

By: Mowery

H.B. No. 323

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. Section 43.021, Local Government Code, is amended to read as follows:

Sec. 43.021. AUTHORITY OF [~~HOME-RULE~~] MUNICIPALITY TO ANNEX AREA AND TAKE OTHER ACTIONS REGARDING BOUNDARIES. A [~~home-rule~~] municipality may take the following actions according to rules as may be provided by the charter of the municipality and state law and not inconsistent with the procedural rules prescribed by this chapter:

(1) fix the boundaries of the municipality;

(2) extend the boundaries of the municipality and annex area adjacent to the municipality; and

(3) exchange area with other municipalities.

SECTION 2. Subchapter B, Chapter 43, Local Government Code, is amended by adding Section 43.0215 to read as follows:

Sec. 43.0215. VOTER APPROVAL OF ANNEXATION REQUIRED. (a) A municipality may annex by ordinance an area for full or limited purposes under this chapter 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 a majority of the votes received at the election approve the annexation; and

1 (2) one of the following conditions is met:

2 (A) the municipality holds an election in the
3 area proposed to be annexed, at which the qualified voters of the
4 area may vote on the question of the annexation, and a majority of
5 the votes received at the election approve the annexation;

6 (B) a majority of the registered voters of the
7 area proposed to be annexed petition the governing body of the
8 municipality, in writing, to annex the area; or

9 (C) no qualified voters reside in the area
10 proposed to be annexed.

11 (b) On the effective date of an annexation ordinance, the
12 area becomes a part of the municipality and a resident of the area
13 is entitled to the rights and privileges of a resident of the
14 municipality and is bound by the acts and ordinances adopted by the
15 municipality.

16 (c) A municipality shall order an election on the question
17 of annexing an area for full purposes under this section to be held
18 on the first uniform election date that falls on or after the 65th
19 day after the date the second public hearing required by Section
20 43.0561 is held.

21 (d) A municipality shall order an election on the question
22 of annexing an area for limited purposes under this section to be
23 held on the first uniform election date that falls on or after the
24 65th day after the date of the institution of annexation
25 proceedings.

26 (e) An election under this section shall be held in the same
27 manner as general elections of the municipality. The municipality

1 shall pay for the costs of holding the election.

2 (f) A municipality that holds an election under this section
3 may not hold another election on the question of annexation before
4 the corresponding uniform election date of the following year.

5 (g) This section does not apply to area that the
6 municipality owns.

7 (h) This section does not apply to or limit the ability of
8 adjacent municipalities to make mutually agreeable changes in their
9 boundaries of areas that are less than 1,000 feet in width.

10 (i) If a municipality proposes to annex for limited purposes
11 an area that is located in a district, as that term is defined by
12 Section 43.0751, the qualified voters of the entire district may
13 vote on the proposed annexation.

14 SECTION 3. Section 43.054(b), Local Government Code, is
15 amended to read as follows:

16 (b) The prohibition established by Subsection (a) does not
17 apply if:

18 (1) the boundaries of the municipality are contiguous
19 to the area on at least two sides; or

20 (2) ~~[the annexation is initiated on the written~~
21 ~~petition of the owners or of a majority of the qualified voters of~~
22 ~~the area; or~~

23 ~~[(3)]~~ the area abuts or is contiguous to another
24 jurisdictional boundary.

25 SECTION 4. Section 43.0545(c), Local Government Code, is
26 amended to read as follows:

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

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

3 (2) ~~[for which the owners of the area have requested~~
4 ~~annexation by the municipality];~~

5 ~~[(3)]~~ that is owned by the municipality; or

6 (3) ~~[(4)]~~ that is the subject of an industrial district
7 contract under Section 42.044.

