

By: Murr

H.B. No. 3166

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation of the Fifteenth Court of Appeals with
3 jurisdiction over certain civil cases, the compensation of the
4 justices of that court, and the jurisdiction of the courts of
5 appeals in this state; authorizing fees.

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

7 ARTICLE 1. FIFTEENTH COURT OF APPEALS

8 SECTION 1.01. Section 22.201, Government Code, is amended
9 by amending Subsection (a) and adding Subsection (p) to read as
10 follows:

11 (a) The state is organized [~~divided~~] into 15 [~~14~~] courts of
12 appeals districts with a court of appeals in each district.

13 (p) The Fifteenth Court of Appeals District is composed of
14 all counties in this state.

15 SECTION 1.02. Subchapter C, Chapter 22, Government Code, is
16 amended by adding Section 22.2151 to read as follows:

17 Sec. 22.2151. FIFTEENTH COURT OF APPEALS. (a) The Court of
18 Appeals for the Fifteenth Court of Appeals District shall be held in
19 the City of Austin.

20 (b) The facilities made available to other courts of appeals
21 under this subchapter, including furnishings and equipment, shall
22 be made available to the Fifteenth Court of Appeals District and the
23 justices of that court without expense to this state.

24 (c) The Fifteenth Court of Appeals may transact its business

1 in any county in the district as the court determines is necessary
2 and convenient.

3 SECTION 1.03. Section 22.216, Government Code, is amended
4 by adding Subsection (n-1) to read as follows:

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

8 SECTION 1.04. Section 22.220, Government Code, is amended
9 by amending Subsection (a) and adding Subsection (d) to read as
10 follows:

11 (a) Except as provided by Subsection (d), each ~~[Each]~~ court
12 of appeals has appellate jurisdiction of all civil cases within its
13 district of which the district courts or county courts have
14 jurisdiction when the amount in controversy or the judgment
15 rendered exceeds \$250, exclusive of interest and costs.

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

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

27 (A) a proceeding brought under the Family Code

- 1 and any related motion or proceeding;
2 (B) a proceeding brought under Chapter 7B or
3 Article 17.292, Code of Criminal Procedure;
4 (C) a proceeding brought against a district
5 attorney, a criminal district attorney, or a county attorney with
6 criminal jurisdiction;
7 (D) a proceeding relating to a mental health
8 commitment;
9 (E) a proceeding relating to civil asset
10 forfeiture;
11 (F) a condemnation proceeding for the
12 acquisition of land or a proceeding related to eminent domain;
13 (G) a proceeding brought under Chapter 125, Civil
14 Practice and Remedies Code, to enjoin a common nuisance;
15 (H) a proceeding brought under Chapter 55, Code
16 of Criminal Procedure;
17 (I) a proceeding under Chapter 22A, Government
18 Code;
19 (J) a proceeding brought under Subchapter E-1,
20 Chapter 411, Government Code;
21 (K) a proceeding brought under Chapter 21, Labor
22 Code;
23 (L) a removal action under Chapter 87, Local
24 Government Code; or
25 (M) a proceeding brought under Chapter 841,
26 Health and Safety Code;
27 (2) matters in which a party to the proceeding files a

1 petition, motion, or other pleading challenging the
2 constitutionality or validity of a state statute or rule and the
3 attorney general is a party to the case; and

4 (3) any other matter as provided by law.

5 SECTION 1.05. Section 22.221, Government Code, is amended
6 by amending Subsection (b) and adding Subsections (c) and (c-1) to
7 read as follows:

8 (b) Subject to Subsection (c-1), each ~~[Each]~~ court of
9 appeals for a court of appeals district may issue all writs of
10 mandamus, agreeable to the principles of law regulating those
11 writs, against [+]

12 ~~[(1)]~~ a judge of a district, statutory county,
13 statutory probate county, or county court in the court of appeals
14 district[+]

15 ~~[(2) a judge of a district court who is acting as a~~
16 ~~magistrate at a court of inquiry under Chapter 52, Code of Criminal~~
17 ~~Procedure, in the court of appeals district, or~~

18 ~~[(3) an associate judge of a district or county court~~
19 ~~appointed by a judge under Chapter 201, Family Code, in the court of~~
20 ~~appeals district for the judge who appointed the associate judge].~~

