

- SUBJECT:** Uniform requirements for municipal courts of record
- COMMITTEE:** Judicial Affairs — committee substitute recommended
- VOTE:** 8 ayes — Thompson, Hartnett, Capelo, Deshotel, Garcia, Hinojosa, Jim Solis, Uresti
- 0 nays
- 1 absent — Shields
- WITNESSES:** For — Elizabeth Elam, Cities of Azle, Haltom City, and Southlake; Judge Michael O’Neal; Rebecca Stark, City of Fort Worth; Karen Brophy, City of Carrollton; Gary Landers, City of Tyler; Judge Stella Kyle Ortiz
- Against —None
- BACKGROUND:** Each of the approximately 850 incorporated towns and cities in Texas by law must have a municipal court. These courts have concurrent jurisdiction with justice of the peace courts within the city limits for offenses involving fine-only misdemeanors, such as certain traffic offenses, and certain Alcoholic Beverage Code violations involving minors. They also have exclusive jurisdiction over violations of city ordinances involving fines only.
- In most municipal courts, as in justice of the peace courts, no formal record is made of the proceedings, and appeal to the county court or county court at law is *de novo*, with a new trial without regard to the result in the lower court. For cities with municipal courts of record, a record is made of the trial, and any appeal is based on that record.
- DIGEST:** CSHB 731 would amend the Government Code by adding uniform measures relating to the qualifications, duties, salaries, powers, terms, selection, and removal of judges of municipal courts of record. The bill also would amend the appellate procedures and jurisdiction of municipal courts of record.
- The bill would require that municipal judges of record be appointed by the governing board of the municipality by ordinance, for a definite term of two to four years. A judge would have to be a resident of Texas, a citizen of the

United States, and a licensed attorney in good standing and would have to have practiced law at least two years in Texas.

The bill would add other provisions on the administration of municipal courts of record, including provisions for the appointment of a presiding judge. It would require the governing board to determine the salary of a municipal judge, which could not be diminished during the judge's tenure. The salary could not be based directly or indirectly on fines, fees, or costs collected by the court. A judge who announced political candidacy for a general, special, or primary election for another office automatically would resign a position as municipal judge.

A municipal judge of record would have jurisdiction over certain dairies and slaughterhouse cases, nuisance cases, and cases relating to the authority of a home-rule municipality to police municipally owned property located outside of city and matters relating to the protection of streams and watersheds. The municipal court of record would have concurrent jurisdiction with a justice court in any precinct within the municipality for criminal cases arising within the territorial limits of the municipality that are punishable by fine only.

The bill would allow a governing body to fill a vacancy in a municipal court for the remainder of the term and to remove a judge under certain conditions and procedures. It would require a municipal clerk to maintain court records, issue process, and perform other duties similar to those of a clerk of a county court at law. The governing body of a municipality could provide deputy clerks, warrant officers, and other related court personnel for a municipal court. The hiring, direction, supervision, and removal of the personnel would have to be consistent with the annual budget of the clerk's office.

The bill would provide for the use of court reporters in municipal courts of record cases and for the court facilities used in such cases.

The bill would add uniform procedures and requirements for pleadings, seals on court records, and jury structure. The state would have a right to appeal a judgment in any municipal court of record. County criminal courts or county criminal courts of appeal would have jurisdiction of appeals from a municipal court of record.

Court transcripts required for an appeal would cost \$25, with a requirement that the fee be noted on the court docket. The cost of an appeal bond would be \$100.

The bill also would establish uniform requirements regarding a record on appeal, transcripts, bills of exception, statement of facts, transfers of record, briefs on appeal, and new trials.

The bill would make specific changes for various cities and counties and conforming changes to sections of the Government Code to reflect the substantive changes mentioned above.

CSHB 731 would take effect September 1, 1999. A municipal judge serving on this date would continue to serve the term to which the judge had been elected or appointed. Clerks and court reporters also would continue to serve until the expiration of their terms.

**SUPPORTERS
SAY:**

The House Judicial Affairs Committee produced an interim report reflecting the recommendations of several municipalities on the need for uniformity for municipal courts of record. The interim study found many inconsistencies among the counties in regard to requirements for judicial office for municipal courts of record, as well as some glaring variances involving court costs and procedures.

Vast disparities exist even within the same geographic area, as exemplified by Dallas County. The minimum appeal bond is \$50 in Richardson, \$60 in Rowlett, and \$100 in Addison, all of which must appeal to the same county criminal court at law. The state may not appeal cases in Addison or Rowlett but may appeal cases in Richardson. An appellant has five days to file a motion for a new trial in Dallas or Addison and 10 days in Richardson or Rowlett. This motion is overruled by operation of law after 10 days in Dallas, 21 days in Addison, and 30 days in Richardson or Rowlett. Such patchwork requirements are found throughout the state.

CSHB 731 would address these wide variances directly. The bill would bring uniformity to the requirements for judicial office, court procedures, court jurisdiction, appellate procedure, and court personnel. It also would set individual requirements for specific municipalities, tailored to local needs. Future legislation could build on these specific provisions, insofar as specific

municipal courts of record could have their idiosyncratic local needs listed in a subchapter. The uniform act would be useful in reducing contradictions and nonsensical irregularities among the court statutes and in reducing confusion in regard to appeals.

Several concerns arose concerning the original bill's requirements for administrative costs to be borne by a municipality. The committee substitute addressed these concerns by amending provisions related to the assessment of fees in a way that would not add financial burdens on municipalities.

The bill would have no fiscal implication to the state.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

The committee substitute changed the original bill by adding provisions on the designation by ordinance of municipal judges and on the appointment of municipal court clerks. It also added a provision on supervision and control of the operation and clerical functions of the administrative departments of courts and their personnel. The substitute would require a clerk to maintain an index of all court judgments. It also would require the appellant to pay for the statement of facts relating to an appeal.

The substitute also made conforming changes to section designations and to requirements for certain municipal courts of record for specific cities. It also changed the section headings for conforming reasons.