SUBJECT: Reform of municipal annexation process

COMMITTEE: Land and Resource Management — committee substitute recommended

VOTE: 7 ayes — Walker, Crabb, Bosse, F. Brown, Hardcastle, Krusee, B. Turner

0 nays

2 absent — Howard, Mowery

SENATE VOTE: On final passage, March 25 — voice vote

WITNESSES: *(On House companion bill, HB 7:)*
For — Tom Albin, Wells Branch Neighborhood Association; Dave Albrecht, Spirit of North Harris County Coalition; Ken Bailey, Texas State Association of Fire Fighters; Thurman Blackburn, Texas Association of Builders and Texas Capitol Area Builders Association; Robert Bruce, Architectural Review Committee at Scenic Loop Estates; Texana Kowis, Central Texas Association of Utility Districts; Merry Leonard, Texas Association of Water Board Directors; Owen H. Parker, Atascocita Joint Annexation Committee; John Rubottom, Lower Colorado River Authority; Philip G. Savoy, Take Back Texas; Charles Walters, Wells Branch Municipal Utility District; Marie Wilkinson, Atascocita Annexation Reform Committee; Jerry Wood, City of Houston; Raymond L. Anderson; Marily Taylor

Against — Roni Beasley, Denton City Council; James Bertram, City of Lubbock; David A. Clark, City of Wichita Falls and Mayor Kay Yeager; Michael J. Cosentino, City of Bryan; Charles Cryan, City of College Station; Guy Goodson, City of Beaumont; Greg Ingham, City of Levelland; Don Vandiver, City of Lubbock; James L. Watters, Self and Linda, Laura, Sarah and Christopher Watters; Larry Lane; Roy D. Lehmann; Alice Rekeweg

(On committee substitute to House companion bill, HB 7:)
Against — Charles Harrington and Mayor Dean Hrbacek, City of Sugar Land; Emil R. Moncivais, Mayor Howard Peak and City Council, City of San Antonio; Larry Lane

On — Joe Paniagua, Fort Worth City Council

BACKGROUND: Local Government Code, chapter 43 authorizes home-rule municipalities to annex land in the extraterritorial jurisdiction (ETJ) surrounding the municipal corporate limits. The House Land and Resource Management Committee and the Senate Interim Committee on Annexation conducted interim hearings to hear public input on municipal annexation.

DIGEST: CSSB 89 would make a number of changes to the municipal annexation process in Local Government code, chapter 43.

Service provision requirements. Municipalities would have to provide full municipal services within an annexed area within two and one-half years after the effective date of the annexation, instead of four and one-half years as now. The deadline could be extended by an arbitration decision or by an agreement between the municipality and the party for whom the municipality was required to provide services. The definition of "full municipal services" would be amended specifically to include water and central wastewater services, and to exclude electric and gas services. A municipality could provide the services through any methods it uses to provide services for any other area of the municipality.

Municipalities would have to complete a service plan to extend full municipal services to the area to be annexed before the first day of the 10th month after the month the inventory was completed. The service plan would have to include a program for the acquisition or construction of capital improvements necessary for adequate service provision for the area. The construction or acquisition under the program would have to be completed within two and one-half years after the effective date of annexation, unless an agreement was reached with the landowners in the annexed area for a different deadline.

A municipality would have to provide police and fire protection, emergency medical services, and solid waste collection immediately on the effective date of the annexation. The municipality would have to continue the operation and maintenance of water and wastewater facilities in the area that were not within the service area of another utility on the effective annexation date. The municipality also would have to continue the operation and maintenance of roads and streets, road and street lighting, parks, playgrounds, swimming pools, and any other publicly owned facilities or services on the effective date of annexation.

The level of services, infrastructure and infrastructure maintenance that municipalities would have to provide to an annexed area would depend upon the services and infrastructure present in the area at the time of annexation.

- If the area had *lower* levels of services and infrastructure than the municipality, the municipality would have to provide services and infrastructure equivalent to other areas of the municipality with similar topography, land use, and population density.
- If the area had *equal* levels of services and infrastructure, the municipality would have to maintain those levels.
- If the area had *higher* levels of *services*, the municipality would have to provide services equivalent to other areas of the municipality with similar topography, land use, and population density.
- If the area had *higher* levels of *services* and was annexed by a municipality with a *population of 1.6 million or more* (Houston), the municipality would have to provide services comparable to what already was in place.
- If the area had *higher* levels of *infrastructure* and *infrastructure maintenance*, the municipality would have to operate and maintain the infrastructure at levels equal or superior to what already was in place.

A municipality with a population of 1.6 million or more (Houston) would not be able to impose fees to maintain previous levels of service in an annexed area that were not imposed within the corporate boundaries of the municipality.

The bill would require landowners or residents in an annexed area to petition the municipality to enforce the terms of a service plan. If the municipality failed to respond, the petitioner would be able to request arbitration to settle the dispute. A landowner or resident also could request arbitration to determine whether a municipality had fairly judged the level of services to be provided to an annexed area based on topography, land use, and population density. The bill would remove the ability of a landowner or resident to apply for a writ of mandamus to request enforcement of a service plan.

Municipal annexation plan. A municipality would have to prepare an annexation plan in order to annex land in its ETJ. The plan would have to specify the annexations that the municipality intended to implement in three years time. The annexations specified in a plan could take place no sooner

than three years after the plan was adopted. Any changes to the annexation specified in the plan could take place no sooner than three years after the adoption of the changes.

Municipal utility districts and other special districts that would be abolished under an annexation plan could not reduce the applicable tax rate in the area to be annexed below the effective tax rate or rollback tax rate. Districts could not voluntarily transfer assets without consideration or enter into a contract for services beyond the three-year plan period, unless the contract was with other political subdivisions for water, wastewater or drainage facilities. Emergency service districts would be exempt from these requirements.

If a municipality removed an area from an annexation plan, the municipality could not add the area back into the plan for at least one year after the removal, if the removal was done in the first 18 months of the plan, or for at least two years if the removal was done in the second 18 months of the plan.

A municipality would have to provide written notification of the adoption or amendment of an annexation plan within 90 days after the plan was adopted or amended. The notice would have to be given to each property owner in the affected area, each public or private entity providing services to the area, and each railroad company taxed by the municipality that had a right-of-way in the area.

The annexation of an area under a plan would have to be completed within 31 days after the third anniversary of the incorporation of the area into the plan. If the annexation was not completed by this time, the municipality could not annex the area until five years after the last date the annexation could have been completed.

A municipality would not have to adopt a plan for the annexation of areas:

- containing less than 100 separate tracts of land with one or more residential dwellings on them;
- where the annexation would occur by vote or petition of qualified voters or property owners;
- within the boundary of a special utility district that requested the annexation;
- subject to an industrial district contract;

- located in a colonia as defined by section 2306.581, Government Code;
- owned by a Type A general law municipality;
- that were navigable streams adjacent to the municipality and within the municipal ETJ;
- that were less than 500 feet in width, if the annexation was agreed to by adjacent municipalities; or
- that the municipality considered necessary to protect the municipality from imminent destruction of property, imminent injury to persons, or conditions that constituted a public or private nuisance.

After the adoption or amendment of an annexation plan, a municipality would have to compile an inventory of services and facilities provided to each area included in the plan by public and private entities. The inventory would have to include all services and facilities that the municipality would be required to provide to the annexed area. The municipality could request the information necessary to compile the inventory from each public and private entity that provided services or facilities to each area under the plan. The information would have to include:

- the type of service provided;
- the method of service delivery;
- engineering reports and summaries of expenditures for infrastructure; and
- dispatch and delivery times, equipment and staffing schedules, and summaries of capital expenditures for police, fire, and emergency medical services.