21 (c) Each court of appeals for a court of appeals district,
22 other than the Court of Appeals for the Fifteenth Court of Appeals
23 District, may issue all writs of mandamus, agreeable to the
24 principles of law regulating those writs, against:

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

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

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

8 SECTION 1.06. Section 22.229(a), Government Code, is
9 amended to read as follows:

10 (a) An appellate judicial system fund is established for
11 each court of appeals, other than the Court of Appeals of the
12 Fifteenth Court of Appeals District, to:

13 (1) assist the court of appeals in the processing of
14 appeals filed with the court of appeals from the county courts,
15 statutory county courts, statutory probate courts, and district
16 courts in the counties the court of appeals serves; and

17 (2) defray costs and expenses incurred in the
18 operation of the court of appeals.

19 SECTION 1.07. Section 73.001, Government Code, is amended
20 to read as follows:

21 Sec. 73.001. AUTHORITY TO TRANSFER. (a) Except as provided
22 by Subsection (b), the [The] supreme court may order cases
23 transferred from one court of appeals to another at any time that,
24 in the opinion of the supreme court, there is good cause for the
25 transfer.

26 (b) The supreme court may not transfer any case or
27 proceeding properly filed in the Court of Appeals for the Fifteenth

1 Court of Appeals District to another court of appeals for the
2 purpose of equalizing the dockets of the courts of appeals.

3 (c) The supreme court may not transfer to the Court of
4 Appeals for the Fifteenth Court of Appeals District any case or
5 proceeding over which the Court of Appeals for the Fifteenth Court
6 of Appeals District does not have exclusive intermediate appellate
7 jurisdiction.

8 (d) The supreme court shall adopt rules for:

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

12 (2) transferring to the Fifteenth Court of Appeals
13 from another court of appeals the appeals over which the Fifteenth
14 Court of Appeals has exclusive intermediate appellate jurisdiction
15 under Section [22.220](#)(d).

16 SECTION 1.08. Section [659.012](#)(a), Government Code, is
17 amended to read as follows:

18 (a) Notwithstanding Section [659.011](#) and subject to
19 Subsections (b) and (b-1):

20 (1) a judge of a district court is entitled to an
21 annual base salary from the state as set by the General
22 Appropriations Act in an amount equal to at least \$140,000, except
23 that the combined base salary of a district judge from all state and
24 county sources, including compensation for any extrajudicial
25 services performed on behalf of the county, may not exceed the
26 amount that is \$5,000 less than the maximum combined base salary
27 from all state and county sources for a justice of a court of

1 appeals other than a chief justice as determined under this
2 subsection;

3 (2) except as provided by Subdivision (3), a justice
4 of a court of appeals other than the chief justice is entitled to an
5 annual base salary from the state in the amount equal to 110 percent
6 of the state base salary of a district judge as set by the General
7 Appropriations Act, except that the combined base salary of a
8 justice of the court of appeals other than the chief justice from
9 all state and county sources, including compensation for any
10 extrajudicial services performed on behalf of the county, may not
11 exceed the amount that is \$5,000 less than the base salary for a
12 justice of the supreme court as determined under this subsection;

13 (3) a justice of the Court of Appeals for the Fifteenth
14 Court of Appeals District other than the chief justice is entitled
15 to an annual base salary from the state in the amount equal to
16 \$5,000 less than 120 percent of the state base salary of a district
17 judge as set by the General Appropriations Act;

18 (4) a justice of the supreme court other than the chief
19 justice or a judge of the court of criminal appeals other than the
20 presiding judge is entitled to an annual base salary from the state
21 in the amount equal to 120 percent of the state base salary of a
22 district judge as set by the General Appropriations Act; and

23 (5) [~~4~~] the chief justice or presiding judge of an
24 appellate court is entitled to an annual base salary from the state
25 in the amount equal to \$2,500 more than the state base salary
26 provided for the other justices or judges of the court, except that
27 the combined base salary of the chief justice of a court of appeals

1 from all state and county sources may not exceed the amount equal to
2 \$2,500 less than the base salary for a justice of the supreme court
3 as determined under this subsection.

