

## BILL ANALYSIS

H.B. 323  
By: Mowery  
Land & Resource Management  
Committee Report (Unamended)

### BACKGROUND AND PURPOSE

Under current law, municipalities have the authority to annex an area without the consent of the residents of the area. This type of involuntary annexation deprives Texans of the right to voice their opinion regarding their destiny because they have not had the opportunity to elect the city councils that forcibly annex them. In the independent style of great Texans, many of these people have purposely moved into an unincorporated area so as not to be under the control of city governments.

H.B. requires a municipality to obtain the consent of the voters in an area to be annexed and in the annexing municipality prior to annexation.

### RULEMAKING AUTHORITY

It is the opinion of the committee that this bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### ANALYSIS

SECTION 1. *Amends Section 43.021, Local Government Code, as follows:*

Authorizes any municipality to fix its boundaries, extend its boundaries, annex adjacent area, and exchange area.

SECTION 2. *Amends Subchapter B, Chapter 43, Local Government Code, by adding a Section 43.0215, as follows:*

Requires voter approval of full purpose and limited purpose annexations as follows:

Prohibits annexation unless approved by a majority of voters in the municipality and either approved by a majority of voters in the area to be annexed or following a petition to the governing body of the municipality by a majority of the registered voters in the area to be annexed.

Authorizes a vote only in the municipality if no qualified voters reside in the area to be annexed.

Binds residents in the area to be annexed to the acts and ordinances of the municipality on the effective date of the annexation ordinance.

Entitles residents of the area to be annexed to the rights and privileges of a resident of the municipality on the effective date of the annexation ordinance.

Requires that full-purpose annexation elections be held on the first uniform election date that falls on or after the 65th day following the second public hearing required by 43.0561.

Requires that limited-purpose annexation elections be held on the first uniform election date that falls on or after the 65th day following the institution of annexation proceedings.

Requires that annexation elections be held in the same manner as general elections in the municipality and that the municipality shall pay for the elections.

Prohibits a subsequent election on the question of annexation until the corresponding uniform election date of the following year.

Exempts from the requirements of this section annexations of area that the municipality owns.

Exempts from the requirements of this section mutually agreeable changes in boundaries that are less than 1,000 feet in width by adjacent municipalities.

Requires that all qualified voters of a water control and improvement district and a municipal utility district be allowed to vote on a limited purpose annexation proposed by a municipality.

SECTION 3. *Amends Section 43.054(b), Local Government Code, as follows:*

Makes conforming changes.

SECTION 4. *Amends Section 43.0545(c), Local Government Code, as follows:*

Makes conforming changes.

SECTION 5. *Amends Section 43.0546(d), Local Government Code, as follows:*

Makes conforming changes.

SECTION 6. *Amends Section 43.055(a), Local Government Code, as follows:*

Makes conforming changes.

SECTION 7. *Amends Section 43.0712(a), Local Government Code, as follows:*

Makes conforming changes.

SECTION 8. *Amends Section 43.072(b), Local Government Code, as follows:*

Makes conforming changes.

SECTION 9. *Amends Section 43.103(a), Local Government Code, as follows:*

Makes conforming changes.

SECTION 10. *Amends Section 43.121(a), Local Government Code, as follows:*

Makes conforming changes.

SECTION 11. *Amends Section 43.125(a), Local Government Code, as follows:*

Makes conforming changes.

SECTION 12. *Amends Sec. 43.126, Local Government Code, as follows:*

Makes conforming changes.

SECTION 13. *Amends Section 43.129, Local Government Code, as follows:*

Makes conforming changes.

SECTION 14. *Amends Subchapter G, Chapter 43, Local Government Code, by adding Section 43.1415 as follows:*

Authorizes disannexation if approved by a majority of voters in the municipality and in the area to be disannexed

Requires a disannexation election if the governing body of the municipality is petitioned to disannex an area by a majority of the registered voters in the area to be disannexed. Requires disannexation following petition if approved by a majority of the voters in the municipality.

Requires that disannexation elections following a petition be held on the first uniform election date following verification of the petition by the municipal secretary or clerk. Requires that the municipality pay for the cost of the election.

Prohibits the annexation of a disannexed area before the 10th anniversary of the date of disannexation.

Requires that a petition for disannexation be in writing, request the disannexation, describe the area to be disannexed, have a plat or other likeness of the area attached, and be presented to the secretary or clerk of the municipality for verification.

