

BILL ANALYSIS

Senate Research Center

C.S.S.B. 2222
By: Van de Putte
Veteran Affairs & Military Installations
4/23/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Uncurtailed development is impinging upon the critical mission capability of several military installations in the state of Texas. It is imperative for the sustainability of our military installations that we find a way to reconcile a city's growth with the maintenance of the installation's mission. Military installations provide an invaluable contribution to a community's diversity and economic stability. Ensuring their continued operation is critical to a community's well-being, and it also ensures that Texas continues to enjoy a productive, mutually-beneficial relationship with the Department of Defense and its military installations.

C.S.S.B. 2222 amends current law relating to authorizing the creation of regional military sustainability commissions around military installations.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle C, Title 12, Local Government Code, by adding Chapter 397A, as follows:

CHAPTER 397A. REGIONAL MILITARY SUSTAINABILITY COMMISSIONS RELATING TO MILITARY INSTALLATIONS

Sec. 397A.001. **LEGISLATIVE FINDINGS; PURPOSE.** (a) Provides that the legislature finds that the areas that surround military installations will be frequented for military, national security, and international training purposes by residents from many parts of the state, nation, and world; compatible development and use of those areas is of concern to the entire state and nation; and without adequate regulation, the areas will tend to become incompatible with military missions and to be used in ways that interfere with the proper continued use of those areas as secure locations for military installations and missions and the effective operation of the military installations and missions.

(b) Provides that the regulatory powers granted by this chapter are for the purpose of promoting the public health, safety, and general welfare; protecting and preserving places and areas of military and national security importance and significance; protecting critical military missions and operations related to those missions; and ensuring state and national security.

Sec. 397A.002. **APPLICABILITY.** (a) Provides that a regulation adopted under this chapter does not apply to a tract of land used for a single-family residence that is located outside the boundaries of a platted subdivision, a tract of land in agricultural use, or an activity or a structure or appurtenance on a tract of land in agricultural use.

(b) Defines "agricultural use" and "agriculture."

Sec. 397A.003. **CREATION OF REGIONAL MILITARY SUSTAINABILITY COMMISSION.** (a) Authorizes all counties with unincorporated territory and municipalities with extraterritorial jurisdiction located within five miles of the boundary

line of a military installation that each, with respect to the same military installation, constitute a defense community, as defined by Section 397.001 (Definition), and for which a Joint Land Use Study has been completed by September 1, 2010, to agree by order, ordinance, or other means to establish and fund a regional military sustainability commission (commission) under this chapter. Prohibits defense communities from establishing more than one commission in a county. Prohibits a commission from being formed without the consent of at least one of the municipalities with extraterritorial jurisdiction within the proposed boundaries of the commission's territory.

(b) Provides that a commission's territory consists of the unincorporated area located within five miles of the boundary line of a military installation designated as the commission's territory when the commission is established.

(c) Provides that a commission is a political subdivision of the state and is entitled to immunity as described by Chapter 101 (Tort Claims), Civil Practice and Remedies Code. Requires a commission to have only those powers specified in this chapter.

(d) Requires that this chapter be liberally construed in conformity with the findings and purposes under Section 397A.001.

Sec. 397A.004. HEARING ON CREATION OF COMMISSION. (a) Requires each governing body, not earlier than the 60th day or later than the 30th day before the date the governing body of each participating governmental entity establishes a commission, to hold two public hearings to consider the creation of the proposed commission. Requires each governing body, at least seven days before each public hearing, to prominently post notice of the hearing in the administrative offices of the governmental entity and publish notice of the hearing in a newspaper of general circulation in the proposed territory, if any.

(b) Requires that the notice required by Subsection (a) state the date, time, and place for the public hearing; identify the boundaries of the proposed territory, including a map of the proposed territory; and provide a description of the proposed commission's authority.

Sec. 397A.005. GOVERNING BODY OF REGIONAL MILITARY SUSTAINABILITY COMMISSION. (a) Provides that the commission is composed of not more than nine members.

(b) Authorizes participating governmental entities by joint agreement to determine the number, qualifications of, and method of selecting members of the governing body of a commission.

(c) Prohibits a member of a governing body of a commission from being an elected official of the participating county or municipality.

Sec. 397A.006. REGULATORY AUTHORITY. (a) Provides that a commission has the authority granted to a municipal zoning commission and a board of adjustment under Chapter 211 (Municipal Zoning Authority) in the commission's territory, including any area that is within the boundaries of a municipality's extraterritorial jurisdiction. Provides that on annexation of an area of the commission's territory for full or limited purposes by a municipality, the commission's authority to regulate the area under Chapter 211 expires. Provides that the commission regains the authority in an area if the municipality disannexes the area.