A service entity would have to provide the information requested within 90 days, unless the entity and the municipality agreed to extend the deadline. The municipality would have to complete the inventory and make it available for public inspection within 60 days after the municipality received the information as required under the bill. A municipality could monitor the services provided in an area to be annexed to verify the inventory information provided by service entities.

Annexation hearings. The bill would require a municipality to conduct two public hearings within 90 days of the availability of the inventory for public inspection. If the municipality received a petition to hold at least one of the hearings in the area proposed for annexation but there was no suitable site for such a hearing, the municipality would have to hold at least one of the

hearings in the nearest suitable facility to the area. The municipality would have to notify each public entity and utility service provider that provided utility services to the area of the hearings.

Negotiations. If an annexing municipality had a population of less than 1.6 million, the municipality would have to negotiate with the property owners in the area for the provision of services to the area after annexation or in lieu of annexation. If the land to be annexed was entirely within one county, the commissioners court of the county would have to select five representatives to negotiate with the municipality. If the land was in more than one county, the commissioners court in the county with the greatest number of the area's residents would have to select three representatives and the remaining counties jointly would have to select two representatives.

Provision of services in lieu of annexation. A municipality of less than 1.6 million residents would be able to enter into a written agreement with representatives as designated above for the provision of services in lieu of annexation, including an agreement related to land use, compliance with municipal ordinances, the creation of special districts, and any other terms to satisfactorily resolve disputes between the two parties.

Arbitration. If a municipality and property owner representatives could not reach an agreement for provision of services leading to or in lieu of annexation, either party could request arbitration to resolve the issues in dispute at the request of the majority of representatives of either party. The arbitration request would have to be made in writing to the other party within 60 days after the date of completion of the service plan. The municipality could not annex the area while the arbitration or an appeal of the arbitrator's decision was pending.

If the municipality and the property owner representatives could not mutually agree on the appointment of an arbitrator within 11 business days after the date the arbitration was requested, the mayor of the municipality would have to immediately request a list of seven neutral arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service. The arbitrators would have to be residents of Texas and could not be residents of a county where any part of the municipality or the area to be annexed was located. If the parties could not agree on an arbitrator on the list within 11

business days after the list was provided, the parties would have to strike names alternatively from the list, and the remaining name would be appointed as the arbitrator.

The arbitrator would have to set a hearing for within 10 days after the arbitrator's appointment and notify the parties in writing of the time and place of the hearing not later than eight days before the date of the hearing. The authority of the arbitrator would be limited to resolving disputes on issues of the service plan. The arbitrator would be able to consider documentary evidence, administer oaths, and issue subpoenas to require the testimony of witnesses and the production of evidence in order to conduct the hearing.

The arbitrator would have to complete the hearing within two consecutive days unless the parties agreed otherwise. The arbitrator would have to permit each party one day to present evidence and other information and would be able to schedule an additional hearing within seven days of the first hearing upon demonstration of good cause. The arbitrator would have to issue a decision in writing to the parties within 14 days after the final hearing.

Either party would be able to appeal to a district court in the county where the area was located any provision of an arbitrator's decision that exceeded the authority of the arbitrator to resolve disputes based on issues of the service plan. If the municipality did not agree with the terms of the arbitration decision, it could not annex the area for at least five years after the date of the decision.

The municipality would have to pay the cost of arbitration. If the arbitrator found that the request for arbitration by the property owner representatives was submitted in bad faith, the arbitrator could require the area to pay all or part of the arbitration cost.

For an arbitration proceeding regarding enforcement of the service plan, the municipality would have the burden of proving that it had complied with the service plan requirements. If an arbitrator found that the municipality had not complied with the service plan, the municipality could disannex the area within 31 days after receiving the arbitrator's decision. If the municipality did not disannex the area, the arbitrator could require the municipality to comply with the service plan before a reasonable date, to refund the money collected

by the municipality from landowners for services that were not provided, and to pay the costs of arbitration, including reasonable attorney's fees of the person requesting arbitration. If the arbitrator finds that the municipality has complied with the service plan, the arbitrator would be able to require the person requesting the arbitration to pay all or part of the cost of arbitration including reasonable attorney's fees for the municipality.

