

BILL ANALYSIS

Senate Research Center

H.B. 347
By: King, Phil et al. (Birdwell)
State Affairs
4/23/2019
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the 85th Legislative Session major reforms were made to the annexation process. In short, S.B. 6 ended forced annexation by municipalities in counties with populations of 500,000 or more so that residents living in the extraterritorial jurisdiction of a city have a greater say in the annexation process. However, these reforms apply to only 11 of Texas' 254 counties.

H.B. 347 seeks to extend S.B. 6's annexation reforms statewide. H.B. 347 removes the "tier" designations from statute, thereby providing property owners in all counties, regardless of population size, the same protections against forced annexation.

H.B. 347 amends current law relating to consent annexation requirements.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

ARTICLE 1. REPEAL OF TIER SYSTEM

SECTION 1. Repealers: Sections 43.001(2) (relating to the definition of "tier 1 county"), (3) (relating to the definition of "tier 2 county"), (4) (relating to the definition of "tier 1 municipality"), and (5) (relating to the definition of "tier 2 municipality"), Local Government Code.

Repealer: Section 43.011 (Applicability), Chapter 43, Local Government Code.

Repealer: Subchapter B (General Authority to Annex: Tier 1 Municipalities), Local Government Code.

Repealer: Section 43.0505(b) (relating to providing that a certain annexation procedure does not apply to a tier 2 municipality), Local Government Code.

Repealer: Section 43.052 (Municipal Annexation Plan Required), Local Government Code.

Repealer: Section 43.053 (Inventory of Services and Facilities Required), Local Government Code.

Repealer: Section 43.056(q) (relating to providing that this chapter does not affect the obligation of a municipality to provide police, fire, or emergency medical services within the municipality's corporate boundaries), Local Government Code.

Repealer: Section 43.0561 (Annexation Hearing Requirements), Local Government Code.

Repealer: Section 43.0562 (Negotiations Required), Local Government Code.

Repealer: Section 43.0563 (Contracts For Provision of Services in Lieu of Annexation), Local Government Code.

Repealer: Section 43.0564 (Arbitration Regarding Negotiations For Services), Local Government Code.

Repealer: Section 43.061(b) (relating to providing that a certain annexation procedure does not apply to an area that is proposed for annexation by a tier 2 municipality), Local Government Code.

Repealer: Section 43.066 (Applicability), Local Government Code.

Repealer: Section 43.067 (Applicability), Local Government Code.

Repealer: Section 43.068 (Applicability), Local Government Code.

Repealer: Section 43.069 (Applicability), Local Government Code.

Repealer: Section 43.0751(o) (relating to authorizing either party to seek arbitration if a municipality required to negotiate with a district and the requesting district fail to agree on terms of a partnership), Local Government Code.

Repealer: Section 43.0752 (Arbitration of Strategic Partnership Agreement), Local Government Code.

Repealer: Section 43.103 (Annexation of Streets, Highways, and Other Ways by General-Law Tier 1 Municipalities), Local Government Code.

Repealer: Section 43.105 (Annexation of Streets by Certain Small General Municipalities), Local Government Code.

Repealer: Subchapter Y (Annexation and Incorporation Procedures For Certain Unincorporated Communities in Certain Counties), Chapter 43, Local Government Code.

SECTION 1.02. Amends the heading to Subchapter C-2, Chapter 43, Local Government Code, to read as follows:

**SUBCHAPTER C-2. GENERAL ANNEXATION AUTHORITY AND PROCEDURES
REGARDING CONSENT ANNEXATIONS**

SECTION 1.03. Amends the heading to Subchapter C-3, Chapter 43, Local Government Code, to read as follows:

SUBCHAPTER C-3. ANNEXATION OF AREA ON REQUEST OF OWNERS

SECTION 1.04. Amends the heading to Subchapter C-4, Chapter 43, Local Government Code, to read as follows:

**SUBCHAPTER C-4. ANNEXATION OF AREAS WITH POPULATION OF LESS THAN 200
BY PETITION**

SECTION 1.05. Amends the heading to Subchapter C-5, Chapter 43, Local Government Code, to read as follows:

**SUBCHAPTER C-5. ANNEXATION OF AREAS WITH POPULATION OF AT LEAST 200
BY ELECTION**

SECTION 1.06. Amends Section 43.1025(c), Local Government Code, to authorize the area described by Subsection (b) (relating to authorizing a municipality to annex the unincorporated area of an airport in certain circumstances) to be annexed under the requirements prescribed by Subchapter C-3, C-4, or C-5, as applicable, rather than under the requirements applicable to a tier 2 municipality, but to provide that the annexation is prohibited from occurring unless each municipality in whose extraterritorial jurisdiction the area may be located consents to the annexation and reduces its extraterritorial jurisdiction over the area as provided by Section 42.023 (Requirements Applying to a Petition).

