

By: Lindsay

S.B. No. 1049

A BILL TO BE ENTITLED

AN ACT

relating to the efficient administration of county government.

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

SECTION 1. Section 85.001(a), Local Government Code, is amended to read as follows:

(a) A person elected as sheriff, before beginning to perform the duties of office, must execute a bond with:

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

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

SECTION 2. Section 86.002(a), Local Government Code, is amended to read as follows:

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

SECTION 3. Section 403.1042(b), Government Code, is amended to read as follows:

(b) The advisory committee is composed of 11 members

1 appointed as follows:

2 (1) one member appointed by the comptroller to  
3 represent a public hospital or hospital district located in a  
4 county with a population of 50,000 or less or a public hospital  
5 owned or maintained by a municipality;

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

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

12 (4) four members appointed by the Texas Conference of  
13 Urban Counties from nominations received from political  
14 subdivisions that, ~~and~~

15 ~~[(A)]~~ in the year preceding the appointment,  
16 received the 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, or 12th  
17 largest annual distribution paid from the account ~~[, and~~

18 ~~[(B) do not have an appointee serving on the~~  
19 ~~advisory committee at the time of appointment];~~

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

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

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

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

SECTION 4. Section 511.009(c), Government Code, is amended to read as follows:

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

SECTION 5. Section 501.138, Transportation Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) The county assessor-collector shall send:

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

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

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

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

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

(A) \$20 of the fee if the applicant's residence is a county located within a nonattainment area as defined under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section

7407)), as amended, or is an affected county, as defined by Section 386.001, Health and Safety Code;

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

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

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

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

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

SECTION 6. Article 14.06(a), Code of Criminal Procedure, is amended to read as follows:

(a) Except as provided by Subsection (b), in each case enumerated in this Code, the person making the arrest or the person having custody of the person arrested shall take the person arrested or have him taken without unnecessary delay, but not later than 48 hours after the person is arrested, before the magistrate who may have ordered the arrest, before some magistrate of the county where the arrest was made without an order, or, [~~if necessary~~] to provide more expeditiously to the person arrested the warnings described by Article 15.17 of this Code, before a magistrate in any other [a] county of this state [~~bordering the county in which the arrest was made~~]. The magistrate shall immediately perform the duties described in Article 15.17 of this Code.

SECTION 7. Article 15.16, Code of Criminal Procedure, is amended to read as follows:

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

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

SECTION 8. Article 15.17(a), Code of Criminal Procedure, is amended to read as follows:

(a) In each case enumerated in this Code, the person making the arrest or the person having custody of the person arrested shall without unnecessary delay, but not later than 48 hours after the person is arrested, take the person arrested or have him taken before some magistrate of the county where the accused was arrested or, ~~[if necessary]~~ to provide more expeditiously to the person arrested the warnings described by this article, before a magistrate in any other [a] county of this state ~~[bordering the county in which the arrest was made]~~. The arrested person may be taken before the magistrate in person or the image of the arrested

1 person may be presented [~~broadcast by closed circuit television~~] to  
 2 the magistrate by means of an electronic broadcast system. The  
 3 magistrate shall inform in clear language the person arrested,  
 4 either in person or through the electronic broadcast system [~~by~~  
 5 ~~closed circuit television~~], of the accusation against him and of  
 6 any affidavit filed therewith, of his right to retain counsel, of  
 7 his right to remain silent, of his right to have an attorney present  
 8 during any interview with peace officers or attorneys representing  
 9 the state, of his right to terminate the interview at any time, and  
 10 of his right to have an examining trial. The magistrate shall also  
 11 inform the person arrested of the person's right to request the  
 12 appointment of counsel if the person cannot afford counsel. The  
 13 magistrate shall inform the person arrested of the procedures for  
 14 requesting appointment of counsel. If the person does not speak and  
 15 understand the English language or is deaf, the magistrate shall  
 16 inform the person in a manner consistent with Articles 38.30 and  
 17 38.31, as appropriate. The magistrate shall ensure that reasonable  
 18 assistance in completing the necessary forms for requesting  
 19 appointment of counsel is provided to the person at the same time.  
 20 If the person arrested is indigent and requests appointment of  
 21 counsel and if the magistrate is authorized under Article 26.04 to  
 22 appoint counsel for indigent defendants in the county, the  
 23 magistrate shall appoint counsel in accordance with Article 1.051.  
 24 If the magistrate is not authorized to appoint counsel, the  
 25 magistrate shall without unnecessary delay, but not later than 24  
 26 hours after the person arrested requests appointment of counsel,  
 27 transmit, or cause to be transmitted to the court or to the courts'

