By:  Huffman, Creighton, Springer S.B. No. 23

(In the Senate - Filed March 11, 2021; March 11, 2021, read first time and referred to Committee on Jurisprudence; April 7, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 3, Nays 0; April 7, 2021, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Huffman           X

Hinojosa             X

Creighton            X

Hughes                         X

Johnson                        X

COMMITTEE SUBSTITUTE FOR S.B. No. 23 By:  Creighton

A BILL TO BE ENTITLED

AN ACT

relating to an election to approve a reduction or reallocation of funding or resources for certain municipal or county law enforcement agencies.

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

SECTION 1.  Subtitle C, Title 4, Local Government Code, is amended by adding Chapter 135 to read as follows:

CHAPTER 135. ELECTION FOR REDUCTION OF FUNDING OR RESOURCES FOR PRIMARY LAW ENFORCEMENT AGENCIES

Sec. 135.001.  ELECTION REQUIRED. (a) Except as provided by Section 135.002, a municipality or county shall hold an election in accordance with this chapter if the municipality or county proposes to adopt a budget for a fiscal year that, compared to the budget adopted by the municipality or county for the preceding fiscal year:

(1)  reduces for the law enforcement agency with primary responsibility for policing, criminal investigation, and answering calls for service:

(A)  for a fiscal year in which the overall amount of the budget is equal to or greater than the amount for the preceding fiscal year, the appropriation to the agency;

(B)  for a fiscal year in which the overall amount of the budget is less than the amount for the preceding fiscal year, the appropriation to the agency as a percentage of the total budget;

(C)  the number of peace officer positions, excluding detention officer positions; or

(D)  the amount of funding per peace officer for the recruitment and training of new peace officers to fill vacant and new peace officer positions in the agency; or

(2)  reallocates funding or resources to another law enforcement agency.

(b)  A municipality or county may not adopt a budget with a proposed reduction or reallocation described by Subsection (a) until the municipality or county receives voter approval for the proposed reduction or reallocation at an election held for that purpose. The municipality or county may, at any time, order the election to be held on the 30th day after the date the municipality or county orders the election. Section 41.001, Election Code, does not apply to an election under this subsection.

(c)  For purposes of this section, a municipal or county budget does not include:

(1)  a one-time extraordinary expense, as determined by the comptroller, that is outside the normal costs of operating a law enforcement agency, including purchasing a fleet of law enforcement vehicles or constructing an additional training academy; or

(2)  a donation or state or federal grant to the municipality's or county's law enforcement agency.

Sec. 135.002.  DISASTER EXCEPTION. Section 135.001 does not apply to a municipal or county budget adopted for a fiscal year in which, or the two fiscal years following the fiscal year in which, a significant budget reduction from the preceding fiscal year was caused by a disaster, including a tornado, hurricane, flood, wildfire, or other calamity, but not including a drought, epidemic, or pandemic, in an area of the municipality or county that was the subject of a disaster declaration by the governor under Chapter 418, Government Code, or by the president of the United States.

Sec. 135.003.  BALLOT PROPOSITION REQUIREMENTS. A municipality or county holding an election under this chapter shall ensure that the ballot proposition for the election includes, as applicable:

(1)  a detailed explanation of each proposed reduction;

(2)  the amount of each proposed reduction;

(3)  the recipient of reallocated funding or resources;

(4)  the impact on the local tax rate, if any; and

(5)  the expected length of time that the proposed reduction or reallocation will remain in effect.

Sec. 135.004.  USE OF PUBLIC MONEY FOR CAMPAIGN PROHIBITED. A municipality or county holding an election under this chapter may not use public money on promotional campaigns or advocacy related to the proposed reduction or reallocation. This section may not be construed to prevent a municipal or county official or employee from communicating factual information about a proposed budget or the reasoning behind a proposed budget to the voters in the municipality or county.

Sec. 135.005.  COMPLAINT. (a) A person who believes that a municipality or county has adopted a budget with a proposed reduction or reallocation described by Section 135.001(a) without the required voter approval and who resides in the municipality or county may file a complaint with the criminal justice division of the office of the governor.

(b)  The criminal justice division of the office of the governor shall determine whether a complaint filed under Subsection (a) is potentially valid or frivolous or false.

(c)  The criminal justice division of the office of the governor shall provide written notice of a potentially valid complaint filed under Subsection (a) to the municipality or county that is the subject of the complaint. The division shall provide the municipality or county an opportunity to correct the action that is the subject of the complaint before referring the complaint to the comptroller.

Sec. 135.006.  COMPTROLLER INVESTIGATION; TAX RATE LIMITATION. (a) On request by the criminal justice division of the office of the governor, the comptroller shall determine whether a municipality or county has adopted a budget with a proposed reduction or reallocation described by Section 135.001(a) without the required voter approval. The comptroller shall issue a written determination to the governor, lieutenant governor, speaker of the house of representatives, and governing body of the municipality or county.

(b)  The comptroller may require a municipality or county to submit information for the current or preceding fiscal year to assist the comptroller's investigation under this section.

(c)  Notwithstanding any other law, if the comptroller determines that a municipality or county adopted a budget with a proposed reduction or reallocation described by Section 135.001(a) without the required voter approval, the municipality or county may not adopt an ad valorem tax rate that exceeds the municipality's or county's no-new-revenue tax rate until the earlier of:

(1)  the date the comptroller issues a written determination that the municipality or county has, as applicable:

(A)  adopted a budget that reverses each funding reduction, adjusted for inflation, and personnel reduction that was a subject of the determination; or

(B)  restored all reallocated funding and resources that were subjects of the determination to the original law enforcement agency; or

(2)  the date on which each reduction and reallocation that was a subject of the determination has been approved in an election held in accordance with this chapter.

SECTION 2.  This Act takes effect January 1, 2022.

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