

BILL ANALYSIS

C.S.H.B. 3175
By: Truitt
Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The 367th District Court in Denton County granted summary judgment in favor of an annexation of property located in overlapping extraterritorial jurisdictions (ETJs) of two general-law municipalities, holding that consent was not required. However, the Second Court of Appeals reversed this decision, holding that no city can have its ETJ reduced without the consent of its governing body. In reaching this conclusion, the Court of Appeals reasoned that the Legislature could have dispensed with this requirement for home-rule municipalities.

The purpose of C.S.H.B. 3175 is to clarify the law, so that a district would not be split between municipalities when one of the municipalities decides to annex the district. Because of common ownership, in many cases, and other important common interests, a district should remain intact and in one ETJ. The protection of the district from being divided between two cities should be the same in general-law cities as it is in home-rule cities.

RULEMAKING AUTHORITY

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

ANALYSIS

SECTION 1. *Amends Section 43.071, Local Government Code, by adding Subsection (g), as follows:*

States that written consent is necessary to annex an area in a water or sewer district partly or wholly within the overlapping ETJ of two or more municipalities **unless** the following conditions exist:

The area contains less than 100 acres.

The annexing municipality has previously annexed more than 50 percent of the territory of the water or sewer district, as the district existed on the date of its creation.

The entire water or sewer district would be contained in the annexing municipality after completion of the annexation.

SECTION 2. 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.

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 1. The **Substitute** clarifies the language in Sec. 43.071 (g) by including a reference to Sec. 42.023, Local Government Code.

Additional subsections of the **Substitute** define the applicability of Sec. 43.071 (g). Specifically, a new subsection (2) has been added to clarify the description of the condition that will enable the applicability of the subsection. The revised subsection (2) now restricts applicability of the subsection to cases in which the annexing municipality has annexed more than 50% of a water or sewer district, as measured by the boundaries of the district as they existed at the time of the district's creation. In addition, in the **Substitute**, subsection (3), numbered as (2) in the **Original**, revises language for clarification.

SECTION 2. No Changes.