

- SUBJECT:** Changing annexation procedures and restrictions
- COMMITTEE:** Land and Resource Management — committee substitute recommended
- VOTE:** *After recommitted:*
7 ayes — Herrero, Bell, Bailes, Blanco, Faircloth, Krause, Stucky

0 nays
- SENATE VOTE:** On final passage, July 26 — 19-12 (Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Seliger, Uresti, Watson, West, Whitmire, Zaffirini)
- WITNESSES:** No public hearing
- DIGEST:** CSSB 6 would divide counties and municipalities into two categories for the purpose of annexation authority. A "tier 1 county" would be a county with a population of fewer than 500,000. A "tier 1 municipality" would be a city wholly located in one or more tier 1 counties that proposed to annex an area wholly located in one or more tier 1 counties.
- A "tier 2 county" would be a county with a population of 500,000 or more. A "tier 2 municipality" would be one wholly or partly located in a tier 2 county or would be one wholly located in one or more tier 1 counties that proposed to annex any part of a tier 2 county.
- Tier 1 municipalities generally would be subject to current annexation requirements. Tier 2 municipalities would be subject to new requirements and certain restrictions under CSSB 6.
- Annexation generally.** CSSB 6 would allow a person residing or owning land in any annexed area, not just those in areas annexed by cities with a population of less than 1.6 million as in current law, to enforce a service plan by applying for a writ of mandamus.
- The bill would apply to all municipalities several provisions in current law that apply only to municipalities smaller than 1.6 million, including a

requirement to negotiate with property owners for services in areas to be annexed.

Under the bill, a municipality proposing to annex an area would be required to notify public entities providing services to the area, such as a volunteer fire department or emergency medical services provider, prior to the first hearing required by CSSB 6.

CSSB 6 would restrict to certain tier 1 municipalities the existing authority to annex without consent certain roads and railway lines running adjacent and parallel to the city's boundaries. Tier 2 municipalities could annex a road or right-of-way by request of the owner or the governing body of a political subdivision that maintained the road under the procedures applicable to a tier 1 municipality.

Tier 2 annexation with full consent. CSSB 6 would create a process for tier 2 municipalities to annex, fully or for limited purposes, an area upon the request of every landowner. This process would require a service agreement and public hearings.

Tier 2 annexation without full consent. Areas with a population of fewer than 200 could be annexed, fully or for limited purposes, by a tier 2 municipality only by petition of more than 50 percent of the registered voters that included at least half the landowners in the area.

Areas with a population of 200 or more could be annexed by a tier 2 municipality only by approval of a majority of registered voters in the area at an election. If more than 50 percent of the land in the area was not owned by registered voters in the area, the municipality also would be required to receive consent through a petition signed by more than 50 percent of the landowners.

A municipality annexing an area of any population without consent of every landowner would have to:

- provide a list of services to be provided on or after the effective

- date of annexation;
- mail notice of the proposed annexation to each resident and property owner in the area; and
- hold hearings during and after the petition or election period.

If the petition or election failed to meet the given threshold, the municipality could not annex the area and could not try again for another year. A municipality would be prohibited from retaliating, and existing legal obligations, including the provision of government services, would remain in place following such a disapproval.

Annexation near military bases. CSSB 6 also would require a city, before annexation of an area within five miles of a military base, to adopt a resolution to maintain the compatibility of its regulation of the land with the base's operations.

Exceptions. Annexation of areas owned by the municipality, or areas involving certain strategic partnership agreements, navigable streams within the municipality's extra-territorial jurisdiction, or industrial districts, would not be subject to the petition or election procedures.

Effective date. The bill would take effect December 1, 2017, and would apply only to annexations not yet finalized as of that date.

SUPPORTERS
SAY:

CSSB 6 would restrict forced annexation and thereby protect the rights of residents and landowners. Under current law, Texans have limited power to stop a city from annexing their land, meaning that they can find themselves within the jurisdiction and taxing authority of a municipality when they have intentionally chosen to live outside of city limits. Taxpayers can then become responsible for paying for bonds and services for which they neither voted nor approved, which is tantamount to taxation without representation.

