

By: Lindsay

S.B. No. 595

A BILL TO BE ENTITLED

AN ACT

relating to a revision of the procedures for municipal annexation.

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

SECTION 1. The heading to Section 43.028, Local Government Code, is amended to read as follows:

Sec. 43.028. AUTHORITY OF MUNICIPALITIES TO ANNEX [~~SPARSELY OCCUPIED~~] AREA ON PETITION OF AREA LANDOWNERS.

SECTION 2. Sections 43.028(b), (d), and (e), Local Government Code, are amended to read as follows:

(b) The owners of an [the] area contiguous to a municipality may petition the governing body of the municipality in writing to annex the area. The petition must be signed by each owner of real property in the area to be annexed.

(d) After the 30th [5th] day but on or before the 60th [30th] day after the date the petition is filed, the governing body shall hear the petition and the arguments for and against the annexation [~~and shall grant or refuse the petition as the governing body considers appropriate~~].

(e) A municipality may annex the area only if:

(1) the municipality holds an election in the municipality at which the qualified voters of the municipality may vote on the question of the annexation; and

(2) a majority of the votes received at the election approve the annexation. [~~If the governing body grants the~~

1 ~~petition, the governing body by ordinance may annex the area. On~~
2 ~~the effective date of the ordinance, the area becomes a part of the~~
3 ~~municipality and the inhabitants of the area are entitled to the~~
4 ~~rights and privileges of other citizens of the municipality and are~~
5 ~~bound by the acts and ordinances adopted by the municipality.]~~

6 SECTION 3. The heading to Section 43.029, Local Government
7 Code, is amended to read as follows:

8 Sec. 43.029. AUTHORITY OF MUNICIPALITY [~~CERTAIN SMALL~~
9 ~~MUNICIPALITIES~~] TO ANNEX UNOCCUPIED AREA ON PETITION OF SCHOOL
10 BOARD.

11 SECTION 4. Section 43.029(c), Local Government Code, is
12 amended to read as follows:

13 [~~(c)~~] The board of trustees of a public school occupying an
14 [~~the~~] area contiguous to a municipality may petition the governing
15 body of the municipality in writing to annex the area if the area is
16 vacant and without residents. Sections 43.028(c)-(e)
17 [~~43.028(c)-(f)~~] apply to the petition and annexation under this
18 section in the same manner in which they apply to the petition and
19 annexation under that section.

20 SECTION 5. Section 43.052(h), Local Government Code, is
21 amended to read as follows:

22 (h) This section does not apply to an area proposed for
23 annexation if:

24 (1) the area contains fewer than 100 separate tracts
25 of land on which one or more residential dwellings are located on
26 each tract;

27 (2) the area will be annexed [~~by petition of more than~~

1 ~~50 percent of the real property owners in the area proposed for~~
2 ~~annexation or by vote or petition of the qualified voters or real~~
3 ~~property owners]~~ as provided by Subchapter B;

4 (3) the area is or was the subject of:

5 (A) an industrial district contract under
6 Section 42.044; or

7 (B) a strategic partnership agreement under
8 Section 43.0751;

9 (4) the area is located in a colonia, as that term is
10 defined by Section 2306.581, Government Code;

11 (5) ~~[the area is annexed under Section 43.026, 43.027,~~
12 ~~43.029, or 43.031,~~

13 ~~[(6)]~~ the area is located completely within the
14 boundaries of a closed military installation; or

15 (6) ~~[(7)]~~ the municipality determines that the
16 annexation of the area is necessary to protect the area proposed for
17 annexation or the municipality from:

18 (A) imminent destruction of property or injury to
19 persons; or

20 (B) a condition or use that constitutes a public
21 or private nuisance as defined by background principles of nuisance
22 and property law of this state.

23 SECTION 6. Subchapter C, Chapter 43, Local Government Code,
24 is amended by adding Section 43.0525 to read as follows:

25 Sec. 43.0525. VOTER APPROVAL OF ANNEXATION REQUIRED. (a) A
26 municipality may annex an area only if:

27 (1) the municipality holds an election in the area

1 proposed to be annexed at which the qualified voters of the area may
2 vote on the question of the annexation;

3 (2) the municipality holds an election in the
4 municipality at which the qualified voters of the municipality may
5 vote on the question of the annexation; and

6 (3) a majority of the votes received at each election
7 approve the annexation.

8 (b) Both elections must be held on the same date not later
9 than the 50th day after the date the second public hearing required
10 by Section 43.0561 is held. The municipality shall pay for the cost
11 of holding the elections.

