

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 3262  
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Intergovernmental Relations  
5/20/2005  
Committee Report (Substituted)

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

The Town of South Padre Island (town) seeks validation of its annexation of 229.30 acres of land on December 1, 2004. The owners of the property (referred to sometimes as the "Franke Tract") initially petitioned the town to annex the 229.30 acres at the end of February, 2004. The town's board of aldermen considered and passed the annexation ordinance on first reading on May 5, 2004. Second and final reading came on December 1, 2004. Because South Padre Island is a general law municipality with less than 5,000 residents, it cannot annex territory on an involuntary basis, but instead can only act to annex an area upon request of the property owners.

A law passed in 2003 allows a property owner to negotiate for a particular zoning classification at the same time the property is being annexed, so that the area comes under municipal control with zoning agreed upon by the landowner and the municipality. The owners of the "Franke Tract" insisted on the town developing a new zoning classification to best fit their intended project on the property, and they and the town spent several months developing this new type of zoning. As a result, the annexation was not completed until December.

Other legislation, passed in 1999, indicates that annexations must be completed within 90 days of the date the municipality "institutes annexation proceedings." It is unclear whether this time limitation applies to a voluntary annexation initiated by the landowners. It is also unclear whether this provision applies because it fails to specify when a municipality "institutes annexation proceedings" in the context of a voluntary annexation initiated by 100 percent of the landowners.

The territory involved in the annexation and the subject of this validation bill was not involved in the pending litigation between the Town of South Padre Island and Port Isabel. The territory annexed by the town on December 1, 2004, has been in the town's extraterritorial jurisdiction since the initial incorporation of the town, and Port Isabel has never made any claim on this territory. The portion of the "Franke Tract" annexed by the town in December of 2004 has no bearing on the facts or law at issue in the ongoing litigation between the municipalities.

The purpose of H.B. 3264 is to validate the annexation made by the town and to ensure that the annexation was not in violation of any provision of the Local Government Code.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 1, Title 28, Revised Statutes, by adding Article 974d.45, as follows:

#### **Art. 974d.45. MUNICIPAL VALIDATION FOR VOLUNTARY ANNEXATION BY A GENERAL LAW MUNICIPALITY**

Sec. 1. Provides that an annexation or attempted annexation by the a general law municipality that occurred after May 1, 2004, and before January 1, 2005, and that was initiated by means of a petition signed by all property owners within the annexed area, is validated as of the date it occurred.

Sec. 2. Provides that this article does not apply to: an annexation or attempted annexation that, under a statute of this state, was a misdemeanor or felony at the time the act or proceeding occurred; certain municipal incorporations or attempted incorporations that occurred in violation of Chapters 42 or 43, Local Government Code; an ordinance that, at the time it was passed, was preempted by any statute of this state or the United States; or a matter that on the effective date of this article is involved in litigation that ultimately results in the matter being held invalid by a final judgment of a court, or has been held invalid by a final judgment of a court.

SECTION 2. Effective date: upon passage or September 1, 2005.