

By: Huffman, et al. S.B. No. 1045
(Murr, Burrows, Schofield, Vasut, Landgraf, et al.)

Substitute the following for S.B. No. 1045:

By: Murr C.S.S.B. No. 1045

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.

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 Fifteenth Court of Appeals may transact its business
21 in any county in the district as the court determines is necessary
22 and convenient.

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

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

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

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

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

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

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

25 (B) a proceeding brought under Chapter 7B or
26 Article 17.292, Code of Criminal Procedure;

27 (C) a proceeding brought against a district

1 attorney, a criminal district attorney, or a county attorney with
2 criminal jurisdiction;

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

5 (E) a proceeding relating to civil asset
6 forfeiture;

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

9 (G) a proceeding brought under Chapter 125, Civil
10 Practice and Remedies Code, to enjoin a common nuisance;

11 (H) a proceeding brought under Chapter 55, Code
12 of Criminal Procedure;

13 (I) a proceeding under Chapter 22A, Government
14 Code;

15 (J) a proceeding brought under Subchapter E-1,
16 Chapter 411, Government Code;

17 (K) a proceeding brought under Chapter 21, Labor
18 Code;

19 (L) a removal action under Chapter 87, Local
20 Government Code; or

21 (M) a proceeding brought under Chapter 841,
22 Health and Safety Code;

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

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

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

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

8 [~~(1)~~] a judge of a district, statutory county,
9 statutory probate county, or county court in the court of appeals
10 district[+]

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

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

17 (c) Each court of appeals for a court of appeals district,
18 other than the Court of Appeals for the Fifteenth Court of Appeals
19 District, may issue all writs of mandamus, agreeable to the
20 principles of law regulating those writs, against:

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

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

27 (c-1) The original jurisdiction of the Court of Appeals for

1 the Fifteenth Court of Appeals District to issue writs is limited to
2 writs arising out of matters over which the court has exclusive
3 intermediate appellate jurisdiction under Section 22.220(d).

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

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

9 (1) assist the court of appeals in the processing of
10 appeals filed with the court of appeals from the county courts,
11 statutory county courts, statutory probate courts, and district
12 courts in the counties the court of appeals serves; and

13 (2) defray costs and expenses incurred in the
14 operation of the court of appeals.

15 SECTION 1.07. Section 73.001, Government Code, is amended
16 to read as follows:

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

22 (b) The supreme court may not transfer any case or
23 proceeding properly filed in the Court of Appeals for the Fifteenth
24 Court of Appeals District to another court of appeals for the
25 purpose of equalizing the dockets of the courts of appeals.

26 (c) The supreme court shall adopt rules for:

27 (1) transferring an appeal inappropriately filed in

1 the Fifteenth Court of Appeals to a court of appeals with
2 jurisdiction over the appeal; and

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

7 SECTION 1.08. Section 659.012(a), Government Code, is
8 amended to read as follows:

9 (a) Notwithstanding Section 659.011 and subject to
10 Subsections (b) and (b-1):

11 (1) a judge of a district court is entitled to an
12 annual base salary from the state as set by the General
13 Appropriations Act in an amount equal to at least \$140,000, except
14 that the combined base salary of a district judge from all state and
15 county sources, including compensation for any extrajudicial
16 services performed on behalf of the county, may not exceed the
17 amount that is \$5,000 less than the maximum combined base salary
18 from all state and county sources for a justice of a court of
19 appeals other than a chief justice as determined under this
20 subsection;

21 (2) except as provided by Subdivision (3), a justice
22 of a court of appeals other than the chief justice is entitled to an
23 annual base salary from the state in the amount equal to 110 percent
24 of the state base salary of a district judge as set by the General
25 Appropriations Act, except that the combined base salary of a
26 justice of the court of appeals other than the chief justice from
27 all state and county sources, including compensation for any

1 extrajudicial services performed on behalf of the county, may not
2 exceed the amount that is \$5,000 less than the base salary for a
3 justice of the supreme court as determined under this subsection;

4 (3) a justice of the Court of Appeals for the Fifteenth
5 Court of Appeals District other than the chief justice is entitled
6 to an annual base salary from the state in the amount equal to
7 \$5,000 less than 120 percent of the state base salary of a district
8 judge as set by the General Appropriations Act;

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

14 (5) (4) the chief justice or presiding judge of an
15 appellate court is entitled to an annual base salary from the state
16 in the amount equal to \$2,500 more than the state base salary
17 provided for the other justices or judges of the court, except that
18 the combined base salary of the chief justice of a court of appeals
19 from all state and county sources may not exceed the amount equal to
20 \$2,500 less than the base salary for a justice of the supreme court
21 as determined under this subsection.

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

24 (f) A Travis County district court in which an action is
25 brought under this section, on its own motion or the motion of any
26 party, may request transfer of the action to the Court of Appeals
27 for the Fifteenth ~~Third~~ Court of Appeals District if the district

1 court finds that the public interest requires a prompt,
2 authoritative determination of the validity or applicability of the
3 rule in question and the case would ordinarily be appealed. After
4 filing of the district court's request with the court of appeals,
5 transfer of the action may be granted by the court of appeals if it
6 agrees with the findings of the district court concerning the
7 application of the statutory standards to the action. On entry of
8 an order by the court of appeals granting transfer, the action is
9 transferred to the court of appeals for decision, and the validity
10 or applicability of the rule in question is subject to judicial
11 review by the court of appeals. The administrative record and the
12 district court record shall be filed by the district clerk with the
13 clerk of the court of appeals. The court of appeals may direct the
14 district court to conduct any necessary evidentiary hearings in
15 connection with the action.

