

**SUBJECT:** Removing municipal distinctions for consent annexation procedures

**COMMITTEE:** Land and Resource Management — favorable, without amendment

**VOTE:** 7 ayes — Craddick, Muñoz, C. Bell, Biedermann, Canales, Minjarez, Thierry

0 nays

2 absent — Leman, Stickland

**WITNESSES:** For — Terry Harper, Republican Party of Texas; Ed O'Neill, Stop Forced Annexation in Freestone County; Bryson Boyd, Stop Forced Annexation in Wise County; Laura Hester, Stop Involuntary Annexation in Parker County; Shelby Sterling, Texas Public Policy Foundation; Julia Parenteau, Texas Realtors; and seven individuals; (*Registered, but did not testify*: Angela Smith, Fredericksburg Tea Party; Linda Tyler, SAPOA; Jeremy Fuchs, Texas and Southwestern Cattle Raisers Association; Ned Munoz, Texas Association of Builders; Marissa Patton, Texas Farm Bureau; Daniel Gonzalez, Texas Realtors; and 15 individuals)

Against — Greg Smith, City of Corpus Christi; Scott Houston, Texas Municipal League; Tim Kelty; (*Registered, but did not testify*: Karen Kennard, City of Missouri City, City of Port Arthur; Trace Finley, United Corpus Christi Chamber of Commerce)

**BACKGROUND:** Local Government Code ch. 43 divides counties and municipalities into two categories for the purpose of annexation authority. A "Tier 1 county" is a county with a population under 500,000 that does not contain a freshwater fisheries center operated by the Texas Parks and Wildlife Department. A "Tier 1 municipality" is a city wholly located in one or more Tier 1 counties that proposes to annex an area wholly located in one or more Tier 1 counties.

A "Tier 2 county" is a county with a population of at least 500,000 or a county in which a majority of the voters approved being a Tier 2 county at

an election ordered by the commissioners court on the request of a petition signed by at least 10 percent of the registered voters of the county. A "Tier 2 municipality" is a city wholly or partly located in a Tier 2 county or a city wholly located in one or more Tier 1 counties that proposes to annex an area in a Tier 2 county.

Ch. 43 regulates the process by which Tier 1 municipalities may annex certain areas. In certain circumstances, a Tier 1 home-rule municipality may annex adjacent areas without the consent of voters or landowners of the area.

The process by which Tier 2 municipalities may annex certain areas also is regulated under ch. 43. In general, a Tier 2 municipality must gain approval from the majority of voters or landowners of an area, by petition or election, to annex the area.

**DIGEST:**

HB 347 would repeal several sections of Local Government Code ch. 43 related to the distinction between Tier 1 and Tier 2 municipalities and counties for consent annexation procedures. The bill would make related conforming changes to statute.

The bill would remove the definitions of a Tier 1 municipality and Tier 1 county, as well as the general annexation procedures applicable to Tier 1 municipalities under Local Government Code ch. 43. Certain Tier 1 procedures would apply to specific areas exempted from consent annexation, including enclaves, industrial districts, areas owned by certain municipalities, navigable streams, strategic partnerships, municipally owned reservoirs, municipally owned airports, and certain roads and rights-of-way.

HB 347 would remove the definitions of a Tier 2 municipality and Tier 2 county. The bill would expand the applicability of consent annexation procedures that applied to Tier 2 municipalities under Local Government Code ch. 43 to all municipalities to which it was otherwise applicable under those sections.

The bill would take effect September 1, 2019, and would apply only to an annexation that was not final on that date.

SUPPORTERS  
SAY:

HB 347 would help end the process of forced annexation, in which a property in an unincorporated area of a county may become part of a city against the residents' will. This practice forces property owners into the jurisdiction and taxing authority of a city without their consent, making them liable for taxes and debt to which they did not agree, effectively enabling taxation without representation.

Currently, areas in small "Tier 1" counties may legally be involuntarily annexed by home-rule cities. Landowners may face higher taxes or fees or burdensome municipal regulations without receiving improved services. Many special districts already provide the same services the city would but at a lower cost.

While residents of areas adjacent to a city may use certain city services such as roads or parks, they already pay for those services through sales and gas taxes. Cities should not annex lands just to increase their tax base and balance budgets but should live within their own means.

Cities in larger "Tier 2" counties, however, must gain consent to annex land. A Tier 1 county may become a Tier 2 county through an election triggered by a petition signed by at least 10 percent of voters in the county. The petition and election process is costly, burdensome, and confusing to voters, especially in rural counties that have fewer resources.

The bill would restrict all cities from using forced annexation by eliminating the distinction between Tier 1 and Tier 2, protecting the property rights of all landowners. Ending the municipal distinction also would streamline the annexation process, ending the need for several elections across most counties to opt into Tier 2 status, cutting costs and administrative burdens for the counties.

HB 347 would expand on legislation enacted in 2017 to bring Texas up to date with most other states by forbidding the practice of involuntary

annexation by all cities.

OPPONENTS  
SAY:

HB 347 would remove an important tool for cities to enhance the state's economic vitality. Municipal annexation is necessary because people who reside just outside of city limits tend to rely on city transportation infrastructure, cultural attractions, and other services without paying the same taxes as residents of the city. Without the ability to annex, cities could not plan for future growth or recoup costs for those services.

In Texas, cities do not receive any state tax revenue to provide services, but they may raise their own revenues to provide those services. The state allows municipal annexation so that cities may bring adjacent areas into the city boundaries when it makes sense. HB 347 would threaten this ability without providing state aid, harming economic development in urban centers that drive growth and employment.

Most businesses and individuals moving to the state choose to reside inside or near cities, meaning cities must provide more services to increasing populations. City services support development in the region as well as the entire state. The bill would slow the economic activity that keeps Texas competitive.

While approval to annex an area could be gained through an election, residents may not realize the benefits of annexation and instead focus on the direct costs. Elections also impose administrative burdens and costs on city residents, who effectively must subsidize an election outside the city's boundaries.

Residents of areas just outside a city may pay the city's sales and gas taxes, but these only represent a small part of a city budget, and the revenue is not large enough to cover the expansion of services.