Annexations without a municipal plan. For an annexation of an area exempt from the requirement for a municipal annexation plan, the municipality would have to conduct two public hearings before the 20th day before the institution of the annexation proceedings to hear comments from persons interested in the annexation. At least one of the hearings would have to be held in the area proposed for annexation if a suitable site was available and if more than 10 percent of the adult permanent residents of the area filed a written protest of the annexation with the municipality within 10 days of the publication of the annexation notice.

The municipality would have to publish notice of the hearings in a newspaper of general circulation in the municipality and in the area at least once between 10 and 20 days before the date of the hearing. The municipality also would have to give notice by certified mail to each railroad company with a right-of-way in the area that served the municipality and paid municipal taxes.

The annexation of an area would have to be completed within 90 days after the date the municipality instituted the annexation proceedings. If the annexation was not completed within 90 days, the proceedings would be void. Any period during which the municipality was restrained or enjoined from annexing the area would not be included in the 90-day period.

A municipality with more than 1.6 million residents would be able to implement an annexation on any date within 90 days after the date of the adoption of an ordinance providing for annexation.

A municipality would have to prepare a service plan that would extend full municipal services to the area to be annexed before publication of the notice of the first annexation hearing. The municipality would be able to provide the services by any methods used to extend services to any other area of the municipality.

Limited purpose annexation. The bill also would allow any home-rule municipality with more than 225,000 residents to annex an area for the limited purposes of applying planning, zoning, health and safety ordinances in the area, regardless if it was authorized in the home rule charter of the municipality.

Strategic partnership agreements. A municipality and a utility district would be able to establish a strategic partnership agreement by mutual consent. A district would have to submit a written request for negotiations to establish such an agreement. If a municipality received a written request, it would have to negotiate and enter into an agreement with the district. A strategic partnership agreement could not require a district to provide revenue to the municipality solely in exchange for an agreement from the municipality not to annex the district. An agreement would have to provide reasonable and equitable benefits to each party relative to the benefits for the other party.

If the municipality and a utility district could not reach an agreement on the terms of a strategic partnership agreement, either party would be able to request arbitration to resolve the issues in dispute. The arbitration request would have to be made in writing to the other party within 60 days after the date that the district submitted a written request for negotiations. The municipality would not be able to annex the district while an arbitration proceeding or an appeal of an arbitrator's decision was pending.

The authority of an arbitrator for a strategic partnership agreement would be limited to determining whether the offer for an agreement by either party benefitted both parties reasonably and equitably. If the arbitrator found that an offer by either party was reasonable and equitable, the arbitrator could issue a decision to incorporate the offer as part of the agreement. The municipality and the district would have to share equally the costs of arbitration.

Land use in annexed areas. Municipalities could not prohibit persons in an annexed area from using land in the manner it was used prior to the annexation if the use was legal at that time. Municipalities would have to allow persons to use land in a legal manner that was planned at least 90 days before the effective date of annexation if the landowner had filed a completed application for an initial authorization of the use of the land with the

appropriate governmental entity before the annexation proceedings were instituted.

The bill would not prevent municipalities from imposing regulations in annexed areas related to:

- the location of sexually oriented businesses;
- the prevention of imminent destruction of property or injury to persons;
- public nuisances;
- flood control;
- the storage and use of hazardous substances;
- the sale of use of fireworks; or
- the discharge of firearms.

