

SUBJECT: Allowing disannexation of areas not receiving full municipal services

COMMITTEE: Land and Resource Management — favorable, without amendment

VOTE: 7 ayes — Deshotel, Leman, Biedermann, Burrows, Craddick, Spiller,  
Thierry

1 nay — Romero

1 absent — Rosenthal

WITNESSES: For — Terry Irion, HFFTS; Shawn Breedlove, Homeowners for Fair Taxes and Services; Carrie Ann Finch; Ann Root; (*Registered, but did not testify*: Christopher Johns and Dean McWilliams, Homeowners for Fair Taxes and Services; James Welch, Orleans Harbor HOA; Eric Opiela, South Texans' Property Rights Association; Daniel Gonzalez and Julia Parenteau, Texas Realtors; and 67 individuals)

Against — Chris Herrington, Jonathan Kringen, and Lee Simmons, City of Austin; Rob Vires, City of Austin-Fire Department; (*Registered, but did not testify*: Mary Elliott, City of Fort Worth; Christine Wright, City of San Antonio; Julie Wheeler, Travis County Commissioners Court)

DIGEST: HB 1653 would allow the disannexation of certain areas not receiving full municipal services.

**Applicable areas.** The bill would apply only to an area that:

- did not receive full municipal services and had been exempt from municipal taxation for more than 20 years under an ordinance that made taxation dependent upon the provision of full municipal services; or
- was annexed for limited purposes before the enactment of Local Government Code subch. F and had not received full municipal services at any time.

**Petition.** A person owning real property wholly or partly located in such an area would be able to file a petition requesting that the municipality disannex the portion of property located in the municipality. If the property was located in a subdivision, the petition would have to request the disannexation of all real property in the subdivision located in the municipality and include the signatures of the owners of at least 51 percent of such property.

The municipality would be required to disannex the property for which a petition had been received no later than 30 days after receiving the petition. The filing of the petition would create an irrebuttable presumption that the property was not part of the municipality, and the presumption would not be contestable for any cause after the petition was received by the municipality.

**Liability.** The person filing the petition would be able to bring legal action to compel disannexation against a municipality that failed to disannex the property as required by the bill. If the person prevailed, the person would be able to recover attorney's fees and court costs related to the action. Government immunity to suit and from liability of the municipality would be waived to the extent of liability created by the bill.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUPPORTERS  
SAY:

HB 1653 would strengthen and protect the property rights of certain Lake Austin landowners by allowing them to disannex from the City of Austin due to the city's failure to provide adequate municipal services while taxing these areas.

In 1891, certain areas along the Colorado River (now Lake Austin) were brought under the limited use jurisdiction of the City of Austin for the purposes of shoreline maintenance. Since these areas would not be receiving regular municipal services, they were not required to pay city taxes. This special status was confirmed by city ordinance in 1986, but in

2019 the Austin City Council decided to impose property taxes on these areas, effectively transitioning them from a limited- to a full-purpose jurisdiction without following the legal process for annexation required by the Local Government Code, which also prohibits a city from taxing its limited jurisdiction areas.

Landowners in this area were given no say in the city's decision to begin taxing them, which overturned an agreement that had been upheld for nearly 130 years. Since taxation began, the city has never provided full municipal services to these landowners, who have to provide their own water systems at great expense due to a lack of city water and sewer services in the area. Some residents also have reported slow response times from police, fire, and EMS services.

Unfair taxation without sufficient services could make it impossible for some residents to remain in their homes. Legislative action is needed because these residents are unlikely to get a fair hearing or timely relief through local courts. HB 1653 would restore the intent of the original 1891 agreement and allow landowners to escape the burden of taxation for which they do not receive adequate city services.

Other agencies and political entities, such as the Texas Commission on Environmental Quality and Travis County, would be able to adequately fill any regulatory gaps related to shore maintenance that might be created by the disannexation of these areas. Austin's infrastructure and revenue needs should not be met at the expense of landowners who receive unequal treatment in the distribution of city services.

**CRITICS  
SAY:**

HB 1653 could undermine local control, compromise municipal environmental and safety regulations, and unfairly burden taxpayers.

The City of Austin has had full-purpose jurisdiction over these areas since the 1891 agreement. It is unclear why they were not taxed for so long. The city did exempt them from ad valorem taxation by ordinance in 1986, while at the same time confirming full-purpose jurisdiction over them. The city does provide full services to the degree feasible. Police, fire, and

emergency services are comparable to other areas on the outskirts of the city. While these areas are eligible for full water and sewer services, due to topographical constraints, residents would have to bear the cost of installing adequate infrastructure to receive such services, which would be prohibitively expensive. Also, water and sewer are fee-based services not funded by property taxes. There is ongoing litigation to determine whether city services to these areas are adequate, which is appropriate for settling such questions.

Eliminating Austin's regulatory oversight would degrade property values, increase shoreline erosion, make navigation less safe, and inhibit the city's ability to ensure water supply and quality for over one million Texans. Since the entire community pays for infrastructure improvements across a city, loss of property tax income due to disannexation of these areas could impose an inequitable burden on the rest of the city's residents, who would likely be faced with either higher taxes or diminished services. If passed, HB 1653 could encourage other owners of expensive properties to use state legislative action to avoid property taxes.