

**SUBJECT:** Requiring election for certain county law enforcement budget reductions

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

**VOTE:** 8 ayes — Paddie, Harless, Hunter, P. King, Metcalf, Shaheen, Slawson, Smithee

3 nays — Hernandez, Deshotel, Howard

2 absent — Lucio, Raymond

**SENATE VOTE:** On final passage, April 13 — 28-2-1 (Eckhardt, Miles; Johnson)

**WITNESSES:** For — Chris Jones, Combined Law Enforcement Associations of Texas; David Riddle, Harris County Commissioner Precinct 4; Samuel Bridgwater, Harris County Precinct 3; (*Registered, but did not testify:* Kenneth Casaday, Austin Police Association; Matthew Garcia, Dallas Regional Chamber; Mark Clark, Houston Police Officers' Union; Jimmy Rodriguez, San Antonio Police Officers Association; Dallas Reed, Texas Municipal Police Association)

Against — (*Registered, but did not testify:* Joe Hamill, AFSCME San Antonio Local 2021, Harris County Local 1550, HOPE/Houston Local 123, Austin/Travis County Local 1624, and El Paso Local 59; Brie Franco, City of Austin; Omar Narvaez, City of Dallas; Jonathan Lewis, Every Texan; Kara Sheehan, Local Progress; Cyrus Reed, Lone Star Chapter Sierra Club; Amelia Casas, Texas Fair Defense Project; Julie Wheeler, Travis County Commissioners Court; and seven individuals)

On — Russell Schaffner, Tarrant County Commissioners Court; (*Registered, but did not testify:* Peter Zanoi, City of Corpus Christi)

**DIGEST:** CSSB 23 would require certain counties to hold elections before reducing the funding of a county's primary law enforcement agency or reallocating funds to different law enforcement agencies. The bill also would provide a disaster exemption to the election requirements, provide for complaints to

the Office of the Governor's Criminal Justice Division and investigation by the comptroller, and limit the ability of noncompliant counties to adopt a new property tax rate, among other provisions. The bill would apply only to counties with a population of more than one million.

**Election.** The bill would require a county to hold an election if the county adopted a budget for a fiscal year that, compared to the budget adopted for the preceding year, made certain reductions for the law enforcement agency, excluding a 9-1-1 call center, with primary responsibility for policing, criminal investigation, and answering calls for service. An election would be required if the county reduced:

- the appropriation to the agency for a year in which the overall budget was equal to or greater than the preceding year's;
- the appropriation to the agency as a percentage of the budget for a year in which the overall budget was less than the preceding year's;
- the number of peace officer positions, excluding detention officer positions, if the county had not declined in population since the preceding year;
- the number of peace officer positions, excluding detention officer positions, the agency was authorized to employ per 1,000 county residents if the county had declined in population since the preceding year; or
- the amount of funding per peace officer for the recruitment and training of new peace officers to fill vacant and new positions.

An election also would have to be held if the budget reallocated funding or resources to another law enforcement agency.

A county could not implement a proposed reduction or reallocation of funds until the county received voter approval at an election held for that purpose. The county could, at any time, order the election to be held on the 30th day after ordering the election. Statutory requirements for uniform election dates would not apply to such an election.

For the purposes of the bill, a county budget would not include a one time

extraordinary expense, as determined by the comptroller, that was outside the normal costs of operating a law enforcement agency. This would include purchasing a fleet of law enforcement vehicles or constructing an additional training academy.

A county budget also would not include revenues used to repay voter-approved bonded indebtedness incurred for a law enforcement purpose, detention officer compensation, or a donation or state or federal grant to the county's law enforcement agency.

*Disaster exemption.* The requirement to hold an election would not apply to a county budget adopted for a fiscal year, or the two following fiscal years, in which a significant budget reduction from the preceding year was caused by a disaster in an area of the county that was subject to a disaster declaration by the governor or president of the United States. Such disasters would include tornadoes, hurricanes, floods, wildfires, and other calamities, but would not include droughts, epidemics, or pandemics.

*Ballot proposition requirements.* A county holding an election under the bill would have to ensure that the ballot proposition for the election included, as applicable:

- a detailed explanation of each proposed reduction;
- the amount of each proposed reduction;
- the recipient of reallocated funding or resources;
- the impact on the local tax rate, if any; and
- the expected length of time that the proposed reallocation or reduction would remain in effect.

