

## **BILL ANALYSIS**

C.S.H.B. 1640  
By: Farias  
Defense & Veterans' Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties note that preventing the encroachment of military installations has become one of the top priorities of the U.S. Department of Defense. These parties assert that, in order to ensure the military's ability to maintain operational readiness in defense of the nation, it is necessary to facilitate compatible land use between military installations and adjacent communities. C.S.H.B. 1640 seeks to facilitate such land use and help preserve the readiness of military installations within certain counties alongside the growth and expansion of those defense communities.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **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. 1640 amends the Local Government Code to require a defense community that has not adopted airport zoning regulations under the Airport Zoning Act and that is proposing to adopt or amend an ordinance, rule, or plan that would be applicable in a controlled compatible land use area and that may impact base operations, or that receives an application for a proposed structure that would be located in such an area and may impact base operations, to notify the base or facility authorities concerning the compatibility of the proposed ordinance, rule, plan, or structure, as applicable, with base operations. The bill authorizes such defense communities to enter into a memorandum of agreement with the military base or defense facility to establish a smaller area in the controlled compatible land use area for which such notification would be required by the defense community. The bill requires the defense community, after providing the notice, to enter into a memorandum of agreement with the base or facility to establish provisions to maintain the compatibility of the proposed ordinance, rule, plan, or structure, as applicable, with base operations.

C.S.H.B. 1640 applies to a defense community that is a county with a population of more than 1.5 million that contains a municipality in which at least 75 percent of the county's population resides; that is a county with a population of 130,000 or more that is adjacent to such a county; that is located in either such county; or that is or includes a municipality that is located in a county with a population of more than 130,000 that borders the Red River.

**EFFECTIVE DATE**

September 1, 2015.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1640 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 397.005, Local Government Code, is amended to read as follows:

Sec. 397.005. CONSULTATION WITH OR NOTIFICATION TO MILITARY BASE OR DEFENSE FACILITY AUTHORITIES: PROPOSED ORDINANCE, RULE, OR PLAN. (a) This subsection applies to a defense community other than a defense community described by Subsection (b)(1) [~~Subsection (b)~~]. If a defense community determines that an ordinance, rule, or plan proposed by the community may impact a military base or defense facility or the military exercise or training activities connected to the base or facility, the defense community shall seek comments and analysis from the base or facility authorities concerning the compatibility of the proposed ordinance, rule, or plan with base operations. The defense community shall consider and analyze the comments and analysis before making a final determination relating to the proposed ordinance, rule, or plan.

~~(b) [This subsection applies only to a defense community that includes a municipality with a population of more than 110,000 located in a county with a population of less than 135,000 and that has not adopted airport zoning regulations under Chapter 241.]~~ A defense community that proposes to adopt or amend an ordinance, rule, or plan in an area located within eight miles of the boundary line of a military base or defense facility shall notify the base or facility authorities concerning the compatibility of the proposed ordinance, rule, or plan with base operations. This subsection applies only to a defense community that has not adopted airport zoning regulations under Chapter 241 and that:

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 397.005, Local Government Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

**No equivalent provision.**

(c) A defense community that proposes to adopt or amend an ordinance, rule, or plan that would be applicable in a controlled compatible land use area as defined by Section 241.003 and that may impact base operations shall notify the base or facility authorities concerning the compatibility of the proposed ordinance, rule, or plan with base operations. This subsection applies only to a defense community that has not adopted airport zoning regulations under

(1) includes a municipality with a population of more than 110,000 located in a county with a population of less than 135,000;

(2) is a county with a population of more than 1.5 million that contains a municipality in which at least 75 percent of the county's population resides;

(3) is a county with a population of 130,000 or more that is adjacent to a county described by Subdivision (2); or

(4) is located in a county described by Subdivision (2) or (3).

(c) A defense community described by Subsection (b)(2), (3), or (4) may enter into a memorandum of agreement with the military base or defense facility to establish a shorter distance from the boundary line of the military base or defense facility for which notification under Subsection (b) would be required by the defense community.

(d) After providing notice under Subsection (b), a defense community described by Subsection (b)(2), (3), or (4) shall enter into a memorandum of agreement with the military base or defense facility to establish provisions to maintain the compatibility of the proposed ordinance, rule, or plan with base operations.

SECTION 2. Section 397.006, Local Government Code, is amended by amending Subsection (a) and adding Subsections (c) and (c-1) to read as follows:

(a) This section applies only to a defense community that has not adopted airport zoning regulations under Chapter 241 and that:

(1) includes a municipality with a population of more than 110,000 located in a county with a population of less than 135,000;

Chapter 241 and that:

(1) is a county with a population of more than 1.5 million that contains a municipality in which at least 75 percent of the county's population resides;

(2) is a county with a population of 130,000 or more that is adjacent to a county described by Subdivision (1);

(3) is located in a county described by Subdivision (1) or (2); or

(4) is or includes a municipality that is located in a county with a population of more than 130,000 that borders the Red River.

(d) A defense community described by Subsection (c) may enter into a memorandum of agreement with the military base or defense facility to establish a smaller area in the controlled compatible land use area for which notification under Subsection (c) would be required by the defense community.

(e) After providing notice under Subsection (c), the defense community shall enter into a memorandum of agreement with the military base or defense facility to establish provisions to maintain the compatibility of the proposed ordinance, rule, or plan with base operations.

SECTION 2. Section 397.006, Local Government Code, is amended by amending Subsection (a) and adding Subsections (c), (c-1), and (c-2) to read as follows:

(a) Subsection (b) [This section] applies only to a defense community that includes a municipality with a population of more than 110,000 located in a county with a population of less than 135,000 and that has not adopted airport zoning regulations under Chapter 241.

(c) On receipt of an application for a permit as defined by Section 245.001 for a proposed structure that would be located in a controlled compatible land use area as defined by Section 241.003 and may

(2) is a county with a population of more than 1.5 million that contains a municipality in which at least 75 percent of the county's population resides;

(3) is a county with a population of 130,000 or more that is adjacent to a county described by Subdivision (2); or

(4) is located in a county described by Subdivision (2) or (3) [and that has not adopted airport zoning regulations under Chapter 241].

(c) A defense community described by Subsection (a)(2), (3), or (4) may enter into a memorandum of agreement with the military base or defense facility to establish a shorter distance from the boundary line of the military base or defense facility for which notification under Subsection (b) would be required by the defense community.

(c-1) After providing notice under Subsection (b), a defense community described by Subsection (a)(2), (3), or (4) shall enter into a memorandum of agreement with the military base or defense facility to establish provisions to maintain the compatibility of the proposed structure with base operations.

SECTION 3. This Act takes effect September 1, 2015.

impact base operations, a defense community shall notify the base or facility authorities concerning the compatibility of the proposed structure with base operations. This subsection applies only to a defense community that has not adopted airport zoning regulations under Chapter 241 and that:

(1) is a county with a population of more than 1.5 million that contains a municipality in which at least 75 percent of the county's population resides;

(2) is a county with a population of 130,000 or more that is adjacent to a county described by Subdivision (1);

(3) is located in a county described by Subdivision (1) or (2); or

(4) is or includes a municipality that is located in a county with a population of more than 130,000 that borders the Red River.

(c-1) A defense community described by Subsection (c) may enter into a memorandum of agreement with the military base or defense facility to establish a smaller area in the controlled compatible land use area for which notification under Subsection (c) would be required by the defense community.

(c-2) After providing notice under Subsection (c), a defense community shall enter into a memorandum of agreement with the military base or defense facility to establish provisions to maintain the compatibility of the proposed structure with base operations.

SECTION 3. Same as introduced version.