

SUBJECT: Requiring a city to annex all of county road and right-of-way

COMMITTEE: Land and Resource Management — committee substitute recommended

VOTE: 8 ayes — Walker, Crabb, F. Brown, Geren, Howard, Krusee, Mowery, B. Turner

0 nays

1 absent — Truitt

WITNESSES: For — Mark Mendez, Tarrant County Commissioners Court

Against — None

BACKGROUND: Local Government Code, chapter 43 sets requirements for municipalities that wish to annex land. Subchapter C, secs. 43.051-43.057 prescribe procedures for annexing land by municipal annexation plan. Subchapter C-1, secs. 43.061-43.065 prescribe procedures for annexing land for which a city does not need an annexation plan, including public notice and hearing requirements under sec. 43.063.

Sec. 43.052, amended in 1999, allows cities to annex land that is placed on an annexation plan only under the rules in that section. A city must wait three years after it places an area on its plan to complete the annexation. After the third anniversary, the city must complete the annexation within 30 days or else wait five more years to annex the area.

Before September 1999, when the Legislature added subchapter C-1, subchapter C prescribed general annexation procedures for municipalities and sec. 43.052 contained provisions for public notice of and hearings on annexations. This version of the statute provided that annexation had to occur within 90 days of the beginning of an annexation proceeding. The 1999 amendments allowed an area not included in an annexation plan between December 1, 1999, and December 1, 2002, to be annexed under the former statute until December 1, 2002.

DIGEST: CSHB 958 would amend the Local Government Code to require a city that annexed any part of a paved county road to annex the entire width of the road and its right-of-way. This requirement would apply to all areas included in an annexation plan under Local Government Code, sec. 43.052, regardless of the date on which the area was included in the plan.

The bill would require a city that included only part of a county road in its annexation plan before September 1, 2001, to amend that plan by December 1, 2001, to include the entire road and its right-of-way. The period allowed for annexing the entire road then would begin on the date of the amendment, even for the portion of the road designated in the original annexation plan.

For areas annexed under subsection C-1 by means other than annexation plans, the bill would apply only to an annexation for which the first hearing notice required by Local Government Code, sec. 43.063 was published on or after September 1, 2001.

The new requirements in CSHB 958 also would apply to an annexation subject to the pre-September 1999 version of the statute (because the area was not included in an annexation plan), but only if the first hearing notice required by the pre-September 1999 version of sec. 43.052 was published on or after September 1, 2001.

CSHB 958 would take effect September 1, 2001.

SUPPORTERS SAY: CSHB 958 would clarify jurisdictional issues that can arise when a city and a county each maintain a different section of a road. In describing an area to be annexed, surveyors often designate the centerline of a road as a boundary, since that is a more fixed and identifiable point than the edges of the road or its right-of-way. As a result, often unintentionally, a city annexes half of the road, while the other half remains within the jurisdiction of the county. A conflict then may arise over who is responsible for repairing and maintaining the road. A recent survey found 17 such jurisdictional disputes in one county. In some cases, these disputes have resulted in roads not being maintained or repaired at all.

CSHB 958 would eliminate such disputes and the waste of resources involved in resolving them. Responsibility for the roads would be clear, and maintenance and repairs would not be delayed while disputes were settled. The bill would not force annexation of a road, but would allow a city either to refuse to annex a road or to annex the entire road.

OPPONENTS
SAY:

CSHB 958 would force cities to annex the entire width of county roads and adjacent rights-of-way and thus assume the whole cost of maintaining those roads. If a city chose not to annex a road for this reason, the financial burden of maintaining these roads would continue to fall on the county, even though the city might annex just short of the road. The bill's fiscal note indicates that the cost of repairing and maintaining roads and their rights-of-way can range from about \$1,000 to \$10,000 per mile per year.

OTHER
OPPONENTS
SAY:

CSHB 958 would not go far enough. Cities also should be prevented from annexing tax-producing land next to a road while leaving the road for the county to maintain, as proposed in the original version of the bill.

NOTES:

HB 958 as filed would have required a city that annexed an area adjacent to a county road to annex that section of road, including the right-of-way on each side. A similar bill, SB 61 by Moncrief, which would require a city annexing an area bounded by a county road to annex the entire right-of-way associated with the section of road being annexed, is pending in the Senate Intergovernmental Relations Committee.