

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 710  
By: Burton  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Several cities around Texas have organized over the past decade utilizing limited government principles. An issue presented in many of these incorporation efforts is whether or not the newly incorporated city will be able to maintain the original intent of the community for a limited government city. S.B. 710 provides a statutory framework for a statutory limited government city for those communities wishing to organize such a city.

Cities in Texas are of two categories: Home Rule and Statutory. Home rule cities have a city charter adopted by its residents and tend to be larger in population. Statutory cities do not have a city charter; all of their authority, procedures and regulations are determined by the Texas Legislature and outlined in the Local Government Code. All new cities in Texas begin as statutory cities. Currently there are three types of statutory cities: A, B, and C. S.B. 710 creates a fourth type.

S.B. 710 establishes a new form of statutory city, termed a "Liberty City," that can be incorporated as a new city or converted from an existing statutory city of any type.

A Liberty City possesses a statutory Bill of Rights that limit the City Council from:

1. Infringing on essential rights;
2. Enacting Second Amendment restrictions;
3. Limiting freedom of speech or assembly; or
4. Conducting searches or seizures without a warrant.

The Liberty City Bill of Rights also statutorily adopts the rule of lenity in Liberty Cities. The Rule of Lenity is a judicial doctrine requiring that those ambiguities in a criminal statute relating to prohibition and penalties be resolved in favor of the defendant if it is not contrary to legislative intent.

Other provisions include:

1. The requirement of approval via election by residents targeted for involuntary annexations;
2. The requirement of approval via election by 60 percent for the initial adoption of a property tax;
3. The requirement of approval via election for the imposition of public debt instruments;
4. No authority for zoning ordinances;
5. A requirement for zero-based budgeting;
6. The requirement to produce an annual financial report; and
7. Enhanced transparency requirements that are required be posted on the city's website.

The governing body of a Liberty City may be mayor and aldermen or commission at the option of the voters and structured identically as current Type A, B, and C cities.

Existing statutory cities may convert to a Liberty City by petition and election under the same system currently used to convert between Type A, B, and C cities. A Liberty City may convert to a Type A, B, or C city under the same provision. A Liberty City may adopt a city charter and convert to a Home Rule City under existing statutory procedures.

As proposed, S.B. 710 amends current law relating to the organization of a municipal government as a Liberty City general-law municipality.

### **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 Section 1.005, Local Government Code, by amending Subdivision (1) and adding Subdivision (2-a), as follows:

(1) Redefines "general-law municipality" to include "Liberty City" as a designated municipality. Makes a nonsubstantive change.

(2-a) Defines "Liberty City."

SECTION 2. Amends Subchapter A, Chapter 5, Local Government Code, by adding Section 5.006, as follows:

Sec. 5.006. LIBERTY CITY. Provides that a municipality is a Liberty City general-law municipality if the municipality has incorporated as or converted to a Liberty City under Chapter 10 and has not converted to another type of municipality.

SECTION 3. Amends Subtitle A, Title 2, Local Government Code, by adding Chapter 10, as follows:

## CHAPTER 10. LIBERTY CITY

### SUBCHAPTER A. INCORPORATION OF LIBERTY CITY

Sec. 10.001. AUTHORITY TO INCORPORATE AS LIBERTY CITY. (a) Authorizes a community to incorporate as a Liberty City if the community constitutes an unincorporated city or town, contains 200 or more inhabitants, and meets the territorial requirements prescribed by Section 5.901 (Territorial Requirements for Incorporation as General-Law Municipality).

(b) Authorizes a community located wholly or partly in the extraterritorial jurisdiction of a municipality, notwithstanding Section 42.041 (Municipal Incorporation in Extraterrestrial Jurisdiction Generally), to incorporate as a Liberty City in that extraterritorial jurisdiction if:

(1) the residents of the community submit with the application for incorporation a petition consenting to the incorporation signed by a number of registered voters of the municipality equal to or greater than 25 percent of the number of voters who voted in the most recent municipal election; and

(2) the procedural requirements prescribed by Subchapter A, Chapter 8 (Incorporation as Type C General-Law Municipality), and Section 10.002 are satisfied.

