

BILL ANALYSIS

C.S.S.B. 1735
By: Shapiro
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently a local option election for the sale of alcoholic beverages can be called and held in either a county, a justice precinct, or a municipality. In 1976, the Town of Addison held a local option election at which the voters approved the sale of alcohol for off-premise and on-premise consumption. In 1982, the town conducted a charter amendment election, at which the voters approved an amendment to the charter which limits the sale of alcoholic beverages for off-premise consumption to a particular area of Addison. Therefore, the status of the sale of alcoholic beverages in Addison since 1982 has been that, with proper approval, alcohol for on-premise consumption can be sold in a restaurant where a restaurant is an allowed use, but alcohol for off-premise consumption can be sold only in the area designated in the town charter.

C.S.S.B. 1735 clarifies that Addison's home-rule charter continues to control within the limits of the municipality, if a local option election is held in county or in a justice precinct in which Addison is located.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 215, Local Government Code, by adding Section 215.076, as follows:

Sec. 215.076. CHARTER PROVISIONS AND LOCAL OPTION ELECTIONS IN CERTAIN MUNICIPALITIES. (a) Provides that this section applies only to a home-rule municipality with a population of less than 15,000:

(1) that is wholly located in a county that:

(A) has a population of two million or more; and

(B) is adjacent to a county with a population of one million or more;

(2) in only part of which the sale of distilled spirits for off-premise consumption is legal; and

(3) that on April 3, 1982, adopted or enacted a home-rule charter or home-rule charter amendment that restricts the sale of alcoholic beverages for off-premise consumption to a portion of the municipality.

(b) Provides that a local option election for or against the sale of alcoholic beverages for off-premise consumption that is held in a county or in a justice precinct in which all or part of a home-rule municipality as described by Subsection (a) is located does not alter, modify, or supersede a home-rule charter restriction of the municipality described by Subsection (a) regardless of whether the election was held before, on, or after the effective date of this section or the charter restriction. A charter restriction described by Subsection (a) is an all respects validated.

SECTION 2. Effective date: Immediately, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

EFFECTIVE DATE

C.S.S.B. 1735 80(R)

Immediately, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.S.B. 1735 clarifies that Section 215.076(a), Local Government Code applies only to a home-rule municipality with a population of less than 15,000: (1) that is wholly located in a county that: (A) has a population of two million or more; and (B) is adjacent to a county with a population of one million or more; (2) in only part of which the sale of distilled spirits for off-premise consumption is legal; and (3) that on April 3, 1982, adopted or enacted a home-rule charter or home-rule charter amendment that restricts the sale of alcoholic beverages for off-premise consumption to a portion of the municipality.

The original bill stated that Section 215.076(a), Local Government Code, applies only to a home-rule municipality: (1) in which the sale of alcoholic beverages for off-premise consumption has been approved at an election called and held for that purpose; and (2) that, before June 11, 1987, adopted or enacted a home-rule charter or home-rule charter amendment that restricts the sale of alcoholic beverages for off-premise consumption to a portion of the municipality.

C.S.S.B. 1735 modifies Section 215.076(b), Local Government Code, to provide that a local option election for or against the sale of alcoholic beverages for off-premise consumption that is held in a county or in a justice precinct in which all or part of a home-rule municipality described by Subsection (a) is located does not alter, modify, or supersede a home-rule charter restriction of the municipality described by Subsection (a) regardless of whether the election was held before, on, or after the effective date of this section or the charter restriction. A charter restriction described by Subsection (a) is in all respects validated.

The original bill stated that Section 215.076(b), Local Government Code, provides for a local option election for or against the sale of alcoholic beverages for off-premise consumption which is held or conducted either before or after the effective date of this section in a county or in a justice precinct in which the home-rule municipality or any part of a home-rule municipality is contained does not alter, modify, or supersede a home-rule charter restriction of the municipality as described by Subsection (a). A charter restriction described by Subsection (a) is in all respects validated.