

SUBJECT: Creating the Fifteenth Court of Appeals District

COMMITTEE: Judiciary & Civil Jurisprudence — committee substitute recommended

VOTE: 5 ayes — Leach, Murr, Schofield, Slawson, Vasut

4 nays — Julie Johnson, Davis, Flores, Moody

SENATE VOTE: On final passage, (March 30) — 25 - 6

WITNESSES: None

BACKGROUND: Some have suggested that creating a Fifteenth Court of Appeals with statewide jurisdiction of civil cases brought by or against a state agency, state employee, or officer would allow judges to apply specialized experience in subjects including sovereign immunity, administrative law, and constitutional law and could help ensure consistency of decisions on such legal issues across the state.

DIGEST: CSSB 1045 would create the Fifteenth Court of Appeals District composed of all counties in the state. The court would be held in the City of Austin and could transact its business in any county in the district that the court deemed necessary and convenient. The court would consist of a chief justice and four justices holding places numbered consecutively, beginning with Place 2.

The court would have exclusive intermediate appellate jurisdiction over:

- certain matters brought by or against the state or other designated state agency, including a university system or institution of higher education, or brought by or against an officer or employee of the state or other designated state agency, including a university system or institution of higher education arising out of the employee or officer's conduct;
- matters in which a party filed a petition, motion, or other pleading challenging the constitutionality or validity of a state statute or rule

- and the attorney general was a party to the case; and
- any other matter as provided by law.

CSSB 1045 would revise provisions related to issuing writs of mandamus and limit the Fifteenth Court of Appeals' ability to issue writs to only those matters over which the court had exclusive intermediate appellate jurisdiction.

The supreme court would be prohibited from transferring any a case or a proceeding that had been properly filed with the Fifteenth Court of Appeals to another court of appeals for the purpose of equalizing dockets. The supreme court further would be required to adopt rules related to the transfer of an appeal inappropriately filed with the Fifteenth Court of Appeals, and the process for transfer to the Fifteenth Court of Appeals of appeals filed in other courts that would be the exclusive intermediate appellate jurisdiction of the Fifteenth Court of Appeals.

The bill would make conforming changes to establish and limit the court's exclusive intermediate appellate jurisdiction to matters brought by or against the state or brought by or against a state officer or employee as set forth in the bill.

Authority for judicial review of proceedings related to a final order, rule, decision, or other final action of the board of the Texas Department of Motor Vehicles would be transferred from the Third Court of Appeals District to the Fifteenth Court of Appeals District. Judicial review of rules of competition developed by the Public Utility Commission of Texas also would be transferred from the Third Court of Appeals District to the Fifteenth Court of Appeals District.

The Fifteenth Court of Appeals could not be created unless the Legislature made a specific appropriation for that purpose. If the appropriation was made, the new court would be created on September 1, 2024. Initial vacancies in the offices of the chief justice and justices of the court would be filled by appointment.

A justice of the Fifteenth Court of Appeals other than the chief justice would be entitled to an annual base salary from the state in an 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.

If created, cases pending in other courts of appeal that were filed on or after September 1, 2023, that would be the exclusive intermediate appellate jurisdiction of the Fifteenth Court of Appeals would be transferred to the new court on September 1, 2024. For cases transferred:

- all processes, writs, bonds, recognizances, or other obligations issued from the other courts of appeal would be returnable to the Fifteenth Court of Appeals as if originally issued by the court; and
- the obligees on all bonds and recognizances taken in and for the other courts of appeal and all witnesses summoned to the other courts would be summoned to the Fifteenth Court of Appeals as if originally required to appear before the new court.

The Texas Supreme Court would have exclusive and original jurisdiction over a challenge to the constitutionality of the bill or any part of the bill and could issue injunctive or declaratory relief in connection to a challenge.

The bill would take effect September 1, 2023.

NOTES:

According to the Legislative Budget Board, CSSB 1045 would have a negative impact of about \$5.9 million on general revenue funds through the biennium ending August 31, 2025.