

By: Slaton

H.B. No. 3421

A BILL TO BE ENTITLED

AN ACT

relating to the provision of law enforcement services in certain municipalities by the Department of Public Safety.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 411, Government Code, is amended by adding Subchapter S to read as follows:

SUBCHAPTER S. LAW ENFORCEMENT SERVICES IN CERTAIN MUNICIPALITIES

Sec. 411.541. APPLICABILITY. This subchapter applies only to a municipality:

(1) with a population of 950,000 or more;

(2) with a ratio of less than two sworn police officers per 1,000 residents; and

(3) for which the governor has issued a written determination under Section 411.542.

Sec. 411.542. DETERMINATION OF PUBLIC SAFETY THREAT DUE TO INSUFFICIENT FUNDING. If the governor determines that the safety of a municipality's residents is threatened because the municipality is providing insufficient municipal resources for public safety, the governor may issue a determination to that effect.

Sec. 411.543. PROVISION OF LAW ENFORCEMENT SERVICES BY DEPARTMENT. The department shall provide law enforcement services in a municipality to which this subchapter applies. The municipality shall reimburse the department the cost of providing

1 the law enforcement services.

2 Sec. 411.544. CONTRACT REQUIRED. (a) Not later than the  
3 first day of a municipality's fiscal year following a determination  
4 by the governor under Section 411.542, the municipality shall enter  
5 into a contract with the department governing the provision of law  
6 enforcement services in the municipality on terms determined solely  
7 by the director.

8 (b) The contract required by Subsection (a) must:

9 (1) provide for the transfer from the municipality to  
10 the department of all personnel, property, and liabilities that  
11 relate to the municipality's provision of law enforcement services,  
12 including all employees, equipment, facilities, contracts, and  
13 other assets;

14 (2) require that the personnel and property described  
15 by Subdivision (1):

16 (A) be organized as a unique division within the  
17 department as required by Section 411.546; and

18 (B) benefit the residents of the municipality  
19 through the department's provision of law enforcement services to  
20 the residents of the municipality; and

21 (3) subject to later modification by the commission or  
22 the director, require the department to administer the division as  
23 similarly in manner as practicable to the manner in which the  
24 municipality's law enforcement agency was administered immediately  
25 before the transfer, including operating the division in accordance  
26 with:

27 (A) internal policies and procedures of the

1 municipal law enforcement agency that applied immediately before  
2 the transfer;

3 (B) positions, wages, leave, and other terms of  
4 employment that applied immediately before the transfer; and

5 (C) if applicable, civil service laws such as  
6 Chapter 143, Local Government Code, as those laws applied  
7 immediately before the transfer.

8 (c) The legislature finds that a contract for law  
9 enforcement services under this subchapter serves a public purpose  
10 of the contracting municipality.

11 Sec. 411.545. CONTINUATION OF CERTAIN CIVIL SERVICE LAWS.

12 (a) If civil service laws, such as Chapter 143, Local Government  
13 Code, applied immediately before the transfer to any employee  
14 subject to the transfer:

15 (1) the commission:

16 (A) shall adopt rules that:

17 (i) are substantially equivalent to the  
18 civil service laws; and

19 (ii) apply only to the employees to whom the  
20 civil service laws applied immediately before the transfer; and

21 (B) may modify the rules described by Paragraph  
22 (A); and

23 (2) the department shall establish a civil service  
24 commission for a division created under Section 411.546 and the  
25 director shall appoint initial members to that commission not later  
26 than the 60th day after the effective date of the contract  
27 transferring the employees.

1        (b) To the extent of any conflict, a rule adopted under this  
2 section prevails over another law governing the terms of employment  
3 for an employee of the department, including laws governing wages,  
4 salary, hours, leave, position classification, promotion, and  
5 discipline.

6        Sec. 411.546. SEPARATE DIVISION OF DEPARTMENT. (a) The  
7 department shall create a separate division within the department  
8 to provide law enforcement services to each municipality to which  
9 this subchapter applies.

10       (b) The former chief administrative officer of the  
11 transferred law enforcement agency becomes the chief  
12 administrative officer of the division created under this section,  
13 subject to the control of the director.

