

BILL ANALYSIS

Senate Research Center

S.B. 1951
By: Wentworth, Williams
Jurisprudence
8/28/2007
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the courts of certain counties are experiencing an increase in cases. The establishment of new judicial districts and district attorneys in these counties may help alleviate the burden created by the backlogs in those courts.

S.B. 1951 creates new judicial districts and offices of district attorneys in certain counties and provides for the election and duties of certain district attorneys.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. (a) Amends Subchapter C, Chapter 24, Government Code, effective September 15, 2008, by adding Section 24.542, as follows:

Sec. 24.542. 397TH JUDICIAL DISTRICT (GRAYSON COUNTY). Provides that the 397th Judicial District is composed of Grayson County.

(b) Creates the 397th Judicial District on September 15, 2008.

(c) Amends the heading to Section 24.106, Government Code, effective January 1, 2010, to read as follows:

Sec. 24.106. 6TH JUDICIAL DISTRICT (LAMAR AND RED RIVER COUNTIES).

(d) Amends Section 24.106(a), Government Code, effective January 1, 2010, to delete Fannin County from the counties that make up the composition of the 6th Judicial District.

(e) Amends Section 24.482, Government Code, effective January 1, 2010, as follows:

Sec. 24.482. New heading: 336TH JUDICIAL DISTRICT (FANNIN COUNTY)
Deletes Grayson County from the counties that make up the composition of the 336th Judicial District.

(f) Requires the local administrative district judge for the 6th Judicial District to transfer all cases from Fannin County that are pending in the 6th District Court on January 1, 2010, to the 336th District Court; and authorizes the local administrative judge for the 6th Judicial District to transfer any case from Fannin County that is pending or filed in the 6th District Court on or after September 15, 2008, to the 336th District Court.

(g) Provides that when a case is transferred as provided by Subsection (f) of this section, all processes, writs, bonds, recognizances, or other obligations issued from the 6th District Court are returnable to the 336th District Court as if originally issued by that court. Requires the obligees on all bonds and recognizances taken in and for the 6th

District Court and all witnesses summoned to appear in the 6th District Court to appear before the 336th District Court as if originally required to appear before that court.

(h) Requires the local administrative district judge for the 336th Judicial District to transfer all cases from Grayson County that are pending in the 336th District Court on January 1, 2010, to the 397th District Court; and authorizes the local administrative judge for the 336th Judicial District to transfer any case from Grayson County that is pending or filed in the 336th District Court on or after September 15, 2008, to the 397th District Court.

(i) Provides that when a case is transferred as provided by Subsection (h) of this section, all processes, writs, bonds, recognizances, or other obligations issued from the 336th District Court are returnable to the 397th District Court as if originally issued by that court. Requires the obligees on all bonds and recognizances taken in and for the 336th District Court and all witnesses summoned to appear in the 336th District Court to appear before the 397th District Court as if originally required to appear before that court.

SECTION 2. (a) Amends Subchapter C, Chapter 24, Government Code, by adding Section 24.562, as follows:

Sec. 24.562. 418TH JUDICIAL DISTRICT (MONTGOMERY COUNTY). (a) Provides that the 418th Judicial District is composed of Montgomery County.

(b) Requires the 418th District Court to give preference to family law matters.

(b) Creates the 418th Judicial District on the effective date of this section.

SECTION 3. (a) Amends Subchapter C, Chapter 24, Government Code, effective October 1, 2007, by adding Section 24.567, as follows:

Sec. 24.567. 423RD JUDICIAL DISTRICT (BASTROP COUNTY). Provides that the 418th Judicial District is composed of Bastrop County.

(b) Creates the 423rd Judicial District on October 1, 2007.

(c) Amends Section 44.111(a), Government Code, to delete mention of a court and replace with courts.

SECTION 4. (a) Amends Subchapter C, Chapter 24, Government Code, effective January 1, 2009, by adding Section 24.573, as follows:

Sec. 24.573. 429TH JUDICIAL DISTRICT (COLLIN COUNTY). Provides that the 429th Judicial District is composed of Collin County.

(b) Creates the 429th Judicial District, effective January 1, 2009.

SECTION 5. (a) Amends Subchapter C, Chapter 24, Government Code, by adding Section 24.579, as follows:

Sec. 24.579. 435TH JUDICIAL DISTRICT (MONTGOMERY COUNTY). (a) Provides that the 435th Judicial District is composed of Montgomery County.

