

**SUBJECT:** Transferring land from Austin ETJ to Cedar Park ETJ

**COMMITTEE:** Land and Resource Management — committee substitute recommended

**VOTE:** 5 ayes — Saunders, Combs, Howard, Krusee, B. Turner  
0 nays  
  
4 absent — Mowery, Alexander, Hamric, Hilderbran

**SENATE VOTE:** On final passage, March 27 — 30-0

**WITNESSES:** (*On House companion bill, HB 1016*):  
  
For — Dorothy L. Duckett, Cedar Park  
  
Against — Gus Garcia, Austin

**BACKGROUND:** Local Government Code sec. 42.021 defines the extraterritorial jurisdiction (ETJ) of cities with population of more than 100,000 to include the unincorporated area within five miles of the city boundary. The ETJ of cities with a population between 5,000 and 24,999 is one mile from the city boundary.

**DIGEST:** CSSB 421 would allow the governing body of Cedar Park (as defined in the bill) to adopt a resolution including in its ETJ an area within the ETJ of Austin (as defined by the bill) under the following conditions:

- Austin is not providing water, sewer or electricity to the released area;
- the owners of a majority of land within the area to be released request to be in Cedar Park's ETJ;
- the released area is adjacent to Cedar Park, wholly within a county in which both cities have territory and located in the county in which Cedar Park is located;
- Cedar Park had adopted ordinances or regulations for water quality standards that would be in conformity with TNRCC standards applicable to the area on January 1, 1995;

- Cedar Park had adopted a service plan to provide water and sewer service to the area.

The bill would require that the service plan include an assessment of the availability and feasibility of participation in a regional water and wastewater treatment facility and terms of participation, including rates proposed for service sufficient to reimburse regional participants over a reasonable time for the portion of a facility designed or constructed to serve the released area as of January 1, 1993.

Cedar Park would be required to deliver a copy of the service plan to Austin at least 30 days before the resolution to assume ETJ jurisdiction. Austin would, within 30 days, either accept the portion of the plan related to participation by Cedar Park or propose alternative terms of participation.

If Austin and Cedar Park failed to reach agreement on the service plan within 60 days, the matter could be appealed to TNRCC. TNRCC's decision would not be subject to judicial review. Austin could not, prior to January 1, 1997, discontinue or terminate any interlocal agreement relating to water or sewer service that it had with Cedar Park, as of January 1, 1995, without the consent of Cedar Park. Austin would not be required to continue to participate in a regional wastewater treatment plant providing service to any territory within the released area.

The transfer of the land would take place on the day that Cedar Park delivered a copy of the resolution to the Austin's municipal clerk.

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

**SUPPORTERS  
SAY:**

The tract of land that CSSB 421 would allow to be transferred to Cedar Park's ETJ has been in Austin's ETJ since about 1977 when the city strip-annexed FM 620. Since then, the City of Austin has done nothing to develop the area. Austin officials say they have invested in the Brushy Creek regional waste water facility with the intention of servicing the area, but the plant is many miles from the area. Austin's investment would be protected by the bill's provisions requiring reimbursement to the city of Austin of its actual costs in the area.

The area is approximately 4,000 acres of prime development property, and the City of Cedar Park has capabilities to serve the area in a time frame to meet development needs. The area is not located over the Edward aquifer recharge zone. It has a top-rated water treatment facility less than a mile away that can serve the area. Cedar Park's city operations run efficiently and without the bureaucratic delays that develop in larger cities. If Cedar Park could annex the area, the tract could be developed with affordable housing, which is what people in the area need and want.

The people in the area want to be part of Cedar Park and not Austin. There is no sense of community with Austin; the children in the area go to the Leander School District and people do their business locally, not in Austin, which is more than 20 miles away.

The City of Austin has had this land under its jurisdiction for 15 years. It will be another 15 years before Austin develops the land, if ever. CSSB 421 would allow the land to be developed by the people in the area.

**OPPONENTS  
SAY:**

CSSB 421 is an attempt by the City of Cedar Park to take thousands of acres of land that is in Austin's ETJ. Austin, which has had the land in its ETJ since the 1970s does have plans to bring city services to the area, but it has not done so yet because of the real estate market dip in the 1980's was so severe. Austin has already invested millions of dollars in the Brushy Creek regional wastewater treatment facility with the intention of serving the area in question.

Cedar Park should negotiate with Austin rather than circumvent city-to-city negotiations with legislative action. Cities generally swap land on a tract-by-tract basis.

Developers are pushing this bill so they will not be subject to Austin's stricter environmental and development regulations.

It is bad public policy for the Legislature to grab a portion of one city's ETJ and give it to another city. Cities make long-term plans based on the quantity and character of the land in their ETJ. Losing territory that could some day be annexed whittles away at the power of a city to grow and develop.

NOTES:           The committee substitute changed provisions of the Senate-passed version concerning the service plan, would prohibit Austin from discontinuing an existing service agreement before January 1, 1995, and would provide that Austin is not required to provide new services to the released area.