

By: King of Parker, Huberty,  
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H.B. No. 347

A BILL TO BE ENTITLED

1 AN ACT

2 relating to consent annexation requirements.

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

4 ARTICLE 1. REPEAL OF TIER SYSTEM

5 SECTION 1.01. The following provisions of Chapter 43, Local  
6 Government Code, are repealed:

- 7 (1) Sections 43.001(2), (3), (4), and (5);
- 8 (2) Section 43.011;
- 9 (3) Subchapter B;
- 10 (4) Section 43.0505(b);
- 11 (5) Section 43.052;
- 12 (6) Section 43.053;
- 13 (7) Section 43.056(q);
- 14 (8) Section 43.0561;
- 15 (9) Section 43.0562;
- 16 (10) Section 43.0563;
- 17 (11) Section 43.0564;
- 18 (12) Section 43.061(b);
- 19 (13) Section 43.066;
- 20 (14) Section 43.067;
- 21 (15) Section 43.068;
- 22 (16) Section 43.069;
- 23 (17) Section 43.0751(o);
- 24 (18) Section 43.0752;

- (19) Section 43.103;
- (20) Section 43.105; and
- (21) Subchapter Y.

SECTION 1.02. The heading to Subchapter C-2, Chapter 43, Local Government Code, is amended to read as follows:

SUBCHAPTER C-2. GENERAL ANNEXATION AUTHORITY AND PROCEDURES  
REGARDING CONSENT ANNEXATIONS [~~• TIER 2 MUNICIPALITIES~~]

SECTION 1.03. The heading to Subchapter C-3, Chapter 43, Local Government Code, is amended to read as follows:

SUBCHAPTER C-3. ANNEXATION OF AREA ON REQUEST OF OWNERS [~~• TIER 2 MUNICIPALITIES~~]

SECTION 1.04. The heading to Subchapter C-4, Chapter 43, Local Government Code, is amended to read as follows:

SUBCHAPTER C-4. ANNEXATION OF AREAS WITH POPULATION OF LESS THAN  
200 BY PETITION [~~• TIER 2 MUNICIPALITIES~~]

SECTION 1.05. The heading to Subchapter C-5, Chapter 43, Local Government Code, is amended to read as follows:

SUBCHAPTER C-5. ANNEXATION OF AREAS WITH POPULATION OF AT LEAST 200  
BY ELECTION [~~• TIER 2 MUNICIPALITIES~~]

SECTION 1.06. Section 43.1025(c), Local Government Code, is amended to read as follows:

(c) The area described by Subsection (b) may be annexed under the requirements prescribed by Subchapter C-3, C-4, or C-5, as applicable [~~to a tier 2 municipality~~], but the annexation may not occur unless each municipality in whose extraterritorial jurisdiction the area may be located:

- (1) consents to the annexation; and

1 (2) reduces its extraterritorial jurisdiction over  
2 the area as provided by Section 42.023.

3 SECTION 1.07. Section 43.1211, Local Government Code, is  
4 amended to read as follows:

5 Sec. 43.1211. USE OF CONSENT PROCEDURES [~~AUTHORITY OF~~  
6 ~~CERTAIN TIER 2 MUNICIPALITIES~~] TO ANNEX FOR LIMITED PURPOSES.  
7 Except as provided by Section 43.0751, beginning December 1, 2017,  
8 a [~~tier 2~~] municipality described by Section 43.121(a) may annex an  
9 area for the limited purposes of applying its planning, zoning,  
10 health, and safety ordinances in the area using the procedures  
11 under Subchapter C-3, C-4, or C-5, as applicable.

12 ARTICLE 2. CONFORMING CHANGES

13 SECTION 2.01. The following provisions of the Special  
14 District Local Laws Code are repealed:

- 15 (1) Section 8374.252(a);
- 16 (2) Section 8375.252(a);
- 17 (3) Section 8376.252(a);
- 18 (4) Section 8377.252(a);
- 19 (5) Section 8378.252(a);
- 20 (6) Section 8382.252(a);
- 21 (7) Section 8383.252(a);
- 22 (8) Section 8384.252(a);
- 23 (9) Section 8385.252(a); and
- 24 (10) Section 8477.302(a).

