

By: Allen of Dallas, Jackson

H.B. No. 2120

Substitute the following for H.B. No. 2120:

By: Casteel

C.S.H.B. No. 2120

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the efficient administration and certain powers of
3 county government.

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

5 SECTION 1. Section 81.028, Local Government Code, is
6 amended by adding Subsection (b-1) to read as follows:

7 (b-1) A county judge may file a standing order of emergency
8 delegation of authority that clearly indicates the types of orders
9 or official documents that the officer or employee may sign on
10 behalf of the county judge in the event of an emergency or disaster.

11 SECTION 2. Subchapter B, Chapter 81, Local Government Code,
12 is amended by adding Section 81.029 to read as follows:

13 Sec. 81.029. POWER OF CERTAIN COUNTIES RELATING TO DISASTER
14 OR EMERGENCY. The commissioners court of a county with a population
15 of more than one million may:

16 (1) make suitable provision for flood control and for
17 evacuation routes in the event of disaster or impending disaster;
18 and

19 (2) if requested by another county, authorize the use
20 of county equipment and services to aid the other county in the
21 event of an emergency.

22 SECTION 3. Section 85.001(a), Local Government Code, is
23 amended to read as follows:

24 (a) A person elected as sheriff, before beginning to perform

1 the duties of office, must execute a bond with:

2 (1) two or more good and sufficient sureties; or

3 (2) a solvent surety company authorized to do business
4 in this state.

5 SECTION 4. Section 86.002(a), Local Government Code, is
6 amended to read as follows:

7 (a) Before entering on the duties of office, a person who is
8 elected to the office of constable must execute a bond with two or
9 more good and sufficient sureties or with a solvent surety company
10 authorized to do business in this state. The bond must be payable
11 to the governor and the governor's successors in office and
12 conditioned that the constable will faithfully perform the duties
13 imposed by law. The bond must be approved by the commissioners
14 court of the county. The commissioners court shall set the bond in
15 an amount of not less than \$500 or more than \$1,500.

16 SECTION 5. The heading to Section 89.001, Local Government
17 Code, is amended to read as follows:

18 Sec. 89.001. SPECIAL COUNSEL IN POPULOUS COUNTIES [~~WITH~~
19 ~~POPULATION OF MORE THAN ONE MILLION~~].

20 SECTION 6. Section 89.001(a), Local Government Code, is
21 amended to read as follows:

22 (a) The commissioners court of a county with a population of
23 more than 1.25 [~~one~~] million may employ an attorney as special
24 counsel.

25 SECTION 7. Section 89.0041(b), Local Government Code, is
26 amended to read as follows:

27 (b) The written notice must be delivered by certified or

1 registered mail by the 30th business day after suit is filed and
2 contain:

- 3 (1) the style and cause number of the suit;
- 4 (2) the court in which the suit was filed; ~~and~~
- 5 (3) the date on which the suit was filed; and
- 6 (4) the name of the person filing suit.

7 SECTION 8. Section 403.1042(b), Government Code, is amended
8 to read as follows:

9 (b) The advisory committee is composed of 11 members
10 appointed as follows:

11 (1) one member appointed by the comptroller to
12 represent a public hospital or hospital district located in a
13 county with a population of 50,000 or less or a public hospital
14 owned or maintained by a municipality;

15 (2) one member appointed by the political subdivision
16 that, in the year preceding the appointment, received the largest
17 annual distribution paid from the account;

18 (3) one member appointed by the political subdivision
19 that, in the year preceding the appointment, received the second
20 largest annual distribution paid from the account;

21 (4) four members appointed by the Texas Conference of
22 Urban Counties from nominations received from political
23 subdivisions that, ~~+~~

24 ~~(A)~~ in the year preceding the appointment,
25 received the 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, or 12th
26 largest annual distribution paid from the account ~~, and~~

27 ~~(B) do not have an appointee serving on the~~

1 ~~advisory committee at the time of appointment];~~

2 (5) one member appointed by the County Judges and
3 Commissioners Association of Texas;

4 (6) one member appointed by the North and East Texas
5 County Judges and Commissioners Association;

6 (7) one member appointed by the South Texas County
7 Judges and Commissioners Association; and

8 (8) one member appointed by the West Texas County
9 Judges and Commissioners Association.

10 SECTION 9. Section 511.009(c), Government Code, is amended
11 to read as follows:

12 (c) At any time and on the application of the county
13 commissioners court or sheriff, the commission may grant reasonable
14 variances, including variances that are to last for the life of a
15 facility, clearly justified by the facts, for operation of a
16 facility not in strict compliance with state law. A variance may
17 not permit unhealthy, unsanitary, or unsafe conditions.

