

SUBJECT: Creating law enforcement, public safety zones in cities that defund police

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 9 ayes — Paddie, Harless, Hunter, P. King, Metcalf, Raymond, Shaheen, Slawson, Smithee

3 nays — Hernandez, Deshotel, Howard

1 absent — Lucio

WITNESSES: For — Joell McNew, Safe Horns; (*Registered, but did not testify*: Chris Jones, CLEAT; Michelle Davis, Convention of States; Ellis Winstanley, El Arroyo, et al.; Jimmy Rodriguez, San Antonio Police Officers Association; Mia McCord, Texas Conservative Coalition; and 10 individuals)

Against — Katie Lain; Bryan Register; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; Joe Hamill, AFSCME Harris County Local 1550, HOPE Local 123, Austin/Travis County Local 1624, San Antonio Local 2021, and El Paso Local 59; Chas Moore, Austin Justice Coalition; Joe Chacon, Austin Police Department; Lee Kleinman, City of Dallas; Jonathan Lewis, Every Texan; Thamara Narvaez, Harris County Commissioners Court; Ed Heimlich, Informed Citizens; Patricia Zavala, Jolt Action; Jorge Renaud, LatinoJustice; Karen Munoz, LatinoJustice PRLDEF; Maggie Luna, Statewide Leadership Council; Emily Gerrick, Texas Fair Defense Project; Carisa Lopez and Suseth Munoz, Texas Freedom Network; Cate Graziani, Texas Harm Reduction Alliance; Abigail Avila and Cerena Haefs, Texas Rising; Julie Wheeler, Travis County Commissioners Court; and eight individuals)

On — Sally Bakko, City of Galveston; (*Registered, but did not testify*: Monty Wynn, Texas Municipal League)

BACKGROUND: Some have suggested that actions by some Texas cities to cut police department budgets leave the citizens of Texas and visitors to the state

more vulnerable to crime and reportedly have coincided with an increase in total homicides in certain municipalities. Some have called for the state to take action to ensure that the safety of Texans from the potential effects of cutting public safety spending.

DIGEST: CSHB 1950 would provide for the creation of law enforcement and public safety zones in and limit certain tax revenues of municipalities that defunded their police departments.

Determination of defunding municipality. A defunding municipality would be a municipality that adopted a budget for a fiscal year that, in comparison to the preceding year, reduced the appropriation to the police department and for which the Office of the Governor's Criminal Justice Division issued a written determination.

The bill would apply only to a municipality with a population of more than 250,000.

Exceptions. A municipality would not be considered a defunding municipality if the percentage of reduction to the police department did not exceed the percentage of reduction to the total budget.

A municipality would not be considered a defunding municipality if it applied for and was granted approval from the division for a reduction for capital expenditures related to law enforcement during the preceding fiscal year, the municipality's response to a declared state of disaster, or another reason approved by the division.

The division would have to adopt rules establishing the criteria used to approve reductions.

Termination of determination. A defunding determination would continue until the division issued a written determination finding that the municipality had reversed the reduction, adjusted for inflation.

Law enforcement and public safety zones. The bill would provide

certain defunding municipalities that have defunded their law enforcement agencies with law enforcement and public safety services. Provisions of the bill related to law enforcement and public safety zones would apply only to a defunding municipality that was located wholly or partly in a county with a population of more than 1 million and less than 1.5 million.

Creation of zone. The governor by declaration could designate as a law enforcement and public safety zone an area in an applicable defunding municipality. The declaration would have to prescribe the date on which the zone would begin operations, describe the boundaries of the zone, appoint the initial board of directors of the zone, and direct the comptroller to set aside in a special fund for the purpose of funding zone operations the municipality's share of municipal sales and use taxes.

Board of directors. A zone would be governed by a board of at least three but no more than 11 directors who were appointed by the governor. Directors would serve two-year terms with the terms expiring January 1 of each even-numbered year.

A director would not be liable for civil damages or criminal prosecution for any act performed in good faith in the execution of the director's duties or for any action taken by the board.

To serve as a director, a person would have to be at least 18 years old and be:

- a resident of the municipality or county in which the zone was located;
- a property owner in the zone;
- an agent or employee of a property owner in the zone; or
- a person with law enforcement experience.

A position on the board could not be construed to be a civil office of emolument for any purpose. The bill would provide for the board's organization, meetings, and voting and reimbursement of certain expenses.

Powers and duties. A zone would have the powers necessary or convenient to accomplish its purpose.

A zone would direct all law enforcement activities and public safety services in the zone, including:

- the enforcement of all state criminal, traffic, and safety laws;
- the prevention of crime;
- the investigation, detection, and apprehension of persons who violated laws; and
- the protection of the welfare and safety of residents of and visitors to the zone.

The board would have exclusive management and control over any peace officer employed or contracted to provide law enforcement and public safety services in the zone. The board would have to ensure that each employed or contracted peace officer was a licensed peace officer.

The board could establish payment rates for peace officers, and in establishing those rates, the board would have to ensure that the hourly wage paid by the zone to a peace officer did not exceed 200 percent of the hourly wage paid to the peace officer for performing law enforcement activities by another jurisdiction.

Eminent domain power. A zone would be prohibited from exercising the power of eminent domain.

Contracting. When acting on behalf of the zone, the board could contract with any entity, including a state agency, a municipality, a county, another political subdivision of the state, an individual, or a private corporation, to carry out the zone's purpose.

A municipality, county, or other political subdivision of the state could not prohibit an individual who was employed as a peace officer by the municipality, county, or political subdivision from contracting with the

board to provide law enforcement and public safety services in the zone. A municipality, county, or other political subdivision of the state also could not retaliate or discriminate against such an individual.

Zone funds. A zone would have to finance all the costs of the law enforcement activities and public safety services, including the costs for personnel, administration, and contracting.

To pay for zone operations, including the costs of law enforcement activities and public safety services provided in the zone, the board would have access to the taxes set aside by the comptroller in a special fund as directed by the governor's declaration under the bill. On behalf of the zone, the board could accept donations, gifts, and grants to carry out the zone's purpose.

Dissolution of zone. Beginning on the date on which the Criminal Justice Division issued a written determination finding that the municipality in which a zone was located had reversed the reduction, adjusted for inflation, the governor by declaration could order the zone to commence the process of dissolution. The zone would have to pay all of its expenses and discharge all of its outstanding debts and contractual obligations.

Immediately after paying all expenses and discharging all outstanding debts and contractual obligations, the zone would be dissolved and the comptroller would have to be notified of its dissolution. Upon receiving this notification, the comptroller would close the zone's special fund and transfer any remaining balance to the municipality in which the zone was located.

Conflict of laws. To the extent of a conflict between a provision of this bill and another law applicable to the maintenance or distribution of a defunding municipality's share of municipal sales and use taxes collected by the comptroller, the bill would control.

The bill would take effect September 1, 2021, and apply only to the adoption of a budget by a municipality for a fiscal year that began on or

after that date.

NOTES:

According to the Legislative Budget Board, the bill would have an indeterminate increase to state revenue if an applicable municipality was determined to have adopted a budget that reduced appropriations to the police department.