25 SECTION 2.02. Section 43.0116(a), Local Government Code, is  
26 amended to read as follows:

27 (a) Notwithstanding any other law and subject to Subsection

1 (b), a municipality may annex all or part of the area located in an  
2 industrial district designated by the governing body of the  
3 municipality under Section 42.044 under the procedures prescribed  
4 by Subchapter C-1 [~~the requirements applicable to a tier 1~~  
5 ~~municipality~~].

6 SECTION 2.03. The heading to Subchapter C, Chapter 43,  
7 Local Government Code, is amended to read as follows:

8 SUBCHAPTER C. LIMITATIONS AND REQUIREMENTS REGARDING ANNEXATIONS  
9 EXEMPTED FROM CONSENT ANNEXATION PROCEDURES [~~PROCEDURE FOR AREAS~~  
10 ~~ANNEXED UNDER MUNICIPAL ANNEXATION PLAN: TIER 1 MUNICIPALITIES~~]

11 SECTION 2.04. Section 43.0505(a), Local Government Code, is  
12 amended to read as follows:

13 (a) This [~~Except as provided by Subsection (b), this~~]  
14 subchapter applies only to an annexation under Subchapter C-1 [~~a~~  
15 ~~tier 1 municipality~~].

16 SECTION 2.05. Sections 43.056(a), (b), (j), and (k), Local  
17 Government Code, are amended to read as follows:

18 (a) This section applies to a service plan under Section  
19 43.065 [~~Before the first day of the 10th month after the month in~~  
20 ~~which the inventory is prepared as provided by Section 43.053, the~~  
21 ~~municipality proposing the annexation shall complete a service plan~~  
22 ~~that provides for the extension of full municipal services to the~~  
23 ~~area to be annexed. The municipality shall provide the services by~~  
24 ~~any of the methods by which it extends the services to any other~~  
25 ~~area of the municipality~~].

26 (b) The service plan, which must be completed [~~in the period~~  
27 ~~provided by Subsection (a)~~] before the annexation, must include a

1 program under which the municipality will provide full municipal  
2 services in the annexed area no later than 2-1/2 years after the  
3 effective date of the annexation, in accordance with Subsection  
4 (e), unless certain services cannot reasonably be provided within  
5 that period and the municipality proposes a schedule for providing  
6 those services, and must include a list of all services required by  
7 this section to be provided under the plan. If the municipality  
8 proposes a schedule to extend the period for providing certain  
9 services, the schedule must provide for the provision of full  
10 municipal services no later than 4-1/2 years after the effective  
11 date of the annexation. However, under the program if the  
12 municipality provides any of the following services within the  
13 corporate boundaries of the municipality before annexation, the  
14 municipality must provide those services in the area proposed for  
15 annexation on the effective date of the annexation of the area:

- 16 (1) police protection;
- 17 (2) fire protection;
- 18 (3) emergency medical services;
- 19 (4) solid waste collection, except as provided by  
20 Subsection (o);
- 21 (5) operation and maintenance of water and wastewater  
22 facilities in the annexed area that are not within the service area  
23 of another water or wastewater utility;
- 24 (6) operation and maintenance of roads and streets,  
25 including road and street lighting;
- 26 (7) operation and maintenance of parks, playgrounds,  
27 and swimming pools; and



1 amended to read as follows:

2 (a) Unless otherwise specifically provided by this chapter  
3 or another law [~~Except as provided by Subsection (b)~~], this  
4 subchapter applies only to an annexation under:

5 (1) Section 43.0115 (Enclave);

6 (2) Section 43.0116 (Industrial District);

7 (3) Section 43.012 (Area Owned by Type-A  
8 Municipality);

9 (4) Section 43.013 (Navigable Stream);

10 (5) Section 43.0751(h) (Strategic Partnership);

11 (6) Section 43.101 (Municipally Owned Reservoir);

12 (7) Section 43.102 (Municipally Owned Airport); and

13 (8) Section 43.1055 (Road and Right-of-Way) [~~area that~~  
14 ~~is proposed for annexation by a tier 1 municipality and that is not~~  
15 ~~required to be included in a municipal annexation plan under~~  
16 ~~Section 43.052(h)~~].

