

- SUBJECT:** Military base realignment and closure
- COMMITTEE:** Defense Affairs and State-Federal Relations — committee substitute recommended
- VOTE:** 7 ayes — Corte, Campbell, Berman, Delisi, Mabry, Noriega, Seaman
1 nay — Merritt
1 absent — P. Moreno
- WITNESSES:** For — Gary Bushell, South Texas Military Facilities Task Force and Corpus Christi Chamber of Commerce; Ed Davis, City of San Antonio; Judy Hawley, North Bay Military Task Force and South Texas Facilities Military Task Force; Dub Smothers, Textile Maintenance Association of Texas; (*Registered, but did not testify:*) Jerry Patterson, Veterans Land Board; Maryann Randall, City Public Service of San Antonio

Against — None

On — Walt Baum, Association of Electric Companies of Texas; Jim Buie, Texas Bond Review Board; William J. Ehrie, Texas Strategic Military Planning Commission; Brian Lloyd, Public Utility Commission of Texas
- BACKGROUND:** In 2005, the Department of Defense's (DOD) Base Realignment and Closure (BRAC) process will reassess U.S. military installations and infrastructures to ensure that they best support U.S. military forces in their transformation to counter the threats faced by this country in 2005-2025. DOD has estimated that up to 25 percent of existing military installations could be closed in this round of BRAC due to excess military infrastructure capacity. Initial BRAC data collection and analysis began in January 2002, and the list of base closures will be finalized in November 2005. Texas has 18 major military installations that collectively employ nearly 230,000 people.
- DIGEST:** CSHB 1521 would amend various statutes and would be known as the Military Preparedness Act.

Organization. The bill would abolish the Texas Strategic Military Planning Commission (TSMPC) in Government Code, ch. 436, and create the Texas Military Preparedness Commission (TMPC) within the Governor's Office and reporting to the governor. TMPC would meet at least quarterly and have nine members with experience in relevant fields. Members would serve staggered six-year terms, with one-third of the seats expiring each odd-numbered year, and would not be compensated for their service.

TMPC would:

- advise the governor and Legislature on military, economic, and industrial development issues;
- make recommendations regarding the long-term viability and prosperity of the military in the state and strategic regional alliances;
- develop and maintain a database of defense-related contractors in the state;
- provide information regarding federal actions affecting military missions;
- serve as a clearinghouse for defense-related information;
- provide assistance to communities that experienced base closures;
- assist communities in designing and executing programs to enhance their relationships with the military;
- help communities retain and recruit defense-related businesses;
- prepare a biennial strategic plan to enhance military value in the state; and
- encourage economic development by fostering defense affairs industries.

Financing. TMPC would be required to analyze defense communities' military value enhancement statements using criteria developed from DOD's BRAC criteria and refer the communities to state agencies that had existing programs to finance projects that would add military value to a military facility. If there was no existing finance program, TMPC could make a loan to the community. Before doing so, TMPC would have to determine, in conjunction with the Texas Department of Economic Development (TDED), that the funds would be used to add military value to a military facility according to BRAC criteria and that the project was financially feasible. The

bill would require TMPC to prioritize projects in communities that were publicly proposed for action by DOD under BRAC.

TDED would be required to issue general obligation bonds to fund the project and transfer funds from the Texas military value revolving loan account, established by this bill, to the defense community. The account could be used only to make loans under this chapter of the statute. The bill would authorize the issuance and sale of general obligation bonds under changes that CSHJR 7 by Corte would make to the Constitution.

Cities and state. The bill would require each state agency to consider how it could enhance military value in establishing its goals and to prioritize agency expenditures that would do so. They also would be required to consider federally-owned or operated military installations and facilities when looking to lease space for agency operations.

The bill would require any political subdivision adjacent to, near, or encompassing any part of a defense base to prepare a defense base military value enhancement statement if it applied for financial assistance from the revolving loan account. The bill would specify the contents for military value enhancement statements.

