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H.B. No. 1900

A BILL TO BE ENTITLED

AN ACT

relating to municipalities that adopt budgets that defund municipal
police departments.

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

ARTICLE 1. DEFUNDING MUNICIPALITY DETERMINATION

SECTION 1.01. Subtitle A, Title 4, Local Government Code,
is amended by adding Chapter 109 to read as follows:

CHAPTER 109. DETERMINATION OF DEFUNDING MUNICIPALITIES

Sec. 109.001. DEFINITION. In this chapter, "division"
means the criminal justice division of the office of the governor.

Sec. 109.002. APPLICABILITY OF CHAPTER. This chapter
applies only to a municipality with a population of more than
250,000.

Sec. 109.003. DEFUNDING DETERMINATION. Except as provided
by Section 109.004, a defunding municipality is a municipality:

(1) that adopts a budget for a fiscal year that, in
comparison to the municipality's preceding fiscal year, reduces the
appropriation to the municipality's police department; and

(2) for which the division issues a written
determination finding that the municipality has made the reduction
described by Subdivision (1).

Sec. 109.0035. INITIAL DETERMINATION. In making a
determination of whether a municipality is a defunding municipality
under Section 109.003 according to the budget adopted for the first

1 fiscal year beginning on or after September 1, 2021, the division
2 shall compare the appropriation to the municipality's police
3 department in that budget to the appropriation to that department
4 in the budget of the preceding fiscal year or the second preceding
5 fiscal year, whichever is greater. This section applies to the
6 budget adopted for the municipality's first fiscal year beginning
7 on or after September 1, 2021, regardless of the date of adoption.
8 This section expires September 1, 2023.

9 Sec. 109.004. EXCEPTIONS. (a) A municipality is not
10 considered to be a defunding municipality under Section 109.003 if:

11 (1) for a fiscal year in which the municipality adopts
12 a budget that is less than the budget for the preceding fiscal year,
13 the percentage reduction to the appropriation to the municipality's
14 police department does not exceed the percentage reduction to the
15 total budget; or

16 (2) before the adoption of a budget, the municipality
17 applies for and is granted approval from the division for a
18 reduction to the appropriation to the municipality's police
19 department to account for:

20 (A) capital expenditures related to law
21 enforcement during the preceding fiscal year;

22 (B) the municipality's response to a state of
23 disaster declared under Section 418.014, Government Code; or

24 (C) another reason approved by the division.

25 (b) For purposes of making a determination of whether a
26 municipality is a defunding municipality under this chapter, a
27 municipality's appropriation to the municipality's police

1 department does not include any grant money received by the
2 municipality during any fiscal year.

3 Sec. 109.005. TERMINATION OF DEFUNDING DETERMINATION. A
4 municipality's defunding determination under Section 109.003
5 continues until the division issues a written determination finding
6 that the municipality has reversed the reduction, adjusted for
7 inflation, described by Section 109.003(1).

8 Sec. 109.006. DIVISION DUTIES. (a) The division shall:

9 (1) compute the inflation rate used to make
10 determinations under Section 109.005 each state fiscal year using a
11 price index that accurately reports changes in the purchasing power
12 of the dollar for municipalities in this state; and

13 (2) publish the inflation rate in the Texas Register.

14 (b) The division shall adopt rules establishing the
15 criteria the division uses to approve reductions under Section
16 109.004(2).

17 ARTICLE 2. ANNEXATION BY AND DISANNEXATION FROM DEFUNDING
18 MUNICIPALITIES

19 SECTION 2.01. Subchapter A, Chapter 43, Local Government
20 Code, is amended by adding Section 43.004 to read as follows:

21 Sec. 43.004. ANNEXATION BY DEFUNDING MUNICIPALITY
22 PROHIBITED. (a) In this section, "defunding municipality" means a
23 home-rule municipality that is considered to be a defunding
24 municipality under Chapter 109.

25 (b) A defunding municipality may not annex an area during
26 the period beginning on the date that the criminal justice division
27 of the governor's office issues the written determination that the

1 municipality is a defunding municipality and ending on the 10th
2 anniversary of the date on which the criminal justice division of
3 the governor's office issues a written determination in accordance
4 with Section 109.005 finding that the defunding municipality has
5 reversed the reduction described by Section 109.003(1).

6 SECTION 2.02. Subchapter G, Chapter 43, Local Government
7 Code, is amended by adding Section 43.1465 to read as follows:

8 Sec. 43.1465. DISANNEXATION FROM DEFUNDING MUNICIPALITY.

9 (a) In this section, "defunding municipality" means a home-rule
10 municipality that is considered to be a defunding municipality
11 under Chapter 109.

