

By: Corte (Senate Sponsor - Van de Putte) H.B. No. 1852

*(In the Senate - Received from the House April 10, 2007; April 11, 2007, read first time and referred to Committee on Veteran Affairs and Military Installations; April 27, 2007, reported adversely, with favorable Committee Substitute by the following vote: Yeas 4, Nays 0; April 27, 2007, sent to printer.)*

COMMITTEE SUBSTITUTE FOR H.B. No. 1852

By: Van de Putte

## **A BILL TO BE ENTITLED AN ACT**

relating to the authority of a county to regulate the installation and use of lighting in certain areas.

### **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1.** Section 240.031, Local Government Code, is amended by adding Subdivision (4) to read as follows:

(4) "Agricultural use" has the meaning assigned by Section 23.51, Tax Code.

**SECTION 2.** The heading to Subchapter B, Chapter 240, Local Government Code, is amended to read as follows:

#### **SUBCHAPTER B. OUTDOOR LIGHTING NEAR OBSERVATORIES AND MILITARY INSTALLATIONS**

**SECTION 3.** Section 240.032, Local Government Code, is amended by adding Subsection (b-1) and amending Subsections (c) and (d) to read as follows:

(b-1) On the request of a United States military installation, base, or camp commanding officer, the commissioners court of a county, any part of which is located immediately adjacent to the installation, base, or camp, may adopt orders regulating the installation and use of outdoor lighting within five miles of the installation, base, or camp in any unincorporated territory of the county.

(c) The orders must be designed to protect against the use of outdoor lighting in a way that interferes with scientific astronomical research of the observatory or military and training activities of the military installation, base, or camp. In the orders, the commissioners court may:

- (1) require that a permit be obtained from the county before the installation and use of certain types of outdoor lighting in a regulated area;
- (2) establish a fee in an amount to cover the costs of administrating the order for the issuance of the permit;
- (3) prohibit the use of a type of outdoor lighting that is incompatible with the effective use of the observatory or military installation, base, or camp;
- (4) establish requirements for the shielding of outdoor lighting; and
- (5) regulate the times during which certain types of outdoor lighting may be used.

(d) The commissioners court may apply more stringent standards for areas in which the use of outdoor lighting has a greater impact on observatory or military installation, base, or camp activities.

**SECTION 4.** Subchapter B, Chapter 240, Local Government Code, is amended by adding Section 240.0325 to read as follows:

Sec. 240.0325. EXCEPTION FOR CERTAIN OUTDOOR LIGHTING. The commissioners court may not adopt an order under Section 240.032 regulating the installation and use of outdoor

lighting that is located within five miles of a military installation, base, or camp located in the unincorporated area of a county and:

- (1) Was installed or used before the effective date of the order and is necessary for the operations of:
  - (A) An electric utility, power generation company, or transmission and distribution utility, as those terms are defined by Section 31.002, Utilities Code;
  - (B) An electric cooperative or a municipally owned utility, as those terms are defined by Section 11.003, Utilities Code;
  - (C) A gas utility, as defined by Section 101.003 or 121.001, Utilities Code;
  - (D) Surface coal mining and reclamation operations, as defined by Section 134.004, Natural Resources Code;
  - (E) A telecommunications provider, as defined by Section 51.002, Utilities Code, or its affiliates; or
  - (F) A manufacturing facility required by Texas Commission on Environmental Quality rule to hold a permit; or
- (2) Is owned or maintained for the purpose of illuminating:
  - (A) A tract of land that is maintained as a single family residence and that is located outside the boundaries of a platted subdivision;
  - (B) A tract of land maintained for agricultural use;
  - (C) An activity that takes place on a tract of land maintained for agricultural use;
  - (D) Structures or related improvements located on a tract of land maintained for agricultural use; or
  - (E) A correctional facility operated by or under a contract with the Texas Department of Criminal Justice.

**SECTION 5.** This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.