

SUBJECT: Requiring general-law municipality release of extraterritorial jurisdiction

COMMITTEE: Land and Resource Management — committee substitute recommended

VOTE: 7 ayes — Oliveira, Kleinschmidt, Anchia, R. Anderson, Brown, Garza, Margo

0 nays

2 absent — Kolkhorst, Lavender

WITNESSES: For — David Hawes and Doug Konopka, The Fulbrook Community

Against — None

BACKGROUND: The Local Government Code specifies that the extraterritorial jurisdiction (ETJ) of a municipality is the unincorporated area bordering the corporate boundaries of the municipality. The size of an ETJ automatically expands as the population of the bordering municipality increases. For example, a municipality with a population of 5,000 would have an ETJ of one-half mile, and a municipality with a population ranging from 5,000 to 24,999 would have an ETJ of one mile. As municipalities in Texas annex other areas, the connecting ETJs expand and shift to correspond with the growth.

DIGEST: CSHB 2902 would require a certain general-law municipality to release an area from its ETJ within 10 days after receiving a petition signed by 80 percent of real property owners in the area requesting the release.

CSHB 2902 would apply only to a general-law municipality that:

- was populated by fewer than 3,000 people;
- was in a county populated by more than 500,000 people adjacent to a county populated by more than 4 million people; and
- contained a gated community in which at least two-thirds of the municipality's residents lived.

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, 2011.

**SUPPORTERS
SAY:**

CSHB 2902 is a limited measure that would support the autonomy of a small local area, the Fulbrook planned community in Fort Bend County near the general-law towns of Weston Lakes and Fulshear, that has become subject to the laws of several different jurisdictions due to changes in neighboring communities. By allowing persons with a vested interest in the area to choose the jurisdiction under which they were governed, the bill would give power to citizens affected by the decisions of neighboring municipalities. CSHB 2902 would present an effective mechanism for these residents to fairly represent themselves while supporting development in their area.

CSHB 2902 would reasonably require the automatic release from extraterritorial jurisdiction if petitioned by at least 80 percent of real property owners in the area. By mandating the support of a large majority of the affected community, the bill would confirm the clear desires of the residents involved. Additionally, the municipality receiving the request would have adequate time to address it because state law would require a simple release.

The very limited, detailed requirement of CSHB 2902 would prevent it from possibly affecting any other jurisdiction in the state. The bill's requirements are narrowly tailored to apply only to a general-law municipality with very specific characteristics relating to its population, the population of its county, and the population of its neighboring county. The bill would further specify that two-thirds of residents would have to live in a gated community. As a result, CSHB 2902's provisions would reach only the intended geographic area outlined in the bill.

**OPPONENTS
SAY:**

CSHB 2902 would place a burden on a municipality to respond to the request for release in an appropriate manner. The 10-day period for the release would not be a reasonable amount of time for municipal officials to address the release. For a small municipality, the bill could necessitate spending additional resources for unplanned meetings by the city council or other governing officials, or the expediting of administrative processes.

The bill could affect several municipalities surrounding Harris County in the future. Since the language of the bill does not place a time limit on

when this particular release should occur, its effects could extend further than expected. Recent population changes in the area, as well as its forecasted growth within the next 10 years, could cause CSHB 2902 to impact nearby municipalities.

NOTES:

The substitute differs from the original in that it would apply to a general-law municipality with a population of 3,000 instead of 2,500 to reflect a recent population increase.