8 SECTION 5. Section 43.0546(d), Local Government Code, is
9 amended to read as follows:

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

11 (1) that is completely surrounded by municipal area;
12 or

13 (2) ~~[for which the owners of the area have requested~~
14 ~~annexation by the municipality];~~

15 ~~[(3) within a district whose elected board of~~
16 ~~directors has by a majority vote requested annexation];~~

17 ~~[(4)]~~ owned by the municipality~~[- or~~

18 ~~[(5) that contains fewer than 50 inhabitants].~~

19 SECTION 6. Section 43.055(a), Local Government Code, is
20 amended to read as follows:

21 (a) In a calendar year, a municipality may not annex a total
22 area greater than 10 percent of the incorporated area of the
23 municipality as of January 1 of that year, plus any amount of area
24 carried over to that year under Subsection (b). In determining the
25 total area annexed in a calendar year, an area annexed for limited
26 purposes is included, but an annexed area is not included if it is~~[-~~

27 ~~[(1) annexed at the request of a majority of the~~

1 ~~qualified voters of the area and the owners of at least 50 percent~~
2 ~~of the land in the area;~~

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

5 ~~[(3)]~~ annexed at the request of at least a majority of
6 ~~the qualified voters of the area; or~~

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

8 SECTION 7. Section 43.0712(a), Local Government Code, is
9 amended to read as follows:

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

18 SECTION 8. Section 43.072(b), Local Government Code, is
19 amended to read as follows:

20 (b) A home-rule municipality having a common boundary with a
21 district subject to this section may annex the area of the district
22 if[+]

23 ~~[(1)]~~ the annexation is approved by a majority of the
24 ~~qualified voters who vote on the question at an election held under~~
25 ~~this section;~~

26 ~~[(2)]~~ the annexation is completed before the date that
27 ~~is one year after the date of the election; and~~

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

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

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

9 SECTION 10. Section 43.121(a), Local Government Code, is
10 amended to read as follows:

11 (a) The governing body of a home-rule municipality with more
12 than 225,000 inhabitants ~~[by ordinance]~~ may annex an area for the
13 limited purposes of applying its planning, zoning, health, and
14 safety ordinances in the area.

15 SECTION 11. Section 43.125(a), Local Government Code, is
16 amended to read as follows:

17 (a) At the time the governing body of the municipality
18 annexes ~~[adopts an ordinance annexing]~~ an area for limited
19 purposes, the governing body must also adopt by ordinance a
20 regulatory plan for the area.

21 SECTION 12. Section 43.126, Local Government Code, is
22 amended to read as follows:

23 Sec. 43.126. PERIOD FOR COMPLETION OF ANNEXATION. The
24 annexation of an area for limited purposes must be completed within
25 90 days after the date of the election held under Section 43.0215
26 ~~[the governing body institutes the annexation proceedings]~~.

27 SECTION 13. Section 43.129, Local Government Code, is

1 amended to read as follows:

2 Sec. 43.129. CONSENSUAL ANNEXATION. Notwithstanding
3 Section 43.0215, the [~~The~~] municipality may annex for limited
4 purposes any land for which the landowner requests annexation and
5 provides to the municipality before the effective date of the
6 annexation the landowner's written consent to annexation for
7 limited purposes. [~~With respect to any larger parcels of property,~~
8 ~~consent of the owners of at least 51 percent of the total affected~~
9 ~~territory must be evidenced by appropriate signatures on the~~
10 ~~limited-purpose annexation request.~~] A landowner's written
11 consent to limited-purpose annexation is binding on all future
12 owners of land in the area annexed for limited purposes pursuant to
13 the consent.

14 SECTION 14. Subchapter G, Chapter 43, Local Government
15 Code, is amended by adding Section 43.1415 to read as follows:

16 Sec. 43.1415. VOTER APPROVAL OF DISANNEXATION REQUIRED.

17 (a) A municipality may disannex an area if the municipality holds
18 an election in the municipality at which a majority of the voters of
19 the:

20 (1) municipality voting in an election held on the
21 question of disannexation approve the disannexation; and

22 (2) area proposed to be disannexed voting in the
23 election approve the disannexation.

24 (b) If a majority of the registered voters in an area
25 petition the governing body of the municipality in writing to
26 disannex the area, the municipality shall order an election in the
27 municipality on the question of disannexation of the area. If a

1 majority of the voters of the municipality voting in the election
2 approve the disannexation, the municipality shall institute
3 disannexation proceedings.

