

## **BILL ANALYSIS**

Senate Research Center

S.B. 2038  
By: Bettencourt  
Local Government  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Concerns related to the rights of residents and property owners subject to the regulatory authority of municipalities in their extraterritorial jurisdiction (ETJ) have been raised by residents subject to such regulation. Current law does not provide a process to allow the release of an area from a municipality's ETJ.

S.B. 2038 allows residents and property owners in an ETJ to use petition and election procedures, depending on the population of the area, to remove themselves from the ETJ. The procedures are similar to those currently prescribed for municipal annexations.

(Original Author's/Sponsor's Statement of Intent)

S.B. 2038 amends current law relating to release of an area from a municipality's extraterritorial jurisdiction by petition or election.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 42, Local Government Code, by adding Subchapters D and E, as follows:

#### **SUBCHAPTER D. RELEASE OF AREA BY PETITION OF LANDOWNER OR RESIDENT FROM EXTRATERRITORIAL JURISDICTION**

Sec. 42.101. **APPLICABILITY.** Provides that this subchapter does not apply to an area located:

(1) within five miles of the boundary of a military base, as defined by Section 43.0117 (Authority of Municipality to Annex Area Near Military Base), at which an active training program is conducted;

(2) in an area that was voluntarily annexed into the extraterritorial jurisdiction that is located in a county:

(A) in which the population grew by more than 50 percent from the previous federal decennial census in the federal decennial census conducted in 2020; and

(B) that has a population greater than 240,000;

(3) within the portion of the extraterritorial jurisdiction of a municipality with a population of more than 1.4 million that is:

(A) within 15 miles of the boundary of a military base, as defined by Section 43.0117, at which an active training program is conducted; and

(B) in a county with a population of more than two million;

(4) in an area designated as an industrial district under Section 42.044 (Creation of Industrial District in Extraterritorial Jurisdiction); or

(5) in an area subject to a strategic partnership agreement entered into under Section 43.0751 (Strategic Partnerships for Continuation of Certain Districts).

Sec. 42.102. **AUTHORITY TO FILE PETITION FOR RELEASE.** (a) Authorizes a resident of an area in a municipality's extraterritorial jurisdiction to file a petition with the municipality in accordance with this subchapter for the area to be released from the extraterritorial jurisdiction.

(b) Authorizes the owner or owners of the majority in value of an area consisting of one or more parcels of land in a municipality's extraterritorial jurisdiction to file a petition with the municipality in accordance with this subchapter for the area to be released from the extraterritorial jurisdiction.

Sec. 42.103. **APPLICABILITY OF OTHER LAW.** Provides that Chapter 277 (Petition Prescribed by Law Outside Code), Election Code, applies to a petition requesting removal under this subchapter.

Sec. 42.104. **PETITION REQUIREMENTS.** (a) Requires that a petition requesting release under this subchapter be signed by:

(1) more than 50 percent of the registered voters of the area described by the petition as of the date of the preceding uniform election date; or

(2) a majority in value of the holders of title of land in the area described by the petition, as indicated by the tax rolls of the applicable central appraisal district.

(b) Requires a person filing a petition under this subchapter to satisfy the signature requirement described by Subsection (a) not later than the 180th day after the date the first signature for the petition is obtained.

(c) Requires that a signature collected under this section be in writing.

(d) Requires that the petition include a map of the land to be released and describe the boundaries of the land to be released by:

(1) metes and bounds; or

(2) lot and block number, if there is a recorded map or plat.

Sec. 42.105. **RESULTS OF PETITION.** (a) Requires that a petition requesting removal under this subchapter be verified by the municipal secretary or other person responsible for verifying signatures.

(b) Requires the municipality to notify the residents and landowners of the area described by the petition of the results of the petition. Authorizes the municipality to satisfy this requirement by notifying the person who filed the petition under Section 42.102.

(c) Requires the municipality, if a resident or landowner obtains the number of signatures on the petition required under Section 42.104 to release the area from the municipality's extraterritorial jurisdiction, to immediately release the area from the municipality's extraterritorial jurisdiction.

(d) Provides that if a municipality fails to take action to release the area under Subsection (c) by the later of the 45th day after the date the municipality receives the petition or the next meeting of the municipality's governing body that occurs after the 30th day after the date the municipality receives the petition, the area is released by operation of law.

(e) Prohibits an area released from a municipality's extraterritorial jurisdiction under this section, notwithstanding any other law, from being included in the extraterritorial jurisdiction or the corporate boundaries of a municipality, unless the owner or owners of the area subsequently request that the area be included in the municipality's extraterritorial jurisdiction or corporate boundaries.