(b) Requires the 435th District Court to give preference to civil commitment proceedings under Chapter 841 (Civil Commitment of Sexually Violent Predators), Health and Safety Code, criminal cases involving offenses under Section 841.085 (Criminal Penalty), Health and Safety Code, and Article 62.203 (Failure to Comply; Subject to Commitment), Code of Criminal Procedure, and other matters that may be assigned by the administrative judge.

(c) Requires the state, notwithstanding any other law, to pay the salaries of and other expenses related to the court reporter appointed for the 435th District Court under Section 52.041 (Appointment of Official Court Reporters) and the court coordinator appointed for the court under Section 74.101 (Court Coordinators), Government Code. Requires the salaries of the court reporter and court coordinator to be set in amounts commensurate with the salaries paid by other district courts for those positions.

(b) Creates the 435th Judicial District on the effective date of this section.

SECTION 6. (a) Amends Subchapter C, Chapter 24, Government Code, by adding Section 24.589, as follows:

Sec. 24.589. 445TH JUDICIAL DISTRICT (CAMERON COUNTY). (a) Provides that the 445th Judicial District is composed of Cameron County.

(b) Requires the 445th District Court to give preference to criminal law cases.

(b) Creates the 445th Judicial District on the effective date of this section.

SECTION 7. (a) Amends Subchapter C, Chapter 24, Government Code, by adding Section 24.592, as follows:

Sec. 24.592. 448TH JUDICIAL DISTRICT (EL PASO COUNTY). Provides that the 448th Judicial District is composed of El Paso County.

(b) Creates the 448th Judicial District on the effective date of this section.

SECTION 8. (a) Amends Subchapter C, Chapter 24, Government Code, by adding Section 24.593, as follows:

Sec. 24.593. 449TH JUDICIAL DISTRICT (HIDALGO COUNTY). (a) Provides that the 449th Judicial District is composed of Hidalgo County.

(b) Requires the 449th District Court to give preference to juvenile matters.

(b) Creates the 449th Judicial District on the effective date of this section.

SECTION 9. (a) Amends Subchapter C, Chapter 24, Government Code, by adding Section 24.5995, as follows:

Sec. 24.5995. 506TH JUDICIAL DISTRICT (GRIMES AND WALLER COUNTIES). Provides that the 506th Judicial District is composed of Grimes and Waller counties.

(b) Amends Section 24.109, Government Code, as follows:

Sec. 24.109. New heading: 9TH JUDICIAL DISTRICT (MONTGOMERY COUNTY). (a) Deletes existing text relating to Waller County.

(b) Redesignated from Subsection (c). Deletes existing text providing that the 9th and 155th district courts have concurrent jurisdiction in Waller County. Deletes existing text relating to the terms of the 9th District Court in Waller County. Makes conforming changes.

(c) Requires the local administrative district judge to transfer all cases from Waller County that are pending in the 9th District Court to the 506th District Court on the date the 506th District Court is created.

(d) Provides that when a case is transferred as provided by Subsection (c) of this section, all processes, writs, bonds, recognizances, or other obligations issued from the 9th District Court are returnable to the 506th District Court as if originally issued by that court. Requires the obligees on all bonds and recognizances taken in and for the 9th District Court and all witnesses summoned to appear in the 9th District Court are required to appear before the 506th District Court as if originally required to appear before that court.

(e) Provides that the 506th Judicial District is created on the effective date of this section.

(f) Amends Section 24.455, Government Code, effective September 1, 2008, as follows:

Sec. 24.455. New heading: 278TH JUDICIAL DISTRICT (LEON, MADISON, AND WALKER COUNTIES). Provides that the 278th Judicial District is composed of Leon, Madison, and Walker counties. Deletes existing text providing that the 278th Judicial District includes Grimes County.

(g) Requires the local administrative district judge to transfer all cases from Grimes County that are pending in the 278th District Court on September 1, 2008, to the 506th District Court.

(h) Provides that when a case is transferred as provided by Subsection (g) of this section, all processes, writs, bonds, recognizances, or other obligations issued from the 278th District Court are returnable to the 506th District Court as if originally issued by that court. Provides that the obliges on all bonds and recognizances taken in and for the 278th District Court and all witnesses summoned to appear in the 278th District Court are required to appear before the 506th District Court as if originally required to appear before that court.