4 SECTION 1.09. Section 2001.038(f), Government Code, is
5 amended to read as follows:

6 (f) A Travis County district court in which an action is
7 brought under this section, on its own motion or the motion of any
8 party, may request transfer of the action to the Court of Appeals
9 for the Fifteenth [~~Third~~] Court of Appeals District if the district
10 court finds that the public interest requires a prompt,
11 authoritative determination of the validity or applicability of the
12 rule in question and the case would ordinarily be appealed. After
13 filing of the district court's request with the court of appeals,
14 transfer of the action may be granted by the court of appeals if it
15 agrees with the findings of the district court concerning the
16 application of the statutory standards to the action. On entry of
17 an order by the court of appeals granting transfer, the action is
18 transferred to the court of appeals for decision, and the validity
19 or applicability of the rule in question is subject to judicial
20 review by the court of appeals. The administrative record and the
21 district court record shall be filed by the district clerk with the
22 clerk of the court of appeals. The court of appeals may direct the
23 district court to conduct any necessary evidentiary hearings in
24 connection with the action.

25 SECTION 1.10. Section 2001.176(c), Government Code, is
26 amended to read as follows:

27 (c) A Travis County district court in which an action is

1 brought under this section, on its own motion or on motion of any
2 party, may request transfer of the action to the Court of Appeals
3 for the Fifteenth [~~Third~~] Court of Appeals District if the district
4 court finds that the public interest requires a prompt,
5 authoritative determination of the legal issues in the case and the
6 case would ordinarily be appealed. After filing of the district
7 court's request with the court of appeals, transfer of the action
8 may be granted by the court of appeals if it agrees with the
9 findings of the district court concerning the application of the
10 statutory standards to the action. On entry of an order by the
11 court of appeals granting transfer, the action is transferred to
12 the court of appeals for decision, and the agency decision in the
13 contested case is subject to judicial review by the court of
14 appeals. The administrative record and the district court record
15 shall be filed by the district clerk with the clerk of the court of
16 appeals. The court of appeals may direct the district court to
17 conduct any necessary evidentiary hearings in connection with the
18 action.

19 SECTION 1.11. Section [2301.751\(a\)](#), Occupations Code, is
20 amended to read as follows:

21 (a) A party to a proceeding affected by a final order, rule,
22 or decision or other final action of the board with respect to a
23 matter arising under this chapter or Chapter [503](#), Transportation
24 Code, may seek judicial review of the action under the substantial
25 evidence rule in:

- 26 (1) a district court in Travis County; or
- 27 (2) the court of appeals for the Fifteenth [~~Third~~]

1 Court of Appeals District.

2 SECTION 1.12. Section 39.001(e), Utilities Code, is amended
3 to read as follows:

4 (e) Judicial review of competition rules adopted by the
5 commission shall be conducted under Chapter 2001, Government Code,
6 except as otherwise provided by this chapter. Judicial review of
7 the validity of competition rules shall be commenced in the Court of
8 Appeals for the Fifteenth [~~Third~~] Court of Appeals District and
9 shall be limited to the commission's rulemaking record. The
10 rulemaking record consists of:

- 11 (1) the notice of the proposed rule;
- 12 (2) the comments of all interested persons;
- 13 (3) all studies, reports, memoranda, or other
14 materials on which the commission relied in adopting the rule; and
- 15 (4) the order adopting the rule.

16 SECTION 1.13. (a) Except as otherwise provided by this Act,
17 the Court of Appeals for the Fifteenth Court of Appeals District is
18 created September 1, 2024.

19 (b) If the Court of Appeals for the Fifteenth Court of
20 Appeals District is created, the initial vacancies in the offices
21 of chief justice and justices of the court shall be filled by
22 appointment.

23 SECTION 1.14. (a) The changes in law made by this Act apply
24 to appeals perfected on or after September 1, 2024.

25 (b) On September 1, 2024, all cases pending in other courts
26 of appeal that were filed on or after September 1, 2023, and of
27 which the Court of Appeals for the Fifteenth Court of Appeals

1 District has exclusive intermediate appellate jurisdiction are
2 transferred to the Court of Appeals for the Fifteenth Court of
3 Appeals District.

