

1-1 By: West S.B. No. 1233
1-2 (In the Senate - Filed March 7, 2011; March 16, 2011, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 11, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 4, Nays 0;
1-6 April 11, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1233 By: West

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the promotion of efficiencies in and the administration
1-11 of certain county services and functions.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 2, Code of Criminal Procedure, is
1-14 amended by adding Article 2.31 to read as follows:

1-15 Art. 2.31. COUNTY JAILERS. A jailer licensed under Chapter
1-16 1701, Occupations Code, may execute lawful process issued to the
1-17 jailer by any magistrate or court on a person confined in the jail
1-18 at which the jailer is employed to the same extent that a peace
1-19 officer is authorized to execute process under Article 2.13(b)(2),
1-20 including:

- 1-21 (1) a warrant under Chapter 15, 17, or 18;
1-22 (2) a capias under Chapter 17 or 23;
1-23 (3) a subpoena under Chapter 20 or 24; or
1-24 (4) an attachment under Chapter 20 or 24.

1-25 SECTION 2. Subsection (a), Article 20.011, Code of Criminal
1-26 Procedure, is amended to read as follows:

1-27 (a) Only the following persons may be present in a grand
1-28 jury room while the grand jury is conducting proceedings:

- 1-29 (1) grand jurors;
1-30 (2) bailiffs;
1-31 (3) the attorney representing the state;
1-32 (4) witnesses while being examined or when necessary
1-33 to assist the attorney representing the state in examining other
1-34 witnesses or presenting evidence to the grand jury;
1-35 (5) interpreters, if necessary; ~~and~~
1-36 (6) a stenographer or person operating an electronic
1-37 recording device, as provided by Article 20.012; and
1-38 (7) a person operating a video teleconferencing system
1-39 for use under Article 20.151.

1-40 SECTION 3. Subsection (b), Article 20.02, Code of Criminal
1-41 Procedure, is amended to read as follows:

1-42 (b) A grand juror, bailiff, interpreter, stenographer or
1-43 person operating an electronic recording device, ~~or~~ person
1-44 preparing a typewritten transcription of a stenographic or
1-45 electronic recording, or person operating a video teleconferencing
1-46 system for use under Article 20.151 who discloses anything
1-47 transpiring before the grand jury, regardless of whether the thing
1-48 transpiring is recorded, in the course of the official duties of the
1-49 grand jury, is ~~shall be~~ liable to a fine as for contempt of the
1-50 court, not exceeding \$500 ~~[five hundred dollars]~~, imprisonment not
1-51 exceeding 30 ~~[thirty]~~ days, or both the ~~[such]~~ fine and
1-52 imprisonment.

1-53 SECTION 4. Chapter 20, Code of Criminal Procedure, is
1-54 amended by adding Article 20.151 to read as follows:

1-55 Art. 20.151. CERTAIN TESTIMONY BY VIDEO TELECONFERENCING.

1-56 (a) With the consent of the foreman of the grand jury and the
1-57 attorney representing the state, a peace officer summoned to
1-58 testify before the grand jury may testify through the use of a
1-59 closed circuit video teleconferencing system that provides an
1-60 encrypted, simultaneous, compressed full motion video and
1-61 interactive communication of image and sound between the peace
1-62 officer, the attorney representing the state, and the grand jury.

1-63 (b) In addition to being administered the oath described by

Article 20.16(a), before being interrogated, a peace officer testifying through the use of a closed circuit video teleconferencing system under this article shall affirm that:

(1) no person other than a person in the grand jury room is capable of hearing the peace officer's testimony; and

(2) the peace officer's testimony is not being recorded or otherwise preserved by any person at the location from which the peace officer is testifying.

(c) Testimony received from a peace officer under this article shall be recorded and preserved.

SECTION 5. Article 27.18, Code of Criminal Procedure, is amended by amending Subsection (c) and adding Subsections (c-1) and (c-2) to read as follows:

(c) A recording of the communication shall be made and preserved until all appellate proceedings have been disposed of. A court reporter or court recorder is not required to transcribe or make a separate recording of a plea taken under this article unless an appeal is taken in the case and a party requests a transcript.

