LOCAL GOVERNMENT CODE

TITLE 2. ORGANIZATION OF MUNICIPAL GOVERNMENT

SUBTITLE C. MUNICIPAL BOUNDARIES AND ANNEXATION

CHAPTER 43. MUNICIPAL ANNEXATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 43.001. DEFINITION. In this chapter, "extraterritorial jurisdiction" means extraterritorial jurisdiction as determined under Chapter 42.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.002. CONTINUATION OF LAND USE. (a) A municipality may not, after annexing an area, prohibit a person from:

(1) continuing to use land in the area in the manner in which the land was being used on the date the annexation proceedings were instituted if the land use was legal at that time; or

(2) beginning to use land in the area in the manner that was planned for the land before the 90th day before the effective date of the annexation if:

(A) one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use; and

(B) a completed application for the initial authorization was filed with the governmental entity before the date the annexation proceedings were instituted.

(b) For purposes of this section, a completed application is filed if the application includes all documents and other information designated as required by the governmental entity in a written notice to the applicant.

(c) This section does not prohibit a municipality from imposing:

(1) a regulation relating to the location of sexually oriented businesses, as that term is defined by Section 243.002;

(2) a municipal ordinance, regulation, or other requirement affecting colonias, as that term is defined by Section 2306.581, Government Code;

(3) a regulation relating to preventing imminent destruction of property or injury to persons;

(4) a regulation relating to public nuisances;

(5) a regulation relating to flood control;

(6) a regulation relating to the storage and use of hazardous substances; or

(7) a regulation relating to the sale and use of fireworks.

(d) A regulation relating to the discharge of firearms or other weapons is subject to the restrictions in Section 229.002.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 18 (S.B. 734), Sec. 3, eff. May 3, 2005.

SUBCHAPTER B. GENERAL AUTHORITY TO ANNEX

Sec. 43.021. AUTHORITY OF HOME-RULE MUNICIPALITY TO ANNEX AREA AND TAKE OTHER ACTIONS REGARDING BOUNDARIES. A home-rule municipality may take the following actions according to rules as may be provided by the charter of the municipality and not inconsistent with the procedural rules prescribed by this chapter:

(1) fix the boundaries of the municipality;

(2) extend the boundaries of the municipality and annex area adjacent to the municipality; and

(3) exchange area with other municipalities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.022. VOTER APPROVAL OF ANNEXATION BY HOME-RULE MUNICIPALITY REQUIRED UNDER CERTAIN CIRCUMSTANCES. (a) If, under its charter, the governing body of a home-rule municipality initiates or orders an election to submit to the qualified voters of the municipality the question of annexing an adjacent area, the governing body shall at the same time order an election to be held at a convenient location in the municipality to submit the question to the qualified voters of that area.

(b) The election order must:

(1) provide for separate elections for the voters of the municipality and for the voters of the area;

(2) be issued in the manner provided for other municipal elections;

(3) describe the area by metes and bounds; and

(4) provide for voting for or against the proposition: "The annexation of additional area, the assumption by the municipality of all bonded indebtedness and flat rates on the area and due to an irrigation district, water improvement district, or water control and improvement district, and the levy and collection of a tax on all property in the municipality sufficient to pay off and discharge the bonded indebtedness and flat rates."

(c) Public notice of the election must be given in the manner provided for other municipal elections.

(d) If, at the elections, a majority of the qualified voters of the municipality and a majority of the qualified voters of the area each approve the question, the municipality assumes all the bonded indebtedness and flat rates on the annexed area and due to the irrigation district, water improvement district, or water control and improvement district. The municipality shall pay, from the date of the annexation and out of the taxes collected on the area, the bonded indebtedness and the flat rates owed to the special district as they become due and payable. The municipality may not collect any taxes due to the municipality from a property owner of the area until the municipality pays the bonded indebtedness and the flat rates for the current year that they become due and payable and presents to the property owner the receipt for the payment.

(e) If the question is not approved as required by Subsection (d), the area may not be annexed.

(f) This section does not affect a charter provision providing for annexation of area by ordinance in a home-rule municipality with a population of more than 100,000. This section grants additional power to the municipality and is cumulative of the municipal charter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.023. AUTHORITY OF GENERAL-LAW MUNICIPALITY WITH

POPULATION OF MORE THAN 5,000 TO ANNEX AREA ON PETITION AND ELECTION OF AREA VOTERS. (a) A general-law municipality with a population of more than 5,000 may annex, as provided by this section, an area that is contiguous to the municipality and that is not more than one mile in width.

(b) The inhabitants of the area may petition the municipality to order an election in the area at which the qualified voters of the area may vote on the question of whether the area should become a part of the municipality. The petition must:

(1) describe the area by metes and bounds;

(2) be accompanied by a plat of the area;

(3) be signed by 100, or more, or by a majority of the qualified voters of the area; and

(4) be filed with the secretary or clerk of the municipality.

(c) After the petition is filed, the governing body of the municipality by ordinance may order the election. In the ordinance, the governing body shall specify the date of the election and each voting place, appoint the election officers, and prescribe the form of the ballot.

(d) Notice of the election must be given by posting a copy of the ordinance, certified by the secretary or clerk of the municipality in three public places in the area for the 10 days preceding the date of the election. The notice must be published as required by Chapter 4, Election Code.

(e) The election must be held in the manner prescribed for general municipal elections. The municipality shall pay the cost of the election.

(f) The governing body, by an order entered in its minutes, shall declare the election result. The order is conclusive of the municipality's authority to annex the area. If the result of the election establishes that a majority are in favor of becoming part of the municipality, the governing body by ordinance may annex the area.

(g) On the effective date of the ordinance, the area becomes a part of the municipality and the inhabitants of the area are entitled to the rights and privileges of the other citizens of the

municipality and are bound by the acts and ordinances adopted by the municipality.

(h) To contest an annexation proceeding held under this section, a contestant must file written notice and a written statement of the grounds for the contest with the secretary or clerk of the municipality within 60 days after the effective date of the ordinance annexing the area. If a contest is not filed in that manner before the expiration of that period, it is conclusively presumed that the election and the results of the election are valid, final, and binding on all courts.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.0235. ADDITIONAL REQUIREMENTS FOR ANNEXATION OF CERTAIN COMMERCIAL OR INDUSTRIAL AREAS BY GENERAL-LAW MUNICIPALITIES. (a) A general-law municipality may annex an area in which 50 percent or more of the property in the area to be annexed is primarily used for a commercial or industrial purpose only if the municipality:

(1) is otherwise authorized by this subchapter to annex the area and complies with the requirements prescribed under that authority; and

(2) obtains the written consent of the owners of a majority of the property in the area to be annexed.

(b) The consent required by Subsection (a)(2) must be signed by the owners of the property and must include a description of the area to be annexed.

Added by Acts 2015, 84th Leg., R.S., Ch. 717 (H.B. 1277), Sec. 1, eff. June 17, 2015.

Sec. 43.024. AUTHORITY OF TYPE A GENERAL-LAW MUNICIPALITY TO ANNEX AREA ON REQUEST OF AREA VOTERS. (a) This section applies only to the annexation of an area that:

(1) is one-half mile or less in width; and

(2) is contiguous to a Type A general-law municipality.

(b) If a majority of the qualified voters of the area vote in favor of becoming a part of the municipality, any three of those

voters may prepare an affidavit to the fact of the vote and file the affidavit with the mayor of the municipality.

(c) The mayor shall certify the filed affidavit to the governing body of the municipality. On receipt of the certified affidavit, the governing body by ordinance may annex the area.

(d) On the effective date of the ordinance, the area becomes a part of the municipality and the inhabitants of the area are entitled to the rights and privileges of other citizens of the municipality and are bound by the acts and ordinances adopted by the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.025. AUTHORITY OF TYPE B GENERAL-LAW MUNICIPALITY TO ANNEX AREA ON REQUEST OF AREA VOTERS. (a) If a majority of the qualified voters of an area contiguous to a Type B general-law municipality vote in favor of becoming a part of the municipality, any three of those voters may prepare an affidavit to the fact of the vote and file the affidavit with the mayor of the municipality.

(b) The mayor shall certify the filed affidavit to the governing body of the municipality. On receipt of the certified affidavit, the governing body by ordinance may annex the area.

(c) On the effective date of the ordinance, the area becomes a part of the municipality and the inhabitants of the area are entitled to the rights and privileges of other citizens of the municipality and are bound by the acts and ordinances adopted by the municipality.

(d) The municipality may not be enlarged under this section to exceed the area requirements established by Section 5.901.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.026. AUTHORITY OF TYPE A GENERAL-LAW MUNICIPALITY TO ANNEX AREA IT OWNS. The governing body of a Type A general-law municipality by ordinance may annex area that the municipality owns. The ordinance must describe the area by metes and bounds and must be entered in the minutes of the governing body.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.027. AUTHORITY OF GENERAL-LAW MUNICIPALITY TO ANNEX NAVIGABLE STREAM. The governing body of a general-law municipality by ordinance may annex any navigable stream adjacent to the municipality and within the municipality's extraterritorial jurisdiction.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.028. AUTHORITY OF MUNICIPALITIES TO ANNEX SPARSELY OCCUPIED AREA ON PETITION OF AREA LANDOWNERS. (a) This section applies only to the annexation of an area:

(1) that is one-half mile or less in width;

(2) that is contiguous to the annexing municipality; and

(3) that is vacant and without residents or on which fewer than three qualified voters reside.

(b) The owners of the area may petition the governing body of the municipality in writing to annex the area.

(c) The petition must describe the area by metes and bounds and must be acknowledged in the manner required for deeds by each person having an interest in the area.

(d) After the 5th day but on or before the 30th day after the date the petition is filed, the governing body shall hear the petition and the arguments for and against the annexation and shall grant or refuse the petition as the governing body considers appropriate.

(e) If the governing body grants the petition, the governing body by ordinance may annex the area. On the effective date of the ordinance, the area becomes a part of the municipality and the inhabitants of the area are entitled to the rights and privileges of other citizens of the municipality and are bound by the acts and ordinances adopted by the municipality.

(f) If the petition is granted and the ordinance is adopted, a certified copy of the ordinance together with a copy or duplicate of the petition shall be filed in the office of the county clerk of the county in which the municipality is located.

(g) An area of land that would be eligible for annexation under this section except that the area does not meet the contiguity

requirement of Subsection (a)(2) may be annexed under this section if a public right-of-way of a road or highway designated by the municipality exists that:

(1) is located entirely in the extraterritorial jurisdiction of the municipality; and

(2) when added to the area would cause the area to be contiguous to the municipality.

(h) Notwithstanding Section 43.054, on annexation of an area described by Subsection (g), the public right-of-way that makes the area eligible for annexation under Subsection (g) is included in the annexation to the municipality without regard to whether the owners of the public right-of-way sought annexation under this section. The ordinance providing for annexation must provide a metes and bounds description of the public right-of-way annexed under this subsection.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1052 (H.B. 1949), Sec. 1, eff. September 1, 2015.

Sec. 43.029. AUTHORITY OF CERTAIN SMALL MUNICIPALITIES TO ANNEX UNOCCUPIED AREA ON PETITION OF SCHOOL BOARD. (a) This section applies only to a municipality with a population of:

(1) 900 to 920;

(2) 1,251 to 1,259; or

(3) 3,944 to 3,964.

(b) This section applies only to the annexation of an area that is:

(1) contiguous to the annexing municipality; and

(2) vacant and without residents.

(c) The board of trustees of a public school occupying the area may petition the governing body of the municipality in writing to annex the area. Sections 43.028(c)-(f) apply to the petition and annexation under this section in the same manner in which they apply to the petition and annexation under that section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.030. AUTHORITY OF MUNICIPALITY WITH POPULATION OF 74,000 TO 99,700 IN URBAN COUNTY TO ANNEX SMALL, SURROUNDED GENERAL-LAW MUNICIPALITY. (a) A municipality that has a population of 74,000 to 99,700, that is located wholly or partly in a county with a population of more than 1.8 million, and that completely surrounds and is contiguous to a general-law municipality with a population of less than 600, may annex the general-law municipality as provided by this section.

(b) The governing body of the smaller municipality may adopt an ordinance ordering an election on the question of consenting to the annexation of the smaller municipality by the larger municipality. The governing body of the smaller municipality shall adopt the ordinance if it receives a petition to do so signed by a number of qualified voters of the municipality equal to at least 10 percent of the number of voters of the municipality who voted in the most recent general election. If the ordinance ordering the election is to be adopted as a result of a petition, the ordinance shall be adopted within 30 days after the date the petition is received.

(c) The ordinance ordering the election must provide for the submission of the question at an election to be held on the first uniform election date prescribed by Chapter 41, Election Code, that occurs after the 30th day after the date the ordinance is adopted and that affords enough time to hold the election in the manner required by law.

(d) Within 10 days after the date on which the election is held, the governing body of the smaller municipality shall canvass the election returns and by resolution shall declare the results of the election. If a majority of the votes received is in favor of the annexation, the secretary of the smaller municipality or other appropriate municipal official shall forward by certified mail to the secretary of the larger municipality a certified copy of the resolution.

(e) The larger municipality, within 90 days after the date the resolution is received, must complete the annexation by ordinance in accordance with its municipal charter or the general laws of the state. If the annexation is not completed within the

90-day period, any annexation proceeding is void and the larger municipality may not annex the smaller municipality under this section. However, the failure to complete the annexation as provided by this subsection does not prevent the smaller municipality from holding a new election on the question to enable the larger municipality to annex the smaller municipality as provided by this section.

(f) If the larger municipality completes the annexation within the prescribed period, the incorporation of the smaller municipality is abolished. The records, public property, public buildings, money on hand, credit accounts, and other assets of the smaller municipality become the property of the larger municipality and shall be turned over to the officers of that municipality. The offices in the smaller municipality are abolished and the persons holding those offices are not entitled to further remuneration or compensation. All outstanding liabilities of the smaller municipality are assumed by the larger municipality.

(g) In the annexation ordinance, the larger municipality shall adopt, for application in the area zoned by the smaller municipality, the identical comprehensive zoning ordinance that the smaller municipality applied to the area at the time of the election. Any attempted annexation of the smaller municipality that does not include the adoption of that comprehensive zoning ordinance is void. That comprehensive zoning ordinance may not be repealed or amended for a period of 10 years unless the written consent of the landowners who own at least two-thirds of the surface land of the annexed smaller municipality is obtained.

(h) If the annexed smaller municipality has on hand any bond funds for public improvements that are not appropriated or contracted for, the funds shall be kept in a separate special fund to be used only for public improvements in the area for which the bonds were voted.

(i) On the annexation, all claims, fines, debts, or taxes due and payable to the smaller municipality become due and payable to the larger municipality and shall be collected by it. If taxes for the year in which the annexation occurs have been assessed in the smaller municipality before the annexation, the amounts

assessed remain as the amounts due and payable from the inhabitants of the smaller municipality for that year.

(j) This section does not affect a charter provision of a home-rule municipality. This section grants additional power to the municipality and is cumulative of the municipal charter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 80, eff. Sept. 1, 1991.

Sec. 43.031. AUTHORITY OF ADJACENT MUNICIPALITIES TO CHANGE BOUNDARIES BY AGREEMENT. Adjacent municipalities may make mutually agreeable changes in their boundaries of areas that are less than 1,000 feet in width.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 3(c), eff. Aug. 28, 1989.

Sec. 43.032. AUTHORITY OF CERTAIN TYPE A GENERAL-LAW MUNICIPALITIES TO ANNEX AN AREA UPON PETITION BY OWNERS. (a) The governing body of a general-law municipality with a population of 1,500 to 1,599 may annex an area:

(1) that is adjacent to the annexing municipality;

(2) that is not being served with water or sewer service from a governmental entity; and

(3) for which a petition requesting annexation has been filed with the municipality.

(b) A petition requesting annexation filed under Subsection (a)(3) must:

(1) describe the area to be annexed by metes and bounds;

(2) be signed by each owner of real property in the area to be annexed; and

(3) be filed with the secretary or clerk of the municipality.

(c) Before filing the petition, the petitioners and the governing body of the municipality may enter into a development agreement to further cooperation between the municipality regarding the proposed annexation. The agreement must be attached to the petition and may allow:

(1) a facility or service, including optional, backup, emergency, mutual aid, or supplementary facilities or services, to be provided to the area or any part of the area by the municipality, a landowner, or by any other person;

(2) standards for requesting and receiving any form of municipal consent or approval required to perform an activity;

(3) remedies for breach of the agreement;

(4) the amendment, renewal, extension, termination, or any other modification of the agreement;

(5) a third-party beneficiary to be specifically designated and conferred rights or remedies under the agreement; and

(6) any other term to which the parties agree.

(d) If the governing body certifies that the petition meets the requirements of this section and agrees to enter any proposed development agreement attached to the petition, the governing body by ordinance may annex the area. On the effective date of the ordinance, the area is annexed.

(e) If the area is annexed, the municipality shall:

(1) file a certified copy of the ordinance together with a copy of the petition, including any attached development agreement, in the office of the county clerk of the county in which the municipality is located and with each party to the agreement; and

(2) provide a copy of the filed documents to each landowner in the area.

(f) The annexation of an area under this section does not expand the extraterritorial jurisdiction of the municipality. Sections 42.021 and 42.022 do not apply to an annexation made under this section.

Added by Acts 2005, 79th Leg., Ch. 972 (H.B. 1772), Sec. 1, eff. June 18, 2005.

Sec. 43.033. AUTHORITY OF GENERAL-LAW MUNICIPALITY TO ANNEX AREA. (a) Except as provided by Section 43.0235, a general-law municipality may annex adjacent territory without the consent of any of the residents or voters of the area and without the consent

of any of the owners of land in the area provided that the following conditions are met:

(1) the municipality has a population of 1,000 or more and is not eligible to adopt a home-rule charter;

(2) the procedural rules prescribed by this chapter are met;

(3) the municipality must be providing the area with water or sewer service;

(4) the area:

(A) does not include unoccupied territory in excess of one acre for each service address for water and sewer service; or

(B) is entirely surrounded by the municipality and the municipality is a Type A general-law municipality;

(5) the service plan requires that police and fire protection at a level consistent with protection provided within the municipality must be provided to the area within 10 days after the effective date of the annexation;

(6) the municipality and the affected landowners have not entered an agreement to not annex the area for a certain time period; and

(7) if the area is appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Tax Code:

(A) the municipality offers to make a development agreement with the landowner in the manner provided by Section 212.172 that would:

(i) guarantee the continuation of the extraterritorial status of the area; and

(ii) authorize the enforcement of all regulations and planning authority of the municipality that do not interfere with the agricultural or wildlife management use of the area; and

(B) the landowner fails to accept an offer described by Paragraph (A) within 30 days after the date the offer is made.

(b) If, after one year but before three years from the

passage of an ordinance annexing an area under this section, a majority of the landowners or registered voters in the area vote by petition submitted to the municipality for disannexation, the municipality shall immediately disannex the area. If the municipality disannexes the area under this subsection, the municipality may discontinue providing the area with water and sewer service.

Added by Acts 1991, 72nd Leg., ch. 904, Sec. 1, eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 208, Sec. 1, eff. Aug. 30, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 972 (H.B. 1772), Sec. 2, eff. June 18, 2005.

Acts 2015, 84th Leg., R.S., Ch. 717 (H.B. 1277), Sec. 2, eff. June 17, 2015.