4 (c) When a case is transferred as provided by Subsection (b)
5 of this section:

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

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

16 ARTICLE 2. CONFORMING AMENDMENTS

17 SECTION 2.01. Article 4.01, Code of Criminal Procedure, is
18 amended to read as follows:

19 Art. 4.01. WHAT COURTS HAVE CRIMINAL JURISDICTION. The
20 following courts have jurisdiction in criminal actions:

- 21 1. The Court of Criminal Appeals;
- 22 2. Courts of appeals, other than the Court of Appeals
23 for the Fifteenth Court of Appeals District;
- 24 3. The district courts;
- 25 4. The criminal district courts;
- 26 5. The magistrates appointed by the judges of the
27 district courts of Bexar County, Dallas County, Tarrant County, or

1 Travis County that give preference to criminal cases and the
2 magistrates appointed by the judges of the criminal district courts
3 of Dallas County or Tarrant County;

4 6. The county courts;

5 7. All county courts at law with criminal
6 jurisdiction;

7 8. County criminal courts;

8 9. Justice courts;

9 10. Municipal courts;

10 11. The magistrates appointed by the judges of the
11 district courts of Lubbock County;

12 12. The magistrates appointed by the El Paso Council
13 of Judges;

14 13. The magistrates appointed by the Collin County
15 Commissioners Court;

16 14. The magistrates appointed by the Brazoria County
17 Commissioners Court or the local administrative judge for Brazoria
18 County; and

19 15. The magistrates appointed by the judges of the
20 district courts of Tom Green County.

21 SECTION 2.02. Article 4.03, Code of Criminal Procedure, is
22 amended to read as follows:

23 Art. 4.03. COURTS OF APPEALS. The Courts of Appeals, other
24 than the Court of Appeals for the Fifteenth Court of Appeals
25 District, shall have appellate jurisdiction coextensive with the
26 limits of their respective districts in all criminal cases except
27 those in which the death penalty has been assessed. This article

1 ~~[Article]~~ shall not be so construed as to embrace any case which has
2 been appealed from any inferior court to the county court, the
3 county criminal court, or county court at law, in which the fine
4 imposed or affirmed by the county court, the county criminal court
5 or county court at law does not exceed one hundred dollars, unless
6 the sole issue is the constitutionality of the statute or ordinance
7 on which the conviction is based.

8 SECTION 2.03. Article 44.25, Code of Criminal Procedure, is
9 amended to read as follows:

10 Art. 44.25. CASES REMANDED. The courts of appeals, other
11 than the Court of Appeals of the Fifteenth Court of Appeals
12 District, or the Court of Criminal Appeals may reverse the judgment
13 in a criminal action, as well upon the law as upon the facts.

14 SECTION 2.04. Section 31.001, Government Code, is amended
15 to read as follows:

16 Sec. 31.001. AUTHORITY FOR COUNTY PAYMENT OF COMPENSATION.
17 The commissioners courts in the counties of each of the 15 [~~14~~]
18 courts of appeals districts may pay additional compensation in an
19 amount that does not exceed the limitations of Section 659.012 to
20 each of the justices of the courts of appeals residing within the
21 court of appeals district that includes those counties. The
22 compensation is for all extrajudicial services performed by the
23 justices.

24 ARTICLE 3. SPECIFIC APPROPRIATION REQUIRED; EFFECTIVE DATE

25 SECTION 3.01. (a) Notwithstanding Section 22.201(a),
26 Government Code, as amended by this Act, and Sections 22.201(p) and
27 22.2151, Government Code, as added by this Act, the Court of Appeals

1 for the Fifteenth Court of Appeals District is not created unless
2 the legislature makes a specific appropriation of money for that
3 purpose. For purposes of this subsection, a specific appropriation
4 is an appropriation identifying the Court of Appeals for the
5 Fifteenth Court of Appeals District or an Act of the 88th
6 Legislature, Regular Session, 2023, relating to the creation of the
7 Court of Appeals for the Fifteenth Court of Appeals District.

8 (b) Notwithstanding Section [22.220\(a\)](#), Government Code, as
9 amended by this Act, a court of appeals has the same jurisdiction
10 the court had on August 31, 2023, if the Court of Appeals for the
11 Fifteenth Court of Appeals District is not created as a result of
12 Subsection (a) of this section.

13 SECTION 3.02. This Act takes effect September 1, 2023.