Subsection (a-2)(2).

(a-4) If each airport with a radar system owned and operated by the federal

government or a defense agency of the federal government or the state that is located wholly or partly within the boundaries or extraterritorial jurisdiction of a municipality described by Subsection (a-2)(2) converts to a satellite system, this section no longer applies.

SECTION 6. Section 241.903(a), Local Government Code, is amended to read as follows:

(a) A political subdivision may acquire from a person or other political subdivision an air right, aviation easement, or other estate or interest in property or in a nonconforming structure or use if:

(1) the acquisition is necessary to accomplish the purposes of this chapter;

(2) the property or nonconforming structure or use is located within the political subdivision or located outside the political subdivision and in an airport hazard area subject to regulation under Section 241.013, the political subdivision owns the airport, or the political subdivision is served by the airport; and

(3)(A) the political subdivision desires to remove, lower, or terminate the nonconforming structure or use;

(B) airport zoning regulations are not sufficient to provide necessary approach protection because of constitutional limitations; or

(C) the acquisition of a property right is more advisable than an airport zoning regulation in providing necessary approach protection.

SECTION 7. 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, 2013.

SECTION 5. Section 241.903(a), Local Government Code, is amended to read as follows:

(a) A political subdivision may acquire from a person or other political subdivision an air right, aviation easement, or other estate or interest in property or in a nonconforming structure or use if:

(1) the acquisition is necessary to accomplish the purposes of this chapter;

(2) the property or nonconforming structure or use is located within the political subdivision or located outside a municipality described by Section 241.013(a-2)(2) and in an airport hazard area subject to regulation by the municipality under Section 241.013, the political subdivision owns the airport, or the political subdivision is served by the airport; and

(3)(A) the political subdivision desires to remove, lower, or terminate the nonconforming structure or use;

(B) airport zoning regulations are not sufficient to provide necessary approach protection because of constitutional limitations; or

(C) the acquisition of a property right is more advisable than an airport zoning regulation in providing necessary approach protection.

SECTION 6. Same as introduced version.