

By: Casteel (Senate Sponsor - Wentworth) H.B. No. 935
(In the Senate - Received from the House April 7, 2003;
April 9, 2003, read first time and referred to Committee on
Jurisprudence; April 24, 2003, reported favorably by the following
vote: Yeas 6, Nays 0; April 24, 2003, sent to printer.)

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;

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

(3) be at least 30 years of age.

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

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

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

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

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

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

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

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

(1) the magistrate's name; and

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

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

(b) To the extent authorized by this subchapter and the

standing orders, a magistrate has jurisdiction to exercise the authority granted by the judges of the district or statutory county courts.

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

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

(e) A magistrate is authorized to:

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

(2) conduct examining trials;

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

(4) issue search and arrest warrants;

(5) issue emergency protective orders;

(6) order emergency mental commitments; and

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

(f) With the express authorization of a justice of the peace, a magistrate may exercise concurrent criminal jurisdiction with the justice of the peace to dispose as provided by law of cases filed in the precinct of the authorizing justice of the peace, except for a trial on the merits following a plea of not guilty.

(g) A magistrate may:

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

(2) conduct hearings;

(3) compel production of evidence;

(4) hear evidence;

(5) issue summons for the appearance of witnesses;

(6) swear witnesses for hearings;

(7) regulate proceedings in a hearing; and

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

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

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

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

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

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