

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2120
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Jurisprudence
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Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Local governments, such as counties, are controlled by myriad statutes that direct the functions and authority of the local government, and clarification of those statutes is often necessary. C.S.H.B. 2120 amends various statutes to clarify the roles and responsibilities of the local governments, including among others, suitable provisions in the event of disasters, allowing for more counties to employ special counsel, clarifying notice provisions in suits against the state, and clarifying jurisdiction regarding county courts at law and district courts.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 14.06(a), Code of Criminal Procedure, to require the person making the arrest or the person having custody of the person arrested to take the person arrested, or have him taken without unnecessary delay, but not later than 48 hours after the person is arrested, to provide more expeditiously to the person arrested, rather than if necessary to provide more expeditiously to the person arrested, the warnings described by Article 15.17 of this Code, before a magistrate in any other county of this state, rather than a county bordering the county in which the arrest was made.

SECTION 2. Amends Article 15.16, Code of Criminal Procedure, to authorize the officer or person executing the arrest warrant as permitted by Article 15.17, notwithstanding Subsection (a), to provide more expeditiously to the person arrested the warnings described by Article 15.17, to take the person arrested before a magistrate in a county other than the county of arrest.

SECTION 3. Amends Article 15.17(a), Code of Criminal Procedure, to authorize the image of the arrested person to be presented, rather than broadcast by closed circuit television, to the magistrate by means of an electronic broadcast system. Deletes existing text prohibiting a closed circuit television from being used under this subsection unless the system provides for a two-way communication of image and sound between the arrested person and the magistrate. Defines "electronic broadcast system." Makes conforming changes.

SECTION 4. Amends Article 15.18, Code of Criminal Procedure, to make conforming changes.

SECTION 5. Amends Article 15.19(b), Code of Criminal Procedure, to delete existing text regarding an arrest made under the provisions of Article 15.17(a) of this code and to make conforming changes.

SECTION 6. Amends Section 403.1042(b), Government Code, to amend the existing criteria for membership on the tobacco settlement permanent trust account advisory committee.

SECTION 7. Amends Section 511.009(c), Government Code, to make a nonsubstantive change.

SECTION 8. Amends Sections 12.137(b) and (c), Health and Safety Code, to amend the existing criteria for membership on the tobacco settlement permanent trust account administration advisory committee.

SECTION 9. Amends Subchapter C, Chapter 281, Health and Safety Code, by adding Section 281.0475, as follows:

Sec. 281.0475. RENAMING DISTRICT. Provides that this section applies only to a district created in a county with a population of more than 800,000 that was not included in the boundaries of a hospital district before September 1, 2003. Authorizes the board of hospital managers of a district, with the approval of the commissioners court, to rename the district.

SECTION 10. Amends Section 81.028, Local Government Code, by adding Subsection (b-1), to authorize a county judge to file a standing order of emergency delegation of authority that clearly indicates the types of orders or official documents that the officer or employee may sign on behalf of the county judge in the event of an emergency or disaster.

SECTION 11. Amends Section 83.002, Local Government Code, to require the county treasurer, before beginning to perform the duties of office, to execute a bond with a surety company authorized to do business in this state as a surety. Amends the specific requirements for the bond. Requires the treasurer to take and subscribe the official oath which must be endorsed on the bond. Requires the bond and the oath to be recorded in the county clerk's office. Prohibits the bond from exceeding the maximum amount set forth by this section. Provides that the failure of a treasurer to obtain a bond required by this section subjects the treasurer to removal under Section 83.004.

SECTION 12. Amends Section 83.003(c), Local Government Code, to require the introductory course required by Subsection (a), rather than at least 10 hours of the continuing education course required by Subsection (a), and the continuing education required by Subsection (b) to be sponsored or consponsored by, rather than taken at, an accredited public institution of higher education. Deletes existing text relating to the requirements for the remaining classroom hours.

SECTION 13. Amends Sections 83.004(a) and (c), Local Government Code, as follows:

(a) Authorizes, rather than requires, the county judge, if a person elected to the office of county treasurer fails to take the official oath on or before assuming the office, rather than within 20 days after the date the certificate of election is received, to declare the office vacant.

(c) Makes a conforming change.

SECTION 14. Amends Section 85.001(a), Local Government Code, to require a person elected as sheriff, before beginning to perform the duties of office, to execute a bond with two or more good and sufficient sureties or a solvent surety company authorized to do business in this state.

SECTION 15. Amends Section 86.002(a), Local Government Code, to require a person elected as a constable, before beginning to perform the duties of office, to execute a bond with two or more good and sufficient sureties or a solvent surety company authorized to do business in this state.