A defense community also could request financial assistance from the account to prepare a comprehensive defense installation and community strategic impact plan. One element of the strategic impact plan would be land and resource use issues that could adversely impact the mission of a military installation. A community that developed a strategic impact plan would be encouraged to develop a planning manual based on the proposals in the plan to guide community planning and development. The planning manual should be developed in coordination with authorities at the local defense base.

CSHB 1521 would require a defense community to seek comment from defense base authorities on any ordinance, rule, or plan that the community determined could impact the base or its activities. It also would authorize cities to grant a five-year tax exemption to the developer of property used for housing military personnel.

The bill would authorize the state to sell, lease, or grant an easement over any of its unused or underused land. It also would amend various statutes to establish that land within 2,500 feet of a military base could be sold and used only to the extent that it would not adversely affect the mission of the military base.

Utilities. The bill would permit the commissioner of the General Land Office to convey natural gas to military installations. It also would require that utilities in areas of the state where electric retail competition had not been implemented discount rates to military bases by 20 percent off of their base commercial rates. Utilities that were providing service discounted by 20 percent to a military base on December 31, 2002, and those for whom a 20 percent discount would reduce revenues greater than 1 percent of total annual revenues, would be exempt from this requirement. Utilities could assess a surcharge to all of their retail customers in the state to recover revenues not collected because of the military discount and would not have to offer the discount to certain Texas National Guard facilities.

In areas of the state where retail electric competition had been implemented, CSHB 1521 also would permit an aggregator to join two or more military bases into a single purchasing unit to negotiate lower electricity prices from retail electric providers. Further, the bill would require the Public Utility Commission (PUC) to establish an electric energy efficiency incentive program in areas of the state not open to retail electric competition to provide incentives sufficient for military bases to reduce their 2002 electricity usage levels by 5 percent before January 1, 2005. The PUC would have to approve a non-bypassable surcharge to recover costs associated with establishing the energy efficiency program.

Education. The bill would require the Texas Education Agency (TEA) to pursue reciprocity agreements with other states to facilitate the transfer of military personnel and their dependents to and from Texas public schools. Reciprocity agreements would be required to address transferring records, awarding transfer credits, and permitting a student to satisfy Texas exit exam requirements through successful performance on a comparable exit-level assessment in another state. TEA would be required to give priority to Florida, Georgia, North Carolina, and Virginia in developing reciprocity

agreements. The agency also would have to report to certain legislative committees by January 1, 2004, on its progress in developing agreements.

The bill would repeal various sections of statute and abolish the Office of Defense Affairs, transferring its rights and obligations to TMPC. The Legislative Budget Board would be required to resolve any disputes relating to the transfer.

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, 2003.

**SUPPORTERS
SAY:**

Organization. The intent of CSHB 1521 is to position the state to benefit from BRAC 2005 by enhancing bases' military value, reducing base operating costs, and clearly conveying the support of state policy makers for the U.S. military. BRAC is a federal issue, but states must choose how to respond, and it is in the best interest of Texans to employ a coordinated, proactive approach. Military expenditures in Texas in fiscal 2000 had an economic impact of almost \$50 billion, and it is critical that state government play an active role in protecting and promoting this sector of the economy. Additionally, creating the TMPC and placing it within the Governor's Office will streamline decision making on military issues and allow the state to respond with greater agility to changing DOD needs.

Financing. Though BRAC commonly is understood as an opportunity for a community to lose military bases, BRAC also can create opportunities for a community to maintain, expand, or gain new military investment through base realignment. For example, communities in South Texas gained 40 percent in payroll from the 1993 and 1995 BRAC processes. This bill would put money in place to help communities address existing deficiencies in their military infrastructure or make needed improvements so that bases could accommodate new missions granted by DOD. Doing so would give communities a better chance of benefitting from, rather than being hurt by, this BRAC round. Since the Legislature will not meet again until DOD has almost finalized its decisions about which bases to close or realign, it is critical that the 78th Legislature act to show that the state strongly supports its U.S. military investments.