12 (c) If no qualified voters reside in the area proposed to be
13 annexed, the municipality shall hold an election as required by
14 this section only in the municipality.

15 (d) Sections 41.001(a) and (c), Election Code, do not apply
16 to an election held under this section.

17 SECTION 7. Section 43.054(b), Local Government Code, is
18 amended to read as follows:

19 (b) The prohibition established by Subsection (a) does not
20 apply if:

21 (1) the boundaries of the municipality are contiguous
22 to the area on at least two sides;

23 (2) the annexation is initiated on the written
24 petition of the owners of the area under Section 43.028 or the board
25 of trustees of a public school under Section 43.029 [~~of a majority~~
26 ~~of the qualified voters of the area~~]; or

27 (3) the area abuts or is contiguous to another

1 jurisdictional boundary.

2 SECTION 8. Section 43.0545(c), Local Government Code, is
3 amended to read as follows:

4 (c) Subsections (a) and (b) do not apply to an area:

5 (1) completely surrounded by incorporated territory
6 of one or more municipalities;

7 (2) for which annexation is initiated on the written
8 petition of the owners of the area under Section 43.028 or the board
9 of trustees of a public school under Section 43.029 [~~have requested~~
10 ~~annexation by the municipality~~];

11 (3) that is owned by the municipality; or

12 (4) that is the subject of an industrial district
13 contract under Section 42.044.

14 SECTION 9. Section 43.0546(d), Local Government Code, is
15 amended to read as follows:

16 (d) This section does not apply to territory:

17 (1) that is completely surrounded by municipal area;

18 (2) for which annexation is initiated on the written
19 petition of the owners of the area under Section 43.028 or the board
20 of trustees of a public school under Section 43.029 [~~have requested~~
21 ~~annexation by the municipality~~]; or

22 (3) [~~within a district whose elected board of~~
23 ~~directors has by a majority vote requested annexation,~~

24 [~~4~~] owned by the municipality[~~, or~~

25 [~~5~~ that contains fewer than 50 inhabitants].

26 SECTION 10. Section 43.055(a), Local Government Code, is
27 amended to read as follows:

1 (a) In a calendar year, a municipality may not annex a total
2 area greater than 10 percent of the incorporated area of the
3 municipality as of January 1 of that year, plus any amount of area
4 carried over to that year under Subsection (b). In determining the
5 total area annexed in a calendar year, an area annexed for limited
6 purposes is included, but an annexed area is not included if it is:

7 (1) annexed under Section 43.028 or 43.029 [~~at the~~
8 ~~request of a majority of the qualified voters of the area and the~~
9 ~~owners of at least 50 percent of the land in the area~~]; or

10 (2) owned by the municipality, a county, the state, or
11 the federal government and used for a public purpose[~~+~~

12 [~~(3) annexed at the request of at least a majority of~~
13 ~~the qualified voters of the area; or~~

14 [~~(4) annexed at the request of the owners of the area~~].

15 SECTION 11. Section 43.0712(a), Local Government Code, is
16 amended to read as follows:

17 (a) If a municipality annexes [~~enacts an ordinance to annex~~]
18 a special district and assumes control and operation of utilities
19 within the district, and the annexation is invalidated by a final
20 judgment of a court after all appeals have been exhausted, the
21 municipality is deemed[~~, by enactment of its annexation ordinance,~~]
22 to have acquired title to utilities owned by a developer within the
23 special district and is obligated to pay the developer all amounts
24 related to the utilities as provided in Section 43.0715.

25 SECTION 12. Section 43.072(b), Local Government Code, is
26 amended to read as follows:

27 (b) A home-rule municipality having a common boundary with a

1 district subject to this section may annex the area of the district
2 if[+]

3 ~~[(1) the annexation is approved by a majority of the~~
4 ~~qualified voters who vote on the question at an election held under~~
5 ~~this section,~~

6 ~~[(2) the annexation is completed before the date that~~
7 ~~is one year after the date of the election, and~~

8 ~~[(3)]~~ all the area of the district is annexed.

9 SECTION 13. Section 43.103(a), Local Government Code, is
10 amended to read as follows:

11 (a) A general-law municipality with a population of 500 or
12 more may annex~~[, by ordinance and without the consent of any~~
13 ~~person,~~ the part of a street, highway, alley, or other public or
14 private way, including a railway line, spur, or roadbed, that is
15 adjacent and runs parallel to the boundaries of the municipality.