SECTION 16. Amends the heading to Section 89.001, Local Government Code, to read as follows:

Sec. 89.001. SPECIAL COUNSEL IN POPULOUS COUNTIES.

SECTION 17. Amends Section 89.001(a), Local Government Code, to authorize the commissioners court of a county with a population of more than 1.25 million, rather than one million, to employ an attorney as special counsel.

SECTION 18. Amends Section 89.0041(b), Local Government Code, to require the written notice to be delivered by certified or registered mail by the 30th business day after suit is filed and contain the name of the person filing suit.

SECTION 19. Amends Section 157.002(a), Local Government Code, to authorize the commissioners court, by rule, to provide for medical care and hospitalization and compensation, accident, hospital, and disability insurance for certain persons if their salaries are paid entirely from the funds of a hospital district described by Section 281.0475, Health and Safety Code, located entirely in the county.

SECTION 20. Amends Section 157.003(b), Local Government Code, to require any participating hospital district to also contribute to the hospital and insurance fund.

SECTION 21. Amends Subchapter A, Chapter 157, Local Government Code, by adding Section 157.008, as follows:

Sec. 157.008. **INSURANCE POOL OR INSURANCE COMPANY NOT CREATED.** Provides that, if a county provides for medical care and hospitalization or provides for compensation, accident, hospital, and disability insurance to persons listed under Section 157.002(a)(1), the county has not created an insurance pool with a flood control district, a hospital district, or other governmental entity, unless the county enters into a contract under Chapter 172, and is not an insurance company subject to the Insurance Code or to regulation by the Texas Department of Insurance (TDI) as an insurance company.

SECTION 22. Amends Section 157.101(a), Local Government Code, to make conforming changes.

SECTION 23. Amends Section 157.102(b), Local Government Code, to make a conforming change.

SECTION 24. Amends Subchapter F, Chapter 157, Local Government Code, by adding Section 157.106, as follows:

Sec. 157.106. **INSURANCE POOL OR INSURANCE COMPANY NOT CREATED.** Provides that, if a county provides for group health and related benefits, including medical care, surgical care, hospitalization, and pharmaceutical, life, accident, disability, long-term care, vision, dental, mental health, and substance abuse benefits, to persons listed under Section 157.101(a)(1), the county has not created an insurance pool with a flood control district, hospital district, or other governmental entity, unless the county enters into a contract under Chapter 172, and is not an insurance company subject to the Insurance Code or to regulation by TDI as an insurance company.

SECTION 25. Amends Subchapter B, Chapter 292, Local Government Code, by adding Section 292.030, as follows:

Sec. 292.030. **FACILITIES IN UNINCORPORATED AREA OF COUNTY.** Authorizes the commissioners court of a county to purchase, construct, reconstruct, improve, equip, or provide for by other means, including by lease or lease with an option to purchase, a branch office in an unincorporated area of the county. Authorizes any county officer to maintain an office and the county to provide any county service at the branch office authorized by this section. Requires the maintenance of an office or the provision of a service at the branch office to be in addition to an office maintained or service provided at any other location required by law.

SECTION 26. Amends Section 351.0415, Local Government Code, as follows:

Sec. 351.0415. **New heading: COMMISSARY OPERATION BY SHERIFF OR PRIVATE VENDOR.** Authorizes the sheriff of a county or the sheriff's designee, including a private vendor operating a detention facility under contract with the county, to operate, or contract with another person to operate, a commissary for the use of the inmates, rather than prisoners, committed to the county jail or to a detention facility operated by the private vendor, as appropriate. Amends the specific purposes for which the sheriff or the sheriff's designee is authorized to use commissary proceeds. Requires the auditor, for a jail under the supervision of the sheriff, at least once each county fiscal year, or more often if the commissioners court desires, to, without advance notice, fully

examine the jail commissary accounts. Requires a private vendor operating a detention facility under contract with the county to ensure that the facility commissary accounts are annually examined by an independent auditor. Requires the sheriff or the sheriff's designee to consider certain factors when entering into a contract under this section. Authorizes commissary proceeds to be used only for the purposes described by this section. Prohibits a commissioners court from using commissary proceeds to fund the budgetary operating expenses of a county jail.

SECTION 27. Amends Section 351.04155, Local Government Code, to provide that this section applies only to a county that has a population of one million or more, has two municipalities with a population of 200,000, rather than 300,000, or more, and is adjacent to a county with a population of one million or more. Provides that a purchase made by the sheriff using commissary proceeds is subject to the competitive purchasing procedures contained in Subchapter C, Chapter 262. Defines "commissioners court" for the purposes of complying with that subchapter.

