

LEGISLATORS' GUIDE TO THE 85th LEGISLATURE

S P E C I A L S E S S I O N 2 0 1 7

Ending Forced Annexation

The Issue

Texas is one of the few remaining states that allows forced annexation, a practice permitting home-rule cities to unilaterally expand their boundaries and capture property owners living on the outskirts. Texans forcibly annexed by a city are subject to higher taxes, tougher regulations, and a lot more debt, whether they like it or not.

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 early 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 limits 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.

In fact, such a reform nearly passed during the 85th Texas Legislature's regular session. The new changes would have required cities to gain the consent of residents and property owners in the targeted area by petition or vote before annexation. Unfortunately,

due to procedural obstructions, this reform effort failed to reach the governor's desk.

The Facts

- America was founded on the idea that citizens cannot be deprived of their liberty without representation and due process. The injustice of "taxation without representation" is not rectified by giving a citizen the right to vote after the government has already taken his or her money.
- 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] a horrible idea. We're barely covering what we've got right now."
- Forced annexation means that those annexed have a new government forced upon them by city officials they did not elect, to pay off debt they did not run up, and to finance services they do not want.

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.
- Stop cities from wrongfully extending their extraterritorial jurisdiction through impermissible interpretations of their development agreements.

continued

Resources

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

[Mythbusters: Annexation](#) by Allegra Hill, Texas Public Policy Foundation (May 2016).

[Ending Forced Annexation](#) by James Quintero, Texas Public Policy Foundation (March 2017).