17 SECTION 2.08. Section 43.062(b), Local Government Code, is  
18 amended to read as follows:

19 (b) This subsection applies only to an area that contains  
20 fewer than 100 separate tracts of land on which one or more  
21 residential dwellings are located on each tract [~~described by~~  
22 ~~Section 43.052(h)(1)~~]. Before the 30th day before the date of the  
23 first hearing required under Section 43.063, a municipality shall  
24 give written notice of its intent to annex the area to:

25 (1) each property owner in an area proposed for  
26 annexation, as indicated by the appraisal records furnished by the  
27 appraisal district for each county in which the area is located;

1           (2) each public entity[, ~~as defined by Section~~  
2 ~~43.053,~~] or private entity that provides services in the area  
3 proposed for annexation, including each:

4                   (A) municipality, county, fire protection  
5 service provider, including a volunteer fire department, and  
6 emergency medical services provider, including a volunteer  
7 emergency medical services provider; and

8                   (B) municipal utility district, water control  
9 and improvement district, or other district created under Section  
10 52, Article III, or Section 59, Article XVI, Texas Constitution;

11 and

12           (3) each railroad company that serves the municipality  
13 and is on the municipality's tax roll if the company's right-of-way  
14 is in the area proposed for annexation.

15           SECTION 2.09. Section 43.0715(c), Local Government Code, is  
16 amended to read as follows:

17           (c) At the time notice of the municipality's intent to annex  
18 the land within the district is first given in accordance with  
19 Section [~~43.052,~~ 43.0683[~~]~~] or 43.0693, as applicable, the  
20 municipality shall proceed to initiate and complete a report for  
21 each developer conducted in accordance with the format approved by  
22 the Texas Commission on Environmental Quality for audits. In the  
23 event the municipality is unable to complete the report prior to the  
24 effective date of the annexation as a result of the developer's  
25 failure to provide information to the municipality which cannot be  
26 obtained from other sources, the municipality shall obtain from the  
27 district the estimated costs of each project previously undertaken



1 by a developer which are eligible for reimbursement. The amount of  
2 such costs, as estimated by the district, shall be escrowed by the  
3 municipality for the benefit of the persons entitled to receive  
4 payment in an insured interest-bearing account with a financial  
5 institution authorized to do business in the state. To compensate  
6 the developer for the municipality's use of the infrastructure  
7 facilities pending the determination of the reimbursement amount,  
8 all interest accrued on the escrowed funds shall be paid to the  
9 developer whether or not the annexation is valid. Upon placement  
10 of the funds in the escrow account, the annexation may become  
11 effective. In the event a municipality timely escrows all  
12 estimated reimbursable amounts as required by this subsection and  
13 all such amounts, determined to be owed, including interest, are  
14 subsequently disbursed to the developer within five days of final  
15 determination in immediately available funds as required by this  
16 section, no penalties or interest shall accrue during the pendency  
17 of the escrow. Either the municipality or developer may, by  
18 written notice to the other party, require disputes regarding the  
19 amount owed under this section to be subject to nonbinding  
20 arbitration in accordance with the rules of the American  
21 Arbitration Association.

22 SECTION 2.10. Sections 43.0751(b) and (h), Local Government  
23 Code, are amended to read as follows:

24 (b) The governing bodies of a municipality and a district  
25 may negotiate and enter into a written strategic partnership  
26 agreement for the district by mutual consent. ~~[The governing body~~  
27 ~~of a municipality, on written request from a district included in~~

1 ~~the municipality's annexation plan under Section 43.052, shall~~  
2 ~~negotiate and enter into a written strategic partnership agreement~~  
3 ~~with the district. A district included in a municipality's~~  
4 ~~annexation plan under Section 43.052.~~

5 ~~[(1) may not submit its written request before the~~  
6 ~~date of the second hearing required under Section 43.0561; and~~

7 ~~[(2) must submit its written request before the 61st~~  
8 ~~day after the date of the second hearing required under Section~~  
9 ~~43.0561.]~~

10 (h) On the full-purpose annexation conversion date set  
11 forth in the strategic partnership agreement pursuant to Subsection  
12 (f)(5), the land included within the boundaries of the district  
13 shall be deemed to be within the full-purpose boundary limits of the  
14 municipality without the need for further action by the governing  
15 body of the municipality. The full-purpose annexation conversion  
16 date established by a strategic partnership agreement may be  
17 altered only by mutual agreement of the district and the  
18 municipality. However, nothing herein shall prevent the  
19 municipality from terminating the agreement and instituting  
20 proceedings to annex the district, on request by the governing body  
21 of the district, on any date prior to the full-purpose annexation  
22 conversion date established by the strategic partnership agreement  
23 under the procedures prescribed by Subchapter C-1 ~~[applicable to a~~  
24 ~~tier 1 municipality]~~. Land annexed for limited or full purposes  
25 under this section shall not be included in calculations prescribed  
26 by Section 43.055(a).