SECTION 28. Amends Section 21.001, Property Code, to provide that district courts and county courts at law have concurrent jurisdiction under this section in cases in every county in this state. Provides that to the extent of a conflict between this subsection and another law, this subsection controls.

SECTION 29. Amends Section 21.013, Property Code, by amending Subsection (b) and adding Subsection (e), as follows:

(b) Requires a party initiating a condemnation proceeding under this chapter, rather than in a county in which there is one or more county courts at law with jurisdiction, except as otherwise provided by law, to file the petition with any clerk authorized to handle such filings in a court, rather than for that court or courts, that has jurisdiction over the proceeding.

(e) Provides that the filing fee for a petition filed under this section is due at the time of filing in accordance with Section 51.317, Government Code.

SECTION 30. Amends Section 311.002(1), Tax Code, to redefine "project costs."

SECTION 31. Amends Sections 311.003 and 311.004, Tax Code, as follows:

Sec. 311.003. PROCEDURE FOR CREATING REINVESTMENT ZONE. Authorizes the governing body of a county by order to designate a contiguous geographic area in the jurisdiction of the municipality or county to be a reinvestment zone to promote development or redevelopment of the area. Makes conforming changes.

Sec. 311.004. New heading: CONTENTS OF REINVESTMENT ZONE ORDINANCE OR ORDER. Makes conforming changes.

SECTION 32. Amends Section 311.005(a), Tax Code, to make conforming changes.

SECTION 33. Amends Section 311.007, Tax Code, to authorize the boundaries of an existing reinvestment zone, if applicable, subject to the limitations provided by Section 311.006, to be reduced or enlarged by order or resolution of the governing body of the county that created the zone.

SECTION 34. Amends the heading to Section 311.008, Tax Code, to read as follows:

Sec. 311.008. POWERS OF MUNICIPALITY OR COUNTY.

SECTION 35. Amends Sections 311.008(a), (b), and (d), Tax Code, to redefine "educational facility," to provide that certain counties, in addition to municipalities, are authorized to create tax increment reinvestment zones under the provisions of the tax code. Makes conforming changes.

SECTION 36. Amends Sections 311.009(a), (b), (e), and (f), Tax Code, as follows:

- (a) Authorizes each taxing unit other than the municipality or county that created the zone, that levies a tax on real property in the zone, to appoint one member of the board of directors of the reinvestment zone.
- (b) Makes conforming changes.
- (e) Makes conforming changes.
- (f) Makes conforming changes.

SECTION 37. Amends Section 311.010, Tax Code, to make conforming changes.

SECTION 38. Amends Sections 311.011(a), (b), (d), (e), and (g), Tax Code, as follows:

- (a) Makes a conforming change.
- (b) Requires the project plan to include proposed changes to subdivision rules and regulations, if any, of the county, if applicable.
- (d) Makes conforming changes.
- (e) Makes conforming changes.
- (g) Makes conforming changes.

SECTION 39. Amends Sections 311.013(d), (f), and (k), Tax Code, to make conforming changes.

SECTION 40. Amends Sections 311.014(c) and (d), Tax Code, to make conforming changes.

SECTION 41. Amends Sections 311.015(a), (b), (c), (e), (f), (g), (i), (j) and (k), Tax Code, to make conforming changes.

SECTION 42. Amends Sections 311.016 and 311.017, Tax Code, as follows:

Sec. 311.016. New heading: ANNUAL REPORT BY MUNICIPALITY OR COUNTY. Makes conforming changes.

Sec. 311.017. TERMINATION OF REINVESTMENT ZONE. Makes conforming changes.

SECTION 43. Amends Sections 311.019(b) and (c), Tax Code, to make conforming changes.

SECTION 44. Amends Section 311.020, Tax Code, to make conforming changes.

SECTION 45. Repealer: Section 281.0461 (Study), Health and Safety Code, Section 83.004(b) (Removal from Office; Filling of Vacancy), Local Government Code, and Section 21.013(c) (Venue; Fees and Processing for Suit Filed in District Court), Property Code.

SECTION 46. Makes application of this Act to the Code of Criminal Procedure prospective.

SECTION 47. Makes application of this Act to Sections 83.002 and 83.004(a) and (c), Local Government Code, prospective.

SECTION 48. Makes application of Section 21.013, Property Code, prospective.

SECTION 49. (a) Effective date: September 1, 2005, except as provided by Subsection (b) of this section.

(b) Provides that the provisions of this Act amending Chapter 311, Tax Code, take effect on the date on which the constitutional amendment proposed by S.J.R. No. 44 takes effect. Provides that, if that amendment is not approved by the voters, those provisions have no effect.