(b) Requires the commission to establish an advisory committee (committee) and appoint not more than five members to the committee. Requires three of the members appointed to the committee to represent the military installation for which the commission is established. Requires the committee to advise the commission on protecting the critical military missions of the military installation with regard to development.

(c) Requires the participating governmental entities to determine the procedures under Chapter 211 that apply to the review and approval of a zoning regulation under this chapter. Provides that the governmental entity with jurisdiction in the area to which a proposed zoning regulation applies makes the final decision under this chapter regarding a proposed zoning regulation.

Sec. 397A.007. REGIONAL PLAN. (a) Requires a commission to recommend and adopt a plan for the territory. Requires the commission to consider and authorizes the commission to adopt as part of the regional plan the Federal Aviation Administration regulations regarding height restrictions, standards, and density limitations surrounding a military installation that services aircraft and helicopters. Requires the commission, after adoption, to submit the plan to the participating governmental entities for approval.

(b) Requires the participating governmental entities, before taking action to approve or reject the plan, to provide notice of the commission's proposed plan to property owners in the commission's territory, as determined by the most recent county tax roll, and to publish notice of the commission's proposed plan in a newspaper of general circulation in the commission's territory, if any.

(c) Provides that the failure of notice to reach each property owner under Subsection (b) does not invalidate a plan adopted under this section.

(d) Provides that the plan is final after approval by a majority of the participating governmental entities. Requires that notice of the plan be provided to all appropriate taxing entities for filing in the real property records of the county.

(e) Authorizes the plan to include a recommendation to a participating governmental entity to purchase property in the commission's territory as practical to protect a critical military mission.

(f) Authorizes the commission to amend an approved plan after providing notice of the amended plan and holding hearings in the same manner as provided by the procedures described by Section 397A.006(c). Authorizes the participating governmental entities to approve the commission's amended plan under the procedures adopted by Section 397A.006(c) for the approval of zoning regulations.

Sec. 397A.008. COORDINATION WITH OTHER PLANS AND STUDIES. Requires that the plan and regulations adopted under this chapter be coordinated with the county plan for growth and development of a participating county or a county located in the commission's territory; the comprehensive plan of the participating municipality; and the most recent Joint Land Use Study, if the commission makes a finding that the conclusions of the study accurately reflect circumstances in the territory.

Sec. 397A.009. DORMANT PROJECTS. (a) Prohibits a project, as defined by Section 245.001 (Definitions), in the commission's territory from having more than four years to show progress towards completion, as determined under Section 245.005(c) (relating to requirement of progress toward completion of the project), notwithstanding Section 245.005(b).

(b) Provides that this section does not prohibit a project developer from applying to the commission for a new permit or other form of authorization required to complete a project.

Sec. 397A.010. CONFLICT WITH OTHER LAWS. Provides that if a regulation adopted under this chapter conflicts with a standard imposed under another statute or local order or regulation, the more stringent standard controls.

Sec. 397A.011. FUNDS. (a) Provides that a commission does not have the power to tax.

(b) Authorizes a participating governmental entity to appropriate funds to the commission for the costs and expenses required in the performance of its purposes.

(c) Authorizes a commission to apply for, contract for, receive, and expend for its purpose a grant or funds from a participating governmental entity, the state, the federal government, or other source.

Sec. 397A.012. RESTRICTIONS. (a) Requires a commission to comply with laws applicable to participating governmental entities relating to reimbursement for travel expenses, nepotism, conflicts of interest, and registration of lobbyists.

(b) Provides that to the extent of a conflict between laws applicable to governmental entities relating to a subject described by Subsection (a), the more stringent requirement controls.

Sec. 397A.013. WITHDRAWAL FROM COMMISSION. Authorizes a participating governmental entity to withdraw from a commission by a two-thirds vote of its governing body and after providing notice to the relevant military installation commander not later than the 45th day before the date of the vote under Subdivision (1).

Sec. 397A.014. EXPIRATION AFTER MILITARY INSTALLATION CLOSURE. Authorizes a commission that regulates territory around a military installation that is closed by the federal government and the regional plan and zoning regulations adopted by the commission to continue in effect until the fourth anniversary of the date the military installation is closed.

Sec. 397A.015. EXEMPTION FROM OTHER LAW. Provides that Chapter 2007 (Governmental Action Affecting Private Property Rights), Government Code, does not apply to an action by a commission or a participating governmental entity under this chapter.

SECTION 2. Effective date: upon passage or September 1, 2009.