By: Hope

A BILL TO BE ENTITLED

1   AN ACT

2   relating to a revision of the procedures for municipal annexation

3   in certain municipalities.

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

5   SECTION 1. Section 43.021, Local Government Code, is

6   amended to read as follows:

7   Sec. 43.021. AUTHORITY   OF   CERTAIN   MUNICIPALITIES

8   [HOME-RULE MUNICIPALITY] TO ANNEX AREA AND TAKE OTHER ACTIONS

9   REGARDING BOUNDARIES. A home-rule municipality or any municipality

10   with a population of 40,000 or less may take the following actions

11   according to rules as may be provided by the charter of the

12   municipality, if the municipality has a charter, and state law and

13   not inconsistent with the procedural rules prescribed by this

14   chapter:

15   (1) fix the boundaries of the municipality;

16   (2) extend the boundaries of the municipality and

17   annex area adjacent to the municipality; and

18   (3) exchange area with other municipalities.

19   SECTION 2. Subchapter B, Chapter 43, Local Government Code,

20   is amended by adding Section 43.0215 to read as follows:

21   Sec. 43.0215. VOTER APPROVAL OF ANNEXATION REQUIRED IN

22   CERTAIN MUNICIPALITIES.   (a)   This section applies only to a

23   municipality with a population of 40,000 or less.

24   (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

4

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

7

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 <u>CERTAIN</u> HOME-RULE <u>MUNICIPALITIES</u> [~~MUNICIPALITY~~]. A home-rule

2 municipality <u>with a population of more than 40,000</u> 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 <u>than 40,000</u> 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.