(c-1) The defendant may obtain a copy of a ~~the~~ recording made under Subsection (c) on payment of a reasonable amount to cover the costs of reproduction or, if the defendant is indigent, the court shall provide a copy to the defendant without charging a cost for the copy.

(c-2) The loss or destruction of or failure to make a video recording of a plea entered under this article is not alone sufficient grounds for a defendant to withdraw the defendant's plea or to request the court to set aside a conviction, sentence, or plea.

SECTION 6. Article 38.073, Code of Criminal Procedure, is amended to read as follows:

Art. 38.073. TESTIMONY OF INMATE WITNESSES. In a proceeding in the prosecution of a criminal offense in which an inmate in the custody of the Texas Department of Criminal Justice is required to testify as a witness, any deposition or testimony of the inmate witness may be conducted by a video teleconferencing system in the manner described by Article 27.18 ~~[electronic means, in the same manner as permitted in civil cases under Section 30.012, Civil Practice and Remedies Code]~~.

SECTION 7. Article 49.25, Code of Criminal Procedure, is amended by adding Section 13A to read as follows:

Sec. 13A. FEES. A medical examiner may charge reasonable fees for services provided by the office of medical examiner under this article, including cremation approvals, court testimonies, consultations, and depositions.

SECTION 8. Section 31.037, Election Code, is amended to read as follows:

Sec. 31.037. SUSPENSION OR TERMINATION OF EMPLOYMENT. The employment of the county elections administrator may be suspended, with or without pay, or terminated at any time for good and sufficient cause on the four-fifths vote of the county election commission and approval of that action by a majority vote of the commissioners court.

SECTION 9. Subsection (b), Section 203.005, Family Code, is amended to read as follows:

(b) The first payment of a fee under Subsection (a)(5) ~~[(a)(4)]~~ is due on the date that the person required to pay support is ordered to begin child support, alimony, or separate maintenance payments. Subsequent payments of the fee are due annually and in advance.

SECTION 10. Subsection (b) and (e), Section 51.318, Government Code, are amended to read as follows:

(b) The fees are:

(1) for issuing a subpoena, including one copy . . . \$8

(2) for issuing a citation, commission for deposition, writ of execution, order of sale, writ of execution and order of sale, writ of injunction, writ of garnishment, writ of attachment, or writ of sequestration not provided for in Section 51.317, or any other writ or process not otherwise provided for, including one copy if required by law . . . \$8

