

BILL ANALYSIS

C.S.H.B. 3485
By: Coleman
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Myriad statutes direct the functions and authority of local governments, such as counties, and clarification of those statutes is often necessary.

Current law governing arrests under warrant contains several references to sending a warrant by mail, telegraph, or other written means. There is no specific authorization to use secure electronic mail, although an argument could be made that it is inferred.

An inmate in state or federal detention who also has an active Class A or Class B misdemeanor warrant or pending case in a county is not able to enter a plea in the lesser case. Upon completion of his or her sentence, the inmate is held for the county, and the county sheriff incurs the expense of transporting and housing the inmate until the case is resolved. In many cases the inmate is ultimately released for time served.

Current law allows a county election commission to appoint an elections administrator. It was recently pointed out that because the statute only allows an elections administrator to be terminated, the county is not able to suspend an elections administrator when appropriate.

Under current law, a county is responsible for the cost associated with the interment of deceased paupers as well as any attempts to locate relatives of the decedent. Money is often found in a pauper's possession upon his or her death. In most cases, no one comes forward to claim the money, and it eventually escheats to the state.

A county's authority to choose cremation to dispose of the remains of an unidentified pauper is abrogated by a conflicting law that prohibits a crematory establishment from accepting unidentified human remains.

Currently, counties pay juror fees by check; in larger counties, there are tens of thousands of checks issued.

Counties are currently required to take bids for purchases over \$25,000. Purchases less than \$25,000 can be made without taking bids by issuing a purchase order. The \$25,000 limit has been in effect since 1999 and has not been adjusted for inflation.

A recent change in law requires a person who conducts an investigation involving computer-based data to be a licensed private investigator. Concerns have been raised by the IT community that this could apply to county IT professionals since they routinely perform review and analysis of computer data when a computer is not functioning properly.

This bill seeks to clarify the roles and responsibilities of local governments.

C.S.H.B. 3485 amends various statutes to allow the transmission of a warrant by secure fax or e-mail; allow a prison inmate to file a misdemeanor plea with a court through the mail; allow for the suspension of an elections administrator; and allow alternative payment systems for jurors.

The bill increases the bid limit; permits unclaimed funds belonging to a pauper to be retained to help cover the costs of burial; fixes a statutory conflict regarding the disposition of deceased paupers; clarifies that county employees are not required to be licensed private investigators; and amends provisions governing county assistance districts.

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

C.S.H.B. 3485 amends the Code of Criminal Procedure to authorize a warrant of arrest to be forwarded by a method that ensures the transmission of a duplicate of the original warrant, including electronic means, rather than by telegraph. The bill authorizes a person who is incarcerated in a facility operated by, or under contract with, the Texas Department of Criminal Justice to submit a plea of guilty or plea of nolo contendere regarding a misdemeanor charge in writing, transmitted by mail, facsimile, or other means. The bill requires the court to make the admonitions required by law to the defendant in writing before accepting the plea.

C.S.H.B. 3485 amends the Election Code to authorize the employment of the county elections administrator to be suspended, with or without pay, in addition to being terminated, at any time for good and sufficient cause on the four-fifths vote of the county election commission and approval of that action by a majority vote of the commissioners court.

C.S.H.B. 3485 amends the Government Code to update language relating to the methods of payment for jury services. The bill authorizes certain counties to provide a person who reports for jury service in the county an opportunity to donate all or a specific part designated by the juror, of the juror's daily reimbursement by completing a self-executing application on a form prescribed by the commissioners court.

C.S.H.B. 3485 amends the Health and Safety Code to require the county to place any money in the possession of a deceased pauper in a trust account. The bill requires a person having a claim to the money in the trust account to exercise the right to collect the money not later than the first anniversary of the date the money is placed in the trust account. The bill authorizes a county to create a fund to be used by the county to pay the costs incurred in disposing of the bodies of deceased paupers. The bill authorizes the county to transfer to the fund any money in the trust account that is not claimed by the first anniversary of the date the money is placed in the trust account. The bill authorizes a crematory establishment to accept for cremation unidentified human remains from a county on the order of the county commissioners court or a court located in the county.

C.S.H.B. 3485 amends the Local Government Code to authorize a county treasurer to disburse to a person who reports for jury service and discharges the person's duty the daily amount of reimbursement for jury service expenses set by the commissioners court by using an electronic funds transfer system using a cash dispensing machine, issuing a debit card or a stored value card, or using any other method that the county treasurer and the commissioners court determine is secure, accurate, and cost-effective and that is convenient for persons who report for jury service. The bill provides that a county may implement such a system of payment only if it is approved by the commissioners court and administered in accordance with the procedures established by the county auditor or by the chief financial officer of a county that does not have a county auditor. The bill authorizes such a system of payment to be used in lieu of or in addition to the issuance of warrants or checks authorized by provisions governing disbursement of money by counties.

C.S.H.B. 3485 increases from \$25,000 or less to \$50,000 or less, the amount of a purchase by a county of an item available for purchase that is not required to follow competitive bidding procedure.

C.S.H.B. 3485 requires the bidding of a contract awarded by a governmental entity for the construction, repair, or renovation of a structure, road, highway, or other improvement or addition to real property to be accomplished in the manner provided by laws on purchasing and contracting if a statute requires the governmental entity to award the contract on the basis of competitive bids and the contract requires the expenditure of more than \$25,000 from the funds of a governmental entity other than a county or \$50,000 from the funds of a county. The bill removes language relating to awarding a contract on the basis of competitive bids if the contract requires the expenditure of more than \$25,000 from funds of the entity.

