

BILL ANALYSIS

Senate Research Center

C.S.H.B. 2818
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Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Local option elections may be held in counties, cities, or justice of the peace precincts to determine the types of alcohol sales allowed in those jurisdictions. Problems can arise when local option elections are called in justice precincts whose boundaries no longer exist.

Current law requires a local option election to change the status of a justice precinct to be held within the same boundaries that existed when the original election was held. Because justice precincts are regularly redistricted, counties must attempt to reconstruct old justice precinct lines and adapt voting precincts to jurisdictional boundaries that can be decades old to accommodate such an election. Furthermore, certain localities' voters have authorized both beer and wine off-premise permits and mixed beverage on-premise permits, but no other permits. In these localities, some businesses—often restaurants—that are eligible for a full mixed beverage on-premise permit have expressed a desire to sell just beer and wine on-premise because they would prefer to pay the lower permit fees associated with a beer and wine only permit.

C.S.H.B. 2818 seeks to address these problems by providing for local option elections to be held within the current boundaries of justice precincts and clarifying the status of a newly created precinct. It also allows a business in an area where voters have already approved beer and wine sales for off-premise consumption and mixed beverage permits for on-premise consumption to apply for a beer and wine only permit for on-premise consumption.

C.S.H.B. 2818 amends current law relating to certain local option elections and the permits and licenses that can be issued in areas that approved the sale of certain alcoholic beverages in a local option election.

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 Chapter 25, Alcoholic Beverage Code, by adding Section 25.14, as follows:

Sec. 25.14. ISSUANCE OF PERMIT AUTHORIZED FOR CERTAIN AREAS. (a) Authorizes a permit issued under this chapter, notwithstanding any other provision of this code, to be issued for a premises in an area in which the voters have approved the following alcoholic beverage ballot issues in a local option election:

(1) “the legal sale of beer and wine for off-premise consumption only”;
and

(2) either:

(A) “the legal sale of mixed beverage”; or

(B) “the legal sale of mixed beverages in restaurants by food and beverage certificate holders only.”

(b) Authorizes a premises that qualifies for a permit under this chapter because it is located in an area that approved the ballot issue described by Subsection (a)(2)(B) to be issued a permit under this chapter only if the premises is issued a food and beverage certificate.

SECTION 2. Amends Chapter 69, Alcoholic Beverage Code, by adding Section 69.17, as follows:

Sec. 69.17. ISSUANCE OF LICENSE AUTHORIZED FOR CERTAIN AREAS. (a) Authorizes a license under this chapter, notwithstanding any other provision of this code, to be issued for a premises in an area in which the voters have approved the following alcoholic beverage ballot issues in a local option election:

(1) “the legal sale of beer and wine for off-premise consumption only”; and

(2) either:

(A) “the legal sale of mixed beverage”; or

(B) “the legal sale of mixed beverages in restaurants by food and beverage certificate holders only.”

(b) Authorizes a premises that qualifies for a license under this chapter because it is located in an area that approved the ballot issue described by Subsection (a)(2)(B) to be issued a license under this chapter only if the premises is issued a food and beverage certificate.

SECTION 3. Amends Chapter 70, Alcoholic Beverage Code, by adding Section 70.04, as follows:

Sec. 70.04. ISSUANCE OF LICENSE AUTHORIZED FOR CERTAIN AREAS. (a) Authorizes a license under this chapter, notwithstanding any other provision of this code, to be issued for a premises in an area in which the voters have approved the following alcoholic beverage ballot issues in a local option election:

(1) “the legal sale of beer and wine for off-premise consumption only”; and

(2) either:

(A) “the legal sale of mixed beverage”; or

(B) “the legal sale of mixed beverages in restaurants by food and beverage certificate holders only.”

(b) Authorizes a premises that qualifies for a license under this chapter because it is located in an area that approved the ballot issue described by Subsection (a)(2)(B) to be issued a license under this chapter only if the premises is issued a food and beverage certificate.

SECTION 4. Amends Section 251.72, Alcoholic Beverage Code, as follows:

Sec. 251.72. CHANGE OF STATUS. Provides that an authorized voting unit that has exercised or is authorized to exercise the right of local option, except as provided in Sections 251.73 (Prevailing Status: Resolution of Conflicts) and 251.80 (Change in Precinct Boundaries), retains the status adopted, whether absolute prohibition or

legalization of the sale of alcoholic beverages of one or more of the various types and alcoholic contents on which an issue is authorized to be submitted under the terms of Section 501.035 (Issues), Election Code, until that status is changed by a subsequent local option election in the same authorized voting unit.

SECTION 5. Amends Section 251.80, Alcoholic Beverage Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires that a local option election held in a justice precinct be held in the territory comprising the justice precinct at the time the election is held. Requires that a local option status, if a justice precinct has established such status as a result of a previous local option election in the justice precinct, remain in effect until the status is changed as the result of a subsequent local option election in the precinct. Deletes existing text requiring that a local option status, whenever such status is once legally put into effect as the result of the vote in a justice precinct, remain in effect until the status is changed as the result of a vote in the same territory that comprised the precinct when such status was established. Provides that a subsequent local option election, if the boundaries of the justice precinct have changed since such status was established, will only change the local option status in the territory that is part of the justice precinct on the date of the subsequent local option election. Deletes existing text requiring the commissioners court, if the boundaries of the justice precinct have changed since such status was established, to, for purposes of a local option election, define the boundaries of the original precinct. Deletes existing text authorizing a local option election to be held within the territory defined by the commissioners court as constituting such original precinct.

(a-1) Requires a newly created justice precinct, for purposes of a local option election, to be considered to have not held a local option election on the sale of alcoholic beverages. Provides that any local option status established in the territory comprising the new justice precinct that resulted from a local option election held in the territory when the territory was part of another justice precinct remains in effect until that status is changed by a local option election held in the new justice precinct.

SECTION 6. Repealer: Section 251.80(c) (relating to requiring that certain provisions of the Election Code, relating to the payment of local option election expenses apply to elections held in certain territory), Alcoholic Beverage Code.

SECTION 7. Provides that Sections 25.14, 69.17, and 70.04, Alcoholic Beverage Code, as added by this Act, apply to a permit or license issued on or after the effective date of this Act regardless of when the local option election approving the sale of mixed beverages was held.

SECTION 8. Effective date: September 1, 2013.