

# Local Government

## Legislator's Guide to the Issues 2017-18



## Involuntary Annexation



### The Issue

Texas law allows cities to unilaterally expand their boundaries by annexing new territory without the consent of its residents. Cities can thus assert control over outlying areas without giving affected property owners a vote in the process.

Municipal annexation power dates back to the 1912 Home Rule Amendment to the Texas Constitution. In response to a nationwide debate about citizens' rights to local self-governance, Texans enshrined the concept into the state's formational document. Home rule cities are thus defined by what they cannot do; such municipalities have the authority to exercise any power that is given them by the people and not prohibited by the Constitution or laws of the state.

Since no limit on annexation was expressly stated in the 1912 amendment, cities wielded virtually unlimited authority to annex property. However, after watching cities abuse the annexation power throughout the 20th century, the Legislature began to enact reforms.

In the 1960s for example, a land battle between Houston and Friendswood prompted the Legislature to pass the Municipal Annexation Act of 1963. The Act limited cities' expansion to a confined buffer zone around the municipality known as the extraterritorial jurisdiction ("ETJ").

Similarly, in 1989, the Legislature created a requirement that cities prepare a municipal annexation plan to extend services to newly annexed areas within four and a half years after annexation.

Finally, the "mother of all annexation battles" occurred in 1996. Houston decided to quickly and unilaterally take control of the wealthy, politically active Kingwood community while ignoring the area's vocal protestations. Less than a month later, Kingwood residents found their way to the Capitol, and the Texas Legislature enacted heightened requirements for municipal annexation plans, public hearing timelines, and notice requirements.

These annexation reforms made a significant difference in limiting some of the more dangerous parts of annexation authority generally, but do not go far enough in addressing the fundamental flaws inherent in the system, such as the involuntary nature of the process.

To overcome these flaws and better protect Texans' property rights, the Legislature should reform the system to allow affected property owners a chance to participate in the process through a popular election.

Cities have used the annexation laws to gerrymander municipal boundaries for their benefit, leading to some strangely-shaped jurisdictions:



### The Facts

- Citizens who prefer a smaller government and fewer central services live outside the city limits for a reason. Forcing citizens to become part of a city denies them the ability to vote with their feet.
- Cities view annexation as a way to expand their tax base and capture additional revenue, whether or not such annexation increases efficiencies. Wealthier suburbs are thus favored for annexation, although poorer areas outside of the city limits can oftentimes benefit more from municipal annexation since these communities frequently lack sufficient services.

- Cities often underestimate how much it will cost to expand their services to annexed areas, resulting in a dilution of services. Researchers Mary Edwards and Yu Xiao reported in the Urban Affairs Review that cities are typically required to take out debt and issue bonds to finance the costs of annexation. The San Antonio Police Officers Association vocalized this concern in opposition to the city's 2015 annexation plan, with the president of the union stating, "I think it's [annexation's] a horrible idea. We're barely covering what we've got right now."

## Recommendations

- Require a vote of affected residents and property owners prior to a municipal annexation. If the vote does not pass, the city should not be permitted to annex the area.
- Review the disannexation process to ensure that previously annexed citizens can enforce municipal promises to extend services to annexed areas, without the necessary involvement and approval of the Texas attorney general.

## Resources

[\*Ending Forced Annexation in Texas\*](#) by Jess Fields and James Quintero, Texas Public Policy Foundation (July 2015).

[\*The Philosophical Case Against Forced Annexation\*](#) by James Quintero and Jess Fields, Texas Public Policy Foundation (July 2015).

[\*Municipal Annexation\*](#) by Alan Bojorquez, Bojorquez Law Firm, PC (Dec. 2014).