Sec. 10.002. INCORPORATION PROCEDURES. (a) Provides that, except as provided by this section, the procedures for incorporating as a Liberty City are the same as those prescribed for incorporating as a Type C general-law municipality.

(b) Requires that a petition to incorporate as a Liberty City, in addition to the requirements prescribed by Subchapter A, Chapter 8:

(1) state whether the municipality will operate under an aldermanic or commission form of government;

(2) state the number of members, including the mayor, who will comprise the governing body of the municipality; and

(3) include the petition consenting to incorporation described by Section 10.001(b)(1) if the community is incorporating in the extraterritorial jurisdiction of a municipality.

#### SUBCHAPTER B. CONVERSION FROM ANOTHER MUNICIPAL TYPE TO LIBERTY CITY

Sec. 10.021. **AUTHORITY TO CONVERT TO LIBERTY CITY.** Authorizes a Type A, Type B, or Type C general-law municipality containing 200 or more residents to convert to a Liberty City.

Sec. 10.022. **RESOLUTION OR PETITION REQUESTING CONVERSION.** (a) Authorizes the majority of the governing body of a municipality by resolution to request the mayor to order an election to determine whether the municipality will convert to a Liberty City.

(b) Authorizes the residents of a municipality to request the mayor to order an election to determine whether the municipality will convert to a Liberty City by filing with the mayor a written petition requesting the election signed by a number of registered voters of the municipality equal to or greater than 25 percent of the number of voters who voted in the most recent municipal election.

(c) Requires a resolution or petition described by this section to state:

(1) whether the municipality, if converted, will operate under an aldermanic or commission form of government; and

(2) the number of members, including the mayor, who will comprise the governing body of the municipality, if converted.

(d) Requires the mayor, on receipt of a petition under this section, to determine whether the petition meets the requirements of Subsections (b) and (c).

Sec. 10.023. **ELECTION TO CONVERT.** Requires the mayor of a municipality to order an election to determine whether the municipality will convert to a Liberty City if a resolution is adopted that meets the requirements of Sections 10.022(a) and (c), or a petition is filed with and determined valid by the mayor under Sections 10.022(b) and (d).

Sec. 10.024. **ORDER OF CONVERSION.** Requires the mayor to enter an order in the minutes of the governing body of the municipality that the municipality is converted to a Liberty City if the conversion is approved by a vote of a majority of the qualified voters of the municipality voting at an election ordered under this subchapter. Provides that the conversion is effective on the date the order is entered.

#### SUBCHAPTER C. BILL OF RIGHTS

Sec. 10.041. **BILL OF RIGHTS.** Provides that a Liberty City is bound by the bill of rights set forth in this section on the date the municipality is incorporated as or converted to a Liberty City.

**SECTION 4.** Amends Subtitle B, Title 2, Local Government Code, by adding Chapter 27, as follows:

## CHAPTER 27. FORM OF GOVERNMENT IN LIBERTY CITY

### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 27.001. CHAPTER APPLICABLE TO LIBERTY CITY. Provides that this chapter applies only to a Liberty City.

### SUBCHAPTER B. FORM OF GOVERNMENT

Sec. 27.011. FORM OF GOVERNMENT. Provides that the municipality operates under the aldermanic or commission form of government, as determined by the voters when the municipality is incorporated as or converted to a Liberty City.

### SUBCHAPTER C. GOVERNING BODY

Sec. 27.021. GOVERNING BODY. Provides that the governing body of the municipality is comprised of the mayor and the number of commissioners or aldermen, as applicable, established at the election to incorporate as or convert to a Liberty City.

Sec. 27.022. INITIAL ELECTION OF GOVERNING BODY. Provides that the initial governing body of the municipality, including the mayor, must be elected at the election to incorporate as or convert to a Liberty City.

Sec. 27.023. TERM OF OFFICE. Provides that the mayor and members of the governing body of the municipality serve for a term of two years unless a longer term is established as authorized under Article XI (Term of Office Exceeding Two Years in Home Rule and General Law Cities; Vacancies), Section 11, of the Texas Constitution.

