

## **BILL ANALYSIS**

C.S.H.B. 2438  
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Ways & Means  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Recently, cities across the United States, including in Texas, have taken action to cut police department budgets significantly. Interested parties have noted these actions leave the citizens of Texas and visitors to the state more vulnerable to crime and have, in fact, coincided with an increase in total homicides in certain municipalities. There have been calls for the state to step in and ensure that the well-being and safety of Texans remain protected from the potential effects of cutting public safety spending. C.S.H.B. 2438 seeks to answer those calls by allowing the criminal justice division of the governor's office to identify certain municipalities that reduce appropriations to their police department year-over-year as a defunding municipality and limiting the authority of these municipalities to increase property tax rates.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the criminal justice division of the governor's office in SECTION 1 of this bill.

### **ANALYSIS**

C.S.H.B. 2438 amends the Local Government Code to classify a municipality with a population of more than 250,000 that adopts a budget for a fiscal year that, in comparison to the preceding fiscal year, reduces the appropriation to the municipality's police department as a defunding municipality if the criminal justice division of the governor's office issues a written determination finding that the municipality has made the reduction. The bill requires the division, in making a determination of whether a municipality is a defunding municipality according to the budget adopted for the first fiscal year beginning on or after September 1, 2021, to compare the appropriation to the municipality's police department in that budget to the appropriation in the budget of the preceding fiscal year or the second preceding fiscal year, whichever is greater.

C.S.H.B. 2438 establishes that a municipality is not considered to be a defunding municipality if, for a fiscal year in which the municipality adopts a budget that is less than the budget for the preceding fiscal year, the percentage reduction to the appropriation to the municipality's police department does not exceed the percentage reduction to the total budget. A municipality is also not considered to be a defunding municipality if, before the adoption of a budget, the municipality applies for and is granted approval from the division for a reduction to the appropriation to the municipality's police department to account for one of the following:

- capital expenditures related to law enforcement during the preceding fiscal year;
- the municipality's response to a state of disaster declared by the governor; or

- another reason approved by the division.

The bill requires the division to adopt rules establishing the criteria the division uses to approve reductions.

C.S.H.B. 2438 establishes that a municipality's defunding determination continues until the division issues a written determination finding that the municipality has reversed the reductions, adjusted for inflation. The bill requires the division to compute and publish in the Texas Register the inflation rate used to make that determination each state fiscal year using a price index that accurately reports changes in the purchasing power of the dollar for municipalities in Texas.

C.S.H.B. 2438 amends the Tax Code to prohibit the governing body of a municipality determined to be a defunding municipality from adopting a tax rate for the current tax year that exceeds the lesser of its no-new-revenue tax rate or voter-approval tax rate for that tax year. If a municipality is determined to be a defunding municipality according to the budget adopted by the municipality for the first fiscal year beginning on or after September 1, 2021, the governing body may not adopt a tax rate for the current year that exceeds the least of its no-new-revenue tax rate or voter-approval tax rate for that tax year, the preceding tax year, or the second preceding tax year.

C.S.H.B. 2438 establishes that, for purposes of calculating a municipality's unused increment rate in a tax year in which the municipality is a defunding municipality, the difference between its actual tax rate and voter-approval tax rate is considered to be zero. A municipality is no longer considered to be a defunding local government for purposes of these provisions in the first tax year for which the division issues the aforementioned written determination. The provisions apply beginning with the 2021 tax year.

#### **EFFECTIVE DATE**

September 1, 2021.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2438 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the original classified any county or municipality that makes certain budgetary reductions as a defunding local government, the substitute narrows the scope of these provisions to apply only to municipalities with a population of more than 250,000. The substitute further revises these provisions, as follows:

- does not include the original's year-over-year reductions in the following as grounds for being classified as a defunding municipality:
  - the number of peace officers authorized to be employed;
  - funding for peace officer overtime compensation; and
  - funding for the recruitment and training of new peace officers to fill each vacant peace officer position;
- includes specific exceptions not in the original to a municipality being considered as a defunding municipality despite reducing appropriations to the municipality's police department if the percentage reduction does not exceed the percentage reduction to the total budget or the municipality is granted approval for the reduction from the division; and
- includes a requirement that is not in the original for the division to adopt rules related to approving a reduction.

The substitute includes a provision not included in the original regarding the tax rates of a municipality determined to be a defunding municipality according to the budget adopted by the municipality for the first fiscal year beginning on or after September 1, 2021.