

By: Hope

H.B. No. 3198

A BILL TO BE ENTITLED

AN ACT

relating to a revision of the procedures for municipal annexation in certain municipalities.

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 CERTAIN MUNICIPALITIES [~~HOME-RULE MUNICIPALITY~~] TO ANNEX AREA AND TAKE OTHER ACTIONS REGARDING BOUNDARIES. A home-rule municipality or any municipality with a population of 40,000 or less may take the following actions according to rules as may be provided by the charter of the municipality, if the municipality has a charter, 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 IN CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality with a population of 40,000 or less.

(b) The municipality may annex by ordinance an area for full

1 purposes under this chapter only if:

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

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

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

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

14 (C) no qualified voters reside in the area
15 proposed to be annexed.

16 (c) On the effective date of an annexation ordinance, the
17 area becomes a part of the municipality and a resident of the area
18 is entitled to the rights and privileges of a resident of the
19 municipality and is bound by the acts and ordinances adopted by the
20 municipality.

21 (d) A municipality shall order an election on the question
22 of annexing an area under this section to be held on the first
23 uniform election date that falls on or after the 65th day after the
24 date the second public hearing required by Section 43.0561 is held.

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

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

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

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

10 SECTION 3. The heading to Section 43.022, Local Government
11 Code, is amended to read as follows:

12 Sec. 43.022. VOTER APPROVAL OF ANNEXATION BY CERTAIN
13 HOME-RULE MUNICIPALITIES [~~MUNICIPALITY~~] REQUIRED UNDER CERTAIN
14 CIRCUMSTANCES.

15 SECTION 4. Section 43.022(a), Local Government Code, is
16 amended to read as follows:

17 (a) If, under its charter, the governing body of a home-rule
18 municipality with a population of more than 40,000 initiates or
19 orders an election to submit to the qualified voters of the
20 municipality the question of annexing an adjacent area, the
21 governing body shall at the same time order an election to be held
22 at a convenient location in the municipality to submit the question
23 to the qualified voters of that area.

24 SECTION 5. Section 43.028(a), Local Government Code, is
25 amended to read as follows:

26 (a) This section applies only to the annexation by a
27 municipality with a population of more than 40,000 of an area:

- 1 (1) that is one-half mile or less in width;
- 2 (2) that is contiguous to the annexing municipality;
- 3 and
- 4 (3) that is vacant and without residents or on which
- 5 fewer than three qualified voters reside.

6 SECTION 6. Section 43.052(h), Local Government Code, is

7 amended to read as follows:

8 (h) This section does not apply to an area proposed for

9 annexation by a municipality with a population of more than 40,000

10 if:

11 (1) the area contains fewer than 100 separate tracts

12 of land on which one or more residential dwellings are located on

13 each tract;

14 (2) the area will be annexed by petition of more than

15 50 percent of the real property owners in the area proposed for

16 annexation or by vote or petition of the qualified voters or real

17 property owners as provided by Subchapter B;

18 (3) the area is or was the subject of:

19 (A) an industrial district contract under

20 Section 42.044; or

21 (B) a strategic partnership agreement under

22 Section 43.0751;

23 (4) the area is located in a colonia, as that term is

24 defined by Section 2306.581, Government Code;

25 (5) the area is annexed under Section [~~Section 43.026,~~

26 ~~43.027, 43.029, or~~] 43.031;

27 (6) the area is located completely within the

1 boundaries of a closed military installation; or

2 (7) the municipality determines that the annexation of
3 the area is necessary to protect the area proposed for annexation or
4 the municipality from:

5 (A) imminent destruction of property or injury to
6 persons; or

7 (B) a condition or use that constitutes a public
8 or private nuisance as defined by background principles of nuisance
9 and property law of this state.

10 SECTION 7. Section 43.054(b), Local Government Code, is
11 amended to read as follows:

12 (b) The prohibition established by Subsection (a) does not
13 apply if:

14 (1) the boundaries of the municipality are contiguous
15 to the area on at least two sides;

16 (2) the annexation is proposed by a municipality with
17 a population of more than 40,000 and is initiated on the written
18 petition of the owners or of a majority of the qualified voters of
19 the area; or

20 (3) the area abuts or is contiguous to another
21 jurisdictional boundary.

22 SECTION 8. Section 43.0545(c), Local Government Code, is
23 amended to read as follows:

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

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

27 (2) for which the owners of the area have requested

1 annexation by a [the] municipality with a population of more than
2 40,000;

3 (3) that is owned by the municipality; or

4 (4) that is the subject of an industrial district
5 contract under Section 42.044.