Sec. 27.024. BOND. Provides that the mayor and members of the governing body of the municipality must each execute a bond payable to the municipality and conditioned that the officer will faithfully perform the duties of the office.

### SUBCHAPTER D. MUNICIPAL OFFICERS

Sec. 27.041. CREATION OF MUNICIPAL OFFICES. Authorizes the governing body of the municipality to create additional offices of the municipality, determine the method for selecting officers, and prescribe the qualifications, duties, and tenure of office for officers.

Sec. 27.042. BOND. Authorizes the governing body of the municipality to require a municipal officer to execute a bond payable to the municipality and conditioned that the officer will faithfully perform the duties of the office.

SECTION 5. Amends Subchapter B, Chapter 43, Local Government Code, by adding Section 43.037, as follows:

Sec. 43.037. AUTHORITY OF LIBERTY CITY TO ANNEX AREA. (a) Authorizes a Liberty City, notwithstanding any other law, to annex an area under this chapter only if:

(1) the municipality holds an election in the municipality, at which the qualified voters of the municipality may vote on the question of the annexation, and a majority of the votes received at the election approve the annexation; and

(2) one of the following conditions is met:

(A) the municipality holds an election in the area proposed to be annexed, at which the qualified voters of the area may vote on the question of the annexation, and a majority of the votes received at the election approve the annexation;

(B) a majority of the registered voters of the area proposed to be annexed petition the governing body of the municipality, in writing, to annex the area; or

(C) no qualified voters reside in the area proposed to be annexed.

(b) Provides that, on the effective date of an annexation ordinance, the area becomes a part of the municipality and a resident of the area is entitled to the rights and privileges of a resident of the municipality and is bound by the acts and ordinances adopted by the municipality.

SECTION 6. Amends Chapter 51, Local Government Code, by adding Subchapter F, as follows:

#### SUBCHAPTER F. PROVISIONS APPLICABLE TO LIBERTY CITY

Sec. 51.091. SUBCHAPTER APPLICABLE TO LIBERTY CITY. Provides that this subchapter applies only to a Liberty City.

Sec. 51.092. AUTHORITY, DUTIES, AND PRIVILEGES. Provides that the municipality has the same authority, duties, and privileges as a Type A general-law municipality that are not inconsistent with this subchapter or another provision of law specifically governing a Liberty City.

Sec. 51.093. AUTHORITY TO IMPOSE PROPERTY TAX. Prohibits the municipality from imposing a tax on real or personal property or increasing the rate of an adopted tax on real or personal property unless the imposition or increase is approved by at least 60 percent of the qualified voters of the municipality voting at an election held for that purpose.

Sec. 51.094. AUTHORITY TO ISSUE PUBLIC DEBT; ELECTION. (a) Defines "debt obligation."

(b) Prohibits the municipality from issuing bonds, certificates of obligation, or other debt obligations unless the issuance is approved by a vote of a majority of the qualified voters of the municipality voting at an election held for that purpose.

Sec. 51.095. PROHIBITION ON ADOPTION AND ENFORCEMENT OF ZONING ORDINANCE OR COMPREHENSIVE PLAN. Prohibits the municipality from adopting or enforcing a zoning ordinance or regulation, or a comprehensive plan that provides for the long-range development of the municipality.

SECTION 7. Amends Section 102.002, Local Government Code, as follows:

Sec. 102.002. ANNUAL BUDGET REQUIRED. Requires the budget officer to prepare each year a zero-based municipal budget for a Liberty City, prepared by the budget officer, to cover the proposed expenditures of the municipal government for the succeeding year.

SECTION 8. Amends Section 102.003, Local Government Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Requires the budget of a municipality other than a Liberty City to show as definitely as possible each of the projects for which expenditures are set up in the budget and the estimated amount of money carried in the budget for each project. Makes no further change to this subsection.

