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## ***LEGISLATIVE ALERT***

**What:** HB 3519 by Deshotel –  
Hearing – House Committee on Land & Resource Mgmt.

**When:** April 13, 2021 at 8 a.m.

**Location:** Room E2.010 in the Capital Annex

***Bill Summary:***

HB 3519 will amend Chapter 42 Extraterritorial Jurisdiction of Municipalities of the TLGC by adding Subchapter D titled “Release of Area with Population of Less Than 200 From Extraterritorial Jurisdiction by Petition” and Subchapter E titled “Release of Area with Population of More Than 200 From Extraterritorial Jurisdiction by Election” which will:

- Allow areas of less than 200 population to petition for release from a municipality’s ETJ with the signature of a majority of property owners mandating release by the municipality.
- Allow one owner living in an area with more than 200 population to file a petition signed by 5% of the owners, forcing an election of the area property owners for release from a municipality’s ETJ. A majority of the owners voting in favor forces the municipality to release the area from the ETJ. An owner that is unsuccessful in their effort can force a new election every year.

***Link to Bill Text:***

<https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=87R&Bill=HB3519>

***APATX Analysis:***

- ETJ’s were created by previous legislatures to curtail “land grabs” by competing municipalities and property owners. It also ensures areas adjacent to urban areas in cities develop in a compatible manner regardless of whether they are annexed into a city or remain in the county.
- The bill, as written, encourages disgruntled property owners to force their release from a municipality’s ETJ. A few unsuccessful owners (5%) could “harass a city and other property owners” by forcing a new election every year.
- Unlike annexation statutes, a simple petition of property owners does not consider the size of tracts with a few small property owners forcing large acreage property owners to be removed from a city’s ETJ.
- With no petition minimum, one or two large property owners, both signing a petition (100%), would force a city to release their properties.

- Cities and counties, including border municipalities with “colonias,” would be unable to manage substandard developments because a few property owners could force release of ETJ into counties with limited platting authority.
- ETJ’s could be “gerrymandered” into having pockets or holes in an ETJ or even in areas ultimately annexed by cities. The pockets would have different platting and development regulations than adjacent properties resulting in a “checkerboard” of inconsistent right-of-way widths and road construction in conflict with municipal ETJ thoroughfare plans.
- The bill ignores the legal concept of “overlapping ETJ’s” where multiple cities claimed ETJ rights for an area and the “first in time” annexation principal is used by the courts for resolution. The first city to have annexed and extended their ETJ to the area was there first and awarded ETJ. The other municipality overlapping ETJ rights do not simply go away. Once an area is released from a city’s ETJ, it would automatically become ETJ to the next city in line, whose ETJ was created subsequent to the first city and overlapped their ETJ.
- APATX could support amendments that would address the problems now being encountered by cities and counties in the application of Chapter 242 of the TLGC and Government Code Chapter 2007, Governmental Action Affecting Private Property Rights, which allows only one set of standards to be applied uniformly to properties both inside and outside of a city. An amendment that would allow for a compromise set of subdivision regulations in the ETJ reflecting the new annexation statutes and allowing for a more rural set of standards agreed to by the city and county would benefit cities, counties, developers and property owners and reduce the ETJ impacts of current statutes..

### ***APATX Position:***

Since Chairman Deshotel wrote this bill, it will likely be reported from the Land and Resources Committee. This bill as written plays havoc with over 70 years of ETJ law including numerous court cases resolving annexation and jurisdiction disputes between competing jurisdictions. Anyone could remove any property from an ETJ. APATX recommends this bill, as written, be opposed by cities, counties and large property owners planning on working with cities to develop their property in the ETJ.

### ***Action Needed:***

- In person testimony – Please coordinate with Chris J. Sanchez at Salient Strategies at [chris@salientstrategiestx.com](mailto:chris@salientstrategiestx.com), or text at 832.264.0503. He can brief you, help with testimony and let you know who else will testify. Call or text him if you have an issue during the hearing.
- Letters and testimony of opposition - need to be emailed ASAP to the Land and Resource Committee at

<https://comments.house.texas.gov/home?c=c360>

## *House Land and Resource Management Committee*

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Testimony should be addressed to:

The Honorable Joe Deshotel  
Chair, House Committee on Land & Resource Management  
P.O. Box 2910  
Austin, TX 78768

Dear Chairman Deshotel: