

SUBJECT: Allowing Brushy Creek MUD in Round Rock ETJ rather than Austin ETJ

COMMITTEE: Land and Resource Management — favorable, without amendment

VOTE: 7 ayes — Saunders, Mowery, Combs, Hamric, Howard, Krusee, B. Turner  
0 nays

2 absent — Alexander, Hilderbran

SENATE VOTE: On final passage, April 26 — 30-0

WITNESSES: (*On House companion bill, HB 2681*):

For — Gerry Cheney, The Woods of Brushy Creek

Against — Michael Erdmann, City of Austin

On — James Vickrey, Brushy Creek Municipal Utility District

DIGEST: SB 1375 would allow a municipal utility district (Brushy Creek) composed of noncontiguous areas that are contained in the extraterritorial jurisdiction (ETJ) of two cities (Round Rock and Austin) to choose to be wholly contained within the ETJ of one city. The district could make this choice by a resolution of the governing body of the district (the Brushy Creek MUD board), which would be filed with both cities before the effective date specified in the resolution.

If the Brushy Creek MUD chose a city, another MUD (the Fern Bluff Municipal Utility District) that has a boundary contiguous to the district and a boundary contiguous to the city, could also choose by resolution to be wholly contained in the ETJ of the same city. A copy of the resolution of the Fern Bluff MUD would also have to be filed with both cities before the effective date specified in the resolution.

The city that was not selected would be required to release the MUD from its ETJ on the effective date of the resolution presented to the governing body of the city. The released area would become a part of the ETJ of the

selected city, and would not be subject to any ordinance of the city that was not selected by the district.

The provisions of the bill would control over any other law relating to the creation, application or operation of the ETJ of a city.

A MUD could make the choice authorized in the bill under the following conditions:

- the city selected by the MUD and all parts of the MUD are located in the same county;
- a majority of the area of the city not selected by the district is in a county other than the county in which the district is located and neither county has a population greater than 2,500,000;
- the boundary of the city selected by the district is located not more than two miles away from any part of the district;
- the noncontiguous areas of the district are not, at their closest part, more than two miles apart, and
- the district is within a water control and improvement district.

The bill would take immediate effect if approved by two-thirds of the membership of each house.

**SUPPORTERS  
SAY:**

The Brushy Creek MUD lies within the ETJ of both Austin and Round Rock, and its residents would like to be wholly within the ETJ of the City of Round Rock. Some residents of the area are concerned that otherwise they might face double taxation. If Austin or Round Rock annex Brushy Creek at different times, for example, residents might have to pay two sets of taxes. This is because if part of the area were annexed, the MUD would still service the remaining unannexed area, and residents would have to pay both MUD and city taxes.

It is impractical for Austin, which is much farther away from Brushy Creek than Round Rock, to service the area. Many Brushy Creek residents

strongly disagree with the City of Austin's policies and politics, and would much prefer to be part of Round Rock.

The City of Austin can recoup all the money it has spent on its regional wastewater facility by selling water and wastewater to other customers. In fact, the Brushy Creek area may continue to buy water from Austin.

The Fern Bluff MUD sandwiches the Brushy Creek MUD, and the two MUDS form a community of interest. It would be logical, practical and efficient for both of them to be in the same ETJ.

A 1995 survey done by the Brushy Creek MUD showed that a majority of the residents of the Brushy Creek district want to remove the entire district from Austin's ETJ.

OPPONENTS  
SAY:

The largest portion of the Brushy Creek MUD is located in Austin's ETJ; only a small non-contiguous portion of the district is located in Round Rock's ETJ. The Brushy Creek MUD is using that small area as an excuse to justify transferring the area to Round Rock's ETJ.

Developers in the Round Rock area want to escape the more stringent water quality regulations and land-use ordinances that would apply to development in the ETJ of Austin. What many residents of the area have failed to take into account is that, in the long term, careful ecologically sound development will add value to the land and benefit area residents by preserving the natural resources of the area.

Austin has recently invested millions of dollars in the Brushy Creek Regional Wastewater Facility constructed to serve the region's wastewater needs. Austin has just entered into a 25-year contract to serve the MUD and cannot recoup its capital investment in the area if it cannot annex the MUD in the future, to sell water and wastewater on a retail rather than a wholesale basis to the residents of the area.

As Austin's annexation power is limited, the economically advantaged move outside the city to the suburbs, the city's tax base shrinks and the city declines. An isolated city surrounded by independent local jurisdictions results in racial and economic segregation; a coordinated regional economy

generates economic power in a way that isolated communities cannot. Removing portions of Austin's ETJ would weaken the city and remove its bargaining power with political subdivisions in the area.

NOTES:

A related bill, HB 564 by Combs et al., which would require Austin to obtain voter approval in an area being annexed, passed the House on March 21 and was considered in public hearing in the Senate Natural Resources Committee on April 18.

SB 421 by Wentworth, which would allow the City of Cedar Park to include in its ETJ and area in the ETJ of Austin, was set on the May 17 General State Calendar.

SB 1376 by Wentworth, which would provide that Austin could only annex the Northwest Travis County MUD #1 under certain conditions, was reported favorably from the House Land and Resource Management Committee on May 12.