

SUBJECT: Commissioners court oversight of county jail commissary contracts

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 6 ayes — Ramsay, B. Brown, Chisum, Farabee, Krusee, Swinford
0 nays
3 absent — G. Lewis, Hilderbran, Salinas

WITNESSES: For — Jim Allison, County Judges and Commissioners Association of Texas;
Jon Weist, Tarrant County Precinct Administrator, Precinct 2

Against — Michael S. Hardy, United Sheriffs Employees of Tarrant County;
Danny West, Fraternal Order of Police, Lodge 44; Hugh Atwell

BACKGROUND: Under Local Government Code, sec. 351.0415, a county sheriff may operate or contract with another person to operate a commissary for use by county jail prisoners. The sheriff has exclusive use of commissary funds, must maintain commissary accounts showing proceeds from commissary operations and the amount and purpose of disbursements made from the proceeds, and must accept new bids to renew contracts of commissary suppliers every five years.

The sheriff may use commissary proceeds only to fund, staff, and equip a program addressing the social needs of county prisoners, including an educational or recreational program and religious or rehabilitative counseling; supply prisoners with clothing, writing materials, and hygiene supplies; establish, staff, and equip the commissary operation; or fund, staff, and equip a library for educational use of prisoners.

At least once each county fiscal year, or more often if the commissioners court desires, the auditor shall, without advance notice, fully examine the jail commissary accounts, verify their correctness, and report to the commissioners court.

Attorney general opinions have interpreted the statute as allowing a sheriff to enter into a contract regarding the commissary without consulting the county purchasing agent (JM-1121, 1989) and that the commissioners court may not

interfere with the sheriff's discretion in contracting for operation of the commissary (DM-67, 1991).

DIGEST: CSHB 2846 would amend the Local Government Code to require a sheriff to provide to the county commissioners court any contract relating to the county jail commissary. The sheriff would have to provide the contract within 10 days after the date the contract was made. The bill would apply only to contracts made after the effective date of the bill.

SUPPORTERS SAY: By requiring all commissary contracts to be reviewed, CSHB 2846 would enable commissioners courts to hold accountable and help run county jails' financial operations more efficiently. Jail expenses can require one-third of the county's general fund tax revenue, and taxpayers deserve to have this money protected and monitored. Commissary funds can be used for a broad range of uses beyond just providing food to prisoners, and this bill would allow greater accountability for how these funds are spent without interfering with the sheriff's exclusive authority over the commissary.

OPPONENTS SAY: CSHB 2846 would chip away at the sheriff's statutorily granted duties. If commissioners feel the need to be involved with the jail commissary, they may audit the books once a year or more. An annual audit is more than enough control for the commissioners court to ensure accountability. This legislation is not needed because the public and the commissioners court also have already access to the commissary's accounting information under the open records law.

NOTES: The committee substitute deleted language in the original bill limiting the bill's provisions to counties that have a population of 1 million or more and contain two or more cities each with a population of 250,000. The caption of the original bill was "relating to certain requirements of certain county jails."

The companion bill, SB 1182 by Harris, was referred to the Senate Jurisprudence Committee on March 11.