designee authorized under Article 26.04 to appoint counsel in the county, the forms requesting the appointment of counsel. The magistrate shall also inform the person arrested that he is not required to make a statement and that any statement made by him may be used against him. The magistrate shall allow the person arrested reasonable time and opportunity to consult counsel and shall, after determining whether the person is currently on bail for a separate criminal offense, admit the person arrested to bail if allowed by law.

~~[A closed circuit television system may not be used under this subsection unless the system provides for a two-way communication of image and sound between the arrested person and the magistrate.]~~

A recording of the communication between the arrested person and the magistrate shall be made. The recording shall be preserved until the earlier of the following dates: (1) the date on which the pretrial hearing ends; or (2) the 91st day after the date on which the recording is made if the person is charged with a misdemeanor or the 120th day after the date on which the recording is made if the person is charged with a felony. The counsel for the defendant may obtain a copy of the recording on payment of a reasonable amount to cover costs of reproduction. For purposes of this subsection, "electronic broadcast system" means a two-way electronic communication of image and sound between the arrested person and the magistrate and includes secure Internet videoconferencing.

SECTION 9. Article 15.18, Code of Criminal Procedure, is amended to read as follows:

Art. 15.18. ARREST FOR OUT-OF-COUNTY OFFENSE. (a) A person arrested under a warrant issued in a county other than the one in

1 which the person is arrested shall be taken before a magistrate of  
2 the county where the arrest takes place or, to provide more  
3 expeditiously to the arrested person the warnings described by  
4 Article 15.17, before a magistrate in any other county of this  
5 state, including the county where the warrant was issued. The  
6 magistrate ~~[who]~~ shall:

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

10 (2) in the case of a person arrested under warrant for  
11 an offense punishable by fine only, accept a written plea of guilty  
12 or nolo contendere, set a fine, determine costs, accept payment of  
13 the fine and costs, give credit for time served, determine  
14 indigency, or, on satisfaction of the judgment, discharge the  
15 defendant, as the case may indicate.

16 (b) Before the 11th business day after the date a magistrate  
17 accepts a written plea of guilty or nolo contendere in a case under  
18 Subsection (a)(2), the magistrate shall, if without jurisdiction,  
19 transmit to the court having jurisdiction of the offense:

20 (1) the written plea;

21 (2) any orders entered in the case; and

22 (3) any fine or costs collected in the case.

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

26 SECTION 10. Article 15.19(b), Code of Criminal Procedure,  
27 is amended to read as follows:



1           (b) If a person is arrested and taken before a magistrate in  
2 a county other than ~~[bordering]~~ the county in which the arrest is  
3 made ~~[under the provisions of Article 15.17(a) of this code]~~ and if  
4 the person is remanded to custody, the person may be confined in a  
5 jail in the county in which the magistrate serves for a period of  
6 not more than 72 hours after the arrest before being transferred to  
7 the county jail of the county in which the arrest occurred.

8           SECTION 11. The changes in law made by this Act to the Code  
9 of Criminal Procedure apply only to an offense committed on or after  
10 the effective date of this Act. An offense committed before the  
11 effective date of this Act is covered by the law in effect when the  
12 offense was committed, and the former law is continued in effect for  
13 that purpose. For the purposes of this section, an offense is  
14 committed before the effective date of this Act if any element of  
15 the offense occurs before that date.

16           SECTION 12. This Act takes effect September 1, 2005.