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H.B. No. 1900

A BILL TO BE ENTITLED  
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 fiscal year beginning on or after September 1, 2021, the division shall compare the appropriation to the municipality's police department in that budget to the appropriation to that department in the budget of the preceding fiscal year or the second preceding fiscal year, whichever is greater. This section applies to the budget adopted for the municipality's first fiscal year beginning on or after September 1, 2021, regardless of the date of adoption. This section expires September 1, 2023.

Sec. 109.004. EXCEPTIONS. (a) A municipality is not considered to be a defunding municipality under Section 109.003 if:

(1) for a fiscal year in which the municipality adopts a budget that is less than the budget for the preceding fiscal year, the percentage reduction to the appropriation to the municipality's police department does not exceed the percentage reduction to the total budget; or

(2) before the adoption of a budget, the municipality applies for and is granted approval from the division for a reduction to the appropriation to the municipality's police department to account for:

(A) capital expenditures related to law enforcement during the preceding fiscal year;

(B) the municipality's response to a state of disaster declared under Section 418.014, Government Code; or

(C) another reason approved by the division.

(b) For purposes of making a determination of whether a municipality is a defunding municipality under this chapter, a municipality's appropriation to the municipality's police department does not include any grant money received by the municipality during any fiscal year.

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

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

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

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

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

ARTICLE 2. ANNEXATION BY AND DISANNEXATION FROM DEFUNDING MUNICIPALITIES

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

Sec. 43.004. ANNEXATION BY DEFUNDING MUNICIPALITY PROHIBITED. (a) In this section, "defunding municipality" means a home-rule municipality that is considered to be a defunding municipality under Chapter 109.

(b) A defunding municipality may not annex an area during the period beginning on the date that the criminal justice division of the governor's office issues the written determination that the municipality is a defunding municipality and ending on the 10th anniversary of the date on which the criminal justice division of the governor's office issues a written determination in accordance with Section 109.005 finding that the defunding municipality has reversed the reduction described by Section 109.003(1).

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

Sec. 43.1465. DISANNEXATION FROM DEFUNDING MUNICIPALITY. (a) In this section, "defunding municipality" means a home-rule municipality that is considered to be a defunding municipality under Chapter 109.

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

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

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

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

ARTICLE 3. TAX REVENUE AND DEFUNDING MUNICIPALITIES

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

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

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

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

(A) the amount of money appropriated for public safety in the budget adopted by the municipality for the preceding fiscal year; and

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

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

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

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

(d) For purposes of Subsection (a)(2), the amount of money appropriated for public safety and the amount of money spent by the municipality for public safety does not include any grant money received by the municipality during any fiscal year.

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

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

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

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

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

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

(b) Notwithstanding Section 321.502, the comptroller may not, before July 1 of each state fiscal year, send to a defunding municipality its share of the taxes collected by the comptroller under this chapter during the state fiscal year. Before sending the defunding municipality its share of the taxes, the comptroller shall deduct the amount reported to the comptroller for the defunding municipality under Subsection (c) and credit that deducted amount to the general revenue fund. Money credited to the general revenue fund under this subsection may be appropriated only to the Department of Public Safety.

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

#### ARTICLE 4. RETIREMENT FUNDING REQUIREMENTS FOR DEFUNDING MUNICIPALITIES

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

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

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

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

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

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

(2) a defunding municipality.

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

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

#### ARTICLE 5. MUNICIPALLY OWNED UTILITIES IN DEFUNDING MUNICIPALITIES

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

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

(b) The governing body of a municipally owned utility may not charge a customer:

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

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

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

#### ARTICLE 6. TRANSITION PROVISIONS; EFFECTIVE DATE

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

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

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

SECTION 6.04. (a) Section 33.0211, Utilities Code, as added by this Act, applies only to a proceeding for the establishment of rates for which the governing body of a

municipally owned utility has not issued a final order or decision before the effective date of this Act.

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

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