

BILL ANALYSIS

C.S.H.B. 535
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Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, Type A municipalities cannot require the transfer of any extraterritorial jurisdiction (ETJ) and cannot, except for a few exceptions, involuntarily annex any ETJ territory.

The purpose of C.S.H.B. 535 is to enable the transfer of ETJ and enable, under certain specified circumstances, the involuntary annexation of ETJ from certain municipalities. C.S.H.B. 535 also allows such an area to be annexed by small cities geographically adjacent to the area.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

This bill adds Section 42.027 to Subchapter B, Chapter 42, Local Government Code, that is titled TRANSFER OF EXTRATERRITORIAL JURISDICTION BETWEEN CERTAIN HOME-RULE AND GENERAL-LAW MUNICIPALITIES.

This bill defines "accepting municipality" and "releasing municipality."

This bill authorizes the governing bodies of an accepting municipality and a releasing municipality by resolution or ordinance to agree on or before September 1, 2007, to include in the accepting municipality's ETJ and exclude from the releasing municipality's ETJ an area that is in the ETJ of the releasing municipality.

This bill authorizes the governing body of an accepting municipality by resolution or ordinance enacted before January 1, 2009, to include in the accepting municipality's ETJ and exclude from the releasing municipality's ETJ, without the releasing municipality's consent, an area that is in the ETJ of the releasing municipality if an agreement is not reached and the area was not, as of September 30, 2004, identified for annexation by the releasing municipality in the releasing municipality's annexation plan under Section 43.052, and is contiguous to the accepting municipality's corporate limits or ETJ as of the effective date of the resolution or ordinance.

This bill prohibits such a transfer of ETJ under this new section from taking effect unless each homeowners' association in the area being transferred approves the transfer.

This bill prohibits the total area that may be transferred from a releasing municipality's ETJ to an accepting municipality's ETJ under this new section from exceeding in size 60% of the area contained in the corporate limits of the accepting municipality as of the date of the transfer.

This bill authorizes, not later than January 1, 2011, an accepting municipality that has received territory in its ETJ under the new Subsection (b) or (c) may without consent annex the following in the manner provided by Subchapter C, Chapter 43 any territory located in the accepting municipality's extraterritorial jurisdiction on January 1, 2007; and an area transferred to the accepting municipality's extraterritorial jurisdiction under this section.

This bill requires that an area to be transferred under this new section to be identified by a map and a metes and bounds description that must be attached to or included in the resolution or

ordinance. The map and metes and bounds description need not be established by an on-the-ground survey.

This bill requires that a copy of the resolution or ordinance adopted by the accepting municipality must be published once in a newspaper of general circulation within the accepting municipality and once in a newspaper of general circulation within the releasing municipality not later than the 30th day after the date the resolution or ordinance is adopted. If the newspaper in which publication is made is a newspaper of general circulation in both municipalities, only one publication of the copy of the resolution or ordinance is required.

This bill provides that the transfer of ETJ identified in the resolution or ordinance is effective on the 10th day after the date of publication under Subsection (h).

This bill provides that to the extent of any conflict, this section controls over another provision of a home-rule charter, this chapter, or Chapter 43 or any other provision of the Local Government Code.

This bill provides that a resolution or ordinance adopted under this section and the relevant provisions of the subchapter may only be challenged by a *quo warranto* proceeding initiated by the attorney general.

This bill provides that this new section expires January 2, 2011.

This bill provides for an effective date (upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007).

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007

COMPARISON OF ORIGINAL TO SUBSTITUTE

The Committee Substitute is similar in many regards to the Original.

The Committee Substitute reformats the Original to conform with the changes made in the Committee Substitute.

The Committee Substitute prohibits the total area that may be transferred from a releasing municipality's ETJ to an accepting municipality's ETJ under this new section from exceeding in size 60% of the area contained in the corporate limits of the accepting municipality as of the date of the transfer. The Original limited this total area from exceeding in size the area contained in the corporate limits of the accepting municipality as of the date of the transfer.

The Committee Substitute adds a deadline of not later than January 1, 2011, (that is not in the Original) that an accepting municipality that has received territory in its ETJ under the new Subsection (b) or (c) may without consent annex the following in the manner provided by Subchapter C, Chapter 43 any territory located in the accepting municipality's extraterritorial jurisdiction on January 1, 2007; and an area transferred to the accepting municipality's extraterritorial jurisdiction under this section.

The Committee Substitute adds language not found in the Original that prohibits a transfer of ETJ under the new Section 42.027, Local Government Code, from taking effect unless each homeowners' association in the area being transferred approves the transfer.

The Committee Substitute provides that this new section expires January 2, 2011. The Original contains no such provision.