

- SUBJECT:** Transfer of extraterritorial jurisdiction between certain municipalities
- COMMITTEE:** Land and Resource Management — favorable, without amendment
- VOTE:** 8 ayes — Deshotel, Walle, Frank, Goldman, Herrero, Paddie, Simpson, Springer
0 nays
1 absent — Parker
- WITNESSES:** For — Alfred Damiani and Fernando Rocha, San Antonio Ranch Homeowners Association; Tom Schoolcraft, City of Helotes; (*Registered, but did not testify*: Angela Briles)

Against — John Dugan, City of San Antonio; (*Registered, but did not testify*: TJ Patterson, City of Fort Worth)
- BACKGROUND:** Local Government Code, ch. 42, establishes an extraterritorial jurisdiction (ETJ) around municipalities to promote the health, safety, and welfare of residents. The chapter also sets standards for determining the extent of ETJ for municipalities of various populations. In general, a municipality is prohibited from incorporating or annexing land in the existing ETJ of another municipality without its express consent.

If the existing municipality refuses to give consent, a majority of the voters in the subject area and owners of at least half of the land can petition the governing body to annex. If the governing body fails to do so, this failure constitutes its consent to the incorporation of the proposed municipality.

Local Government Code 43.024 establishes a process for inhabitants of an area to petition a general-law municipality for annexation. A general-law municipality may annex an area if a majority of qualified voters in the area vote in favor of annexation and accordingly file an affidavit to that effect.
- DIGEST:** HB 397 would allow certain municipalities to adopt a resolution accepting a transfer of another municipality's ETJ provided the area was contiguous with the accepting municipality's corporate limits or ETJ and the releasing

municipality had not identified the area to be annexed as of September 30, 2012.

An “accepting municipality” — one that could adopt a resolution under the bill — would have to be a general-law municipality with a population less than 7,500 that did not own an electric, gas, or water utility, and that was located in the same county with at least 75 percent of incorporated land of a transferring municipality. A “releasing municipality” would have to be one with a population of more than 1.3 million that had annexed territory for a limited purpose.

An accepting municipality could annex without consent any territory located in its ETJ before January 1, 2013, and any territory transferred to its ETJ under the provisions of HB 397. The transfer would be effective 10 days after the resolution adopted under the bill was published in general circulation newspapers of both affected municipalities.

The area to be transferred would have to be identified on a map and through standard surveying techniques and could not exceed the size of the corporate limits of the municipality receiving the land. The bill would supersede any conflicting provisions in state or local law. A resolution adopted under the bill could be challenged only by a *quo warranto* proceeding initiated by the attorney general.

This 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, 2013.

**SUPPORTERS
SAY:**

HB 397 would allow Helotes, Texas to annex land that is currently in San Antonio’s ETJ. The author plans to offer a floor amendment to clarify that the bill would apply to an accepting municipality that was a Type A general-law municipality with a population between 5,500 and 7,500 that did not own an electric, gas, or water utility (Helotes). A releasing municipality would be defined as a home-rule municipality with a population of more than 1.3 million and less than 1.5 million (San Antonio).

Residents who live in the subject tract, most of which is part of the San Antonio Ranch Homeowners Association, have for many years been working toward annexation by the City of Helotes. Residents in San Antonio Ranch consider themselves to be members of Helotes, as they

have Helotes mailing addresses and are geographically connected with that city. Current law, however, bars Helotes from taking measures to bring the land into its ETJ where it would be annexable.

San Antonio Ranch residents have already pursued to no avail options available to them under state law to initiate the annexation process. In 2009, San Antonio Ranch delivered a letter and petition to Helotes, which in turn adopted a resolution requesting that the City of San Antonio release the subject tract so that it could be annexed. The City of San Antonio, however, did not take any further steps to evaluate the request for annexation. As such, the process has stalled, and the residents of San Antonio Ranch have been kept in a state of limbo with limited services and no practicable path toward annexation.

HB 397 would free San Antonio Ranch residents from their current state of administrative limbo and enable them to take steps toward securing the level of services they require. Current channels available to Type A general-law municipalities will not work for the residents because their only option under existing law is to petition San Antonio for annexation. Helotes is in the best position to provide the San Antonio Ranch area with police, fire, public works, and other municipal services due to its geographic proximity and accessibility to the community via State Highway 16. For example, the nearest fire station in Helotes is about two miles away from San Antonio Ranch, while the nearest station in San Antonio is at least twice that distance.

In addition, San Antonio Ranch residents have little political standing in the City of San Antonio, a painful fact that recently was demonstrated when the San Antonio City Council shrugged off an organized effort among Ranch residents to oppose a planned development in their midst.

Arguments that San Antonio should retain the ETJ in question due to its placement in the Edwards Aquifer Recharge zone are exaggerated. The Edwards Aquifer is no less important to Helotes than it is to San Antonio. As such, Helotes has an equally strong incentive to uphold strict standards in the aquifer's environmentally sensitive recharge zone.

**OPPONENTS
SAY:**

It appears that HB 397 would apply to cities other than Helotes. The language in the bill would apply its provisions to a Type A general-law municipality in Bexar County with a population less than 7,500 that did not own an electric, gas, or water utility. A range of municipalities wider

than the bill's stated intent could be covered under this description.

HB 397 would circumvent existing state laws governing limited purpose jurisdiction and annexation and allow one municipality to take land from the ETJ of another without its consent. State laws governing municipal growth and annexation were carefully designed to establish clear processes, and where disputes arise, municipalities should be able to work out the differences without state intervention.

Current state law specifies a process by which property owners and residents can petition to initiate an annexation of land in another city's ETJ. Creating a specific process to resolve a dispute involving San Antonio Ranch, Helotes, and San Antonio is unnecessary and sets a dangerous precedent of legislative intervention in local affairs.

The City of San Antonio has a strong interest in retaining municipal authority over the land in and around the San Antonio Ranch HOA, as the area is in the Edwards Aquifer Recharge Zone. The recharge zone is an especially environmentally sensitive area where water infiltrates into the aquifer, the primary source of water for the entire San Antonio region and beyond. The City of San Antonio has ordinances designed to grant special protections to this area to ensure a steady, clean supply of water. If San Antonio were forced to transfer this land to Helotes, San Antonio would lose its ability to enact and maintain laws that protect this vital resource.

OTHER
OPPONENTS
SAY:

HB 397 would not include any condition to require popular support among the residents and property owners subject to transfer from San Antonio's ETJ to Helotes' ETJ. A bill enacted by the Legislature in 2011, HB 2902 by Zerwas, made a similar transfer in Fort Bend County subject to 80 percent of the real property owners in the area requesting the release. Without a requirement of a minimum threshold of support among residents, the bill unintentionally could force the transfer against the wishes of a majority of area residents.

NOTES:

The identical companion, SB 1761 by Uresti, was referred to the Senate Intergovernmental Relations Committee.

Bills similar to HB 397 have been considered by previous legislatures, including SB 1104 by Madla in 2005 and HB 535 by Leibowitz in 2007. Both bills died in the House Calendars Committee.