SECTION 1.07. Amends Section 43.1211, Local Government Code, as follows:

Sec. 43.1211. New heading: USE OF CONSENT PROCEDURES TO ANNEX FOR LIMITED PURPOSES. Authorizes a municipality, rather than a tier 2 municipality, described by Section 43.121(a) (relating to authorizing a governing body of a certain home-rule municipality to annex an area for certain purposes), except as provided by Section 43.0751 (Strategic Partnerships For Continuation of Certain Districts), beginning December 1, 2017, to annex an area for the limited purposes of applying its planning, zoning, health, and safety ordinances in the area using the procedures under Subchapter C-3, C-4, or C-5, as applicable.

ARTICLE 2. CONFORMING CHANGES

SECTION 2.01. Repealer: Section 8374.252(a) (relating to certain sections not applying to the annexation of a certain district by a municipality), Special District Local Laws Code.

Repealer: Section 8375.252(a) (relating to certain sections not applying to the annexation of a certain district by a municipality), Special District Local Laws Code.

Repealer: Section 83756.252(a) (relating to certain sections not applying to the annexation of a certain district by a municipality), Special District Local Laws Code.

Repealer: Section 8377.252(a) (relating to certain sections not applying to the annexation of a certain district by a municipality), Special District Local Laws Code.

Repealer: Section 8378.252(a) (relating to certain sections not applying to the annexation of a certain district by a municipality), Special District Local Laws Code.

Repealer: Section 8382.252(a) (relating to certain sections not applying to the annexation of a certain district by a municipality), Special District Local Laws Code.

Repealer: Section 8383.252(a) (relating to certain sections not applying to the annexation of a certain district by a municipality), Special District Local Laws Code.

Repealer: Section 8384.252(a) (relating to certain sections not applying to the annexation of a certain district by a municipality), Special District Local Laws Code.

Repealer: Section 8385.252(a) (relating to certain sections not applying to the annexation of a certain district by a municipality), Special District Local Laws Code.

Repealer: Section 8477.302(a) (relating to certain sections not applying to the annexation of a certain district by a municipality), Special District Local Laws Code.

SECTION 2.02. Amends Section 43.0116(a), Local Government Code, to authorize a municipality, notwithstanding any other law and subject to Subsection (b) (relating to authorizing a municipality that proposes to annex an area located in an industrial district only under certain conditions), to annex all or part of the area located in an industrial district designated by the governing body of the municipality under Section 42.044 (Creation of Industrial District in Extraterritorial Jurisdiction) under the procedures prescribed by Subchapter C-1, rather than under the requirements applicable to a tier 1 municipality.

SECTION 2.03. Amends the heading to Subchapter C, Chapter 43, Local Government Code, to read as follows:

SUBCHAPTER C. LIMITATIONS AND REQUIREMENTS REGARDING
ANNEXATIONS EXEMPTED FROM CONSENT ANNEXATION PROCEDURES

SECTION 2.04. Amends Section 43.0505(a), Local Government Code, to provide that a certain annexation procedure applies only to an annexation under Subchapter C-1, rather than to provide that, except as provided by Subsection (b), this subchapter applies only to a tier 1 municipality.

SECTION 2.05. Amends Sections 43.056(a), (b), (j), and (k), Local Government Code, as follows:

(a) Provides that this section (Provision of Services to Annexed Area) applies to a service plan under Section 43.065 (Provision of Services to Annexed Area). Deletes existing text requiring the municipality proposing the annexation, before the first day of the 10th month after the month in which the inventory is prepared as provided by Section 43.053, to complete a service plan that provides for the extension of full municipal services to the area to be annexed. Deletes existing text requiring the municipality to provide the services by any of the methods by which it extends the services to any other area of the municipality.

(b) Deletes existing text requiring the service plan to be completed in the period provided by Subsection (a) before the annexation.

(j) Requires the proposed service plan to be made available for public inspection and explained to the inhabitants of the area at the public hearings held under Section 43.063 (Annexation Hearing Requirements), rather than Section 43.0561.

(k) Makes a conforming change to this subsection.

