

BILL ANALYSIS

Senate Research Center

C.S.H.B. 1199
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Business & Commerce
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Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, county commissioners courts are authorized to order a local option election for the sale of alcoholic beverages in an incorporated city. However, the commissioners court has no authority to order a local option election in a city that lies in more than one county. C.S.H.B. 1199 provides for a local option election in a city or town located in more than one county and changes the requirements for a petition calling for a local option election on alcoholic beverage sales. This bill also sets various thresholds for the signatures necessary to call an election and provides a criminal penalty.

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 Section 11.37, Alcoholic Beverage Code, by adding Subsection (c) to prohibit the certification that the location or address is in a wet area from being changed until after a subsequent local option election to prohibit the sale of alcoholic beverages, once a permit is issued.

SECTION 2. Amends Section 61.37, Alcoholic Beverage Code, by adding Subsection (c) to prohibit the certification that the location or address is in a wet area from being changed until after a subsequent local option election to prohibit the sale of alcoholic beverages, once a license is issued.

SECTION 3. Amends Section 251.03, Alcoholic Beverage Code, as follows:

Sec. 251.03. APPLICATION FOR PETITION. Requires the county clerk of the county to issue to the applicants a petition to be circulated among the qualified voters of that political subdivision for the signatures of those qualified voters in the area who desire that a local option election be called in that area for the purpose of determining whether the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be prohibited or legalized in the political subdivision, if 10 or more qualified voters of any county, justice precinct, or incorporated city or town file a written application and provide proof of publication in a newspaper of general circulation in that political subdivision. Requires the county clerk to notify the Texas Alcoholic Beverage Commission (TABC) and the secretary of state that the petition has been issued, not later than the fifth day after the date the petition is issued.

SECTION 4. Amends Section 251.07, Alcoholic Beverage Code, to make a nonsubstantive change.

SECTION 5. Amends Section 251.08, Alcoholic Beverage Code, to make a conforming change.

SECTION 6. Amends Subchapter A, Chapter 251, Alcoholic Beverage Code, by adding Section 251.081, as follows:

Sec. 251.081. OFFENSE: MISREPRESENTATION OF PETITION. Provides that a person commits an offense if the person misrepresents the purpose or effect of a petition issued under this chapter. Provides that an offense under this section is a Class B misdemeanor.

SECTION 7. Amends Section 251.10, Alcoholic Beverage Code, as follows:

Sec. 251.10. VERIFICATION OF PETITION. (a) Authorizes a political subdivision to use a statistical sampling method to verify the signature on a petition. Requires the political subdivision, on written request from a citizen in the political subdivision for which an election is sought, to verify each signature on the petition. Requires the citizen making the request to pay the reasonable cost of the verification.

(b) Prohibits a petition signature from being counted unless the signature is the actual signature of the purported signer and the petition contains certain information.

(c) Provides that the use of ditto marks or abbreviations does not invalidate a signature if the required information is reasonably ascertainable.

(d) Provides that the omission of the state from the signer's residence address does not invalidate a signature unless the political subdivision from which the signature is obtained is situated in more than one state. Provides that the omission of the zip code from the address does not invalidate a signature.

(e) Provides that the signature is the only entry on the petition that is required to be in the signer's handwriting.

(f) Authorizes a signer to withdraw the signer's signature by deleting the signature from the petition or by filing with the registrar of voters an affidavit requesting that the signature be withdrawn from the petition. Prohibits a signer from withdrawing the signature from a petition on or after the date the petition is received by the registrar of voters. Provides that a withdrawal affidavit filed by mail is considered to be filed at the time of its receipt by the registrar of voters. Provides that the withdrawal of a signature nullifies the signature on the petition and places the signer in the same position as if the signer had not signed the petition.

SECTION 8. Amends Section 251.11, Alcoholic Beverage Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Requires the commissioners court, at its next regular session on or after the 30th day after the date the petition is filed, to order a local option election to be held on the issue set out in the petition if the petition is filed with the registrar of voters not later than the 60th day, rather than 30 days, after the date the petition is issued and bears the actual signatures of a number of qualified voters of the political subdivision equal to a certain amount.

(d) Requires voters whose names appear on the list of registered voters with the notation "S," or a similar notation, to be excluded from the computation of the number of registered voters of a particular territory.

SECTION 9. Amends Section 251.18, Alcoholic Beverage Code, as follows:

Sec. 251.18. ELECTION IN CERTAIN CITIES AND TOWNS. (a) Provides that this section applies only to an election to permit or prohibit the legal sale of alcoholic beverages of one or more of the various types and alcoholic contents in an incorporated city or town that is located in more than one county.

(b) Provides that for the purposes of an election conducted under this section, certain references in this code relates to certain entities. Makes conforming changes.

(c) No changes to this subsection.

(d) Authorizes an action to contest the election under Section 251.55 to be brought in the district court of any county in which the city or town is located.

SECTION 10. Amends Section 251.31(b), Alcoholic Beverage Code, to delete text requiring the polls to be closed in order for the votes to be counted.

SECTION 11. Amends Section 251.35(c), Alcoholic Beverage Code, to delete text “but they must be qualified voters of the election precinct where they serve” in relation to election watchers.

SECTION 12. Repealer: Sections 251.11(b) (Requirements to Order Election), 251.19 (Election in Certain Cities and Towns) , 251.32 (Notice of Election), 251.33 (Time of Election), 251.35(a) (Appointment of Election Judges, Clerks, and Watchers), and 251.36 (Public School of Instruction), Alcoholic Beverage Code, and Section 251.11(c), Alcoholic Beverage Code, as added by Chapters 1001 and 1062, Acts of the 77th Legislature, Regular Session, 2001.

SECTION 13. Makes application of this Act prospective.

SECTION 14. Authorizes an application for a permit to upgrade from the sale of beer and wine to the sale of mixed beverages that was pending certification under Section 11.37, Alcoholic Beverage Code, before May 1, 2003, for an area for which a permit was issued for the sale of mixed beverages and in which a local option election to prohibit the sale of alcoholic beverages was not held subsequent to the date of the original application for the upgrade and before May 1, 2003, to be resubmitted, if necessary, regardless of any previous action taken on the application. Requires the application to be certified under Section 11.37, Alcoholic Beverages Code, if the application otherwise meets the requirements prescribed by applicable law. Provides that this section expires September 1, 2004.

SECTION 15. Effective date: September 1, 2003.