16 SECTION 14. Section 43.105(a), Local Government Code, is
17 amended to read as follows:

18 (a) A general-law municipality that has a population of
19 1096-1100 and is located in a county with a population of 85,000 or
20 more, or that has a population of 5,240-5,280 may annex~~[, by~~
21 ~~ordinance and without the consent of any person,~~ a public street,
22 highway, road, or alley adjacent to the municipality.

23 SECTION 15. Section 43.121(a), Local Government Code, is
24 amended to read as follows:

25 (a) The governing body of a home-rule municipality with more
26 than 225,000 inhabitants ~~[by ordinance]~~ may annex an area for the
27 limited purposes of applying its planning, zoning, health, and

1 safety ordinances in the area.

2 SECTION 16. Subchapter F, Chapter 43, Local Government
3 Code, is amended by adding Section 43.1215 to read as follows:

4 Sec. 43.1215. VOTER APPROVAL OF LIMITED PURPOSE ANNEXATION
5 REQUIRED. (a) A municipality may annex an area for limited
6 purposes only if:

7 (1) the municipality holds an election in the area
8 proposed to be annexed at which the qualified voters of the area may
9 vote on the question of the annexation;

10 (2) the municipality holds an election in the
11 municipality at which the qualified voters of the municipality may
12 vote on the question of the annexation; and

13 (3) a majority of the votes received at each election
14 approve the annexation.

15 (b) Both elections must be held on the same date during the
16 180 days preceding the date of the institution of annexation
17 proceedings. The municipality shall pay for the cost of holding the
18 elections.

19 (c) If no qualified voters reside in the area proposed to be
20 annexed for limited purposes, the municipality shall hold an
21 election as required by this section only in the municipality.

22 SECTION 17. Section 43.128, Local Government Code, is
23 amended to read as follows:

24 Sec. 43.128. JUDICIAL REMEDY [~~REMEDIES~~]: [~~FORCED~~
25 ~~ANNEXATION OR~~] DISANNEXATION. (a) If the municipality fails to
26 annex the area for full purposes as required by Section 43.127(a),
27 any affected person may petition the district court to compel [~~the~~

1 ~~annexation of the area for full purposes or~~ the disannexation of
2 the area. On finding that the municipality has failed to annex the
3 area as required by Section 43.127(a), the court shall enter an
4 order requiring the municipality [~~to annex the area for full~~
5 ~~purposes or~~] to disannex the area. If an area is disannexed, the
6 area may not be annexed again by the municipality for five years.

7 (b) If the municipality fails to take the steps required by
8 Section 43.127(b), any affected person may petition the district
9 court to compel [~~the annexation of a particular area for full~~
10 ~~purposes or~~] the disannexation of the area. On finding that the
11 municipality has failed to take the steps required by Section
12 43.127(b), the court shall enter an order requiring the
13 municipality [~~to annex the area for full purposes or~~] to disannex
14 the area.

15 SECTION 18. Section 43.129, Local Government Code, is
16 amended to read as follows:

17 Sec. 43.129. CONSENSUAL ANNEXATION. The municipality may
18 annex for limited purposes any land for which the landowner
19 requests annexation and provides to the municipality before the
20 effective date of the annexation the landowner's written consent to
21 annexation for limited purposes. [~~With respect to any larger~~
22 ~~parcels of property, consent of the owners of at least 51 percent of~~
23 ~~the total affected territory must be evidenced by appropriate~~
24 ~~signatures on the limited-purpose annexation request.] A
25 landowner's written consent to limited-purpose annexation is
26 binding on all future owners of land in the area annexed for limited
27 purposes pursuant to the consent.~~

1 SECTION 19. Sections 43.136(b) and (f), Local Government
2 Code, are amended to read as follows:

3 (b) The municipality [~~by ordinance~~] may extend the
4 boundaries to include an area composed of the navigable stream and
5 the land on each side of the stream. The area may not exceed 2,500
6 feet in width on either side of the stream as measured from the
7 thread of the stream and may not exceed 20 miles in length as
8 measured in a direct line from the ordinary municipal boundaries,
9 either above or below the boundaries, or both. Consequently, the
10 area subject to the boundary extension is a strip 5,000 feet wide
11 and 20 miles in length, or as much of that strip as the governing
12 body considers advisable to add to the municipality. [~~The~~
13 ~~boundaries are extended on the adoption of the ordinance.~~]

14 (f) After [~~the adoption of the ordinance~~] extending the
15 municipal boundaries, the municipality may fully regulate
16 navigation, wharfage, including wharfage rates, and all
17 facilities, conveniences, and aids to navigation or wharfage. The
18 municipality may adopt ordinances, including those imposing
19 criminal penalties, and may otherwise police navigation on the
20 stream and the use of the wharves or other facilities and aids to
21 navigation or wharfage.