6 SECTION 9. Section 43.055(a), Local Government Code, is
7 amended to read as follows:

8 (a) In a calendar year, a municipality may not annex a total
9 area greater than 10 percent of the incorporated area of the
10 municipality as of January 1 of that year, plus any amount of area
11 carried over to that year under Subsection (b). In determining the
12 total area annexed in a calendar year, an area annexed for limited
13 purposes is included, but an annexed area is not included if it is:

14 (1) annexed by a municipality with a population of
15 more than 40,000 at the request of a majority of the qualified
16 voters of the area and the owners of at least 50 percent of the land
17 in the area;

18 (2) owned by the municipality, a county, the state, or
19 the federal government and used for a public purpose;

20 (3) annexed by a municipality with a population of
21 more than 40,000 at the request of at least a majority of the
22 qualified voters of the area; or

23 (4) annexed by a municipality with a population of
24 more than 40,000 at the request of the owners of the area.

25 SECTION 10. Section 43.061, Local Government Code, is
26 amended to read as follows:

27 Sec. 43.061. APPLICABILITY. This subchapter applies to an

1 area proposed for annexation by a municipality with a population of
2 more than 40,000 that is not required to be included in a municipal
3 annexation plan under Section 43.052.

4 SECTION 11. Section 43.0712(a), Local Government Code, is
5 amended to read as follows:

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

14 SECTION 12. Section 43.072, Local Government Code, is
15 amended by amending Subsection (b) and adding Subsections (b-1) and
16 (n) to read as follows:

17 (b) A home-rule municipality with a population of more than
18 40,000 having a common boundary with a district subject to this
19 section may annex the area of the district if:

20 (1) the annexation is approved by a majority of the
21 qualified voters who vote on the question at an election held under
22 this section;

23 (2) the annexation is completed before the date that
24 is one year after the date of the election; and

25 (3) all the area of the district is annexed.

26 (b-1) A home-rule municipality with a population of 40,000
27 or less having a common boundary with a district subject to this

1 section may annex the area of the district if all the area of the
2 district is annexed.

3 (n) Subsections (g)-(m) do not apply to a municipality with
4 a population of 40,000 or less.

5 SECTION 13. Section 43.102(c), Local Government Code, is
6 amended to read as follows:

7 (c) The area may be annexed without the consent of the
8 owners or residents of the area if the area is annexed by a
9 municipality with a population of more than 40,000.

10 SECTION 14. Section 43.103(a), Local Government Code, is
11 amended to read as follows:

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

17 SECTION 15. Section 43.141(a), Local Government Code, is
18 amended to read as follows:

19 (a) A majority of the qualified voters of an annexed area
20 may petition the governing body of a [the] municipality with a
21 population of more than 40,000 to disannex the area if the
22 municipality fails or refuses to provide services or to cause
23 services to be provided to the area within the period specified by
24 Section 43.056 or by the service plan prepared for the area under
25 that section.

26 SECTION 16. Subchapter G, Chapter 43, Local Government
27 Code, is amended by adding Section 43.1415 to read as follows:

1 Sec. 43.1415. VOTER APPROVAL OF DISANNEXATION REQUIRED IN
2 CERTAIN MUNICIPALITIES. (a) This section applies only to a
3 municipality with a population of 40,000 or less.

4 (b) A municipality may disannex an area if the municipality
5 holds an election in the municipality at which a majority of the
6 voters of the:

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

9 (2) area proposed to be disannexed voting in the
10 election approve the disannexation.

11 (c) If a majority of the registered voters in an area
12 petition the governing body of the municipality in writing to
13 disannex the area, the municipality shall order an election in the
14 municipality on the question of disannexation of the area. If a
15 majority of the voters of the municipality voting in the election
16 approve the disannexation, the municipality shall institute
17 disannexation proceedings.

18 (d) The municipality shall hold an election under
19 Subsection (c) on the first uniform election date following the
20 date the petition is verified by the secretary or clerk that allows
21 sufficient time to comply with other requirements of law. The
22 municipality shall pay for the cost of holding the election.

23 (e) If an area is disannexed under this section, it may not
24 be annexed again before the 10th anniversary of the date of the
25 disannexation.

