

CHAPTER 6

S.B. No. 88

AN ACT

relating to the validation of governmental acts and proceedings by municipalities.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Title 28, Revised Statutes, is amended by adding Article 974d-40 to read as follows:

Sec. 1. APPLICATION. This article applies to any incorporated city, town, or village operating under general law or under a home-rule charter.

Sec. 2. ADOPTION OF HOME-RULE CHARTER. (a) All governmental acts and proceedings of a municipality covered by this article regarding the adoption of a home-rule charter are validated as of the dates on which they occurred.

(b) All governmental acts and proceedings of the municipality since adoption or attempted adoption of the charter are validated as of the dates on which they occurred.

Sec. 3. **INCORPORATION PROCEEDINGS.** (a) The incorporation proceedings of all cities and towns in this state that incorporated or attempted to incorporate under the general laws of the State of Texas, whether under the aldermanic or commission form of government, and which have functioned or attempted to function as incorporated cities or towns since the date of such incorporation or attempted incorporation are validated as of the date of such incorporation or attempted incorporation. The incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or incorporation proceedings may not have been in accordance with law.

(b) All governmental proceedings performed by the governing bodies of all such cities and towns and their officers since their incorporation or attempted incorporation are validated as of the date of such proceedings, including extensions or attempted extensions of extraterritorial jurisdiction undertaken at the request of owners of territory.

Sec. 4. **ANNEXATION PROCEEDINGS.** (a) The governmental acts and proceedings of a city or town relating to the annexation or attempted annexation of adjacent territory by the city or town before December 31, 1992, are validated as of the dates they occurred. The acts and proceedings may not be held invalid because they were not performed in accordance with the procedural or other requirements of Chapters 42 and 43, Local Government Code, or other law. The boundaries fixed by the annexation or attempted annexation are validated.

(b) The governmental acts and proceedings of a city or town occurring after annexation may not be held invalid on the ground that the annexation, in the absence of this article, was invalid.

Sec. 5. **ANNEXATIONS NOT VALIDATED.** This article does not validate governmental acts or proceedings relating to a city's or town's annexation or attempted annexation of territory in the extraterritorial jurisdiction of another city or town without the consent of that city or town in violation of Chapters 42 and 43, Local Government Code.

Sec. 6. **ORDINANCE OR REGULATION NOT VALIDATED.** This article does not validate any ordinance or regulation of a municipality that violates Section 1.06 or 109.57, Alcoholic Beverage Code.

Sec. 7. **EFFECT OF LITIGATION.** This article does not apply to any matter that on the effective date of this article:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction; or

(2) has been held invalid by a final judgment of a court of competent jurisdiction.

SECTION 2. Title 28, Revised Statutes, is amended by adding Article 974d-41 to read as follows:

Sec. 1. **APPLICATION.** This article applies to any municipality having a population of 1.5 million or more.

Sec. 2. **PROCEEDINGS VALIDATED.** The governmental acts and proceedings of a municipality relating to a bond election that was held before December 1, 1991, and at which the ballot proposition was approved by more than 60 percent of the voters voting on the proposition are validated as of the dates they occurred. The validation includes the preparation and wording of the ballot proposition, any action taken by the municipality in calling and holding the bond election, and any other action taken by the municipality before the effective date of this article in connection with the issuance of any bonds approved in the bond election. The acts and proceedings may not be held invalid because they were not performed in accordance with law. A municipality may take any further action or conduct any further proceeding necessary to complete the issuance of the bonds approved at the bond election, and, when issued, the bonds are valid and binding obligations of the municipality in accordance with the terms of the bonds.

Sec. 3. **EFFECT ON LITIGATION.** This article does not apply to any matter that on the effective date of this article has been held invalid by a final judgment of a court of competent jurisdiction.

Sec. 4. RECOMMENDATION. The legislature recommends to the governing body of a municipality that it adopt the aggregate goals for the municipality's contracting with minority and women enterprises set forth in the June 1992, report of Texas Southern University as specified for the categories of construction, procurement, and professional services. A cause of action may not be maintained to enforce this section or to recover damages based on the failure of the municipality to follow the recommendation of this section.

Sec. 5. CONDITIONS AFFECTING EXPENDITURE OF BOND PROCEEDS. (a) Expenditures of the bond proceeds by the municipality shall:

(1) be made in accordance with the covenants of all ordinances enacted by the municipality before the bond election approving the bonds;

(2) benefit the residents of the municipality so that the benefits or expenditures, if feasible, reflect the demographic makeup of the municipality; and

(3) to the extent the proceeds are designated for housing in the municipality's bond proposition, be made for construction and rehabilitation of housing and all matters incidental to housing construction and rehabilitation on-site.

(b) This section applies cumulatively to the entire bond authorization, rather than to individual bond issues or contracts for the expenditure of the proceeds, and the municipality's governing body is responsible for making decisions on individual bond issues and contracts.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on February 1, 1993: Yeas 29, Nays 0; February 22, 1993, Senate refused to concur in House amendments and requested appointment of Conference Committee; February 22, 1993, House granted request of the Senate; February 24, 1993, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0; passed the House, with amendments, on February 18, 1993: Yeas 116, Nays 0, seven present not voting; February 22, 1993, House granted request of the Senate for appointment of Conference Committee; March 2, 1993, House adopted Conference Committee Report: Yeas 140, Nays 0, one present not voting.

Approved March 8, 1993.

Effective March 8, 1993.