

HOUSE BILL No. 2169

By Committee on Veterans, Military and Homeland Security

1-29

9 AN ACT concerning land use ordinances; relating to military installa-
10 tions; authorizing restrictions and prohibited uses of certain property.
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12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) Areas of this state that are wholly or in part within a
14 jointly developed community — military air installation compatible use
15 zone (AICUZ) study area, joint land use study (JLUS) area, army com-
16 patible use buffer (ACUB), or an environmental noise management plan
17 (ENMP) of an active duty, national guard or reserve military installation
18 shall constitute a state area of interest vital to national security and the
19 economic well being of the state. Municipalities and counties located in
20 whole or part of a state area of interest shall provide notice to installation
21 commanders of adoptions or amendments to comprehensive planning
22 documents, zoning ordinances or development proposals applicable to
23 state areas of interest at least 60 days prior to publication of the statutorily
24 required notice for public hearing to provide commanders an opportunity
25 to assess impacts and coordinate issues with planning staff. Issues to be
26 addressed shall include, but not be limited to, restricting or prohibiting
27 future uses for that incorporated or unincorporated area which lies within
28 the AICUZ, JLUS, ACUB or ENMP area and/or which may expose res-
29 idents to noise greater than 65 day-night noise level (DNL) or accident
30 potential that could affect the public health, including, but not limited to,
31 aircraft operations or night training exercises by infantry or mechanized
32 units or that could threaten the mission capability training or base mission
33 sustainment capabilities.

34 (b) All comprehensive plans or zoning ordinances affecting a state
35 area of interest shall restrict or prohibit future uses which:

36 (1) Release into the air any substance which would impair visibility
37 or otherwise interfere with military operations, including ground opera-
38 tions, such as steam, dust or smoke unless the substance is generated
39 from agricultural use;

40 (2) produce light emissions, either directly, or indirectly or by reflec-
41 tive light, which would interfere with pilot vision, and aerial or ground
42 based night vision training;

43 (3) produce electrical emissions which would interfere with military

- 1 ground and aircraft communications and navigation equipment;
- 2 (4) attract birds or waterfowl including, but not limited to, operation
3 of sanitary landfills and maintenance of large scale feeding stations;
- 4 (5) provide for structures within 10 feet of defined aircraft approach,
5 departure, or transitional surfaces; or 100 feet beneath a low-level military
6 aircraft training route as provided by the federal aviation administration;
- 7 (6) expose persons to noise greater than 65 DNL;
- 8 (7) provide unobstructed visibility, surveillance and direct fire weap-
9 onry platforms into permanently populated or operational areas of mili-
10 tary installations; or
- 11 (8) violate any federal aviation administration height restriction in ti-
12 tle 14 of the code of federal regulations (14 CFR) part 77—objects af-
13 fecting navigable airspace or department of defense instruction (DoDI)
14 number 4165.57 “air installations compatible use zones.”
- 15 (c) (1) All comprehensive plans or zoning ordinances affecting a state
16 area of interest shall be consistent with the most current jointly developed
17 community—military AICUZ, JLUS, ACUB, or ENMP recommenda-
18 tions sponsored by the United States air force installation located at
19 McConnell air force base located in Sedgwick county, Kansas, sponsored
20 by the United States department of the army installations located at Fort
21 Riley in or adjacent to Clay, Geary and Riley counties, Kansas, and Fort
22 Leavenworth in Leavenworth county, Kansas, or sponsored by the Kansas
23 adjutant general for Forbes Field in Shawnee county, Kansas, or the
24 Smoky Hill facility located in Saline county, Kansas.
- 25 (2) Interpretations of such plans or ordinances shall consider the rec-
26 ommendations or studies provided by the military with a view to protec-
27 tion of public health, safety and welfare and maintenance of safe military
28 and aircraft operations, and assure sustain ability of installation missions.
- 29 (d) Subject to the provisions and requirements of paragraph (1) of
30 subsection (b) of this section, all comprehensive plans or zoning ordi-
31 nances affecting a state area of interest shall not prohibit compatible de-
32 velopment on the tracts of one acre or more in the area, provided the
33 register of deeds notes on such titles the paragraph (1) of subsection (b)
34 landowner restrictions and potential impacts from noise, smoke, dust,
35 light, electromagnetic interference and aircraft safety zones on the land-
36 owner produced by normal military operations.
- 37 Sec. 2. As used in sections 2 and 3, and amendments thereto:
- 38 (a) “State area of interest military training buffer area” means land
39 that is contiguous to a federal or state military facility of more than 100
40 acres as specified in the applicable AICUZ, JLUS, ACUB or ENMP or
41 is located adjacent to lands already in the program or is under a military
42 flight path.
- 43 (b) “Military training buffer contract” means land in which the pri-

1 vate owner voluntarily provides, sells or leases the development rights for
2 the land or provides, sells or leases the right of the military to reject
3 proposed development that will be incompatible with the training mission
4 and operations of a federal or state military facility of more than 100 acres.

5 (c) Nothing in the state area of interest military training buffer area
6 or military training buffer area contract shall provide authority for the use
7 of eminent domain.

8 Sec. 3. (a) The Kansas adjutant general may make available matching
9 grants to be offered in cooperation with the United States department of
10 agriculture under the farm and ranch land protection program or the
11 United States department of defense, or any other federal or private en-
12 tity, to eligible entities for the administration, purchase or lease of per-
13 manent military training buffer contracts on eligible lands. Such costs
14 shall include, but not be limited to, appraisals, surveys, title searches and
15 development right leases or rights.

16 (b) Any state funds made available to the Kansas adjutant general for
17 matching purposes shall be subject to appropriation.

18 (c) The Kansas adjutant general may adopt rules and regulations to
19 administer and implement the military training buffer area contract
20 program.

21 (d) The Kansas adjutant general may contract with a third party to
22 hold and administer military training buffer area contracts. The Kansas
23 adjutant general shall adopt rules and regulations to identify and select
24 such qualified third parties.

25 Sec. 4. This act shall take effect and be in force from and after its
26 publication in the statute book.