

By: Campbell, et al.

S.B. No. 1384

A BILL TO BE ENTITLED

AN ACT

relating to the incorporation of a municipality in the extraterritorial jurisdiction of an existing municipality.

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

SECTION 1. Sections 42.043(a) and (c), Local Government Code, are amended to read as follows:

(a) A petition under Section [~~42.041 or~~] 42.042 must:

(1) be written;

(2) request that [~~the area be annexed or that~~] the services be made available[~~, as appropriate~~];

(3) be signed in ink or indelible pencil by the appropriate voters and landowners;

(4) be signed, in the case of a person signing as a voter, as the person's name appears on the most recent official list of registered voters;

(5) contain, in the case of a person signing as a voter, a note made by the person stating the person's residence address and the precinct number and voter registration number that appear on the person's voter registration certificate;

(6) contain, in the case of a person signing as a landowner, a note made by the person opposite the person's name stating the approximate total acreage that the person owns in the area to be [~~annexed or~~] serviced;

(7) describe the area to be [~~annexed or~~] serviced and

1 have a plat of the area attached; and

2 (8) be presented to the secretary or clerk of the
3 municipality.

4 (c) Before the petition is circulated among the voters and
5 landowners, notice of the petition must be given by posting a copy
6 of the petition for 10 days in three public places in the area to be
7 ~~[annexed or]~~ serviced and by publishing the notice once, in a
8 newspaper of general circulation serving the area, before the 15th
9 day before the date the petition is first circulated. Proof of
10 posting and publication must be made by attaching to the petition
11 presented to the secretary or clerk:

12 (1) the affidavit of any voter who signed the
13 petition, stating the places and dates of the posting;

14 (2) the affidavit of the publisher of the newspaper in
15 which the notice was published, stating the name of the newspaper
16 and the issue and date of publication; and

17 (3) the affidavit of at least three voters who signed
18 the petition, if there are that many, stating the total number of
19 voters residing in the area and the approximate total acreage in the
20 area.

21 SECTION 2. Section [43.0753](#)(k), Local Government Code, is
22 amended to read as follows:

23 (k) Notwithstanding any defect, ambiguity, discrepancy,
24 invalidity, or unenforceability of a regional development
25 agreement that has been voluntarily entered into and fully executed
26 by the parties thereto, or any contrary law, common law doctrine, or
27 municipal charter provision, and for the duration of any annexation

1 deferral period established in the regional development agreement
2 during which a district continues to perform its obligations under
3 the regional development agreement:

4 (1) Section [~~Sections~~] 42.023 does [~~and 42.041(b)-(e)~~
5 ~~do~~] not apply to any land or owner of land within a district that is
6 a party to the regional development agreement; and

7 (2) the governing body of the municipality may not
8 include the area covered by the regional development agreement in a
9 municipal annexation plan and may not initiate or continue an
10 annexation proceeding relating to that area after the effective
11 date of this section.

12 SECTION 3. Section 43.0754(m), Local Government Code, is
13 amended to read as follows:

14 (m) Notwithstanding any defect, ambiguity, discrepancy,
15 invalidity, or unenforceability of a regional participation
16 agreement that has been voluntarily entered into and fully executed
17 by the parties, or any contrary law, common law doctrine, or
18 municipal charter provision, and for the duration of any annexation
19 deferral period established in the agreement during which a
20 district continues to perform its obligations under the agreement:

21 (1) Section 42.023 and any other law or municipal
22 charter provision relating to the reduction of the extraterritorial
23 jurisdiction of an eligible municipality that is a party do not
24 apply[~~, and Sections 42.041(b)-(e) do not apply~~] to any land or
25 owner of land within a district that is a party;

26 (2) the governing body of an eligible municipality
27 that is a party may not initiate or continue an annexation

1 proceeding relating to that area but may include the area covered by
2 the agreement in a municipal annexation plan; and

3 (3) any area that is to be released from the
4 extraterritorial jurisdiction of an eligible municipality that is a
5 party under an agreement, or that is to be incorporated or included
6 within an alternate form of government with the consent of a
7 municipality that is a party under an agreement, shall, by
8 operation of law and without further action by a party or its
9 governing body, be released from the extraterritorial
10 jurisdiction, or consent of the municipality to the incorporation
11 or adoption of an alternate form of government by the district shall
12 be deemed to have been given, as appropriate under the agreement, at
13 the time or upon the occurrence of the events specified in the
14 agreement.

15 SECTION 4. Section 43.855, Local Government Code, is
16 amended to read as follows:

17 Sec. 43.855. INCORPORATION PROCEDURES. If [~~(a) Except as~~
18 ~~provided by Subsection (b), if~~] an application or petition to
19 incorporate all or part of an affected unincorporated area is filed
20 with the county judge:

21 (1) a community may be incorporated within the
22 affected unincorporated area under the procedures prescribed by
23 law; and

24 (2) the county judge shall order an incorporation
25 election under the procedures prescribed by law.

26 [~~(b) If all or part of the area to be incorporated is located~~
27 ~~within the extraterritorial jurisdiction of an affected~~

1 ~~municipality, the affected municipality is considered to have~~
2 ~~consented to the annexation for purposes of Section 42.041(a) on~~
3 ~~the date a petition or application to incorporate the area is filed~~
4 ~~with the county judge of the affected county. The filing of a~~
5 ~~petition or application under this section initiates the~~
6 ~~incorporation proceedings for purposes of Section 42.041(d). The~~
7 ~~incorporation must be finally completed within the period~~
8 ~~prescribed by Section 42.041(d). If the proceedings to incorporate~~
9 ~~the area are not finally completed within the prescribed period,~~
10 ~~the area may not be incorporated without obtaining:~~

11 ~~[(1) the express consent of the affected municipality~~
12 ~~as required by Section 42.041(a); or~~

13 ~~[(2) consent of the affected municipality in the~~
14 ~~manner provided by Section 42.041(b).]~~

15 SECTION 5. Sections 42.041, 42.0411, and 42.047, Local
16 Government Code, are repealed.

17 SECTION 6. Section 43.0753, Local Government Code, as
18 amended by this Act, applies only to a regional development
19 agreement entered into under that section on or after the effective
20 date of this Act. A regional development agreement entered into
21 before the effective date of this Act is governed by the law in
22 effect on the date the agreement is entered into, and that law is
23 continued in effect for that purpose.

24 SECTION 7. Section 43.0754, Local Government Code, as
25 amended by this Act, applies only to a regional participation
26 agreement entered into under that section on or after the effective
27 date of this Act. A regional participation agreement entered into

1 before the effective date of this Act is governed by the law in
2 effect on the date the agreement is entered into, and that law is
3 continued in effect for that purpose.

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