

BILL ANALYSIS

Senate Research Center

S.B. 1552
By: Duncan
Jurisprudence
8/14/2003
Enrolled

DIGEST AND PURPOSE

S.B. 1552 creates an additional county court at law in Collin County, in Comal County, in Orange County, in Rockwall County, in Henderson County, and in Parker County.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority, to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. (a) Amends Section 25.0451(a), Government Code, as follows:

(a) Provides that Collin County has certain statutory county courts, including the County Court at Law No. 6 of Collin County.

(b) Provides that the County Court at Law No. 6 of Collin County is created and this section takes effect January 1, 2005.

SECTION 2. (a) Amends Section 25.0481, Government Code, as follows:

Sec. 25.0481. COMAL COUNTY. Provides that Comal County has certain statutory county courts, including the County Court at Law No. 1 of Comal County and the County Court at Law No. 2 of Comal County.

(b) Provides that the County Court at Law No. 2 of Comal County is created and this section takes effect September 1, 2003.

SECTION 3. (a) Amends Section 25.1091, Government Code, as follows:

Sec. 25.1091. HENDERSON COUNTY. Provides that Henderson County has certain statutory county courts, including the County Court at Law No. 2 of Henderson County.

(b) Amends Sections 152.1131(a) and (c), Human Resources Code, to amend “judge” to “judges” and “court” to “courts.”

(c) Provides that notwithstanding Section 25.1091, Government Code, as amended by this section, the County Court at Law No. 2 of Henderson County is created December 1, 2007, or on an earlier date determined by the commissioners court by an order entered in its minutes.

SECTION 4. (a) Amends Section 25.1831, Government Code, as follows:

Sec. 25.1831. ORANGE COUNTY. (a) Provides that Orange County has the County Court at Law of Orange County and the County Court at Law No. 2 of Orange County.

(b) Makes a conforming change.

(b) Amends Section 25.1832(i), Government Code, to provide that except as otherwise required by law, a jury in a county court at law is composed of six members. Deletes text requiring juries in all matters civil or criminal to be composed of 12 members, except in misdemeanor criminal cases and cases of concurrent jurisdiction with the county court.

(c) Makes the application of the change in law made by Subsection (a) of this section prospective.

(d) Effective date of this section: September 1, 2003.

SECTION 5. (a) Amends Subchapter C, Chapter 25, Government Code, by adding Sections 25.2011 and 25.2012, as follows:

Sec. 25.2011. ROCKWALL COUNTY. Provides that Rockwall County has one statutory county court, the County Court at Law of Rockwall County.

Sec. 25.2012. ROCKWALL COUNTY COURT AT LAW PROVISIONS. (a) Provides that in addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (b), a county court at law in Rockwall County has, concurrent with the district court, the jurisdiction provided by the constitution and general law for district courts.

(b) Provides that a county court at law does not have general supervisory control or appellate review of the commissioners court or jurisdiction of certain matters.

(c) Provides that the district clerk serves as clerk of a county court at law except that the county clerk serves as clerk of the county court at law in matters of mental health, the probate and criminal misdemeanor docket, and all civil matters in which the county court at law does not have concurrent jurisdiction with the district court.

(d) Authorizes jurors regularly impaneled for the week by the district courts to, at the request of the judge of a county court at law, be made available by the district judge in the numbers requested and to serve for the week or until released in the county court at law.

(e) Authorizes a county court at law to summon jurors through the county clerk for service in the county court at law in the manner provided by the laws governing the drawing, selection, and service of jurors for county courts. Requires jurors summoned to be paid in the same manner and at the same rate as jurors for district courts in Rockwall County. Authorizes jurors summoned to the county court at law, by order of the judge of a county court at law, to be transferred to the district court for service in noncapital felony cases.

(f) Provides that notwithstanding Sections 74.091 and 74.0911, a district judge serves as the local administrative judge for the district and statutory county courts in Rockwall County. Requires the judges of district courts to elect a district judge as local administrative judge for a term of not more than two years. Prohibits the local administrative judge from being elected on the basis of rotation or seniority.

(g) Requires the district clerk, when administering a case for the county court at law, to charge civil fees and court costs as if the case had been filed in the district court. Requires the case, in a case of concurrent jurisdiction, to be assigned to either the district court or the county court at law in accordance with local administrative rules established by the local administrative judge.

(h) Requires the judge of the county court at law to appoint an official court reporter for the court and to set the official court reporter's annual salary, subject to approval by the county commissioners court. Requires the official court reporter of the county court at law to take an oath or affirmation as an officer of the court. Provides that the official court reporter holds office at the pleasure of the judge of the court and shall be provided a private office in close proximity to the court. Provides that the official court reporter is entitled to all rights and benefits afforded all other county employees.

(i) Requires the judge of the county court at law to hire a staff with the approval of the county commissioners court and through the county budget process. Provides that the staff of the judge of the county court at law consists of a court coordinator and a bailiff. Provides that court personnel employed under this subsection are entitled to receive a salary set by the commissioners court and other employment benefits received by county employees.

(j) Requires the bailiff of a county court at law, not later than one year after the date of appointment, to obtain a peace officer license under Chapter 1701, Occupations Code, from the Commission on Law Enforcement Officer Standards and Education. Requires the sheriff of Rockwall County to deputize the bailiff of a county court at law. Provides that the bailiff of a county court at law is subject to the training and continuing education requirements of a sheriff's deputy of the county. Requires the sheriff to remove from office a bailiff who does not receive a peace officer license within one year of appointment as required by this subsection.

(k) Requires the judge of a county court at law to be a United States citizen at the time of appointment or election.