(i) Amends Section 43.1745(e), Government Code, to require the district attorney to be at least 30 years of age, to have been a practicing attorney in Texas for at least five years, and to have been a resident of Grimes County for at least the time required under Section 141.001, Election Code, rather than for at least three years immediately preceding election or appointment.

(j) Amends and redesignates Section 43.1745, Government Code, as Section 43.183, Government Code, effective September 1, 2008, as follows:

Sec. 43.183. New heading: 506TH JUDICIAL DISTRICT. (a) Provides that the voters of Grimes County elect a district attorney for the 506th, rather than the 278th, Judicial District who represents the state only in that county.

(b)-(d) Makes no changes to these subsections.

(e) Requires the district attorney to be at least 30 years of age, to have been a practicing attorney in Texas for at least five years, and to have been a resident of Grimes County for at least the time required under Section 141.001, Election Code, rather than for at least three years immediately preceding election or appointment.

(f) and (g) Makes no changes to these subsections.

(k) Provides that the person serving as district attorney for the 278th Judicial District on September 1, 2008, unless otherwise removed from office, continues to serve in that office as redesignated as the district attorney for the 506th Judicial District for the term to which elected or appointed.

(l) Repealer: Section 24.254(d) (providing that Section 24.109, relating to the 9th District Court, contains provisions applicable to both that court and the 155th District Court), Government Code.

SECTION 10. (a) Amends Subchapter D, Chapter 24, Government Code, by adding Section 24.640, as follows:

Sec. 24.640. 444TH JUDICIAL DISTRICT (CAMERON COUNTY). Provides that the 444th Judicial District is composed of Cameron County.

(b) Creates the 444th Judicial District on the effective date of this section.

SECTION 11. (a) Amends Subchapter E, Chapter 24, Government Code, by adding Section 24.908, as follows:

Sec. 24.908. EL PASO COUNTY CRIMINAL JUDICIAL DISTRICT NO. 1.

(a) Provides that the El Paso County Criminal Judicial District No. 1 is composed of El Paso County.

(b) Requires the El Paso County Criminal District Court No. 1 (court) to give primary preference to felony drug cases and associated civil cases emanating from those felony drug cases. Requires the criminal district to give secondary preference to other criminal cases and associated civil cases emanating from those criminal cases.

(c) Provides that the terms of the court begin on the third Mondays in April and September and the first Mondays in January, July, and November.

(d) Requires the court to have a seal similar to the seal of a district court with "El Paso County Criminal District Court No. 1" engraved on the seal.

(b) Creates the El Paso County Criminal Judicial District No. 1 on the effective date of this section.

SECTION 12. Amends Section 43.119, Government Code, as follows:

Sec. 43.119. 33RD JUDICIAL DISTRICT. Provides that the voters of Blanco, Burnet, Llano, and San Saba counties elect a district attorney for the 33rd and 424th Judicial Districts. Deletes existing text providing that the voters of the 33rd Judicial District elect a district attorney.

SECTION 13. (a) Amends Section 43.120, Government Code, by amending Subsections (d) and (f) and adding Subsections (d-1), (d-2), and (g), as follows:

(d) Requires the commissioners courts of Culberson and Hudspeth counties to each pay to El Paso County the budgeted prosecution costs, which may not exceed a total of \$90,000 for Culberson and Hudspeth counties per fiscal year, for the preparation and conduct of criminal affairs of the district attorney's office, including compensation for assistants and other employees of the district attorney, applicable to their respective county. Requires the district attorney's office each year to prepare a budget and financial statement (statement) for the upcoming fiscal year, and to file the statement with the commissioners courts of Hudspeth and Culberson counties. Deletes existing text requiring those counties to pay El Paso County \$100 a month to be expended on sworn claims of the district attorney approved by the Commissioners Court of El Paso County.

(d-1) Requires the statement to contain the budgeted prosecution costs for El Paso, Culberson, and Hudspeth counties, listed separately for each county, and any additional information considered appropriate by the district attorney or required by the commissioners courts of those counties.

(d-2) Requires Hudspeth and Culberson counties to remit one-fourth of the budgeted prosecution costs applicable to the respective county to El Paso County not later than the last day of each fiscal quarter.