18 SECTION 10. Section 501.138, Transportation Code, is
19 amended by amending Subsection (b) and adding Subsection (b-1) to
20 read as follows:

21 (b) The county assessor-collector shall send:

22 (1) \$5 of the fee to the county treasurer for deposit
23 in the officers' salary fund;

24 (2) \$8 of the fee to the department:

25 (A) together with the application within the time
26 prescribed by Section 501.023; or

27 (B) if the fee is deposited in an

1 interest-bearing account or certificate in the county depository or
2 invested in an investment authorized by Subchapter A, Chapter 2256,
3 Government Code, not later than the 35th day after the date on which
4 the fee is received; and

5 (3) the following amount to the comptroller at the
6 time and in the manner prescribed by the comptroller:

7 (A) \$20 of the fee if the applicant's residence
8 is a county located within a nonattainment area as defined under
9 Section 107(d) of the federal Clean Air Act (42 U.S.C. Section
10 7407), as amended, or is an affected county, as defined by Section
11 386.001, Health and Safety Code;

12 (B) \$15 of the fee if the applicant's residence
13 is any other county; or

14 (C) on or after September 1, 2008, \$15 regardless
15 of the county in which the applicant resides.

16 (b-1) Fees collected under Subsection (b) [~~this subsection~~]
17 to be sent to the comptroller shall be deposited as follows:

18 (1) [~~(i)~~] before September 1, 2008, to the credit of
19 the Texas emissions reduction plan fund; and

20 (2) [~~(ii)~~] after September 1, 2008, to the credit of
21 the Texas Mobility Fund.

22 SECTION 11. Article 14.06(a), Code of Criminal Procedure,
23 is amended to read as follows:

24 (a) Except as provided by Subsection (b), in each case
25 enumerated in this Code, the person making the arrest or the person
26 having custody of the person arrested shall take the person
27 arrested or have him taken without unnecessary delay, but not later

1 than 48 hours after the person is arrested, before the magistrate
2 who may have ordered the arrest, before some magistrate of the
3 county where the arrest was made without an order, or, [~~if~~
4 ~~necessary~~] to provide more expeditiously to the person arrested the
5 warnings described by Article 15.17 of this Code, before a
6 magistrate in any other [a] county of this state [~~bordering the~~
7 ~~county in which the arrest was made~~]. The magistrate shall
8 immediately perform the duties described in Article 15.17 of this
9 Code.

10 SECTION 12. Article 15.16, Code of Criminal Procedure, is
11 amended to read as follows:

12 Art. 15.16. HOW WARRANT IS EXECUTED. (a) The officer or
13 person executing a warrant of arrest shall without unnecessary
14 delay take the person or have him taken before the magistrate who
15 issued the warrant or before the magistrate named in the warrant, if
16 the magistrate is in the same county where the person is arrested.
17 If the issuing or named magistrate is in another county, the person
18 arrested shall without unnecessary delay be taken before some
19 magistrate in the county in which he was arrested.

20 (b) Notwithstanding Subsection (a), to provide more
21 expeditiously to the person arrested the warnings described by
22 Article 15.17, the officer or person executing the arrest warrant
23 may as permitted by that article take the person arrested before a
24 magistrate in a county other than the county of arrest.

25 SECTION 13. Article 15.17(a), Code of Criminal Procedure,
26 is amended to read as follows:

27 (a) In each case enumerated in this Code, the person making

1 the arrest or the person having custody of the person arrested shall
2 without unnecessary delay, but not later than 48 hours after the
3 person is arrested, take the person arrested or have him taken
4 before some magistrate of the county where the accused was arrested
5 or, ~~[if necessary]~~ to provide more expeditiously to the person
6 arrested the warnings described by this article, before a
7 magistrate in any other ~~[a]~~ county of this state ~~[bordering the~~
8 ~~county in which the arrest was made]~~. The arrested person may be
9 taken before the magistrate in person or the image of the arrested
10 person may be presented ~~[broadcast by closed circuit television]~~ to
11 the magistrate by means of an electronic broadcast system. The
12 magistrate shall inform in clear language the person arrested,
13 either in person or through the electronic broadcast system ~~[by~~
14 ~~closed circuit television]~~, of the accusation against him and of
15 any affidavit filed therewith, of his right to retain counsel, of
16 his right to remain silent, of his right to have an attorney present
17 during any interview with peace officers or attorneys representing
18 the state, of his right to terminate the interview at any time, and
19 of his right to have an examining trial. The magistrate shall also
20 inform the person arrested of the person's right to request the
21 appointment of counsel if the person cannot afford counsel. The
22 magistrate shall inform the person arrested of the procedures for
23 requesting appointment of counsel. If the person does not speak and
24 understand the English language or is deaf, the magistrate shall
25 inform the person in a manner consistent with Articles 38.30 and
26 38.31, as appropriate. The magistrate shall ensure that reasonable
27 assistance in completing the necessary forms for requesting

