

BILL ANALYSIS

C.S.H.B. 1900
By: Goldman
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Recently, cities across the United States, including in Texas, have taken action to cut police department budgets. Interested parties have noted these actions leave the citizens of Texas and visitors to the state more vulnerable to crime. 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. 1900 seeks to answer those calls by allowing the criminal justice division of the governor's office to identify an applicable municipality that reduces appropriations to its police department year-over-year, as specified under the bill's provisions, as a defunding municipality and establishing restrictions on these municipalities' powers with regard to annexation, taxation, and charges from a municipality-owned utility, as applicable, until the reductions are reversed, adjusted for inflation.

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 1.01 of this bill.

ANALYSIS

C.S.H.B. 1900 establishes provisions classifying certain municipalities that adopt budgets that reduce appropriations to their municipal police departments, as specified under the bill's provisions, as defunding municipalities and sets restrictions on the powers of those municipalities.

Defunding Municipality Determination

C.S.H.B. 1900 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. The bill's provisions relating to this initial determination expire September 1, 2023.

C.S.H.B. 1900 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. 1900 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.

Annexation by and Disannexation from Defunding Municipalities

C.S.H.B. 1900 amends the Local Government Code to prohibit a home-rule municipality that is determined to be a defunding municipality from annexing an area during the period beginning on the date that the division issues the defunding determination and ending on the 10th anniversary of the date on which the division issues the determination finding that the applicable reductions were reversed. The bill requires the municipality to hold a separate election in each area annexed by the municipality in the preceding 30 years on the question of disannexing the area. The election is to be held on the next uniform election date that occurs after the date on which the division issues the determination that the municipality is a defunding municipality and the time required under state law for ordering an election. The bill prohibits the municipality from using public funds on information campaigns relating to the election. The municipality is required to immediately disannex by ordinance any area that votes in favor of disannexation in such an election and is prohibited from attempting to reannex the area before the expiration of the municipality's 10-year annexation moratorium.

Tax Revenue and Defunding Municipalities

C.S.H.B. 1900 amends the Tax Code to prohibit the governing body of a defunding municipality from adopting a property tax rate for the current tax year that exceeds the lesser of its no-new-revenue tax rate or voter-approval tax rate for that tax year. If a municipality is determined to be a defunding municipality according to the budget adopted for the first fiscal year beginning on or after September 1, 2021, the municipality's governing body may not adopt a property tax rate for the current year that exceeds the least of its no-new-revenue tax rate or voter-approval tax rate for that tax year, the preceding tax year, or the second preceding tax year. This prohibition expires September 1, 2023. For purposes of calculating a defunding municipality's unused increment rate in a tax year in which the municipality is a defunding municipality, the difference between its actual tax rate and voter-approval tax rate is considered to be zero. These provisions apply beginning with the 2021 tax year.

C.S.H.B. 1900 provides for an adjustment in the no-new-revenue maintenance and operations tax rate for a defunding municipality according to a prescribed formula that accounts for a municipal public safety expenditure adjustment, which is an amount equal to the positive difference, if any, between the amount of money appropriated for public safety in the budget adopted by the municipality for the preceding fiscal year and the amount of money spent by the municipality for public safety during the period for which the budget that resulted in the municipality being classified as a defunding municipality is in effect. The bill provides for the

dissemination of notice of the rate decrease. Except with respect to the notice requirement, these provisions apply beginning with the 2021 tax year.

C.S.H.B. 1900 prohibits the comptroller of public accounts, before July 1 of each state fiscal year, from sending to a defunding municipality its share of the municipal sales and use taxes collected by the comptroller during the state fiscal year. The bill requires the division, not later than August 1 of each state fiscal year, to report to the comptroller for each such municipality the amount of money the state spent in that state fiscal year to provide law enforcement services in that municipality. Before sending the municipality its share of the taxes, the comptroller is required to deduct the reported amount and credit that deducted amount to the general revenue fund to be appropriated to the Department of Public Safety.

Municipally Owned Utilities in Defunding Municipalities

C.S.H.B. 1900 amends the Utilities Code to prohibit the governing body of a municipally owned utility located in a defunding municipality from doing any of the following:

- charging a customer at a rate higher than the rate the customer was charged or would have been charged on January 1 of the year that the municipality was determined to be a defunding municipality;
- charging a customer any customer fees in amounts higher than the customer fees the customer was charged or would have been charged on January 1 of the year that the municipality was determined to be a defunding municipality; or
- charging a customer any types of customer fees that the customer was not charged or would not have been charged on January 1 of the year that the municipality was determined to be a defunding municipality.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1900 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.

The substitute narrows the scope of the bill's provisions to apply to municipalities with a population of more than 250,000, rather than all counties and municipalities as in the original.

The substitute does not include 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.

The substitute includes specific exceptions 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. The bill includes the requirement for the division to adopt related rules.

The substitute does not include provisions from the original regarding the effect of disannexation of an area from a defunding municipality with respect to the area's release from the defunding municipality's extraterritorial jurisdiction, the right of a resident of the area to petition for the area to be included in the extraterritorial jurisdiction of an eligible municipality, and the

inclusion of a disannexed area in a municipality's extraterritorial jurisdiction under certain conditions.

The substitute includes provisions providing for the adjustment of a defunding municipality's no-new-revenue maintenance and operations property tax rate to account for a reduction in appropriations to the municipality's police department and for the dissemination of notice regarding that rate decrease. The substitute revises a procedural provision to specify that, while the rate decrease applies beginning with the 2021 tax year, the notice requirement does not apply for that tax year.

The substitute includes provisions limiting the tax rate that may be adopted by a municipality that is determined to be a defunding municipality according to the budget adopted for the first fiscal year beginning on or after September 1, 2021.