12 (b) On the next uniform election date that occurs after the
13 date on which the criminal justice division of the governor's
14 office issues a written determination that a municipality is a
15 defunding municipality and the time required by Section 3.005,
16 Election Code, the defunding municipality shall hold a separate
17 election in each area annexed in the preceding 30 years by the
18 defunding municipality on the question of disannexing the area.

19 (c) The defunding municipality shall immediately by
20 ordinance disannex an area for which a majority of the votes
21 received in the election held under Subsection (b) favor
22 disannexation.

23 (d) If an area is disannexed under Subsection (c), the
24 defunding municipality may not attempt to annex the area before the
25 10th anniversary of the date on which the criminal justice division
26 of the governor's office issues a written determination in
27 accordance with Section 109.005 finding that the defunding

1 municipality has reversed the reduction described by Section
2 109.003(1).

3 (e) A defunding municipality holding an election under
4 Subsection (b) may not use public funds on informational campaigns
5 relating to the election.

6 ARTICLE 3. TAX REVENUE AND DEFUNDING MUNICIPALITIES

7 SECTION 3.01. Chapter 26, Tax Code, is amended by adding
8 Sections 26.0444 and 26.0501 to read as follows:

9 Sec. 26.0444. TAX RATE ADJUSTMENT FOR DEFUNDING
10 MUNICIPALITY. (a) In this section:

11 (1) "Defunding municipality" means a municipality
12 that is considered to be a defunding municipality for the current
13 tax year under Chapter 109, Local Government Code.

14 (2) "Municipal public safety expenditure adjustment"
15 means an amount equal to the positive difference, if any, between:

16 (A) the amount of money appropriated for public
17 safety in the budget adopted by the municipality for the preceding
18 fiscal year; and

19 (B) the amount of money spent by the municipality
20 for public safety during the period for which the budget described
21 by Paragraph (A) is in effect.

22 (b) The no-new-revenue maintenance and operations rate for
23 a defunding municipality is decreased by the rate computed
24 according to the following formula:

25 Municipal Public Safety Expenditure Adjustment / (Current
26 Total Value - New Property Value)

27 (c) A defunding municipality shall provide a notice of the

1 decrease in the no-new-revenue maintenance and operations rate
2 provided by this section in the information published under Section
3 26.04(e) and, as applicable, in the notice prescribed by Section
4 26.06 or 26.061.

5 (d) For purposes of Subsection (a)(2), the amount of money
6 appropriated for public safety and the amount of money spent by the
7 municipality for public safety does not include any grant money
8 received by the municipality during any fiscal year.

9 Sec. 26.0501. LIMITATION ON TAX RATE OF DEFUNDING
10 MUNICIPALITY. (a) In this section, "defunding municipality" means
11 a municipality that is considered to be a defunding municipality
12 for the current tax year under Chapter 109, Local Government Code.

13 (b) Notwithstanding any other provision of this chapter or
14 other law, the governing body of a defunding municipality may not
15 adopt a tax rate for the current tax year that exceeds the lesser of
16 the defunding municipality's no-new-revenue tax rate or
17 voter-approval tax rate for that tax year.

18 (b-1) Notwithstanding Subsection (b), if a municipality is
19 determined to be a defunding municipality according to the budget
20 adopted by the municipality for the first fiscal year beginning on
21 or after September 1, 2021, the governing body of the defunding
22 municipality may not adopt a tax rate for the current year that
23 exceeds the least of the defunding municipality's no-new-revenue
24 tax rate or voter-approval tax rate for that tax year, the preceding
25 tax year, or the second preceding tax year. This subsection expires
26 September 1, 2023.

27 (c) For purposes of making the calculation required under

1 Section 26.013, in a tax year in which a municipality is a defunding
2 municipality, the difference between the municipality's actual tax
3 rate and voter-approval tax rate is considered to be zero.

4 SECTION 3.02. Subchapter F, Chapter 321, Tax Code, is
5 amended by adding Section 321.5025 to read as follows:

6 Sec. 321.5025. DISTRIBUTION OF TRUST FUNDS TO DEFUNDING
7 MUNICIPALITY. (a) In this section, "defunding municipality" means
8 a municipality that is considered to be a defunding municipality
9 for the current state fiscal year under Chapter 109, Local
10 Government Code.