1 appointment of counsel is provided to the person at the same time.
2 If the person arrested is indigent and requests appointment of
3 counsel and if the magistrate is authorized under Article 26.04 to
4 appoint counsel for indigent defendants in the county, the
5 magistrate shall appoint counsel in accordance with Article 1.051.
6 If the magistrate is not authorized to appoint counsel, the
7 magistrate shall without unnecessary delay, but not later than 24
8 hours after the person arrested requests appointment of counsel,
9 transmit, or cause to be transmitted to the court or to the courts'
10 designee authorized under Article 26.04 to appoint counsel in the
11 county, the forms requesting the appointment of counsel. The
12 magistrate shall also inform the person arrested that he is not
13 required to make a statement and that any statement made by him may
14 be used against him. The magistrate shall allow the person arrested
15 reasonable time and opportunity to consult counsel and shall, after
16 determining whether the person is currently on bail for a separate
17 criminal offense, admit the person arrested to bail if allowed by
18 law. ~~[A closed circuit television system may not be used under this~~
19 ~~subsection unless the system provides for a two-way communication~~
20 ~~of image and sound between the arrested person and the magistrate.]~~
21 A recording of the communication between the arrested person and
22 the magistrate shall be made. The recording shall be preserved
23 until the earlier of the following dates: (1) the date on which the
24 pretrial hearing ends; or (2) the 91st day after the date on which
25 the recording is made if the person is charged with a misdemeanor or
26 the 120th day after the date on which the recording is made if the
27 person is charged with a felony. The counsel for the defendant may

1 obtain a copy of the recording on payment of a reasonable amount to
2 cover costs of reproduction. For purposes of this subsection,
3 "electronic broadcast system" means a two-way electronic
4 communication of image and sound between the arrested person and
5 the magistrate and includes secure Internet videoconferencing.

6 SECTION 14. Article 15.18, Code of Criminal Procedure, is
7 amended to read as follows:

8 Art. 15.18. ARREST FOR OUT-OF-COUNTY OFFENSE. (a) A person
9 arrested under a warrant issued in a county other than the one in
10 which the person is arrested shall be taken before a magistrate of
11 the county where the arrest takes place or, to provide more
12 expeditiously to the arrested person the warnings described by
13 Article 15.17, before a magistrate in any other county of this
14 state, including the county where the warrant was issued. The
15 magistrate [~~who~~] shall:

16 (1) take bail, if allowed by law, and, if without
17 jurisdiction, immediately transmit the bond taken to the court
18 having jurisdiction of the offense; or

19 (2) in the case of a person arrested under warrant for
20 an offense punishable by fine only, accept a written plea of guilty
21 or nolo contendere, set a fine, determine costs, accept payment of
22 the fine and costs, give credit for time served, determine
23 indigency, or, on satisfaction of the judgment, discharge the
24 defendant, as the case may indicate.

25 (b) Before the 11th business day after the date a magistrate
26 accepts a written plea of guilty or nolo contendere in a case under
27 Subsection (a)(2), the magistrate shall, if without jurisdiction,

1 transmit to the court having jurisdiction of the offense:

- 2 (1) the written plea;
- 3 (2) any orders entered in the case; and
- 4 (3) any fine or costs collected in the case.

5 (c) The arrested person may be taken before a magistrate by
6 means of an electronic broadcast system as provided by and subject
7 to the requirements of Article 15.17.

8 SECTION 15. Article 15.19(b), Code of Criminal Procedure,
9 is amended to read as follows:

10 (b) If a person is arrested and taken before a magistrate in
11 a county other than ~~[bordering]~~ the county in which the arrest is
12 made ~~[under the provisions of Article 15.17(a) of this code]~~ and if
13 the person is remanded to custody, the person may be confined in a
14 jail in the county in which the magistrate serves for a period of
15 not more than 72 hours after the arrest before being transferred to
16 the county jail of the county in which the arrest occurred.

17 SECTION 16. The changes in law made by this Act to the Code
18 of Criminal Procedure apply only to an offense committed on or after
19 the effective date of this Act. An offense committed before the
20 effective date of this Act is covered by the law in effect when the
21 offense was committed, and the former law is continued in effect for
22 that purpose. For the purposes of this section, an offense is
23 committed before the effective date of this Act if any element of
24 the offense occurs before that date.

25 SECTION 17. This Act takes effect September 1, 2005.