Limits to annexation next to certain municipal territory. A municipality would not be able to annex an area that was located in the ETJ only because the area was adjacent to municipal territory that was 1,000 feet in width at its narrowest point, or to a municipal area that itself was annexed before September 1, 1999, and was itself in the previous municipal ETJ only because it was adjacent to municipal territory less than 1,000 feet wide at its narrowest point. The restrictions would not apply to areas completely surrounded by territory of one or more municipalities, areas where property owners had requested annexation, areas owned by the municipality that was annexing the area, and areas subject to industrial district contracts. Roads, highways, rivers, lakes, or other bodies of water would not be included in computing the 1,000-foot distance.

Restrictions on municipal extraterritorial jurisdictions. In an area that was annexed by a municipality but was not contiguous with other territory of the municipality, the extraterritorial jurisdiction would be reduced to one mile. If any territory in the ETJ of a non-contiguous area was annexed, the municipal ETJ could not expand beyond the original one-mile boundary of the original annexation of the area.

Issues for disannexed areas. The bill would increase the time that a disannexed area could not be annexed again to 10 years from the current five years. The bill would remove the requirement that a service plan for a

reannexed area would have to be implemented within one year of the effective reannexation date if the reannexation occurred within seven years after the date of the disannexation.

If an area was disannexed, the municipality would have to refund to the landowners in the area the amount of money collected from the landowners in property taxes and fees from the landowners during the time the area was a part of the municipality, after subtracting the amount the municipality spent for the direct benefit of the area during that time. The municipality would have to refund proportionately property taxes and fees to the landowners according to a method that identified each landowner's approximate pro rata payment of refunded taxes and fees.

The money would have to be refunded within 180 days after the date of disannexation. Money that was not refunded within the 180-day limit would accrue interest at a rate of six percent a year until the 210th day after the disannexation date, and one percent each month after the 210th day after the disannexation date.

Public school districts. A municipality would have to provide written notice of a proposed annexation to each public school district in the proposed annexation area within the time prescribed for a first hearing, depending upon the type of annexation taking place. A notice to a district would have to contain a description of the area within a district proposed for annexation, a financial impact on the district resulting from the annexation, including changes in utility costs, and any proposal from the municipality to abate, reduce, or limit any financial impact on the district. A municipality could not proceed with an annexation until the municipality provided required notice.

A municipality that annexed any portion of an area between December 1, 1996, and September 1, 1999, in which a public school district had a facility would have to grant a variance from the municipal building code for a school facility if the facility did not comply with the code. A municipality could not charge the school district a higher rate for utility services than the rate the district was paying before the annexation until the first day of the district's fiscal year that began after the 90th day after the effective date of the annexation.

Notice of possible annexation. A person who sells property in Texas would have to give a written notice to the purchaser to notify the purchaser that the property could now or later be included in the ETJ of a municipality and could now or later be subject to annexation by a municipality. The seller would have to deliver the notice to the purchaser before the date the executory contract bound the purchaser to purchase the property.

The notice would not have to be given for transfers:

- under a court order or foreclosure sale;
- by a trustee in bankruptcy;
- to a mortgagee by a mortgagor or successor in interest;
- to a beneficiary of a deed of trust by a trustor or successor in interest;
- by a mortgagee or a beneficiary under a deed of trust who acquired the land under power of sale or under a court-ordered foreclosure;
- by a fiduciary in the course of administering a descendant's estate or trust;
- from one co-owner to another of an undivided interest in real property;
- to a spouse or person in the lineal line of consanguinity;
- to or from a governmental entity;
- of a mineral, leasehold or security interest; or
- of property located completely within the corporate boundaries of a municipality.

If the seller provided notice according to the bill, the seller would have no further obligation to provide additional information regarding the possible annexation of the property by a municipality. If an executory contract was entered into without the seller providing the notice of possible annexation, the purchaser would be able to terminate the contract for any reason before the date of transfer or seven days after the purchaser received the notice, whichever was earlier.

Effective dates. The bill would take effect September 1, 1999. The requirements for providing notice of possible annexation would not take effect until January 1, 2000. Each municipality would have to adopt an annexation plan required under the bill on or before December 31, 1999 that would become effective on December 31, 1999. The bill would apply only to annexations which were scheduled under an annexation plan effective on or after December 31, 1999.