Sec. 43.034. AUTHORITY OF GENERAL-LAW MUNICIPALITY TO ANNEX AREA; CERTAIN MUNICIPALITIES. Except as provided by Section 43.0235, a general-law municipality may annex adjacent territory without the consent of any of the residents or voters of the area and without the consent of any of the owners of land in the area if:

(1) the municipality has a population of 1,762-1,770, part of whose boundary is part of the shoreline of a lake whose normal surface area is 75,000 acres or greater and which is located completely within the State of Texas;

(2) the procedural rules prescribed by this chapter are met;

(3) the service plan requires that police and fire protection at a level consistent with protection provided within the municipality must be provided to the area within 10 days after the effective date of the annexation; and

(4) the municipality and the affected landowners have not entered an agreement to not annex the area for a certain period.

Added by Acts 1997, 75th Leg., ch. 1250, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 43, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 61, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 717 (H.B. 1277), Sec. 3, eff. June 17, 2015.

Sec. 43.035. AUTHORITY OF MUNICIPALITY TO ANNEX AREA QUALIFIED FOR AGRICULTURAL OR WILDLIFE MANAGEMENT USE OR AS TIMBER LAND. (a) This section applies only to an area:

(1) eligible to be the subject of a development agreement under Subchapter G, Chapter 212; and

(2) appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Tax Code, or as timber land under Subchapter E of that chapter.

(b) A municipality may not annex an area to which this section applies unless:

(1) the municipality offers to make a development agreement with the landowner under Section 212.172 that would:

(A) guarantee the continuation of the extraterritorial status of the area; and

(B) authorize the enforcement of all regulations and planning authority of the municipality that do not interfere with the use of the area for agriculture, wildlife management, or timber; and

(2) the landowner declines to make the agreement described by Subdivision (1).

(c) For purposes of Section 43.021(2) or another law, including a municipal charter or ordinance, relating to municipal authority to annex an area adjacent to the municipality, an area adjacent or contiguous to an area that is the subject of a development agreement described by Subsection (b)(1) is considered adjacent or contiguous to the municipality.

(d) A provision of a development agreement described by Subsection (b)(1) that restricts or otherwise limits the annexation of all or part of the area that is the subject of the agreement is void if the landowner files any type of subdivision plat or related development document for the area with a governmental entity that

has jurisdiction over the area, regardless of how the area is appraised for ad valorem tax purposes.

(e) A development agreement described by Subsection (b)(1) is not a permit for purposes of Chapter 245.

Added by Acts 2007, 80th Leg., R.S., Ch. 225 (H.B. 1472), Sec. 1, eff. May 25, 2007.

Sec. 43.036. TRANSFER OF AREA AND CHANGE IN BOUNDARIES BETWEEN CERTAIN MUNICIPALITIES. (a) This section applies only to an area that:

(1) is contiguous to the corporate boundaries of a municipality with a population of more than 5,000;

(2) is located within the corporate boundaries of a home-rule municipality with a population of more than 1.1 million;

(3) has no residents; and

(4) has located within the area a facility with over one million square feet of retail space that has remained primarily vacant for at least 18 months before the effective date of the boundary change agreement described by this section, as determined by the municipalities that are parties to the agreement.

(b) Before December 31, 2008, a home-rule municipality with a population of more than 1.1 million may enter into a boundary change agreement with a municipality with a population of more than 5,000 to release an area described by Subsection (a) from the more populous municipality's corporate boundaries and transfer the area to be included within the corporate boundaries of the other municipality. The boundary change agreement must:

(1) be adopted by ordinance or resolution of the governing body of each municipality; and

(2) contain a metes and bounds description of the area.

(c) The owners of a majority of the acreage of land contained in an area described by Subsection (a) must consent in writing to the release and transfer of the area to be included within the corporate boundaries of the other municipality. The owners' written consent to the release and transfer must:

(1) be submitted to each municipality that is a party

to the boundary change agreement before the governing body of either municipality may approve the boundary change agreement; and

(2) contain a metes and bounds description of the area.

(d) The less populous municipality, as a term of the boundary change agreement, may agree to share a portion of that municipality's local sales tax revenue or ad valorem tax revenue, or both, attributable to the area that is the subject of the boundary change agreement, for a defined period, with the more populous municipality.

(e) The boundary change agreement may establish an effective date of the boundary change and may be subject to provisions that establish conditions precedent to the boundary change. On the effective date of the boundary change:

(1) the area released and transferred as authorized by this section ceases to be part of the more populous municipality and is included within the corporate boundaries of the less populous municipality for all purposes;

(2) the corporate boundaries of the less populous municipality are extended to include the area;

(3) the extraterritorial jurisdiction of each municipality is expanded or decreased in accordance with the changes in the municipality's boundaries; and

(4) the area that is the subject of the boundary change agreement is bound by the acts, ordinances, codes, resolutions, and regulations of the less populous municipality.

(f) Each municipality shall modify any official map or other applicable document to reflect the change in the municipality's boundaries.

(g) Notwithstanding any other provision of this chapter, Sections 43.031, 43.148, and 43.905 and Subchapters C and C-1 do not apply to an area that is the subject of, or a party to, a boundary change agreement authorized by this section.

(h) If a provision of the charter of a home-rule municipality described by Subsection (a)(2) is in conflict with any provision of this section, the provisions of this section prevail over the conflicting charter provision.

Added by Acts 2007, 80th Leg., R.S., Ch. 1097 (H.B. 3367), Sec. 1, eff. June 15, 2007.
Renumbered from Local Government Code, Section 43.035 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(64), eff. September 1, 2009.

Sec. 43.037. PROHIBITION AGAINST ANNEXATION TO SURROUND MUNICIPALITY IN CERTAIN COUNTIES. A municipality with a population of more than 175,000 located in a county that contains an international border and borders the Gulf of Mexico may not annex an area that would cause another municipality to be entirely surrounded by the corporate limits or extraterritorial jurisdiction of the annexing municipality.
Added by Acts 2015, 84th Leg., R.S., Ch. 941 (H.B. 4059), Sec. 3, eff. June 18, 2015.

SUBCHAPTER C. ANNEXATION PROCEDURE FOR AREAS ANNEXED UNDER MUNICIPAL ANNEXATION PLAN

Sec. 43.051. AUTHORITY TO ANNEX LIMITED TO EXTRATERRITORIAL JURISDICTION. A municipality may annex area only in its extraterritorial jurisdiction unless the municipality owns the area.
Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.052. MUNICIPAL ANNEXATION PLAN REQUIRED. (a) In this section, "special district" means a municipal utility district, water control and improvement district, or other district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(b) A municipality may annex an area identified in the annexation plan only as provided by this section.

(c) A municipality shall prepare an annexation plan that specifically identifies annexations that may occur beginning on the third anniversary of the date the annexation plan is adopted. The municipality may amend the plan to specifically identify annexations that may occur beginning on the third anniversary of

the date the plan is amended.

(d) At any time during which an area is included in a municipality's annexation plan, a municipal utility district or other special district that will be abolished as a result of the annexation, excluding an emergency services district, in which the area is located may not without consent of the municipality:

(1) reduce the tax rate applicable to the area if the amount that would remain in the debt service fund after the reduction and after subtracting the amount due for debt service in the following year is less than 25 percent of the debt service requirements for the following year;

(2) voluntarily transfer an asset without consideration; or

(3) enter into a contract for services that extends beyond the three-year annexation plan period other than a contract with another political subdivision for the operation of water, wastewater, and drainage facilities.

(e) A municipality may amend its annexation plan at any time to remove an area proposed for annexation. If, before the end of the 18th month after the month an area is included in the three-year annexation cycle, a municipality amends its annexation plan to remove the area, the municipality may not amend the plan to again include the area in its annexation plan until the first anniversary of the date the municipality amended the plan to remove the area. If, during or after the 18 months after the month an area is included in the three-year annexation cycle, a municipality amends its annexation plan to remove the area, the municipality may not amend the plan to again include the area in its annexation plan until the second anniversary of the date the municipality amended the plan to remove the area.

(f) Before the 90th day after the date a municipality adopts or amends an annexation plan under this section, the municipality shall give written notice to:

(1) each property owner in the affected area, as indicated by the appraisal records furnished by the appraisal district for each county in which the affected area is located, that the area has been included in or removed from the municipality's

annexation plan;

(2) each public entity, as defined by Section 43.053, or private entity that provides services in the area proposed for annexation; and

(3) each railroad company that serves the municipality and is on the municipality's tax roll if the company's right-of-way is in the area proposed for annexation.

(g) If an area is not removed from the municipality's annexation plan, the annexation of the area under the plan must be completed before the 31st day after the third anniversary of the date the area was included in the annexation plan. If the annexation is not completed within the period prescribed by this subsection, the municipality may not annex the area proposed for annexation before the fifth anniversary of the last day for completing an annexation under this subsection.

(h) This section does not apply to an area proposed for annexation if:

(1) the area contains fewer than 100 separate tracts of land on which one or more residential dwellings are located on each tract;

(2) the area will be annexed by petition of more than 50 percent of the real property owners in the area proposed for annexation or by vote or petition of the qualified voters or real property owners as provided by Subchapter B;

(3) the area is or was the subject of:

(A) an industrial district contract under Section 42.044; or

(B) a strategic partnership agreement under Section 43.0751;

(4) the area is located in a colonia, as that term is defined by Section 2306.581, Government Code;

(5) the area is annexed under Section 43.026, 43.027, 43.029, or 43.031;

(6) the area is located completely within the boundaries of a closed military installation; or

(7) the municipality determines that the annexation of the area is necessary to protect the area proposed for annexation or

the municipality from:

(A) imminent destruction of property or injury to persons; or

(B) a condition or use that constitutes a public or private nuisance as defined by background principles of nuisance and property law of this state.

(i) A municipality may not circumvent the requirements of this section by proposing to separately annex two or more areas described by Subsection (h)(1) if no reason exists under generally accepted municipal planning principles and practices for separately annexing the areas. If a municipality proposes to separately annex areas in violation of this section, a person residing or owning land in the area may petition the municipality to include the area in the municipality's annexation plan. If the municipality fails to take action on the petition, the petitioner may request arbitration of the dispute. The petitioner must request the appointment of an arbitrator in writing to the municipality. Sections 43.0564(b), (c), and (e) apply to the appointment of an arbitrator and the conduct of an arbitration proceeding under this subsection. Except as provided by this subsection, the municipality shall pay the cost of arbitration. If the arbitrator finds that the petitioner's request for arbitration was groundless or requested in bad faith or for the purposes of harassment, the arbitrator shall require the petitioner to pay the costs of arbitration.

(j) If a municipality has an Internet website, the municipality shall:

(1) post and maintain the posting of its annexation plan on its Internet website;

(2) post and maintain the posting on its Internet website of any amendments to include an area in its annexation plan until the date the area is annexed; and

(3) post and maintain the posting on its Internet website of any amendments to remove an area from its annexation plan until the date the municipality may again include the area in its annexation plan.

(k) Notwithstanding the restrictions imposed by Subsections

(e) and (g), under an agreement described by Section 43.0563 a municipality may annex an area for full or limited purposes at any time on petition of the owner of the area for the annexation if the area:

(1) is in the municipality's annexation plan; or

(2) was previously in the municipality's annexation plan but removed under Subsection (e).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1167, Sec. 4, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1185 (H.B. 610), Sec. 1, eff. June 15, 2007.

Sec. 43.053. INVENTORY OF SERVICES AND FACILITIES REQUIRED. (a) In this section, "public entity" includes a municipality, county, fire protection service provider, including a volunteer fire department, emergency medical services provider, including a volunteer emergency medical services provider, or a special district, as that term is defined by Section 43.052.

(b) After adopting an annexation plan or amending an annexation plan to include additional areas under Section 43.052, a municipality shall compile a comprehensive inventory of services and facilities provided by public and private entities, directly or by contract, in each area proposed for annexation. The inventory of services and facilities must include all services and facilities the municipality is required to provide or maintain following the annexation.

(c) The municipality shall request, in the notice provided under Section 43.052(f), the information necessary to compile the inventory from each public or private entity that provides services or facilities in each area proposed for annexation. The public or private entity shall provide to the municipality the information held by the entity that is necessary to compile the inventory not later than the 90th day after the date the municipality requests the information unless the entity and the municipality agree to extend the period for providing the information. The information provided under this subsection must include the type of service provided,

the method of service delivery, and all information prescribed by Subsections (e) and (f). If a service provider fails to provide the required information within the 90-day period, the municipality is not required to include the information in an inventory prepared under this section.

(d) The information required in the inventory shall be based on the services and facilities provided during the year preceding the date the municipality adopted the annexation plan or amended the annexation plan to include additional areas.

(e) For utility facilities, roads, drainage structures, and other infrastructure provided or maintained by public or private entities, the inventory must include:

(1) an engineer's report that describes the physical condition of all infrastructure elements in the area; and

(2) a summary of capital, operational, and maintenance expenditures for that infrastructure.

(f) For police, fire, and emergency medical services provided by public or private entities, the inventory must include for each service:

(1) the average dispatch and delivery time;

(2) a schedule of equipment, including vehicles;

(3) a staffing schedule that discloses the certification and training levels of personnel; and

(4) a summary of operating and capital expenditures.

(g) The municipality shall complete the inventory and make the inventory available for public inspection on or before the 60th day after the date the municipality receives the required information from the service providers under Subsection (c).

(h) The municipality may monitor the services provided in an area proposed for annexation and verify the inventory information provided by the service provider.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 969, Sec. 1, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1167, Sec. 4, eff. Sept. 1, 1999.

Sec. 43.054. WIDTH REQUIREMENTS. (a) A municipality with a population of less than 1.6 million may not annex a publicly or

privately owned area, including a strip of area following the course of a road, highway, river, stream, or creek, unless the width of the area at its narrowest point is at least 1,000 feet.

(b) The prohibition established by Subsection (a) does not apply if:

(1) the boundaries of the municipality are contiguous to the area on at least two sides;

(2) the annexation is initiated on the written petition of the owners or of a majority of the qualified voters of the area; or

(3) the area abuts or is contiguous to another jurisdictional boundary.

(c) Notwithstanding Subsection (a), a municipality with a population of 21,000 or more located in a county with a population of 100,000 or more may annex a publicly owned strip or similar area following the course of a road or highway for the purpose of annexing territory contiguous to the strip or area if the territory contiguous to the strip or area was formerly used or was to be used in connection with or by a superconducting super collider high-energy research facility.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 3(d), eff. Aug. 28, 1989; Acts 1999, 76th Leg., ch. 1167, Sec. 5, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 768, Sec. 1, eff. June 20, 2003.

Sec. 43.0545. ANNEXATION OF CERTAIN ADJACENT AREAS. (a) A municipality may not annex an area that is located in the extraterritorial jurisdiction of the municipality only because the area is contiguous to municipal territory that is less than 1,000 feet in width at its narrowest point.

(b) A municipality may not annex an area that is located in the extraterritorial jurisdiction of the municipality only because the area is contiguous to municipal territory that:

(1) was annexed before September 1, 1999; and

(2) was in the extraterritorial jurisdiction of the municipality at the time of annexation only because the territory was contiguous to municipal territory that was less than 1,000 feet

in width at its narrowest point.

(c) Subsections (a) and (b) do not apply to an area:

(1) completely surrounded by incorporated territory of one or more municipalities;

(2) for which the owners of the area have requested annexation by the municipality;

(3) that is owned by the municipality; or

(4) that is the subject of an industrial district contract under Section 42.044.

(d) Subsection (b) does not apply if the minimum width of the narrow territory described by Subsection (b)(2), following subsequent annexation, is no longer less than 1,000 feet in width at its narrowest point.

(e) For purposes of this section, roads, highways, rivers, lakes, or other bodies of water are not included in computing the 1,000-foot distance unless the area being annexed includes land in addition to a road, highway, river, lake, or other body of water.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 6, eff. Sept. 1, 1999.

Sec. 43.0546. ANNEXATION OF CERTAIN ADJACENT AREAS BY POPULOUS MUNICIPALITIES. (a) In this section, "municipal area" means the area within the corporate boundaries of a municipality other than:

(1) an area annexed before September 1, 1999, that is less than 1,000 feet wide at any point;

(2) an area within the corporate boundaries of the municipality that was annexed by the municipality before September 1, 1999, and at the time of the annexation the area was contiguous to municipal territory that was less than 1,000 feet wide at any point;

(3) an area annexed after December 1, 1995, and before September 1, 1999;

(4) municipally owned property; or

(5) an area contiguous to municipally owned property if the municipally owned property was annexed in an annexation that included an area that was less than 1,000 feet wide at its narrowest point.

(b) This section applies only to a municipality with a population of 1.6 million or more.

(c) A municipality to which this section applies may not annex an area that is less than 1,500 feet wide at any point. At least 1,500 feet of the perimeter of the area annexed by a municipality must be coterminous with the boundary of the municipal area of the municipality.

(d) This section does not apply to territory:

(1) that is completely surrounded by municipal area;

(2) for which the owners of the area have requested annexation by the municipality;

(3) within a district whose elected board of directors has by a majority vote requested annexation;

(4) owned by the municipality; or

(5) that contains fewer than 50 inhabitants.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 6, eff. Sept. 1, 1999.

Sec. 43.055. MAXIMUM AMOUNT OF ANNEXATION EACH YEAR. (a) In a calendar year, a municipality may not annex a total area greater than 10 percent of the incorporated area of the municipality as of January 1 of that year, plus any amount of area carried over to that year under Subsection (b). In determining the total area annexed in a calendar year, an area annexed for limited purposes is included, but an annexed area is not included if it is:

(1) annexed at the request of a majority of the qualified voters of the area and the owners of at least 50 percent of the land in the area;

(2) owned by the municipality, a county, the state, or the federal government and used for a public purpose;

(3) annexed at the request of at least a majority of the qualified voters of the area; or

(4) annexed at the request of the owners of the area.

(b) If a municipality fails to annex in a calendar year the entire 10 percent amount permitted under Subsection (a), the municipality may carry over the unused allocation for use in subsequent calendar years.

(c) A municipality carrying over an allocation may not annex

in a calendar year a total area greater than 30 percent of the incorporated area of the municipality as of January 1 of that year. Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 3(e), eff. Aug. 28, 1989.

Sec. 43.056. PROVISION OF SERVICES TO ANNEXED AREA. (a) Before the first day of the 10th month after the month in which the inventory is prepared as provided by Section 43.053, the municipality proposing the annexation shall complete a service plan that provides for the extension of full municipal services to the area to be annexed. The municipality shall provide the services by any of the methods by which it extends the services to any other area of the municipality.

(b) The service plan, which must be completed in the period provided by Subsection (a) before the annexation, must include a program under which the municipality will provide full municipal services in the annexed area no later than 2-1/2 years after the effective date of the annexation, in accordance with Subsection (e), unless certain services cannot reasonably be provided within that period and the municipality proposes a schedule for providing those services, and must include a list of all services required by this section to be provided under the plan. If the municipality proposes a schedule to extend the period for providing certain services, the schedule must provide for the provision of full municipal services no later than 4-1/2 years after the effective date of the annexation. However, under the program if the municipality provides any of the following services within the corporate boundaries of the municipality before annexation, the municipality must provide those services in the area proposed for annexation on the effective date of the annexation of the area:

(1) police protection;

(2) fire protection;

(3) emergency medical services;

(4) solid waste collection, except as provided by Subsection (o);

(5) operation and maintenance of water and wastewater facilities in the annexed area that are not within the service area

of another water or wastewater utility;

(6) operation and maintenance of roads and streets, including road and street lighting;

(7) operation and maintenance of parks, playgrounds, and swimming pools; and

(8) operation and maintenance of any other publicly owned facility, building, or service.

(c) For purposes of this section, "full municipal services" means services provided by the annexing municipality within its full-purpose boundaries, including water and wastewater services and excluding gas or electrical service.

