

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:

2 (1) any grant money received by the municipality
3 during any fiscal year; or

4 (2) any sales and use tax revenue received by the
5 municipality for the purpose of financing a crime control and
6 prevention district under Chapter 363.

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

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

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

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

18 (b) The division shall adopt rules establishing the
19 criteria the division uses to approve reductions under Section
20 109.004(2).

21 ARTICLE 2. ANNEXATION BY AND DISANNEXATION FROM DEFUNDING

22 MUNICIPALITIES

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

25 Sec. 43.004. ANNEXATION BY DEFUNDING MUNICIPALITY
26 PROHIBITED; EXCEPTION. (a) In this section, "defunding
27 municipality" means a home-rule municipality that is considered to

1 be a defunding municipality under Chapter 109.

2 (b) Except as provided by Subsection (c), a defunding
3 municipality may not annex an area during the period beginning on
4 the date that the criminal justice division of the governor's
5 office issues the written determination that the municipality is a
6 defunding municipality and ending on the 10th anniversary of the
7 date on which the criminal justice division of the governor's
8 office issues a written determination in accordance with Section
9 109.005 finding that the defunding municipality has reversed the
10 reduction described by Section 109.003(1).

11 (c) This section does not apply to a defunding municipality
12 annexing all or part of an area under Section 43.0116 that was
13 designated an industrial district under Section 42.044(b) or the
14 subject of an agreement under Section 42.044(c) as of January 1,
15 2021.

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

18 Sec. 43.1465. DISANNEXATION FROM DEFUNDING MUNICIPALITY.

19 (a) In this section, "defunding municipality" means a home-rule
20 municipality that is considered to be a defunding municipality
21 under Chapter 109.

22 (b) On the next uniform election date that occurs after the
23 date on which the criminal justice division of the governor's
24 office issues a written determination that a municipality is a
25 defunding municipality and the time required by Section 3.005,
26 Election Code, the defunding municipality shall hold a separate
27 election in each area annexed in the preceding 30 years by the

1 defunding municipality on the question of disannexing the area.

2 (c) The defunding municipality shall immediately by
3 ordinance disannex an area for which a majority of the votes
4 received in the election held under Subsection (b) favor
5 disannexation.

6 (d) If an area is disannexed under Subsection (c), the
7 defunding municipality may not attempt to annex the area before the
8 10th anniversary of the date on which the criminal justice division
9 of the governor's office issues a written determination in
10 accordance with Section 109.005 finding that the defunding
11 municipality has reversed the reduction described by Section
12 109.003(1).

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

16 ARTICLE 3. TAX REVENUE AND DEFUNDING MUNICIPALITIES

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

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

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

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

26 (A) the amount of money appropriated for public
27 safety in the budget adopted by the municipality for the preceding

1 fiscal year; and

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

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

8 Municipal Public Safety Expenditure Adjustment / (Current
9 Total Value - New Property Value)

10 (c) A defunding municipality shall provide a notice of the
11 decrease in the no-new-revenue maintenance and operations rate
12 provided by this section in the information published under Section
13 26.04(e) and, as applicable, in the notice prescribed by Section
14 26.06 or 26.061.

15 (d) For purposes of Subsection (a)(2), the amount of money
16 appropriated for public safety and the amount of money spent by the
17 municipality for public safety does not include:

18 (1) any grant money received by the municipality
19 during any fiscal year; or

20 (2) any sales and use tax revenue received by the
21 municipality for the purpose of financing a crime control and
22 prevention district under Chapter 363, Local Government Code,
23 during any fiscal year.

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

1 (b) Notwithstanding any other provision of this chapter or
2 other law, the governing body of a defunding municipality may not
3 adopt a tax rate for the current tax year that exceeds the lesser of
4 the defunding municipality's no-new-revenue tax rate or
5 voter-approval tax rate for that tax year.

6 (b-1) Notwithstanding Subsection (b), if a municipality is
7 determined to be a defunding municipality according to the budget
8 adopted by the municipality for the first fiscal year beginning on
9 or after September 1, 2021, the governing body of the defunding
10 municipality may not adopt a tax rate for the current year that
11 exceeds the least of the defunding municipality's no-new-revenue
12 tax rate or voter-approval tax rate for that tax year, the preceding
13 tax year, or the second preceding tax year. This subsection expires
14 September 1, 2023.

15 (c) For purposes of making the calculation required under
16 Section 26.013, in a tax year in which a municipality is a defunding
17 municipality, the difference between the municipality's actual tax
18 rate and voter-approval tax rate is considered to be zero.

