



TEXAS MUNICIPAL LEAGUE
Empowering Texas cities to serve their citizens

President **David Rutledge**, Mayor, Bridge City
Executive Director **Bennett Sandlin**

April 19, 2023

The Honorable DeWayne Burns
Chairman, House Land and Resource Management Committee
Texas House of Representatives
P.O. Box 2910
Austin, TX 78768-2910

Dear Chairman Burns:

I am writing on behalf of the Texas Municipal League to express our opposition to **H.B. 5217** by **Representative Cecil Bell**. The bill would provide a process for residents in a city's extraterritorial jurisdiction (ETJ) to force a city to release the area from the ETJ by petition or election, depending on the population of the area.

We are concerned about H.B. 5217's: (1) impact on the fundamental purpose of the ETJ; (2) failure to allow city residents to participate in the decision to release an area from the ETJ; (3) effect on existing agreements; (4) imposition of unfunded mandates; and (5) vague nature.

The ETJ, a concept created by the Texas Legislature, was established in order to promote and protect the health, safety, and welfare of persons residing in and adjacent to cities, a sort of buffer zone outside of a city's corporate limits. This bill would strip a city of its ability to fulfill this legislative purpose. By requiring a city to release area from its ETJ, the bill would leave the city with no regulatory authority over those areas just outside the corporate limits.

The bill would render city residents silent in the decision about whether an area should be released from the ETJ. Under the bill, only residents of the ETJ may participate in the petition or election process. However, the release of an area from the ETJ also impacts city residents. For instance, city residents have an interest in a city retaining authority to regulate nuisances that exist just outside the city's corporate limits, and they should have a voice in this decision.

The bill would impact existing agreements, leading, at best, to confusion and, at worst, litigation. For instance, Local Government Code Chapter 242 requires cities and counties to enter into a written agreement that identifies the entity authorized to regulate subdivision plats and approve related permits in the ETJ. Because the bill does not establish any minimum size of area that may be removed, this bill could leave a city's ETJ looking like Swiss cheese. The resulting regulatory nightmare for cities and counties to track who is responsible for regulating a particular area would

be very problematic. Cities also have existing development agreements related to property in the ETJ. The enforceability of some provisions of those agreements may be called into question if the property is removed from the ETJ.

The bill would impose unfunded mandates on cities, including: (1) the costs of holding an election; and (2) the costs of notifying residents and landowners of the result of a petition or an election.

The bill leaves many important questions unanswered. For example:

- How does a city determine the population of an area described in a petition?
- Does the requirement to hold an election “in the area” mean physically placing a polling station in the area requesting to be removed? That would be impose a significant burden on a city faced with multiple petitions in different areas pending on the same election date.
- What happens to an area once removed from a city’s ETJ? Could it become part of a neighboring city’s ETJ by operation of Local Government Code Section 42.021? Could the area incorporate into a city even though located in the ETJ of a city as set out in Section 42.021?

For these reasons, we oppose the bill. Thank you for your consideration and please do not hesitate to contact me if I can be of any assistance to you.

Sincerely,

A handwritten signature in black ink, appearing to read "Monty Wynn". The signature is fluid and cursive, with a large, stylized "M" and "W".

Monty Wynn
Director, Grassroots and Legislative Services
Texas Municipal League