

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1326
By: Campbell
Intergovernmental Relations
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, a small residential subdivision that has been historically governed by a single home owners association (HOA), is divided between a city's full-purpose jurisdiction, or city limits, and the city's ETJ. About eighty (80) of the community's homes are in the ETJ, and about fifteen (15) are in the city limits; inexplicably, even a few of the individual properties are divided between city limits and the ETJ.

Several years ago, the city attempted annexation of the larger portion of the subdivision outside the city limits, but was ultimately stopped due to a legal challenge and finding that the city's annexation would not have provided adequate services, as required under state law.

This community remains at impasse with the city. The minority of residents within the city limits are forced to pay full city taxes for services like fire and road access, which have been found to be inadequate.

The community would like to be free to explore self-governance or joining a closer neighboring city with which they share schools, geography, and an established sense of community. C.S.S.B. 1326 would provide this by allowing HOAs in certain circumstances to petition for disannexation and for release from the ETJ of a city when the city has been legally determined to be providing inadequate services.

C.S.S.B. 1326 amends current law relating to the release of extraterritorial jurisdiction by a municipality involving certain areas.

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 Subchapter B, Chapter 42, Local Government Code, by adding Section 42.0252, as follows:

Sec. 42.0252. RELEASE OF EXTRATERRITORIAL JURISDICTION: CERTAIN AREAS. (a) Provides that this section applies only in the extraterritorial jurisdiction of a municipality to:

- (1) an area that is subject to a legal determination that the municipality failed to provide or agree to provide adequate services to the area; or
- (2) an area that is adjacent to an area described by Subdivision (1), part of a real estate subdivision that contains all or part of an area described by Subdivision (1), and under the jurisdiction of a single property owners' association that governs the entire real estate subdivision.

(b) Provides that, for purposes of this section, a real estate subdivision is the subdivision's platted area and adjacent property owned or subject to assessment by the property owners' association of the subdivision.

(c) Authorizes a majority of the registered voters in an area described by Subsection (a)(1) or in a portion of the area to petition the municipality to release the area from the municipality's extraterritorial jurisdiction.

(d) Authorizes a majority of the registered voters in an area described by Subsection (a)(2) to petition the municipality to release the area from the municipality's extraterritorial jurisdiction if a petition has been filed under Subsection (c) for another area located in the same real estate subdivision.

(e) Requires a petition described by this section to be filed with the secretary or clerk of the municipality.

(f) Requires the secretary or clerk, not later than the 10th day after the date the secretary or clerk receives a petition under this section, to determine whether the petition is valid. Requires the governing body of the municipality, if the petition is determined valid, to immediately enter in the minutes or records of the municipality an order releasing the area from the municipality's extraterritorial jurisdiction.

(g) Authorizes an area, after an area is released from a municipality's extraterritorial jurisdiction under this section, to:

(1) remain as an unincorporated area of the county;

(2) incorporate in accordance with state law; or

(3) notwithstanding Section 43.014 (Authority to Annex Limited to Extraterritorial Jurisdiction), be annexed by an adjacent municipality under the procedures prescribed by Subchapter C-3 (Annexation of Area on Request of Owners: Tier 2 Municipalities), C-4 (Annexation of Area With Population of Less Than 200: Tier 2 Municipalities), or C-5 (Annexation of Area With Population of at Least 200: Tier 2 Municipalities), Chapter 43, as applicable, without being located in the municipality's extraterritorial jurisdiction.

SECTION 2. Amends Subchapter G, Chapter 43, Local Government Code, by adding Section 43.1435, as follows:

Sec. 43.1435. DISANNEXATION BY PETITION: CERTAIN REAL ESTATE SUBDIVISIONS. (a) Provides that this section applies only to an area that constitutes a portion of a real estate subdivision that is located in a certain area, under certain jurisdiction, and is the subject of or adjacent to an area that is the subject to certain legal determinations.

(b) Provides that, for purposes of this section, a real estate subdivision is the subdivision's platted area and adjacent property owned or subject to assessment by the property owners' association of the subdivision.

(c) Authorizes a majority of the registered voters of an area subject to this section to petition the municipality to disannex the area. Requires the petition to be filed with the secretary or clerk of the municipality.

(d) Requires the secretary or clerk, not later than the 10th day after the date the secretary or clerk receives the petition under subsection (c), to determine whether the petition is valid. Requires the governing body of the municipality, if the petition is determined to be valid, to immediately enter in the minutes or records

of the municipality an order discontinuing the area as part of the municipality. Provides that the area ceases to be part of the municipality on the date of the entry of the order.

(e) Provides that a disannexation under this section does not authorize the impairment of a municipal debt obligation and, to the extent applicable, the area is not released from its pro rata share of that indebtedness. Requires the governing body to continue to levy a property tax each year on the property in the area at the same rate that is levied on other property in the municipality until the taxes collected from the area equal to its pro rata share of the indebtedness. Authorizes those taxes to be charged only with the cost of levying and collecting the taxes, and requires the taxes to be applied exclusively in the payment of the pro rata share of the indebtedness. Provides that this subsection does not prevent the inhabitants of the area from paying in full at any time their pro rata share of the indebtedness.

SECTION 3. Effective date: upon passage or September 1, 2019.