

BILL ANALYSIS

Senate Research Center

S.B. 23
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Jurisprudence
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Local governments in some parts of the state are responding to certain demands to "defund the police," even though few Texans support defunding local law enforcement. As a result, law enforcement officers in defunding jurisdictions must contend with potential cuts to their wages, and have fewer resources to secure the tools necessary for safe and effective policing.

Subject to certain exceptions, under S.B. 23, a county or municipality must secure voter approval before passing a budget that reduces regular funding for law enforcement compared to the previous fiscal year, as a percentage of the total annual budget. If the voters in the jurisdiction approve a reduction in law enforcement funding or a reallocation of funding from one law enforcement agency to another at an election called for that purpose, then the reduction or reallocation may take effect.

A person who owns taxable property in the municipality or county who believes that the county or municipality has reduced local law enforcement funding without required voter approval may file a complaint with the criminal justice division of the Office of the Governor, which shall screen the request and, if appropriate, forward it to the Comptroller of Public Accounts of the State of Texas (comptroller). If the comptroller determines that a county or municipality adopted a budget in violation of the bill, then the county or municipality may not adopt an ad valorem tax rate for the subsequent fiscal year that exceeds the no-new-revenue tax rate.

(Original Author's/Sponsor's Statement of Intent)

S.B. 23 amends current law relating to an election to approve a reduction or reallocation of funding or resources for certain county law enforcement agencies.

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 Subtitle B, Title 4, Local Government Code, by adding Chapter 120, as follows:

CHAPTER 120. ELECTION FOR REDUCTION OF FUNDING OR RESOURCES FOR CERTAIN PRIMARY LAW ENFORCEMENT AGENCIES

Sec. 120.001. APPLICIBILITY. Provides that this chapter applies only to a county with a population of more than one million.

Sec. 120.002. ELECTION REQUIRED. (a) Requires a county, except as provided by Section 120.003, to hold an election in accordance with this chapter if the county adopts a budget for a fiscal year that, compared to the budget adopted by the county for the preceding fiscal year:

(1) reduces for a law enforcement agency, excluding a 9-1-1 call center, with primary responsibility for policing, criminal investigation, and answering calls for service:

(A) for a fiscal year in which the overall amount of the budget is equal to or greater than the amount for the preceding fiscal year, the appropriation to the agency;

(B) for a fiscal year in which the overall amount of the budget is less than the amount for the preceding fiscal year, the appropriation to the agency as a percentage of the total budget;

(C) as applicable, if the county has not declined in population since the preceding fiscal year, the number of peace officer positions, excluding detention officer positions, or if the county has declined in population since the preceding fiscal year, the number of peace officer positions, excluding detention officer positions, the law enforcement agency is authorized to employ per 1,000 county residents; or

(D) the amount of funding per peace officer for the recruitment and training of new peace officers to fill vacant and new peace officer positions in the agency; or

(2) reallocates funding or resources to another law enforcement agency.

(b) Prohibits a county from implementing a proposed reduction or reallocation described by Subsection (a) until the county receives voter approval for the proposed reduction or reallocation at an election held for that purpose. Authorizes the county to, at any time, order the election to be held on the 30th day after the date the county orders the election. Provides that Section 41.001 (Uniform Election Dates), Election Code, does not apply to an election under this subsection.

(c) Provides that, for purposes of this section, a county budget does not include:

(1) a one-time extraordinary expense, as determined by the Comptroller of Public Accounts of the State of Texas (comptroller), that is outside the normal costs of operating a law enforcement agency, including purchasing a fleet of law enforcement vehicles or constructing an additional training academy; or

(2) revenues used to repay voter-approved bonded indebtedness incurred for a law enforcement purpose;

(3) detention officer compensation; or

(4) a donation or state or federal grant to the county's law enforcement agency.

Sec. 120.003. DISASTER EXCEPTION. Provides that Section 120.002 does not apply to a county budget adopted for a fiscal year in which, or the two fiscal years following the fiscal year in which, a significant budget reduction from the preceding fiscal year was caused by a disaster, including a tornado, hurricane, flood, wildfire, or other calamity, but not including a drought, epidemic, or pandemic, in an area of the county that was the subject of a disaster declaration by the governor under Chapter 418 (Emergency Management), Government Code, or by the president of the United States.

Sec. 120.004. **BALLOT PROPOSITION REQUIREMENTS.** Requires a county holding an election under this chapter to ensure that the ballot proposition for the election includes, as applicable:

- (1) a detailed explanation of each proposed reduction;
- (2) the amount of each proposed reduction;
- (3) the recipient of reallocated funding or resources;
- (4) the impact on the local tax rate, if any; and
- (5) the expected length of time that the proposed reduction or reallocation will remain in effect.

Sec. 120.005. **USE OF PUBLIC MONEY FOR CAMPAIGN PROHIBITED.** Prohibits a county holding an election under this chapter from using public money on promotional campaigns or advocacy related to the proposed reduction or reallocation. Prohibits this section from being construed to prevent a county official or employee from communicating factual information about a proposed budget or the reasoning behind a proposed budget to the voters in the county.

Sec. 120.006. **COMPLAINT.** (a) Authorizes a person who believes that a county has implemented a proposed reduction or reallocation described by Section 120.002(a) without the required voter approval and who resides in the county to file a complaint with the criminal justice division of the Office of the Governor.

(b) Requires the criminal justice division of the Office of the Governor to determine whether a complaint filed under Subsection (a) is potentially valid or frivolous or false.

(c) Requires the criminal justice division of the Office of the Governor to provide written notice of a potentially valid complaint filed under Subsection (a) to the county that is the subject of the complaint. Requires the division to provide the county an opportunity to correct the action that is the subject of the complaint before referring the complaint to the comptroller.

Sec. 120.007. **COMPTROLLER INVESTIGATION; TAX RATE LIMITATION.** (a) Requires the comptroller, on request by the criminal justice division of the Office of the Governor, to determine whether a county has implemented a proposed reduction or reallocation described by Section 120.002(a) without the required voter approval. Requires the comptroller to issue a written determination to the governor, lieutenant governor, speaker of the Texas House of Representatives, and governing body of the county.

(b) Authorizes the comptroller to require a county to submit information for the current or preceding fiscal year to assist the comptroller's investigation under this section.

(c) Prohibits a county, notwithstanding any other law, if the comptroller determines that the county implemented a proposed reduction or reallocation described by Section 120.002(a) without the required voter approval, from adopting an ad valorem tax rate that exceeds the county's no-new-revenue tax rate until the earlier of:

(1) the date the comptroller issues a written determination that the county has, as applicable:

(A) reversed each funding reduction, adjusted for inflation, and personnel reduction that was a subject of the determination; or

(B) restored all reallocated funding and resources that were subjects of the determination to the original law enforcement agency; or

(2) the date on which each reduction and reallocation that was a subject of the determination has been approved in an election held in accordance with this chapter.

(d) Provides that, for purposes of making the calculation required under Section 26.013 (Unused Increment Rate), Tax Code, in a tax year the comptroller determines that a county implemented a proposed reduction or reallocation described by Section 120.002(a) without the required voter approval, the difference between the actual tax rate and voter-approval tax rate is considered to be zero.

SECTION 2. Effective date: January 1, 2022.