



SB 746

Testimony Before the Texas Senate Committee on Intergovernmental Relations

by James Quintero, Director

My name is James Quintero, and I am the director of the Think Local Liberty project at the Texas Public Policy Foundation. Thank you for the opportunity to address the committee today. I am here to testify in support of [Senate Bill 746](#).

As introduced, SB 746 proposes two important changes to the Local Government Code that would:

- Make it easier for citizens in mid-sized and rural counties to hold an opt-in election to become a Tier 2 county by lowering the petition threshold from 10 percent to 7 percent of registered voters.
- Uphold the will of voters by requiring cities to wait at least five years before attempting to annex an area that voters rejected at the ballot box.

The significance of these two changes is best understood in light of last session's major annexation reform.

The 85th Texas Legislature enacted sweeping annexation reforms in 2017 when it passed the [Texas Annexation Right to Vote Act](#) (TARVA). Among other things, TARVA prohibits certain cities from annexing property owners who reside in the extraterritorial jurisdiction without their consent. In place of the practice, lawmakers created a new system that requires affected cities to hold an election on the question of annexation.

While TARVA changed the system for the better, the new law falls short in one key area: It does not protect all Texans from being forcibly annexed.

For the most part, only cities located in counties with populations greater than 500,000 or more are required to ask before annexing under TARVA. Everyone else is still subject to the old rules. However, TARVA does include the prospect of relief for property owners residing in unaffected areas, i.e., an opt-in election provision.

The law outlines a process by which a Tier 1 county may become a Tier 2 county, and thereby allows its residents to come under the law's protections. First, at least 10 percent of registered voters in the county must sign a petition requesting an election on the question of becoming a Tier 2 county and submit that material to the county commissioners court. Second, a majority of registered voters must approve becoming a Tier 2 county at a publicly held election.

This opt-in election process has proved to be quite popular. According to [StopForcedAnnexation.com](#), less than a year after the new law went into effect six counties have already held a successful election to change from a Tier 1 county to a Tier 2 county. Those counties include:

- [Parker County](#) voted 81.1 percent to 18.9 percent in favor of change;
- [Wise County](#) voted 77 percent to 23 percent in favor of change;
- [Johnson County](#) voted 77.5 percent to 22.5 percent in favor of change;
- [Freestone County](#) voted 79.3 percent to 20.7 percent in favor of change;
- [Palo Pinto County](#) voted 75.5 percent to 24.5 percent in favor of change; and
- [Atascosa County](#) voted 64.7 percent to 35.3 percent in favor of change.

Further still, another three counties are expected to hold elections in May 2019. Those include Ellis, Montague, and Reeves counties.

Clearly, the opt-in election process is being utilized; however, that is not to say that the system could not be improved.

As put forward in SB 746, the petition threshold of 10 percent could stand to be reduced to ease the burden on petitioners. This would be of particular assistance to Texans living in rural counties with smaller population sizes, who have greater difficulty reaching the required number of signatures plus a certain overage to act as a buffer.

Additionally, the system could be strengthened in such a way so as to better respect the will of voters. Under current law, if a majority of voters reject a municipality's proposed annexation at the ballot box, those same residents could be propositioned on the same question as soon as the "first anniversary of the date [that the municipality adopted] the resolution." A longer cooling off period is warranted to give both parties more time to absorb the results.

Together, these reforms will improve the opt-in election process and ultimately reinforce the importance of a fundamental principle: the consent of the governed. For these reasons, we ask the committee to look favorably on SB 746.

Thank you for your time. I look forward to answering any questions that you may have. ★



James Quintero is the director of the Think Local Liberty project at the Texas Public Policy Foundation. He's been featured in the *New York Times*, *Forbes*, the *Huffington Post*, Fox News, and Breitbart.

Since joining the Foundation in 2008, Quintero has focused his research efforts on state and local government spending, debt, taxes, financial transparency, annexation, and pension reform. Quintero received a bachelor's degree from the University of Texas at Austin and an M.P.A. with an emphasis in public finance from Texas State University.

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