

- SUBJECT:** Development agreements between cities and land owners
- COMMITTEE:** Land and Resource Management — favorable, without amendment
- VOTE:** 8 ayes — Mowery, Harper-Brown, Blake, R. Cook, Leibowitz, Miller, Orr, Pickett
- 0 nays
- 1 absent — Escobar
- WITNESSES:** For — Billy Howe, Texas Farm Bureau; Ed Small, Texas and Southwestern Cattle Raisers Association; Judy Cope; Korvan Kreuzler; Melvin Kreuzler; Leatrice Saur; Curtis Timmerman; (*Registered, but did not testify:* Wayne Cleveland, Texas Grain Sorghum Association; Denise Gentsch, Texas Agri. - Women; James Grimm, Texas Poultry Federation; David Langford, Texas Wildlife Association; Stephen Salmon, Riverside and Landowners Protection Coalition; Shane Sklar, Independent Cattlemen's Association of Texas; James Terrell, Select Milk Producers, Inc.; Bob Turner, Texas Sheep and Goat Raisers; Harold Kohlenberg; Lorenz Rading; Curt Saur)
- Against — None
- On — Scott Houston, Texas Municipal League
- BACKGROUND:** Under Local Government Code, ch. 43, a municipality may annex lands in its extraterritorial jurisdiction (ETJ) as determined in its annexation plan.
- A city may offer a development agreement to a land owner in its ETJ. These written contracts with land owners:
- guarantee the continuation of the land's ETJ status for a period not to exceed 15 years;
 - permit renewal of contracts for three successive 15-year periods;
 - provide for a development plan prepared by the landowner and approved by the municipality in which certain land uses and land development would be authorized;
 - authorize municipal enforcement of certain municipal land use and

development regulations to be enforced as they were within the municipality's boundaries;

- authorize municipal enforcement of land use and development regulations other than those that apply within the municipality's boundaries, as agreed to by the parties;
- provide for infrastructure, including streets, drainage systems, and utility systems;
- authorize enforcement of environmental regulations;
- provide for annexation of the land as a whole or in parts and provide for the terms of annexation, if agreed to by the parties; and
- include other lawful terms and consideration the parties consider appropriate.

DIGEST:

HB 2305 would allow a municipality, in lieu of annexing an area within its ETJ, to enter into a development agreement with an area that qualifies under Tax Code, ch. 23 for agricultural or wildlife management use.

A municipality could not annex these areas without offering land owners development agreements that would retain the land's ETJ status and preserve agricultural and wildlife management use when enforcing regulations and planning authority.

The bill would authorize a municipality to annex such an area if a land owner declined the development agreement or requested annexation.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS
SAY:**

HB 2305 would offer landowners protection against annexation and development growth. The bill would provide landowners with an alternative to annexation while retaining agricultural and wildlife uses of their lands. Valuable farms and ranches are jeopardized by development resulting from forced annexation by municipalities. Those ranchers and farmers who wish to retain their livelihoods in municipal ETJs should not be taken over by cities against their will. The prosperity of farms contributes to the plentiful and affordable food supply enjoyed by Texans.

Arable lands should be offered this alternative to annexation. Lands containing fertile, phosphoric acid-rich, black soil should be preserved for farming, not subjected to development. For example, the city of New

Braunfels' two-mile ETJ is home to flourishing, black soil family farms that the city has slated for annexation. For nearly a decade, landowners have warded off annexation, but development pressures are weakening their resistance. New Braunfels should be allowed to grow and develop, but not by eliminating viable family farms.

HB 2305 would help retain farming and ranching culture. Many farmers and ranches are cash poor, as much of their wealth is tied to the value of their land. When annexed and faced with increased property taxes, these landowners often default on their property taxes and risk losing their land. Landowners sometimes fold to development pressure, selling portions of their property just to retain their homesteads. As a result, farming and ranching ways of life are declining.

The bill would not landlock cities. These development agreements would expire after the maximum allowable time. Also, when land no longer qualified for agricultural or wildlife use, the agreement would terminate and annexation would occur. The agreements would not permit a non-agricultural development without annexation.

Development agreements also would curb the poor environmental externalities that accompany development. By retaining farm and wildlife use of lands, the bill would help limit impervious cover, pollution, natural habitat destruction, and degradation of sensitive areas.

**OPPONENTS
SAY:**

By requiring all cities, regardless of annexation plans and service area growth, to offer development agreements to any agricultural and wildlife lands, the bill dramatically would limit a city's annexation authority. Cities need annexation authority to plan for orderly, cost-effective development that provides residents with essential services and high quality infrastructure.

Annexation facilitates economic growth. Restricting annexation would limit future prosperity, resulting in a loss of more than \$300 billion in gross state product over the next 30 years. The state also could lose 1.2 million jobs and 2.3 million in population.

The bill would create "leapfrog development" due to landlocked cities. When a landowner accepts the development agreement, surrounding non-agricultural and non-wildlife lands still could be annexed, creating doughnuts of development around exempted lands. This sort of city

growth creates an inequitable tax base for service demands. Residents of the exempted lands would, by mere proximity to services, enjoy all benefits associated with municipal status without being taxed. When contiguous lands accept development agreements, the bill would create buffers of exempted lands that contribute to disorderly and sprawling urban growth.