

BILL ANALYSIS

S.B. 2038
By: Bettencourt
Land & Resource Management
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Residents and property owners who are subject to municipal regulatory authority in the extraterritorial jurisdiction of municipalities have no vote or voice in the municipalities that regulate them. Municipalities have too much control over areas outside of municipal corporate boundaries, which can cause property owners in those areas to be subject to regulations and restrictions that may not necessarily be in their best interests. S.B. 2038 seeks to address this issue by providing for the release of an area from a municipality's extraterritorial jurisdiction by petition or election.

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

S.B. 2038 amends the Local Government Code to set out provisions relating to the release of an area from a municipality's extraterritorial jurisdiction (ETJ) by petition or election. The bill exempts from its provisions the following areas:

- an area located within five miles of the boundary of a presently functioning federally owned or operated military installation or facility at which an active training program is conducted;
- an area located in an area designated as an applicable industrial district; or
- an area located in an area subject to a strategic partnership agreement entered into between a municipality and certain conservation and reclamation districts.

Release of an Area From a Municipality's ETJ by Petition

S.B. 2038 authorizes a resident of an area in a municipality's ETJ, and the owner or owners of the majority in value of an area consisting of one or more parcels of land in a municipality's ETJ, to file a petition with the municipality for the respective area to be released from the ETJ. The bill specifies that certain Election Code petition provisions regarding a petition filed outside that code apply to the petition.

S.B. 2038 requires the petition to be signed by the following:

- more than 50 percent of the registered voters of the applicable area as of the date of the preceding uniform election; or

- a majority in value of the holders of title of land in the applicable area, as indicated by the tax rolls of the applicable central appraisal district.

The bill requires a person filing the petition to satisfy the signature requirement not later than the 180th day after the date the first signature for the petition is obtained. A collected signature must be in writing and the petition must do the following:

- include a map of the land to be released; and
- describe the boundaries of the land by metes and bounds or, if there is a recorded map or plat, by lot and block number.

S.B. 2038 requires the petition to be verified by the municipal secretary or other person responsible for verifying signatures. The bill requires the municipality to notify the residents and landowners of the applicable area of the petition's results and authorizes the municipality to satisfy this requirement by notifying the person who filed the petition.

S.B. 2038 requires the municipality to immediately release the area from the municipality's ETJ if a resident or landowner obtains the required number of signatures. The bill establishes that the area is released by operation of law if a municipality fails to take such action to release the area 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 bill establishes that the released area does not become part of the ETJ of another municipality on release, unless the owner or owners of the area request that the area be included in the other municipality's ETJ.

Release of an Area From a Municipality's Extraterritorial Jurisdiction by Election

S.B. 2038 authorizes a resident of an area in a municipality's ETJ to request the municipality to hold an election to vote on the question of whether to release the area from the municipality's ETJ 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. The bill prohibits a resident from requesting another election on the question of releasing the same or substantially same area from the municipality's ETJ before the second anniversary of the date the municipality receives the petition. The bill requires the petition to include a map of the land to be released and describe the boundaries of the land by metes and bounds or, if there is a recorded map or plat, by lot and block number.

S.B. 2038 requires a municipality to order an election on the question of whether to release an area from the municipality's ETJ to be held on the first uniform election date that falls on or after the 90th day after the date the municipality receives the petition. The bill requires the municipality to hold the election in the area described by the petition at which the qualified voters of the area may vote on the question of the release. The bill requires the election to be held in the same manner as the municipality's general elections and requires the municipality to pay for the costs of holding the election.

S.B. 2038 requires the municipality's governing body to canvass the election returns for the election in accordance with the Election Code. The bill requires the municipality, not later than 48 hours after the election canvass, to notify the residents of the area proposed to be released from the municipality's ETJ of the election results and authorizes the municipality to satisfy this requirement by notifying the person who filed the petition.

S.B. 2038 requires the municipality to immediately release the area from the municipality's ETJ if at the election a majority of qualified voters of the area to be released approve the proposed release. The bill establishes that the area is released by operation of law if the municipality fails to take such action to release the area by the later of the next meeting of the municipality's governing body or the 15th day after the election canvass date. The bill establishes that a released area does not become part of the ETJ of another municipality on release, unless the owner or owners of the area request that the area be included in the other municipality's ETJ.

S.B. 2038 authorizes the municipality, instead of holding the election, to voluntarily release the area for which the election is to be held from the municipality's ETJ before the date on which the election would have been held.

Other Provisions

S.B. 2038 establishes that an annexation commenced after January 1, 2023, does not expand a municipality's ETJ unless contemporaneously with the annexation the owner or owners of the area that would be included in the municipality's ETJ as a result of the annexation request that the area be included in the municipality's ETJ. The bill requires a municipality to release ETJ acquired from an annexation commenced after such date as necessary to comply with these provisions of the bill.

S.B. 2038 establishes that, if an area subject to an agreement between a municipality and a county that identifies the governmental entity authorized to regulate subdivision plats and approve related permits in the ETJ is removed from the ETJ, the agreement is terminated and the county is the political subdivision authorized to regulate subdivisions in the removed area.

EFFECTIVE DATE

September 1, 2023.