

## **BILL ANALYSIS**

H.B. 3262  
By: Escobar  
Land & Resource Management  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The Town of South Padre Island seeks validation of its annexation of 229.30 acres of land on December 1, 2004. The owners of the property (referred to sometimes as the "Franke Tract") initially petitioned the Town to annex the 229.30 acres at the end of February, 2004. The Town's Board of Aldermen considered and passed the annexation ordinance on first reading on May 5, 2004. Second and final reading came on December 1, 2004. Because South Padre Island is a General Law Municipality with less than 5,000 residents, it cannot annex territory on an involuntary basis, but instead can only act to annex an area upon request of the property owners.

A law passed in 2003 allows a property owner to negotiate for a particular zoning classification at the same time the property is being annexed, so that the area comes under municipal control with zoning agreed upon by the landowner and the municipality. The owners of the "Franke Tract" insisted on the Town developing a new zoning classification to best fit their intended project on the property, and they and the Town spent several months developing this new type of zoning. As a result, the annexation was not completed until December.

Other legislation, passed in 1999, indicates that annexations must be completed within 90 days of the date the municipality "institutes annexation proceedings". It is unclear whether this time limitation applies to a voluntary annexation initiated by the landowners. It is also unclear whether this provision applies because it fails to specify when a municipality "institutes annexation proceedings" in the context of a voluntary annexation initiated by 100% of the landowners.

The territory involved in the annexation and the subject of this Validation Bill was not involved in the pending litigation between the Town of South Padre Island and Port Isabel. The territory annexed by the Town on December 1, 2004 has been in the Town's ETJ since the initial incorporation of the Town, and Port Isabel has never made any claim on this territory. The portion of the "Franke Tract" annexed by the Town in December of 2004 has no bearing on the facts or law at issue in the ongoing litigation between the municipalities.

The purpose of H.B. 3264 is to validate the annexation made by the Town and to ensure that the annexation was not in violation of any provision of the Local Government Code.

### **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 Chapter 1, Title 28, Revised Statutes, by adding a new Article as follows:*

Municipal Validation of South Padre Island annexation that occurred after May 1, 2004 and before January 1, 2005 is valid as of the date annexation occurred. The validation does not apply to any annexation that was void, or was a misdemeanor or a felony. It also does not apply to any nonconsensual annexation within incorporated boundaries or extraterritorial jurisdiction of another municipality. Further, this validation does not apply to any ongoing litigation.

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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.