

## **BILL ANALYSIS**

Senate Research Center

S.B. 1045  
By: Huffman  
Jurisprudence  
6/20/2023  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Civil cases of statewide significance frequently involve the state, a state agency, or a state official (sued in connection with their official action) as a party. These cases require courts to apply highly specialized precedent in complex areas of law including sovereign immunity, administrative law, and constitutional law.

Under the current judicial system, appeals in cases of statewide significance are decided by one of Texas's 14 intermediate appellate courts. These courts have varying levels of experience with the complex legal issues involved in cases of statewide significance, resulting in inconsistent results for litigants.

S.B. 1045 addresses these problems by establishing an intermediate court of appeals with exclusive jurisdiction over cases to which the state, a state agency, or a state official is a party. The justices on this new Fifteenth Court of Appeals are elected statewide, ensuring that all Texans have a voice in the selection of judges who decide cases of statewide importance.

(Original Author's/Sponsor's Statement of Intent)

S.B. 1045 amends current law relating to the creation of the Fifteenth Court of Appeals with jurisdiction over certain civil cases, the compensation of the justices of that court, and the jurisdiction of the courts of appeals in this state.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 1.08 (Section 73.001, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. FIFTEENTH COURT OF APPEALS

SECTION 1.01. Amends Section 22.201, Government Code, by amending Subsection (a) and adding Subsection (p), as follows:

(a) Provides that the state is organized into 15, rather than divided into 14, courts of appeals districts with a court of appeals in each district.

(p) Provides that the Fifteenth Court of Appeals District is composed of all counties in this state.

SECTION 1.02. Amends Subchapter C, Chapter 22, Government Code, by adding Section 22.2151, as follows:

Sec. 22.2151. FIFTEENTH COURT OF APPEALS. (a) Requires the Court of Appeals for the Fifteenth Court of Appeals District to be held in the City of Austin.

(b) Authorizes the Fifteenth Court of Appeals to transact its business in any county in the district as the court determines is necessary and convenient.

SECTION 1.03. Subchapter C, Chapter 22, Government Code, by adding Section 22.2152, as follows:

Sec. 22.2152. REPORT ON FIFTEENTH COURT OF APPEALS. Requires the Office of Court Administration of the Texas Judicial System to submit to the legislature a report on the number and types of cases heard by the Court of Appeals for the Fifteenth Court of Appeals District in the preceding state fiscal year, not later than December 1 of each year.

SECTION 1.04. Amends Section 22.216, Government Code, by adding Subsections (n-1) and (n-2), as follows:

(n-1) Provides that the Court of Appeals for the Fifteenth Court of Appeals District consists of a chief justice and of four justices holding places numbered consecutively beginning with Place 2.

(n-2) Provides that the Court of Appeals for the Fifteenth Court of Appeals District, notwithstanding Subsection (n-1), consists of a chief justice and of two justices holding places numbered consecutively beginning with Place 2 for the first three years following the court's creation. Provides that this subsection expires September 1, 2027.

SECTION 1.05. Amends Section 22.220, Government Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Creates an exception under Subsection (d).

(d) Provides that the Court of Appeals for the Fifteenth Court of Appeals District has exclusive intermediate appellate jurisdiction over the following matters arising out of or related to a civil case:

(1) matters brought by or against the state or a board, commission, department, office, or other agency in the executive branch of the state government, including a university system or institution of higher education as defined by Section 61.003 (Definitions), Education Code, or by or against an officer or employee of the state or a board, commission, department, office, or other agency in the executive branch of the state government arising out of that officer's or employee's official conduct, other than:

(A) a proceeding brought under the Family Code and any related motion or proceeding;

(B) a proceeding brought under Chapter 7B (Protective Orders) or Article 17.292 (Magistrate's Order for Emergency Protection), Code of Criminal Procedure;

(C) a proceeding brought against a district attorney, a criminal district attorney, or a county attorney with criminal jurisdiction;

(D) a proceeding relating to a mental health commitment;

(E) a proceeding relating to civil asset forfeiture;

(F) a condemnation proceeding for the acquisition of land or a proceeding related to eminent domain;

(G) a proceeding brought under Chapter 101 (Tort Claims), Civil Practice and Remedies Code;

(H) a claim of personal injury or wrongful death;

(I) a proceeding brought under Chapter 125 (Common and Public Nuisances), Civil Practice and Remedies Code, to enjoin a common nuisance;

(J) a proceeding brought under Chapter 55 (Expunction of Criminal Records), Code of Criminal Procedure;

(K) a proceeding under Chapter 22A (Special Three-Judge District Court), Government Code;

(L) a proceeding brought under Subchapter E-1 (Order of Nondisclosure of Criminal History Record Information), Chapter 411, Government Code;

(M) a proceeding brought under Chapter 21 (Employment Discrimination), Labor Code;

(N) a removal action under Chapter 87 (Removal of County Officers from Office; Filling of Vacancies), Local Government Code; or

(O) a proceeding brought under Chapter 841 (Civil Commitment of Sexually Violent Predators), Health and Safety Code;

(2) matters in which a party to the proceeding files a petition, motion, or other pleading challenging the constitutionality or validity of a state statute or rule and the attorney general is a party to the case; and

(3) any other matter as provided by law.

