

**SUBJECT:** Requiring commissioners court approval for spending by lame duck officials

**COMMITTEE:** County Affairs — committee substitute recommended

**VOTE:** 7 ayes — Lewis, W. Smith, Casteel, Chisum, Farabee, Flynn, Olivo

0 nays

2 absent — Farrar, Quintanilla

**WITNESSES:** For — Jim Allison, County Judges and Commissioners Association of Texas

Against — None

**BACKGROUND:** A county commissioners court has broad authority over the county's budget. Local Government, sec. 111.003 requires most county commissioners courts to prepare an annual budget to cover all proposed expenditures for the fiscal year. Sec. 152.011 requires the county commissioners court to set the amount of the compensation, office and travel expenses, and all other allowances for county and precinct officers and employees who are paid entirely from county funds.

Local Government Code, sec. 86.001 identifies constables as county precinct officers, and Government Code, sec. 27.002 identifies justices of the peace as county precinct officers.

Local Government Code, sec. 130.908 requires commissioners courts of counties with fewer than 50,000 people to approve expenditures by incumbent county commissioners who were not reelected.

**DIGEST:** CSHB 1767 would remove the population bracket in Local Government Code, sec. 130.908 to include all counties. The bill also would subject to approval by the county commissioners court only spending "over an amount set by the commissioners court."

CSHB 1767 would declare precinct officers, in addition to county commissioners, as incumbent officials whose spending could be subject to

approval. The bill would require such approval when an official was not renominated, in addition to when an official lost a reelection bid. It also would require spending approval after the results of a primary, in addition to final election returns, were announced.

The bill would take effect September 1, 2003.

**SUPPORTERS  
SAY:**

CSHB 1767 would extend sensible controls to all county commissioners courts to minimize the risk posed by the rare, renegade commissioner or precinct officer who spends recklessly after not seeking or losing a bid for reelection. The fiduciary duty that county commissioners owe their constituents justifies authorizing commissioners courts to scrutinize the spending of a county official on the verge of leaving office. It also would help commissioners courts protect county assets as they weathered current budget hardships and would help limit the legal liability of counties for unauthorized contracting or expenditures.

The spending approval requirements of CSHB 1767 would not be absolute or inflexible. The bill would authorize county commissioners courts to set spending ceilings for trustworthy, lame duck officials, allowing them to continue administering funds while still in office.

**OPPONENTS  
SAY:**

County officials should not have special restrictions placed on their spending during the term of office to which they were elected by the voters. Those who were not re-nominated, either because they did not seek reelection or were defeated in the March primary, could have arbitrary limits placed on their spending for over nine months. Tighter budgeting by commissioners courts would solve any problem with lame ducks who spend too freely.

**NOTES:**

The committee substitute differs from the bill as introduced by including precinct officers under the spending approval requirement and by addressing situations where a commissioner or precinct official lost a primary or was not renominated.

The bill as introduced would have increased the population bracket to 100,000, while the substitute would eliminate it altogether.