The bill would not prohibit cities from annexing territory to expand their tax bases. On the contrary, it would streamline the process and allow the city to make its case to the residents and landowners. Annexation may not

always be a net gain for locals in the annexed area because special districts, such as municipal utility districts, can do an exceptional job of providing the same services at a lower cost, and residents should be allowed to determine for themselves the benefits of being annexed. Cities also should not rely on annexation to balance their budgets. They instead should live within their means and expand only with the consent of those they would serve.

Any costs imposed on cities to comply with the bill would be minimal and easily recouped if annexation were successful. Even a small portion of new tax revenue from a single year would likely be sufficient to fund an election and administrative costs.

Limited purpose annexation has become a vehicle for cities to impose regulations on areas without providing services or representation. CSSB 6 would resolve this issue by requiring cities to obtain voter approval, just as with full annexation.

Landowners should be petitioned separately from residents because they are more heavily invested in living in the area than are renters, who may be short-term residents and often leave the area after a brief residency. Any increase in the property tax burden would be more directly felt by the property owners in the area and likely would have less impact on renters.

CSSB 6 would not jeopardize base operations through incompatible land use but would ensure that residents near military bases had a voice in the annexation process. The presence of a military base should not invalidate one's right to representation: residents near military bases should be afforded the same protections against forced annexation as everyone else. Moreover, there are other ways of preventing incompatible development and annexation is only one of several tools.

**OPPONENTS
SAY:**

CSSB 6, by taking away a key tool held by cities, could threaten the vitality of the urban centers that propel the state's economic strength. Annexation makes sense because the vast majority of those who live just

outside city limits commute into the city and rely on infrastructure, cultural attractions, and other essentials that are built and maintained by city tax revenue. Without successful annexation, cities would be unable to recoup costs and provide sufficient services, limiting economic potential. While approval could be received at an election, residents may not realize the scope of the benefits of annexation for their surrounding community and may instead focus only on the direct costs.

Unlike most states that strongly limit annexation in the manner proposed by CSSB 6, Texas directly shares no state tax revenue with municipalities and places burdens on cities to provide services that are not provided at the state level. The bill also could threaten essential economic development incentives funded and offered by cities, which are key to staying competitive with other states and attracting businesses and new residents to Texas.

CSSB 6 would increase costs for cities in several ways. It would impose a direct cost for elections and essentially would require taxpayers of a city to subsidize an election outside the city's current boundaries. Also, requiring a different service agreement for each new area to be annexed would result in administrative burdens and confusion.

Under the bill, even if the broader population of residents of the area voted to agree to be annexed, landowners could exercise a veto over the approval of the residents. Land ownership should not be afforded special status or consideration in the annexation process.

CSSB 6 could put military bases at risk of closure, threatening billions of dollars of economic activity brought into the state. One of the major considerations during the Base Realignment and Closure process is compatible land use near bases, as lights can interfere with night training and buildings can interfere with airfields, for example. Annexation is a critical tool to ensure compatible development, but by making annexation contingent on voter approval, the bill could make it ineffective, even when it may be necessary to prohibit certain land use.

NOTES:

CSSB 6 was reported favorably as substituted by the House Committee on Land and Resource Management on August 4, placed on the general state calendar for August 7, recommitted to committee, and again reported favorably as substituted on August 9.

A companion bill, HB 6 by Huberty, was left pending following a public hearing of the House Committee on Land and Resource Management on August 2.

The committee substitute differs in several ways from the bill as passed by the Senate, including that the committee substitute would:

- include counties with populations between 125,000 and 500,000 in the tier 1 county category;
- require a resolution, rather than agreement with the military base, before annexation of an area within five miles, rather than a quarter-mile, of the base; and
- not require voter approval of annexation of certain areas in Travis County under authority from an existing strategic partnership agreement.