

TEXAS PUBLIC POLICY FOUNDATION

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**LEGISLATOR'S
GUIDE**
to the issues



TEXAS PUBLIC POLICY
FOUNDATION

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The public is demanding a different direction for their government, and the Texas Public Policy Foundation is providing the ideas that enable policymakers to chart that new course.

TEXAS PUBLIC POLICY FOUNDATION
901 Congress Ave., Austin, TX 78701
(512) 472-2700 Phone (512) 472-2728 Fax
www.TexasPolicy.com

Forced Annexation

The Issue

Municipal annexation power dates back to the 1912 Home-Rule Amendment to the Texas Constitution. By adopting a home-rule charter, cities with a population of 5,000 or more are given the inherent powers of self-government. Therefore, home-rule cities are defined by what they *cannot* do; such municipalities have the authority to exercise any power that is given them by the people and not prohibited by the Constitution or laws of the state.

Since no limit on annexation was expressly stated in the 1912 amendment, cities initially wielded virtually unlimited authority to annex property—including the right to forcibly annex without obtaining consent. However, the Legislature periodically enacted reforms after watching cities abuse their annexation power.

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

Similarly, in 1989, the Legislature created a requirement that cities prepare a municipal annexation plan to extend services to newly annexed areas within four and a half years after annexation. Following Houston's controversial annexation of Kingwood, the Texas Legislature strengthened the requirements for municipal annexation plans, public hearing timelines, and notice requirements.

These earlier annexation reforms made a significant difference in limiting some of the more dangerous parts of annexation authority generally, but did not address the fundamental flaws inherent in the system—the forced, involuntary nature of the process.

This is why the Texas Annexation Right to Vote Act, which became effective on December 1, 2017, was so significant. Under the new law, a city that wants to annex an area at least partially located in a county with a population of 500,000—a "tier 2 county"—must obtain consent from that area via a petition or an election. However, cities in smaller counties—a "tier 1 county" with a population of less than 500,000—can still forcibly annex without obtaining consent.

Tier 1 counties that want to voluntarily come under the new law's protections against forced annexation must undergo a two-step process. First, at least 10% of registered voters in the county must sign a petition to their county commissioners court requesting an election to classify the county as a tier 2 county, in which forced annexation is prohibited. Next, a majority must approve classifying as a tier 2 county at the election.

Last session's monumental reform should be expanded in the next session to give all Texans the right to vote on being annexed. Doing so would bring a permanent end to a tyrannical practice.

The Facts

- America was founded on the idea that citizens cannot be deprived of their liberty without representation and due process. The injustice of "taxation

without representation” is not rectified by giving a citizen the right to vote after the government has already taken his or her money.

- Citizens who prefer a smaller government and fewer central services live outside the city limits for a reason. Forcing citizens to become part of a city denies them the ability to vote with their feet.
- Cities view annexation as a way to expand their tax base and capture additional revenue, whether or not such annexation increases efficiencies. Wealthier suburbs are thus favored for annexation, although poorer areas outside of the city limits can oftentimes benefit more from municipal annexation since these communities frequently lack sufficient services.
- Forced annexation is unjust, no matter the size of the county in which the annexation is taking place. Like all governments, cities derive their authority from the people who formed them to secure life and liberty. No city should force annexation onto people residing outside its limits without first getting their consent.

Recommendation

Eliminate the distinction between large and small counties in the Texas Annexation Right to Vote Act, and prohibit forced annexation everywhere in Texas.

Resources

[*Toward Annexation with Representation*](#) by Bryan Mathew, Texas Public Policy Foundation (Feb. 2018).

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

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

Experts

Kara Belew, *Senior Education Policy Advisor, Center for Innovation in Education*
kbelew@texaspolicy.com AREAS OF EXPERTISE: State Budget, Taxes, Public Education Finance and Policy, Public Education Accountability

Derek Cohen, Ph.D., *Director, Center for Effective Justice and Right on Crime*
dcohen@texaspolicy.com AREAS OF EXPERTISE: Juvenile Justice Reform, Victims' Rights, Overcriminalization, Constitutional Limitations on Corrections

The Hon. Chuck DeVore, *VP of National Initiatives; Senior Fellow for Fiscal Policy*
cdevore@texaspolicy.com AREAS OF EXPERTISE: Tax and Fiscal Policy, Elections, Foreign Affairs, Military Affairs, Energy and Environmental Policy

