

SUBJECT: Allowing mandamus action to require separate veterans county service office

COMMITTEE: Civil Practices — committee substitute recommended

VOTE: 7 ayes — Bosse, Clark, Dutton, Hope, Martinez Fischer, Nixon, Smithee

0 nays

2 absent — Janek, Zbranek

WITNESSES: For — William W. McLemore, Texas Coalition State Veterans Organizations; Michael Palmquist, The American Legion

Against — None

On — Billy Green, Texas Veterans Commission; Donald Lee, Texas Conference of Urban Counties

BACKGROUND: Government Code, ch. 434, subchapter B requires a county with a population of 200,000 or more to establish and maintain a veterans' county service office that is separate and distinct from other county offices.

In 1999, the Attorney General (AG) issued Opinion No. JC-0151 which determined that county residents could not seek a writ of mandamus to compel the commissioners court to appoint a veterans' county service officer who met the statutory qualifications, including being a veteran, or to dismiss an incumbent who lacked the statutory qualifications.

DIGEST: CSHB 350 would amend Government Code, sec. 434.032 to allow a resident of a county to bring a writ of mandamus to require a commissioners court to abide by Government Code, sec. 434.032(a)(1), requiring a veterans' county service office to be separate and distinct from other county offices.

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, 2001.

SUPPORTERS
SAY:

CSHB 350 would grant recourse to veterans who believe that county commissioners have ignored the law by not providing a separate county veterans' service officer. The Government Code is very specific about having an office distinct from other county offices. Veterans have special needs and their county service offices should not be part of the county's human service departments or county offices.

The many veterans in Texas receive relatively few benefits for the sacrifices they have made in serving their country. Veterans' county services offices serve as liaison between veterans and the services they need and deserve. It would cost only about \$17,000 a year to maintain a separate veterans' service office in the average county with a population of more than 200,000.

OPPONENTS
SAY:

According to AG Opinion JC-0151 (December 8, 1999), mandamus is only available to make a public official perform a purely ministerial act for which nothing is left to the exercise of discretion. Commissioners' courts retain some discretion on how to establish veterans' county service offices, and CSHB 350 could lead to costly and unnecessary litigation to resolve this issue.

NOTES:

CSHB 350 would delete provisions authorizing a county resident to use any other legal or equitable remedy to require commissioners' court to maintain the veterans' county service office.