

SUBJECT: Seeking military base comment on proposed ordinances in certain areas

COMMITTEE: Defense and Veterans' Affairs — committee substitute recommended

VOTE: 8 ayes — Corte, Vaught, Chavez, Edwards, Farias, Maldonado, Ortiz, Pickett

0 nays

1 absent — C. Turner

WITNESSES: For — Robert Briley, City of Abilene; David Earl, SE Ranch Holdings, Val Verde Development Company; Dwight Williams, Dyess Air Force Base; (*Registered, but did not testify*: Jim Allison, County Judges and Commissioners Association of Texas; Jim Lewis, McLennan County)

Against — Michael D. Moore, Texas Association of Builders; (*Registered, but did not testify*: Kirby Brown, Texas Wildlife Association)

On — Tommy Downing, Dyess Air Force Base; John Jarvis, Red River Redevelopment Authority

BACKGROUND: Local Government Code, sec. 397.005 requires a community that is adjacent to or near a defense installation, called a defense community, to seek comments and analysis from the installation if any proposed community rule, ordinance, or plan could impact the military installation or its military exercise or training activities. The communities must consider and analyze the military installations' comments before making a final determination on the proposed ordinance, rule, or plan.

Local Government Code, subchapter B allows political subdivisions to adopt airport zoning regulations, including hazard area, compatible land use, and extraterritorial zoning regulations.

DIGEST: CSHB 2919 would require defense communities that included a municipality with a population of more than 110,000 in a county with a population of less than 135,000, and that had not adopted airport zoning regulations (Abilene) to seek comments and analysis from a defense base if the community proposed to adopt or amend an ordinance, rule, or plan

in an area within eight miles of the base's boundary line or the boundary line of any military exercises or training activities carried out by that base. A defense community would be required to wait at least 30 days after requesting comment before making a final determination on the proposal.

The defense communities that meet the requirements listed above also would be required to seek analysis and comments from a defense base on receipt of an application for a permit for a proposed structure to be built within eight miles of the base's boundary line. A community would be required to wait five business days after requesting comment on a permit application, unless the base's comments and analysis were received earlier than that. A defense community would not be required to seek comment if it was required to take immediate action on a permit application to protect the health, welfare, or safety of the community.

Defense communities that did not meet the criteria listed above would be subject to the current statute.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

**SUPPORTERS
SAY:**

CSHB 2919 would help ensure compatible land use between military installations and the communities that surround them. Requiring that communities such as Abilene seek comment from a military base if a proposed ordinance or structure would affect an area within eight miles of the base would help maintain the integrity of the military installations and allow them to continue their training activities, while still allowing cities and counties to grow in a beneficial way. Allowing a defense installation five days to comment on a permit application would provide a reasonable amount of time without delaying the process too much.

**OPPONENTS
SAY:**

Military encroachment legislation such as CSHB 2919 should provide more stakeholder input than simply asking the military base to comment on a proposed ordinance or permit application. Eight miles from a military base's boundary is too great of a distance and could lengthen the permit process for projects that would in no way affect a military base.

NOTES:

The committee substitute differs from the bill as filed by limiting the requirement to seek comment from a defense base to those defense communities that included a municipality with a population of more than

110,000 in a county with a population of less than 135,000 and which had not adopted airport zoning regulations; reducing the distance from a military base that a proposal or structure permit would have to affect to require comment from the base from 10 miles to eight; and reducing the amount of time before a defense community could move forward with a permit application from 31 days to five business days and allowing the communities to take immediate action on an application to protect the health, safety, and welfare of the community.