

House Bill 1929
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (IE)	CONFERENCE
<p>SECTION 1. Section 212.172, Local Government Code, is amended by amending Subsections (a), (c), (e), (f), (g), and (h) and adding Subsections (i), (j), and (k) to read as follows:</p> <p>(a) In this subchapter:</p> <p>(1) <u>"Adjudication" of a claim means the bringing of a civil suit and prosecution to final judgment in county or state court and includes the bringing of an authorized arbitration proceeding and prosecution to final resolution in accordance with any mandatory procedures established in the contract agreement for the arbitration proceedings.</u></p> <p>(2) <u>"Contract" means a contract for a development agreement authorized by this subchapter.</u></p> <p>(3) <u>"Extraterritorial [,"extraterritorial] jurisdiction" means a municipality's extraterritorial jurisdiction as determined under Chapter 42.</u></p> <p>(c) <u>A contract [An agreement under this subchapter] must:</u></p> <p>(1) be in writing;</p> <p>(2) contain an adequate legal description of the land;</p> <p>(3) be approved by the governing body of the municipality and the landowner; and</p> <p>(4) be recorded in the real property records of each county in which any part of the land that is subject to the <u>contract</u> [agreement] is located.</p> <p>(e) A municipality in an affected county, as defined by Section 16.341, Water Code, may not enter into a <u>contract</u> [an agreement under this subchapter] that is inconsistent with the model rules adopted under Section 16.343, Water Code.</p> <p>(f) The <u>contract</u> [agreement] between the governing body of the municipality and the landowner is binding on the municipality and the landowner and on their respective successors and assigns for the term of the <u>contract</u> [agreement]. The <u>contract</u> [agreement] is not binding on, and</p>	<p>SECTION 1. Same as House version.</p>	

House Bill 1929
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

does not create any encumbrance to title as to, any end-buyer of a fully developed and improved lot within the development, except for land use and development regulations that may apply to a specific lot. Annexation by a municipality of land subject to a contract does not invalidate the enforceability of the contract or infringe on the rights of a party to adjudicate a claim arising under the contract.

(g) A contract:

(1) [An agreement under this subchapter] constitutes a permit under Chapter 245; and

(2) is a program authorized by the legislature under Section 52-a, Article III, Texas Constitution.

(h) A contract [An agreement] between a municipality and a landowner entered into prior to the effective date of this section, or any amendment to this section, and that complies with this section is validated, enforceable, and may be adjudicated subject to the terms and conditions of this subchapter, as amended.

(i) A municipality that enters into a contract waives immunity from suit for the purpose of adjudicating a claim for breach of the contract.

(j) Except as provided by Subsection (k), actual damages, specific performance, or injunctive relief may be granted in an adjudication brought against a municipality for breach of a contract. The total amount of money awarded in an adjudication brought against a municipality for breach of a contract is limited to the following:

(1) the balance due and owed by the municipality under the contract as it may have been amended;

(2) any amount owed by the landowner as a result of the municipality's failure to perform under the contract, including compensation for the increased cost of infrastructure as a

SENATE VERSION (IE)

CONFERENCE

House Bill 1929
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

result of delays or accelerations caused by the municipality;
(3) reasonable attorney's fees; and
(4) interest as allowed by law, including interest as calculated under Chapter 2251, Government Code.
(k) Damages awarded in an adjudication brought against a municipality for breach of a contract may not include:
(1) consequential damages, except as expressly allowed under Subsection (j)(2); or
(2) exemplary damages.

SECTION 2. Section 212.174, Local Government Code, is amended to read as follows:
Sec. 212.174. MUNICIPAL UTILITIES. A municipality may not require a contract [~~an agreement under this subchapter~~] as a condition for providing water, sewer, electricity, gas, or other utility service from a municipally owned or municipally operated utility that provides any of those services.

No equivalent provision.

SECTION 2. Same as House version.