SECTION 2.06. Amends the heading to Subchapter C-1, Chapter 43, Local Government Code, to read as follows:

SUBCHAPTER C-1. ANNEXATION PROCEDURE FOR AREAS EXEMPTED
FROM CONSENT ANNEXATION PROCEDURES

SECTION 2.07. Amends Section 43.061(a), Local Government Code, to provide that, unless otherwise specifically provided by this chapter or another law, a certain annexation procedure applies only to an annexation under certain specified sections, rather than to provide that, except as provided by Subsection (b) (relating to providing that a certain annexation procedure does not apply to an area that is proposed for annexation), a certain annexation procedure applies only to an area that is proposed for annexation by a tier 1 municipality and that is not required to be included in a municipal annexation plan under Section 43.052(h) (relating to providing that a municipal annexation plan requirement does not apply to an area proposed for annexation if certain requirements are met).

SECTION 2.08. Amends Section 43.062(b), Local Government Code, as follows:

(b) Provides that this subsection applies only to an area that contains fewer than 100 separate tracts of land on which one or more residential dwellings are located on each tract, rather than providing that this subsection applies only to an area described by Section 43.052(h)(1) (relating to certain requirements not applying to an area proposed for annexation if the area meets certain requirements). Requires a municipality, before the 30th day before the date of the first hearing required under Section 43.063, to give written notice of its intent to annex the area to:

(1) makes no changes to this subdivision;

(2) each public entity, rather than each public entity as defined by Section 45.053, or private entity that provides services in the area proposed for annexation, including each:

(A) municipality, county, fire protection service provider, including a volunteer fire department, and emergency medical services provider, including a volunteer emergency medical services provider; and

(B) municipal utility district, water control and improvement district, or other district created under Section 52 (Restrictions on Lending Credit or Making Grants by Political Corporations or Political Subdivisions; Authorized Bonds; Investment of Funds), Article III, or Section 59 (Conservation and Development of Natural Resources; Development of Parks and Recreational Facilities; Conservation and Reclamation Districts; Indebtedness and Taxation Authorized), Article XVI, Texas Constitution; and

(3) makes no changes to this subdivision.

SECTION 2.09. Amends Section 43.0715(c), Local Government Code, to require the municipality, at the time notice of the municipality's intent to annex the land within the district is first given in accordance with Section 43.0683 (Notice of Proposed Annexation) or 43.0693 (Notice of Proposed Annexation), as applicable, rather than Section 43.052, 43.0683, or 43.0693, as applicable, to proceed to initiate and complete a report for each developer conducted in accordance with the format approved by the Texas Commission on Environmental Quality for audits.

SECTION 2.10. Amends Sections 43.0751(b) and (h), Local Government Code, as follows:

(b) Deletes existing text requiring the governing body of a municipality, on written request from a district included in the municipality's annexation plan under Section 43.052, to negotiate and enter into a written strategic partnership agreement with the district. Deletes existing text providing that a district included in a municipality's annexation plan under Section 43.052 is prohibited from submitting its written request before the date of the second hearing required under Section 43.0561 and is required to submit its written request before the 61st day after the date of the second hearing required under Section 43.0561.

(h) Provides that nothing herein shall prevent the municipality from terminating the agreement and instituting proceedings to annex the district, on request by the governing body of the district, on any date prior to the full-purpose annexation conversion date established by the strategic partnership agreement under the procedures prescribed by Subchapter C-1, rather than under the procedures applicable to a tier 1 municipality.

SECTION 2.11. Amends Section 43.07515(a), Local Government Code, to prohibit a municipality from regulating under Section 43.0751, rather than under Section 43.0751 or 43.0752, the sale, use, storage, or transportation of fireworks outside of the municipality's boundaries.

SECTION 2.12. Amends Section 43.101(c), Local Government Code, as follows:

(c) Authorizes a municipality to annex the area described by this section (Annexation of Municipality Owned Reservoir) without the consent of any owners or residents of the area under the procedures prescribed by Subchapter C-1 if there are no owners other than the municipality or residents of the area, rather than authorizing the area to be annexed without the consent of any owners or residents of the area under the procedures applicable to a tier 1 municipality by a tier 1 municipality and by a tier 2 municipality under certain conditions. Makes nonsubstantive changes.

SECTION 2.13. Amends Section 43.102(c), Local Government Code, to make conforming changes.

SECTION 2.14. Amends Section 43.1055, Local Government Code, as follows:

Sec. 43.1055. New heading: ANNEXATION OF ROADS AND RIGHTS-OF-WAY. Authorizes a municipality, rather than a tier 2 municipality, notwithstanding any other law, to by ordinance annex a road or the right-of-way of a road on request of the owner of the road or right-of-way or the governing body of the political subdivision that maintains the road or right-of-way under the procedures prescribed by Subchapter C-1, rather than under the procedures applicable to a tier 1 municipality.