27 SECTION 2.11. Section 43.07515(a), Local Government Code,

1 is amended to read as follows:

2 (a) A municipality may not regulate under Section 43.0751  
3 [~~or 43.0752~~] the sale, use, storage, or transportation of fireworks  
4 outside of the municipality's boundaries.

5 SECTION 2.12. Section 43.101(c), Local Government Code, is  
6 amended to read as follows:

7 (c) A municipality may annex the [The] area described by  
8 this section [may be annexed] without the consent of any owners or  
9 residents of the area under the procedures prescribed by Subchapter  
10 C-1 [applicable to a tier 1 municipality by:

11 [~~(1) a tier 1 municipality, and~~  
12 [~~(2)~~] if there are no owners other than the  
13 municipality or residents of the area[~~, a tier 2 municipality]~~.

14 SECTION 2.13. Section 43.102(c), Local Government Code, is  
15 amended to read as follows:

16 (c) A municipality may annex the [The] area described by  
17 this section [may be annexed] without the consent of any owners or  
18 residents of the area under the procedures prescribed by Subchapter  
19 C-1 [applicable to a tier 1 municipality by:

20 [~~(1) a tier 1 municipality, and~~  
21 [~~(2)~~] if there are no owners other than the  
22 municipality or residents of the area[~~, a tier 2 municipality]~~.

23 SECTION 2.14. Section 43.1055, Local Government Code, is  
24 amended to read as follows:

25 Sec. 43.1055. ANNEXATION OF ROADS AND RIGHTS-OF-WAY [~~IN~~  
26 ~~CERTAIN LARGE COUNTIES~~]. Notwithstanding any other law, a [~~tier 2~~]  
27 municipality may by ordinance annex a road or the right-of-way of a

1 road on request of the owner of the road or right-of-way or the  
2 governing body of the political subdivision that maintains the road  
3 or right-of-way under the procedures prescribed by Subchapter C-1  
4 [~~applicable to a tier 1 municipality~~].

5 SECTION 2.15. Section 43.141(a), Local Government Code, is  
6 amended to read as follows:

7 (a) A majority of the qualified voters of an annexed area  
8 may petition the governing body of the municipality to disannex the  
9 area if the municipality fails or refuses to provide services or to  
10 cause services to be provided to the area:

11 (1) if the area was annexed under Subchapter C-1  
12 [~~municipality is a tier 1 municipality~~], within the period  
13 specified by Section 43.056 or by the service plan prepared for the  
14 area under that section; or

15 (2) if the area was annexed under Subchapter C-3, C-4,  
16 or C-5 [~~municipality is a tier 2 municipality~~], within the period  
17 specified by the written agreement under Section 43.0672 or the  
18 resolution under Section 43.0682 or 43.0692, as applicable.

19 SECTION 2.16. Section 43.203(b), Local Government Code, is  
20 amended to read as follows:

21 (b) On receipt of the district's petition, the governing  
22 body of the municipality shall enter into negotiations with the  
23 district for an agreement to alter the status of annexation that  
24 must:

25 (1) specify the period, which may not be less than 10  
26 years beginning on January 1 of the year following the date of the  
27 agreement, in which limited-purpose annexation is in effect;

1           (2) provide that, at the expiration of the period, the  
2 district's annexation status will automatically revert to  
3 full-purpose annexation without following procedures provided by  
4 Section [~~Sections~~] 43.014 [~~and 43.052 through 43.055~~] or any  
5 [~~other~~] procedural requirement for annexation not in effect on  
6 January 1, 1995; and

7           (3) specify the financial obligations of the district  
8 during and after the period of limited-purpose annexation for:

9                   (A) facilities constructed by the municipality  
10 that are in or that serve the district;

11                   (B) debt incurred by the district for water and  
12 sewer infrastructure that will be assumed by the municipality at  
13 the end of the period of limited-purpose annexation; and

14                   (C) use of the municipal sales taxes collected by  
15 the municipality for facilities or services in the district.

