

BILL ANALYSIS

C.S.S.B. 1951
By: Wentworth
Judiciary
Committee Report (Substituted)

BACKGROUND AND PURPOSE

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 on those courts.

The bill 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

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Effective September 15, 2008, amends Chapter 24, Government Code, by adding Section 24.542 creating the 397th Judicial District composed of Grayson County. Effective January 1, 2010, changes Section 24.106, Government Code, to strike Fannin County from the heading and to strike Fannin County from the composition of the 6th Judicial District. Effective January 1, 2010, amends Section 24.482, Government Code, to strike Grayson county from the composition of the 336th Judicial District. This section of the bill also makes transition provisions for the 6th and 336th judicial districts.

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 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) Provides that effective January 1, 2009, the 429th Judicial District is created.

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, and 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.

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

Sec. 24.640. 449TH JUDICIAL DISTRICT (HIDALGO COUNTY). (a) Provides that the 449th Judicial District is composed of Hidalgo County.

(b) Requires the court to give preference to juvenile matters.

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

SECTION 8. (a) Adds Section 24.5995, Government Code, as follows:

Sec. 24.5995 506TH JUDICIAL DISTRICT. Provides that the 506th Judicial District is composed of Grimes and Waller counties.

(b) Amends Section 24.109, Government Code, strike Waller County from the composition of the 9th Judicial district and to make conforming changes, including striking a provision granting the 9th and 155th district courts concurrent jurisdiction in Waller County.

(c) makes transition provisions

(d) makes transition provisions

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

(f) Provides that, effective September 1, 2008, Section 24.455, Government Code, is amended to strike Grimes County from the composition of the 278th Judicial district.

(g) makes a transition provision

(h) makes transition provisions

(i) amends Section 43.1745(e), Government Code, to strike the existing 3 year residency requirement preceding election for the district attorney of Grimes County and to substitute the time required under Section 141.001, Election Code.

(j) Effective, September 1, 2008, amends Section 43.1745, Government Code, by re-designating it as Section 43.183, Government Code, and by striking 278th and replacing it with 506th, referring to judicial districts, and by changing the residency requirement for the district attorney of Grimes County from 3 years to the time required by Section 141.001, Election Code.

(k) makes a transition provision relating to continuation in office.

(l) repeals Section 24.254(d), Government Code.

SECTION 9. Adds Section 24.640, Government Code, as follows:

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

(b) Provides the judicial district is created on the effective date of this section.

SECTION 10. Adds Section 24.908, Government Code, to provide for the creation of the El Paso County Criminal Judicial District Court No. 1, composed of El Paso County, on the effective date of this section. The court is required to give primary preference to felony drug cases and associated civil cases. The court is to give secondary preference to other criminal cases and associated civil cases. The terms of the court begin on the third Mondays in April and September and the first Mondays in January and July. The statute also provides for a seal for the court.

SECTION 11. Amends Section 43.119, Government Code, to provide that the voters of Blanco, Burnet, Llano, and San Saba counties elect a district attorney for the 33rd and 424th judicial districts in lieu of the existing provision that the voters of the 33rd judicial district elect a district attorney.

SECTION 12. 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 13. 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 14. 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 15. Amends Section 46.002, Government Code, effective September 1, 2008, to make a conforming change.

SECTION 16. Amends Section 46.002, Government Code, effective January 1, 2009 to make a conforming change.

EFFECTIVE DATE

Except as otherwise provided by the act, the act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

In the substitute, provisions relating to the 418th Judicial District (Section 1 of the original bill) are moved to Section 2. Section 1 of the substitute is new text not found in the original bill as engrossed in the senate. Section 2 of the original bill (423rd Judicial District) is moved to Section 3 of the substitute. Additional changes to this section in the substitute are that Burluson and Lee counties are removed from the composition of the court, leaving Bastrop County only. The date of creation of the district is changed from the effective date of the section to October 1, 2007. A conforming amendment to Section 44.111(A), Government Code, is also added in Section 3 of the substitute. Section 3 of the original bill (429th Judicial District) is moved to Section 4 of the substitute. Section 4 of the original bill (435th Judicial District) is moved to Section 5 of the substitute. Additional changes in this section are that a provision is added requiring the court to give preference to other matters that may be assigned by the administrative judge in addition to the matters contained in the original bill. The original bill also contains a provision requiring the state to pay the salary of the court reporter for this court which is deleted in the substitute. Section 5 of the original bill (445th Judicial District) is moved to Section 6 of the substitute. Section 6 of the original bill (448th Judicial District) is entirely deleted in the substitute. Section 8 of the original bill is amended in Section 8 of the substitute by adding amendments relating to the 9th Judicial District striking Waller County from its composition, making conforming changes; and adding amendments relating to the 278th Judicial district, making conforming changes, adding transition provisions and provisions relating to the district attorney of Grimes County. The substitute also deletes a provision contained in the original bill which delays the creation of the 506th Judicial District until the date the Office of Court Administration certifies to the comptroller and certain county commissioners courts that the five year average population per court in existence as of January 1, 2007 for such counties is greater than the current five year average population per district court. Section 15 of the original bill is amended in Section 15 of the substitute to change the effective date of the section from January 1, 2009 to September 1, 2008, to delete the 278th judicial district and to add the 506th judicial district. Section 16 of the substitute is an additional provision in the substitute which contains the same text as Section 15 of the original except that it strikes the 278th judicial district and adds the 506th judicial district. The text of Section 16 of the original bill is contained in Section 17 of the substitute.