4 (c) The municipality shall hold an election under
5 Subsection (b) on the first uniform election date following the
6 date the petition is verified by the secretary or clerk that allows
7 sufficient time to comply with other requirements of law. The
8 municipality shall pay for the cost of holding the election.

9 (d) If an area is disannexed under this section, it may not
10 be annexed again before the 10th anniversary of the date of the
11 disannexation.

12 (e) A petition for disannexation must:

13 (1) be in writing;

14 (2) request the disannexation;

15 (3) describe the area to be disannexed and have a plat
16 or other likeness of the area attached; and

17 (4) be presented to the secretary or clerk of the
18 municipality for verification.

19 (f) If an area is disannexed from a municipality as provided
20 by this section and the municipality owes any debts, by bond or
21 otherwise, at the time of the disannexation, the area is not
22 released from its pro rata share of that indebtedness. The
23 governing body shall continue to impose a property tax each year on
24 the property in the area at the same rate that is imposed on
25 property in the municipality until the taxes collected from the
26 area equal its pro rata share of the indebtedness. The taxes imposed
27 in the area may be charged only with the cost of imposing the taxes,

1 and shall be applied exclusively to the payment of the pro rata
2 share of the indebtedness. This subsection does not prevent the
3 residents of the area from paying in full at any time their pro rata
4 share of the indebtedness.

5 (g) An area may not be disannexed from a general-law
6 municipality if the disannexation would result in the municipality
7 having less than:

8 (1) one square mile in area; or

9 (2) less than one mile in diameter, measured from the
10 center of the original municipal boundaries in any direction.

11 SECTION 15. (a) Sections 43.022, 43.023, 43.024, 43.025,
12 43.026, 43.027, 43.028, 43.029, 43.030, 43.031, 43.033, 43.034,
13 43.052(h) and (i), 43.071(f), 43.072(g)-(m), 43.101(c),
14 43.102(c), 43.141, 43.142, 43.143, 43.144, and 43.145, Local
15 Government Code, are repealed.

16 (b) Subchapter C-1, Chapter 43, Local Government Code, is
17 repealed.

18 SECTION 16. (a) The change in law made by Section 43.0215,
19 Local Government Code, as added by this Act, applies only to the
20 annexation of an area that is not final on the effective date of
21 this Act. A municipality that has taken action to annex an area
22 before the effective date of this Act may hold an election on the
23 question of annexation on the later of the date prescribed by
24 Section 43.0215(d) or (e), Local Government Code, as added by this
25 Act, or the first uniform election date that falls on or after the
26 65th day after the effective date of this Act.

27 (b) The repeal by this Act of Sections 43.052(h) and (i),

1 and Subchapter C-1, Chapter 43, Local Government Code, applies only
2 to the annexation of an area for which all parts of the statutory
3 annexation process are begun on or after the effective date of this
4 Act. Except as provided by this subsection, the annexation of an
5 area for which any part of the statutory annexation process was
6 begun before the effective date of this Act is governed by the law
7 in effect immediately before the effective date of this Act and the
8 former law is continued in effect for that purpose. A municipality
9 that annexes an area under Subchapter C-1, Chapter 43, Local
10 Government Code, on or after the effective date of this Act shall
11 hold an election on the question of annexation as required by
12 Section 43.0215, Local Government Code, as added by this Act, on the
13 later of the first uniform election date that falls on or after the
14 65th day after the date of the second public hearing required by
15 Section 43.063, Local Government Code, or the first uniform
16 election date that falls on or after the 65th day after the
17 effective date of this Act. The annexation of an area under
18 Subchapter C-1, Chapter 43, Local Government Code, on or after the
19 effective date of this Act must be completed within 90 days after
20 the date of the election required by Section 43.0215, Local
21 Government Code, as added by this Act.

22 SECTION 17. This Act takes effect immediately if it
23 receives a vote of two-thirds of all the members elected to each
24 house, as provided by Section 39, Article III, Texas Constitution.
25 If this Act does not receive the vote necessary for immediate
26 effect, this Act takes effect September 1, 2005.