(l) Requires the judge of a county court at law to diligently discharge the duties of the office on a full-time basis and prohibits engaging in the private practice of law.

(m) Authorizes the judge of a county court at law and the district judge, in matters of concurrent jurisdiction, to exchange benches, transfer cases subject to acceptance, assign each other to hear cases, and otherwise manage their respective dockets under local administrative rules.

(n) Provides that the judge of a county court at law has the same judicial immunity as a district judge.

(b) Provides that the County Court at Law of Rockwall County is created and this section takes effect September 1, 2003.

SECTION 6. (a) Amends Section 25.1861(a), Government Code, as follows:

(a) Provides that Parker County has the County Court at Law of Parker County and the County Court at Law No. 2 of Parker County.

(b) Amends Section 25.1862, Government Code, by amending Subsections (a), (b), (d), (e), (f), (i), (k), and (m) and adding Subsections (c) and (n) through (x), as follows:

(a) Provides that in addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (b), a county court at law in Parker County has the jurisdiction provided by the constitution and by general law for

district courts. Deletes text referring to concurrent jurisdiction. Deletes text referring to jurisdiction for civil and family law cases.

(b) Provides that a county court at law does not have jurisdiction of felony cases, except as otherwise provided by law. Deletes text providing that this section does not affect the right to appeal to a court at law from the justice courts in cases in which the right of appeal to the county court exists.

(c) Provides that a county court at law does not have general supervisory control over the commissioners court.

(d) Prohibits a county court at law from issuing writs of habeas corpus in felony cases, rather than prohibiting the judge of a county court at law from engaging in the private practice of law.

(e) Provides that the district clerk serves as clerk of a county court at law in cases in the concurrent jurisdiction of the county courts at law and the district courts, and the county clerk serves as the clerk in all other cases. Requires the district clerk to establish a separate docket for each county court at law, rather than requiring the judge of a county court at law to be paid an annual salary of at least \$40,000.

(f) Authorizes a special judge of a county court at law to be appointed or elected in the manner provided by law for the appointment or election of a special county judge. Deletes text authorizing a special judge with the same qualifications as the regular judge, if the regular judge of a county court at law is absent, disabled, or disqualified from presiding, to be appointed or elected in the manner provided by law for the appointment or election of a special county judge.

(i) Requires the district attorney or county attorney and the county sheriff, in person or by deputy, to attend a county court at law as required by the judge.

(k) Requires the jury, if a jury trial is requested in a case that is in a county court at law's jurisdiction as provided by Subsection (a), to be composed of six members unless the constitution requires a 12-member jury. Provides that failure to object before a six-member jury is seated and sworn constitutes a waiver of a 12-member jury. Deletes text referring to appointing personnel.

(m) Authorizes jurors regularly impaneled for a week by the district courts, on request of a county court at law judge, to be made available and shall serve for the week in the county court at law. Deletes exemptions from law for a county court at law in Parker County.

(n) Authorizes a county court at law of Parker County to summon jurors for service in the court in the manner provided by law for county courts. Authorizes juries summoned for the County Court of Parker County or a county court at law of Parker County, by order of the judge of the court in which they are summoned, to be transferred to the other court for service.

(o) Requires the judge of a county court at law to be paid an annual salary that is at least equal to the amount that is \$1,000 less than the total annual salary, including supplements, received by a district judge in the county.

(p) Provides that a vacancy in the office of judge of a county court at law is filled by appointment by the commissioners court.

(q) Authorizes the judges of the county courts at law to divide each term of court into as many sessions as they consider necessary for the disposition of business and to extend a particular term of court if practicable for the efficient and

justiciable disposition of individual proceedings and matters.

(r) Requires the official court reporter of a county court at law to be well skilled in the court reporter's profession. Provides that the official court reporter of a county court at law is a sworn officer of the court who holds office at the pleasure of the court. Entitles the official court reporter of a county court at law to receive at least the same amount as compensation as the official court reporters in the district courts in the county. Requires the compensation to be paid in the same manner that the district court reporters are paid.

(s) Provides that if any cause or proceeding is lodged with the district clerk and the district clerk files, docket, or assigns the cause or proceeding in or to a county court at law and the county court at law does not have subject matter jurisdiction over the cause or proceeding, then the filing, docketing, or assignment of the cause or proceeding in or to a county court at law is considered a clerical error and requires that clerical error to be corrected by a judgment or order nunc pro tunc. Provides that the cause or proceeding is considered filed, docketed, or assigned to the district court of the local administrative judge in the first instance rather than to a county court at law. Provides that the judge of a county court at law who acts in the cause or proceeding is considered assigned to the district court of the local administrative judge for that purpose and has all the powers of the judge of that district court under the assignment.

(t) Provides that a county court at law judge has jurisdiction to grant an order permitting a marriage ceremony to take place during a 72-hour period immediately following the issuance of a marriage license in Parker County.

(u) Provides that the judges of the county courts at law have the same judicial immunity as a district judge.

(v) Authorizes, in matters of concurrent jurisdiction, a judge of a county court at law and a judge of a district court or another county court at law to transfer cases between the courts in the same manner judges of district courts transfer cases.

(w) Authorizes a judge of a county court at law and a judge of a district court to exchange benches and to sit and act for each other in any matter pending before the court.

(x) Authorizes the judges of the county courts at law to from time to time to transfer criminal misdemeanor cases to other county courts at law to equalize the criminal misdemeanor dockets of the county courts at law for the efficient operation of the court system and the effective administration of justice.

(c) Amends Section 25.1863(b), Government Code, to make a conforming change.

(d) Effective date of this section: September 1, 2003.

SECTION 7. Effective date: September 1, 2003, except as otherwise provided by this Act.