

Legal and land use implications of SB 2038 - ETJ Release

Charles Zech
Jon James, AICP
Denton Navarro Rodriguez Bernal
Santee & Zech, P.C.

1

SB 2038 – ETJ Release

- S.B. 2038 Chapter 42, Texas Local Government Code to amends current law relating to release of an area from a municipality's extraterritorial jurisdiction by petition or election.

2

SB 2038 Petition

TLGC - Subchapter D, Chapter 42 - Release by Petition

- A resident of an area in the ETJ may file a petition with the City to be released from the ETJ.
- May petition for the release of an area of the ETJ:
 - More than 50% of the registered voters of the area, or
 - The owner or owners of the majority in value of an area.
 - 180 days to get signatures & must include a map and boundary description.

3

TLGC Subchapter D, Chapter 42 - Petition

- Must be verified by the City Secretary
- Shall notify the residents of the area of the results of the petition (can be to the person who filed the petition)
- If required signatures are obtained, the city shall immediately release the area from the ETJ
- If a city fails to take action to release the area by the later of the 45th day after the date the city receives the petition or the next meeting of the governing body that occurs after the 30th day after the date the city receives the petition, **the area is released by operation of law.**

4

SB 2038 Election

TLGC Subchapter E - Request an Election for Release

- A resident of the ETJ may request the City hold an election to determine whether to release an area from the ETJ
- Petition requires at least 5% of the registered voters residing in the area as of the date of the preceding uniform election date.
- Must include a map and boundary description (metes & bounds or lot & block numbers)
- Cannot submit the same (or substantially the same) request for 2 years

5

TLGC Subchapter E, Chapter 42 - Election

- City shall order an election on the first uniform election date that falls on or after the 90th day after the date the city receives the petition.
- Qualified voters of the area described in the petition may vote.
- The election must be held in the same manner as general elections of the city. **The city shall pay for the costs of holding the election.**
- If approved, must immediately release the area from the ETJ.
- If the city fails to act by the next meeting or 15 days after the canvass date, the area is released by operation of law

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Legal and land use implications of SB 2038 - ETJ
Release

Also available as part of the eCourse

[Deep Dive Into Utility and Other Resources in Planning](#)

First appeared as part of the conference materials for the
28th Annual Land Use Conference session

"Deep Dive into Utility and Other Resources in Planning"