(c) Requires the budget officer of a Liberty City to prepare a zero-based budget that contains:

(1) a description of the discrete activities the municipality conducts or performs with:

(A) a justification for each activity by reference to a statute, ordinance, or other legal authority; and

(B) an evaluation of the effectiveness and efficiency of the municipality's policies, management, fiscal affairs, and operations in relation to each activity;

(2) for each activity identified under Subdivision (1), an itemized account of expenditures required to maintain the activity at any minimum level of service required by statute, ordinance, or other legal authority;

(3) for each activity identified under Subdivision (1), an itemized account of expenditures required to maintain the activity at the current level of service or performance; and

(4) recommendations to the governing body of the municipality regarding whether the municipality should continue funding each activity identified under Subdivision (1) and, if so, at what level.

SECTION 9. Amends Subtitle A, Title 4, Local Government Code, by adding Chapter 110, as follows:

#### CHAPTER 110. MISCELLANEOUS FINANCIAL PROVISIONS AFFECTING MUNICIPALITIES

Sec. 110.001. LIBERTY CITY ANNUAL FINANCIAL REPORT; DEBT INFORMATION. (a) Defines "debt obligation."

(b) Requires the governing body of a Liberty City to prepare a comprehensive annual financial report that includes:

(1) financial information for each fund subject to the authority of the governing body of the municipality during the fiscal year, including:

(A) the total receipts of the fund, itemized by source of revenue, including taxes, assessments, service charges, grants of state money, gifts, or other general sources from which funds are derived;

(B) the total disbursements of the fund, itemized by the nature of the expenditure;

(C) the balance in the fund as of the last day of the fiscal year; and

(D) any other information required by law to be included by the municipality in an annual financial report or comparable annual financial statement, exhibit, or report; and

(2) then-current debt obligation information for the municipality that must state:

(A) the principal of all outstanding debt obligations;

(B) the principal of each outstanding debt obligation;

(C) the combined principal and interest required to pay all outstanding debt obligations on time and in full; and

(D) the combined principal and interest required to pay each outstanding debt obligation on time and in full.

Sec. 110.002. LIBERTY CITY WEBSITE; TRANSPARENCY WEB PAGE. (a) Provides that this section applies only to a Liberty City.

(b) Requires the municipality to maintain an Internet website.

(c) Requires the municipality to maintain on the municipality's Internet website a web page dedicated to providing transparency to the residents of the municipality of the activities of the municipality. Requires the municipality to post the municipal information and documents set forth in this subsection on the web page as soon as the information or document is available.

(d) Prohibits the municipality from removing a document required to be posted under Subsection (c) from the transparency web page until the third anniversary of the date the document is posted.

(e) Provides that the requirements prescribed by this section are in addition to any other requirement prescribed by law.

SECTION 10. Amends Section 271.043(7), Local Government Code, by redefining "issuer" to exclude a Liberty City.

SECTION 11. Amends Chapter 1251, Government Code, by designating Sections 1251.001, 1251.002, 1251.003, 1251.004, 1251.005, and 1251.006 as Subchapter A and adding a subchapter heading to read as follows:

SUBCHAPTER A. BOND ELECTION REQUIREMENTS FOR COUNTIES AND MUNICIPALITIES

SECTION 12. Amends Chapter 1251, Government Code, by adding Subchapter B, as follows:

SUBCHAPTER B. DEBT ELECTION BALLOTS FOR LIBERTY CITIES

Sec. 1251.051. DEFINITIONS. Defines "Liberty City" and "public security."

Sec. 1251.052. CONTENTS OF BALLOT PROPOSITION. (a) Requires the proposition submitted for an election to authorize a Liberty City to issue a public security to distinctly state:

(1) as a total amount and as a per capita amount:

(A) the then-current combined principal and interest required to pay all outstanding public securities of the municipality on time and in full; and

(B) the estimated combined principal and interest required to pay the public security to be authorized on time and in full; and

(2) if the public security is supported by property taxes, the annual increase in property taxes attributable to the public security to be issued that each homeowner of an average-priced home within the municipality may be required to pay.

(b) Provides that the requirements for a proposition prescribed by this section are in addition to any other requirements prescribed by law. Provides that, to the extent of a conflict between this section and Section 52.072 (Propositions), Election Code, this section controls.

SECTION 13. Effective date: September 1, 2015.