

BILL ANALYSIS

C.S.S.B. 369
By: Campbell
Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

State law prohibits a municipality from imposing a tax on any property in an area annexed for limited purposes or on any resident of the area for an activity occurring in the area. This law was intended to protect residents in limited purpose areas from unfair taxation when they do not benefit from municipal services, including water and wastewater services. However, those living within a limited purpose area on Lake Austin are concerned about the unfair taxation imposed on them based upon their lack of full municipal services from the City of Austin. C.S.S.B. 369 seeks to address this issue by providing certain remedies for a person owning real property that is subject to property taxation by a municipality and is wholly or partly located in an area in which the municipality is not providing or causing the provision of full municipal services.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

C.S.S.B. 369 amends the Local Government Code to authorize a person owning real property that is subject to property taxation by a municipality and is wholly or partly located in an area in which the municipality is not providing or causing the provision of full municipal services to file a complaint with the municipality. The bill does not apply to the following areas:

- an area for which the municipality is not currently required to provide full municipal services under an annexation service plan;
- an area for which the municipality is not yet able to operate and maintain water and wastewater facilities due to the pendency of an application for a permit from the Texas Commission on Environmental Quality (TCEQ) or other state agency;
- an area for which the municipality has entered into a regulatory plan or other written agreement to extend the time for providing or waive provision of full municipal services;
- an area located in the boundaries of or owned by a county or municipal airport established, acquired, maintained, or operated under applicable Transportation Code provisions; or
- an area located in an airport hazard area, as that term is defined under the Airport Zoning Act.

The bill defines "full municipal services" as the following:

- the provision of police protection;
- the provision of fire protection;
- the provision of emergency medical services;

- the provision of solid waste collection, other than those services that a municipality is not required to provide to an area under an annexation service plan;
- except as otherwise provided by the bill, the operation and maintenance of water and wastewater facilities in an area not served either by the holder of a certificate of convenience and necessity, other than the municipality or a municipally owned utility, or by a private septic system and an individual water well;
- the operation and maintenance of roads and streets and lighting for roads and streets, other than private roads and streets; and
- the operation and maintenance of any other facility, building, or service owned by the municipality.

C.S.S.B. 369 requires a property owner filing a complaint to do the following:

- submit the complaint by certified mail and, if the municipality maintains a website, through an online portal on the website; and
- include relevant documentation to support the owner's claim.

The bill requires the municipality to do the following not later than the 60th day after the date the complaint is filed:

- provide to the owner a response that includes the following:
 - a statement of whether full municipal services are being provided to the property;
 - documentation identifying the services that have been provided to the property during the past year, including the following:
 - the manner in which the services were provided; and
 - the location at which services were provided; and
 - documentation identifying the services that are not being provided to the property at the time the response is provided; and
- if the municipality determines that the property is not receiving full municipal services, provide a plan of action for the provision of full municipal services to the property.

The bill makes the complaint and the response, including the plan of action for the provision of full municipal services, public information that is subject to disclosure under state public information law.

C.S.S.B. 369 authorizes the property owner, if the municipality fails to respond to the owner within the required time, to file a complaint with the attorney general for enforcement of a civil penalty against the municipality in the amount of \$500 for each day after the 60th day after the date the complaint was filed with the municipality. The bill authorizes the attorney general to sue to collect the civil penalty.

C.S.S.B. 369 requires a municipality that provides a plan of action for the provision of full municipal services to a property owner to complete the plan's implementation not later than the following:

- the first anniversary of the date of the complaint; or
- the third anniversary of the date of the complaint, if the plan depends on the completion of a major infrastructure project that relates to the provision of services in the area in which the property that is the subject of the complaint is located.

The bill defines "major infrastructure project" as a project to construct a new physical infrastructure, energy, transportation, water, wastewater, or waste disposal facility.

C.S.S.B. 369 authorizes a property owner who files a complaint with a municipality to bring an action, or request that the attorney general bring an action, to enforce the bill's provisions. The action must be brought in a court with jurisdiction over the area in which the property that is the subject of the complaint is located. The bill requires the court to do the following:

- order the municipality to hold an election on the question of disannexing the area from the municipality if the court makes the following findings:
 - property in the area is not receiving full municipal services;

- the municipality is required to provide a plan of action for the provision of full municipal services to a property owner in the area and either has failed to provide the plan or has failed to implement the plan within the required period; or
- not later than the third anniversary of the date of the complaint, the municipality is not providing or causing the provision of full municipal services to the area in which the property is wholly or partly located; and
- determine and include in the order the boundaries of the area within which the voters of the municipality may participate in the election.

The bill requires the municipality to disannex such area if the voters approve the disannexation. The bill authorizes a property owner who brings an action for which a court orders an election to recover attorney's fees and court costs resulting from bringing the action.

C.S.S.B. 369 waives a municipality's governmental immunity to suit and governmental immunity from liability to the extent of liability created by the bill's provisions.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 369 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes a provision absent in the engrossed that exempts from the bill's provisions an area for which the municipality is not yet able to operate and maintain water and wastewater facilities due to the pendency of an application for a permit from the TCEQ or other state agency.

With regard to the definition of "full municipal services," the engrossed included the operation and maintenance of roads and streets, including road and street lighting, whereas the substitute includes the operation and maintenance of roads and streets and lighting for roads and streets, other than private roads and streets.