

By: Kuempel

H.B. No. 3863

A BILL TO BE ENTITLED

AN ACT

relating to the creation of magistrates in Guadalupe County.

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

SECTION 1. Chapter 54, Government Code, is amended by adding Subchapter KK to read as follows:

SUBCHAPTER KK. MAGISTRATES IN GUADALUPE COUNTY

Sec. 54.2001. AUTHORIZATION; APPOINTMENT; ELIMINATION.

(a) The Commissioners Court of Guadalupe County may authorize the judges of the district and statutory county courts in Guadalupe County to appoint one or more part-time or full-time magistrates to perform the duties authorized by this subchapter.

(b) The judges of the district and statutory county courts in Guadalupe County by a unanimous vote may appoint magistrates as authorized by the Commissioners Court of Guadalupe County.

(c) An order appointing a magistrate must be signed by the local presiding judge of the district courts serving Guadalupe County, and the order must state:

(1) the magistrate's name; and

(2) the date the magistrate's employment is to begin.

(d) An authorized magistrate's position may be eliminated on a majority vote of the Commissioners Court of Guadalupe County.

Sec. 54.2002. QUALIFICATIONS; OATH OF OFFICE. (a) To be eligible for appointment as a magistrate, a person must:

(1) be a citizen of the United States;

1 (2) have resided in Guadalupe County for at least the
2 two years preceding the person's appointment; and

3 (3) be at least 30 years of age.

4 (b) A magistrate appointed under Section 54.2001 must take
5 the constitutional oath of office required of appointed officers of
6 this state.

7 Sec. 54.2003. COMPENSATION. (a) A magistrate is entitled
8 to the salary determined by the Commissioners Court of Guadalupe
9 County.

10 (b) A full-time magistrate's salary may not be less than
11 that of a justice of the peace of Guadalupe County as established by
12 the annual budget of Guadalupe County.

13 (c) A part-time magistrate's salary is equal to the per-hour
14 salary of a justice of the peace. The per-hour salary is determined
15 by dividing the annual salary by a 2,000 work-hour year. The local
16 administrative judge of the district courts serving Guadalupe
17 County shall approve the number of hours for which a part-time
18 magistrate is to be paid.

19 (d) The magistrate's salary is paid from the county fund
20 available for payment of officers' salaries.

21 Sec. 54.2004. JUDICIAL IMMUNITY. A magistrate has the same
22 judicial immunity as a district judge.

23 Sec. 54.2005. TERMINATION OF EMPLOYMENT. (a) A magistrate
24 may be terminated by a majority vote of all the judges of the
25 district and statutory county courts of Guadalupe County.

26 (b) To terminate a magistrate's employment, the local
27 administrative judge of the district courts serving Guadalupe

1 County must sign a written order of termination. The order must
2 state:

3 (1) the magistrate's name; and

4 (2) the final date of the magistrate's employment.

5 Sec. 54.2006. JURISDICTION; RESPONSIBILITY; POWERS. (a)
6 The judges of the district or statutory county courts shall
7 establish standing orders to be followed by a magistrate or parties
8 appearing before a magistrate, as applicable.

9 (b) To the extent authorized by this subchapter and the
10 standing orders, a magistrate has jurisdiction to exercise the
11 authority granted by the judges of the district or statutory county
12 courts.

13 (c) A magistrate has all of the powers of a magistrate under
14 the laws of this state and may administer an oath for any purpose.

15 (d) A magistrate shall give preference to performing the
16 duties of a magistrate under Article 15.17, Code of Criminal
17 Procedure.

18 (e) A magistrate is authorized to:

19 (1) set, adjust, and revoke bonds before the filing of
20 an information or the return of an indictment;

21 (2) conduct examining trials;

22 (3) determine whether a defendant is indigent and
23 appoint counsel for an indigent defendant;

24 (4) issue search and arrest warrants;

25 (5) issue emergency protective orders;

26 (6) order emergency mental commitments; and

27 (7) conduct initial juvenile detention hearings if

1 approved by the Guadalupe County Juvenile Board.

2 (f) With the express authorization of a justice of the
3 peace, a magistrate may exercise concurrent criminal jurisdiction
4 with the justice of the peace to dispose as provided by law of cases
5 filed in the precinct of the authorizing justice of the peace,
6 except for a trial on the merits following a plea of not guilty.

7 (g) A magistrate may:

8 (1) issue notices of the setting of a case for a
9 hearing;

10 (2) conduct hearings;

11 (3) compel production of evidence;

12 (4) hear evidence;

13 (5) issue summons for the appearance of witnesses;

14 (6) swear witnesses for hearings;

15 (7) regulate proceedings in a hearing; and

16 (8) perform any act and take any measure necessary and
17 proper for the efficient performance of the duties required by the
18 magistrate's jurisdiction and authority.

19 Sec. 54.2007. PERSONNEL, EQUIPMENT, AND OFFICE SPACE. The
20 Commissioners Court of Guadalupe County shall provide:

21 (1) personnel for the legal or clerical functions
22 necessary to perform the magistrate's duties authorized by this
23 chapter; and

24 (2) sufficient equipment and office space for the
25 magistrate and personnel to perform the magistrate's essential
26 functions.

27 SECTION 2. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2013.