SUPPORTERS SAY:

Current law grants cities a significant advantage over property owners and municipal utility districts during the municipal annexation process. Cities have the power to annex land without the consent or input of the area residents. There are many documented cases where cities have failed to maintain the quality of life in annexed areas after an annexation. CSSB 89 would improve the annexation process by giving property owners and utility districts in an annexed area greater opportunities to protect their rights and maintain their standard of living.

The bill would require cities to provide full municipal services within a reasonable time frame and would ensure that the services provided would be sufficient to maintain a quality of life in the annexed area comparable to what existed before annexation. The bill also would provide the flexibility that cities need to modify the service provision requirements in specific circumstances. If an annexation plan was developed, a city actually would have five and one-half years to provide services to annexed residents under the bill, instead of four and one-half years as in current law.

Cities should develop a three-year annexation plan to ensure that they are fully prepared and capable to carry out an annexation and to provide residents with a clear idea of how an annexation would proceed. An inventory of services would benefit cities, annexed residents, and service providers by making clear a specific list of services to which annexed residents would be entitled. The inventory also would help cities decide the true cost of an annexation before undertaking the annexation.

The bill would provide residents and utility districts with the opportunity to negotiate and arbitrate the terms of a municipal annexation. Residents and districts do not have such rights under current law. Arbitration would be a much faster process for residents and cities to settle their differences than the current process of filing a writ of mandamus in court.

Many property owners who were annexed were not aware of their eligibility for annexation. The notice required under the bill would encourage property owners to learn whether they are subject to annexation or to inclusion in an ETJ.

Public school districts should not be charged higher service fees by an annexing municipality. Districts should be given adequate notice of annexation similar to the notice provided to property owners and utility districts.

OPPONENTS SAY:

The time limit of two and one-half years for municipalities to provide full municipal services in an annexed area would be too short. Cities would have a very difficult time fulfilling some of their service obligations for some annexations within this time limit, including voluntary annexations. If representatives from an annexed area refuse to negotiate an extension of the time limit, the city could be severely limited in its capacity to efficiently annex an area. It would be especially difficult for cities to meet obligations for special capital improvements in such a short period of time.

The bill could encourage the abuse of arbitration provisions by property owners to deliberately slow down an annexation. Although arbitration could be useful to resolve many problems related to annexation, the bill would make arbitration available for the smallest potential dispute between parties. There are some procedural decisions by cities that should not be subject to an arbitration request. The requirement for municipalities to pay for the cost of arbitration unless a bad faith effort was proven against a petitioner would be unfair to the municipality.

The notice for possible annexation would be difficult to enforce and would not make a difference as to whether a buyer purchased the property. Non-professional sellers could be penalized for selling land without providing proper notice.

OTHER OPPONENTS SAY:

The bill does not provide sufficient protection to residents in a municipal ETJ from an annexation against their collective will. Residents should have the option to disannex themselves from a municipality if they believed that the annexation had significantly lowered the quality of life in the annexed area. Cities should be required to respect the will of the people as to whether or not they want to be annexed.

NOTES:

The House committee substitute made substantial changes to the Senate-passed version.

Land use in annexed areas. . The committee substitute would allow municipalities to impose regulations on annexed areas related to flood control.

Municipal annexation plan. The substitute would exempt emergency service districts from the prohibition against reducing the applicable tax rate in the area to be annexed, voluntarily transferring assets without consideration, or entering into a contract for services beyond the three-year plan period. The substitute removed exemptions in the Senate version for counties and independent school districts for these items. The substitute would require the annexation of an area under a plan to be completed within 31 days after the third anniversary of the incorporation of the area into the plan, or the municipality could not annex the area until five years after the last date the annexation could have been completed.

