

By: Campbell  
(Craddick, et al.)

S.B. No. 369

Substitute the following for S.B. No. 369:

By: Burns

C.S.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 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) except as provided by Subsection (b), 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 and lighting for roads and streets, other than private roads and

1 streets; and

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

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

5 (1) for which the municipality:

6 (A) is not currently required to provide full  
7 municipal services under a service plan described by Section  
8 43.056;

9 (B) due to the pendency of an application for a  
10 permit from the Texas Commission on Environmental Quality or other  
11 state agency, is not yet able to operate and maintain water and  
12 wastewater facilities; or

13 (C) has entered into a regulatory plan or other  
14 written agreement to extend the time for providing or waive  
15 provision of full municipal services;

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

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

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

27 (1) submit the complaint:

1                   (A) by certified mail; and

2                   (B) if the municipality maintains an Internet  
3 website, through an online portal on the municipality's Internet  
4 website; and

5                   (2) include relevant documentation to support the  
6 owner's claim.

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

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

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

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

15                   (i) the manner in which the services were  
16 provided; and

17                   (ii) the location at which services were  
18 provided; and

19                   (C) documentation identifying the services that  
20 are not being provided to the property at the time the response is  
21 provided; and

22                   (2) if the municipality determines that the property  
23 is not receiving full municipal services, provide a plan of action  
24 for the provision of full municipal services to the property as  
25 provided by Subsection (g).

26                   (e) A complaint by a property owner under Subsection (c) and  
27 a response to a property owner by a municipality under Subsection

1 (d), including a plan of action for the provision of full municipal  
2 services, is public information that is subject to disclosure under  
3 Chapter 552, Government Code.

4 (f) If a municipality that receives a complaint under  
5 Subsection (c) fails to respond to the owner within the time  
6 required by Subsection (d), the property owner may file a complaint  
7 with the attorney general for enforcement of a civil penalty  
8 against the municipality in the amount of \$500 for each day after  
9 the 60th day after the date the complaint was filed with the  
10 municipality. The attorney general may sue to collect a civil  
11 penalty under this subsection.

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

18 (1) the first anniversary of the date of the  
19 complaint; or

20 (2) the third anniversary of the date of the  
21 complaint, if the plan of action depends on the completion of a  
22 major infrastructure project that relates to the provision of  
23 services in the area in which the property that is the subject of  
24 the complaint is located.

25 (h) A property owner who files a complaint under Subsection  
26 (c) may bring an action, or request that the attorney general bring  
27 an action, to enforce this section. An action brought under this

1 subsection must be brought in a court with jurisdiction over the  
2 area in which the property that is the subject of the complaint is  
3 located. The court shall:

4 (1) order the municipality to hold an election on the  
5 question of disannexing the area from the municipality if the court  
6 finds that:

7 (A) property in the area is not receiving full  
8 municipal services;

9 (B) the municipality is required to provide a  
10 plan of action to a property owner in the area under Subsection  
11 (d)(2) and:

12 (i) has failed to provide the plan of  
13 action; or

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

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

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

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

26 (j) If a property owner brings an action under Subsection  
27 (h) and a court orders an election under that subsection, the

1 property owner may recover attorney's fees and court costs  
2 resulting from bringing the action.

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

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