

**SUBJECT:** Restricting the ability of certain cities to annex navigation district land

**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 — (*Registered but did not testify:* A.J. “Pete” Reixach, Port Freeport, Brazos River Harbor Navigation District)  
Against — None

**DIGEST:** CSHB 1312 would add sec. 43.082 to the Local Government Code to require municipalities with fewer than 30,000 residents that border the Gulf of Mexico to gain the permission of a navigation district prior to annexing its land.  
  
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 1312 would protect navigation districts — ports — against the economic disadvantages caused by the forced annexation of their land. Municipalities tend to place more stringent development regulations upon annexed port land that require applicants to negotiate arduous local permitting processes, which can hamstring a port’s ability to negotiate with potential investors. In view of these additional obstacles, would-be investors tend to steer development plans to other regional ports that do not have similar constraints.  
  
For example, recent annexations of land belonging to the Brazos River Harbor Navigation District (Port Freeport) by the neighboring city of Freeport have placed the port at a competitive disadvantage with regard to other regional ports that do not have to comply with the same municipal land use regulations and development processes. The annexations negatively affected the port’s development 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.

Protecting ports from unwelcome annexations would be in the interest of both ports and neighboring municipalities. According to the Texas Ports Association, Texas ports move an average of 317 million metric tons of cargo annually. Ports are responsible for providing nearly 1 million jobs, more than \$30 billion in personal income for Texans, and business sales that exceed \$178 billion. Ports clearly are instrumental to the well-being of nearby municipalities, and disadvantages caused by annexations have a detrimental economic impact on both ports and cities along the Gulf coast.

CSHB 1312 would ensure that Texas ports maintained full development entitlements to the annexed properties when needed and thereby would preserve ports' ability to attract responsible industry to the Gulf coast. Attracting beneficial industry and fostering economic development is in the mutual best interest of cities and ports.

Requiring municipalities to gain permission prior to annexing port property would provide balance in the annexation process by forcing the city to negotiate with ports regarding future annexation actions. By making the port a full party to annexation planning, the bill would resolve the present imbalance that favors municipal entities. In so doing, CSHB 1312 would promote cooperation between cities and ports in the long-term interests of each. The bill would provide recourse to ports against annexation proceedings outside of litigation.

OPPONENTS  
SAY:

By giving ports veto authority in annexation negotiations, CSHB 1312 would interfere with the present bargaining relationship that exists between ports and municipalities. Ports would lose an incentive to negotiate informal agreements with cities to avoid annexation. 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. Removing the power of annexation could give rise to future port commissions that were unwilling to negotiate the types of agreements and mutually acceptable development plans that historically have existed between and among municipalities and ports.

CSHB 1312 would have unintended consequences for the future growth of coastal municipalities. In prohibiting involuntary annexation of port property, the bill would remove one important and statutorily permitted tool municipalities possess to plan for future needs. By altering the balance of power between ports and municipalities, CSHB 1312 would threaten an affected city's ability to manage growth and development that affects its citizens.

As a legislative attempt to resolve a local conflict, CSHB 1312 could create more problems than it solved. It would apply to a number of municipalities along the Gulf coast, including Freeport, Orange, Nederland, Port Aransas, Port Lavaca, and Rockport. The bill would have broad application and potentially could upset the cooperative and amicable relationship that most municipalities enjoy with local ports. Annexation conflicts should be settled locally 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 1311 by Bonnen, would 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 identical companion bill, SB 1034 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.