

By: Campbell

S.B. No. 369

A BILL TO BE ENTITLED

AN ACT

relating to disannexation of certain areas that do not receive full municipal services; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter G, Chapter 43, Local Government Code, is amended by adding Section 43.1415 to read as follows:

Sec. 43.1415. DISANNEXTION OF CERTAIN AREAS NOT RECEIVING FULL SERVICES. (a) In this section, "full municipal services" means:

(1) the provision of police protection;

(2) the provision of fire protection;

(3) the provision of emergency medical services;

(4) the provision of solid waste collection, other than those services that a municipality is not required to provide under Section 43.056(o) to an area subject to that section;

(5) the operation and maintenance of water and wastewater facilities in an area not served by:

(A) the holder of a certificate of convenience and necessity, other than the municipality or a municipally owned utility; or

(B) a private septic system and an individual water well;

(6) the operation and maintenance of roads and streets, including road and street lighting; and

1 (7) the operation and maintenance of any other
2 facility, building, or service owned by the municipality.

3 (b) This section does not apply to an area:

4 (1) for which the municipality:

5 (A) is not currently required to provide full
6 municipal services under a service plan described by Section
7 43.056; or

8 (B) has entered into a regulatory plan or other
9 written agreement to extend the time for providing or waive
10 provision of full municipal services;

11 (2) located in the boundaries of or owned by a county
12 or municipal airport established, acquired, maintained, or
13 operated under Chapter 22, Transportation Code; or

14 (3) located in an airport hazard area, as that term is
15 defined by Section 241.003.

16 (c) A person owning real property that is subject to ad
17 valorem taxation by a municipality and is wholly or partly located
18 in an area in which the municipality is not providing or causing the
19 provision of full municipal services may file a complaint with the
20 municipality. A property owner filing a complaint under this
21 subsection shall:

22 (1) submit the complaint:

23 (A) by certified mail; and

24 (B) if the municipality maintains an Internet
25 website, through an online portal on the municipality's Internet
26 website; and

27 (2) include relevant documentation to support the

1 owner's claim.

2 (d) Not later than the 60th day after the date a complaint
3 from a property owner is filed with a municipality under Subsection
4 (c), the municipality shall:

5 (1) provide to the owner a response that includes:

6 (A) a statement of whether full municipal
7 services are being provided to the property;

8 (B) documentation identifying the services that
9 have been provided to the property during the past year, including:

10 (i) the manner in which the services were
11 provided; and

12 (ii) the location at which services were
13 provided; and

14 (C) documentation identifying the services that
15 are not being provided to the property at the time the response is
16 provided; and

17 (2) if the municipality determines that the property
18 is not receiving full municipal services, provide a plan of action
19 for the provision of full municipal services to the property as
20 provided by Subsection (g).

21 (e) A complaint by a property owner under Subsection (c) and
22 a response to a property owner by a municipality under Subsection
23 (d), including a plan of action for the provision of full municipal
24 services, is public information that is subject to disclosure under
25 Chapter 552, Government Code.

26 (f) If a municipality that receives a complaint under
27 Subsection (c) fails to respond to the owner within the time

1 required by Subsection (d), the property owner may file a complaint
2 with the attorney general for enforcement of a civil penalty
3 against the municipality in the amount of \$500 for each day after
4 the 60th day after the date the complaint was filed with the
5 municipality. The attorney general may sue to collect a civil
6 penalty under this subsection.

7 (g) In this subsection, "major infrastructure project"
8 means a project to construct a new physical infrastructure, energy,
9 transportation, water, wastewater, or waste disposal facility. A
10 municipality that provides a plan of action to a property owner
11 under Subsection (d)(2) shall complete implementation of the plan
12 of action not later than:

13 (1) the first anniversary of the date of the
14 complaint; or

15 (2) the third anniversary of the date of the
16 complaint, if the plan of action depends on the completion of a
17 major infrastructure project that relates to the provision of
18 services in the area in which the property that is the subject of
19 the complaint is located.

20 (h) A property owner who files a complaint under Subsection
21 (c) may bring an action, or request that the attorney general bring
22 an action, to enforce this section. An action brought under this
23 subsection must be brought in a court with jurisdiction over the
24 area in which the property that is the subject of the complaint is
25 located. The court shall:

26 (1) order the municipality to hold an election on the
27 question of disannexing the area from the municipality if the court

1 finds that:

2 (A) property in the area is not receiving full
3 municipal services;

4 (B) the municipality is required to provide a
5 plan of action to a property owner in the area under Subsection
6 (d)(2) and:

7 (i) has failed to provide the plan of
8 action; or

9 (ii) has failed to implement the plan of
10 action within the required period under Subsection (g); or

11 (C) not later than the third anniversary of the
12 date of the complaint, the municipality is not providing or causing
13 the provision of full municipal services to the area in which the
14 property is wholly or partly located; and

15 (2) determine and include in the order entered under
16 Subdivision (1) the boundaries of the area within which the voters
17 of the municipality may participate in the election.

18 (i) A municipality shall disannex an area described by
19 Subsection (h)(2) if the voters approve the disannexation in the
20 election held under Subsection (h).

21 (j) If a property owner brings an action under Subsection
22 (h) and a court orders an election under that subsection, the
23 property owner may recover attorney's fees and court costs
24 resulting from bringing the action.

25 (k) A municipality's governmental immunity to suit and
26 governmental immunity from liability are waived to the extent of
27 liability created by this section.

1 SECTION 2. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2023.