(d) A municipality with a population of 1.5 million or more may provide all or part of the municipal services required under the service plan by contracting with service providers. If the municipality owns a water and wastewater utility, the municipality shall, subject to this section, extend water and wastewater service to any annexed area not within the service area of another water or wastewater utility. If the municipality annexes territory included within the boundaries of a municipal utility district or a water control and improvement district, the municipality shall comply with applicable state law relating to annexation of territory within a municipal utility district or a water control and improvement district. The service plan shall summarize the service extension policies of the municipal water and wastewater utility.

(e) The service plan must also include a program under which the municipality will initiate after the effective date of the annexation the acquisition or construction of capital improvements necessary for providing municipal services adequate to serve the area. The construction shall be substantially completed within the period provided in the service plan. The service plan may be amended to extend the period for construction if the construction is proceeding with all deliberate speed. The acquisition or construction of the facilities shall be accomplished by purchase, lease, or other contract or by the municipality succeeding to the powers, duties, assets, and obligations of a conservation and reclamation district as authorized or required by law. The construction of the facilities shall be accomplished in a

continuous process and shall be completed as soon as reasonably possible, consistent with generally accepted local engineering and architectural standards and practices. However, the municipality does not violate this subsection if the construction process is interrupted for any reason by circumstances beyond the direct control of the municipality. The requirement that construction of capital improvements must be substantially completed within the period provided in the service plan does not apply to a development project or proposed development project within an annexed area if the annexation of the area was initiated by petition or request of the owners of land in the annexed area and the municipality and the landowners have subsequently agreed in writing that the development project within that area, because of its size or projected manner of development by the developer, is not reasonably expected to be completed within that period.

(f) A service plan may not:

(1) require the creation of another political subdivision;

(2) require a landowner in the area to fund the capital improvements necessary to provide municipal services in a manner inconsistent with Chapter 395 unless otherwise agreed to by the landowner;

(3) provide services in the area in a manner that would have the effect of reducing by more than a negligible amount the level of fire and police protection and emergency medical services provided within the corporate boundaries of the municipality before annexation;

(4) provide services in the area in a manner that would have the effect of reducing by more than a negligible amount the level of fire and police protection and emergency medical services provided within the area before annexation; or

(5) cause a reduction in fire and police protection and emergency medical services within the area to be annexed below that of areas within the corporate boundaries of the municipality with similar topography, land use, and population density.

(g) If the annexed area had a lower level of services, infrastructure, and infrastructure maintenance than the level of

services, infrastructure, and infrastructure maintenance provided within the corporate boundaries of the municipality before annexation, a service plan must provide the annexed area with a level of services, infrastructure, and infrastructure maintenance that is comparable to the level of services, infrastructure, and infrastructure maintenance available in other parts of the municipality with topography, land use, and population density similar to those reasonably contemplated or projected in the area. If the annexed area had a level of services, infrastructure, and infrastructure maintenance equal to the level of services, infrastructure, and infrastructure maintenance provided within the corporate boundaries of the municipality before annexation, a service plan must maintain that same level of services, infrastructure, and infrastructure maintenance. Except as provided by this subsection, if the annexed area had a level of services superior to the level of services provided within the corporate boundaries of the municipality before annexation, a service plan must provide the annexed area with a level of services that is comparable to the level of services available in other parts of the municipality with topography, land use, and population density similar to those reasonably contemplated or projected in the area. If the annexed area had a level of services for operating and maintaining the infrastructure of the area, including the facilities described by Subsections (b)(5)-(8), superior to the level of services provided within the corporate boundaries of the municipality before annexation, a service plan must provide for the operation and maintenance of the infrastructure of the annexed area at a level of services that is equal or superior to that level of services.

(h) A municipality with a population of 1.6 million or more may not impose a fee in the annexed area, over and above ad valorem taxes and fees imposed within the corporate boundaries of the municipality before annexation, to maintain the level of services that existed in the area before annexation. This subsection does not prohibit the municipality from imposing a fee for a service in the area annexed if the same fee is imposed within the corporate boundaries of the municipality before annexation.

(i) If only a part of the area to be annexed is actually annexed, the governing body shall direct the department to prepare a revised service plan for that part.

(j) The proposed service plan must be made available for public inspection and explained to the inhabitants of the area at the public hearings held under Section 43.0561. The plan may be amended through negotiation at the hearings, but the provision of any service may not be deleted. On completion of the public hearings, the service plan shall be attached to the ordinance annexing the area and approved as part of the ordinance.

(k) On approval by the governing body, the service plan is a contractual obligation that is not subject to amendment or repeal except that if the governing body determines at the public hearings required by this subsection that changed conditions or subsequent occurrences make the service plan unworkable or obsolete, the governing body may amend the service plan to conform to the changed conditions or subsequent occurrences. An amended service plan must provide for services that are comparable to or better than those established in the service plan before amendment. Before any amendment is adopted, the governing body must provide an opportunity for interested persons to be heard at public hearings called and held in the manner provided by Section 43.0561.

(l) A service plan is valid for 10 years. Renewal of the service plan is at the discretion of the municipality. A person residing or owning land in an annexed area in a municipality with a population of 1.6 million or more may enforce a service plan by petitioning the municipality for a change in policy or procedures to ensure compliance with the service plan. If the municipality fails to take action with regard to the petition, the petitioner may request arbitration of the dispute under Section 43.0565. A person residing or owning land in an annexed area in a municipality with a population of less than 1.6 million may enforce a service plan by applying for a writ of mandamus not later than the second anniversary of the date the person knew or should have known that the municipality was not complying with the service plan. If a writ of mandamus is applied for, the municipality has the burden of proving that the services have been provided in accordance with the

service plan in question. If a court issues a writ under this subsection, the court:

(1) must provide the municipality the option of disannexing the area within a reasonable period specified by the court;

(2) may require the municipality to comply with the service plan in question before a reasonable date specified by the court if the municipality does not disannex the area within the period prescribed by the court under Subdivision (1);

(3) may require the municipality to refund to the landowners of the annexed area money collected by the municipality from those landowners for services to the area that were not provided;

(4) may assess a civil penalty against the municipality, to be paid to the state in an amount as justice may require, for the period in which the municipality is not in compliance with the service plan;

(5) may require the parties to participate in mediation; and

(6) may require the municipality to pay the person's costs and reasonable attorney's fees in bringing the action for the writ.

(m) This section does not require that a uniform level of full municipal services be provided to each area of the municipality if different characteristics of topography, land use, and population density constitute a sufficient basis for providing different levels of service. Any disputes regarding the level of services provided under this subsection are resolved in the same manner provided by Subsection (l). Nothing in this subsection modifies the requirement under Subsection (g) for a service plan to provide a level of services in an annexed area that is equal or superior to the level of services provided within the corporate boundaries of the municipality before annexation. To the extent of any conflict between this subsection and Subsection (g), Subsection (g) prevails.

(n) Before the second anniversary of the date an area is included within the corporate boundaries of a municipality by

annexation, the municipality may not:

(1) prohibit the collection of solid waste in the area by a privately owned solid waste management service provider; or

(2) impose a fee for solid waste management services on a person who continues to use the services of a privately owned solid waste management service provider.

(o) A municipality is not required to provide solid waste collection services under Subsection (b) to a person who continues to use the services of a privately owned solid waste management service provider as provided by Subsection (n).

(p) This subsection applies only to a municipality in a county with a population of more than one million and less than 1.5 million. For a municipality that has adopted Chapter 143 and directly employs firefighters, a service plan that includes the provision of services to an area that, at the time the service plan is adopted, is located in the territory of an emergency services district:

(1) must require the municipality's fire department to provide initial response to the annexed territory that is equivalent to that provided to other areas within the corporate boundaries of the municipality with similar topography, land use, and population density;

(2) may not provide for municipal fire services to the annexed area solely or primarily by means of an automatic aid or mutual aid agreement with the affected emergency services district or other third-party provider of services; and

(3) may authorize the emergency services district to provide supplemental fire and emergency medical services to the annexed area by means of an automatic aid or mutual aid agreement.

(q) This chapter does not affect the obligation of a municipality that has adopted Chapter 143 to provide police, fire, or emergency medical services within the municipality's corporate boundaries by means of personnel classified in accordance with that chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 3(f), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 822, Sec. 1, eff. Sept. 1, 1989; Acts 1991,

72nd Leg., 1st C.S., ch. 3, Sec. 4.011, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 969, Sec. 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 1062, Sec. 1, eff. June 17, 1995; Acts 1999, 76th Leg., ch. 1167, Sec. 7, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1185 (H.B. 610), Sec. 2, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1363 (S.B. 1596), Sec. 3, eff. September 1, 2013.

Sec. 43.0561. ANNEXATION HEARING REQUIREMENTS. (a) Before a municipality may institute annexation proceedings, the governing body of the municipality must conduct two public hearings at which persons interested in the annexation are given the opportunity to be heard. The hearings must be conducted not later than the 90th day after the date the inventory is available for inspection.

(b) At least one of the hearings must be held in the area proposed for annexation if a suitable site is reasonably available and more than 20 adults who are permanent residents of the area file a written protest of the annexation with the secretary of the municipality within 10 days after the date of the publication of the notice required by this section. The protest must state the name, address, and age of each protester who signs. If a suitable site is not reasonably available in the area proposed for annexation, the hearing may be held outside the area proposed for annexation if the hearing is held in the nearest suitable public facility.

(c) The municipality must post notice of the hearings on the municipality's Internet website if the municipality has an Internet website and publish notice of the hearings in a newspaper of general circulation in the municipality and in the area proposed for annexation. The notice for each hearing must be published at least once on or after the 20th day but before the 10th day before the date of the hearing. The notice for each hearing must be posted on the municipality's Internet website on or after the 20th day but before the 10th day before the date of the hearing and must remain posted until the date of the hearing. The municipality must give additional notice by certified mail to:

(1) each public entity, as defined by Section 43.053, and utility service provider that provides services in the area proposed for annexation; and

(2) each railroad company that serves the municipality and is on the municipality's tax roll if the company's right-of-way is in the area proposed for annexation.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 8, eff. Sept. 1, 1999.

Sec. 43.0562. NEGOTIATIONS REQUIRED. (a) After holding the hearings as provided by Section 43.0561:

(1) if a municipality has a population of less than 1.6 million, the municipality and the property owners of the area proposed for annexation shall negotiate for the provision of services to the area after annexation or for the provision of services to the area in lieu of annexation under Section 43.0563; or

(2) if a municipality proposes to annex a special district, as that term is defined by Section 43.052, the municipality and the governing body of the district shall negotiate for the provision of services to the area after annexation or for the provision of services to the area in lieu of annexation under Section 43.0751.

(b) For purposes of negotiations under Subsection (a)(1), the commissioners court of the county in which the area proposed for annexation is located shall select five representatives to negotiate with the municipality for the provision of services to the area after annexation. If the area proposed for annexation is located in more than one county, the commissioners court of the county in which the greatest number of residents reside shall select three representatives to negotiate with the municipality, and the commissioners courts of the remaining counties jointly shall select two representatives to negotiate with the municipality.

(c) For purposes of negotiations under Subsection (a)(2), if more than one special district is located in the area proposed for annexation, the governing boards of the districts may jointly select five representatives to negotiate with the municipality on

behalf of all the affected districts.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 8, eff. Sept. 1, 1999.

Sec. 43.0563. CONTRACTS FOR PROVISION OF SERVICES IN LIEU OF ANNEXATION. (a) The governing body of a municipality with a population of less than 1.6 million may negotiate and enter into a written agreement for the provision of services and the funding of the services in an area with:

(1) representatives designated under Section 43.0562(b), if the area is included in the municipality's annexation plan; or

(2) an owner of an area within the extraterritorial jurisdiction of the municipality if the area is not included in the municipality's annexation plan.

(a-1) An agreement under this section may also include an agreement related to permissible land uses and compliance with municipal ordinances.

(b) An agreement under this section is in lieu of annexation by the municipality of the area.

(c) In negotiating an agreement under this section, the parties may agree to:

(1) any term allowed under Section 42.044 or 43.0751, regardless of whether the municipality or the area proposed for annexation would have been able to agree to the term under Section 42.044 or 43.0751; and

(2) any other term to which both parties agree to satisfactorily resolve any dispute between the parties, including the creation of any type of special district otherwise allowed by state law.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 8, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1185 (H.B. 610), Sec. 3, eff. June 15, 2007.

Sec. 43.0564. ARBITRATION REGARDING NEGOTIATIONS FOR SERVICES. (a) If the municipality and the representatives of the area proposed for annexation cannot reach an agreement for the

provision of services under Section 43.0562 or if the municipality and the property owner representatives described by Section 43.0563(a)(1) cannot reach an agreement for the provision of services in lieu of annexation under Section 43.0563, either party by majority decision of the party's representatives may request the appointment of an arbitrator to resolve the service plan issues in dispute. The request must be made in writing to the other party before the 60th day after the date the service plan is completed under Section 43.056. The municipality may not annex the area under another section of this chapter during the pendency of the arbitration proceeding or an appeal from the arbitrator's decision.

(b) The parties to the dispute may agree on the appointment of an arbitrator. If the parties cannot agree on the appointment of an arbitrator before the 11th business day after the date arbitration is requested, the mayor of the municipality shall immediately request a list of seven neutral arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service or their successors in function. An arbitrator included in the list must be a resident of this state and may not be a resident of a county in which any part of the municipality or any part of the district proposed for annexation is located. The parties to the dispute may agree on the appointment of an arbitrator included in the list. If the parties cannot agree on the appointment of an arbitrator before the 11th business day after the date the list is provided to the parties, each party or the party's designee may alternately strike a name from the list. The remaining person on the list shall be appointed as the arbitrator. In this subsection, "business day" means a day other than a Saturday, Sunday, or state or national holiday.

(c) The arbitrator shall:

(1) set a hearing to be held not later than the 10th day after the date the arbitrator is appointed; and

(2) notify the parties to the arbitration in writing of the time and place of the hearing not later than the eighth day before the date of the hearing.

(d) The authority of the arbitrator is limited to issuing a decision relating only to the service plan issues in dispute.

(e) The arbitrator may:

(1) receive in evidence any documentary evidence or other information the arbitrator considers relevant;

(2) administer oaths; and

(3) issue subpoenas to require:

(A) the attendance and testimony of witnesses; and

(B) the production of books, records, and other evidence relevant to an issue presented to the arbitrator for determination.

(f) Unless the parties to the dispute agree otherwise, the arbitrator shall complete the hearing within two consecutive days. The arbitrator shall permit each party one day to present evidence and other information. The arbitrator, for good cause shown, may schedule an additional hearing to be held not later than the seventh day after the date of the first hearing. Unless otherwise agreed to by the parties, the arbitrator must issue a decision in writing and deliver a copy of the decision to the parties not later than the 14th day after the date of the final hearing.

(g) Either party may appeal any provision of an arbitrator's decision that exceeds the authority granted under Subsection (d) to a district court in a county in which the area proposed for annexation is located.

(h) If the municipality does not agree with the terms of the arbitrator's decision, the municipality may not annex the area proposed for annexation before the fifth anniversary of the date of the arbitrator's decision.

(i) Except as provided by this subsection, the municipality shall pay the cost of arbitration. If the arbitrator finds that the request for arbitration submitted by the representatives of the area proposed for annexation was groundless or requested in bad faith or for the purposes of harassment, the arbitrator may require the area proposed for annexation to pay all or part of the cost of arbitration.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 8, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1185 (H.B. 610), Sec. 4, eff.

June 15, 2007.

Sec. 43.0565. ARBITRATION REGARDING ENFORCEMENT OF SERVICE PLAN. (a) A person who requests arbitration as provided by Section 43.056(l) must request the appointment of an arbitrator in writing to the municipality.

(b) Sections 43.0564(b), (c), and (e) apply to appointment of an arbitrator and the conduct of an arbitration proceeding under this section.

(c) In an arbitration proceeding under this section, the municipality has the burden of proving that the municipality is in compliance with the service plan requirements.

(d) If the arbitrator finds that the municipality has not complied with the service plan requirements:

(1) the municipality may disannex the area before the 31st day after the date the municipality receives a copy of the arbitrator's decision; and

(2) the arbitrator may:

(A) require the municipality to comply with the service plan in question before a reasonable date specified by the arbitrator if the municipality does not disannex the area;

(B) require the municipality to refund to the landowners of the annexed area money collected by the municipality from those landowners for services to the area that were not provided; and

(C) require the municipality to pay the costs of arbitration, including the reasonable attorney's fees and arbitration costs of the person requesting arbitration.

(e) If the arbitrator finds that the municipality has complied with the service plan requirements, the arbitrator may require the person requesting arbitration to pay all or part of the cost of arbitration, including the reasonable attorney's fees of the municipality.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 8, eff. Sept. 1, 1999.

Sec. 43.0567. PROVISION OF WATER OR SEWER SERVICE IN POPULOUS MUNICIPALITY. (a) The requirements of this section are in

addition to those prescribed by Section 43.056.

(b) A municipality with a population of more than 1.6 million that includes within its boundaries annexed areas without water service, sewer service, or both:

(1) shall develop a service plan that:

(A) must identify developed tracts in annexed areas of the municipality that do not have water service, sewer service, or both and must provide a procedure for providing water service, sewer service, or both to those developed tracts;

(B) must establish a timetable for providing service based on a priority system that considers potential health hazards, population density, the number of existing buildings, the reasonable cost of providing service, and the desires of the residents;

(C) must include a capital improvements plan committing the necessary financing;

(D) may relieve the municipality from an obligation to provide water service, sewer service, or both in an area described in the service plan if a majority of the households in the area sign a petition stating they do not want to receive the services; and

(E) may require property owners to connect to service lines constructed to serve their area;

(2) shall provide water service, sewer service, or both to at least 75 percent of the residential buildings in annexed areas of the municipality that did not have water service, sewer service, or both on September 1, 1991;

(3) shall provide water service to each area annexed before January 1, 1993, if the area or subdivision as described in the service plan contains at least 25 residences without water service, unless a majority of the households in the area state in a petition that they do not want municipal water service; and

(4) is subject to the penalty prescribed by Section 5.235(n)(6), Water Code, for the failure to provide services.

Added by Acts 1993, 73rd Leg., ch. 772, Sec. 2, eff. Aug. 30, 1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.01, eff. Sept. 1, 1997. Renumbered from Sec. 43.0565 and amended by Acts 1999, 76th

Leg., ch. 1167, Sec. 8, eff. Sept. 1, 1999.

Sec. 43.057. ANNEXATION THAT SURROUNDS AREA: FINDINGS REQUIRED. If a proposed annexation would cause an area to be entirely surrounded by the annexing municipality but would not include the area within the municipality, the governing body of the municipality must find, before completing the annexation, that surrounding the area is in the public interest.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C-1. ANNEXATION PROCEDURE FOR AREAS EXEMPTED FROM MUNICIPAL ANNEXATION PLAN

Sec. 43.061. APPLICABILITY. This subchapter applies to an area proposed for annexation that is not required to be included in a municipal annexation plan under Section 43.052.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 9, eff. Sept. 1, 1999.

Sec. 43.062. PROCEDURES APPLICABLE. (a) Sections 43.051, 43.054, 43.0545, 43.055, 43.0565, 43.0567, and 43.057 apply to the annexation of an area to which this subchapter applies.

(b) This subsection applies only to an area described by Section 43.052(h)(1). Before the 30th day before the date of the first hearing required under Section 43.063, a municipality shall give written notice of its intent to annex the area to:

(1) each property owner in an area proposed for annexation, as indicated by the appraisal records furnished by the appraisal district for each county in which the area is located;

(2) each public entity, as defined by Section 43.053, or private entity that provides services in the area proposed for annexation; and

(3) each railroad company that serves the municipality and is on the municipality's tax roll if the company's right-of-way is in the area proposed for annexation.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 9, eff. Sept. 1, 1999.