14       Sec. 411.547. TRANSFER OF CERTAIN RETIREMENT SYSTEMS. (a)  
15 If before the transfer the sworn police officers of a municipality  
16 transferred to the department under this subchapter were by law  
17 members of a retirement system that applied primarily to the sworn  
18 police officers and not any other employees of the municipality, on  
19 the transfer:

20           (1) notwithstanding Subtitle B, Title 8, the  
21 employment of the officers is not a position with a department,  
22 commission, board, agency, or institution of the state for purposes  
23 of that subtitle;

24           (2) the commission and the board of trustees of the  
25 retirement system shall enter into a memorandum of understanding  
26 regarding each entity's responsibilities for the continued  
27 administration of the system in the same manner, to the extent

1 feasible, as the system was administered by the board and the  
2 municipality;

3 (3) the department shall assume the duties and  
4 liabilities of the municipality under the law establishing the  
5 retirement system and, unless context requires otherwise, a  
6 reference in that law to:

7 (A) the municipality as a legal entity means the  
8 department;

9 (B) the governing body of the municipality means  
10 the commission;

11 (C) any other official or employee of the  
12 municipality means an official or employee of the department with  
13 substantially equivalent qualifications, as jointly determined in  
14 the memorandum of understanding adopted under Subdivision (2); and

15 (D) the police department of the municipality  
16 means the division created under Section 411.546;

17 (4) the commission and the board of trustees of the  
18 retirement system shall jointly adopt any rules necessary to  
19 implement the assumption of duties and liabilities described by  
20 Subdivision (3), and the commission and the board may liberally  
21 construe a law described by Subdivision (3) in adopting the rules  
22 for the purpose of ensuring the continued administration of the  
23 retirement system;

24 (5) the commission shall enter into a memorandum of  
25 understanding with the comptroller and any other state agency the  
26 commission determines necessary for:

27 (A) the continued administration of a retirement

1 system transferred under this section; and

2 (B) the administration of benefits for an  
3 employee whose change in employment status results in changing  
4 membership between a retirement system transferred under this  
5 section and another retirement system;

6 (6) an agency designated by the commission under  
7 Subdivision (5) shall provide the assistance necessary to ensure  
8 the continued administration of a retirement system as described by  
9 Subdivision (5)(A) and the transition of employees between  
10 retirement systems as described by Subdivision (5)(B); and

11 (7) the term of a member of the board of trustees of a  
12 retirement system transferred under this section who is a member of  
13 the board by reason of the member's status as an official or  
14 employee of the municipality, other than sworn police officer,  
15 expires the date the contract required by this subchapter is  
16 effective, and the commission shall appoint members to those  
17 vacancies who are officials or employees of the department and  
18 whose qualifications are substantially similar to the members whose  
19 terms expired under this subdivision.

20 (b) An employee transferred under this subchapter who is not  
21 covered by Subsection (a) holds a position with a department,  
22 commission, board, agency, or institution of the state for purposes  
23 of Subtitle B, Title 8.

24 Sec. 411.548. TRUST FUND FOR REIMBURSEMENT PAYMENTS. (a)  
25 The department shall deposit money received as reimbursement for  
26 providing law enforcement services in a municipality in a trust  
27 fund held outside the treasury by the comptroller and administered

1 by the commission.

2 (b) The department may spend money in the fund without  
3 appropriation. Interest and income from the assets of the fund  
4 shall be credited to and deposited in the fund.

5 Sec. 411.549. PROVISION OF LAW ENFORCEMENT SERVICES BY  
6 MUNICIPALITY PROHIBITED. A municipality may not provide law  
7 enforcement services after contracting for law enforcement  
8 services with the department under Section 411.544.

9 SECTION 2. The changes in law made by this Act may not be  
10 construed to impair an obligation under a contract entered into  
11 before the effective date of this Act. A political subdivision may  
12 fulfill the subdivision's obligations under a contract entered into  
13 before that date but may not extend such a contract beyond the  
14 contract's original term.

15 SECTION 3. This Act takes effect September 1, 2023.