

SUBJECT: Creating the Second Amendment Sanctuary State Act

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 11 ayes — Paddie, Deshotel, Harless, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson, Smithee

2 nays — Hernandez, Howard

WITNESSES: For — Felisha Bull, Gun Owners of America; Rick Briscoe, Open Carry Texas; Andi Turner and Darryl Valdes, Texas State Rifle Association; and eight individuals; (*Registered, but did not testify*: Angela Smith, Fredericksburg Tea Party; Manfred Wendt, Young Conservatives of Texas; Jordan Clements, Young Conservatives of Texas-UT; and 27 individuals)

Against — (*Registered, but did not testify*: Bill Kelly, Mayor's Office, City of Houston; Gyl Switzer, Texas Gun Sense; and 12 individuals)

On — (*Registered, but did not testify*: Thomas Parkinson)

DIGEST: CSHB 2622 would create the Second Amendment Sanctuary State Act, which would prohibit a state entity from assisting in the enforcement of certain new federal firearms laws or regulations, withhold state funds from an entity in violation of the bill, and establish a complaint process.

**Enforcing federal firearms laws, regulations.** The bill would prohibit a state agency, political subdivision, or a law enforcement officer from contracting with or providing assistance in any way to a federal agency or official for the enforcement of a federal statute, order, rule, or regulation that imposed a prohibition, restriction, or other regulation that did not exist under state law and that related to:

- a registry requirement for a firearm, a firearm accessory, or ammunition;
- a requirement that a person be licensed to own, possess, or carry a

- firearm, a firearm accessory, or ammunition;
- a requirement that a background check be conducted for the private sale or transfer of a firearm, a firearm accessory, or ammunition;
  - a program for confiscating a firearm, a firearm accessory, or ammunition from a person who was not otherwise prohibited by state law from possessing the items; or
  - a program that required an owner to sell a firearm, a firearm accessory, or ammunition.

The prohibition would not apply to a contract or agreement to provide assistance in the enforcement of a federal statute, order, rule, or regulation in effect on January 19, 2021.

**State funds.** A political subdivision could not receive state funds if it entered into a contract or adopted a rule, order, ordinance, or policy under which the subdivision required or assisted with the enforcement of any federal firearms laws or regulations described in the bill. The subdivision also could not receive state funds if it, by consistent actions, required or assisted with the enforcement of such federal firearms laws or regulations.

State funds would be denied for the fiscal year following the year in which a final judicial determination in an action brought under the bill was made that the political subdivision was in violation of the bill.

Under the bill, "state funds" would mean money appropriated by the Legislature or money under the control or direction of a state agency.

**Complaint process.** Any individual living in the jurisdiction of a political subdivision could file a complaint with the attorney general if the individual offered evidence to support an allegation that the political subdivision had required or assisted with the enforcement of any federal firearms laws or regulations described in the bill.

If the attorney general determined that a complaint was valid and to compel the political subdivision to comply with the bill, the attorney general could file a petition for a writ of mandamus or apply for other

appropriate equitable relief in a district court in Travis County or in a county where the principal office of the political subdivision was located.

The attorney general could recover reasonable expenses incurred in obtaining relief, including court costs, attorney's fees, investigative costs, witness fees, and deposition costs.

An appeal of a suit brought under the bill would be governed by the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure, and the appellate court would have to render its final order or judgment with the least possible delay.

**Suit against state agency.** The attorney general would have to defend any state agency in a suit brought against it by the federal government for an action or omission consistent with the requirements of the bill.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

**SUPPORTERS  
SAY:**

CSHB 2622 would enact the Second Amendment Sanctuary State Act and protect Texans' Second Amendment rights by prohibiting public resources from being used in the enforcement of certain exclusively federal firearms laws and regulations in the state.

Current impending federal legislation and potentially forthcoming federal executive action are threatening to erode the constitutional rights of Texans, namely the right to self-defense and to keep and bear arms. Such regulations could include magazine capacity or size limitations, registration requirements, and expanded background checks. The bill would take a proactive step and ensure that any new federal gun control laws did not infringe on the rights of Texans and their abilities to protect themselves, their families, and their properties.

The bill would not preclude federal authorities from enforcing federal firearms laws in Texas but simply would codify the spirit of a 2019 court

opinion that said states could not be compelled to use state resources to enforce federal law. The Texas Constitution delegates the power to regulate the right to keep and bear arms to the state, so the bill appropriately would return control to the state to ensure Texans had a say in what gun control measures were enacted and enforced.

Currently, Texas has a patchwork of local policies and regulations so the bill would ease confusion and ensure consistent application of state firearms laws across the state.

The bill would not affect contracts or agreements in place by January 19, 2021, so many current state-federal law enforcement operations would not be impacted. In other states that have passed similar legislation, none have seen a reduction in federal funding as a result.

CRITICS  
SAY:

CSHB 2622 would violate the basic concept of federal law supremacy. While efforts to nullify federal law with state law likely would not stand up under scrutiny and would be largely symbolic, the bill still could negatively impact gun safety in the state. It would limit enforcement of common-sense federal firearms laws, including background checks, and preempt new federal firearms law or regulations, regardless of their merit or necessity.

The bill would impact local control and remove the discretion of political subdivisions and local law enforcement agencies to adopt policies and enforce laws and regulations best suited for their communities. By restricting state funds, the bill could prevent cities and counties from providing essential services and could result in the loss of much-needed federal funds. Also, by allowing any individual to file a complaint, the bill would invite litigation, which would be costly for local taxpayers.

The bill also could impact state-federal coordinated law enforcement operations. It is unclear how it would affect cross-credentialed peace officers and whether their participation on a task force that enforced federal firearms laws would violate the bill and impact needed state or federal funding to their agency or city.

NOTES:

According to the Legislative Budget Board, the bill could result in a loss of certain federal funds, including those associated with state-federal coordinated law enforcement activities. The impact to federal funds could not be determined because the response by federal agencies was unknown.