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

21 Sec. 321.5025. DISTRIBUTION OF TRUST FUNDS TO DEFUNDING
22 MUNICIPALITY. (a) In this section, "defunding municipality" means
23 a municipality that is considered to be a defunding municipality
24 for the current state fiscal year under Chapter 109, Local
25 Government Code.

26 (b) Notwithstanding Section 321.502, the comptroller may
27 not, before July 1 of each state fiscal year, send to a defunding

1 municipality its share of the taxes collected by the comptroller
2 under this chapter during the state fiscal year. Before sending the
3 defunding municipality its share of the taxes, the comptroller
4 shall deduct the amount reported to the comptroller for the
5 defunding municipality under Subsection (c) and credit that
6 deducted amount to the general revenue fund. Money credited to the
7 general revenue fund under this subsection may be appropriated only
8 to the Department of Public Safety.

9 (c) Not later than August 1 of each state fiscal year, the
10 criminal justice division of the governor's office shall report to
11 the comptroller for each defunding municipality the amount of money
12 the state spent in that state fiscal year to provide law enforcement
13 services in that defunding municipality.

14 ARTICLE 4. RETIREMENT FUNDING REQUIREMENTS FOR DEFUNDING
15 MUNICIPALITIES

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

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

20 (1) "Defunding municipality" means a municipality
21 that is considered to be a defunding municipality under Chapter
22 109, Local Government Code.

23 (2) "Public retirement system" has the meaning
24 assigned by Section 802.001.

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

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

1 (2) a defunding municipality.

2 (c) Notwithstanding any other law and as soon as practicable
3 after the date the criminal justice division of the office of the
4 governor issues a written determination under Section 109.003(2),
5 Local Government Code, with respect to a municipality, the
6 municipality shall for the purpose of funding retirement benefits
7 increase municipal contributions to a public retirement system in
8 which its employees participate as members in a manner that ensures
9 that the total amount the municipality and members contribute to
10 the system for the fiscal year on which the determination is based
11 is not less than the total amount the municipality and members of
12 the system contributed to the system for the fiscal year
13 immediately preceding the fiscal year on which the determination is
14 based.

15 (d) A municipality subject to this section shall increase
16 contributions in the manner provided by Subsection (c) for each
17 fiscal year for which the municipality is considered a defunding
18 municipality.

19 ARTICLE 5. MUNICIPALLY OWNED UTILITIES IN DEFUNDING MUNICIPALITIES

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

22 Sec. 33.0211. RATES AND FEES CHARGED BY CERTAIN MUNICIPALLY
23 OWNED UTILITIES. (a) This section applies only to a municipally
24 owned utility that is located in a municipality that is considered
25 to be a defunding municipality under Chapter 109, Local Government
26 Code.

27 (b) The governing body of a municipally owned utility may

1 not charge a customer:

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

5 (2) any customer fees in amounts higher than the
6 customer fees the customer was charged or would have been charged on
7 January 1 of the year that the municipality was determined to be a
8 defunding municipality; or

9 (3) any types of customer fees that the customer was
10 not charged or would not have been charged on January 1 of the year
11 that the municipality was determined to be a defunding
12 municipality.

13 (c) If a municipally owned utility has not transferred funds
14 to the defunding municipality described by Subsection (a) in the
15 immediately preceding 12 months, the municipally owned utility may
16 increase its rates to account for:

17 (1) pass-through charges imposed by a state regulatory
18 body or the independent organization certified under Section
19 [39.151](#);

20 (2) fuel, hedging, or wholesale power cost increases;
21 or

22 (3) to fulfill debt obligations or comply with Chapter
23 [1502](#), Government Code.

24 (d) A municipally owned utility that increases rates under
25 this Subsection (c) may not transfer funds to the defunding
26 municipality described by Subsection (a) until the date the
27 criminal justice division of the governor's office issues a written

1 determination in accordance with Section 109.005, Local Government
2 Code, finding that the municipality described by Subsection (a) has
3 reversed the reduction described by Section 109.003(1), Local
4 Government Code.

5 ARTICLE 6. TRANSITION PROVISIONS; EFFECTIVE DATE

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

10 SECTION 6.02. Sections 26.0444 and 26.0501, Tax Code, as
11 added by this Act, apply beginning with the 2021 tax year, except
12 that Section 26.0444(c), Tax Code, as added by this Act, does not
13 apply for the 2021 tax year.

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

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

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

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

President of the Senate

Speaker of the House

I certify that H.B. No. 1900 was passed by the House on May 7, 2021, by the following vote: Yeas 90, Nays 49, 4 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1900 on May 28, 2021, by the following vote: Yeas 88, Nays 57, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1900 was passed by the Senate, with amendments, on May 24, 2021, by the following vote: Yeas 23, Nays 3, 4 present, not voting.

Secretary of the Senate

APPROVED: _____

Date

Governor