*Campaigns.* A county could not use public money on promotional campaigns or advocacy related to the proposed reduction or reallocation. This provision could not be construed to prevent a county official or employee from communicating factual information about a proposed budget or the reasoning behind a proposed budget to voters.

**Complaints.** A person who believed that a county had implemented a

proposed reduction or reallocation of law enforcement funds without the required voter approval and who resided in the county could file a complaint with the Office of the Governor's Criminal Justice Division.

The Criminal Justice Division would have to determine whether a filed complaint was potentially valid or frivolous or false and provide written notice of a potentially valid complaint to the county. The division would have to provide the county an opportunity to correct the action that was the subject of the complaint before referring the complaint to the comptroller.

**Comptroller investigation.** On request by the Criminal Justice Division, the comptroller would have to determine whether a county had implemented a proposed reduction or reallocation without the required voter approval. The comptroller would have to issue a written determination to the governor, lieutenant governor, speaker of the House of Representatives, and governing body of the county.

The comptroller could require a county to submit information for the current or preceding fiscal year to assist the investigation.

**Tax rate limitation.** If the comptroller determined that a county implemented a proposed reduction or reallocation without the required voter approval, the county could not adopt a property tax rate that exceeded the county's no-new-revenue tax rate until the earlier of:

- the date the comptroller issued a written determination that the county had reversed each funding reduction and personnel reduction or restored all reallocated funding and resources to the original law enforcement agency, as applicable; or
- the date on which each reduction and reallocation had been approved in an election.

For purposes of calculating the unused increment rate in a tax year the comptroller determined that a county implemented a proposed reduction or reallocation without voter approval, the difference between the actual

tax rate and voter-approved tax rate would be considered to be zero.

The bill would take effect January 1, 2022.

**SUPPORTERS  
SAY:**

CSSB 23 would ensure that voters could provide input to budgetary decisions affecting public safety and that law enforcement had sufficient resources to protect the public by requiring voter approval for certain reductions in or reallocations of law enforcement funding.

Calls have been made in several large urban areas in the state to defund law enforcement entities, and some local governments have taken steps in this direction. The bill would ensure that the weighty decision to cut law enforcement funding would not be made by a handful of local officials in response to the demands of a vocal minority but rather through the will of a majority of voters. This would take the will and needs of county residents into account while ensuring that law enforcement officers had sufficient resources to keep the public and themselves safe.

CSSB 23 would strengthen, not inhibit, local control by requiring county officials to obtain voter approval before reducing or reallocating law enforcement funds. The bill would not apply to counties making across-the-board budget cuts due to revenue shortfalls or natural disasters or because of large, one-time funding allocations.

Although county officials involved in the budget-making process are elected, the decision to reduce law enforcement funding could jeopardize public safety and should be subjected to additional voter approval before being made. In addition, the bill would not prohibit counties from reducing or reallocating law enforcement funds but simply would add an additional step to ensure community support for such measures.

The bill would not prohibit counties subject to complaints from communicating with the comptroller and contains a provision allowing the comptroller to request certain information from counties to assist in an investigation of a complaint.

CRITICS  
SAY:

CSSB 23 would inhibit local control of county budget processes for law enforcement and redundantly require voter approval of decisions made by county officials.

The bill could inhibit the local governance of large counties by creating a top-down restriction on their budget-making process. Certain decisions by local officials to better meet needs of the community, such as delegating certain mental health services to non-law enforcement entities, have been referred to as “defunding” law enforcement, but the reduction of law enforcement funds resulting from the transfer to other entities or reallocation to other public health and safety agencies should not be construed as attempts to inhibit law enforcement.

CSSB 23 also would unnecessarily legislate a budgetary process that county officials are elected by their constituents to oversee. Voters already have a say in who represents them and how to spend tax dollars and can vote out officials with whom they disagree. Requiring a separate election to ratify the budgetary decisions would be redundant and wasteful.

The bill makes no provision for counties that are subjects of complaints to participate in hearings or provide information to shed light on an investigation. Counties would face punitive measures from the comptroller for noncompliance and should have the opportunity to provide information about a county’s unique budget process during an investigation. The bill should permit the comptroller to determine if a county’s budget adversely impacted public safety before imposing the property tax rate limitation.