

Annexation

SAFE-D

22nd Annual Conference

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Texas Statistics

Top 5 Fastest Growing Counties in Texas

	July 1, 2000	July 1, 2022	Percent Change
Rockwall County	43,755	123,208	182.6
Hays County	99,267	269,225	171.2
Williamson County	255,379	671,418	162.9
Fort Bend County	358,738	889,146	147.9
Kaufman County	72,270	172,366	138.5

Top 5 Largest-Gaining Counties in Texas

	July 1, 2000	July 1, 2022	Numeric Change
Harris County	3,414,239	4,780,913	1,366,674
Tarrant County	1,456,919	2,154,595	697,676
Bexar County	1,398,834	2,059,530	660,696
Collin County	499,118	1,158,696	659,578
Denton County	438,791	977,281	538,490



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Topics

- ESD Annexation Process
- Municipal Annexation Options
- Annexation Scenarios
- Possible Solutions and Things to Remember



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ESD Annexation Process

- Petition
- Notice
- Hearing
- Election



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Petition

- 50 registered voters who own taxable property in the area to be annexed OR
- A majority of the registered voters if there are less than 50 registered voters in the proposed territory file a petition with the Board requesting annexation



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Hearing

- Board sets public hearing by order
- Hearing is held at least 30 days after the order setting the hearing



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Notice

- Secretary is responsible for providing notice of
 - Time
 - Date
 - Description of proposed annexation territory



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Notice

- Posting and Publication
 - Notice Posted in 3 places in the ESD and 1 place insider the proposed territory to be annexed
 - Must be posted minimum of 15 days before hearing
 - Published in newspaper of general circulation at least 16 days before hearing



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Hearing

- Board Considers Petition at the Hearing
- If Board finds the proposed territory is necessary and desirable for annexation, it must call an election for annexation
 - Can be for all or part of the area requested for annexation



Election

- Must receive majority vote in favor of annexation from both
 - voters in the ESD and
 - Voters in territory requesting annexation



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Municipal Annexation

- The law and the options are evolving
 - 1963 – Municipal Annexation Act
 - 1999 – Specific Processes Adopted
 - 2015 (2017) – Tiered Process
 - 2019 – Current Process



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Municipal Annexation

- Regulated in Texas Local Government Code Chapter 43
- Area must be in ETJ
- 3 General Options
 - Consent exempt annexations
 - Consent annexations
 - Grandfathered annexations



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Consent-Exempt Annexations

1. Section 43.0115 (Enclave –Fort Worth ONLY);
2. Section 43.0116 (Industrial District);
3. Section 43.012 (Area Owned by Type-A Municipality);
4. Section 43.013 (Navigable Stream);
5. Section 43.0751(h) (Strategic Partnership);
6. Section 43.101 (Municipally Owned Reservoir);
7. Section 43.102 (Municipally Owned Airport); and
8. Section 43.1055 (Road and Right-of-Way).



Consent Annexations

- Three possible schemes
 1. Request of Landowner
 2. Area with less than 200 population – Petition process
 3. Area with population of 200 or more – Election Process



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Request of Landowner

- Subchapter C-3
- Only if:
 - (1) Every owner of land in the area requests the annexation;
 - (2) City and owners negotiate and enter into a written agreement for the provision of services in the area.
 - (3) City must hold requisite public hearings.



Less Than 200 Population

- Subchapter C-4 Voter Petition
- Only if:
 - (1) City obtains consent to annex the area through a petition signed by more than 50 percent of the registered voters of the area; **and**
 - (2) if the registered voters of the area do not own more than 50 percent of the land in the area, the petition must also be signed by more than 50 percent of the owners of land in the area.



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200 or More Population

- Subchapter C-5 Election
- Only if:
 - (1) City holds an election in the area proposed to be annexed at which a majority of the qualified voters of the area approve the annexation; and
 - (2) if the registered voters of the area do not own more than 50 percent of the land in the area, the city obtains consent to annex the area through a petition signed by more than 50 percent of the owners of land in the area.



City Annexation into ESD

- Cities may annex into the ESD and EITHER:
 - Choose to remove the annexed territory from an ESD; or
 - Leave the annexed territory in the ESD.
- Certain procedures apply to annexation process
- ESD entitled to compensation under certain circumstances



City Annexation into ESD

- Generally
 - This presentation DOES NOT cover all the various procedures for annexations by cities
 - For more details,
 - See Texas Local Government Code, Chapter 43 at this link:
 - <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.43.htm>



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Questions?



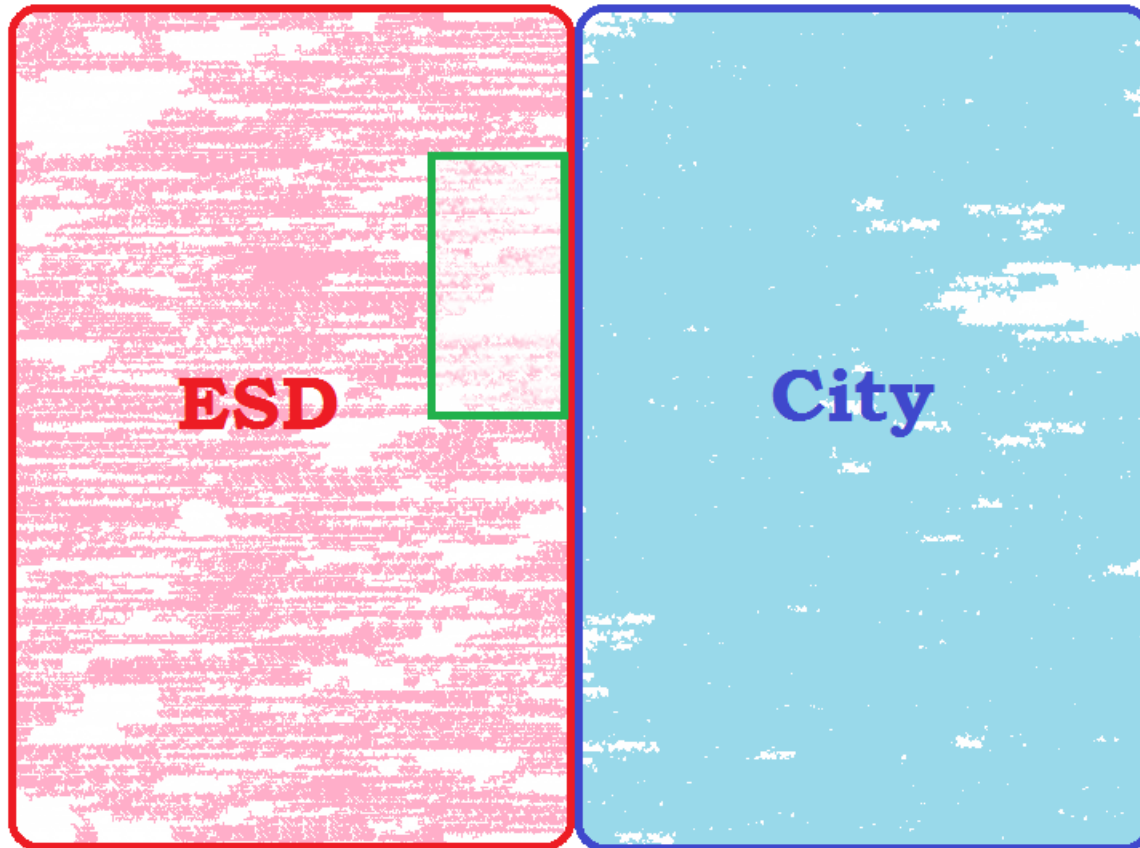
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Annexation scenarios



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Annexation Scenario #1



Removal of Territory by Municipality

- City Must:
 - Complete all other municipal procedures necessary to annex territory in an ESD,**AND**
 - If City intends to provide emergency services to the territory by the use of municipal personnel or by some method other than by use of the ESD, send written notice to the Secretary of ESD board by CMRRR.



Removal of Territory by Municipality

- **The territory remains part of the ESD and does not become part of the City until the secretary of the ESD board receives the notice.**
- **On receipt of the notice, the ESD board must immediately change its records to show that the territory has been disannexed from the ESD and is prohibited from providing further services to the residents of that territory.**



Removal of Territory by Municipality

- Holders of any outstanding and unpaid bonds, warrants, or other obligations of the ESD, including loans and lease-purchase agreements, are not impacted by annexation, **BUT**
- The municipality must compensate the ESD for share of those obligations immediately after ESD disannexation of the territory.
- ESD must apply compensation to the payment of the annexed territory's pro rata share of the ESD's obligations.



Compensation for Removal

- The amount of compensation is determined by
 - **District's Debt x (AV of Annexed Area ÷ AV of District)**
 - District's Debt determined at time of annexation
 - AV determined based on the most recent certified county property tax rolls at the time of annexation.
- Total indebtedness includes loans and lease-purchase agreements, but does not include:
 - a loan or lease-purchase agreement the district enters into after the district receives notice of the municipality's intent to annex district territory; or
 - any indebtedness attributed to any real or personal property that the district requires a municipality to purchase.