#### SUBCHAPTER E. RELEASE OF AREA BY ELECTION FROM EXTRATERRITORIAL JURISDICTION

Sec. 42.151. APPLICABILITY. Provides that this subchapter does not apply to an area located:

(1) within five miles of the boundary of a military base, as defined by Section 43.0117, at which an active training program is conducted;

(2) in an area that was voluntarily annexed into the extraterritorial jurisdiction that is located in a county:

(A) in which the population grew by more than 50 percent from the previous federal decennial census in the federal decennial census conducted in 2020; and

(B) that has a population greater than 240,000;

(3) within the portion of the extraterritorial jurisdiction of a municipality with a population of more than 1.4 million that is:

(A) within 15 miles of the boundary of a military base, as defined by Section 43.0117, at which an active training program is conducted; and

(B) in a county with a population of more than two million;

(4) in an area designated as an industrial district under Section 42.044; or

(5) in an area subject to a strategic partnership agreement entered into under Section 43.0751.

Sec. 42.152. AUTHORITY TO REQUEST ELECTION FOR RELEASE. (a) Authorizes a resident of an area in a municipality's extraterritorial jurisdiction to request the municipality to hold an election in accordance with this subchapter to vote on the question of whether to release the area from the municipality's extraterritorial jurisdiction by filing with the municipality a petition that includes the signatures of at least five percent of the registered voters residing in the area as of the date of the preceding uniform election date.

(b) Prohibits a resident from requesting another election on the question of releasing the same or substantially same area from the municipality's extraterritorial jurisdiction before the second anniversary of the date the municipality receives a petition filed under Subsection (a).

(c) Requires that the petition include a map of the land to be released and describe the boundaries of the land to be released by:

(1) metes and bounds; or

(2) lot and block number, if there is a recorded map or plat.

Sec. 42.153. ELECTION. (a) Requires a municipality, except as provided by Section 42.156, to order an election on the question of whether to release an area from the municipality's extraterritorial jurisdiction to be held on the first uniform election date that falls on or after the 90th day after the date the municipality receives a petition that complies with Section 42.152.

(b) Requires the municipality to hold the election ordered under this section in the area described by the petition at which the registered voters of the area described by the petition are authorized to vote on the question of the release.

(c) Requires that an election ordered under this section be held in the same manner as general elections of the municipality. Requires the municipality to pay for the costs of holding the election.

Sec. 42.154. RESULTS OF ELECTION. (a) Requires the governing body of a municipality to canvass the election returns for an election held under this subchapter in accordance with Chapter 67 (Canvassing Elections), Election Code.

(b) Requires the municipality, not later than 48 hours after the canvass of an election held under this subchapter, to notify the residents of the area proposed to be released from the municipality's extraterritorial jurisdiction of the results of the election. Authorizes the municipality to satisfy this requirement by notifying the person who filed the petition under Section 42.152.

Sec. 42.155. RELEASE OF AREA AS RESULT OF ELECTION. (a) Requires the municipality, if at the election held under this subchapter a majority of qualified voters of the area to be released approve the proposed release, to immediately release the area from the municipality's extraterritorial jurisdiction.

(b) Provides that if the municipality fails to take action to release the area under Subsection (a) by the later of the next meeting of the municipality's governing body or the 15th day after the canvass date for the election, the area is released by operation of law.

(c) Prohibits an area released from a municipality's extraterritorial jurisdiction under this section, notwithstanding any other law, from being included in the extraterritorial jurisdiction or the corporate boundaries of a municipality, unless the owner or owners of the area subsequently request that the area be included in the municipality's extraterritorial jurisdiction or corporate boundaries.

Sec. 42.156. VOLUNTARY RELEASE. Authorizes the municipality, instead of holding an election under Section 42.153, to voluntarily release the area for which the election is to be held from the municipality's extraterritorial jurisdiction before the date on which the election would have been held under Section 42.153(a).

SECTION 2. Amends Section 42.021, Local Government Code, by adding Subsection (e), as follows:

(e) Provides that an annexation commenced after January 1, 2023, does not expand the extraterritorial jurisdiction of a municipality unless contemporaneously with the annexation the owner or owners of the area that would be included in the municipality's extraterritorial jurisdiction as a result of the annexation request that the area be included in the municipality's extraterritorial jurisdiction.

SECTION 3. Amends Section 242.001, Local Government Code, by adding Subsection (j), as follows:

(j) Provides that if an area subject to an agreement under Subsection (c) is removed from a municipality's extraterritorial jurisdiction, the agreement is terminated as to the area and the county is the political subdivision authorized to regulate subdivisions in the removed area.

SECTION 4. Requires a municipality to release extraterritorial jurisdiction acquired from an annexation commenced after January 1, 2023, as necessary to comply with Section 42.021(e), Local Government Code, as added by this Act.

SECTION 5. Effective date: September 1, 2023.