

BILL ANALYSIS

Senate Research Center

H.B. 2215
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Intergovernmental Relations
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Engrossed

DIGEST AND PURPOSE

Under current law, municipalities may annex an area in their extraterritorial jurisdiction without the consent of the area's residents. There is concern that some municipalities are annexing areas for their tax bases and other resources despite opposition by the residents of these annexed areas. There are also concerns regarding the lack of voter approval needed for a municipality to annex an area and some municipalities' ability to provide acceptable services to the residents of annexed areas. H.B. 2215 allows for the disannexation of a tract of a contiguous territory that was annexed without an election on or after December 1, 1996, by a municipality with a population of more than 1.5 million if certain conditions are met.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 43G, Local Government Code, by adding Section 43.149, as follows:

Sec. 43.149. DISANNEXATION OF CERTAIN AREAS. (a) Provides that this section applies only to a certain tract of contiguous territory.

(b) Requires the county in which the tract is located to hold an election on disannexation of the tract from the municipality if the county clerk receives a petition asking for an election signed by at least 10 percent of the registered voters who reside in the tract. Requires the county clerk to determine the validity of the petition under Chapter 277, Election Code, not later than the 30th day after the date the petition is received.

(c) Requires the county judge, if the county clerk determines that a petition filed under Subsection (b) is valid or if the county clerk fails to make a determination within the time prescribed by that subsection, to order the election to be held on the first uniform election date that occurs at least 45 days after the earlier of two certain dates.

(d) Authorizes only a registered voter residing in the tract to vote in the election. Requires the municipality that annexed the tract to pay for the cost of holding the election.

(e) Requires the ballots at the election to be prepared to permit voting for or against a certain proposition.

(f) Provides that if a majority of the votes cast at the election favor the proposition, the tract is disannexed from the municipality and any municipal utility district or other special district that served the tract on the date the tract was annexed and that was

abolished as a result of the annexation is reestablished on the date of the canvass of the election. Provides that the directors of a reestablished district who were serving on the date the tract was annexed are the directors of the reestablished district. Requires a director whose term has expired to serve until the director's successor is qualified, and requires a successor to be elected or appointed in a timely manner in accordance with the law governing the district. Requires the remaining directors, if there is a vacancy, to appoint a person to fill the vacancy. Provides that if there are no remaining directors, the county judge is required to appoint the appropriate number of directors to serve until the time of appointment or election of directors under the law governing the district.

(g) Provides that if less than a majority of the votes cast at the election favor the proposition, the tract remains a part of the municipality and another election to disannex the tract is prohibited from being held under this section.

(h) Prohibits the municipality from reannexing any portion of a tract that is disannexed under this section unless the reannexation is approved at an election conducted by the municipality in the area to be annexed. Prohibits the reannexation from occurring unless a majority of the votes cast in the area approve the reannexation.

(i) Requires an arbitration panel to be appointed not later than the 10th day after the date a disannexation occurs under this section. Sets forth the composition of the panel.

(j) Requires the arbitration panel to conduct an accounting of all expenses the municipality and each municipal utility district and other special district incurred during the annexation and disannexation process, including an accounting of the assets and obligations of the special districts at the time of the annexation and the capital expenditures of the municipality on behalf of the disannexed tract during the time the tract was a part of the municipality. Requires the arbitration panel, not later than the 120th day after the date of disannexation, to render a decision on whether the municipality or special districts are entitled to compensation from the other.

(k) Provides that a decision of the arbitration panel is reviewable in the district court of the county under the substantial evidence rule. Authorizes the municipality or an affected district, if the arbitrators are unable to reach a majority decision, to file an original action for an accounting under Subsection (j) in the district court of the county in which the tract is located.

(l) Provides that, except as provided by this section, Chapter 171, Civil Practice and Remedies Code, applies to an arbitration under this section.

(m) Provides that in this section, a tract of land is considered to be located in the county in which a majority of the area of the tract is located.

(n) Provides that if the tract is located in more than one county: the county clerk of the county in which a majority of the area of the tract is located is required to conduct the verification procedure described by Subsection (b); and the county judge of each county in which the tract is located is required, under Subsection (c), to call an election to be held in the part of the tract that is located in the county in which the county judge serves.

(o) Provides that if an election is called under Subsection (n)(2) in more than one county, the county judge of the county in which a majority of the area of the tract is located is required, after the election returns are canvassed in each county, to combine the election returns to determine if the disannexation is approved in the tract as a whole.

SECTION 2. Amends Chapter 43G, Local Government Code, by adding Section 43.150, as follows:

Sec. 43.150. DISANNEXATION BY PETITION FOLLOWING FAILURE TO PROVIDE SERVICES. (a) Defines "full municipal services."

(b) Provides that this section applies only to an area that: was annexed by a general-law municipality before June 1, 1980; includes at least 200 contiguous acres; is uninhabited or contains fewer than one occupied residence or business structure for every two acres and fewer than three occupied residences or business structures on any one acre; and has not been provided full municipal services since the date of the annexation.

(c) Requires the governing body of the municipality to adopt an ordinance disannexing the area, or any part of the area, from the municipality if the governing body receives a petition from the owners of the area, or the part of the area, requesting the disannexation. Requires the ordinance to be adopted before the 45th day after the date the petition is received. Provides that the disannexation takes effect on the date the ordinance is adopted.

(d) Sets forth required elements of the petition.

(e) Provides that if the governing body fails to adopt the ordinance as required by this section, an owner who signed the petition is authorized to file suit in a district court in the county in which the area to be disannexed is located. Authorizes the owner in the suit to seek a writ of mandamus compelling the governing body to adopt the required ordinance. Requires the court to award an owner who prevails in the suit any attorney's fees, court costs, and other expenses reasonably incurred in connection with the suit.

SECTION 3. Effective date: upon passage or September 1, 2001.