11 (b) Notwithstanding Section 321.502, the comptroller may
12 not, before July 1 of each state fiscal year, send to a defunding
13 municipality its share of the taxes collected by the comptroller
14 under this chapter during the state fiscal year. Before sending the
15 defunding municipality its share of the taxes, the comptroller
16 shall deduct the amount reported to the comptroller for the
17 defunding municipality under Subsection (c) and credit that
18 deducted amount to the general revenue fund. Money credited to the
19 general revenue fund under this subsection may be appropriated only
20 to the Department of Public Safety.

21 (c) Not later than August 1 of each state fiscal year, the
22 criminal justice division of the governor's office shall report to
23 the comptroller for each defunding municipality the amount of money
24 the state spent in that state fiscal year to provide law enforcement
25 services in that defunding municipality.

1 ARTICLE 4. RETIREMENT FUNDING REQUIREMENTS FOR DEFUNDING

2 MUNICIPALITIES

3 SECTION 4.01. Chapter 810, Government Code, is amended by
4 adding Section 810.006 to read as follows:

5 Sec. 810.006. MINIMUM RETIREMENT FUNDING REQUIREMENTS FOR
6 DEFUNDING MUNICIPALITIES. (a) In this section:

7 (1) "Defunding municipality" means a municipality
8 that is considered to be a defunding municipality under Chapter
9 109, Local Government Code.

10 (2) "Public retirement system" has the meaning
11 assigned by Section 802.001.

12 (b) This section applies only to a municipality that is:

13 (1) an employer of active members of a public
14 retirement system administering a defined benefit plan; and

15 (2) a defunding municipality.

16 (c) Notwithstanding any other law and as soon as practicable
17 after the date the criminal justice division of the office of the
18 governor issues a written determination under Section 109.003(2),
19 Local Government Code, with respect to a municipality, the
20 municipality shall for the purpose of funding retirement benefits
21 increase municipal contributions to a public retirement system in
22 which its employees participate as members in a manner that ensures
23 that the total amount the municipality and members contribute to
24 the system for the fiscal year on which the determination is based
25 is not less than the total amount the municipality and members of
26 the system contributed to the system for the fiscal year
27 immediately preceding the fiscal year on which the determination is

1 based.

2 (d) A municipality subject to this section shall increase
3 contributions in the manner provided by Subsection (c) for each
4 fiscal year for which the municipality is considered a defunding
5 municipality.

6 ARTICLE 5. MUNICIPALLY OWNED UTILITIES IN DEFUNDING MUNICIPALITIES

7 SECTION 5.01. Subchapter B, Chapter 33, Utilities Code, is
8 amended by adding Section 33.0211 to read as follows:

9 Sec. 33.0211. RATES AND FEES CHARGED BY CERTAIN MUNICIPALLY
10 OWNED UTILITIES. (a) This section applies only to a municipally
11 owned utility that is located in a municipality that is considered
12 to be a defunding municipality under Chapter 109, Local Government
13 Code.

14 (b) The governing body of a municipally owned utility may
15 not charge a customer:

16 (1) at a rate higher than the rate the customer was
17 charged or would have been charged on January 1 of the year that the
18 municipality was determined to be a defunding municipality;

19 (2) any customer fees in amounts higher than the
20 customer fees the customer was charged or would have been charged on
21 January 1 of the year that the municipality was determined to be a
22 defunding municipality; or

23 (3) any types of customer fees that the customer was
24 not charged or would not have been charged on January 1 of the year
25 that the municipality was determined to be a defunding
26 municipality.

1 ARTICLE 6. TRANSITION PROVISIONS; EFFECTIVE DATE

2 SECTION 6.01. Chapter 109, Local Government Code, as added
3 by this Act, applies only to a budget adopted for a fiscal year that
4 begins on or after the effective date of this Act, regardless of the
5 date of adoption.

6 SECTION 6.02. Sections 26.0444 and 26.0501, Tax Code, as
7 added by this Act, apply beginning with the 2021 tax year, except
8 that Section 26.0444(c), Tax Code, as added by this Act, does not
9 apply for the 2021 tax year.

10 SECTION 6.03. Section 321.5025, Tax Code, as added by this
11 Act, applies only to a distribution of municipal sales and use tax
12 revenue to a municipality in a state fiscal year that begins on or
13 after the effective date of this Act.

14 SECTION 6.04. (a) Section 33.0211, Utilities Code, as
15 added by this Act, applies only to a proceeding for the
16 establishment of rates for which the governing body of a
17 municipally owned utility has not issued a final order or decision
18 before the effective date of this Act.

19 (b) A proceeding for which the governing body of a
20 municipally owned utility has issued a final order or decision
21 before the effective date of this Act is governed by the law in
22 effect immediately before that date, and that law is continued in
23 effect for that purpose.

24 SECTION 6.05. This Act takes effect September 1, 2021.