Vance Ginn, Ph.D., *Director, Center for Economic Prosperity; Senior Economist*
vginn@texaspolicy.com AREAS OF EXPERTISE: State Budget and Tax Reform, National and State Labor Market Trends, Tax and Expenditure Limits, Energy Markets and Policy

Michael Haugen, *Policy Analyst, Center for Effective Justice and Right on Crime*
mhaugen@texaspolicy.com AREAS OF EXPERTISE: Civil Forfeiture, Overcriminalization, Substance Abuse Policy

The Hon. Talmadge Heflin, *Director, Center for Fiscal Policy*
theflin@texaspolicy.com AREAS OF EXPERTISE: State Budget and Taxation, Economic Stabilization Fund, Local Government Spending, Pension Reform, Federal Funds

Haley Holik, *Attorney, Center for Effective Justice and Right on Crime*
hholik@texaspolicy.com AREAS OF EXPERTISE: Juvenile Justice, Grand Jury Reform, Constitutional Limitations on Search and Seizure, Overcriminalization

Marc Levin, Esq., *VP of Criminal Justice and Right on Crime*
mlevin@texaspolicy.com AREAS OF EXPERTISE: Adult Corrections, Juvenile Justice, Overcriminalization, Victim Empowerment and Restitution, Law Enforcement, School Discipline

Thomas Lindsay, Ph.D., *Director, Center for Innovation in Education*
tlindsay@texaspolicy.com AREAS OF EXPERTISE: Higher Education, Culture Wars (Political correctness, cultural decline, etc.), America's Founding Principles, Online Learning, Federalism, Tenth Amendment, Interstate Compacts

Brandon J. Logan, Ph. D., *Director, Center for Families & Children*
blogan@texaspolicy.com AREAS OF EXPERTISE: Child Welfare Policy, Foster Care, Adoption, Family Law, Parental Rights

Bryan Mathew, *Policy Analyst, Center for Local Governance*
bmathew@texaspolicy.com AREAS OF EXPERTISE: Local Economic Regulation, Local Economic Development, Municipal Annexation, Housing Affordability, Property Rights, Special Districts

Stephanie Matthews, *VP of Public Affairs*

smatthews@texaspolicy.com AREAS OF EXPERTISE: Workforce Development, Charter Schools, School Choice, Virtual Learning

Jennifer Minjarez, *Policy Analyst, Center for Health Care Policy*

jminjarez@texaspolicy.com AREAS OF EXPERTISE: Medicaid Reform, Mid-Level Providers, Medical and Dental Licensure Reform

Bill Peacock, *VP of Research*

bpeacock@texaspolicy.com AREAS OF EXPERTISE: Electricity Markets and Renewable Energy, Insurance, Technology and Telecommunications, Tort Reform, Property Rights, Economic Development, Consumer Issues

Randy Petersen, *Senior Researcher, Center for Effective Justice and Right on Crime*

rpetersen@texaspolicy.com AREAS OF EXPERTISE: Policing Policy, Diversion Programs, Civil Asset Forfeiture

James Quintero, *Director, Center for Local Governance*

jquintero@texaspolicy.com AREAS OF EXPERTISE: Budgets, State and Local Spending, Debt, Taxes, Transparency, Pensions

Kevin D. Roberts, Ph.D., *Executive Director*

kroberts@texaspolicy.com AREAS OF EXPERTISE: K-12 Education Growth, Increasing Public School Efficiency, Education Choice, Higher Education, Tenth Amendment

Emily Sass, *Policy Analyst, Center for Innovation in Education*

esass@texaspolicy.com AREAS OF EXPERTISE: K-12 Education, Education Choice, School Finance, Civic Education, Charter Schools

Deane Waldman, Ph.D., *Director, Center for Health Care Policy*

dwaldman@texaspolicy.com AREAS OF EXPERTISE: Health Care, Medicaid, Telemedicine, Scope of Practice, Regulatory Issues

The Hon. Kathleen Hartnett White, *Distinguished Senior Fellow-in-Residence; Director, Center for Energy & the Environment*

khwhite@texaspolicy.com AREAS OF EXPERTISE: EPA Regulation, Energy and Environmental Policy, Free Market Environmental Policies, Endangered Species Act, Water Rights

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