Requires that the disannexed area is not released from its pro rata share of debt owed by the municipality and requires the municipality to continue and collect property taxes in the disannexed area, at the same rate, until its pro rata share is collected. Requires that the taxes imposed in the area be charged only with the cost of imposing the taxes, and shall be applied exclusively to the payment of the pro rata share of the indebtedness. Allows the residents in the disannexed area to pay in full their pro rata share of indebtedness at any time.

Prohibits the disannexation of an area from a general-law municipality if the disannexation will result in the municipality having less than one square mile in area or less than one mile in diameter, measured from the center of the original municipal boundaries in any direction.

SECTION 15. *Repeals Local Government Code provisions as follows:*

Sec. 43.022 (Voter Approval of Annexation by Home-Rule Municipality Required Under Certain Circumstances). Conforming change.

Sec. 43.023 (Authority of General-Law Municipality with Population of More than 5,000 to Annex Area on Petition and Election of Area Voters). Conforming change.

Sec. 43.024 (Authority of Type A General-Law Municipality to Annex Area on Request of Area Voters). Conforming change.

Sec. 43.025 (Authority of Type B General-Law Municipality to Annex Area on Request of Area Voters). Conforming change.

Sec. 43.026 (Authority of Type A General-Law Municipality to Annex Area it Owns). Conforming change.

Sec. 43.027 (Authority of General-Law Municipality to Annex Navigable Stream). Conforming change.

Sec. 43.028 (Authority of Municipalities to Annex Sparsely Occupied Area on Petition of Area Landowners). Conforming change.

Sec. 43.029 (Authority of Certain Small Municipalities to Annex Unoccupied Area on Petition of School Board). Conforming change.

Sec. 43.030 (Authority of Municipality With Population of 74,000 to 99,700 in Urban County to Annex Small, Surrounded General-Law Municipality). Conforming change.

Sec. 43.031 (Authority of Adjacent Municipalities to Change Boundaries by Agreement). Conforming change.

Sec. 43.033 (Authority of General-Law Municipality to Annex Area). Conforming change.

Sec. 43.034 (Authority of General-Law Municipality to Annex Area; Certain Municipalities). Conforming change.

Sec. 43.052(h) and (i) (Municipal Annexation Plan Required).

Sec. 43.071(f) (Authority to Annex Water or Sewer District). Conforming change.

Sec. 43.072(g)-(m) (Authority to Annex Municipal Utility District by Home-Rule Municipality). Conforming change.

Sec. 43.101(c) (Annexation of Municipality Owned Reservoir by General-Law Municipality). Conforming change.

Sec. 43.102(c) (Annexation of Municipally Owned Airport). Conforming change.

Sec. 43.141 (Disannexation for Failure to Provide Services). Conforming change.

Sec. 43.142 (Disannexation According to Municipal Charter in Home-Rule Municipality). Conforming change.

Sec. 43.143 (Disannexation by Petition and Election in General-Law Municipality). Conforming change.

Sec. 43.144 (Disannexation of Sparsely Populated Area in General-Law Municipality). Conforming change.

Sec. 43.145 (Disannexation of Unimproved Area or Nontaxable Area in Certain Municipalities). Conforming change.

Subchapter C-1, Chapter 43, Local Government Code (Annexation Procedure for Areas Exempted from Municipal Annexation Plan).  
Conforming Change.

SECTION 16. *Transition Provisions as follows:*

Election provisions of Sec. 43.0215, Local Government Code, apply only to annexations that are not final on the effective day of this Act.

Allows a municipality that has taken action to annex an area before the effective date of this Act to hold an election on the question of annexation on the later of the date prescribed by Sec. 43.0215(d) or (e), Local Government Code, or the first uniform election date that falls on or after the 65th day after the effective date of this Act.

The repeal of Sec. 43.052(h) and (i), and Subchapter C-1, Chapter 43, Local Government Code, apply only to the annexation of an area for which all parts of the statutory annexation process are begun on or after the effective date of this Act.

Municipalities that annex an area under Subchapter C-1, Chapter 43, Local Government Code, on or after the effective date of this Act shall hold an election on the question of annexation as required by Section 43.0215, Local Government Code, on the later of the first uniform election date that falls on or after the 65th day after the date of the second public hearing required by Section 43.063, Local Government Code, or the first uniform election date that falls on or after the 65th day after the effective date of this Act.

Annexation of an area under Subchapter C-1, Chapter 43, Local Government Code, on or after the effective date of this Act must be completed within 90 days after the date of the election required by Section 43.0215, Local Government Code.

SECTION 17. Effective Date.

**EFFECTIVE DATE**

Effective date is September 1, 2005 or immediately if approved by two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution.