

BILL ANALYSIS

C.S.H.B. 3793
By: Coleman
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that statutes governing counties and the entities serving counties need to be updated relating to payments for the compensation of local justices, district judges, and district attorneys, expenditures for indigent health care and treatment, and the recording and indexing of property owners' association management certificates. C.S.H.B. 3793 seeks to address this need by amending current law relating to powers, duties, and services of counties and entities serving counties.

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 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practical, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

C.S.H.B. 3793 amends the Government Code to authorize the total annual salary of certain statutory county court judges and the additional compensation paid by a county commissioners court to each court of appeals justice and district court judge for the justice's or judge's extrajudicial services to be paid in equal biweekly installments, if such biweekly installments are authorized by the commissioners court of the applicable county, as an alternative to being paid in monthly installments. The bill requires the annual salary of the Harris County district attorney to be paid in equal biweekly, rather than monthly, installments.

C.S.H.B. 3793 amends the Local Government Code to require the annual salary of the county judge of Harris County to be paid in equal biweekly installments, rather than in 12 equal monthly installments.

C.S.H.B. 3793 amends the Health and Safety Code to authorize a county, regardless of the application, documentation, and verification procedures or eligibility standards established by the Health and Human Services Commission under general provisions of the Indigent Health Care and Treatment Act, to credit an intergovernmental transfer to the state toward eligibility for state assistance if the transfer was made to provide health care services as part of a waiver program under applicable federal law or as part of the state plan for disproportionate share hospitals under applicable federal law or the Texas Administrative Code. The bill prohibits a

county from crediting toward eligibility for state assistance any intergovernmental transfer under these provisions that, separately or in combination, exceeds six percent of the county's general revenue levy in any state fiscal year.

C.S.H.B. 3793 amends the Property Code to require the county clerk of each county in which a residential property owners' association management certificate is filed as required under the Texas Residential Property Owners Protection Act to record the management certificate in the real property records of the county and to index the document as a "Property Owners' Association Management Certificate." The bill requires each property owners' association that is subject to the act's provisions relating to management certificates immediately before September 1, 2013, to file the association's management certificate, regardless of whether the association filed a management certificate before September 1, 2013, to ensure that all management certificates are recorded and indexed in accordance with the bill's Property Code provisions on or after September 1, 2013, and not later than January 1, 2014. The bill specifies that such requirement does not affect the time in which a property owners' association is required to file the association's management certificate if the association's initial duty to file the management certificate arises on or after September 1, 2013.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3793 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 511, Government Code, is amended by adding Section 511.019 to read as follows:

Sec. 511.019. COUNTY JAIL STUDY. (a) The commission shall conduct a study of county jails to investigate:

(1) the impact homelessness has on the county jail population;

(2) innovative ways to address overcrowding; and

(3) innovative ways to address inmates undergoing detoxification and withdrawal from drugs and alcohol during confinement.

(b) Not later than December 1, 2014, the commissioner shall prepare and deliver a report to the governor, lieutenant governor, speaker of the house of representatives, and presiding officer of each standing committee of the senate and house of representatives having primary jurisdiction over matters relating to criminal justice and corrections that contains:

(1) a summary of the study conducted under this section; and

(2) the recommendations of the commission

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

based on the results of the study, including recommendations of any legislation that is needed to implement the recommendations.
(c) This section expires September 1, 2015.

SECTION 2. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.094 to read as follows:

Sec. 531.094. MAXIMIZATION OF COUNTY INDIGENT HEALTH CARE FUNDING. (a) If feasible and cost-effective, the commission shall apply for a modification of or amendment to the waiver under Chapter 537 as necessary to more efficiently leverage the use of county funds to maximize the receipt of federal Medicaid matching funds to provide counties in the state with additional funding to provide indigent health care under Chapter 61, Health and Safety Code.

(b) In pursuing the waiver modification or amendment required under this section, the commission shall:

- (1) solicit broad-based input from interested persons; and
- (2) employ the use of intergovernmental transfers and other procedures to maximize the receipt of federal Medicaid matching funds.

SECTION 3. Subchapter Z, Chapter 5, Local Government Code, is amended by adding Section 5.905 to read as follows:

Sec. 5.905. INVENTORY OF SERVICES REQUIRED BEFORE INCORPORATION.

(a) Before a community may incorporate under this subtitle, a comprehensive inventory of police, fire, and emergency medical services provided by public or private entities in the area proposed to be incorporated must be prepared. The inventory must include for each service:

- (1) the average dispatch and delivery time;
- (2) a schedule of equipment, including vehicles;
- (3) a staffing schedule that discloses the certification and training levels of personnel; and
- (4) a summary of operating and capital expenditures.

(b) The inventory must be filed with the county clerk of the county in which the area proposed for incorporation is located on or before the 60th day before the date of the incorporation election. The county clerk shall make the inventory available for public

No equivalent provision.

No equivalent provision.

inspection.

SECTION 4. The heading to Chapter 242, Local Government Code, is amended to read as follows:

CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE SUBDIVISIONS AND PROPERTY DEVELOPMENT [IN AND OUTSIDE ~~MUNICIPALITY'S~~ EXTRATERRITORIAL JURISDICTION]

No equivalent provision.

SECTION 5. Chapter 242, Local Government Code, is amended by designating Sections 242.001, 242.0015, and 242.002 as Subchapter A and adding a heading for Subchapter A to read as follows:

SUBCHAPTER A. AUTHORITY TO REGULATE SUBDIVISIONS IN AND OUTSIDE MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

No equivalent provision.

SECTION 6. Chapter 242, Local Government Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. DEVELOPMENT REGULATIONS IN CERTAIN COUNTIES AND MUNICIPALITIES

Sec. 242.051. APPLICABILITY. This subchapter applies only to:

(1) a county that includes territory located within 50 miles of an international border; or

(2) a municipality located in that county if:

(A) the county does not exercise in the municipality's extraterritorial jurisdiction the authority described by this subchapter; and

(B) the county by resolution authorizes the municipality to exercise in the municipality's extraterritorial jurisdiction the authority described by this subchapter.

Sec. 242.052. REGULATORY AUTHORITY. (a) The commissioners court of a county to which this subchapter applies may, by order, regulate residential land development in the unincorporated area of the county. The governing body of a municipality to which this subchapter applies may, by ordinance, regulate residential land development in the municipality's extraterritorial jurisdiction. By this authority, the commissioners court or governing body may prevent the proliferation of colonias by:

(1) adopting regulations relating to:

(A) maximum densities, including the size of lots;

No equivalent provision.

(B) the height, number of stories, size, or number of buildings or other structures that may be located on a lot or tract;

(C) the location of buildings and other structures on a lot or tract; and

(D) the preparation of a plan for utility development, environmental effect and adaptation, utility extension, and capacity planning and providing financial analysis of said plan; and

(2) adopting building codes to promote safe and uniform building, plumbing, and electrical standards.

(b) If a tract of land is appraised as agricultural or open-space land by the appraisal district, the commissioners court or governing body may not regulate land development on that tract under the authority granted by Subsection (a)(1)(B), (a)(1)(C), or (a)(2).

(c) The authority granted under this section does not authorize the commissioners court or governing body to adopt an order regulating commercial property that is uninhabitable.

(d) The authority granted under this section does not authorize the commissioners court or governing body to adopt an order that limits or otherwise impairs the rights of individuals or entities in the exploration, development, or production of oil, gas, or other minerals.

Sec. 242.053. BUILDING PERMITS. (a) The county or municipality, as appropriate, shall issue a building permit if the person submitting the application for the permit:

(1) files information relating to the location of the residence;

(2) files the building plans for the residence; and

(3) complies with the applicable regulations relating to the issuance of the permit.

(b) The county or municipality may charge a reasonable building permit fee.

(c) The county or municipality shall deposit fees collected under this section in an account in its general fund and dedicate the fees to the building permit program. The funds in the account may be used only for the purpose of administering the building permit program.