SECTION 1.06. Amends Section 22.221, Government Code, by amending Subsection (b) and adding Subsections (c) and (c-1), as follows:

(b) Authorizes each court of appeals for a court of appeals district to issue all writs of mandamus, subject to Subsection (c-1), agreeable to the principles of law regulating those writs, against a judge of a district, statutory county, statutory probate county, or county court in the court of appeals district.

Deletes existing text authorizing each court of appeals for a court of appeals district to issue all writs of mandamus, agreeable to the principles of law regulating those writs, against a judge of a district court who is acting as a magistrate at a court of inquiry under Chapter 52 (Court of Inquiry), Code of Criminal Procedure, in the court of appeals district or against an associate judge of a district or county court appointed by a judge under Chapter 201 (Associate Judge), Family Code, in the court of appeals district for the judge who appointed the associate judge. Makes nonsubstantive changes.

(c) Authorizes each court of appeals for a court of appeals district, other than the Court of Appeals for the Fifteenth Court of Appeals District, to issue all writs of mandamus, agreeable to the principles of law regulating those writs, against:

(1) a judge of a district court who is acting as a magistrate at a court of inquiry under Chapter 52, Code of Criminal Procedure, in the court of appeals district; or

(2) an associate judge of a district or county court appointed by a judge under Chapter 201, Family Code, in the court of appeals district for the judge who appointed the associate judge.

(c-1) Provides that the original jurisdiction of the Court of Appeals for the Fifteenth Court of Appeals District to issue writs is limited to writs arising out of matters over which the court has exclusive intermediate appellate jurisdiction under Section 22.220(d).

SECTION 1.07. Amends Section 22.229(a), Government Code, to provide that an appellate judicial system fund is established for each court of appeals, other than the Court of Appeals of the Fifteenth Court of Appeals District, for certain purposes.

SECTION 1.08. Amends Section 73.001, Government Code, as follows:

Sec. 73.001. AUTHORITY TO TRANSFER. (a) Creates this subsection from existing text and creates an exception under Subsection (b).

(b) Prohibits the Supreme Court of Texas (supreme court) from transferring any case or proceeding properly filed in the Court of Appeals for the Fifteenth Court of Appeals District to another court of appeals for the purpose of equalizing the dockets of the courts of appeals.

(c) Requires the supreme court to adopt rules for:

(1) transferring an appeal inappropriately filed in the Fifteenth Court of Appeals to a court of appeals with jurisdiction over the appeal; and

(2) transferring to the Fifteenth Court of Appeals from another court of appeals the appeals over which the Fifteenth Court of Appeals has exclusive intermediate appellate jurisdiction under Section 22.220(d).

SECTION 1.09. Amends Section 659.012(a), Government Code, as follows:

(a) Provides that notwithstanding Section 659.011 (Salaries Set in Appropriations Act) and subject to Subsections (b) (relating to the salary of a judge or justice) and (b-1) (relating to the applicability or a limitation on the combined base salary from all state and county sources to a judge or justice):

(1) makes no changes to this subdivision;

(2) creates an exception under Subdivision (3);

(3) a justice of the Court of Appeals for the Fifteenth Court of Appeals District other than the chief justice is entitled to an annual base salary from the state in the amount equal to \$5,000 less than 120 percent of the state base salary of a district judge as set by the General Appropriations Act; and

(4)-(5) makes nonsubstantive changes to these subdivisions.

SECTION 1.10. Amends Section 2001.038(f), Government Code, as follows:

(f) Authorizes a Travis County district court in which an action is brought under Section 2001.038 (Declaratory Judgment), on its own motion or the motion of any party, to request transfer of the action to the Court of Appeals for the Fifteenth, rather than the Third, Court of Appeals District if the district court finds that the public interest requires a prompt, authoritative determination of the validity or applicability of the rule in question and the case would ordinarily be appealed.

SECTION 1.11. Amends Section 2001.176(c), Government Code, as follows:

(c) Authorizes a Travis County district court in which an action is brought under Section 2001.176 (Petition Initiating Judicial Review), on its own motion or on motion of any party, to request transfer of the action to the Court of Appeals for the Fifteenth, rather than Third, Court of Appeals District if the district court finds that the public interest requires a prompt, authoritative determination of the legal issues in the case and the case would ordinarily be appealed.