Some have expressed concern that bonds authorized by this resolution would fund loans that could be given to bases that ended up closing. While this is true, a community that borrowed money would have to repay the loan regardless of whether their base was closed or not. Communities know this and thus would have the incentive to use loans for projects that added value to their community even if the base was closed. Desalination and port facilities, for example, could be used for civilian industrial purposes, as well as military purposes.

Cities and state. Urban encroachment into military facilities is a major concern for the BRAC commission. As populations expand, neighborhoods and commercial developments expand to areas near military bases and, in some cases, adversely affect the ability of bases to carry out their missions. CSHB 1521 would require defense communities to coordinate with military bases to ensure that no adverse impact occurred and would require some defense communities to respond with strategic impact plans and value enhancement statements in which they considered the needs of military facilities.

Utilities. The intent of lowering utility rates to bases is two-fold. First, it is important to lower operating costs of bases as much as possible. Since electricity is one of a base's most significant overhead costs, reducing its cost could go a long way in reducing overall costs. Secondly, reducing rates is an opportunity to show the federal government that Texas is solidly committed to its bases. Some critics have suggested that utilities with already low rates should not be required to further reduce rates. However, doing so would undercut the state's message to DOD that it is the state's policy to assist and support all of its military facilities.

Education. TEA already has the authority to develop reciprocity agreements, but it has not done so. This bill would require them to do so, focusing first on the four states with the highest numbers of military personnel, because DOD has articulated that this issue is of particular importance in the BRAC process. Specifically, TEA would be required to make sure that reciprocity agreements allowed students who passed a comparable exit level exam in another state to thereby satisfy Texas exit testing requirements for graduation. Since no other state yet has developed reciprocity agreements for military dependents in education, Texas could take a clear leadership role on this issue.

OPPONENTS
SAY:

Financing. This bill would authorize bonds to fund loans for projects that enhanced the military value of a military facility. However, more often than not, BRAC results in closure, not growth, of military facilities. Though communities might have the incentive to seek loans only for projects with dual civilian and military value so that the project still would be valuable even if the base closed, the loan approval process would not be required to consider the civilian value of a proposed project. Thus, the bonds authorized by this resolution might not be suitable for the state's general obligation support.

Utilities. The 20 percent discount required by this legislation would, in practice, affect only one utility, Southwestern Electric Power Company (SWEPCO). All of the other utilities that serve an eligible military base would be exempt because they already offered a discounted rate or were in an area with retail electric competition. However, SWEPCO's rate to the Red River Army Depot already is the lowest in the state. This bill would force SWEPCO to further discount its rate, and the Red River Army Depot would not be permitted to aggregate with other bases for a lower rate. If the intent of the bill is to lower electricity costs to military bases, a better approach would be to lower the rates charged by other utility companies to SWEPCO levels.

NOTES:

The committee substitute differs from the bill as introduced in several ways, which include:

- removing homeland security, commercial and private aviation, and space-related research and operations from the list of issues on which the TMPC would advise the governor;
- removing a requirement in the original that TMPC members of the commission undergo a training program;
- authorizing the issuance of general obligation bonds by TDED; and
- establishing a 2,500-foot zone around military bases where land would be limited for uses that did not adversely affect the mission of the base.

The companion bill, SB 652 by Shapleigh, passed the Senate by 31-0 on May 5 and was reported favorably, as substituted, by the House Defense and State-Federal Affairs Committee on May 8, making it eligible to be considered in lieu of HB 1521. There are technical differences only between the House committee substitute versions of the two bills.

This bill is the enabling legislation for HJR 7 by Corte, which would authorize issuance of \$250 million in general obligation bonds for the Texas military value revolving loan account. HJR 7 is on today's Constitutional Amendments Calendar.