

By: Corte

H.B. No. 585

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the requirements for the incorporation of a  
3 municipality in the extraterritorial jurisdiction of an existing  
4 municipality.

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

6 SECTION 1. Sections 42.041(a) and (b), Local Government  
7 Code, are amended to read as follows:

8 (a) A municipality may [~~not~~] be incorporated in the  
9 extraterritorial jurisdiction of an existing municipality only if:

10 (1) [~~unless~~] the governing body of the existing  
11 municipality gives its written consent by ordinance or resolution;  
12 or

13 (2) the residents of the proposed municipality follow  
14 the procedures prescribed by Subsection (b).

15 (b) If the governing body of the existing municipality  
16 refuses to give its consent to incorporation under Subsection  
17 (a)(1), the residents of the area of the proposed municipality may  
18 initiate an attempt to incorporate by filing a written petition  
19 signed by at least 10 percent of the registered voters of the area  
20 of the proposed municipality with the county judge of the county in  
21 which the proposed municipality is located. The petition must  
22 request the county judge to order an election to determine whether  
23 the area of the proposed municipality will incorporate. An  
24 incorporation election under this section shall be conducted in the

1 same manner as an incorporation election under Subchapter A,  
2 Chapter 8 [~~, a majority of the qualified voters of the area of the~~  
3 ~~proposed municipality and the owners of at least 50 percent of the~~  
4 ~~land in the proposed municipality may petition the governing body~~  
5 ~~to annex the area. If the governing body fails or refuses to annex~~  
6 ~~the area within six months after the date it receives the petition,~~  
7 ~~that failure or refusal constitutes the governing body's consent to~~  
8 ~~the incorporation of the proposed municipality].~~

9 SECTION 2. Sections 42.043(a) and (c), Local Government  
10 Code, are amended to read as follows:

11 (a) A petition under Section [~~42.041 or~~] 42.042 must:

12 (1) be written;

13 (2) request that [~~the area be annexed or that~~] the  
14 services be made available[~~, as appropriate~~];

15 (3) be signed in ink or indelible pencil by the  
16 appropriate voters and landowners;

17 (4) be signed, in the case of a person signing as a  
18 voter, as the person's name appears on the most recent official list  
19 of registered voters;

20 (5) contain, in the case of a person signing as a  
21 voter, a note made by the person stating the person's residence  
22 address and the precinct number and voter registration number that  
23 appear on the person's voter registration certificate;

24 (6) contain, in the case of a person signing as a  
25 landowner, a note made by the person opposite the person's name  
26 stating the approximate total acreage that the person owns in the  
27 area to be [~~annexed or~~] serviced;

1           (7) describe the area to be [~~annexed or~~] serviced and  
2 have a plat of the area attached; and

3           (8) be presented to the secretary or clerk of the  
4 municipality.

5           (c) Before the petition is circulated among the voters and  
6 landowners, notice of the petition must be given by posting a copy  
7 of the petition for 10 days in three public places in the area to be  
8 [~~annexed or~~] serviced and by publishing the notice once, in a  
9 newspaper of general circulation serving the area, before the 15th  
10 day before the date the petition is first circulated. Proof of  
11 posting and publication must be made by attaching to the petition  
12 presented to the secretary or clerk:

13           (1) the affidavit of any voter who signed the  
14 petition, stating the places and dates of the posting;

15           (2) the affidavit of the publisher of the newspaper in  
16 which the notice was published, stating the name of the newspaper  
17 and the issue and date of publication; and

18           (3) the affidavit of at least three voters who signed  
19 the petition, if there are that many, stating the total number of  
20 voters residing in the area and the approximate total acreage in the  
21 area.

22           SECTION 3. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all the members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect September 1, 2005.