



# TEXAS 85<sup>TH</sup> LEGISLATURE ISSUE BRIEF SERIES

## Issue: Municipal Annexation

Photo by: Jan Buchholtz



*HCA is a passionate community caring for the unique features, spring-fed streams, heritage ranch lands, spectacular beauty and culture of the Texas Hill Country for the benefit of future generations.*

*The Mission of the Hill Country Alliance is to bring together an ever-expanding alliance of groups throughout a multi-county region of Central Texas with the long-term objective of preserving open spaces, water supply, water quality and the unique character of the Texas Hill Country.*



The 85<sup>th</sup> Legislature will consider issues of utmost importance to the future of the Hill Country. This issue brief series provides an introduction to some of the legislative conversations convening in Austin, and how they impact our region.

As central Texas cities expand at an ever more rapid pace, their power to annex adjacent areas into city limits grows more contentious.

While the wisdom of annexation is both questioned and defended on many levels, its impact on the health and well-being of unincorporated Hill Country communities is particularly relevant, since 90% of the Hill Country remains outside of any city limits.

On one side, advocates argue that without meaningful county land use authority, municipal annexation provides the only way to shape booming growth outside of current city limits.

On the other hand, critics view the annexation of previously unspoiled areas into city limits as a threat to unique cultural, historic and ecological identities, as well as a violation of property rights and free choice.

In the 2017 legislative session, a core debate will address the question of whether to reign in annexation powers by requiring that cities obtain the permission of residents in the area to be annexed. The Texas Municipal League, and major cities oppose this proposed change, while the Texas Public Policy Foundation supports. This conversation is of critical importance to the future of the Hill Country.

*San Antonio recently put on hold plans for the annexation of 66 square miles of Bexar County, which would have boosted its population from 1.7 to 1.8 million and catapulted it from the 7<sup>th</sup> largest to the 5<sup>th</sup> largest city in the U.S.*



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## History:

When Texas adopted the Home Rule Amendment to the state Constitution in 1912, cities of 5,000 or greater population were free to adopt charters that allowed them to exercise any power not limited by the state. The power to annex unilaterally was one of those, although state law still limits that power in several ways:

- Area added by annexation in a given year cannot exceed 10% of existing city size
- Only lands within a City's ETJ are generally allowable to be annexed
- The annexing city must prepare a plan outlining how services will be provided

## Core Issues:

### *Equity and Efficiency*

**Opponents of annexation** see unilateral annexation as undermining personal choice and property rights. It brings the metropolis to the property owner who actively chooses not to live in city limits for a variety of reasons, including avoidance of municipal property taxes and the freedom of minimal land use restrictions. Since communities can be annexed against their will, with no allowance for a vote, this scenario is commonly portrayed as taxation without representation. Although annexation brings new services such as municipal utility and public safety delivery systems, those may be seen as unnecessary by communities long used to relying on water wells, septic systems, privately contracted trash services, volunteer fire departments, and oversight/public safety protections from County Commissioners Courts and Sheriff.

**Proponents of annexation** contend that, since the population living outside of city limits regularly uses city roads, parks, and other amenities, they should contribute to their costs. Annexing the consumers of these goods into city limits and having them pay municipal property tax enhances overall equity by dispersing costs. The state mandates that existing, non-nuisance uses may continue upon annexation, even if contrary to newly applied zoning rules.

### *Development Control*

**Supporters of annexation** emphasize it as a tool to control and direct the rapid growth occurring in many of the Hill Country communities adjacent to San Antonio and Austin. Although these areas may not have wanted or needed zoning or other land use regulations in the past, the influx of new residents to these desirable locations means that there is a need for zoning to insure development proceeds in an orderly manner, protecting quality of life, public health, and environmental integrity.

**Opponents of annexation** may question the idea that it can be used as a control on development, especially when annexation lessens protections compared to what cities may already require in their ETJ, where they have some regulatory authority. For example, San Antonio's allowable level of impervious cover over the Edwards Aquifer Recharge zone is 15% in the ETJ. That figure actually increases (to varying levels depending on use and location) when those properties are annexed.

## Legislation:

59 bills have been filed in 2017 that address various aspects of annexation. Several are scheduled for hearings at the Land and Resource Management Committee:

HB 299 (Larson). Relating to municipal annexation

HB 424 (Huberty). Relating to municipal annexation

HB 2099 (Kuempel). Relating to the annexation of an unincorporated enclave by certain general-law municipalities.

HB 2100 (Kuempel). Relating to authority of certain general-law municipalities to annex an area without consent.

HB 3603 (Isaac). Relating to authority of certain general-law municipalities to annex an area on petition by owners.

HB 3156 (Isaac). Relating to the transfer of extraterritorial jurisdiction between certain home-rule and general-law municipalities and annexation of certain territory by the general-law municipalities

HB 2272 (Schofield). Relating to the procedures for municipal annexation.

HB 2416 (Schofield). Relating to the extraterritorial jurisdiction of and municipal annexation by certain municipalities.

Thank you to HCA Board Member Francine Romero for drafting this Issue Brief

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