

BILL ANALYSIS

C.S.H.B. 1716
By: Lewis
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, there is no statute which addresses whether members of a county's commissioner's court may practice law in the courts of the county. According to Ethics Committee Opinions and Attorney General Opinions, county judges and commissioners and their entire law firm must disclose conflicts of interest to the court and obtain consent from the court before proceeding with any lawsuit. The Attorney General most recently stated that it had found no statute which would authorize the commissioner's court to consent to the county judge's practicing law in the county's courts and made a specific request for the legislature to address the issue. The proposed legislation will clarify the requirements for a county judge and other members of the commissioner's court engaged in the private practice of law. Under this legislation, a county judge or county commissioner will be entitled to practice his or her profession while disclosing this relevant information to the public.

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. 1716 amends the Local Government Code to require a county commissioner and a county judge engaged in the private practice of law to comply with the requirements of Chapter 171 and it prohibits a county judge from practicing law in any court over which the judge presides or in any court over which the judge's court exercises appellate jurisdiction. Chapter 171 requires local public officials to file an affidavit with the official record keeper of the governmental entity before a vote or decision on any matter involving any business to which the local public official has a special interest. C.S.H.B. 1716 adds Section 171.010 to Chapter 171. Under Subsection (a) of Chapter 171, any lawsuit to which a county judge or commissioner has appeared as attorney in charge would be declared a special interest in a business entity. Under Subsection (b), the official must comply with Chapter 171 which includes requiring the county judge or county commissioner to file an affidavit and disclose the clients for public review. Subsection (c) specifically prohibits a county judge from practicing law in any court over which the judge presides or in any court over which the judge's courts exercises appellate jurisdiction.

EFFECTIVE DATE

This Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The C.S.H.B. 1716 modifies the original H.B. 1716 by limiting its application to county judges and commissioners as opposed to all local public officials. The C.S.H.B. 1716 also modifies H.B. 1716 to apply to county judges with regard to prohibiting the practice of law in courts of which the judge's court

has original and appellate jurisdiction as opposed to applying to the “judge of the statutory county court”. The C.S.H.B. 1716 includes language clarifying that upon compliance with this statute, county judges and commissioners may practice law in the local courts