26 (f) A petition for disannexation must:

27 (1) be in writing;

1 (2) request the disannexation;

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

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

6 (g) If an area is disannexed from a municipality as provided
7 by this section and the municipality owes any debts, by bond or
8 otherwise, at the time of the disannexation, the area is not
9 released from its pro rata share of that indebtedness. The
10 governing body shall continue to impose a property tax each year on
11 the property in the area at the same rate that is imposed on
12 property in the municipality until the taxes collected from the
13 area equal its pro rata share of the indebtedness. The taxes imposed
14 in the area may be charged only with the cost of imposing the taxes,
15 and shall be applied exclusively to the payment of the pro rata
16 share of the indebtedness. This subsection does not prevent the
17 residents of the area from paying in full at any time their pro rata
18 share of the indebtedness.

19 (h) An area may not be disannexed from a general-law
20 municipality if the disannexation would result in the municipality
21 having:

22 (1) an area of less than one square mile; or

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

25 SECTION 17. Section 43.142, Local Government Code, is
26 amended to read as follows:

27 Sec. 43.142. DISANNEXATION ACCORDING TO MUNICIPAL CHARTER

1 IN CERTAIN HOME-RULE MUNICIPALITIES [~~MUNICIPALITY~~]. A home-rule
2 municipality with a population of more than 40,000 may disannex an
3 area in the municipality according to rules as may be provided by
4 the charter of the municipality and not inconsistent with the
5 procedural rules prescribed by this chapter.

6 SECTION 18. Section 43.145(a), Local Government Code, is
7 amended to read as follows:

8 (a) The governing body of a municipality by ordinance may
9 discontinue an area as a part of the municipality if:

10 (1) the municipality has a population of [~~4,000 or~~
11 more than 40,000 and is located in a county with a population of
12 more than 205,000, and the area is composed of at least three
13 contiguous acres that are unimproved and adjoining the municipal
14 boundaries; or

15 (2) the municipality has a population of 596,000 or
16 more, and the area is an improved area that is not taxable by the
17 municipality and is contiguous to the municipal boundary.

18 SECTION 19. Sections 43.023, 43.024, 43.025, 43.026,
19 43.027, 43.029, 43.033, 43.034, 43.071(f), 43.101(c), 43.143, and
20 43.144, Local Government Code, are repealed.

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

1 the first uniform election date that falls on or after the 65th day
2 after the effective date of this Act.

3 (b) The changes in law made by this Act to Sections
4 43.052(h) and 43.061, Local Government Code, apply only to the
5 annexation of an area for which all parts of the statutory
6 annexation process are begun on or after the effective date of this
7 Act. Except as provided by this subsection, the annexation of an
8 area for which any part of the statutory annexation process was
9 begun before the effective date of this Act is governed by the law
10 in effect immediately before the effective date of this Act, and the
11 former law is continued in effect for that purpose. A municipality
12 to which Section 43.0215, Local Government Code, as added by this
13 Act, applies, that annexes an area under Subchapter C-1, Chapter
14 43, Local Government Code, on or after the effective date of this
15 Act shall hold an election on the question of annexation as required
16 by Section 43.0215, Local Government Code, as added by this Act, on
17 the later of the first uniform election date that falls on or after
18 the 65th day after the date of the second public hearing required by
19 Section 43.063, Local Government Code, or the first uniform
20 election date that falls on or after the 65th day after the
21 effective date of this Act. The annexation of an area under
22 Subchapter C-1, Chapter 43, Local Government Code, by a
23 municipality to which Section 43.0215, Local Government Code, as
24 added by this Act, applies, on or after the effective date of this
25 Act must be completed within 90 days after the date of the election
26 required by Section 43.0215, Local Government Code, as added by
27 this Act.

1 SECTION 21. This Act takes effect immediately if it
2 receives a vote of two-thirds of all the members elected to each
3 house, as provided by Section 39, Article III, Texas Constitution.
4 If this Act does not receive the vote necessary for immediate
5 effect, this Act takes effect September 1, 2005.

1 COMMITTEE AMENDMENT NO. 1

2 Amend H.B. No. 3198 by striking "40,000" and substituting
3 "45,000" as follows:

- 4 (1) On page 1, lines 10 and 23.
- 5 (2) On page 3, lines 18 and 27.
- 6 (3) On page 4, line 9.
- 7 (4) On page 5, line 17.
- 8 (5) On page 6, lines 2, 15, 21, and 24.
- 9 (6) On page 7, lines 2, 18, and 26.
- 10 (7) On page 8, lines 4, 9, and 21.
- 11 (8) On page 9, line 3.
- 12 (9) On page 11, lines 2 and 11.