Sec. 242.054. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY ORDER. If an order adopted by the county under this subchapter conflicts with an ordinance of a municipality, the municipal ordinance prevails within the municipality's jurisdiction to the extent of the conflict.

Sec. 242.055. EXISTING AUTHORITY UNAFFECTED. The authority granted by this subchapter does not affect the authority of the commissioners court or governing body to adopt an order or ordinance under other law.

Sec. 242.056. INJUNCTION. The county or municipality, in a suit brought by the appropriate attorney representing the county or municipality in the district court, is entitled to appropriate injunctive relief to prevent the violation or threatened violation of the entity's order or ordinance adopted under this subchapter from continuing or occurring.

Sec. 242.057. PENALTY; EXCEPTION. (a) A person commits an offense if the person violates a restriction or prohibition imposed by an order or ordinance adopted under this subchapter. An offense under this section is a Class C misdemeanor.

(b) It is an exception to the application of this section that:

(1) the person is an owner-occupant of a residential dwelling that is classified by the Texas Department of Housing and Community Affairs as a low-income household;

(2) the dwelling was constructed before the effective date of this subchapter;

(3) the violation related to a building standard or building code for that dwelling; and

(4) the county or municipality, as appropriate: (A) did not make available to the person a grant or loan in an amount sufficient to cure the violation; or

(B) made available to the person a loan that was sufficient to cure the violation but that caused the housing expenses of the person to exceed 30 percent of the person's net income.

SECTION 7. Subchapter A, Chapter 351, Local Government Code, is amended by adding Section 351.016 to read as follows:

Sec. 351.016. REPORT ON HOMELESS INDIVIDUALS. Each county shall submit to the Commission on Jail Standards on or before the fifth day of each month a report that contains the number of homeless individuals confined in the county jail.

No equivalent provision.

SECTION 8. Section 383.003(a), Local Government Code, is amended to read as follows:

(a) Counties [~~Small and medium-sized counties~~] in this state need incentives for the

No equivalent provision.

development of public improvements to attract visitors and tourists [~~to those counties~~], and those counties are at a disadvantage in competing with counties in other states for the location and development of projects that attract visitors by virtue of the availability and prevalent use of financial incentives in other states.

SECTION 9. Section 383.021(a), Local Government Code, is amended to read as follows:

No equivalent provision.

(a) The commissioners court of a county [~~with a population of 400,000 or less~~], on petition of the owners of land in a proposed district, may commence the creation of a county development district.

SECTION 10. Section 391.001, Local Government Code, is amended by adding Subsection (c) to read as follows:

No equivalent provision.

(c) This chapter shall be interpreted broadly to:

(1) ensure that the intent and purpose of this chapter is achieved; and

(2) encourage collaboration between regional planning commissions and agencies that provide social service programs to maximize available funding.

SECTION 11. Section 13.084, Water Code, is amended to read as follows:

No equivalent provision.

Sec. 13.084. AUTHORITY OF GOVERNING BODY; COST REIMBURSEMENT. The governing body of any municipality, ~~[or]~~ the commissioners court of an affected county, or the commissioners court of a county authorized to intervene under Section 13.1871 has ~~[shall have]~~ the right to select and engage rate consultants, accountants, auditors, attorneys, engineers, or any combination of these experts to conduct investigations, present evidence, advise and represent the governing body, and assist with litigation on water and sewer utility ratemaking proceedings. The water and sewer utility engaged in those proceedings shall be required to reimburse the governing body or the commissioners court for the reasonable costs of those services and shall be allowed to recover those expenses through its rates with interest during the period of recovery.

SECTION 12. Section 13.187(e), Water Code,

No equivalent provision.

is amended to read as follows:

(e) If, before the 91st day after the effective date of the rate change, the regulatory authority receives a complaint from a county authorized to intervene under Section 13.1871, any affected municipality, or from the lesser of 1,000 or 10 percent of the ratepayers of the utility over whose rates the regulatory authority has original jurisdiction, the regulatory authority shall set the matter for hearing.

SECTION 13. Subchapter F, Chapter 13, Water Code, is amended by adding Section 13.1871 to read as follows:

Sec. 13.1871. RIGHT OF COUNTY TO INTERVENE. A county, on behalf of water rate payers in unincorporated areas of the county, may intervene as a party in a rate proceeding under this subchapter.

SECTION 14. The change in law made by Sections 13.084 and 13.187(e), Water Code, as amended by this Act, and Section 13.1871, Water Code, as added by this Act, applies only to an original rate proceeding in which the initial hearing is held on or after September 1, 2013. A proceeding in which the initial hearing is held before September 1, 2013, is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 1. Section 25.0005(c), Government Code, is amended to read as follows:

(c) The salary shall be paid in:
(1) equal monthly installments; or
(2) equal biweekly installments if authorized by the commissioners court.

SECTION 2. Section 31.004, Government Code, is amended to read as follows:

Sec. 31.004. EQUAL [MONTHLY] INSTALLMENTS. The compensation authorized by this chapter shall be paid in:
(1) equal monthly installments; or
(2) equal biweekly installments if authorized by the commissioners courts in the counties of the court of appeals district.

SECTION 3. Section 32.001(b), Government Code, is amended to read as

follows:

(b) The compensation shall be paid [~~in monthly installments~~] from the county general fund or other available funds of the county in:

(1) monthly installments; or

(2) biweekly installments if authorized by the commissioners court.

No equivalent provision.

SECTION 4. Section 43.180(e), Government Code, is amended to read as follows:

(e) The Commissioners Court of Harris County shall pay the district attorney a salary of not less than \$35,000 a year. The county salary shall be paid in equal biweekly [~~monthly~~] installments.

No equivalent provision.

SECTION 5. Section 61.036, Health and Safety Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) Regardless of the application, documentation, and verification procedures or eligibility standards established by the department under Subchapter A, a county may credit an intergovernmental transfer to the state toward eligibility for state assistance if the transfer was made:

(1) to provide health care services as part of a waiver program under 42 U.S.C. Section 1315 or 1396n; or

(2) as part of the state plan for disproportionate share hospitals under 42 U.S.C. Section 1396r-4 or 1 T.A.C. Section 355.8065.

(e) A county may not credit toward eligibility for state assistance any intergovernmental transfer made under Subsection (d)(1) or (2) that, separately or in combination, exceeds six percent of the county's general revenue levy in any state fiscal year.

No equivalent provision.

SECTION 6. Section 152.904(e), Local Government Code, is amended to read as follows:

(e) The Commissioners Court of Harris County shall set the annual salary of the county judge at an amount that is not less than \$1,000 more than the total annual salary received by county criminal court at law judges in the county. The salary shall be paid in [~~12~~] equal biweekly [~~monthly~~] installments.

No equivalent provision.

SECTION 7. Section 209.004, Property Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The county clerk of each county in which a management certificate is filed as required by this section shall record the management certificate in the real property records of the county and index the document as a "Property Owners' Association Management Certificate."

No equivalent provision.

SECTION 8. (a) The change in law made by this Act to Section 61.036, Health and Safety Code, applies only to state assistance for health care services under Chapter 61, Health and Safety Code, as amended by this Act, that are delivered on or after the effective date of this Act. State assistance for health care services under Chapter 61, Health and Safety Code, that are delivered before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) To ensure that all management certificates are recorded and indexed in accordance with Section 209.004(a-1), Property Code, as added by this Act, on or after September 1, 2013, and not later than January 1, 2014, each property owners' association that is subject to Section 209.004, Property Code, immediately before September 1, 2013, shall file the association's management certificate under that section, regardless of whether the association filed a management certificate before September 1, 2013. This section does not affect the time in which a property owners' association is required to file the association's management certificate under Section 209.004, Property Code, as amended by this Act, if the association's initial duty to file the management certificate arises on or after September 1, 2013.

SECTION 15. This Act takes effect September 1, 2013.

SECTION 9. Same as introduced version.