3-1 (3) for searching files or records to locate a cause
3-2 when the docket number is not provided \$5
3-3 (4) for searching files or records to ascertain the
3-4 existence of an instrument or record in the district clerk's
3-5 office \$5
3-6 (5) for abstracting a judgment \$8
3-7 (6) for approving a bond \$4
3-8 (7) for a certified copy of a record, judgment, order,
3-9 pleading, or paper on file or of record in the district clerk's
3-10 office, including certificate and seal, for each page or part of a
3-11 page \$1
3-12 (8) for a noncertified copy, for each page or part of a
3-13 page not to exceed \$1
3-14 (9) notwithstanding Section 51.3195, for an
3-15 electronic certified copy of a record, judgment, order, pleading,
3-16 or paper on file or of record in the district clerk's office,
3-17 including certificate and seal, for each page or part of a
3-18 page not to exceed \$1.
3-19 (e) The district clerk may not charge the United States
3-20 Immigration and Customs Enforcement or the United States
3-21 Citizenship and Immigration Services [~~Naturalization Service~~] a
3-22 fee for a copy of any document on file or of record in the clerk's
3-23 office relating to an individual's criminal history, regardless of
3-24 whether the document is certified.
3-25 SECTION 11. Subchapter D, Chapter 101, Government Code, is
3-26 amended by adding Section 101.06118 to read as follows:
3-27 Sec. 101.06118. ADDITIONAL DISTRICT COURT FEES: GOVERNMENT
3-28 CODE. The clerk of a district court shall collect for an electronic
3-29 certified copy of a record, judgment, order, pleading, or paper on
3-30 file or of record in the district clerk's office, including
3-31 certificate and seal, a fee not to exceed \$1 for each page or part of
3-32 a page under Section 51.318.
3-33 SECTION 12. Section 551.0415, Government Code, is amended
3-34 to read as follows:
3-35 Sec. 551.0415. GOVERNING BODY OF MUNICIPALITY OR COUNTY:
3-36 REPORTS ABOUT ITEMS OF COMMUNITY INTEREST REGARDING WHICH NO ACTION
3-37 WILL BE TAKEN. (a) Notwithstanding Sections 551.041 and 551.042,
3-38 a quorum of the governing body of a municipality or county may
3-39 receive from municipal or county staff and a member of the governing
3-40 body may make a report about items of community interest during a
3-41 meeting of the governing body without having given notice of the
3-42 subject of the report as required by this subchapter if no action is
3-43 taken and, except as provided by Section 551.042, possible action
3-44 is not discussed regarding the information provided in the report.
3-45 (b) For purposes of Subsection (a), "items of community
3-46 interest" includes:
3-47 (1) expressions of thanks, congratulations, or
3-48 condolence;
3-49 (2) information regarding holiday schedules;
3-50 (3) an honorary or salutary recognition of a public
3-51 official, public employee, or other citizen, except that a
3-52 discussion regarding a change in the status of a person's public
3-53 office or public employment is not an honorary or salutary
3-54 recognition for purposes of this subdivision;
3-55 (4) a reminder about an upcoming event organized or
3-56 sponsored by the governing body;
3-57 (5) information regarding a social, ceremonial, or
3-58 community event organized or sponsored by an entity other than the
3-59 governing body that was attended or is scheduled to be attended by a
3-60 member of the governing body or an official or employee of the
3-61 municipality or county; and
3-62 (6) announcements involving an imminent threat to the
3-63 public health and safety of people in the municipality or county
3-64 that has arisen after the posting of the agenda.
3-65 SECTION 13. Subsection (a), Section 551.0725, Government
3-66 Code, is amended to read as follows:
3-67 (a) The commissioners court of a county [~~with a population~~
3-68 ~~of 400,000 or more~~] may conduct a closed meeting to deliberate
3-69 business and financial issues relating to a contract being

negotiated if, before conducting the closed meeting:

(1) the commissioners court votes unanimously that deliberation in an open meeting would have a detrimental effect on the position of the commissioners court in negotiations with a third person; and

(2) the attorney advising the commissioners court issues a written determination that deliberation in an open meeting would have a detrimental effect on the position of the commissioners court in negotiations with a third person.

SECTION 14. Subchapter Z, Chapter 157, Local Government Code, is amended by adding Section 157.9031 to read as follows:

Sec. 157.9031. AUTHORITY TO REQUIRE REIMBURSEMENT FOR CERTAIN COVERAGE. A self-insuring county or the intergovernmental pool operating under Chapter 119, under policies concerning the provision of coverages adopted by the county's commissioners court or the pool's governing body, may require reimbursement for the provision of punitive damage coverage from a person to whom the county or intergovernmental pool provides coverage.

SECTION 15. Subsections (b) and (f), Section 270.007, Local Government Code, are amended to read as follows:

(b) ~~A [Notwithstanding the provisions of Subsections (f) and (g), a]~~ county may exclusively contract with a person to market the application or system. If the original contract for development of the application or system under Subsection (a) does not include a provision for marketing the application or system, a [A] contract under this subsection shall be awarded [only] in compliance with Section 262.030, [Local Government Code], concerning the alternative competitive procedure for insurance or high technology items.

(f) ~~Except as provided by Subsection (b), [upon request of any person,] a county may [shall] sell or license software under this section for a price negotiated between the county and the purchaser or licensee, including another governmental entity [person, not to exceed the developmental cost to the county. Developmental cost shall only include costs incurred under a contract to procure the software or direct employee costs incurred to develop the software. This subsection does not apply to any county software that protects county computer systems from unauthorized use or access].~~

SECTION 16. Chapter 51, Property Code, is amended by adding Section 51.0022 to read as follows:

Sec. 51.0022. FORECLOSURE DATA COLLECTION. (a) In this section, "department" means the Texas Department of Housing and Community Affairs.

