

BILL ANALYSIS

C.S.H.B. 2120
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County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Local governments, such as counties, are controlled by myriad statutes that direct the functions and authority of the local government, and clarification of those statutes is often necessary. This bill amends various statutes to clarify the roles and responsibilities of the local governments, including a standing order of emergency delegation, suitable provisions in the event of disasters, and allowing for more counties to employ special counsel and clarifying notice provisions in suits against the state.

Current statutes require a sheriff or a constable to execute a bond with "two or more good and sufficient sureties." Although a more general statute allows for official bonds to also be made with "a solvent surety company," sheriffs and constables are bound by the more specific provision. Most bond companies do not currently provide bonds with more than one surety, making it difficult if not impossible to comply with the statute. C.S.H.B. 2120 provides the option to execute a bond with a solvent surety company authorized to do business in Texas.

In 2003, the previous policy for making appointments to the County Tobacco Settlement Permanent Trust Account Investment Advisory Committee (the committee as a whole appointed new members based on nominations from eligible local governments) was replaced with a requirement that the local governments make direct appointments to the committee. This resulted in a situation where four positions on the committee are being filled through appointment by ten local governments with no process or voting protocol for doing so. C.S.H.B. 2120 creates a process for the eligible local governments to make nominations for appointment, which would then be made by the Texas Conference of Urban Counties. This process is consistent with the appointment procedures for other members of the committee and has been agreed to by all of the local governments involved.

In 2003 a change in the Government Code inadvertently allowed individual members of commissioners courts, as opposed to the entire court, to request jail variances. C.S.H.B. 2120 clarifies the language to allow commissioners courts to make the request to the Jail Standards Commission.

In 2003, C.S.H.B. 1365 amended the Transportation Code to impose a \$20 increase in the vehicle title transfer fee in certain nonattainment counties and a \$15 increase in the rest of the state. The legislation included a mechanism for sending that additional fee to the comptroller for deposit in the Texas emissions reduction fund. The legislation also included a sunset provision to automatically lower the \$20 fee to \$15 after September 1, 2008; equalizing the fee statewide. Due to an oversight, the language reducing the fee was not duplicated in the language detailing the remittance of the fee to the comptroller for the emissions reduction fund. C.S.H.B. 2120 clarifies that when the vehicle title transfer fee is automatically reduced from \$20 to \$15 after September 1, 2008, the affected counties are to likewise reduce the amount sent in to the comptroller from \$20 to \$15.

Current law requires arrested persons to be taken before a magistrate "without unnecessary delay, but no later than 48 hours after the person is arrested." Many counties do not have a magistrate available late at night or through parts of the weekend, requiring some arrestees to wait almost the full 48 hours to see a magistrate. A person may be presented to a magistrate via "closed circuit television," but few counties employ closed circuit television because of the costs of the physical system components. Technology now makes low-cost electronic broadcast systems possible. C.S.H.B. 2120 allows counties, including nonadjacent counties to use electronic broadcast systems for magistration.

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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

SECTION 1. Amends Section 81.028, Local Government Code, by adding Subsection (b-1) to authorize a county judge to file a standing order of emergency delegation that clearly indicates the types of orders or official documents that the officer or employee is authorized to sign on behalf of the county judge in the event of an emergency disaster.

SECTION 2. Amends Subchapter B, Chapter 81, Local Government Code by adding Section 81.029, which authorizes a commissioners court of a county with a population of more than one million to make suitable provisions for flood control and for evacuation routes in the event of disaster or impending disaster and, if requested by another county, to authorize the use of county equipment and services to aid the other county in the event of an emergency.

SECTION 3. Amends Section 85.001(a), Local Government Code, to provide that a sheriff must execute a bond with a solvent surety company authorized to do business in Texas.

SECTION 4. Amends Section 86.002(a), Local Government Code, to provide that a constable must execute a bond from a solvent surety company authorized to do business in Texas.

SECTION 5. Amends the heading of Section 89.001, Local Government Code, to "Special Counsel in Populous Counties."

SECTION 6. Amends Section 89.001(a), Local Government Code, to increase the population requirement from one million to 1.25 million for a commissioners court to be authorized to employ an attorney as special counsel.

SECTION 7. Amends Section 89.0041(b), Local Government Code, to require written notice in a suit against the county to include the name of the person filing suit.

SECTION 8. Amends Section 403.1042(b), Government Code, to provide that four members will be appointed by the Texas Conference of Urban Counties from nominations received from certain political subdivisions to the Tobacco Settlement Permanent Trust Account Investment Advisory Committee.

SECTION 9. Amends Section 511.009(c), Government Code, to clarify that commissioners court, rather than individual court members, may request a jail variance from the Texas Commission on Jail Standards.

SECTION 10. Amends Section 501.138, Transportation Code, by amending Subsection (b) and adding Subsection (b-1) by adding that the county assessor-collector is required to send, to the comptroller, on or after September 1, 2008, \$15 regardless of the county in which the applicant resides. The fees to be sent to the comptroller are required to be deposited before September 1, 2008, to the credit of the Texas emissions reduction plan fund; and after September 1, 2008, to the credit of the Texas Mobility Fund.

SECTION 11. Amends Article 14.06(a), Code of Criminal Procedure, to provide that an arrested person can be taken before a magistrate in any county of the state.

SECTION 12. Amends Article 15.16, Code of Criminal Procedure, by authorizing the officer or person executing the warrant to take the arrested person before a magistrate in a county other than the county of arrest.

SECTION 13. Amends Article 15.17(a), Code of Criminal Procedure, to provide that an arrested person can be taken before a magistrate in any county of the state and that the arrested person may be presented before a magistrate by means of an electronic broadcast system. It also

removes the provision that a closed circuit television system may not be used, and defines an "electronic broadcast system" as a two-way electronic communication of image and sound between the arrested person and the magistrate, and includes secure Internet videoconferencing.

SECTION 14. Amends Article 15.18, Code of Criminal Procedure, to provide that an arrested person can be taken before a magistrate in any county of the state and that the arrested person may be presented before a magistrate by means of an electronic broadcast system.

SECTION 15. Amends Article 15.19(b), Code of Criminal Procedure, to provide that an arrested person can be taken before a magistrate in any county of the state.

SECTION 16. The changes in law apply only to an offense committed on or after the effective date of this Act.

SECTION 17. Effective Date

EFFECTIVE DATE

September 1, 2005

COMPARISON OF ORIGINAL TO SUBSTITUTE

The Substitute adds to the original the authority of a county judge to file a standing order of emergency delegation that clearly indicates the types of orders or official documents that the officer or employee may sign on behalf of the county judge in the event of an emergency disaster.

It also gives authorization to a commissioners court of a county with a population of more than one million to make suitable provisions for flood control and for evacuation routes in the event of disaster or impending disaster and, if requested by another county, to authorize the use of county equipment and services to aid the other county in the event of an emergency.

The substitute changes the heading to Section 89.001, Local Government Code, "Special Counsel in Populous Counties."

The substitute authorizes a commissioners court of a county with a population of more than 1.25 to employ an attorney as special counsel.

It also makes it mandatory that written notice in a suit against the county include the name of the person filing suit.