Sec. 43.063. ANNEXATION HEARING REQUIREMENTS. (a) Before

a municipality may institute annexation proceedings, the governing body of the municipality must conduct two public hearings at which persons interested in the annexation are given the opportunity to be heard. The hearings must be conducted on or after the 40th day but before the 20th day before the date of the institution of the proceedings.

(b) At least one of the hearings must be held in the area proposed for annexation if a suitable site is reasonably available and more than 10 percent of the adults who are permanent residents of the area file a written protest of the annexation with the secretary of the municipality within 10 days after the date of the publication of the notice required by this section. The protest must state the name, address, and age of each protester who signs.

(c) The municipality must post notice of the hearings on the municipality's Internet website if the municipality has an Internet website and publish notice of the hearings in a newspaper of general circulation in the municipality and in the area proposed for annexation. The notice for each hearing must be published at least once on or after the 20th day but before the 10th day before the date of the hearing. The notice for each hearing must be posted on the municipality's Internet website on or after the 20th day but before the 10th day before the date of the hearing and must remain posted until the date of the hearing. The municipality must give additional notice by certified mail to each railroad company that serves the municipality and is on the municipality's tax roll if the company's right-of-way is in the area proposed for annexation.
Added by Acts 1999, 76th Leg., ch. 1167, Sec. 9, eff. Sept. 1, 1999.

Sec. 43.064. PERIOD FOR COMPLETION OF ANNEXATION; EFFECTIVE DATE. (a) The annexation of an area must be completed within 90 days after the date the governing body institutes the annexation proceedings or those proceedings are void. Any period during which the municipality is restrained or enjoined by a court from annexing the area is not included in computing the 90-day period.

(b) Notwithstanding any provision of a municipal charter to the contrary, the governing body of a municipality with a

population of 1.6 million or more may provide that an annexation take effect on any date within 90 days after the date of the adoption of the ordinance providing for the annexation.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 9, eff. Sept. 1, 1999.

Sec. 43.065. PROVISION OF SERVICES TO ANNEXED AREA. (a) Before the publication of the notice of the first hearing required under Section 43.063, the governing body of the municipality proposing the annexation shall direct its planning department or other appropriate municipal department to prepare a service plan that provides for the extension of full municipal services to the area to be annexed. The municipality shall provide the services by any of the methods by which it extends the services to any other area of the municipality.

(b) Sections 43.056(b)-(o) apply to the annexation of an area to which this subchapter applies.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 9, eff. Sept. 1, 1999.

SUBCHAPTER D. ANNEXATION PROVISIONS RELATING TO SPECIAL DISTRICTS

Sec. 43.071. AUTHORITY TO ANNEX WATER OR SEWER DISTRICT. (a) In this section, "water or sewer district" means a district or authority created under Article III, Section 52, Subsections (b)(1) and (2), or under Article XVI, Section 59, of the Texas Constitution that provides or proposes to provide, as its principal function, water services or sewer services or both to household users. The term does not include a district or authority the primary function of which is the wholesale distribution of water.

(b) A municipality may not annex area in a water or sewer district unless it annexes the entire part of the district that is outside the municipality's boundaries. This restriction does not apply to the annexation of area in a water or sewer district if the district is wholly or partly in the extraterritorial jurisdiction of more than one municipality.

(c) An annexation subject to Subsection (b) is exempt from the provisions of this chapter that limit annexation authority to a municipality's extraterritorial jurisdiction if:

(1) immediately before the annexation, at least one-half of the area of the water or sewer district is in the municipality or its extraterritorial jurisdiction; and

(2) the municipality does not annex in the annexation proceeding any area outside its extraterritorial jurisdiction except the part of the district that is outside its extraterritorial jurisdiction.

(d) Area annexed under Subsection (b) is included in computing the amount of area that a municipality may annex under Section 43.055 in a calendar year. If the area to be annexed exceeds the amount of area the municipality would otherwise be able to annex, the municipality may annex the area but may not annex additional area during the remainder of that calendar year, except area subject to Subsection (b) and area that is excluded from the computation under Section 43.055.

(e) Subsections (b)-(d) do not apply to the annexation of:

(1) an area within a water or sewer district if:

(A) the governing body of the district consents to the annexation;

(B) the owners in fee simple of the area to be annexed consent to the annexation; and

(C) the annexed area does not exceed 525 feet in width at its widest point;

(2) a water or sewer district that has a noncontiguous part that is not within the extraterritorial jurisdiction of the municipality; or

(3) a part of a special utility district created or operating under Chapter 65, Water Code.

(f) To annex the entire part of a water or sewer district that is outside the municipality's boundaries, a general-law municipality incorporated after 1983 that is, after incorporation of the district, incorporated over all or any part of the district may annex territory by ordinance without the consent of the inhabitants or property owners of the territory.

(g) For an annexation of an area in a water or sewer district that is wholly or partly in the overlapping extraterritorial jurisdiction of two or more municipalities, any one of those

municipalities is not required to obtain under Section 42.023 the written consent of any of the other municipalities in order to annex the area if:

(1) the area contains less than 100 acres;

(2) the annexing municipality, before June 1, 2005, annexed more than 50 percent of the territory of the water or sewer district, as the district existed on the date of its creation; and

(3) the entire water or sewer district would be contained in the annexing municipality after completion of the annexation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 4(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1058, Sec. 3, eff. Sept. 1, 1989.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1178 (H.B. 536), Sec. 1, eff. September 1, 2007.

Sec. 43.0712. INVALIDATION OF ANNEXATION OF SPECIAL DISTRICT; REIMBURSEMENT OF DEVELOPER. (a) If a municipality enacts an ordinance to annex a special district and assumes control and operation of utilities within the district, and the annexation is invalidated by a final judgment of a court after all appeals have been exhausted, the municipality is deemed, by enactment of its annexation ordinance, to have acquired title to utilities owned by a developer within the special district and is obligated to pay the developer all amounts related to the utilities as provided in Section 43.0715.

(b) Upon resumption of the functions of the special district:

(1) the municipality shall succeed to the contractual rights of the developer to be reimbursed by the special district for the utilities the municipality acquires from the developer; and

(2) the special district shall resume the use of the utilities acquired and paid for by the municipality and shall thereafter acquire the utilities from the municipality and reimburse the municipality for amounts the municipality paid the developer. The payment to the municipality shall be governed by the

requirements of the Texas Natural Resource Conservation Commission.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 10, eff. Sept. 1, 1999.

Sec. 43.0715. ANNEXATION OF WATER-RELATED SPECIAL DISTRICT: REIMBURSEMENT OF LANDOWNER OR DEVELOPER; CONTINUATION OF DISTRICT AND TAXING AUTHORITY. (a) In this section:

(1) "Special district" means a political subdivision one purpose of which is to supply fresh water for domestic or commercial use or to furnish sanitary sewer services or drainage.

(2) "Delinquent sum" means the sum a municipality has failed to timely pay to a landowner or developer under Subsection (b).

(b) If a municipality with a population of less than 1.5 million annexes a special district for full or limited purposes and the annexation precludes or impairs the ability of the district to issue bonds, the municipality shall, prior to the effective date of the annexation, pay in cash to the landowner or developer of the district a sum equal to all actual costs and expenses incurred by the landowner or developer in connection with the district that the district has, in writing, agreed to pay and that would otherwise have been eligible for reimbursement from bond proceeds under the rules and requirements of the Texas Natural Resource Conservation Commission as such rules and requirements exist on the date of annexation. For an annexation that is subject to preclearance by a federal authority, a payment will be considered timely if the municipality: (i) escrows the reimbursable amounts determined in accordance with Subsection (c) prior to the effective date of the annexation; and (ii) subsequently causes the escrowed funds and accrued interest to be disbursed to the developer within five business days after the municipality receives notice of the preclearance.

(c) At the time notice of the municipality's intent to annex the land within the district is first published in accordance with Section 43.052, the municipality shall proceed to initiate and complete a report for each developer conducted in accordance with

the format approved by the Texas Natural Resource Conservation Commission for audits. In the event the municipality is unable to complete the report prior to the effective date of the annexation as a result of the developer's failure to provide information to the municipality which cannot be obtained from other sources, the municipality shall obtain from the district the estimated costs of each project previously undertaken by a developer which are eligible for reimbursement. The amount of such costs, as estimated by the district, shall be escrowed by the municipality for the benefit of the persons entitled to receive payment in an insured interest-bearing account with a financial institution authorized to do business in the state. To compensate the developer for the municipality's use of the infrastructure facilities pending the determination of the reimbursement amount or federal preclearance, all interest accrued on the escrowed funds shall be paid to the developer whether or not the annexation is valid. Upon placement of the funds in the escrow account, the annexation may become effective. In the event a municipality timely escrows all estimated reimbursable amounts as required by this subsection and all such amounts, determined to be owed, including interest, are subsequently disbursed to the developer within five days of final determination in immediately available funds as required by this section, no penalties or interest shall accrue during the pendency of the escrow. Either the municipality or developer may, by written notice to the other party, require disputes regarding the amount owed under this section to be subject to nonbinding arbitration in accordance with the rules of the American Arbitration Association.

(d) A delinquent sum incurs a penalty of six percent of the amount of the sum for the first calendar month it is delinquent plus one percent for each additional month or portion of a month the sum remains unpaid. For an annexation occurring prior to the effective date of the changes in law made by this Act in amending Subsection (b), a delinquent sum begins incurring a penalty on the first day of the eighth month following the month in which the municipality enacted its annexation ordinance. For an annexation occurring after the effective date of this Act, a delinquent sum begins incurring a penalty on the first day after the date the municipality

enacts its annexation ordinance.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(g), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 17, Sec. 1(2), eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 1058, Sec. 2, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 597, Sec. 81, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 11.255, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 544, Sec. 1, eff. June 18, 1999.

Sec. 43.072. AUTHORITY TO ANNEX MUNICIPAL UTILITY DISTRICT BY HOME-RULE MUNICIPALITY. (a) This section applies to a municipal utility district that is located entirely in the extraterritorial jurisdiction of a single general-law municipality and that has a common boundary with at least one home-rule municipality.

(b) A home-rule municipality having a common boundary with a district subject to this section may annex the area of the district if:

(1) the annexation is approved by a majority of the qualified voters who vote on the question at an election held under this section;

(2) the annexation is completed before the date that is one year after the date of the election; and

(3) all the area of the district is annexed.

(c) Area annexed under Subsection (b) is included in computing the amount of area that a municipality may annex under Section 43.055 in a calendar year. If the area to be annexed exceeds the amount of area the municipality would otherwise be able to annex, the municipality may annex the area but may not annex additional area during the remainder of that calendar year, except area subject to Subsection (b) and area that is excluded from the computation under Section 43.055.

(d) Annexation of area under this section is exempt from the provisions of this chapter that prohibit:

(1) a municipality from annexing area outside its extraterritorial jurisdiction;

(2) annexation of area narrower than the minimum width prescribed by Section 43.054; or

(3) reduction of the extraterritorial jurisdiction of

a municipality without the written consent of the municipality's governing body.

(e) If the district is composed of two or more tracts, at least one of which is not contiguous to the home-rule municipality, the fact that the annexation will result in one or more parts of the home-rule municipality being not contiguous to the rest of the municipality does not affect the municipality's authority to annex the district.

(f) The extraterritorial jurisdiction of a home-rule municipality is not expanded by the annexation of area under this section.

(g) The board of directors of the district may order an election under this section. The board shall conduct the election in the area composed of the district and the general-law municipality. A person who is qualified to vote in the general-law municipality or the district is eligible to vote in the election.

(h) The board of directors shall set the date of the election for the first uniform election date that falls on or after the 30th day after the date of the order. If a state law prescribing uniform election dates is not in effect on the date of the order, the board shall set the election for a date that falls on or after the 30th day but before the 60th day after the date of the order.

(i) The board of directors shall give notice of the election in the manner provided for an election of the members of the board. The ballot for the election shall be printed to provide for voting for or against the proposition: "Authorizing the municipality of (name of the home-rule municipality) to annex the unincorporated area of the (name of the district)."

(j) Promptly after the board of directors declares the result of the election:

(1) the board shall mail or deliver a certified copy of the resolution declaring the result of the election to the mayor and the secretary of each of the two affected municipalities; and

(2) if the election authorizes annexation of the district by the home-rule municipality, the board shall file a certified copy of the resolution in the deed records of each county in which the district is located.

(k) During the time that an election under this section is pending, the general-law municipality may not annex area in the district. For the purposes of this requirement, an election is pending during the period that begins on the date the board of directors adopts the election order and ends on the date the board declares the result of the election. If, on the date the election order is adopted, the general-law municipality has instituted but not completed proceedings to annex area in the district, the general-law municipality may complete the annexation while the election is pending. If proceedings are completed while the election is pending, the annexation, to the extent that it includes area in the district, takes effect only if the election results in the defeat of the question and, in that case, it takes effect on the date the result of the election is officially declared.

(l) If the question is approved, the period during which the general-law municipality is prohibited from annexing area in the district is extended to the date that is one year after the date of the election.

(m) If a district holds an election under this section, the district may not hold another election under this section before the date that is one year after the date of the earlier election, except that if an election is held on a uniform election date prescribed by law, the subsequent election may be held on the corresponding uniform election date of the following year.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 3(h), eff. Aug. 28, 1989.

Sec. 43.073. ABOLITION OF, OR DIVISION OF FUNCTIONS OF, LEVEE IMPROVEMENT DISTRICT ANNEXED BY MUNICIPALITY WITH POPULATION OF MORE THAN 500,000. (a) This section applies to a municipality with a population of more than 500,000 that annexes all or part of the area in a levee improvement district organized under the laws of this state.

(b) If the municipality annexes all the area in the district, the municipality:

(1) shall take over the property and other assets of the district;

(2) assumes all the debts, liabilities, and obligations of the district; and

(3) shall perform all the functions of the district, including the provision of services.

(c) The district is abolished on the annexation of all of its area by the municipality. The abolition of the district does not impair or otherwise affect a contract between the district and a flood control district or other governmental agency for the operation or maintenance of levees or other flood control works, but the municipality assumes the rights and obligations of the district under the contract. On the annexation of all of the area of the district, the municipality may refund, in whole or in part, any outstanding bonded indebtedness and may provide for a sufficient sinking fund to meet any refunding bonds issued.

(d) If the municipality annexes only part of the area in the district, the governing bodies of the municipality and the district may make contracts relating to the division and allocation between themselves of their duplicate and overlapping powers, duties, and other functions and relating to the use, management, control, purchase, conveyance, assumption, and disposition of the property and other assets, debts, liabilities, and obligations of the district. The amount of taxes levied by the district against a parcel of real estate subsequently annexed by the municipality shall be credited against any property taxes levied against the parcel by the municipality.

(e) If the municipality annexes only part of the area in the district, the district may contract with the municipality for the municipal operation of the district's utility systems and other property and for the transfer, conveyance, or sale of those systems and that property, regardless of kind or location inside or outside municipal boundaries, to the municipality on terms to which the governing bodies of the district and municipality agree. That operating contract may extend for a period, not to exceed 30 years, stipulated in the contract and is subject to amendment, renewal, or termination by the mutual consent of the governing bodies. The contract may not impair the obligation of another contract of the municipality or district. In the absence of such a contract, the

district may continue to exercise, unaffected by the annexation, the powers, duties, and other functions granted or imposed on the district by law. The municipality may not be required to perform any drainage functions in the district. The municipality may, with the consent of the district, construct and maintain drainage facilities in the district that are consistent with the reclamation plan of the district. The municipality may perform all other municipal functions that the municipality is authorized to perform and that the district is not engaged in performing nor authorized to perform.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 82, eff. Sept. 1, 1991.

Sec. 43.074. ABOLITION OF WATER-RELATED SPECIAL DISTRICT CREATED WHOLLY IN MUNICIPALITY. (a) A water control and improvement district, fresh water supply district, or municipal utility district created from area that, at the time of the district's creation, is located wholly in a municipality may be abolished as provided by this section.

(b) On a vote of at least two-thirds of the entire membership of the governing body of the municipality, the governing body may adopt an ordinance abolishing the district if the governing body finds:

(1) that:

(A) the district is no longer needed; or

(B) the services furnished and functions performed by the district can be furnished and performed by the municipality; and

(2) that the abolition of the district is in the best interests of the residents and property in the municipality and the district.

(c) If before the effective date of the ordinance or if within 30 days after the effective date or the date of the publication of the ordinance, a petition that is signed and verified by a number of qualified voters of the municipality equal to at least 10 percent of the total votes cast at the most recent election for municipal officers is filed with the secretary of the

municipality protesting the enactment or enforcement of the ordinance, the ordinance is suspended and any action taken under the ordinance is void. Immediately after the filing of the petition, the secretary shall present it to the governing body. Immediately after the presentation of the petition, the governing body shall reconsider the ordinance. If the governing body does not repeal the ordinance, the governing body shall submit it to a popular vote at the next municipal election or at a special election the governing body may order for that purpose. The ordinance does not take effect unless a majority of the votes received in the election favor the ordinance.

(d) On the adoption of the ordinance, the district is abolished, the property and other assets of the district vest in the municipality, and the municipality assumes and becomes liable for the bonds and other obligations of the district. The municipality shall perform the services and other functions that were performed by the district.

(e) If a district bond, warrant, or other obligation payable in whole or in part from property taxes is assumed by the municipality, the governing body shall levy and collect taxes on all taxable property in the municipality in an amount sufficient to pay the principal of and interest on the bond, warrant, or other obligation as it becomes due and payable.

(f) The municipality may issue refunding bonds in its own name to refund bonds, warrants, or other obligations, including unpaid accrued interest on an obligation, that is assumed by the municipality. The refunding bonds must be issued in the manner provided by Chapter 1207, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 35, eff. Sept. 1, 1999.

Sec. 43.075. ABOLITION OF, OR DIVISION OF FUNCTIONS OF, WATER-RELATED SPECIAL DISTRICT THAT BECOMES PART OF NOT MORE THAN ONE MUNICIPALITY. (a) This section applies to:

(1) a municipality that annexes all or part of the area in a water control and improvement district, fresh water supply district, or municipal utility district organized for the primary

purpose of providing municipal functions such as the supplying of fresh water for domestic or commercial uses or the furnishing of sanitary sewer service or drainage service; or

(2) a municipality:

(A) that, by incorporation of the municipality, includes in the municipality all or part of the area in a district described by Subdivision (1); and

(B) the governing body of which adopts, by a vote of at least two-thirds of its entire membership, an ordinance making this section applicable to the municipality.

(b) This section does not apply if the district includes area located in more than one municipality.

(c) The municipality succeeds to the powers, duties, assets, and obligations of the district as provided by this section. This section does not prohibit the municipality from continuing to operate utility facilities in the district that are owned and operated by the municipality on the date the area becomes a part of the municipality.

(d) If all the area in the district becomes a part of the municipality, the municipality:

(1) shall take over all the property and other assets of the district;

(2) assumes all the debts, liabilities, and obligations of the district; and

(3) shall perform all the functions of the district, including the provision of services.

(e) The governing body of the municipality by ordinance shall designate the date on which the duties and the assumption under Subsection (d) take effect. The date must be set for a day within 90 days after the date the area becomes a part of the municipality. If the governing body fails to adopt the ordinance, the duties and the assumption automatically take effect on the 91st day after the date the area becomes a part of the municipality. The district is abolished on the date the duties and assumption take effect.

