

1-1 By: Wentworth S.B. No. 629
1-2 (In the Senate - Filed February 21, 2003; February 27, 2003,
1-3 read first time and referred to Committee on Jurisprudence;
1-4 March 24, 2003, reported favorably by the following vote: Yeas 6,
1-5 Nays 0; March 24, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the creation of magistrates in Comal County.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Chapter 54, Government Code, is amended by
1-11 adding Subchapter W to read as follows:

1-12 SUBCHAPTER W. MAGISTRATES IN COMAL COUNTY

1-13 Sec. 54.1151. AUTHORIZATION; APPOINTMENT; ELIMINATION.

1-14 (a) The Commissioners Court of Comal County may authorize the
1-15 judges of the district and statutory county courts in Comal County
1-16 to appoint one or more part-time or full-time magistrates to
1-17 perform the duties authorized by this subchapter.

1-18 (b) The judges of the district and statutory county courts
1-19 in Comal County by a unanimous vote may appoint magistrates as
1-20 authorized by the Commissioners Court of Comal County.

1-21 (c) An order appointing a magistrate must be signed by the
1-22 local presiding judge of the district courts serving Comal County,
1-23 and the order must state:

1-24 (1) the magistrate's name; and

1-25 (2) the date the magistrate's employment is to begin.

1-26 (d) An authorized magistrate's position may be eliminated
1-27 on a majority vote of the Commissioners Court of Comal County.

1-28 Sec. 54.1152. QUALIFICATIONS; OATH OF OFFICE. (a) To be
1-29 eligible for appointment as a magistrate, a person must:

1-30 (1) be a citizen of the United States;

1-31 (2) have resided in Comal County for at least the two
1-32 years preceding the person's appointment; and

1-33 (3) be at least 30 years of age.

1-34 (b) A magistrate appointed under Section 54.1151 must take
1-35 the constitutional oath of office required of appointed officers of
1-36 this state.

1-37 Sec. 54.1153. COMPENSATION. (a) A magistrate is entitled
1-38 to the salary determined by the Commissioners Court of Comal
1-39 County.

1-40 (b) A full-time magistrate's salary may not be less than
1-41 that of a justice of the peace of Comal County as established by the
1-42 annual budget of Comal County.

1-43 (c) A part-time magistrate's salary is equal to the per-hour
1-44 salary of a justice of the peace. The per-hour salary is determined
1-45 by dividing the annual salary by a 2000 work-hour year. The local
1-46 administrative judge of the district courts serving Comal County
1-47 shall approve the number of hours to be paid a part-time magistrate.

1-48 (d) The magistrate's salary is paid from the county fund
1-49 available for payment of officers' salaries.

1-50 Sec. 54.1154. JUDICIAL IMMUNITY. A magistrate has the same
1-51 judicial immunity as a district judge.

1-52 Sec. 54.1155. TERMINATION OF EMPLOYMENT. (a) A magistrate
1-53 may be terminated by a majority vote of all the judges of the
1-54 district and statutory county courts of Comal County.

1-55 (b) To terminate a magistrate's employment, the local
1-56 administrative judge of the district courts serving Comal County
1-57 must sign a written order of termination. The order must state:

1-58 (1) the magistrate's name; and

1-59 (2) the final date of the magistrate's employment.

1-60 Sec. 54.1156. JURISDICTION; RESPONSIBILITY; POWERS.

1-61 (a) The judges of the district or statutory county courts shall
1-62 establish standing orders to be followed by a magistrate or parties
1-63 appearing before a magistrate, as applicable.

1-64 (b) To the extent authorized by this subchapter and the

2-1 standing orders, a magistrate has jurisdiction to exercise the
2-2 authority granted by the judges of the district or statutory county
2-3 courts.

2-4 (c) A magistrate has all of the powers of a magistrate under
2-5 the laws of this state and may administer an oath for any purpose.

2-6 (d) A magistrate shall give preference to performing the
2-7 duties of a magistrate under Article 15.17, Code of Criminal
2-8 Procedure.

2-9 (e) A magistrate is authorized to:

2-10 (1) set, adjust, and revoke bonds before the filing of
2-11 an information or the return of an indictment;

2-12 (2) conduct examining trials;

2-13 (3) determine whether a defendant is indigent and
2-14 appoint counsel for an indigent defendant;

2-15 (4) issue search and arrest warrants;

2-16 (5) issue emergency protective orders;

2-17 (6) order emergency mental commitments; and

2-18 (7) conduct initial juvenile detention hearings if
2-19 approved by the Juvenile Board of Comal County.

2-20 (f) With the express authorization of a justice of the
2-21 peace, a magistrate may exercise concurrent criminal jurisdiction
2-22 with the justice of the peace to dispose as provided by law of cases
2-23 filed in the precinct of the authorizing justice of the peace,
2-24 except for a trial on the merits following a plea of not guilty.

2-25 (g) A magistrate may:

2-26 (1) issue notices of the setting of a case for a
2-27 hearing;

2-28 (2) conduct hearings;

2-29 (3) compel production of evidence;

2-30 (4) hear evidence;

2-31 (5) issue summons for the appearance of witnesses;

2-32 (6) swear witnesses for hearings;

2-33 (7) regulate proceedings in a hearing; and

2-34 (8) perform any act and take any measure necessary and
2-35 proper for the efficient performance of the duties required by the
2-36 magistrate's jurisdiction and authority.

2-37 Sec. 54.1157. PERSONNEL, EQUIPMENT, AND OFFICE SPACE. The
2-38 Commissioners Court of Comal County shall provide:

2-39 (1) personnel for the legal or clerical functions
2-40 necessary to perform the magistrate's duties authorized by this
2-41 chapter; and

2-42 (2) provide sufficient equipment and office space for
2-43 the magistrate and personnel to perform the magistrate's essential
2-44 functions.

2-45 SECTION 2. This Act takes effect immediately if it receives
2-46 a vote of two-thirds of all the members elected to each house, as
2-47 provided by Section 39, Article III, Texas Constitution. If this
2-48 Act does not receive the vote necessary for immediate effect, this
2-49 Act takes effect September 1, 2003.

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