(f) Provides that El Paso County is responsible for managing the funds expended by the district attorney for certain costs related to the preparation and conduct of criminal affairs. Requires Hudspeth and Culberson counties to remit one-fourth of the budgeted funds to El Paso County not later than the last day of each fiscal quarter. Requires the commissioners court of El Paso County to approve the number of assistants and other employees appointed by the district attorney and the amount of compensation for those employees. Deletes existing text providing that the commissioners court of El Paso County compensates those assistants and other employees.

(g) Provides that nothing in this section prevents El Paso County from entering into an interlocal agreement with Culberson or Hudspeth County in lieu of budgeting costs as provided by this section or Section 140.003, Local Government Code. Prohibits an interlocal agreement under this subsection from exceeding \$90,000 per fiscal year.

(b) Effective date of this section: October 1, 2007.

SECTION 14. Amends Section 43.148, Government Code, as follows:

Sec. 43.148. 105TH JUDICIAL DISTRICT. (a) Provides that the voters of Nueces County, rather than the 105th Judicial District, elect a district attorney for the 105th Judicial District. Deletes existing references the district courts of Kleberg and Kenedy counties in the 105th Judicial District.

(b) Makes conforming changes

(c) Deletes existing text requiring the supplemental salary paid to the district attorney to be paid in a certain manner by multiple counties. Makes conforming changes.

SECTION 15. Amends Subchapter B, Chapter 43, Government Code, by adding Section 43.182, as follows:

Sec. 43.182. DISTRICT ATTORNEY FOR KLEBERG AND KENEDY COUNTIES.

(a) Provides that the voters of Kleberg and Kenedy counties elect a district attorney. Provides that the district attorney has the same powers and duties as other district attorneys and serves the district courts of Kleberg and Kenedy counties.

(b) Requires the district attorney to attend each term and session of, and to represent the state in criminal cases pending in, the district courts of Kleberg and Kenedy counties. Provides that the district attorney has control of any case heard on petition of writ of habeas corpus before any district or inferior court in the district.

(c) Sets forth certain requirements and authorizations regarding the supplementation of the district attorney's state salary by the commissioners courts of the counties comprising the district.

SECTION 16. Amends Section 46.002, Government Code, to include the district attorneys for Kenedy and Kleberg counties as state prosecutors to which Chapter 46 (Professional Prosecutors), Government Code, applies.

SECTION 17. Amends Section 46.002, Government Code, effective September 1, 2008, to make a conforming change.

SECTION 18. Amends Section 46.002, Government Code, effective January 1, 2009, to make conforming changes.

SECTION 19. (a) Amends Subchapter H, Chapter 51, Government Code, by adding Section 51.707, as follows:

Sec. 51.707. ADDITIONAL FILING FEE FOR CIVIL CASES IN HAYS COUNTY. (a) Provides that this section applies only to certain courts in Hays County.

(b) Requires the clerk of a court to collect a filing fee of not more than \$15 in each civil case filed in the court to be used for the construction, renovation, or improvement of the facilities that house the Hays County civil courts, except as otherwise provided by this section and in addition to all other fees authorized or required by law.

(c) Requires court fees under this section to be collected in the same manner as other fees, fines, or costs are collected in the case.

(d) Requires the clerk to send the fees collected under this section to the county treasurer or to any other official serving in the capacity of county treasurer (other official) at least monthly. Requires the treasurer or other official to deposit the fees in a special account in the county treasury dedicated to the construction, renovation, or improvement of the facilities that house the courts collecting the fee.

(e) Provides that this section applies only to fees for a 12-month period beginning July 1 if the commissioners court adopts and files certain resolutions (fee resolution) related to such a fee.

(f) Provides that a fee resolution continues from year to year until July 1, 2022, allowing courts to collect fees under the terms of this section until the resolution is rescinded.

(g) Authorizes the commissioners court to rescind a fee resolution by adopting a rescission resolution and submitting such a resolution to the county treasurer or other official not later than June 1 preceding the beginning of the first day of the county fiscal year. Authorizes the commissioners court to adopt an additional resolution in the manner provided by Subsection (e) after adopting a rescission resolution.

(h) Provides that a fee established under a particular resolution is abolished on the date a resolution is rescinded as provided by Subsection (g) or July 1, 2022, whichever is earlier.

(i) Authorizes the county to make the required expenditure described by Subsection (e)(2) at any time, regardless of when the expenditure from the special account occurs.