22 SECTION 20. Section 43.142, Local Government Code, is
23 amended to read as follows:

24 Sec. 43.142. DISANNEXATION BY ELECTION [~~ACCORDING TO~~
25 ~~MUNICIPAL CHARTER IN HOME-RULE MUNICIPALITY~~]. A [~~home-rule~~]
26 municipality shall [~~may~~] disannex an area in the municipality if:

27 (1) the municipality holds an election in the area

1 proposed to be disannexed at which the qualified voters of the area
2 may vote on the question of the disannexation;

3 (2) the municipality holds, on the same date as the
4 election is held under Subdivision (1), an election in the area of
5 the municipality not proposed to be disannexed at which the
6 qualified voters of the area may vote on the question of the
7 disannexation; and

8 (3) a majority of the votes received at each election
9 approve the disannexation [~~according to rules as may be provided by~~
10 ~~the charter of the municipality and not inconsistent with the~~
11 ~~procedural rules prescribed by this chapter~~].

12 SECTION 21. The heading to Section 43.143, Local Government
13 Code, is amended to read as follows:

14 Sec. 43.143. DISANNEXATION BY PETITION AND ELECTION [~~IN~~
15 ~~GENERAL-LAW MUNICIPALITY~~].

16 SECTION 22. Sections 43.143(a) and (b), Local Government
17 Code, are amended to read as follows:

18 (a) When at least 50 qualified voters of an area located in a
19 [~~general-law~~] municipality sign and present a petition to the
20 governing body [~~mayer~~] of the municipality that describes the area
21 by metes and bounds and requests that the area be declared no longer
22 part of the municipality, the governing body [~~mayer~~] shall order an
23 election on the question [~~in the municipality~~]. The election shall
24 be held on the first uniform election date prescribed by Chapter 41,
25 Election Code, that occurs after the date on which the petition is
26 filed and that affords enough time to hold the election in the
27 manner required by law.

1 (b) A municipality shall disannex an area in the
2 municipality if:

3 (1) a majority of the votes received in the election in
4 the area proposed to be disannexed favor disannexation; and

5 (2) a majority of the votes received in the election in
6 the area of the municipality not proposed to be disannexed favor
7 disannexation. [When a majority of the votes received in the
8 election favor discontinuing the area as part of the municipality,
9 the mayor shall declare that the area is no longer a part of the
10 municipality and shall enter an order to that effect in the minutes
11 or records of the governing body of the municipality. The area
12 ceases to be a part of the municipality on the date of the order.
13 However, the area may not be discontinued as part of the
14 municipality if the discontinuation would result in the
15 municipality having less area than one square mile or one mile in
16 diameter around the center of the original municipal boundaries.]

17 SECTION 23. Sections 43.022, 43.023, 43.024, 43.025,
18 43.026, 43.027, 43.028(a) and (f), 43.029(a) and (b), 43.030,
19 43.033, 43.034, 43.071(f), 43.072(g)-(m), 43.101(c), 43.102(c),
20 43.136(h), 43.144, and 43.145, Local Government Code, are repealed.

21 SECTION 24. (a) The change in law made by the addition of
22 Section 43.0525, Local Government Code, by this Act applies only to
23 the annexation of an area for which the municipality conducts the
24 first public annexation hearing required under Section 43.0561,
25 Local Government Code, on or after the effective date of this Act.
26 The annexation of an area for which the municipality conducts the
27 first public annexation hearing before the effective date of this

1 Act is governed by the law in effect immediately before the
2 effective date of this Act and the former law is continued in effect
3 for that purpose.

4 (b) The change in law made by the addition of Section
5 43.1215, Local Government Code, by this Act applies only to the
6 limited purpose annexation of an area for which a municipality
7 institutes proceedings to annex the area for limited purposes on or
8 after March 1, 2004. The limited purpose annexation of an area for
9 which a municipality institutes annexation proceedings before that
10 date is governed by the law in effect immediately before the
11 effective date of this Act, and the former law is continued in
12 effect for that purpose.

13 SECTION 25. This Act takes effect September 1, 2003.