

By: Casteel

H.B. No. 935

A BILL TO BE ENTITLED

AN ACT

relating to the creation of magistrates in Comal County.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 54, Government Code, is amended by adding Subchapter W to read as follows:

SUBCHAPTER W. MAGISTRATES IN COMAL COUNTY

Sec. 54.1151. AUTHORIZATION; APPOINTMENT; ELIMINATION.

(a) The Commissioners Court of Comal County may authorize the judges of the district and statutory county courts in Comal County to appoint one or more part-time or full-time magistrates to perform the duties authorized by this subchapter.

(b) The judges of the district and statutory county courts in Comal County by a unanimous vote may appoint magistrates as authorized by the Commissioners Court of Comal County.

(c) An order appointing a magistrate must be signed by the local presiding judge of the district courts serving Comal County, and the order must state:

(1) the magistrate's name; and

(2) the date the magistrate's employment is to begin.

(d) An authorized magistrate's position may be eliminated on a majority vote of the Commissioners Court of Comal County.

Sec. 54.1152. QUALIFICATIONS; OATH OF OFFICE. (a) To be eligible for appointment as a magistrate, a person must:

(1) be a citizen of the United States;

1 (2) have resided in Comal County for at least the two
2 years preceding the person's appointment; and

3 (3) be at least 30 years of age.

4 (b) A magistrate appointed under Section 54.1151 must take
5 the constitutional oath of office required of appointed officers of
6 this state.

7 Sec. 54.1153. COMPENSATION. (a) A magistrate is entitled
8 to the salary determined by the Commissioners Court of Comal
9 County.

10 (b) A full-time magistrate's salary may not be less than
11 that of a justice of the peace of Comal County as established by the
12 annual budget of Comal County.

13 (c) A part-time magistrate's salary is equal to the per-hour
14 salary of a justice of the peace. The per-hour salary is determined
15 by dividing the annual salary by a 2000 work-hour year. The local
16 administrative judge of the district courts serving Comal County
17 shall approve the number of hours to be paid a part-time magistrate.

18 (d) The magistrate's salary is paid from the county fund
19 available for payment of officers' salaries.

20 Sec. 54.1154. JUDICIAL IMMUNITY. A magistrate has the same
21 judicial immunity as a district judge.

22 Sec. 54.1155. TERMINATION OF EMPLOYMENT. (a) A magistrate
23 may be terminated by a majority vote of all the judges of the
24 district and statutory county courts of Comal County.

25 (b) To terminate a magistrate's employment, the local
26 administrative judge of the district courts serving Comal County
27 must sign a written order of termination. The order must state:

1 (1) the magistrate's name; and

2 (2) the final date of the magistrate's employment.

3 Sec. 54.1156. JURISDICTION; RESPONSIBILITY; POWERS. (a)
4 The judges of the district or statutory county courts shall
5 establish standing orders to be followed by a magistrate or parties
6 appearing before a magistrate, as applicable.

7 (b) To the extent authorized by this subchapter and the
8 standing orders, a magistrate has jurisdiction to exercise the
9 authority granted by the judges of the district or statutory county
10 courts.

11 (c) A magistrate has all of the powers of a magistrate under
12 the laws of this state and may administer an oath for any purpose.

13 (d) A magistrate shall give preference to performing the
14 duties of a magistrate under Article 15.17, Code of Criminal
15 Procedure.

16 (e) A magistrate is authorized to:

17 (1) set, adjust, and revoke bonds before the filing of
18 an information or the return of an indictment;

19 (2) conduct examining trials;

20 (3) determine whether a defendant is indigent and
21 appoint counsel for an indigent defendant;

22 (4) issue search and arrest warrants;

23 (5) issue emergency protective orders;

24 (6) order emergency mental commitments; and

25 (7) conduct initial juvenile detention hearings if
26 approved by the Juvenile Board of Comal County.

27 (f) With the express authorization of a justice of the

1 peace, a magistrate may exercise concurrent criminal jurisdiction
2 with the justice of the peace to dispose as provided by law of cases
3 filed in the precinct of the authorizing justice of the peace,
4 except for a trial on the merits following a plea of not guilty.

5 (g) A magistrate may:

6 (1) issue notices of the setting of a case for a
7 hearing;

8 (2) conduct hearings;

9 (3) compel production of evidence;

10 (4) hear evidence;

11 (5) issue summons for the appearance of witnesses;

12 (6) swear witnesses for hearings;

13 (7) regulate proceedings in a hearing; and

14 (8) perform any act and take any measure necessary and
15 proper for the efficient performance of the duties required by the
16 magistrate's jurisdiction and authority.

17 Sec. 54.1157. PERSONNEL, EQUIPMENT, AND OFFICE SPACE. The
18 Commissioners Court of Comal County shall provide:

19 (1) personnel for the legal or clerical functions
20 necessary to perform the magistrate's duties authorized by this
21 chapter; and

22 (2) provide sufficient equipment and office space for
23 the magistrate and personnel to perform the magistrate's essential
24 functions.

25 SECTION 2. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2003.