C.S.H.B. 3485 revises a purchasing provision for crime control and prevention districts to change the limit for purchasing contracts from \$25,000 to \$50,000.

C.S.H.B. 3485 authorizes more than one county assistance district to be created in a county. The bill specifies that the order by the commissioners court of a county calling an election on the question of creating a county assistance district is required to define the boundaries of the district to include any portion of the county in which the combined tax rate of all local sales and use taxes imposed, including the rate to be imposed by the district if approved at the election, would not exceed the maximum combined rate of sales and use taxes imposed by municipalities and counties as prescribed by state tax laws, rather than two percent. The bill establishes that the territory of a municipality excluded from a proposed county assistance district may subsequently be included in another district after complying with certain notification requirements and after an election to determine whether the area should be included in the district and whether the district's sales and use tax should be imposed in the area. The bill updates the ballot language for an election on the question of creating a county assistance district and establishes that, if a majority of the votes received at such an election are against the creation of the district, the district is not created and the county at any time may call one or more elections on the question of creating one or more county assistance districts. The bill removes a provision that, in such a situation, prohibits another election on the question of creating a county assistance district from being held in the county before the first anniversary of the most recent election concerning the creation of a district.

C.S.H.B. 3485 changes references to the allowable combined tax rate for any area of a district to be the maximum combined rate of sales and use taxes imposed by municipalities and counties as prescribed by state tax laws, rather than two percent.

C.S.H.B. 3485 gives the governing body of a district, in addition to the authority to include an area in a district by calling an election, the authority to include an area in the district by order on receipt of a petition or petitions signed by the owner or owners of the majority of the land in the area to be included in the district. The bill establishes that no election is required if there are no qualified voters in the area to be included in the district. The bill authorizes the commissioners court by order to exclude an area from the district if the district has no outstanding bonds payable wholly or partly from sales and use taxes and the exclusion does not impair any outstanding district debt or contractual obligation.

C.S.H.B. 3485 authorizes the commissioners court of the county in which a county assistance district is created, as an alternative to serving as the governing body of the district, to by order appoint a governing body of the district. The bill requires a board of directors appointed by the commissioners court under these provisions to consist of five directors who serve staggered terms of two years. The bill sets out requirements for a director's eligibility and for setting the staggered terms.

C.S.H.B. 3485 includes in the powers of a county assistance district the authority to enter into agreements with municipalities necessary or convenient to achieve the district's purposes, including agreements regarding the duration, rate, and allocation between the district and the municipality of sales and use taxes.

C.S.H.B. 3485 prohibits a district from adopting a sales and use tax if the such adoption would result in a combined tax rate of all local sales and use taxes that would exceed the maximum combined rate of sales and use taxes imposed by municipalities and counties as prescribed by state tax laws, rather than two percent, in any location in the district. The bill authorizes a district to define areas in the district to pay for improvements, facilities, or services that primarily benefit that area and do not generally and directly benefit the district as a whole and to impose different rates of sales and use tax in each defined area, provided that the sales and use tax rate does not exceed the rate approved at an election on the question of creating a county assistance district. The bill requires the rate of a tax adopted under provisions governing county assistance districts to be in increments of one-eighth of one percent, and removes language specifying that the rate be one-eighth, one-fourth, three-eighths, or one-half of one percent.

C.S.H.B. 3485 authorizes a county assistance district that has adopted a sales and use tax under these provisions, by order and subject to the limitation on the combined tax rate of all local sales and use taxes, to reduce the rate of the tax or repeal the tax without an election, except that the district may not repeal the sales and use tax or reduce the rate of the sales and use tax below the amount pledged to secure payment of an outstanding district debt or contractual obligation; increase the rate of the sales and use tax, if the increased rate of the sales and use tax will not exceed the rate approved at an election on the question of creating a county assistance district; or increase the rate of the sales and use tax to a rate that exceeds the rate approved at such an election after the increase is approved by a majority of the votes received in the district at an election held for that purpose. The bill removes language that limits such a change in the tax to a maximum of one-half of one percent. The bill amends the requirements for the ballot language for an election to increase the tax accordingly. The bill establishes that the adoption of the tax, the increase or reduction of the tax rate, or the repeal of the tax takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete quarter occurring after the date the comptroller receives a copy of the order of the district's governing body, rather than notice of the results of the election adopting, increasing, reducing, or repealing the tax.

C.S.H.B. 3485 amends the Occupations Code to exclude information obtained or furnished by an information technology professional who is an employee of a county who is in the course and scope of employment, installing or repairing computer equipment belonging to the county or is examining the cause for required repair and not performing any other act that requires an investigations company license from the definition of "obtaining and furnishing information."

C.S.H.B. 3485 repeals Section 387.010(d), Local Government Code, relating to the ballot for the election to repeal a tax in a county assistance district.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3485 adds provisions not in the original relating to county assistance districts, including the creation and functions of such a district, the designation of its governing body and the appointment of its board of directors, the general powers of a district, the adoption of a sales and use tax in such a district and the rate of that tax, the repeal of such a tax or change in its rate, and the effective date of the tax.

C.S.H.B. 3485 omits provisions in the original relating to the dissolution of a bail bond board by a county commissioners court.

C.S.H.B. 3485 omits language in the original changing the interest a taxing unit is required to apply to an amount refunded because of an exemption for a religious organization that was denied by the chief appraiser or appraisal review board.

C.S.H.B. 3485 repeals a provision not repealed in the original relating to the ballot for an election to repeal a tax in a county assistance district.