(b) Amends Section 101.061, Government Code, to include the fee authorized under Section 51.707, Government Code, as a fee or cost that the clerk of a district court is required to collect.

(c) Amends Section 101.081, Government Code, to include the fee authorized under Section 51.707, Government Code, as a fee or cost that the clerk of a statutory county court is required to collect.

(d) Amends Section 101.101, Government Code, to include the fee authorized under Section 51.707, Government Code, as a fee or cost that the clerk of a statutory probate court is required to collect.

(e) Amends Section 101.141(a), Government Code, to include the fee authorized under Section 51.707, Government Code, as a fee or cost that the clerk of a justice county court is required to collect.

SECTION 20. (a) Amends Section 53.001, Government Code, by adding Subsection (j), to require the judge of the 115th District Court to appoint a bailiff to serve the court only in Upshur County.

(b) Amends Section 53.004, Government Code, by adding Subsection (g), require a bailiff appointed by the judge of the 115th District Court to serve the court in Upshur County, to be a resident of that county and to be at least 18 years of age.

(c) Amends Sections 53.007(a) and (b), Government Code, as follows:

(a) Provides that this section (Bailiff Deputized) applies to the 115th District Court in Upshur County.

(b) Requires the sheriff of each county in which the court sits, on the request of the judge of a court to which this section applies other than the 115th District Court, to deputize the bailiff or grand jury bailiff appointed under this subchapter of that court, in addition to other deputies authorized by law. Requires the sheriff of Upshur County, on the request of the judge of the 115th District Court, to deputize the bailiff appointed by that judge under Section 53.001(j), in addition to other deputies authorized by law.

SECTION 21. Amends Section 152.0721, Human Resources Code, by adding Subsection (f), as follows:

(f) Authorizes the Duval County Juvenile Board and the juvenile boards of one or more counties that are adjacent to or in close proximity to Duval County to agree to operate together with respect to all matters, or with respect to certain matters specified by the juvenile boards. Authorizes juvenile boards operating together to appoint one fiscal officer to receive and disburse funds for the boards.

SECTION 22. (a) Amends Subchapter D, Chapter 152, Human Resources Code, by adding Section 152.1301, as follows:

Sec. 152.1301. JIM HOGG COUNTY. (a) Provides that the Jim Hogg County Juvenile Board is composed of the county judge, the district judge in Jim Hogg County, and a citizen of the county appointed by the county judge and the district judge. Provides that the citizen member of the board serves the same term of office as the district judge in Jim Hogg County.

(b) Provides that the district judge is the chairman of the board and its chief administrative officer.

(c) Authorizes the commissioners court to pay the juvenile board members an annual salary set by the commissioners court at not less than \$1,200 or more than \$3,600 for the added duties imposed on the members. Requires the salary to be paid in equal monthly installments from the general fund of the county.

(d) Requires the Jim Hogg County Juvenile Board to appoint not more than five persons to serve on an advisory council.

(e) Authorizes the Jim Hogg County Juvenile Board and the juvenile boards of one or more counties that are adjacent to or in close proximity to Jim Hogg County to agree to operate together with respect to all matters, or with respect to certain matters specified by the juvenile boards. Authorizes juvenile boards operating together to appoint one fiscal officer to receive and disburse funds for the boards.

(f) Provides that Sections 152.0002 (Board Meetings), 152.0004 (General Expenses), 152.0005 (Expenses of Board Members and Juvenile Court), 152.0006 (Fiscal Officer), 152.0007 (Duties), and 152.0008 (Personnel) do not apply to the juvenile board.

(b) Creates the Jim Hogg County Juvenile Board on the effective date of this Act.

SECTION 23. Amends Section 152.2201, Human Resources Code, by amending Subsection (a) and adding Subsection (f), as follows:

(a) Provides that the Starr County Juvenile Board is composed of the county judge, the judge of the county court at law in Starr County, and the district judges in Starr County.

(f) Authorizes the Starr County Juvenile Board and the juvenile boards of one or more counties that are adjacent to or in close proximity to Starr County to agree to operate together with respect to all matters, or with respect to certain matters specified by the juvenile boards. Authorizes juvenile boards operating together to appoint one fiscal officer to receive and disburse funds for the boards.

SECTION 24. Repealer: Section 54.602 (Application), Government Code.

SECTION 25. Effective date, except as otherwise provided by this Act: September 1, 2007.