

BILL ANALYSIS

C.S.S.B. 23
By: Huffman
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There are concerns over reports of local governments reducing the funding to local law enforcement or reallocating the funding from law enforcement to other purposes. It has been suggested that this effort to "defund" law enforcement is not popular with most Texans and that, given the importance of law enforcement in protecting public order, any such effort should not go forward without providing voters an opportunity to weigh in and approve or reject a proposed reduction or reallocation of funds. C.S.S.B. 23 seeks to require a county with a population of more than one million to obtain voter approval at an election before enacting certain reductions or reallocations of funding to the county's law enforcement agency and providing a complaint mechanism whereby a county's property tax rates may be frozen if the county adopts a proposed reduction or allocation without the required voter approval.

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

ANALYSIS

C.S.S.B. 23 amends the Local Government Code to require a county with a population of more than one million to hold an election to obtain voter approval if the county adopts a budget for a fiscal year that, compared to the budget adopted by the county for the preceding fiscal year, does the following:

- reduces for the law enforcement agency, excluding a 9-1-1 call center, with primary responsibility for policing, criminal investigation, and answering calls for service:
 - 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;
 - 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;
 - 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
 - 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
- reallocates funding or resources to another law enforcement agency.

The bill excludes from consideration as part of a county budget certain one-time extraordinary expenses, revenues used to repay voter-approved bonded indebtedness incurred for a law enforcement purpose, detention officer compensation, and a donation or a state or federal grant to the county's law enforcement agency.

C.S.S.B. 23 prohibits an applicable county from implementing a proposed reduction or reallocation until the county receives voter approval at the election and authorizes the county at any time to order the election to be held on the 30th day after the date the county orders the election. Election Code provisions regarding uniform election dates do not apply to the election. The requirement for an applicable county to hold an election does not apply to a 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 excluding a drought, epidemic, or pandemic, in an area of the county that was the subject of a disaster declaration by the governor under the Texas Disaster Act of 1975 or by the U.S. president.

C.S.S.B. 23 requires a county holding an election under the bill's provisions to ensure that the ballot proposition for the election includes, as applicable, the following information:

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

The bill prohibits the county from using public money on promotional campaigns or advocacy related to the proposed reduction or reallocation and provides that this prohibition may not be 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 county's voters.

C.S.S.B. 23 authorizes a person who believes that the county in which they reside has implemented a proposed reduction or reallocation without the required voter approval to file a complaint with the criminal justice division of the governor's office. The bill requires the division to do the following with respect to such a complaint:

- determine whether the complaint is potentially valid or frivolous or false;
- provide written notice of a potentially valid complaint to the county that is the subject of the complaint; and
- provide the county an opportunity to correct the action that is the subject of the complaint before referring the complaint to the comptroller of public accounts.

C.S.S.B. 23 requires the comptroller, on request by the division, to determine whether a county has implemented the proposed reduction or reallocation without the required voter approval and to issue a written determination to the governor, lieutenant governor, speaker of the house of representatives, and governing body of the county. If the comptroller determines that the county implemented the proposed reduction or reallocation without the required voter approval, the county may not adopt a property tax rate that exceeds the county's no-new-revenue tax rate until the earlier of:

- the date the comptroller issues a written determination that the county has reversed each funding reduction, adjusted for inflation, and personnel reduction that was a subject of the determination or restored all reallocated funding and resources that were subjects of the determination to the original law enforcement agency, as applicable; or
- the date on which each reduction and reallocation that was a subject of the determination has been approved by voters in an election.

For purposes of calculating the county's unused increment rate in a tax year the comptroller makes such a determination, the difference between the county's actual tax rate and voter-approval tax rate is considered to be zero. The bill authorizes the comptroller to require a

county to submit information for the current or preceding fiscal year to assist the comptroller's investigation.

EFFECTIVE DATE

January 1, 2022.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 23 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute limits the applicability of the provisions of the engrossed, which applied to both municipalities and counties, to a county with a population of more than one million. The substitute updates the bill's caption to reflect this change in applicability.

The substitute includes a provision not in the engrossed establishing that, for purposes of calculating a county's unused increment rate in a tax year the comptroller determines that the county implemented an applicable budget reduction or reallocation without the required voter approval, the difference between the county's actual tax rate and voter-approval tax rate is considered to be zero.