

SUBJECT: Limiting municipal court complaint jurisdiction to city's corporate limits

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Keel, Riddle, Ellis, Denny, Dunnam, Hodge, P. Moreno, Pena, Talton

0 nays

WITNESSES: No public hearing

BACKGROUND: Under Code of Criminal Procedure, art. 45.018, a complaint is a sworn allegation charging the accused with the commission of an offense. A complaint is sufficient if it substantially satisfies certain requirements, including alleging that the offense was committed in the territorial limits of the municipality in which the complaint is made, if the complaint is filed in municipal court. A defendant may object to a defect, error, or irregularity of form or substance in a charging instrument.

Local Government Code, sec. 42.021 defines the extraterritorial jurisdiction (ETJ) of a municipality as the unincorporated area that is contiguous to the corporate boundaries of the municipality and that is located within:

- one-half mile of those boundaries, for a municipality with fewer than 5,000 inhabitants;
- one mile of those boundaries, for a municipality with 5,000 to 24,999 inhabitants;
- two miles of those boundaries, for a municipality with 25,000 to 49,999 inhabitants;
- 3-1/2 miles of those boundaries, for a municipality with 50,000 to 99,999 inhabitants; or
- five miles of those boundaries, for a municipality with 100,000 or more inhabitants.

DIGEST: HB 2686 would require that a complaint filed in municipal court allege that the offense was committed in the corporate, instead of territorial, limits of the municipality in which the complaint was made.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS
SAY:**

HB 2686 properly would limit cities from filing complaints in municipal courts against people from ETJs who were alleged to have violated city ordinances. Because ETJ residents are not voters in municipal elections, they have no influence in determining how laws are applied by city officials and interpreted by municipal court judges. As a result, ETJ residents are subjected to arbitrary and changing standards that compromise their land rights and general welfare.

Laws governing ETJs still could be applied and enforced against ETJ owners, but in a fairer forum. The bill would not deny cities or counties the authority to enforce regulations against ETJ residents before justices of the peace or county or district court judges. Unlike municipal courts of cities whose boundaries do not cover their surrounding ETJs, residents of the territories do live within the jurisdictions of justice of the peace, county, and district courts. As a result, it is more appropriate and fair that the government file any complaint against them in those forums.

**OPPONENTS
SAY:**

HB 2686 would compromise the ability of cities to enforce efficiently a large number of regulations that affect city and ETJ residents alike. Under Code of Criminal Procedure, art. 4.14, municipal courts have exclusive original jurisdiction within the territorial limits of the municipality in all criminal cases that arise under the ordinances of the municipality and that are punishable within certain limits. In addition, statutes give cities clear regulatory authority over their ETJs by authorizing various cities to regulate in the territory to protect and police watersheds; define and prohibit any nuisance within 5,000 feet outside their corporate limits; and regulate sexually-oriented businesses, subdivisions, and billboards.

The bill would confuse the status of the law in regard to the function of municipal courts and regulatory authority of cities. It is only logical that a municipal ordinance that applies to a person should subject that person to the jurisdiction of a municipal court.

Also, cities enforce the ordinances governing these topics in municipal courts by using standardized forms and processes that simplify enforcement efforts. HB 2686 would remove cities' ability to continue to prosecute efficiently violators of cities' own laws in municipal courts. As a result, cities likely would reduce their enforcement of regulatory violations, thus diminishing the quality of life of ETJ residents and nearby city residents alike.