SECTION 2.15. Amends Section 43.141(a), Local Government Code, as follows:

(a) Authorizes a majority of the qualified voters of an annexed area to petition the governing body of the municipality to disannex the area if the municipality fails or refuses to provide services or to cause services to be provided to the area:

(1) if the area was annexed under Subchapter C-1, rather than if the municipality is a tier 1 municipality, within the period specified by Section 43.056 or by the service plan prepared for the area under that section; or

(2) if the area was annexed under Subchapter C-3, C-4, or C-5, rather than if the municipality is a tier 2 municipality, within the period specified by the written agreement under Section 43.0672 (Written Agreement Regarding Services) or the resolution under Section 43.0682 (Resolution) or 43.0692 (Resolution), as applicable.

SECTION 2.16. Amends Section 43.203(b), Local Government Code, as follows:

(b) Requires the governing body of the municipality, on receipt of the district's petition, to enter into negotiations with the district for an agreement to alter the status of annexation that is required to include certain requirements, including the requirement to provide that, at the expiration of the period, the district's annexation status will automatically revert to full-purpose annexation without following procedures provided by Section 43.014 (Authority to Annex Limited to Extraterritorial Jurisdiction), rather than Sections 43.014 and 43.052 through 43.055 (Maximum Amount of Annexation Each Year) or any procedural requirement for annexation not in effect on January 1, 1995. Makes a nonsubstantive change.

SECTION 2.17. Amends Section 43.905(a), Local Government Code, as follows:

(a) Creates Subdivision (2) from existing text. Requires a municipality that proposes to annex an area to provide written notice of the proposed annexation to each public school district located in the area proposed for annexation within the period prescribed for providing the notice of, as applicable:

(1) the hearing under Section 43.0673 (Public Hearings); or

(2) the first hearing under Section 43.063, 43.0683, or 43.0693, rather than under Section 43.0561, 43.063, 43.0673, 43.0683, or 43.0693, as applicable.

SECTION 2.18. Amends Sections 43.9051(a) and (b), Local Government Code, as follows:

(a) Redefines "public entity" to include a county, fire protection service provider, including a volunteer fire department, emergency medical services provider, including a volunteer emergency medical services provider, or special district described by Section 43.062(b)(2)(B), rather than as that term is defined by Section 43.052.

(b) Creates Subdivision (2) from existing text. Requires a municipality that proposes to annex an area to provide to each public entity that is located in or provides services to the area proposed for annexation written notice of the proposed annexation within the period prescribed for providing the notice of, as applicable:

(1) the hearing under Section 43.0673; or

(2) the first hearing under Section 43.063, 43.0683, or 43.0693, rather than Section 43.0561, 43.063, 43.0673, 43.0683, or 43.0693, as applicable, to each public entity that is located in or provides services to the area proposed for annexation.

ARTICLE 3. HEARING REQUIREMENTS FOR CERTAIN CONSENT ANNEXATIONS

SECTION 3.01. Amends Section 43.0673, Local Government Code, as follows:

Sec. 43.0673. New heading: PUBLIC HEARING. (a) Requires the governing body of the municipality, before the municipality is authorized to adopt an ordinance annexing an area under this subchapter, to conduct one public hearing, rather than requiring the governing body of a municipality before the municipality is authorized to adopt an ordinance annexing an area under this section, to conduct at least two public hearings. Deletes existing Subsection (b) requiring the hearings to be conducted not less than 10 business days apart.

(c) Provides that, during the public hearing, rather than during the first public hearing, the governing body:

(1) creates this subdivision from existing text and makes a nonsubstantive change; and

(2) creates this subdivision from existing text and deletes existing text authorizing the governing body, during the final public hearing, to adopt an ordinance annexing the area.

(d) Makes conforming and nonsubstantive changes to this subsection.

ARTICLE 4. TRANSITION AND EFFECTIVE DATE

SECTION 4.01. (a) Provides that, except as provided by Subsection (b) of this section, the changes in law made by this Act apply only to an annexation of an area that is not final on the effective date of this Act. Provides that an annexation of an area that was final before the effective date of this Act is governed by those portions of Chapter 43, Local Government Code, that relate to post-annexation procedures and requirements in effect immediately before the effective date of this Act, and that that law is continued in effect for that purpose.

(b) Provides that the changes in law made by this Act do not apply to the annexation of an area for which the governing body of a municipality has adopted a resolution to direct the municipality's city manager to prepare a service plan for the area on or before the effective date of this Act. Provides that an annexation of an area for which the governing body adopted a resolution to direct the municipality's city manager to prepare a service plan for the area before the effective date of this Act is governed by Chapter 43, Local Government Code, as it existed on January 1, 2019.

SECTION 4.02. Effective date: upon passage or September 1, 2019.