16           SECTION 2.17. Section 43.905(a), Local Government Code, is  
17 amended to read as follows:

18           (a) A municipality that proposes to annex an area shall  
19 provide written notice of the proposed annexation to each public  
20 school district located in the area proposed for annexation within  
21 the period prescribed for providing the notice of, as applicable:

22                   (1) the hearing under Section 43.0673; or

23                   (2) the first hearing under Section [~~43.0561,~~] 43.063,  
24 [~~43.0673,~~] 43.0683, or 43.0693 [~~, as applicable~~].

25           SECTION 2.18. Sections 43.9051(a) and (b), Local Government  
26 Code, are amended to read as follows:

27           (a) In this section, "public entity" includes a county, fire

1 protection service provider, including a volunteer fire  
2 department, emergency medical services provider, including a  
3 volunteer emergency medical services provider, or special district  
4 described~~[, as that term is defined]~~ by Section 43.062(b)(2)(B)  
5 ~~[43.052]~~.

6 (b) A municipality that proposes to annex an area shall  
7 provide to each public entity that is located in or provides  
8 services to the area proposed for annexation written notice of the  
9 proposed annexation within the period prescribed for providing the  
10 notice of, as applicable:

- 11 (1) the hearing under Section 43.0673; or  
12 (2) the first hearing under Section [43.0561,] 43.063,  
13 ~~[43.0673,] 43.0683, or 43.0693[, as applicable, to each public~~  
14 ~~entity that is located in or provides services to the area proposed~~  
15 ~~for annexation]~~.

16 ARTICLE 3. HEARING REQUIREMENTS FOR CERTAIN CONSENT ANNEXATIONS

17 SECTION 3.01. Section 43.0673, Local Government Code, is  
18 amended to read as follows:

19 Sec. 43.0673. PUBLIC HEARING ~~[HEARINGS]~~. (a) Before a  
20 municipality may adopt an ordinance annexing an area under this  
21 subchapter ~~[section]~~, the governing body of the municipality must  
22 conduct one ~~[at least two]~~ public hearing ~~[hearings]~~.

23 ~~[(b) The hearings must be conducted not less than 10~~  
24 ~~business days apart.]~~

25 (c) During the ~~[first]~~ public hearing, the governing body:

- 26 (1) must provide persons interested in the annexation  
27 the opportunity to be heard; and

1           (2) [~~During the final public hearing, the governing~~  
2 ~~body~~] may adopt an ordinance annexing the area.

3           (d) The municipality must post notice of the hearing  
4 [~~hearings~~] on the municipality's Internet website if the  
5 municipality has an Internet website and publish notice of the  
6 hearing [~~hearings~~] in a newspaper of general circulation in the  
7 municipality and in the area proposed for annexation. The notice  
8 for the [~~each~~] hearing must be:

9           (1) published at least once on or after the 20th day  
10 but before the 10th day before the date of the hearing; and

11           (2) [~~The notice for each hearing must be~~] posted on  
12 the municipality's Internet website on or after the 20th day but  
13 before the 10th day before the date of the hearing and must remain  
14 posted until the date of the hearing.

15           ARTICLE 4. TRANSITION AND EFFECTIVE DATE

16           SECTION 4.01. (a) Except as provided by Subsection (b) of  
17 this section, the changes in law made by this Act apply only to an  
18 annexation of an area that is not final on the effective date of  
19 this Act. An annexation of an area that was final before the  
20 effective date of this Act is governed by those portions of Chapter  
21 43, Local Government Code, that relate to post-annexation  
22 procedures and requirements in effect immediately before the  
23 effective date of this Act, and that law is continued in effect for  
24 that purpose.

25           (b) The changes in law made by this Act do not apply to the  
26 annexation of an area for which the governing body of a municipality  
27 has adopted a resolution to direct the municipality's city manager

1 to prepare a service plan for the area on or before the effective  
2 date of this Act. An annexation of an area for which the governing  
3 body adopted a resolution to direct the municipality's city manager  
4 to prepare a service plan for the area before the effective date of  
5 this Act is governed by Chapter 43, Local Government Code, as it  
6 existed on January 1, 2019.

7 SECTION 4.02. This Act takes effect immediately if it  
8 receives a vote of two-thirds of all the members elected to each  
9 house, as provided by Section 39, Article III, Texas Constitution.  
10 If this Act does not receive the vote necessary for immediate  
11 effect, this Act takes effect September 1, 2019.