(b) A person filing a notice of sale of residential property under Section 51.002(b) must submit to the county clerk a completed form that provides the zip code for the property.

(c) On completion of a sale of real property, the trustee or sheriff shall submit to the county clerk a completed form that contains information on whether the property is residential and the zip code of the property.

(d) Not later than the 30th day after the date of receipt of a form under this section, the county clerk shall transmit the form to the department.

(e) The board of the department shall prescribe the forms required under this section. The forms may only request information on whether the property is residential and the zip code of the property.

(f) The department shall report the information received under this section quarterly to the legislature in a format established by the board of the department by rule.

SECTION 17. Sections 86.022 and 112.008, Local Government Code, are repealed.

SECTION 18. (a) Subsection (a), Article 20.011, and Subsection (b), Article 20.02, Code of Criminal Procedure, as amended by this Act, and Article 20.151, Code of Criminal Procedure, as added by this Act, apply only to testimony before a grand jury that is impaneled on or after the effective date of this Act.

5-1 (b) Article 27.18, Code of Criminal Procedure, as amended by
5-2 this Act, applies to a plea of guilty or nolo contendere entered on
5-3 or after the effective date of this Act, regardless of whether the
5-4 offense with reference to which the plea is entered is committed
5-5 before, on, or after that date.

5-6 (c) Article 38.073, Code of Criminal Procedure, as amended
5-7 by this Act, applies only to the testimony of an inmate witness that
5-8 is taken on or after the effective date of this Act.

5-9 (d) Section 13A, Article 49.25, Code of Criminal Procedure,
5-10 as added by this Act, applies only to a service provided by a
5-11 medical examiner's office on or after the effective date of this
5-12 Act. A service provided before the effective date of this Act is
5-13 covered by the law in effect on the date the service was provided,
5-14 and the former law is continued in effect for that purpose.

5-15 (e) Subsection (b), Section 51.318, Government Code, as
5-16 amended by this Act, applies only to a request for an electronic
5-17 certified copy of a record, judgment, order, pleading, or paper on
5-18 file or of record in the district clerk's office, including
5-19 certificate and seal, made on or after the effective date of this
5-20 Act. A request made before the effective date of this Act is
5-21 covered by the law in effect when the request was made, and the
5-22 former law is continued in effect for that purpose.

5-23 (f) Subsection (a), Section 551.0725, Government Code, as
5-24 amended by this Act, applies only to a meeting held on or after the
5-25 effective date of this Act. A meeting held before the effective
5-26 date of this Act is governed by the law in effect on the date the
5-27 meeting is held, and the former law is continued in effect for that
5-28 purpose.

5-29 (g) Subsections (b) and (f), Section 270.007, Local
5-30 Government Code, as amended by this Act, apply only to a contract
5-31 entered into on or after the effective date of this Act. A contract
5-32 entered into before the effective date of this Act is governed by
5-33 the law in effect when the contract was entered into, and the former
5-34 law is continued in effect for that purpose.

5-35 SECTION 19. (a) The board of the Texas Department of
5-36 Housing and Community Affairs shall adopt the forms and rules
5-37 required by Section 51.0022, Property Code, as added by this Act,
5-38 not later than January 1, 2012.

5-39 (b) The change in law made by Section 51.0022, Property
5-40 Code, as added by this Act, applies only to a notice of sale filed on
5-41 or after January 1, 2012. A notice of sale filed before January 1,
5-42 2012, is governed by the law in effect on the date the notice is
5-43 filed, and the former law is continued in effect for that purpose.

5-44 SECTION 20. This Act takes effect immediately if it
5-45 receives a vote of two-thirds of all the members elected to each
5-46 house, as provided by Section 39, Article III, Texas Constitution.
5-47 If this Act does not receive the vote necessary for immediate
5-48 effect, this Act takes effect September 1, 2011.

5-49 * * * * *