SECTION 1.12. Amends Section 2301.751(a), Occupations Code, as follows:

(a) Authorizes a party to a proceeding affected by a final order, rule, or decision or other final action of the board of the Texas Department of Motor Vehicles with respect to a matter arising under Chapter 2301 (Sale or Lease of Motor Vehicles) or Chapter 503 (Dealer's and Manufacturer's Vehicle License Plates), Transportation Code, to seek judicial review of the action under the substantial evidence rule in:

(1) makes no changes to this subdivision; or

(2) the court of appeals for the Fifteenth, rather than Third, Court of Appeals District.

SECTION 1.13. Amends Section 39.001(e), Utilities Code, to require that judicial review of the validity of competition rules be commenced in the Court of Appeals for the Fifteenth, rather than Third, Court of Appeals District and be limited to the Public Utility Commission of Texas' rulemaking record.

SECTION 1.14. (a) Provides that except as otherwise provided by this Act, the Court of Appeals for the Fifteenth Court of Appeals District is created September 1, 2024.

(b) Requires the initial vacancies in the offices of chief justice and justices of the Court of Appeals for the Fifteenth Court of Appeals District to be filled by appointment if the court is created.

SECTION 1.15. (a) Provides that the changes in law made by this Act apply to appeals perfected on or after September 1, 2024.

(b) Provides that on September 1, 2024, all cases pending in other courts of appeal that were filed on or after September 1, 2023, and of which the Court of Appeals for the Fifteenth Court of Appeals District has exclusive intermediate appellate jurisdiction are transferred to the Court of Appeals for the Fifteenth Court of Appeals District.

(c) Provides that when a case is transferred as provided by Subsection (b) of this section:

(1) all processes, writs, bonds, recognizances, or other obligations issued from the other courts of appeal are returnable to the Court of Appeals for the Fifteenth Court of Appeals District as if originally issued by that court; and

(2) the obligees on all bonds and recognizances taken in and for the other courts of appeal and all witnesses summoned to appear in another court of appeals are required to appear before the Court of Appeals for the Fifteenth Court of Appeals District as if originally required to appear before the Court of Appeals for the Fifteenth Court of Appeals District.

## ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Amends Article 4.01, Code of Criminal Procedure, as follows:

Art. 4.01. WHAT COURTS HAVE CRIMINAL JURISDICTION. Provides that certain courts have jurisdiction in criminal actions, including courts of appeals, other than the Court of Appeals for the Fifteenth Court of Appeals District.

SECTION 2.02. Amends Article 4.03, Code of Criminal Procedure, as follows:

Art. 4.03. COURTS OF APPEALS. Requires the Courts of Appeals, other than the Court of Appeals for the Fifteenth Court of Appeals District, to have appellate jurisdiction coextensive with the limits of their respective districts in all criminal cases except those in which the death penalty has been assessed. Makes a nonsubstantive change.

SECTION 2.03. Amends Article 44.25, Code of Criminal Procedure, as follows:

Art. 44.25. CASES REMANDED. Authorizes the court of appeals, other than the Court of Appeals of the Fifteenth Court of Appeals District, or the Court of Criminal Appeals to reverse the judgment in a criminal action, as well upon the law as upon the facts.

SECTION 2.04. Amends Section 31.001, Government Code, as follows:

Sec. 31.001. AUTHORITY FOR COUNTY PAYMENT OF COMPENSATION. Authorizes the commissioners courts in the counties of each of the 15, rather than 14, courts of appeals districts to pay additional compensation in an amount that does not exceed the limitations of Section 659.012 (Judicial Salaries) to each of the justices of the courts of appeals, other than a justice of the Court of Appeals of the Fifteenth Court of Appeals District, residing within the court of appeals district that includes those counties.

ARTICLE 3. SPECIFIC APPROPRIATION REQUIRED; CONSTITUTIONAL CHALLENGE;  
EFFECTIVE DATE

SECTION 3.01. (a) Provides that the Court of Appeals for the Fifteenth Court of Appeals District, notwithstanding Section 22.201(a), Government Code, as amended by this Act, and Sections 22.201(p) and 22.2151, Government Code, as added by this Act, is not created unless the legislature makes a specific appropriation of money for that purpose. Provides that a specific appropriation, for the purposes of this subsection, is an appropriation identifying the Court of Appeals for the Fifteenth Court of Appeals District or an Act of the 88th Legislature, Regular Session, 2023, relating to the creation of the Court of Appeals for the Fifteenth Court of Appeals District.

(b) Provides that a court of appeals has the same jurisdiction the court had on August 31, 2023, notwithstanding Section 22.220(a), Government Code, as amended by this Act, if the Court of Appeals for the Fifteenth Court of Appeals District is not created as a result of Subsection (a) of this section.

SECTION 3.02. Provides that the supreme court has exclusive and original jurisdiction over a challenge to the constitutionality of this Act or any part of this Act and is authorized to issue injunctive or declaratory relief in connection with the challenge.

SECTION 3.03. Effective date: September 1, 2023.