The substitute changed the condition for a municipality to annex an area without a plan from an area having less than 250 residents to an area having less than 100 separate tracts of land with one or more residential dwellings per tract. The substitute added the condition for annexation without a plan if the area was located within a special utility district and the area was annexed at the request of the district. The substitute added a condition for annexation without a plan if the annexation was necessary to protect the area from imminent destruction of property or from a public or private nuisance.

The substitute provided an exception to the requirement to compile an inventory of services and facilities within the 90-day deadline if the entity and the municipality agreed to extend the period. The substitute removed a penalty of $200 that could be levied on a service provider by a municipality for failure to provide information necessary for a service inventory and added the authority for a municipality not to include such information if the service provider did not deliver it in a timely manner. The substitute authorized the municipality to monitor the service provided in an area to be annexed to verify inventory information.

Service provision requirements. The committee substitute removed an exception to the two and one-half year time limit for provision of full municipal services if the municipality could not reasonably provide the services within the deadline and proposed a schedule to provide services

within four and one-half years. The substitute redefined “full municipal service” to include water and central wastewater services and to exclude gas or electrical services. The substitute removed language that would have allowed for the amendment of the service plan to extend the period for construction if the construction was proceeding with all deliberate speed.

The substitute would require that a service plan could not reduce the level of fire and police protection and emergency medical services within the corporate boundaries of the municipality before annexation. The substitute included infrastructure, infrastructure maintenance, and topography for considering the level of service to be provided to an area after annexation. The substitute required a municipality with a population of 1.6 million or more (Houston) to provide services comparable to what existed in an annexed area if the area had higher levels of services before the annexation, and would prohibit the municipality from imposing an additional fee to provide such comparable services unless the fee existed within the municipality before the annexation.

The substitute removed language that would have authorized a person to seek redress for municipal non-compliance with a service plan through a writ of mandamus and added language authorizing a person to seek redress through a petition for a change of policy and to seek arbitration.

Annexation hearings. The substitute would require a municipality to give notice by certified mail of annexation hearings to each public entity and utility service provider in the area proposed for annexation. The substitute would require a municipality and a utility district to negotiate for the provision of services to an area in lieu of annexation if the municipality proposed to annex the district. The substitute would authorize either party in negotiations for service plan disputes or for service provision in lieu of annexation to request arbitration.

Arbitration. The substitute would require the municipality to ask for a list of arbitrators if the negotiating parties could not agree on an arbitrator themselves. The Senate version would have required the chief administrative district judge of a county with jurisdiction over either party to select an arbitrator if the parties could not agree. The substitute would authorize an arbitrator to hold a hearing over two days, instead of one day, and to require the area proposed for annexation to pay for the arbitration costs if the petition

was judged to have been made in bad faith. The substitute would authorize persons in an annexed area to petition for arbitration related to implementation of a service plan by a municipality.

Strategic Partnership Agreements. The substitute added language to prohibit the municipality from collecting revenue from utility districts solely in exchange for an agreement not to annex the district, and to require an agreement to provide reasonable and equitable benefits to each party relative to the benefits for the other party. The substitute would authorize arbitration to resolve differences between parties that negotiating a strategic partnership agreement.

Issues for disannexed areas. The substitute would require municipalities to refund money to property owners in disannexed areas within 180 days and provide interest penalties for late refunds.

Public School Districts. The substitute would prohibit municipalities from charging a school district a higher rate for utility services than the rate the district was paying before the annexation until the first day of the district's fiscal year that began after the 90th day after the effective date of the annexation.

SB 167 by Carona, which would provide for a notice of possible annexation in a similar manner as CSSB 89, passed the Senate on March 23 and passed the House, as amended, on April 21. The House adopted the conference committee report on the bill on May 11.

SB 535 by Lindsay, which would require municipalities to notify public school districts of annexation and prevent municipalities from charging higher service fees to annexed districts in a similar manner as CSSB 89, passed the Senate on March 29 and was reported favorably, as amended, by the House Land and Resource Management Committee on April 19.