

SUBJECT: Requiring approval before annexation of certain districts under an SPA

COMMITTEE: Land and Resource Management — favorable, without amendment

VOTE: 6 ayes — Craddick, Muñoz, C. Bell, Leman, Minjarez, Thierry

0 nays

3 absent — Biedermann, Canales, Stickland

SENATE VOTE: On final passage, May 2 — 25-6 (Johnson, Rodríguez, Watson, West, Whitmire, Zaffirini)

WITNESSES: *On House companion bill, HB 3821:*

For — Joan Allen and Jim Bateman, Shady Hollow Homeowners Association; Bill Aleshire; James Biggs; (*Registered, but did not testify*: Jeremy Fuchs, Texas and Southwestern Cattle Raisers Association; and eight individuals)

Against — Virginia Collier, City of Austin; (*Registered, but did not testify*: Bill Kelly, City of Houston Mayor's Office)

On — Roger Borgelt, Shady Hollow Annexation Vote for Everyone

BACKGROUND: Local Government Code ch. 43 governs municipal annexation and divides counties and municipalities into two categories, Tier 1 and Tier 2, for the purpose of annexation authority.

Sec. 43.0751 allows the governing bodies of a municipality and a conservation and reclamation district to enter into a strategic partnership agreement. Such an agreement may allow for mutually acceptable terms, including a full-purpose annexation of the district or annexation of any commercial property in a district for full purposes by the municipality.

Ch. 43, subchs. C-3, C-4, and C-5 require Tier 2 municipalities to gain approval from the majority of voters or owners of a majority of land in an

area, by request, petition, or election, to annex certain areas under specific circumstances. These subchapters do not apply to the annexation of an area under a strategic partnership agreement, and a municipality is required to follow established procedures under the agreement for full-purpose annexation.

DIGEST:

SB 1468 would prohibit a municipality authorized or required to annex a district for full purposes under a strategic partnership agreement from annexing the district without also annexing all of the unincorporated area it served that was located in the municipality's extraterritorial jurisdiction. Before annexation, the municipality also would have to receive approval as required by certain annexation provisions for Tier 2 municipalities.

The bill would apply only to a municipality that:

- operated a municipally owned water utility; and
- was a party to a strategic partnership agreement with a municipal utility district under which the municipality contemplated annexing 400 or more water or wastewater connections that were not located in the district.

SB 1468 would not apply to a county with a population of more than 1.7 million.

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, 2019.

**SUPPORTERS
SAY:**

SB 1468 would address an inconsistency in annexation practices by certain cities of special districts. With the enactment of SB 6 by Campbell in 2017, some communities under strategic partnership agreements (SPAs) were split into those who have the right to vote for annexation and those who do not, based on whether the portion was inside or outside a special district. The bill simply would ensure that communities have the opportunity to stay together and keep their cohesive, contiguous, and logical boundaries by requiring a municipality annexing a utility district

under specific conditions to comply with annexation provisions under Local Government Code ch. 43, subchs. C-3, C-4, or C-5. This requirement would ensure that all residents who rely on the district for their utility services retained their right to vote for or against annexation.

SB 1468 would be limited in scope and apply only to SPAs between a city and a municipal utility district that initially contemplated annexing out-of-district customers and in which 400 or more water and wastewater connections were involved. It would not apply to a county with a population of more than 1.7 million.

**OPPONENTS
SAY:**

SB 1468 could set a bad precedent and retroactively nullify contractual agreements. In full compliance with statutory requirements, municipal utility districts (MUDs) enter into SPAs with cities to provide mutual benefits that include specific expectations regarding annexation. The establishment, authorization, and implementation of a SPA is the result of an open and inclusive process. SPAs contain provisions that outline the obligations and transitions to occur in the final years of a MUD's operation, and terms of these agreements are made under the assumption of full-purpose annexation. Applying certain provisions requiring approval before annexation could affect the original intent of the SPA.

The retroactive nullification that would be allowed by this bill also could result in un-recouped investments made by city taxpayers. Under the assumption of annexation as laid out in a SPA, city taxpayers may pay for certain services and improvements to the district's area.