

By: Hayes

H.B. No. 4038

A BILL TO BE ENTITLED

AN ACT

relating to the limitations period for actions challenging and validations regarding municipal annexation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 16, Civil Practice and Remedies Code, is amended by adding Section 16.039 to read as follows:

Sec. 16.039. ANNEXATION. A person must bring suit to challenge a municipal annexation of land not later than the 35th anniversary of the annexation date.

SECTION 2. Subchapter Z, Chapter 43, Local Government Code, is amended by adding Section 43.909 to read as follows:

Sec. 43.909. MUNICIPAL BOUNDARIES. Notwithstanding any other law, municipal boundaries may not be validated for purposes of this chapter. Compliance with this chapter is required notwithstanding any other law that purports to validate a municipal boundary unless that law explicitly validates the boundary for purposes of this chapter.

SECTION 3. Section 51.003(b), Local Government Code, is amended to read as follows:

(b) This section does not apply to:

(1) an act or proceeding that was void at the time it occurred;

(2) an act or proceeding that, under a statute of this

1 state or the United States, was a misdemeanor or felony at the time
2 the act or proceeding occurred;

3 (3) an incorporation or attempted incorporation of a
4 municipality~~[, or an annexation or attempted annexation of~~
5 ~~territory by a municipality,~~] within the incorporated boundaries or
6 extraterritorial jurisdiction of another municipality that
7 occurred without the consent of the other municipality in violation
8 of Chapter 42 or 43;

9 (4) an ordinance that, at the time it was passed, was
10 preempted by a statute of this state or the United States, including
11 Section 1.06 or 109.57, Alcoholic Beverage Code; ~~or~~

12 (5) a matter that on the effective date of this
13 section:

14 (A) is involved in litigation if the litigation
15 ultimately results in the matter being held invalid by a final
16 judgment of a court; or

17 (B) has been held invalid by a final judgment of a
18 court; or

19 (6) an ordinance annexing land.

20 SECTION 4. The following provisions of the Local Government
21 Code are repealed:

22 (1) Section 41.003; and

23 (2) Section 43.901.

24 SECTION 5. Section 16.039, Civil Practice and Remedies
25 Code, as added by this Act, applies only to an action filed on or
26 after the effective date of this Act. An action filed before the
27 effective date of this Act is governed by the law in effect on the

1 date the action was filed, and the former law is continued in effect
2 for that purpose.

3 SECTION 6. Section 43.909, Local Government Code, as added
4 by this Act, does not affect the validity of a municipal boundary
5 validated according to law before the effective date of this Act.

6 SECTION 7. Section 51.003(b), Local Government Code, as
7 amended by this Act, applies only to a municipal ordinance annexing
8 land that is adopted by the governing body of a municipality on or
9 after the effective date of this Act. An ordinance annexing land
10 that is adopted before the effective date of this Act is governed by
11 the law in effect on the date the ordinance was adopted, and the
12 former law is continued in effect for that purpose.

13 SECTION 8. The repeal by this Act of Sections 41.003 and
14 43.901, Local Government Code, applies only to a municipal
15 ordinance adopted on or after the effective date of this Act. A
16 municipal ordinance adopted before the effective date of this Act
17 is governed by the law in effect on the date the ordinance was
18 adopted, and the former law is continued in effect for that purpose.

19 SECTION 9. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2023.