

- SUBJECT:** Creation of regional military sustainability commissions
- COMMITTEE:** Defense and Veterans' Affairs — favorable, without amendment
- VOTE:** 8 ayes — Corte, Vaught, Chavez, Edwards, Farias, Maldonado, Ortiz, C. Turner
- 0 nays
- 1 absent — Pickett
- SENATE VOTE:** On final passage, May 8 — 22-7 (Fraser, Harris, Hegar, Nelson, Nichols, Patrick, Seliger)
- WITNESSES:** No public hearing
- BACKGROUND:** Local Government Code Title 12, subchapter C contains provisions regarding planning and development that involve more than one type of local government, including the creation of regional planning commissions. Ch. 397 requires military communities seeking financial assistance from the Texas Military Value Revolving Loan Fund to develop community impact plans that address land use, among other concerns.
- DIGEST:** SB 2222 would allow counties with unincorporated areas and municipalities with extraterritorial jurisdiction within five miles of a military installation to establish and fund a regional military sustainability commission. A commission's territory would be the unincorporated area or extraterritorial jurisdiction within two miles of the military installation's boundary line, or within three miles of the boundary line if the installation was engaged in flight training when the commission was established.
- Compatible development standards.** A regional military sustainability commission established under the bill would recommend and adopt compatible development standards for its territory. Before taking action on a commission's recommendations, a participating governmental entity would be required to notify property owners within the commission's territory of the proposed standards, and to publish notice of the proposed

standards in a newspaper of general circulation within the commission's territory. However, a failure to notify each property owner would not invalidate the compatible development standards.

As part of the compatible development standards, a sustainability commission could adopt Federal Aviation Administration regulations for installations that service aircraft and helicopters and could include a recommendation that a participating governmental entity purchase property within the commission's territory. Any compatible development standards adopted by a military sustainability commission would have to be coordinated with a participating county's growth and development plan, a participating municipality's comprehensive plan, and the most recent Joint Land Use Study, if the commission found that the study's conclusions reflected accurately current circumstances.

A majority of each participating governmental entity would have to approve a regional military sustainability commission's proposed development standards, and each participating entity could develop its own procedures for approving amended standards. If a military installation was closed by the federal government, the sustainability commission that regulated the territory around the installation and the commission's compatible development standards would continue to be in effect until four years after the closure.

Permit application review. A regional military sustainability commission also would be responsible for reviewing project permit applications within its territory for a project's compatibility with the military installation's mission and operations. A commission would have to report its findings within 30 days of receiving a permit application from a participating governmental entity, and the report would have to include an estimate of any recommendation's fiscal impact on an affected property, if one could be determined. A governmental entity could not take action on a permit application until it received the commission's report and would have to disapprove the application if the sustainability commission recommended it do so.

Commission formation and membership. The governing body of each governmental entity that wished to participate in a regional military sustainability commission would be required to hold two public hearings on the creation of the commission between 30 and 60 days before the commission's establishment. Notice of each hearing would have to be

posted in the governmental entity's administrative offices and published in a newspaper of general circulation in the proposed territory at least seven days before the hearing. The notice would be required to contain the date, time, and place of the hearing, a map and description of the proposed territory's boundaries, and a description of the proposed commission's authority.

A regional military sustainability commission's governing body could not contain more than nine members and could not contain any elected officials of a participating county or municipality. The participating governmental entities could jointly determine the number, qualifications, and method of selection for the commission's members. Each sustainability commission would be required to establish an advisory committee consisting of six appointed members, three of whom would have to represent landowners and three of whom would represent the military installation.

Administrative provisions and funding. Only one commission could be created for a military installation in each county. A regional military sustainability commission would be granted the same civil immunity given to a state political subdivision, but would not be given taxing authority. A sustainability commission created under the bill would be funded by its participating governmental entities, and could apply for, contract for, or receive a grant or other funds from a participating municipality or county, the state, the federal government, or any other source. A commission would have to comply with applicable laws related to the reimbursement of travel expenses, nepotism, conflicts of interest, and the registration of lobbyists.

If a regulation adopted by a county, municipality, or regional military sustainability commission conflicted with another standard imposed under another statute or local order, the more stringent standard would be given precedence. A municipality or county could withdraw from a military sustainability commission by a two-thirds vote of the governmental entity's governing body and after providing its military installation with at least 45 days notice of the vote.

Exemptions and judicial review. Any adopted compatible development standards would not apply to a single-family residence on a tract of land located outside the boundaries of a platted subdivision, a tract of land used

for agricultural purposes or any activity or structure on such a tract, or any activity or project that had received a state permit on or before the bill's effective date. A landowner aggrieved by a sustainability commission report or permit application recommendation could appeal all or part of the report or recommendation to a district court, which could then reverse or modify all or part of the report or recommendation.

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:**

SB 2222 would allow counties and municipalities to adopt appropriate land-use regulations and would ensure that military communities continued to benefit from their installations. As Texas cities and counties grow, there is greater potential for development to encroach on a military base's boundaries in ways that would be incompatible with the base's mission and operations. Military installations provide a profound economic benefit for their surrounding communities. Any hindrance to their missions could lead to the base's closure, which would have a devastating economic effect. The bill would protect and preserve the state's military bases and help maintain their economic viability.

HB 2222 would not prohibit development around a military base, but would ensure that any development would be compatible with a base's mission. Property owners still would be able to apply for project permits, and the establishment of an advisory committee that included landowners and military base representatives would ensure that all stakeholders were involved in the process.

**OPPONENTS
SAY:**

While the protection of military bases is an important goal, SB 2222 could lead to the infringement of landowners' property rights. The two- and three-mile radii established for a sustainability commission's territory would be arbitrary. If a military base's activities occur completely within the base's boundary, then there should be no harm in the development of land within a few miles of the base.

The requirement that a sustainability commission review a permit application before it could be acted on by a city or county could increase the cost and length of time required to complete a project, even if the project did not hinder a military base's activities in any way. Allowing a sustainability commission to operate for four years after a base's closure

could lead to unnecessary regulation, as the goal of protecting the base from encroachment no longer would be valid.