

## **BILL ANALYSIS**

Senate Research Center  
84R6485 TJB-D

S.B. 615  
By: Burton  
Intergovernmental Relations  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Residents within the extraterritorial jurisdiction (ETJ) of a city are subject to involuntary annexation without any recourse. Section 2 of the Texas Constitution reads:

**SECTION 2. INHERENT POLITICAL POWER; REPUBLICAN FORM OF GOVERNMENT.**  
All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient.

Residents living within the ETJ of another city are currently denied the right to alter their government.

#### **Proposal:**

Residents of an ETJ are given a window of 30 days to apply for incorporation upon the trigger of three actions:

- (1) the area is included in an annexation plan under Section 43.052 (Municipal Annexation Plan Required);
- (2) the notice of the first public hearing required by Section 43.063 (Annexation Hearing Requirements) is published; or
- (3) the notice of the first public hearing required by Section 43.124 (Public Hearings) is published.

Upon proper application using the existing statutes for incorporation and election is held and the area either incorporates or, should the incorporation election fail, is open to annexation.

This bill gives residents living within an ETJ an alternative to annexation and a means to exercise their Section 2 rights under the Texas Constitution by allowing residents targeted for annexation to incorporate their own city and adopt self-government. Involuntary annexation often projects liabilities and debt obligations upon ETJ residents who never voted for or directly benefited from the projects paid with such debt obligations. Examples include Alamo Ranch residents who face being subjected to \$10,000 per capita debt by possible San Antonio annexation.

As proposed, S.B. 615 amends current law relating to the ability of an area proposed to be annexed to incorporate as a new general-law municipality.

### **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 Section 42.041(a), Local Government Code, to create an exception under Section 42.0415.

SECTION 2. Amends Subchapter C, Chapter 42, Local Government Code, by adding Section 42.0415, as follows:

Sec. 42.0415. INCORPORATION AS GENERAL-LAW MUNICIPALITY OF AREA PROPOSED FOR ANNEXATION. (a) Provides that, for purpose of this section, the date annexation proceedings are initiated for an area is the date that the area is included in an annexation plan under Section 43.052 (Municipal Annexation Plan Required), the notice of the first public hearing required by Section 43.063 (Annexation Hearing Requirements), or the notice of the first public hearing required by Section 43.124 (Public Hearings) is published if the area is proposed to be annexed for limited purposes.

(b) Authorizes a petition that meets the requirements of Subsection (c) to be presented, not later than the 30th day after the date a municipality initiates annexation proceedings, to the governing body of the annexing municipality to request the release of all or part of the area to be annexed from the annexation proceeding, and request authorization to incorporate all or part of the area to be annexed as a new general-law municipality.

(c) Requires that the petition be signed by a number of registered voters of the area requesting release and incorporation under Subsection (b) equal to or greater than the number of voters required to apply or petition for incorporation under Chapter 6 (Type A General-Law Municipality), 7 (Type B General-Law Municipality), or 8 (Type C General-Law Municipality) as the type of general-law municipality intended to be created; describe the portion of the area proposed to be annexed that the petitioners seek to incorporate as a new municipality; affirm that such area contains at least the number of residents required for the creation of the type of general-law municipality intended to be created and is equal to or larger than the minimum territorial requirements for the creation of the type of general-law municipality intended to be created; state that the intent of the persons signing the petition is to incorporate the described area as a new general-law municipality; and state the type of general-law municipality intended to be created.

(d) Requires the municipality, if the governing body determines that the petition is valid, to release from the annexation proceeding the area described in the petition, and authorize the incorporation of the area as a new general-law municipality or as part of a new general-law municipality.

(e) Requires the persons within the released area to begin the procedures prescribed by this title for the municipal incorporation of the area not later than the 90th day after the date the municipality releases an area from an annexation proceeding.

(f) Requires that the incorporation proceeding in the area be completed not later than the first anniversary of the date the municipality releases the area from the annexation proceeding.

(g) Authorizes the municipality to proceed with the annexation of the area if the area described under Subsection (c) is not incorporated within the time limits described by Subsection (f). Prohibits the residents of the area from presenting another petition under this section until the fifth anniversary of the date the initial petition was filed under Subsection (b).

SECTION 3. Provides that the change in law made by this Act applies only to an area for which a municipality has not initiated annexation proceedings, as defined by Section 42.0415(a), Local Government Code, as added by this Act, before the effective date of this Act.

SECTION 4. Effective date: September 1, 2015.