

BILL ANALYSIS

C.S.H.B. 2695
By: Noble
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Recently, cities across the United States, including in Texas, have taken action to cut police department budgets significantly. Interested parties have noted these actions leave the citizens of Texas and visitors to the state more vulnerable to crime and have, in fact, coincided with an increase in total homicides in certain municipalities. There have been calls for the state to step in and ensure that the well-being and safety of Texans remain protected from the potential effects of cutting public safety spending. C.S.H.B. 2695 seeks to answer those calls by allowing the criminal justice division of the governor's office to identify certain municipalities that reduce appropriations to their police department year-over-year as a defunding municipality and instituting a revenue cap on such a municipality until such time as it reverses the reductions.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the criminal justice division of the governor's office in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2695 amends the Local Government Code to classify a municipality with a population of more than 250,000 that adopts a budget for a fiscal year that, in comparison to the preceding fiscal year, reduces the appropriation to the municipality's police department as a defunding municipality if the criminal justice division of the governor's office issues a written determination finding that the municipality has made the reduction. The bill requires the division, in making a determination of whether a municipality is a defunding municipality according to the budget adopted for the first fiscal year beginning on or after September 1, 2021, to compare the appropriation to the municipality's police department in that budget to the appropriation in the budget of the preceding fiscal year or the second preceding fiscal year, whichever is greater.

C.S.H.B. 2695 establishes that a municipality is not considered to be a defunding municipality if, for a fiscal year in which the municipality adopts a budget that is less than the budget for the preceding fiscal year, the percentage reduction to the appropriation to the municipality's police department does not exceed the percentage reduction to the total budget. A municipality is also not considered to be a defunding municipality if, before the adoption of a budget, the municipality applies for and is granted approval from the division for a reduction to the appropriation to the municipality's police department to account for one of the following:

- capital expenditures related to law enforcement during the preceding fiscal year;
- the municipality's response to a state of disaster declared by the governor; or

- another reason approved by the division.

The bill requires the division to adopt rules establishing the criteria the division uses to approve reductions.

C.S.H.B. 2695 establishes that a municipality's defunding determination continues until the division issues a written determination finding that the municipality has reversed the reductions, adjusted for inflation. The bill requires the division to compute and publish in the Texas Register the inflation rate used to make that determination each state fiscal year using a price index that accurately reports changes in the purchasing power of the dollar for municipalities in Texas.

C.S.H.B. 2695 establishes a revenue cap on a defunding municipality under which the municipality's combined revenues of its general fund, enterprise funds, and special revenue funds may not exceed the municipality's combined revenues for the immediately preceding fiscal year. Before the municipality's governing body adopts a budget for a fiscal year, the chief fiscal officer must verify in writing that the budget is compliant with that cap. If the municipality adopts a budget that exceeds the cap, a property tax payer of the municipality may bring an action, not later than the 30th day after the date the municipality adopts the budget, to obtain an injunction to prevent implementation of the budget or the property tax rate adopted for the same fiscal year. It is a defense in such an action that the municipality does not qualify as a defunding municipality or is no longer considered to be such. The bill provides the following for purposes of these provisions:

- a municipality's combined revenues do not include grant money, other revenues received from other governmental entities, or transfers between the municipality's funds;
- the cap does not apply to revenues used to repay voter approved bonded indebtedness, excluding certificates of obligation; and
- "revenue" has the meaning assigned for municipalities by the Governmental Accounting Standards Board and the Government Finance Officers Association as of April 1, 2021, and to the extent the meanings do not conflict.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2695 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the original classified any county or municipality that makes certain budgetary reductions as a defunding local government, the substitute narrows the scope of these provisions to apply only to municipalities with a population of more than 250,000. The substitute further revises these provisions, as follows:

- does not include the original's year-over-year reductions in the following as grounds for being classified as a defunding municipality:
 - the number of peace officers authorized to be employed;
 - funding for peace officer overtime compensation; and
 - funding for the recruitment and training of new peace officers to fill each vacant peace officer position;
- includes specific exceptions not in the original to a municipality being considered as a defunding municipality despite reducing appropriations to the municipality's police department if the percentage reduction does not exceed the percentage reduction to the total budget or the municipality is granted approval for the reduction from the division; and
- includes a requirement that is not in the original for the division to adopt rules related to approving a reduction.

Whereas the original authorized any taxpayer in a defunding municipality to bring a lawsuit for an injunction against the municipality if the municipality violates the revenue cap, the substitute specifies that a taxpayer must be a property tax payer in the municipality to bring an action.

The original assigned "revenues" the meaning assigned for municipalities by the Governmental Accounting Standards Board and the Government Finance Officers Association. The substitute assigns "revenue" that meaning but specifies that the meaning in place as of April 1, 2021, is the meaning assigned by the bill and only to the extent that the two meanings do not conflict.