(f) If only part of the area in the district becomes a part of the municipality, the governing bodies of the municipality and

the district may make contracts relating to the division and allocation between themselves of their duplicate and overlapping powers, duties, and other functions and relating to the use, management, control, purchase, conveyance, assumption, and disposition of the property and other assets, debts, liabilities, and obligations of the district.

(g) If only part of the area in the district becomes a part of the municipality, the district may contract with the municipality for the municipal operation of the district's utility systems and other property and for the transfer, conveyance, or sale of those systems and that property, regardless of kind or location inside or outside municipal boundaries, to the municipality on terms to which the governing bodies of the district and municipality agree. That operating contract may extend for a period, not to exceed 30 years, stipulated in the contract and is subject to amendment, renewal, or termination by the mutual consent of the governing bodies. The contract may not impair the obligation of another contract of the municipality or district. In the absence of such a contract, the district may continue to exercise the powers and other functions that it was authorized to exercise before the area became a part of the municipality, and the municipality may not, without the district's consent, duplicate the services rendered by the district in the district. However, the municipality may perform in the district all other municipal functions in which the district is not engaged.

(h) If a district bond, warrant, or other obligation payable in whole or in part from property taxes is assumed under this section by the municipality, the governing body shall levy and collect taxes on all taxable property in the municipality in an amount sufficient to pay the principal of and interest on the bond, warrant, or other obligation as it becomes due and payable. The municipality may issue refunding bonds or warrants to refund bonds, warrants, or other obligations, including unpaid earned interest on them, that is assumed by the municipality. The refunding bonds or warrants must be issued in the manner provided by Chapter 1207, Government Code. A refunding bond must bear interest at the same rate or at a lower rate than that borne by the refunded obligation

unless it is shown mathematically that a different rate results in a savings in the total amount of interest to be paid.

(i) If all the area in the district becomes a part of the municipality and if the district has outstanding bonds, warrants, or other obligations payable solely from the net revenues from the operation of any utility system or property, the municipality shall take over and operate the system or property and shall apply the net revenues from the operation to the payment of the outstanding revenue bonds, warrants, or other obligations as if the district had not been abolished. The municipality may combine the district system or property with the municipality's similar system or property if:

(1) the municipality has no outstanding revenue bonds, warrants, or other obligations payable from and secured by a pledge of the net revenue of its own utility system or property; or

(2) the municipality:

(A) has outstanding obligations payable from and secured by a pledge of net revenues sufficient to meet the outstanding obligations; and

(B) those revenues have produced, during the five-year period before May 30, 1959, an annual surplus in an amount sufficient to meet the annual obligations for which the district revenues are pledged.

(j) If the municipality combines the systems or property as provided by Subsection (i), it shall levy on all property subject to taxation by the municipality an annual property tax at a rate that, when combined with other available municipal funds and revenues, is sufficient to pay the principal of and interest on the outstanding obligations.

(k) If all the area in the district becomes a part of the municipality, the municipality, unless the refunding authorized by Subsection (l) has been accomplished, shall separately operate the district and municipal systems and property and may not commingle revenue if the municipality has outstanding bonds, warrants, or other bonded obligations payable from and secured by a pledge of the net revenue of its own utility system or property and does not have an amount annually accruing to its surplus revenue fund that

exceeds the amount of the fund pledged to the payment of outstanding municipal obligations and that is sufficient to meet the annual obligations for which the district revenues are pledged. The municipality shall perform the duties and other functions imposed by law or contract on the governing body of the district relating to the district's outstanding bonds, warrants, or other obligations and shall separately perform the duties and other functions relating to the bonds, warrants, and other obligations of the municipal system. The municipality may allocate overhead expenses between any two or more systems in direct proportion to the gross income of each system.

(l) The municipality may issue revenue refunding bonds in its own name for the purpose of refunding outstanding district revenue bonds, warrants, or other obligations, including unpaid accrued interest on them, that are assumed by the municipality under this section. The municipality may combine different issues of district and municipal revenue bonds, warrants, or other obligations into one series of revenue refunding bonds and may pledge the net revenues of the utility systems or property to the payment of the refunding bonds as the governing body considers proper. Except as otherwise provided by this section, Chapter 1502, Government Code, applies to the revenue refunding bonds, but an election for the issuance of the bonds is not required. Refunding bonds must bear interest at the same rate or at a lower rate than that borne by the refunded obligations unless it is shown mathematically that a different rate results in a savings in the total amount of interest to be paid.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 36, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 8.285, eff. Sept. 1, 2001.

Sec. 43.0751. STRATEGIC PARTNERSHIPS FOR CONTINUATION OF CERTAIN DISTRICTS. (a) In this section:

(1) "District" means a conservation and reclamation district operating under Chapter 49, Water Code. The term does not include a groundwater conservation district operating under Chapter 36, Water Code, or a special utility district operating

under Chapter 65, Water Code.

(2) "Limited district" means a district that, pursuant to a strategic partnership agreement, continues to exist after full-purpose annexation by a municipality in accordance with the terms of a strategic partnership agreement.

(3) "Strategic partnership agreement" means a written agreement described by this section between a municipality and a district.

(b) The governing bodies of a municipality and a district may negotiate and enter into a written strategic partnership agreement for the district by mutual consent. The governing body of a municipality, on written request from a district included in the municipality's annexation plan under Section 43.052, shall negotiate and enter into a written strategic partnership agreement with the district. A district included in a municipality's annexation plan under Section 43.052:

(1) may not submit its written request before the date of the second hearing required under Section 43.0561; and

(2) must submit its written request before the 61st day after the date of the second hearing required under Section 43.0561.

(c) A strategic partnership agreement shall not be effective until adopted by the governing bodies of the municipality and the district. The agreement shall be recorded in the deed records of the county or counties in which the land included within the district is located and shall bind each owner and each future owner of land included within the district's boundaries on the date the agreement becomes effective.

(d) Before the governing body of a municipality or a district adopts a strategic partnership agreement, it shall conduct two public hearings at which members of the public who wish to present testimony or evidence regarding the proposed agreement shall be given the opportunity to do so. Notice of public hearings conducted by the governing body of a municipality under this subsection shall be published in a newspaper of general circulation in the municipality and in the district. The notice must be in the format prescribed by Section 43.123(b) and must be published at

least once on or after the 20th day before each date. Notice of public hearings conducted by the governing body of a district under this subsection shall be given in accordance with the district's notification procedures for other matters of public importance. Any notice of a public hearing conducted under this subsection shall contain a statement of the purpose of the hearing, the date, time, and place of the hearing, and the location where copies of the proposed agreement may be obtained prior to the hearing. The governing bodies of a municipality and a district may conduct joint public hearings under this subsection, provided that at least one public hearing is conducted within the district.

(e) The governing body of a municipality may not annex a district for limited purposes under this section or under the provisions of Subchapter F until it has adopted a strategic partnership agreement with the district. The governing body of a municipality may not adopt a strategic partnership agreement before the agreement has been adopted by the governing body of the affected district.

(f) A strategic partnership agreement may provide for the following:

(1) limited-purpose annexation of the district on terms acceptable to the municipality and the district provided that the district shall continue in existence during the period of limited-purpose annexation;

(2) limited-purpose annexation of a district located in a county with a population of more than 3.3 million:

(A) only if the municipality does not require services, permits, or inspections or impose fees for services, permits, or inspections within the district; and

(B) provided that this subsection does not prevent the municipality from providing services within the district if:

(i) the provision of services is specified and agreed to in the agreement;

(ii) the provision of services is not solely the result of a regulatory plan adopted by the municipality in connection with the limited-purpose annexation of the district;

and

(iii) the district has obtained the authorization of the governmental entity currently providing the service;

(3) payments by the municipality to the district for services provided by the district;

(4) annexation of any commercial property in a district for full purposes by the municipality, notwithstanding any other provision of this code or the Water Code, except for the obligation of the municipality to provide, directly or through agreement with other units of government, full provision of municipal services to annexed territory, in lieu of any annexation of residential property or payment of any fee on residential property in lieu of annexation of residential property in the district authorized by this subsection;

(5) a full-purpose annexation provision on terms acceptable to the municipality and the district;

(6) conversion of the district to a limited district including some or all of the land included within the boundaries of the district, which conversion shall be effective on the full-purpose annexation conversion date established under Subdivision (5);

(7) agreements existing between districts and governmental bodies and private providers of municipal services in existence on the date a municipality evidences its intention by adopting a resolution to negotiate for a strategic partnership agreement with the district shall be continued and provision made for modifications to such existing agreements; and

(8) such other lawful terms that the parties consider appropriate.

(g) A strategic partnership agreement that provides for the creation of a limited district under Subsection (f)(6) shall include provisions setting forth the following:

(1) the boundaries of the limited district;

(2) the functions of the limited district and the term during which the limited district shall exist after full-purpose annexation, which term may be renewed successively by the governing

body of the municipality, provided that no such original or renewed term shall exceed 10 years;

(3) the name by which the limited district shall be known; and

(4) the procedure by which the limited district may be dissolved prior to the expiration of any term established under Subdivision (2).

(h) On the full-purpose annexation conversion date set forth in the strategic partnership agreement pursuant to Subsection (f)(5)(A), the land included within the boundaries of the district shall be deemed to be within the full-purpose boundary limits of the municipality without the need for further action by the governing body of the municipality. The full-purpose annexation conversion date established by a strategic partnership agreement may be altered only by mutual agreement of the district and the municipality. However, nothing herein shall prevent the municipality from terminating the agreement and instituting proceedings to annex the district, on request by the governing body of the district, on any date prior to the full-purpose annexation conversion date established by the strategic partnership agreement. Land annexed for limited or full purposes under this section shall not be included in calculations prescribed by Section 43.055(a).

(i) A strategic partnership agreement may provide that the district shall not incur additional debt, liabilities, or obligations, to construct additional utility facilities, or sell or otherwise transfer property without prior approval of the municipality.

(j) Except as limited by this section or the terms of a strategic partnership agreement, a district that has been annexed for limited purposes by a municipality and a limited district shall have and may exercise all functions, powers, and authority otherwise vested in a district.

(k) A municipality that has annexed all or part of a district for limited purposes under this section may impose a sales and use tax within the boundaries of the part of the district that is annexed for limited purposes. Except to the extent it is

inconsistent with this section, Chapter 321, Tax Code, governs the imposition, computation, administration, governance, and abolition of the sales and use tax.

(l) An agreement or a decision made under this section and an action taken under the agreement by the parties to the agreement are not subject to approval or an appeal brought under the Water Code unless it is an appeal of a utility rate charged by a municipality to customers outside the corporate boundaries of the municipality.

(m) A municipality that may annex a district for limited purposes to implement a strategic partnership agreement under this section shall not annex for full purposes any territory within a district created pursuant to a consent agreement with that municipality executed before August 27, 1979. The prohibition on annexation established by this subsection shall expire on September 1, 1997, or on the date on or before which the municipality and any district may have separately agreed that annexation would not take place whichever is later.

(n) This subsection applies only to a municipality any portion of which is located in a county that has a population of not less than 285,000 and not more than 300,000 and that borders the Gulf of Mexico and is adjacent to a county with a population of more than 3.3 million. A municipality may impose within the boundaries of a district a municipal sales and use tax authorized by Chapter 321, Tax Code, or a municipal hotel occupancy tax authorized by Chapter 351, Tax Code, that is imposed in the municipality if:

(1) the municipality has annexed the district for limited purposes under this section; or

(2) following two public hearings on the matter, the municipality and the district enter a written agreement providing for the imposition of the tax or taxes.

(n-1) At the conclusion of the term of an agreement between a municipality and a district under Subsection (n), the district and the municipality may extend the agreement for a period not to exceed 10 years. An agreement may be extended only once under this subsection.

(o) If a municipality required to negotiate with a district

under this section and the requesting district fail to agree on the terms of a strategic partnership agreement, either party may seek binding arbitration of the issues relating to the agreement in dispute under Section 43.0752.

(p) An agreement under this section:

(1) may not require the district to provide revenue to the municipality solely for the purpose of obtaining an agreement with the municipality to forgo annexation of the district; and

(2) must provide benefits to each party, including revenue, services, and regulatory benefits, that must be reasonable and equitable with regard to the benefits provided by the other party.

(q) Except for Sections 43.130(a) and (b), Subchapter F does not apply to a limited-purpose annexation under a strategic partnership agreement.

(r) A district or the area of a district annexed for limited purposes under this section must be:

(1) in the municipality's extraterritorial jurisdiction; and

(2) contiguous to the corporate boundaries of the municipality or an area annexed by the municipality for limited purposes, unless the district consents to noncontiguous annexation under a strategic partnership agreement with the municipality.

Added by Acts 1995, 74th Leg., ch. 787, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 29, Sec. 1, eff. May 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 13.12, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1167, Sec. 11, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 669, Sec. 44, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1263, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 248, Sec. 2, 3, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 297, Sec. 1, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 774 (H.B. 3723), Sec. 1, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1076 (S.B. 1082), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1076 (S.B. 1082), Sec. 2, eff.

September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 62, eff. September 1, 2011.

Sec. 43.07515. REGULATION OF FIREWORKS UNDER STRATEGIC PARTNERSHIP AGREEMENT LAW. (a) A municipality may not regulate under Section 43.0751 or 43.0752 the sale, use, storage, or transportation of fireworks outside of the municipality's boundaries.

(b) To the extent of a conflict with any other law, this section controls.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1076 (S.B. 1082), Sec. 3, eff. September 1, 2011.

Sec. 43.0752. ARBITRATION OF STRATEGIC PARTNERSHIP AGREEMENT. (a) If the municipality and the district cannot reach an agreement on the terms of a strategic partnership agreement under Section 43.0751, either party may request the appointment of an arbitrator to resolve the issues in dispute. The request must be made in writing to the other party before the 60th day after the date the district submits its written request for negotiations under Section 43.0751(b). The municipality may not annex the district under another section of this chapter during the pendency of the arbitration proceeding or an appeal from the arbitrator's decision.

(b) Sections 43.0564(b), (c), (e), (f), (g), and (h) apply to appointment of an arbitrator and the conduct of an arbitration proceeding under this section.

(c) The authority of the arbitrator is limited to determining whether the offer of a party complies with Section 43.0751(p).

(d) If the arbitrator finds that an offer complies with Section 43.0751(p), the arbitrator may issue a decision that incorporates the offer as part of the strategic partnership agreement.

(e) The municipality and the district shall equally pay the costs of arbitration.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 12, eff. Sept. 1, 1999.

Sec. 43.0753. REGIONAL DEVELOPMENT AGREEMENTS. (a) In this section:

(1) "District" means a conservation and reclamation district that is created or operating under Chapters 49 and 54, Water Code, and that is located entirely within the boundaries of a planned community and entirely within the extraterritorial jurisdiction of a municipality.

(2) "Municipality" means a municipality with a population of 1.6 million or more.

(3) "Planned community" means a planned community of 10,000 acres or more that is subject in whole or in part to a restrictive covenant that contains an ad valorem-based assessment on real property used or to be used, in any part, to fund governmental or quasi-governmental services and facilities within and for the planned community.

(4) "Regional development agreement" means a contract or agreement entered into under this section or in anticipation of the enactment of this section and any amendment, modification, supplement, addition, renewal, or extension to or of the contract or agreement or any proceeding relating to the contract or agreement.

(b) Notwithstanding any contrary law or municipal charter provision, the governing body of a municipality and the governing body of one or more districts may enter into a regional development agreement to further regional cooperation between the municipality and the district.

(c) A regional development agreement may allow:

(1) any type of annexation of any part of the land in the district to be deferred for a mutually agreeable period of time;

(2) facilities or services to be provided to the land within the district by any party to the agreement or by any other person, including optional, backup, emergency, mutual aid, or supplementary facilities or services;

(3) payments to be made by the municipality to the

district or another person or by the district or another person to the municipality for services provided to the district or municipality;

(4) standards for requesting and receiving any form of required consent or approval from the municipality;

(5) a district to issue bonds, notes, refunding bonds, or other forms of indebtedness;

(6) the coordination of local, regional, and areawide planning;

(7) remedies for breach of the agreement;

(8) the modification, amendment, renewal, extension, or termination of the agreement;

(9) any other district to join the agreement at any time;

(10) third-party beneficiaries to be specifically designated and conferred rights or remedies under the agreement; and

(11) any other term to which the parties agree.

(d) A regional development agreement must be:

(1) in writing;

(2) approved by the governing body of the municipality and the district; and

(3) recorded:

(A) in the real property records of any county in which any part of a district that is party to the agreement is located; and

(B) in any manner that complies with Subchapter J, Chapter 49, Water Code.

(e) Subject to compliance with Subsection (d)(1) and (3), another district may join or become a party to a regional development agreement in the manner authorized in the agreement.

(f) A regional development agreement does not need to describe the land contained within the boundaries of a district that is a party to the agreement. The agreement must be recorded in the deed records of any county in which any land in the district is located.

(g) A regional development agreement binds each party to the

agreement and each owner and future owner of land that is subject to the agreement. If a party or landowner is excluded or removed from an agreement, the removal or exclusion is effective on the recordation requirement of Subsection (d)(3).

(h) A regional development agreement may not require a district to provide public services and facilities to a person to whom the district is not otherwise authorized to provide services or facilities or to make payments from any source from which the district is not otherwise authorized to make payments.

(i) A district may contract with any person for services or facilities to be provided at no cost to the district or for the payment of funds by the person in support of a regional development agreement.

(j) A regional development agreement and any action taken under the agreement is not subject to any method of approval under the Water Code or any method of appeal under the Water Code.

(k) Notwithstanding any defect, ambiguity, discrepancy, invalidity, or unenforceability of a regional development agreement that has been voluntarily entered into and fully executed by the parties thereto, or any contrary law, common law doctrine, or municipal charter provision, and for the duration of any annexation deferral period established in the regional development agreement during which a district continues to perform its obligations under the regional development agreement:

(1) Sections 42.023 and 42.041(b)-(e) do not apply to any land or owner of land within a district that is a party to the regional development agreement; and

(2) the governing body of the municipality may not include the area covered by the regional development agreement in a municipal annexation plan and may not initiate or continue an annexation proceeding relating to that area after the effective date of this section.

(l) This section shall be liberally construed so as to give effect to its legislative purposes and to sustain the validity of a regional development agreement if the agreement was entered into under or in anticipation of this section.

Added by Acts 1999, 76th Leg., ch. 293, Sec. 2, eff. May 29, 1999.

Renumbered from Sec. 43.0752 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(83), eff. Sept. 1, 2001.

Sec. 43.0754. REGIONAL PARTICIPATION AGREEMENTS. (a) In this section:

(1) "District" means a political subdivision created by general or special law that has the powers of a municipal management district under Chapter 375 and a conservation and reclamation district under Chapters 49 and 54, Water Code, a majority by area of the territory of which is located within a planned community and within the extraterritorial jurisdiction of one or more municipalities.

(3) "Party" means a district, eligible municipality, or person that is a party to a regional participation agreement approved and entered into under this section.

(4) "Planned community" means a planned community of 20 square miles or more with a population of 50,000 or more that is subject in whole or in part to a restrictive covenant that contains an ad valorem-based assessment on real property used or to be used, in any part, to fund governmental or quasi-governmental services and facilities within and for the planned community.

(5) "Regional participation agreement" means a contract or agreement entered into under this section or in anticipation of the enactment of this section and any amendment, modification, supplement, addition, renewal, or extension to or of the contract or agreement or any proceeding relating to the contract or agreement.