16 SECTION 1.10. Section [2001.176\(c\)](#), Government Code, is
17 amended to read as follows:

18 (c) A Travis County district court in which an action is
19 brought under this section, on its own motion or on motion of any
20 party, may request transfer of the action to the Court of Appeals
21 for the Fifteenth [~~Third~~] Court of Appeals District if the district
22 court finds that the public interest requires a prompt,
23 authoritative determination of the legal issues in the case and the
24 case would ordinarily be appealed. After filing of the district
25 court's request with the court of appeals, transfer of the action
26 may be granted by the court of appeals if it agrees with the
27 findings of the district court concerning the application of the

1 statutory standards to the action. On entry of an order by the
2 court of appeals granting transfer, the action is transferred to
3 the court of appeals for decision, and the agency decision in the
4 contested case is subject to judicial review by the court of
5 appeals. The administrative record and the district court record
6 shall be filed by the district clerk with the clerk of the court of
7 appeals. The court of appeals may direct the district court to
8 conduct any necessary evidentiary hearings in connection with the
9 action.

10 SECTION 1.11. Section 2301.751(a), Occupations Code, is
11 amended to read as follows:

12 (a) A party to a proceeding affected by a final order, rule,
13 or decision or other final action of the board with respect to a
14 matter arising under this chapter or Chapter 503, Transportation
15 Code, may seek judicial review of the action under the substantial
16 evidence rule in:

17 (1) a district court in Travis County; or

18 (2) the court of appeals for the Fifteenth [~~Third~~]
19 Court of Appeals District.

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

22 (e) Judicial review of competition rules adopted by the
23 commission shall be conducted under Chapter 2001, Government Code,
24 except as otherwise provided by this chapter. Judicial review of
25 the validity of competition rules shall be commenced in the Court of
26 Appeals for the Fifteenth [~~Third~~] Court of Appeals District and
27 shall be limited to the commission's rulemaking record. The

1 rulemaking record consists of:

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

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

10 (b) If the Court of Appeals for the Fifteenth Court of
11 Appeals District is created, the initial vacancies in the offices
12 of chief justice and justices of the court shall be filled by
13 appointment.

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

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

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

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

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

7 ARTICLE 2. CONFORMING AMENDMENTS

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

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

- 12 1. The Court of Criminal Appeals;
- 13 2. Courts of appeals, other than the Court of Appeals
14 for the Fifteenth Court of Appeals District;
- 15 3. The district courts;
- 16 4. The criminal district courts;
- 17 5. The magistrates appointed by the judges of the
18 district courts of Bexar County, Dallas County, Tarrant County, or
19 Travis County that give preference to criminal cases and the
20 magistrates appointed by the judges of the criminal district courts
21 of Dallas County or Tarrant County;
- 22 6. The county courts;
- 23 7. All county courts at law with criminal
24 jurisdiction;
- 25 8. County criminal courts;
- 26 9. Justice courts;
- 27 10. Municipal courts;

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

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

5 13. The magistrates appointed by the Collin County
6 Commissioners Court;

7 14. The magistrates appointed by the Brazoria County
8 Commissioners Court or the local administrative judge for Brazoria
9 County; and

10 15. The magistrates appointed by the judges of the
11 district courts of Tom Green County.

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

14 Art. 4.03. COURTS OF APPEALS. The Courts of Appeals, other
15 than the Court of Appeals for the Fifteenth Court of Appeals
16 District, shall have appellate jurisdiction coextensive with the
17 limits of their respective districts in all criminal cases except
18 those in which the death penalty has been assessed. This article
19 [~~Article~~] shall not be so construed as to embrace any case which has
20 been appealed from any inferior court to the county court, the
21 county criminal court, or county court at law, in which the fine
22 imposed or affirmed by the county court, the county criminal court
23 or county court at law does not exceed one hundred dollars, unless
24 the sole issue is the constitutionality of the statute or ordinance
25 on which the conviction is based.

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

1 Art. 44.25. CASES REMANDED. The courts of appeals, other
2 than the Court of Appeals of the Fifteenth Court of Appeals
3 District, or the Court of Criminal Appeals may reverse the judgment
4 in a criminal action, as well upon the law as upon the facts.

5 SECTION 2.04. Section 31.001, Government Code, is amended
6 to read as follows:

7 Sec. 31.001. AUTHORITY FOR COUNTY PAYMENT OF COMPENSATION.
8 The commissioners courts in the counties of each of the 15 [~~14~~]
9 courts of appeals districts may pay additional compensation in an
10 amount that does not exceed the limitations of Section 659.012 to
11 each of the justices of the courts of appeals, other than a justice
12 of the Court of Appeals of the Fifteenth Court of Appeals District,
13 residing within the court of appeals district that includes those
14 counties. The compensation is for all extrajudicial services
15 performed by the justices.

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

18 SECTION 3.01. (a) Notwithstanding Section 22.201(a),
19 Government Code, as amended by this Act, and Sections 22.201(p) and
20 22.2151, Government Code, as added by this Act, the Court of Appeals
21 for the Fifteenth Court of Appeals District is not created unless
22 the legislature makes a specific appropriation of money for that
23 purpose. For purposes of this subsection, a specific appropriation
24 is an appropriation identifying the Court of Appeals for the
25 Fifteenth Court of Appeals District or an Act of the 88th
26 Legislature, Regular Session, 2023, relating to the creation of the
27 Court of Appeals for the Fifteenth Court of Appeals District.

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

6 SECTION 3.02. The Texas Supreme Court has exclusive and
7 original jurisdiction over a challenge to the constitutionality of
8 this Act or any part of this Act and may issue injunctive or
9 declaratory relief in connection with the challenge.

10 SECTION 3.03. This Act takes effect September 1, 2023.