SECTION __.Chapter 212, Local Government Code, is amended by adding Subchapter H to read as follows:
SUBCHAPTER H. DEVELOPMENT AGREEMENTS AND RELEASE OF EXTRATERRITORIAL JURISDICTION FOR CERTAIN AREAS
Sec. 212.201. DEVELOPMENT AGREEMENT BY PETITION. (a) A petition under this section may be filed only for an area of a municipality with a population of more than 790,000:
(1) that:
(A) is located in a subdivision that was developed with public

House Bill 1929
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

infrastructure outside the boundaries of the municipality; and
(B) was subject to a change in the provider of fire suppression
and emergency medical services after annexation for full
purposes that led to a degradation in the quality and level of
those services, as determined by the petitioners; or
(2) that:
(A) is subject to a municipal determination by ordinance or
resolution that the municipality cannot or has not in the past
regularly and routinely provided full municipal services to the
area; and
(B) was exempt from municipal taxation until full municipal
services were provided, regardless of whether the ordinance or
resolution is repealed or purported to be repealed.
(b) A person owning land wholly or partly located in an area
described by Subsection (a) may file a petition requesting the
municipality to:
(1) disannex the area from the municipality and include the
area in the municipality's extraterritorial jurisdiction; and
(2) enter into a development agreement under Subchapter G
for the area.
(c) The petition filed under Subsection (b) must:
(1) include the signatures of owners of at least 51 percent of
the land in the area described by the petition;
(2) include a determination by the petitioners that:
(A) the municipal services provided by the municipality are
not regular and routine; and
(B) the appropriate relief to the petitioners is to:
(i) be disannexed and included in the municipality's
extraterritorial jurisdiction; and
(ii) be subject to a development agreement under Subchapter
G; and
(3) if the land is located in a subdivision, request

House Bill 1929
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

disannexation of all land in the subdivision that is located in the municipality.

(d) The municipality shall disannex from the municipality and include in the municipality's extraterritorial jurisdiction the area described by a petition filed under Subsection (b) not later than the 30th day after the date the municipality receives the petition.

(e) The municipality shall enter into a development agreement under Subchapter G with the petitioners filing a petition under Subsection (b). A development agreement under this section may only contain terms described by Section 212.172(b)(1). If the municipality does not enter into a mutually acceptable development agreement with the petitioners not later than the 90th day after the date the municipality receives the petition, the petitioners may record an affidavit in the deed records of the county in which the petitioners' land is located. If the affidavit is recorded in accordance with this subsection, the municipality:

(1) may not annex land for which an affidavit is recorded; and
(2) is not required to enter into a development agreement with the petitioners.

(f) This section expires September 1, 2023.

Sec. 212.202. RELEASE INSTEAD OF DEVELOPMENT AGREEMENT. (a) Instead of entering into a development agreement under this chapter, an owner of land disannexed under Section 212.201 may file a written petition with the municipality that disannexed the land for the land to be released from the municipality's extraterritorial jurisdiction if the land is at least five acres and contains not more than five residents.

(b) A petition requesting release under this section must:

(1) be signed by the owners of a majority in value of the land

House Bill 1929
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

described by the petition, as indicated by the ad valorem tax records of the central appraisal district for the county in which the land is located; and

(2) include a determination that release from the municipality's extraterritorial jurisdiction is necessary or convenient to promote the development of public infrastructure instead of a development agreement.

(c) The municipality shall release from the municipality's extraterritorial jurisdiction the land described by a petition filed under Subsection (a) not later than the 30th day after the date the municipality receives the petition.

(d) This section does not apply to land:

(1) subject to a strategic partnership agreement under Section 43.0751; or

(2) that is located in an industrial district under Section 42.044.

Sec. 212.203. SUIT TO COMPEL; WAIVER OF GOVERNMENTAL IMMUNITY. (a) If a municipality fails to disannex or release land from the municipality's extraterritorial jurisdiction as required by this subchapter, the person filing the petition requesting the disannexation or release may bring an action against the municipality to compel the disannexation or release of the land. If the person prevails, the person may recover attorney's fees and court costs resulting from bringing the action.

(b) Governmental immunity to suit and from liability of the municipality is waived to the extent of liability created by this subchapter. [FA1]

SECTION 3. This Act takes effect September 1, 2021.

SECTION 3. Same as House version.