

BILL ANALYSIS

Senate Research Center
88R18943 SCL-F

C.S.S.B. 2038
By: Bettencourt
Local Government
4/19/2023
Committee Report (Substituted)

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)

C.S.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 WITH POPULATION OF LESS THAN 200 FROM EXTRATERRITORIAL JURISDICTION BY PETITION

Sec. 42.101. **AUTHORITY TO FILE PETITION FOR RELEASE.** (a) Authorizes a resident of an area with a population of less than 200 that is located 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 with a population of less than 200 that is located 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. 42.102. **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. 42.103. **PETITION REQUIREMENTS.** (a) Requires that a petition requesting release under Section 42.101(a) be signed by more than 50 percent of the registered voters of the area described by the petition. Requires that a petition requesting release under Section 42.101(b) be signed by 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 central appraisal district.

(b) Requires a person filing a petition under this subchapter to satisfy the applicable 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 and describe the area to be released by:

(1) metes and bounds; or

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

Sec. 42.104. 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. Requires the municipality to notify the residents or landowners of the area described by the petition of the results of the petition.

(b) Requires the municipality, if a resident or landowner obtains the applicable number of signatures on the petition required under Section 42.103 to release the area from the municipality's extraterritorial jurisdiction, to immediately release the area from its extraterritorial jurisdiction.

Sec. 42.105. AREA NEAR MILITARY BASE. Provides that this subchapter does not apply to any area located within five miles of the boundary of a military base, as defined in Section 43.0117 (Authority of Municipality to Annex Area Near Military Base), in which an active training program is conducted.

SUBCHAPTER E. RELEASE OF AREA WITH POPULATION OF 200 OR MORE FROM EXTRATERRITORIAL JURISDICTION BY ELECTION

Sec. 42.151. AUTHORITY TO REQUEST ELECTION FOR RELEASE. (a) Authorizes a resident of an area with a population of 200 or more that has been located in a municipality's extraterritorial jurisdiction for at least one year 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 first anniversary of the date the municipality receives a petition filed under Subsection (a).

(c) Requires that a petition filed under this section include a map of and describe the area to be released by:

(1) metes and bounds; or

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

Sec. 42.152. ELECTION. (a) Requires a municipality 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 42.151.

(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 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. 42.153. RESULTS OF ELECTION. (a) Requires the municipality, following 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.

(b) Requires the municipality, if at the election held under this subchapter a majority of voters approve the proposed release, to immediately release the area for which the election was held from the municipality's extraterritorial jurisdiction.

Sec. 42.154. AREA NEAR MILITARY BASE. Provides that this subchapter does not apply to any area located within five miles of the boundary of a military base, as defined by Section 43.0117, in which an active training program is conducted.

SECTION 2. Effective date: September 1, 2023.