(2) "Eligible municipality" means a municipality:

(A) that has a population of 1.5 million or more and that includes in its extraterritorial jurisdiction at least 90 percent by area of the territory of a district;

(B) that includes in its extraterritorial jurisdiction not more than 10 percent of the territory of a district that has entered into a regional participation agreement under this section with another eligible municipality described by Paragraph (A); or

(C) with corporate boundaries contiguous to the

boundaries of a district that has entered into a regional participation agreement under this section with another eligible municipality described by Paragraph (A).

(b) Notwithstanding any contrary law or municipal charter provision, the governing body of an eligible municipality, the governing body of a district, and, if applicable, a person may approve and authorize execution and performance of a regional participation agreement to further regional participation in the funding of eligible programs or projects. A regional participation agreement must include as parties at least one eligible municipality and one district and may include as parties other eligible municipalities, districts, or persons.

(c) A regional participation agreement may provide or allow for:

(1) the establishment, administration, use, investment, and application of a regional participation fund, which shall be a special fund or escrow account to be used solely for funding the costs and expenses of eligible programs or projects;

(2) payments to be made by a party into the regional participation fund for application, currently or in the future, toward eligible programs or projects;

(3) the methods and procedures by which eligible programs or projects are prioritized, identified, and selected for implementation and are planned, designed, bid, constructed, administered, inspected, and completed;

(4) the methods and procedures for accounting for amounts on deposit in, to the credit of, or expended from the regional participation fund, as well as any related investment income or amounts due and owing to or from any party to the fund;

(5) credits against payments otherwise due by any party under the agreement resulting from taxes, charges, fees, assessments, tolls, or other payments in support of or related to the usage or costs of eligible programs or projects that are levied or imposed upon, assessed against, or made applicable to a party or its citizens, ratepayers, taxpayers, or constituents after the effective date of the agreement;

(6) any type of annexation of any part of the territory

of a district to be deferred by an eligible municipality that is a party for a mutually agreeable period;

(7) the release of territory from the extraterritorial jurisdiction of an eligible municipality that is a party at a specified time or upon the occurrence of specified events;

(8) the consent of an eligible municipality that is a party to the incorporation of, or the adoption of an alternate form of government by, all or part of the territory of a district at a specified time or upon the occurrence of specified events;

(9) remedies for breach of the agreement;

(10) the modification, amendment, renewal, extension, or termination of the agreement;

(11) other districts, eligible municipalities, or persons to join the agreement as a party at any time;

(12) third-party beneficiaries to be specifically designated and conferred rights or remedies under the agreement;

(13) the duration of the agreement, including an unlimited term;

(14) the creation and administration of a nonprofit corporation, joint powers agency, local government corporation, or other agency for the purpose of administration and management of a regional participation fund, program, or project under the agreement; and

(15) any other provision or term to which the parties agree.

(d) A regional participation agreement may provide for the funding of any program or project, whether individual, intermittent, or continuing and whether located or conducted within or outside the boundaries of a party, for the planning, design, construction, acquisition, lease, rental, installment purchase, improvement, provision of furnishings or equipment, rehabilitation, repair, reconstruction, relocation, preservation, beautification, use, execution, administration, management, operation, or maintenance of any works, improvements, or facilities, or for providing any functions or services, whether provided to, for, by, or on behalf of a party, that provide a material benefit to each party in the accomplishment of the

purposes of each party, related to:

(1) mobility or transportation, including mass transportation, traffic circulation, or ground, air, rail, water, or other means of transportation or movement of people, freight, goods, or materials;

(2) health care treatment, research, teaching, or education facilities or infrastructure;

(3) parks or recreation, open space, and scenic, wildlife, wetlands, or wilderness areas;

(4) public assembly or shelter, including halls, arenas, stadiums or similar facilities for sporting events, exhibitions, conventions, or other mass assembly purposes;

(5) environmental preservation or enhancement, including air or water quality protection, improvement, preservation, or enhancement, and noise abatement;

(6) the supply, conservation, transportation, treatment, disposal, or reuse of water or wastewater;

(7) drainage, stormwater management or detention, and flood control or prevention;

(8) solid waste collection, transfer, processing, reuse, resale, disposal, and management; or

(9) public safety and security, including law enforcement, firefighting and fire prevention, emergency services and facilities, and homeland security.

(e) A regional participation agreement must be:

(1) in writing;

(2) approved by the governing body of each eligible municipality or district that is or that becomes a party to the agreement; and

(3) must be recorded in the deed records of any county in which is located any territory of a district that is or that becomes a party to the agreement.

(f) A district, eligible municipality, or person may join or become a party to a regional participation agreement in the manner authorized in the agreement.

(g) A regional participation agreement is not required to describe the land contained within the boundaries of a party to the

agreement, but any territory to be released from the extraterritorial jurisdiction of an eligible municipality that is a party under an agreement must be described in sufficient detail to convey title to land and the description must be made a part of the agreement.

(h) A regional participation agreement binds each party and its legal successor, including a municipality or other form of local government, to the agreement for the term specified in the agreement and each owner and future owner of land that is subject to the agreement during any annexation deferral period established in the agreement. If a party, land, or landowner is excluded or removed from an agreement, the removal or exclusion is effective on the recordation of the amendment, supplement, modification, or restatement of the agreement implementing the removal or exclusion.

(i) A regional participation agreement may not require a party to make payments from any funds that are restricted, encumbered, or pledged for the payment of contractual obligations or indebtedness of the party. Otherwise, any party may commit or pledge or may issue bonds payable from or secured by a pledge of any available source of funds, including unencumbered sales and use taxes, to make payments due or to become due under an agreement.

(j) Notwithstanding any other law, a program or project to be funded and any bonds to be issued by a district to make payments under a regional participation agreement are not subject to review or approval by the Texas Commission on Environmental Quality.

(k) A regional participation agreement and any action taken under the agreement are not subject to any method of approval or appeal under the Water Code.

(l) After due authorization, execution, delivery, and recordation as provided by this section, a regional participation agreement, including any related amendment, supplement, modification, or restatement, and a pledge of funds to make payments under an agreement shall be final and incontestable in any court of this state.

(m) Notwithstanding any defect, ambiguity, discrepancy, invalidity, or unenforceability of a regional participation agreement that has been voluntarily entered into and fully executed

by the parties, or any contrary law, common law doctrine, or municipal charter provision, and for the duration of any annexation deferral period established in the agreement during which a district continues to perform its obligations under the agreement:

(1) Section 42.023 and any other law or municipal charter provision relating to the reduction of the extraterritorial jurisdiction of an eligible municipality that is a party do not apply, and Sections 42.041(b)-(e) do not apply to any land or owner of land within a district that is a party;

(2) the governing body of an eligible municipality that is a party may not initiate or continue an annexation proceeding relating to that area but may include the area covered by the agreement in a municipal annexation plan; and

(3) any area that is to be released from the extraterritorial jurisdiction of an eligible municipality that is a party under an agreement, or that is to be incorporated or included within an alternate form of government with the consent of a municipality that is a party under an agreement, shall, by operation of law and without further action by a party or its governing body, be released from the extraterritorial jurisdiction, or consent of the municipality to the incorporation or adoption of an alternate form of government by the district shall be deemed to have been given, as appropriate under the agreement, at the time or upon the occurrence of the events specified in the agreement.

(n) Notwithstanding the provisions of any municipal charter or other law, a district or an eligible municipality is not required to hold an election to authorize a regional participation agreement. As long as such funds remain restricted for use under an agreement, payments to or income from a regional participation fund shall not be deemed revenues to an eligible municipality for purposes of any law or municipal charter provision relating to revenue or property tax caps or limits.

(o) This section is cumulative of all other authority to make, enter into, and perform a regional participation agreement. In case of any conflict or ambiguity between this section and any other law or municipal charter provision, this

section shall prevail and control.

(p) This section shall be liberally construed so as to give effect to its legislative purposes and to sustain the validity of a regional participation agreement if the agreement was entered into under or in anticipation of enactment of this section.

(q) For purposes of Subchapter I, Chapter 271:

(1) a district or eligible municipality is a "local governmental entity" within the meaning of Section 271.151(3); and

(2) a regional participation agreement is a "contract subject to this subchapter" within the meaning of Section 271.151(2), without regard to whether the agreement is for providing goods or services.

Added by Acts 2007, 80th Leg., R.S., Ch. 88 (S.B. 1012), Sec. 1, eff. May 14, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 692 (H.B. 2726), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 692 (H.B. 2726), Sec. 2, eff. September 1, 2009.

Sec. 43.076. ABOLITION OF WATER-RELATED SPECIAL DISTRICT THAT BECOMES PART OF MORE THAN ONE MUNICIPALITY. (a) This section applies to a municipality that contains, as a result of the annexation by or the incorporation of the municipality, any part of the area in a water control and improvement district, fresh water supply district, or municipal utility district organized for the primary purpose of providing municipal functions such as the supplying of fresh water for domestic or commercial uses or the furnishing of sanitary sewer service, if:

(1) the balance of the area in the district is located in one or more other municipalities;

(2) the district is not created by a special act of the legislature and the balance of the area is located in one or more other municipalities and in an unincorporated area; or

(3) the district is a conservation and reclamation district of more than 10,000 acres which provides water and sanitary sewer service to households and parts of which are located

in two or more municipalities, one of which has a population of more than 1.6 million.

(b) The municipality succeeds to the powers, duties, assets, and obligations of the district as provided by this section. This section does not prohibit the municipality from continuing to operate utility facilities in the district that are owned and operated by the municipality on the date the part of the district area becomes a part of the municipality.

(c) If the district is located wholly in two or more municipalities, the district may be abolished by agreement among the district and the municipalities in which the district is located. Subject to Subsection (f), the agreement must provide for the distribution among the municipalities of the property and other assets of the district and for the pro rata assumption by the municipalities of all the debts, liabilities, and obligations of the district. The assumption by each municipality must be based on the ratio that the value of the property and other assets distributed to that municipality bears to the total value of all the property and other assets of the district. The determination of value may be made on an original cost basis, a reproduction cost basis, a fair market value basis, or by any other valuation method agreed on by the parties that reasonably reflects the value of the property and other assets, debts, liabilities, and obligations of the district. The agreement must specify the date on which the district is abolished.

(d) If the district is located wholly in two or more municipalities and in unincorporated area, the district may be abolished by agreement among the district and all of the municipalities in which parts of the district are located. The abolition agreement must provide for the distribution of assets and liabilities as provided by Subsection (c). The agreement must also provide for the distribution among one or more of the municipalities of the pro rata assets and liabilities located in the unincorporated area and must provide for service to customers in unincorporated areas in the service area of the abolished district. The municipality that provides the service in the unincorporated area may charge its usual and customary fees and

assessments to the customers in that area.

(e) An agreement made under Subsection (c) or (d) must be approved by an ordinance adopted by the governing body of each municipality and by an order or resolution adopted by the governing board of the district before the date specified in the agreement for the abolition, distribution, and assumption.

(f) If the abolished district has outstanding bonds, warrants, or other obligations payable in whole or in part from the net revenue from the operation of the district utility system or property, the affected municipalities shall take over and operate the system or property through a board of trustees as provided by this section. The municipalities shall apply the net revenue from the operation of the system or property to the payment of outstanding revenue bonds, warrants, or other obligations as if the district had not been abolished. The system or property shall be operated in that manner until all the revenue bonds, warrants, or obligations are retired in full by payment or by the refunding of the bonds, warrants, or other obligations into municipal obligations. The board of trustees must be composed of not more than five members appointed by the governing bodies of the municipalities. The trustees are appointed for the terms and shall perform the duties as provided by the agreement made under Subsection (c) or (d). The board also shall perform the duties and other functions that are imposed by law or by contract on the abolished district and its governing board and that relate to the outstanding revenue bonds. The board shall charge and collect sufficient rates for the services of the system or property and shall apply the revenue to comply with each covenant or agreement contained in the proceedings relating to the revenue bonds, warrants, or other obligations with respect to the payment of principal and interest and the maintenance of reserves and other funds. When all the revenue bonds, warrants, and other obligations are retired in full, the property and other assets of the district shall be distributed among the municipalities as provided by Subsection (c) or (d). On the distribution, the board is abolished.

(g) When the pro rata share of any district bonds, warrants, or other obligations payable in whole or in part from property taxes

has been assumed by the municipality, the governing body of the municipality shall levy and collect taxes on all taxable property in the municipality to pay the principal of and interest on its share as the principal and interest become due and payable.

(h) The municipality may issue general obligation refunding bonds in its own name to refund in whole or in part its pro rata share of any outstanding district bonds, warrants, or other obligations, including unpaid earned interest on them, that are assumed by the municipality and that are payable in whole or in part from property taxes. The refunding bonds must be issued in the manner provided by Chapter 1207, Government Code. Refunding bonds must bear interest at the same rate or at a lower rate than that borne by the refunded obligations unless it is shown mathematically that a different rate results in a savings in the total amount of interest to be paid.

(i) The municipality may issue revenue refunding bonds or general obligation refunding bonds in its own name to refund in whole or in part its pro rata share of any outstanding district bonds, warrants, or other obligations, including unpaid earned interest on them, that are assumed by the municipality and that are payable solely from net revenues. The municipality may combine the different issues or the bonds of different issues of both district and municipal revenue bonds, warrants, or other obligations into one or more series of revenue refunding bonds. The municipality may pledge the net revenues of the district utility system or property to the payment of those bonds, warrants, or other obligations. The municipality may also combine the different issues or the bonds of the different issues into one or more series of general obligation refunding bonds. An originally issued municipal revenue bond may not be refunded into municipal general obligation refunding bonds. Except as otherwise provided by this section, Subchapter B, Chapter 1502, Government Code, applies to the revenue refunding bonds, but an election for the issuance of the bonds is not required. Revenue refunding bonds or general obligation refunding bonds must be issued in the manner provided by Chapter 1207, Government Code. The revenue refunding bonds and the general obligation refunding bonds must bear interest at the same rate or at a lower rate than that

borne by the refunded obligations unless it is shown mathematically that a different rate results in a savings in the total amount of interest to be paid.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1339, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1064, Sec. 37, eff. Sept. 1, 1999.

Sec. 43.0761. PROVISION OF WATER AND SANITARY SEWER UTILITY SERVICE. (a) A district existing on September 1, 1997, that, within 10 years after the date of its creation, has not provided water and sanitary sewer utility service from its facilities to all household users in its territory shall:

(1) provide water and sanitary sewer utility service from its facilities to all household users in its territory not later than September 1, 1998; or

(2) for that part of the district for which the district does not provide water and sanitary sewer utility service, and for which a municipality does provide those services, provide for periodic payments, as described by Subsection (b), by the district to the municipality that provides the services.

(b) Payments made under Subsection (a)(2) are operation and maintenance expenses of the district and shall be made at least every three months. The total annual amount of the payments may not exceed the lesser of:

(1) the total annual cost to the municipality of providing the water and sanitary sewer utility service, including both capital and operation and maintenance costs and expenses; or

(2) the total annual amount of maintenance and operation taxes and debt service or bond taxes paid to the district by the owners of taxable property within the district that receives water and sanitary sewer utility service from the municipality.

(c) For purposes of Subsection (b)(2), the value of taxable property that receives the utility service shall be determined by the most recent certified tax roll provided by the central appraisal district in which the property is located. The amount of the taxes shall be determined using rates from the district's most recent tax levies.

(d) A district that on January 1, 1997, was providing water and sanitary sewer utility service to households outside the territory of the district may not discontinue that service and shall continue to provide that service on the basis of rates established by the district in accordance with Chapter 13, Water Code.

(e) In this section, "district" means a conservation and reclamation district of more than 10,000 acres that provides water and sanitary sewer utility service to households and parts of which are located in two or more municipalities, one of which has a population of more than 1.6 million.

Added by Acts 1997, 75th Leg., ch. 1339, Sec. 2, eff. Sept. 1, 1997.

Sec. 43.079. CONSENT REQUIREMENT FOR ANNEXATION OF AREA IN CERTAIN CONSERVATION AND RECLAMATION DISTRICTS. (a) This section applies only to a conservation and reclamation district, including a municipal utility district, that:

(1) is located wholly in more than one municipality, but on April 1, 1971, was not wholly in more than one municipality;

(2) was created or exists under Section 59, Article XVI, Texas Constitution;

(3) provides or has provided a fresh water supply, sanitary sewer services, and drainage services; and

(4) was not, on April 1, 1971, a party to a contract providing for a federal grant for research and development under 33 U.S.C. Sections 1155(a)(2) and (d).

(b) A municipality that has annexed area in the district is not required to obtain the consent of any municipality to annex additional area located wholly in the district other than the consent of the other municipalities that have annexed area in the district and have extraterritorial jurisdiction over the area proposed to be annexed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.102, eff. Sept. 1, 2001.

Sec. 43.080. MUNICIPAL BONDS USED TO CARRY OUT PURPOSES OF ABOLISHED CONSERVATION AND RECLAMATION DISTRICT. (a) This section

applies only to each municipality that under any other law, including Section 43.075, abolishes a conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution, including a water control and improvement district, fresh water supply district, or municipal utility district.

(b) If, before its abolition, the district voted to issue bonds to provide waterworks, sanitary sewer facilities, or drainage facilities and if some or all of the bonds were not issued, sold, and delivered before the abolition, the governing body of the municipality may issue and sell municipal bonds in an amount not to exceed the amount of the unissued district bonds to carry out the purposes for which the district bonds were voted.

(c) The bonds must be authorized by ordinance of the governing body of the municipality. The ordinance must provide for the levy of taxes on all taxable property in the municipality to pay the principal of and interest on the bonds when due. The bonds must be sold at not less than par value and accrued interest, and must mature, bear interest, and be subject to approval by the attorney general and to registration by the comptroller of public accounts as provided by law for other general obligation bonds of the municipality.

(d) A bond that is approved, registered, and sold as provided by this section is incontestable.

(e) This section repeals a municipal charter provision to the extent of a conflict with this section. This section does not affect the authority of a municipality to issue bonds for other purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.081. CONTINUATION OF CERTAIN MUNICIPAL WATER BOARDS ON ANNEXATION OF WATER CONTROL AND IMPROVEMENT DISTRICT. (a) A municipal water board that was created by Section 6, Chapter 134, Acts of the 52nd Legislature, Regular Session, 1951, and that continues to exist to preserve a vested right created under that law, remains in existence with full power after the municipality annexes all the area of the water control and improvement district whose functions the municipality assumed and delegated to the water

board, so long as the land located in the board's jurisdiction is used for farming, ranching, or orchard purposes.

(b) The municipal water board shall select and designate one or more depositories for the proceeds of the maintenance and water charges and other charges levied by the water control and improvement district and for any other income or other funds of the district. The water board may select a depository regardless of the fact that one or more members of the board are members of the board of directors or are stockholders of the depository.

(c) The funds of the water control and improvement district may be kept in one or more separate accounts in the depository if the funds deposited in each separate account are to be used for a different designated purpose from the funds deposited in any other separate account. The funds deposited in the depository must be insured by an official agency of the United States and must be at least as well insured and protected as funds deposited in the official municipal depository of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.082. ANNEXATION BY CERTAIN MUNICIPALITIES OF LAND OWNED BY NAVIGATION DISTRICT. A municipality with a population of less than 30,000, that is in a county that borders the Gulf of Mexico and that is adjacent to a county with a population of one million or more, and that seeks to annex land owned by a navigation district operating under Section 59, Article XVI, Texas Constitution, must have the consent of the district to annex the land.

Added by Acts 2007, 80th Leg., R.S., Ch. 175 (H.B. 1312), Sec. 1, eff. May 23, 2007.

