

SUBJECT: Requiring certain cities to disannex land owned by navigation districts

COMMITTEE: Land and Resource Management — committee substitute recommended

VOTE: 6 ayes — Mowery, Orr, Callegari, R. Cook, Y. Davis, Zerwas
0 nays
3 absent — Geren, Pickett, Ritter

WITNESSES: For — A.J. “Pete” Reixach, Brazos River Harbor Navigation District (Port Freeport)
Against — None

DIGEST: CSHB 1311 would add sec. 43.083 to the Local Government Code to require municipalities with fewer than 30,000 residents that border the Gulf of Mexico to relinquish by January 1, 2008, all land belonging to a navigation district annexed without the district’s consent.

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, 2007.

SUPPORTERS SAY: CSHB 1311 would require the city of Freeport to return several hundred acres of land annexed from the Brazos River Harbor Navigation District (commonly known as Port Freeport) without the port’s consent. These annexations have placed the port at a competitive disadvantage against other regional ports that seek to attract potential investors but do not have to comply with the same land-use regulations and development processes the city has imposed on the annexed land. These municipal requirements hamstringing the port’s ability to negotiate with would-be investors, as they are time- and resource-intensive and subject to uncertain outcomes.

For example, the annexations severely compromised the port’s recent negotiations with General Dynamics and ConocoPhillips, whose proposals together represented more than \$85 million in investments. The threat of additional property taxes and the need to petition for zoning changes further reduced the competitiveness of the port’s position, which

eventually led to the demise of both development proposals. CSHB 1311 would allow the port to court would-be investors in the future with more attractive offers.

The disannexation of Port Freeport's land would benefit both the port and the city of Freeport. Port Freeport ranks 13th among U.S. ports in international tonnage handled and 23rd in total domestic and foreign tonnage with a total of 33.9 million tons. The port is an extremely important economic actor in the area, and its holdings include 85 percent of the land mass in Brazoria County. The handicap imposed on the port by the recent annexations has had a detrimental economic impact on both the port and the neighboring city.

CSHB 1311 would allow the port to reclaim full development entitlements to the annexed properties and thereby would restore the port's ability to attract responsible and clean industry to the area. Attracting beneficial industry and fostering economic development would be in the mutual best interest of the city and the port. The annexed parcels are instrumental to the port's future viability, and CSHB 1311 would ensure that Port Freeport had the means to develop them to their greatest potential.

**OPPONENTS
SAY:**

Municipalities are better able to manage development than ports because municipalities can regulate land uses within their jurisdictions through zoning and other development-related regulations that are not available to ports. CSHB 1311 would strip the city of Freeport of its ability to regulate adjacent land uses that directly affect its citizens. The bill would remove local control from the annexed land and return it to the navigation district, whose inhabitants are dispersed over a larger geographic area.

When the city of Freeport annexed the port's land, it did so under legitimate statutory authority. CSHB 1311 would be an ex post facto reversal of these legitimate annexations and thus would create a dangerous precedent of retroactively invalidating legitimate municipal actions.

CSHB 1311 would deprive the city of any real bargaining power in development negotiations concerning annexed land. Land-use regulations on the annexed parcels currently require the port to work with the city to ensure cooperative outcomes that benefit all parties. While the city contains a minority of Brazoria County's residents, the proximity of the annexed parcels would cause whatever was developed there to have a disproportionate impact on its citizens. In addition to impeding the city's

ability to regulate land uses, the forced disannexation would compromise the city's boundaries and remove taxable property from its appraisal rolls.

As a legislative attempt to resolve a local conflict, CSHB 1311 could create more problems than it solved. A number of small municipalities along the Gulf coast besides Freeport have annexed land from neighboring navigation districts in the past. The bill could require a review of these arrangements and the circumstances under which land was annexed. This potentially could upset the cooperative and amicable relationship that most municipalities enjoy with local ports and create disputes where none existed before. Local annexation conflicts should be settled by arbitration or other settlement agreement, not through the enactment of state laws.

NOTES:

The committee substitute changed the delimiting clause in the bill from municipalities with 50,000 or fewer residents to municipalities with 30,000 or fewer residents bordering the Gulf of Mexico.

A related bill on today's calendar, HB 1312 by Bonnen, would require municipalities with fewer than 30,000 residents that border the Gulf of Mexico to obtain the permission of a navigation district prior to annexing its land.

The identical companion bill, SB 1035 by Janek, is pending in the Senate.

HB 542 by Bonnen officially would change the name of the Brazos River Harbor Navigation District of Brazoria County to Port Freeport. It is pending in the Senate after passing the House on March 1.