Purchase of Property

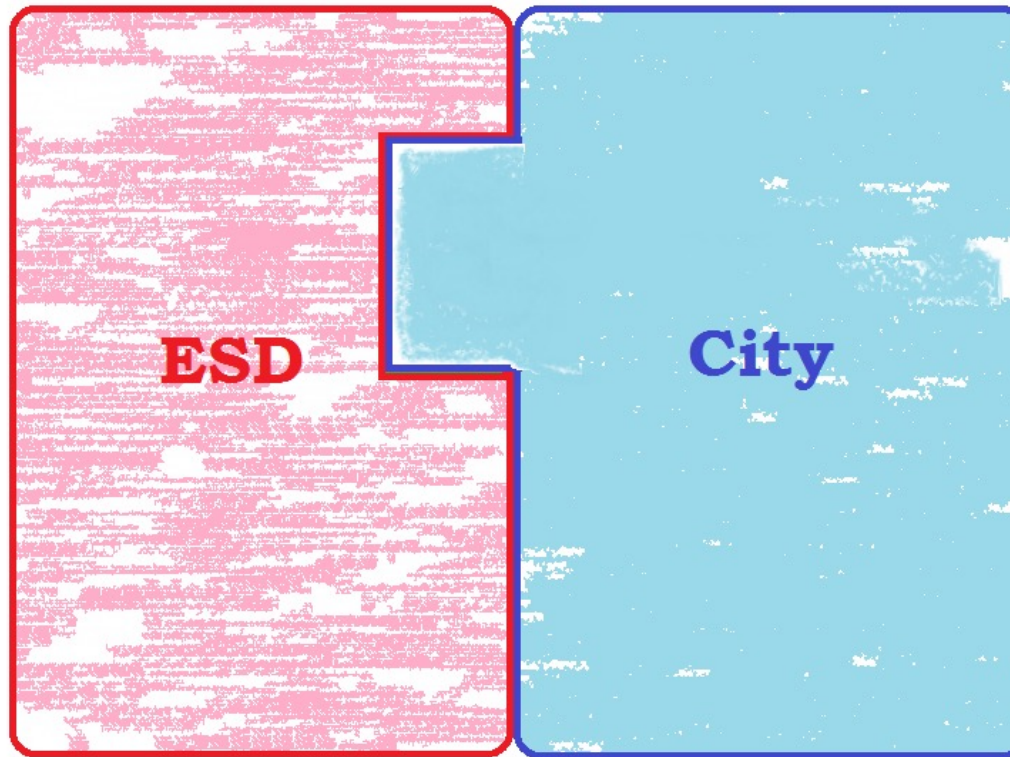
- On the ESD's request, a municipality is required to purchase from the ESD - at fair market value - any real or personal property used to provide emergency services in the disannexed territory.



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The Result

Annexation Scenario #1



Annexation Scenario #2



City Annexation within ESD

- If City inside an ESD wants to annex territory within the ESD
 - Same Procedures and Requirements Apply
 - City may remove annexed territory from ESD



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City Annexation within ESD

- City may not want to remove area from ESD if does not provide those emergency services
- City property tax rates apply within annexed area and must be consistent with rest of City
- City sales tax expands with City, with some exceptions



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Annexation Scenario #2



Annexation Challenges

- ESD needs revenue to operate, especially given \$0.10 *ad valorem* tax cap
- City wants to promote economic development through tax abatements and other agreements
- City wants additional tax revenue to keep City's *ad valorem* tax low



Sales Tax Challenges

- What if City within ESD wants to annex for sales tax revenue?
- What if remaining 2% local sales tax is already committed to ESD?
- ESD is authorized to have non-uniform sales tax (“carve out”)



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Annexation Scenario #2A



Sales Tax Challenges

- Annexation results in reduction of ESD (or other political subdivision) sales tax to amount required for total local sales tax to equal 2%,
- BUT



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Sales Tax Challenges

- Comptroller must withhold from the municipality's monthly sales and use tax allocation
 - an amount equal to the amount that would have been collected by the entity had the municipality not imposed or increased its sales and use tax or annexed the area in the entity
 - less amounts that the entity collects following the municipality's levy of or increase in its sales and use tax or annexation of the area in the entity.



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Sales Tax Challenges

- Comptroller is required to withhold and pay the amount withheld to the ESD under policies or procedures that the Comptroller considers reasonable.
- This results in City not receiving full additional sales tax from annexed area that remains in the ESD



Annexation Scenario #2A



Sales Tax Challenges

- This process does not apply if and during any period in which an ESD has outstanding indebtedness or obligations that are payable wholly or partly from the sales and use tax revenue of the entity.



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Solutions

- But, the law provides options for resolving challenges through:
 - Sales Tax Sharing Agreement
 - Economic Development Agreements
 - Other Interlocal Cooperation Agreements



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Solutions

- Sales Tax Sharing Agreement
 - Authorized by ESD Statute
 - Allows City and ESD to agree to allocation of sales tax revenue in the annexed area
 - Comptroller must pay out sales tax pursuant to agreement



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Solutions

- Economic Development Agreements
 - Under City's general authority for these types of agreements
 - 380 Tax Agreements
 - 312 Tax Abatement Agreements
 - 311 Tax Increment Financing
 - Others...



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Solutions

- Interlocal Cooperation Agreements
 - Shared programs
 - Service related
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 - Fire Code/Fire Marshal
 - Administration
 - More...



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Things to Remember

- Communication is Key
 - Early and often
- Keep Perspective
 - City focus on City residents and taxpayers
 - ESD focus on ESD residents and taxpayers
 - These are not necessarily the same group
- Vision
 - Think outside the box to achieve win-win



Questions?



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