SUBCHAPTER E. ANNEXATION PROVISIONS RELATING TO RESERVOIRS, AIRPORTS, STREETS, AND CERTAIN OTHER AREAS

Sec. 43.101. ANNEXATION OF MUNICIPALLY OWNED RESERVOIR BY GENERAL-LAW MUNICIPALITY. (a) A general-law municipality may annex:

(1) a reservoir owned by the municipality and used to

supply water to the municipality;

(2) any land contiguous to the reservoir and subject to an easement for flood control purposes in favor of the municipality; and

(3) the right-of-way of any public road or highway connecting the reservoir to the municipality by the most direct route.

(b) The municipality may annex the area if:

(1) none of the area is more than five miles from the municipality's boundaries;

(2) none of the area is in another municipality's extraterritorial jurisdiction; and

(3) the area, excluding road or highway right-of-way, is less than 600 acres.

(c) The area may be annexed without the consent of the owners or residents of the area.

(d) The municipality may annex the area even if part of the area is outside the municipality's extraterritorial jurisdiction or is narrower than the minimum width prescribed by Section 43.054. Section 43.055, which relates to the amount of area a municipality may annex in a calendar year, does not apply to the annexation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 3(i), eff. Aug. 28, 1989.

Sec. 43.102. ANNEXATION OF MUNICIPALLY OWNED AIRPORT. (a) A municipality may annex:

(1) an airport owned by the municipality; and

(2) the right-of-way of any public road or highway connecting the airport to the municipality by the most direct route.

(b) The municipality may annex the area if:

(1) none of the area is more than eight miles from the municipality's boundaries; and

(2) each municipality in whose extraterritorial jurisdiction the airport is located agrees to the annexation.

(c) The area may be annexed without the consent of the owners or residents of the area.

(d) The municipality may annex the area even if the area is outside the municipality's extraterritorial jurisdiction, is in another municipality's extraterritorial jurisdiction, or is narrower than the minimum width prescribed by Section 43.054. Section 43.055, which relates to the amount of area a municipality may annex in a calendar year, does not apply to the annexation.

(e) The annexation under this section of area outside the extraterritorial jurisdiction of the annexing municipality does not expand the extraterritorial jurisdiction of the municipality. Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 3(j), eff. Aug. 28, 1989.

Sec. 43.1025. ANNEXATION OF NONCONTIGUOUS MUNICIPALLY OWNED AIRPORT BY CERTAIN MUNICIPALITIES. (a) This section applies only to a home-rule municipality that has a population of less than 11,000 and is located primarily in a county with a population of more than 3.3 million.

(b) The municipality may annex the unincorporated area of an airport owned by the municipality that is noncontiguous to the boundaries of the municipality regardless of whether the airport is located in the municipality's extraterritorial jurisdiction. The annexation may include any unincorporated area located in the proximity of the airport.

(c) The area described by Subsection (b) may be annexed without the consent of the owners or residents of the area, but the annexation may not occur unless each municipality in whose extraterritorial jurisdiction the area may be located:

(1) consents to the annexation; and

(2) reduces its extraterritorial jurisdiction over the area as provided by Section 42.023.

(d) If the area proposed for annexation is completely surrounded by territory under the jurisdiction of another municipality, regardless of whether that jurisdiction is full-purpose, limited-purpose, or extraterritorial, that municipality must find that the annexation is in the public interest.

(e) Following annexation, territory annexed under this

section is not required to be contiguous to the boundaries of the annexing municipality.

(f) The annexation of area under this section outside the extraterritorial jurisdiction of the annexing municipality does not expand the extraterritorial jurisdiction of the municipality.

(g) The municipality may annex the area if the area is narrower than the minimum width prescribed by Section 43.054. Section 43.055 does not apply to the annexation.

Added by Acts 2007, 80th Leg., R.S., Ch. 423 (S.B. 1349), Sec. 1, eff. June 15, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 63, eff. September 1, 2011.

Sec. 43.103. ANNEXATION OF STREETS, HIGHWAYS, AND OTHER WAYS BY GENERAL-LAW MUNICIPALITY. (a) A general-law municipality with a population of 500 or more may annex, by ordinance and without the consent of any person, the part of a street, highway, alley, or other public or private way, including a railway line, spur, or roadbed, that is adjacent and runs parallel to the boundaries of the municipality.

(b) The requirements imposed by Section 43.054 regarding the width of the area to be annexed do not apply to an area annexed under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 519, Sec. 1, eff. June 15, 1991; Acts 1991, 72nd Leg., ch. 597, Sec. 83, eff. Sept. 1, 1991.

Sec. 43.105. ANNEXATION OF STREETS BY CERTAIN SMALL GENERAL-LAW MUNICIPALITIES. (a) A general-law municipality that has a population of 1,066-1,067 and is located in a county with a population of 85,000 or more that is not adjacent to a county with a population of 2 million or more, or that has a population of 6,000-6,025 may annex, by ordinance and without the consent of any person, a public street, highway, road, or alley adjacent to the municipality.

(b) The requirements imposed by Section 43.054 regarding

the width of the area to be annexed do not apply to an area annexed under this section.

(c) The requirements imposed by Section 43.056 regarding service plans shall apply to an area annexed under this section. The service plan required by this section shall address drainage issues.

Added by Acts 1989, 71st Leg., ch. 74, Sec. 1, eff. May 11, 1989. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 84, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 550, Sec. 1, eff. June 8, 1993; Acts 2001, 77th Leg., ch. 669, Sec. 45, 46, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 64, eff. September 1, 2011.

Sec. 43.106. ANNEXATION OF COUNTY ROADS REQUIRED IN CERTAIN CIRCUMSTANCES. (a) A municipality that proposes to annex any portion of a county road or territory that abuts a county road must also annex the entire width of the county road and the adjacent right-of-way on both sides of the county road.

(b) If a road annexed under Subsection (a) is a gravel road, the county retains control of granting access to the road and its right-of-way from property that:

(1) is not located in the boundaries of the annexing municipality; and

(2) is adjacent to the road and right-of-way.

Added by Acts 2001, 77th Leg., ch. 393, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1052 (H.B. 1949), Sec. 2, eff. September 1, 2015.

SUBCHAPTER F. LIMITED PURPOSE ANNEXATION

Sec. 43.121. AUTHORITY OF POPULOUS HOME-RULE MUNICIPALITIES TO ANNEX FOR LIMITED PURPOSES; OTHER AUTHORITY NOT AFFECTED. (a) The governing body of a home-rule municipality with more than 225,000 inhabitants by ordinance may annex an area for the limited purposes of applying its planning, zoning, health, and

safety ordinances in the area.

(b) To be annexed for limited purposes, an area must be:

(1) within the municipality's extraterritorial jurisdiction; and

(2) contiguous to the corporate boundaries of the municipality, unless the owner of the area consents to noncontiguous annexation.

(c) The provisions of this subchapter, other than Section 43.136, do not affect the authority of a municipality to annex an area for limited purposes under Section 43.136 or any other statute granting the authority to annex for limited purposes.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 822, Sec. 2, eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 1167, Sec. 13, eff. Sept. 1, 1999.

Sec. 43.122. CERTAIN STRIP ANNEXATIONS PROHIBITED. A municipality may not annex for limited purposes any strip of territory, including a strip following the course of a road, highway, river, stream, or creek, that is, at its narrowest point, less than 1,000 feet in width and is located farther than three miles from the preexisting boundaries of the municipality, unless the area is annexed under Section 43.129.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 822, Sec. 2, eff. Sept. 1, 1989.

Sec. 43.123. REPORT REGARDING PLANNING STUDY AND REGULATORY PLAN. (a) Before the 10th day before the date the first hearing required by Section 43.124 is held, the municipality must prepare a report regarding the proposed annexation of an area for limited purposes and make the report available to the public. The report must contain the results of the planning study conducted for the area in accordance with Subsection (c) and must contain the regulatory plan prepared for the area in accordance with Subsection (d).

(b) Notice of the availability of the report shall be published at least twice in a newspaper of general circulation in

the area proposed to be annexed. The notice may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type.

(c) The planning study must:

(1) project the kinds and levels of development that will occur in the area in the next 10 years if the area is not annexed for limited purposes and also if the area is annexed for limited purposes;

(2) describe the issues the municipality considers to give rise to the need for the annexation of the area for limited purposes and the public benefits to result from the limited-purpose annexation;

(3) analyze the economic, environmental, and other impacts the annexation of the area for limited purposes will have on the residents, landowners, and businesses in the area; and

(4) identify the proposed zoning of the area on annexation and inform the public that any comments regarding the proposed zoning will be considered at the public hearings for the proposed limited-purpose annexation.

(d) The regulatory plan must:

(1) identify the kinds of land use and other regulations that will be imposed in the area if it is annexed for limited purposes; and

(2) state the date on or before which the municipality shall annex the area for full purposes, which date must be within three years after the date the area is annexed for limited purposes.

(e) The deadline imposed by Subsection (d)(2) does not apply to an area that:

(1) is owned by the United States, this state, or a political subdivision of this state;

(2) is located outside the boundaries of a water control and improvement district or a municipal utility district; and

(3) is annexed for limited purposes in connection with a strategic partnership agreement under Section 43.0751.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989. Amended by Acts 2003, 78th Leg., ch. 248, Sec. 4, eff. June 18,

2003.

Sec. 43.124. PUBLIC HEARINGS. (a) Before instituting proceedings for annexing an area for limited purposes, the governing body of the municipality must hold two public hearings on the proposed annexation. Each member of the public who wishes to present testimony or evidence regarding the proposed limited-purpose annexation must be given the opportunity to do so. At the hearing, the municipality shall hear and consider the appropriateness of the application of rural and urban ordinances in the area to be annexed for limited purposes.

(b) The hearings must be held on or after the 40th day but before the 20th day before the date the annexation proceedings are instituted. A notice of the hearings must be published in a newspaper of general circulation in the municipality and in the area proposed for annexation. The notice must be in the format prescribed by Section 43.123(b). Before the date of each hearing, the notice must be published at least once on or after the 20th day before the hearing date and must contain:

(1) a statement of the purpose of the hearing;

(2) a statement of the date, time, and place of the hearing; and

(3) a general description of the location of the area proposed to be annexed for limited purposes.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989.

Sec. 43.125. ADOPTION OF REGULATORY PLAN. (a) At the time the governing body of the municipality adopts an ordinance annexing an area for limited purposes, the governing body must also adopt by ordinance a regulatory plan for the area.

(b) The adopted regulatory plan must be the same as the regulatory plan prepared under Section 43.123 unless the governing body finds and states in the ordinance the reasons for the adoption of a different regulatory plan.

(c) The governing body by ordinance may change a regulatory plan adopted under Subsection (b) if, in the ordinance making the change, the governing body finds and states the reasons for the

adoption of the change.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989.

Sec. 43.126. PERIOD FOR COMPLETION OF ANNEXATION. The annexation of an area for limited purposes must be completed within 90 days after the date the governing body institutes the annexation proceedings.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989.

Sec. 43.127. ANNEXATION FOR FULL PURPOSES. (a) Except as provided by Section 43.123(e), on or before the date prescribed by the regulatory plan under Section 43.123(d)(2), the municipality must annex the area for full purposes. This requirement may be waived and the date for full-purpose annexation postponed by written agreement between the municipality and a majority of the affected landowners. A written agreement to waive the municipality's obligation to annex the area for full purposes binds all future owners of land annexed for limited purposes pursuant to that waiver.

(b) In each of the three years for which an area may be annexed for limited purposes, the municipality must take the steps prescribed by this subsection toward the full-purpose annexation of the area. By the end of the first year after the date an area is annexed for limited purposes, the municipality must develop a land use and intensity plan as a basis for services and capital improvements projects planning. By the end of the second year after that date, the municipality must include the area in the municipality's long-range financial forecast and in the municipality's program to identify future capital improvements projects. By the end of the third year after that date, the municipality must include in its adopted capital improvements program the projects intended to serve the area and must identify potential sources of funding for capital improvements.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 822, Sec. 2, eff. Sept. 1, 1989; Acts 2003, 78th Leg., ch. 248, Sec. 5, eff. June 18, 2003.

Sec. 43.128. JUDICIAL REMEDIES: FORCED ANNEXATION OR DISANNEXATION. (a) If the municipality fails to annex the area for full purposes as required by Section 43.127(a), any affected person may petition the district court to compel the annexation of the area for full purposes or the disannexation of the area. On finding that the municipality has failed to annex the area as required by Section 43.127(a), the court shall enter an order requiring the municipality to annex the area for full purposes or to disannex the area. If an area is disannexed, the area may not be annexed again by the municipality for five years.

(b) If the municipality fails to take the steps required by Section 43.127(b), any affected person may petition the district court to compel the annexation of a particular area for full purposes or the disannexation of the area. On finding that the municipality has failed to take the steps required by Section 43.127(b), the court shall enter an order requiring the municipality to annex the area for full purposes or to disannex the area.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989.

Sec. 43.129. CONSENSUAL ANNEXATION. The municipality may annex for limited purposes any land for which the landowner requests annexation and provides to the municipality before the effective date of the annexation the landowner's written consent to annexation for limited purposes. With respect to any larger parcels of property, consent of the owners of at least 51 percent of the total affected territory must be evidenced by appropriate signatures on the limited-purpose annexation request. A landowner's written consent to limited-purpose annexation is binding on all future owners of land in the area annexed for limited purposes pursuant to the consent.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 822, Sec. 2, eff. Sept. 1, 1989.

Sec. 43.130. EFFECT OF ANNEXATION ON VOTING RIGHTS, ELIGIBILITY FOR OFFICE, AND TAXING AUTHORITY. (a) The qualified

voters of an area annexed for limited purposes are entitled to vote in municipal elections regarding the election or recall of members of the governing body of the municipality, the election or recall of the controller, if the office of controller is an elective position of the municipality, and the amendment of the municipal charter. The voters may not vote in any bond election. On or after the 15th day but before the fifth day before the date of the first election held in which the residents of an area annexed for limited purposes are entitled to vote, the municipality shall publish notice in the form of a quarter-page advertisement in a newspaper of general circulation in the municipality notifying the residents that they are eligible to vote in the election and stating the location of all polling places for the residents.

(b) A resident of an area annexed for limited purposes is not eligible to be a candidate for or to be elected to a municipal office.

(c) The municipality may not impose a tax on any property in an area annexed for limited purposes or on any resident of the area for an activity occurring in the area. The municipality may impose reasonable charges, such as building inspection and permit fees, on residents or landowners for actions or procedures performed by the municipality in connection with the limited purposes for which the area is annexed.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989. Amended by Acts 2003, 78th Leg., ch. 664, Sec. 1, eff. Sept. 1, 2003.

Sec. 43.131. EFFECT OF ANNEXATION ON EXTRATERRITORIAL JURISDICTION. The annexation of an area for limited purposes does not extend the municipality's extraterritorial jurisdiction.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989.

Sec. 43.132. MUNICIPAL INCORPORATION IN ANNEXED AREA. A municipality may not be incorporated in an area annexed for limited purposes unless the annexing municipality gives its consent.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989.

Sec. 43.136. AUTHORITY OF SPECIAL-LAW MUNICIPALITY TO ANNEX FOR LIMITED PURPOSES ALONG NAVIGABLE STREAM. (a) The governing body of a special-law municipality located along or on a navigable stream may extend the boundaries of the municipality to include the area designated by Subsection (b) only to:

(1) improve navigation on the stream by the United States, the municipality, or a navigation or other improvement district; and

(2) establish and maintain wharves, docks, railway terminals, side tracks, warehouses, or other facilities or aids relating to navigation or wharves.

(b) The municipality by ordinance may extend the boundaries to include an area composed of the navigable stream and the land on each side of the stream. The area may not exceed 2,500 feet in width on either side of the stream as measured from the thread of the stream and may not exceed 20 miles in length as measured in a direct line from the ordinary municipal boundaries, either above or below the boundaries, or both. Consequently, the area subject to the boundary extension is a strip 5,000 feet wide and 20 miles in length, or as much of that strip as the governing body considers advisable to add to the municipality. The boundaries are extended on the adoption of the ordinance.

(c) The governing body may acquire land in the added area by purchase, condemnation, or gift. If condemnation is used, the municipality shall follow the condemnation procedure applying to the condemnation of land by the municipality for the purchase of streets.

(d) This section does not authorize the municipality to extend its boundaries to include area that is part of or belongs to another municipality.

(e) A municipality may not tax the property over which the boundaries are extended under this section unless the property is within the general municipal boundaries.

(f) After the adoption of the ordinance extending the municipal boundaries, the municipality may fully regulate navigation, wharfage, including wharfage rates, and all facilities, conveniences, and aids to navigation or wharfage. The

municipality may adopt ordinances, including those imposing criminal penalties, and may otherwise police navigation on the stream and the use of the wharves or other facilities and aids to navigation or wharfage.

(g) The municipality may designate all or part of the added area as an industrial district, as the term is customarily used, and may treat the designated area in a manner considered by the governing body to be in the best interest of the municipality. The governing body may make written contracts or agreements with the owners of land in the industrial district, to guarantee the continuation of the limited purpose annexation status of the district and its immunity from general purpose annexation for a period not to exceed 10 years. The contract or agreement may contain other terms considered appropriate by the parties. The governing body and landowners may renew or extend the contract for successive periods not to exceed 10 years each.

(h) Notwithstanding any other law, including a municipal ordinance or charter provision, the governing body by ordinance may change the status of an area previously annexed for general purposes to limited purpose annexation status governed by this section if:

(1) the area previously annexed at any time was eligible to be included within the municipal boundaries under Subsection (b);

(2) the owners of the area petition the governing body for the change in status; and

(3) the governing body includes the area in an industrial district designated as provided by Subsection (g) or any other law.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 3(k), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 816, Sec. 1, eff. June 17, 1997.

SUBCHAPTER G. DISANNEXATION

Sec. 43.141. DISANNEXATION FOR FAILURE TO PROVIDE SERVICES. (a) A majority of the qualified voters of an annexed area may

petition the governing body of the municipality to disannex the area if the municipality fails or refuses to provide services or to cause services to be provided to the area within the period specified by Section 43.056 or by the service plan prepared for the area under that section.

(b) If the governing body fails or refuses to disannex the area within 60 days after the date of the receipt of the petition, any one or more of the signers of the petition may bring a cause of action in a district court of the county in which the area is principally located to request that the area be disannexed. On the filing of an answer by the governing body, and on application of either party, the case shall be advanced and heard without further delay in accordance with the Texas Rules of Civil Procedure. The district court shall enter an order disannexing the area if the court finds that a valid petition was filed with the municipality and that the municipality failed to perform its obligations in accordance with the service plan or failed to perform in good faith.

(c) If the area is disannexed under this section, it may not be annexed again within 10 years after the date of the disannexation.

(d) The petition for disannexation must:

(1) be written;

(2) request the disannexation;

(3) be signed in ink or indelible pencil by the appropriate voters;

(4) be signed by each voter as that person's name appears on the most recent official list of registered voters;

(5) contain a note made by each voter stating the person's residence address and the precinct number and voter registration number that appear on the person's voter registration certificate;

(6) describe the area to be disannexed and have a plat or other likeness of the area attached; and

(7) be presented to the secretary of the municipality.

(e) The signatures to the petition need not be appended to one paper.

(f) Before the petition is circulated among the voters,

notice of the petition must be given by posting a copy of the petition for 10 days in three public places in the annexed area and by publishing a copy of the petition once in a newspaper of general circulation serving the area before the 15th day before the date the petition is first circulated. Proof of the posting and publication must be made by attaching to the petition presented to the secretary:

(1) the sworn affidavit of any voter who signed the petition, stating the places and dates of the posting; and

(2) the sworn affidavit of the publisher of the newspaper in which the notice was published, stating the name of the newspaper and the issue and date of publication.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1167, Sec. 14, eff. Sept. 1, 1999.

