

By: Leibowitz

H.B. No. 1728

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the procedure for the disannexation of territory from a  
3 municipality.

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

5 SECTION 1. Sections 43.141(a) and (b), Local Government  
6 Code, are amended to read as follows:

7 (a) The registered [~~A majority of the qualified~~] voters of  
8 an annexed area may submit a petition to the governing body of the  
9 municipality to require disannexation of [~~disannex~~] the area if the  
10 municipality fails or refuses to provide services or to cause  
11 services to be provided to the area within the period specified by  
12 Section 43.056 or by the service plan prepared for the area under  
13 that section. The petition must contain the signatures of a number  
14 of registered voters of the area equal to more than 50 percent of  
15 the number of voters of the area who voted in the most recent  
16 municipal election.

17 (b) The [~~If the~~] governing body shall certify whether a  
18 petition submitted under Subsection (a) is valid. If the petition  
19 is certified as valid, the municipality shall [~~fails or refuses to~~]  
20 disannex the area within 60 days after the date the petition is  
21 certified unless within that period the municipality brings [~~of the~~  
22 ~~receipt of the petition, any one or more of the signers of the~~  
23 ~~petition may bring~~] a cause of action in a district court of the  
24 county in which the area is principally located to request that the

1 area remain annexed to the municipality [~~be disannexed~~]. On the  
2 filing of an answer by any registered voter who signed the petition  
3 [~~the governing body~~], and on application of either party, the case  
4 shall be advanced and heard without further delay in accordance  
5 with the Texas Rules of Civil Procedure. The district court shall  
6 enter an order disannexing the area if the court finds that a valid  
7 petition was filed with the municipality unless the court finds  
8 [~~and that~~] the municipality performed [~~failed to perform~~] its  
9 obligations in accordance with the service plan [~~or failed to~~  
10 ~~perform~~] in good faith. Either party may request that the factual  
11 determinations in the proceeding be made by a jury.

12 SECTION 2. The change in law made by this Act to Section  
13 43.141, Local Government Code, applies only to a disannexation for  
14 which a petition is submitted to a municipality on or after the  
15 effective date of this Act. A disannexation for which the petition  
16 was submitted before the effective date of this Act is governed by  
17 the law in effect at the time the petition was submitted, and the  
18 former law is continued in effect for that purpose.

19 SECTION 3. This Act takes effect September 1, 2005.