Sec. 43.142. DISANNEXATION ACCORDING TO MUNICIPAL CHARTER IN HOME-RULE MUNICIPALITY. A home-rule municipality may disannex an area in the municipality according to rules as may be provided by the charter of the municipality and not inconsistent with the procedural rules prescribed by this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.143. DISANNEXATION BY PETITION AND ELECTION IN GENERAL-LAW MUNICIPALITY. (a) When at least 50 qualified voters of an area located in a general-law municipality sign and present a petition to the mayor of the municipality that describes the area by metes and bounds and requests that the area be declared no longer part of the municipality, the mayor shall order an election on the question in the municipality. The election shall be held on the first uniform election date prescribed by Chapter 41, Election Code, that occurs after the date on which the petition is filed and that affords enough time to hold the election in the manner required by law.

(b) When a majority of the votes received in the election favor discontinuing the area as part of the municipality, the mayor shall declare that the area is no longer a part of the municipality and shall enter an order to that effect in the minutes or records of

the governing body of the municipality. The area ceases to be a part of the municipality on the date of the order. However, the area may not be discontinued as part of the municipality if the discontinuation would result in the municipality having less area than one square mile or one mile in diameter around the center of the original municipal boundaries.

(c) If the area withdraws from a municipality as provided by this section and if, at the time of the withdrawal, the municipality owes any debts, by bond or otherwise, the area is not released from its pro rata share of that indebtedness. The governing body shall continue to levy a property tax each year on the property in the area at the same rate that is levied on other property in the municipality until the taxes collected from the area equal its pro rata share of the indebtedness. Those taxes may be charged only with the cost of levying and collecting the taxes, and the taxes shall be applied exclusively to the payment of the pro rata share of the indebtedness. This subsection does not prevent the inhabitants of the area from paying in full at any time their pro rata share of the indebtedness.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.144. DISANNEXATION OF SPARSELY POPULATED AREA IN GENERAL-LAW MUNICIPALITY. (a) The mayor and governing body of a general-law municipality by ordinance may discontinue an area as a part of the municipality if:

(1) the area consists of at least 10 acres contiguous to the municipality; and

(2) the area:

(A) is uninhabited; or

(B) contains fewer than one occupied residence or business structure for every two acres and fewer than three occupied residences or business structures on any one acre.

(b) On adoption of the ordinance, the mayor shall enter in the minutes or records of the governing body an order discontinuing the area. The area ceases to be a part of the municipality on the date of the entry of the order.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.145. DISANNEXATION OF UNIMPROVED AREA OR NONTAXABLE AREA IN CERTAIN MUNICIPALITIES. (a) The governing body of a municipality by ordinance may discontinue an area as a part of the municipality if:

(1) the municipality has a population of 4,000 or more and is located in a county with a population of more than 205,000, and the area is composed of at least three contiguous acres that are unimproved and adjoining the municipal boundaries; or

(2) the municipality has a population of 596,000 or more, and the area is an improved area that is not taxable by the municipality and is contiguous to the municipal boundary.

(b) On adoption of the ordinance, the governing body shall enter in the minutes or records of the municipality an order discontinuing the area. The area ceases to be a part of the municipality on the date of the entry of the order.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.146. DISANNEXATION OF LAND IN A MUNICIPAL UTILITY DISTRICT. Notwithstanding any provision of any other law related to the annexation or disannexation of territory, including but not limited to the requirement that the minimum width of any territory annexed be at least 1,000 feet in width, a municipality that has exercised limited purpose annexation may disannex any land located within a municipal utility district. Such disannexation shall not affect the validity of the annexation of other territory. Such municipality may refund any taxes paid or waive any taxes due to the municipality by the owners of the property disannexed pursuant to the provisions of this section.

Added by Acts 1989, 71st Leg., ch. 1058, Sec. 5, eff. Sept. 1, 1989.

Sec. 43.147. WIDTH REQUIREMENT FOR DISANNEXATION. (a) A municipality disannexing a road or highway shall also disannex a strip of area that is equal in size to the minimum area that the municipality is required to annex in order to comply with the width requirements of Section 43.054 unless such disannexation is undertaken with the mutual agreement of the county government and

the municipality.

(b) The strip of area to be disannexed must:

(1) be adjacent to either side of the road or highway; and

(2) follow the course of the road or highway.

Added by Acts 1995, 74th Leg., ch. 513, Sec. 1, eff. Sept. 1, 1995.

Sec. 43.148. REFUND OF TAXES AND FEES. (a) If an area is disannexed, the municipality disannexing the area shall refund to the landowners of the area the amount of money collected by the municipality in property taxes and fees from those landowners during the period that the area was a part of the municipality less the amount of money that the municipality spent for the direct benefit of the area during that period.

(b) A municipality shall proportionately refund the amount under Subsection (a) to the landowners according to a method to be developed by the municipality that identifies each landowner's approximate pro rata payment of the taxes and fees being refunded.

(c) A municipality required to refund money under this section shall refund the money to current landowners in the area not later than the 180th day after the date the area is disannexed. Money that is not refunded within the period prescribed by this subsection accrues interest at the rate of:

(1) six percent each year after the 180th day and until the 210th day after the date the area is disannexed; and

(2) one percent each month after the 210th day after the date the area is disannexed.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 15, eff. Sept. 1, 1999.

SUBCHAPTER H. ALTERATION OF ANNEXATION STATUS

Sec. 43.201. DEFINITIONS. In this subchapter:

(1) "Consent agreement" means an agreement between a district and a municipality under Section 42.042.

(2) "Limited-purpose annexation" means annexation authorized under Section 43.121.

Added by Acts 1995, 74th Leg., ch. 787, Sec. 2, eff. Sept. 1, 1995.

Sec. 43.202. APPLICABILITY. This subchapter applies to:

(1) a municipal utility district operating under Chapter 54, Water Code, that:

(A) was annexed for full purposes by a municipality as a condition of the municipality granting consent to the creation of the district;

(B) was annexed by the municipality on the same date as at least five other districts; and

(C) has not had on the eighth anniversary of the district's annexation by the municipality more than 10 percent of the housing units or commercial square footage authorized in its consent agreement constructed; and

(2) a municipality that has:

(A) annexed territory for limited purposes;

(B) disannexed territory that previously was annexed for limited purposes; and

(C) previously disannexed territory in a municipal utility district originally annexed for full purposes on the same date as a district to which this section applies.

Added by Acts 1995, 74th Leg., ch. 787, Sec. 2, eff. Sept. 1, 1995.

Sec. 43.203. ALTERATION OF ANNEXATION STATUS. (a) The governing body of a district by resolution may petition a municipality to alter the annexation status of land in the district from full-purpose annexation to limited-purpose annexation.

(b) On receipt of the district's petition, the governing body of the municipality shall enter into negotiations with the district for an agreement to alter the status of annexation that must:

(1) specify the period, which may not be less than 10 years beginning on January 1 of the year following the date of the agreement, in which limited-purpose annexation is in effect;

(2) provide that, at the expiration of the period, the district's annexation status will automatically revert to full-purpose annexation without following procedures provided by

Sections 43.051 through 43.055 or any other procedural requirement for annexation not in effect on January 1, 1995; and

(3) specify the financial obligations of the district during and after the period of limited-purpose annexation for:

(A) facilities constructed by the municipality that are in or that serve the district;

(B) debt incurred by the district for water and sewer infrastructure that will be assumed by the municipality at the end of the period of limited-purpose annexation; and

(C) use of the municipal sales taxes collected by the municipality for facilities or services in the district.

(c) If an agreement is not reached within 90 days after the date the municipality receives a petition submitted by a district:

(1) the district's status is automatically altered from full-purpose annexation to limited-purpose annexation for a period of not less than 10 years, beginning January 1 of the year following the date of the submission of a petition, unless the voters of the district have approved the dissolution of the district through an election authorized by this section; and

(2) on the expiration of the 10-year period of Subdivision (1), notwithstanding any other provision of law, the district may be restored to full-purpose annexation at the option of the municipality, provided that the municipality assumes all obligations otherwise assigned by law to a municipality that annexes a district; and

(3) the municipality may collect a waste and wastewater surcharge for customers in the district after restoration of full-purpose annexation provided that:

(A) notice of such proposed surcharge is provided to the board of a district six months prior to restoration of full-purpose annexation;

(B) the surcharge does not exceed the cost of a post-annexation surcharge to any other district annexed by the municipality; and

(C) the surcharge is in effect only during the period in which bonds issued by the district or refunded by the municipality are not fully retired.

(d) Upon the request of any residents of a district subject to this section the municipality may conduct an election on a uniform election date at which election voters who are residents of the district may vote for or against a ballot proposal to dissolve the district. If more than one district was created on the same date and the districts are contiguous, the election shall be a combined election of all such districts, with a majority of votes cast by all residents of the districts combined required for dissolution of the districts. If a majority of votes are in favor of dissolution, the date of dissolution shall be December 31 of the same year in which the election is held. Upon dissolution of the district, all property and obligations of a dissolved district become the responsibility of the municipality.

(e) The municipality shall have no responsibility to reimburse the developer of the district or its successors for more than reasonable and actual engineering and construction costs to design and build internal water treatment and distribution facilities, wastewater treatment and collection facilities, or drainage facilities, whether temporary or permanent, installed after September 1, 1995. Any obligation to reimburse the developer may be paid in installments over a three-year period.

(f) During the period of limited-purpose annexation:

(1) the district may not use bond proceeds to pay for impact fees but must comply with other items in its consent agreement with the municipality;

(2) the municipality:

(A) must continue to provide wholesale water and sewer service as provided by the consent agreement; and

(B) is relieved of service obligations in the district that are not provided to other territory annexed for limited purposes or required by the annexation alteration agreement between the municipality and the district; and

(3) retail sales in the boundaries of the district will be treated for municipal sales tax purposes as if the district were annexed by the municipality for full purposes.

(g) This section does not allow a change in annexation status for land or facilities in a district to which the

municipality granted a property tax abatement before September 1, 1995.

Added by Acts 1995, 74th Leg., ch. 787, Sec. 2, eff. Sept. 1, 1995.

SUBCHAPTER Y. ANNEXATION AND INCORPORATION PROCEDURES FOR CERTAIN UNINCORPORATED COMMUNITIES IN CERTAIN COUNTIES

Sec. 43.851. DEFINITIONS. In this subchapter:

(1) "Affected county" means Jasper County, Newton County, or Orange County.

(2) "Affected municipality" means a municipality the boundaries of which are located in whole or in part in an affected county.

(2-a) "Affected unincorporated area" means the unincorporated area located within the circumference of a circle, the center of which is the intersection of State Highways 87 and 12 in Newton County, and the radius of which is six miles.

(3) "Extraterritorial jurisdiction" means extraterritorial jurisdiction of a municipality as determined under Chapter 42.

(4) "Mauriceville boundary" means the circumference of a circle, the center of which is the intersection of the rights-of-way of Texas State Highway 62 and Texas State Highway 12, and the radius of which is 2-1/2 miles.

(5) "Mauriceville community" means the area in the affected counties consisting of the unincorporated community known as Mauriceville.

(6) "Municipal annexation plan" means an annexation plan adopted or amended by an affected municipality under Section 43.052.

Added by Acts 2001, 77th Leg., ch. 1123, Sec. 1, eff. June 15, 2001.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 12.001, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1083 (H.B. 1812), Sec. 1, eff. June 18, 2005.

Sec. 43.852. ANNEXATION PROCEDURES. Notwithstanding Section 43.052(h), an affected municipality may not annex all or part of an affected unincorporated area unless the affected municipality:

(1) includes the affected unincorporated area in its municipal annexation plan; and

(2) complies with:

(A) Sections 43.052(a)-(g) and (i)-(j);

(B) Section 43.853; and

(C) other provisions of law relating to annexation.

Added by Acts 2001, 77th Leg., ch. 1123, Sec. 1, eff. June 15, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1083 (H.B. 1812), Sec. 2, eff. June 18, 2005.

Sec. 43.853. NOTICE: INCLUDING AREA IN PLAN. (a) An affected municipality that adopts or amends its municipal annexation plan to include all or part of an affected unincorporated area must comply with this chapter and all other requirements of law relating to the adoption or amendment of a municipal annexation plan.

(b) Before the 90th day after the date an affected municipality adopts or amends its municipal annexation plan to include all or part of the affected unincorporated area, the municipality shall post a notice of the proposed annexation in at least three public places within the affected unincorporated area. The notice must remain posted for at least seven consecutive days. The first day of posting must occur before that 90th day.

(c) On or before the 90th day after the date an affected municipality adopts or amends its municipal annexation plan to include all or part of the affected unincorporated area, the municipality shall publish a notice of the proposed annexation in at least two newspapers of general circulation within the affected unincorporated area. The municipality shall publish a second notice in the same manner not less than 7 days and not more than 14 days after the first notice is published. If the affected

unincorporated area is located within the Mauriceville boundary, the municipality shall publish the notice as provided by this subsection in at least two newspapers of general circulation within the Mauriceville community.

Added by Acts 2001, 77th Leg., ch. 1123, Sec. 1, eff. June 15, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1083 (H.B. 1812), Sec. 2, eff. June 18, 2005.

Sec. 43.854. NOTICE: REMOVING AREA FROM PLAN. (a) An affected municipality that adopts or amends its municipal annexation plan to remove all or part of an affected unincorporated area must comply with this chapter and all other requirements of law relating to the adoption or amendment of a municipal annexation plan.

(b) Before the 90th day after the date an affected municipality adopts or amends its municipal annexation plan to remove all or part of the affected unincorporated area, the municipality shall post a notice of the removal in at least three public places within the affected unincorporated area. The notice must remain posted for seven consecutive days. The first day of posting must occur before that 90th day.

(c) On or before the 90th day after the date an affected municipality adopts or amends its municipal annexation plan to remove all or part of the affected unincorporated area, the municipality shall publish a notice of the removal in at least two newspapers of general circulation within the affected unincorporated area. The municipality shall publish a second notice in the same manner not less than 7 days and not more than 14 days after the first notice is published. If the affected unincorporated area is located within the Mauriceville boundary, the municipality shall publish the notice as provided by this subsection in at least two newspapers of general circulation within the Mauriceville community.

Added by Acts 2001, 77th Leg., ch. 1123, Sec. 1, eff. June 15, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1083 (H.B. 1812), Sec. 2, eff. June

18, 2005.

Sec. 43.855. INCORPORATION PROCEDURES. (a) Except as provided by Subsection (b), if an application or petition to incorporate all or part of an affected unincorporated area is filed with the county judge:

(1) a community may be incorporated within the affected unincorporated area under the procedures prescribed by law; and

(2) the county judge shall order an incorporation election under the procedures prescribed by law.

(b) If all or part of the area to be incorporated is located within the extraterritorial jurisdiction of an affected municipality, the affected municipality is considered to have consented to the annexation for purposes of Section 42.041(a) on the date a petition or application to incorporate the area is filed with the county judge of the affected county. The filing of a petition or application under this section initiates the incorporation proceedings for purposes of Section 42.041(d). The incorporation must be finally completed within the period prescribed by Section 42.041(d). If the proceedings to incorporate the area are not finally completed within the prescribed period, the area may not be incorporated without obtaining:

(1) the express consent of the affected municipality as required by Section 42.041(a); or

(2) consent of the affected municipality in the manner provided by Section 42.041(b).

Added by Acts 2001, 77th Leg., ch. 1123, Sec. 1, eff. June 15, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1083 (H.B. 1812), Sec. 3, eff. June 18, 2005.

Sec. 43.856. EXPIRATION DATE. This subchapter expires at midnight on December 31, 2030.

Added by Acts 2001, 77th Leg., ch. 1123, Sec. 1, eff. June 15, 2001.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 12.002, eff. Sept. 1, 2003.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 43.901. CIRCUMSTANCES IN WHICH CONSENT TO BOUNDARIES OR ANNEXATION IS PRESUMED. A municipal ordinance defining boundaries of or annexing area to a municipality is conclusively presumed to have been adopted with the consent of all appropriate persons, except another municipality, if:

(1) two years have expired after the date of the adoption of the ordinance; and

(2) an action to annul or review the adoption of the ordinance has not been initiated in that two-year period.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 401, Sec. 1, eff. Sept. 1, 2001.

Sec. 43.902. ANNEXATION, EXTRATERRITORIAL JURISDICTION, AND EMINENT DOMAIN ON INACCESSIBLE GULF ISLAND. (a) Land on an island bordering the Gulf of Mexico that is not accessible by a public road or common carrier ferry facility may not be annexed by a municipality without the consent of the owners of the land.

(b) The extraterritorial jurisdiction of a municipality does not include land on the island unless the owners of the land consent.

(c) A municipality may not take property on the island through eminent domain.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.903. EFFECT OF ANNEXATION ON RAILROAD SWITCHING LIMITS OR RATES. An annexation by a municipality does not change or otherwise affect the switching limits of a railroad or any rates of a railroad.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 43.905. EFFECT OF ANNEXATION ON OPERATION OF SCHOOL DISTRICT. (a) A municipality that proposes to annex an area shall provide written notice of the proposed annexation to each public school district located in the area proposed for annexation within

the period prescribed for publishing the notice of the first hearing under Section 43.0561 or 43.063, as applicable.

(b) A notice to a public school district shall contain a description of:

(1) the area within the district proposed for annexation;

(2) any financial impact on the district resulting from the annexation, including any changes in utility costs; and

(3) any proposal the municipality has to abate, reduce, or limit any financial impact on the district.

(c) The municipality may not proceed with the annexation unless the municipality provides the required notice.

(d) A municipality that has annexed any portion of an area after December 1, 1996, and before September 1, 1999, in which a school district has a facility shall grant a variance from the municipality's building code for that facility if the facility does not comply with the code.

(e) A municipality that, as a result of the annexation, provides utility services to a school district facility may charge the district for utility services at:

(1) the same rate that the district was paying before the annexation; or

(2) a lower municipal rate.

(f) A rate set under Subsection (e) is effective until the first day of the school district's fiscal year that begins after the 90th day after the effective date of the annexation.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 16, eff. Sept. 1, 1999.

Sec. 43.906. VOTING RIGHTS AFTER ANNEXATION. (a) In connection with an annexation or proposed annexation, a municipality shall apply for preclearance under Section 5, Voting Rights Act of 1965 (42 U.S.C. Section 1973c), of any voting change resulting from the annexation or proposed annexation from the United States Department of Justice on the earliest date permitted under federal law.

(b) Notwithstanding Section 276.006, Election Code, a

municipality that annexes an area may not prevent a qualified voter residing in the area from voting in a regularly scheduled municipal election for any reason if the municipality has obtained preclearance of the voting change from the United States Department of Justice.

Added by Acts 1999, 76th Leg., ch. 1167, Sec. 16, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 402, Sec. 6, eff. Sept. 1, 2001.

Sec. 43.907. EFFECT OF ANNEXATION ON COLONIAS. (a) In this section, "colonia" means a geographic area that consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood and that:

(1) has a majority population composed of individuals and families of low income and very low income, as defined by Section 2306.004, Government Code, and based on the federal Office of Management and Budget poverty index, and that meets the qualifications of an economically distressed area under Section 17.921, Water Code; or

(2) has the physical and economic characteristics of a colonia, as determined by the Texas Department of Housing and Community Affairs.

(b) A colonia that is annexed by a municipality remains eligible for five years after the effective date of the annexation to receive any form of assistance for which the colonia would be eligible if the annexation had not occurred.

Added by Acts 1999, 76th Leg., ch. 218, Sec. 1, eff. Sept. 1, 1999. Renumbered from Sec. 43.905 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(84), eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 341 (S.B. 99), Sec. 18, eff. June 15, 2007.