

BILL ANALYSIS

Senate Research Center

H.B. 736
By: Palmer (Moncrief)
Jurisprudence
4-15-97
Engrossed

DIGEST

Currently, there are no municipal courts of record in the City of Lake Worth (city). This means that all persons issued citations in the city have an automatic right of appeal to county courts. This impairs the ability of the city to enforce traffic laws and local ordinances. This bill would authorize the city to create municipal courts of record, which do not require trial de novo on appeal.

PURPOSE

As proposed, S.B. 736 creates municipal courts of record in the City of Lake Worth.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 30, Government Code, by adding Subchapter GG, as follows:

SUBCHAPTER GG. LAKE WORTH

Sec. 30.01251. APPLICATION. Provides that this subchapter applies to the City of Lake Worth (city).

Sec. 30.01252. CREATION. Authorizes the governing body of the city to create and determine a number of municipal courts of record, by ordinance. Requires an ordinance establishing courts to give each court number a numerical designation, beginning with "Municipal Court of Record No. 1." Prohibits a municipal court of record from existing concurrently with a municipal court not that is of record. Provides that a municipal court of record has no terms and is authorized to sit at any time.

Sec. 30.01253. APPLICATION OF OTHER LAWS. Provides that the general law regarding municipal courts, the general law regarding justice courts on matters not covered by the law regarding municipal courts, and any charter provision or ordinance of the city relating to the municipal court apply to a municipal court of record, unless the law, charter provision, or ordinance is in conflict or inconsistent with this subchapter.

Sec. 30.01254. JUDGE. Sets forth requirements for municipal judges.

Sec. 30.01255. MAGISTRATES. Authorizes a governing body to appoint magistrates as provided by Article 2.09, Code of Criminal Procedure. Sets forth duties for magistrates.

Sec. 30.01256. CLERK; OTHER PERSONNEL. Requires the city administrator to appoint a clerk of the municipal court of record. Sets forth the duties of the clerk and the duties of the clerk's deputies.

Sec. 30.01257. COURT REPORTER. Requires the city to provide a court reporter. Requires the clerk to appoint the court reporter. Requires the city to compensate the court reporter. Authorizes the court reporter to use certain methods of recording. Sets forth

requirements for recording testimony. Authorizes the governing board of the city to have good quality recording devices instead of a court reporter. Sets forth how long a recording is to be kept and stored. Provides that appealed proceedings are to be transcribed.

Sec. 30.01258. PROSECUTIONS BY CITY ATTORNEY. Requires all prosecutions in the municipal court of record to be conducted by the city attorney or an assistant or deputy attorney.

Sec. 30.01259. JURY. Provides that a person brought before a municipal court of record is entitled to be tried by a jury of six persons, unless that right is waived. Sets forth the duties of the jury. Requires the court to determine all matters of law and to charge the jury on the law. Provides that a juror who serves is to meet the qualifications required by jurors.

Sec. 30.01260. APPEAL. Sets forth requirements and procedures of an appeal from a municipal court of record.

Sec. 30.01261. APPEAL BOND. Requires the defendant to file an appeal bond with the municipal court of record, if the defendant is not in custody. Sets forth requirements and procedures of the appeal bond.

Sec. 30.01262. RECORD ON APPEAL. Sets forth the requirements and procedures of attaining the record for an appeal.

Sec. 30.01263. TRANSCRIPT. Sets forth requirements and procedures of the transcript.

Sec. 30.01264. BILLS OF EXCEPTION. Sets forth requirements of bills of exception.

Sec. 30.01265. STATEMENTS OF FACTS. Sets forth the required contents of a statement of facts.

Sec. 30.01266. COMPLETION, APPROVAL, AND TRANSFER OF RECORD. Requires parties to file certain materials with the municipal court clerk within a certain period of time. Sets forth procedures for completion, approval, and filing of the record.

Sec. 30.01267. BRIEF ON APPEAL. Sets forth requirements and deadlines of a brief on appeal.

Sec. 30.01268. COURT RULES. Provides that the Code of Criminal Procedure governs the trial cases before municipal courts of record. Provides that bonds are to be payable to the state. Authorizes a peace officer to serve process issued by a municipal court of record. Authorizes appellate courts to make and enforce all rules of practice and procedure not inconsistent with general law.

Sec. 30.01269. DISPOSITION ON APPEAL. Authorizes the appellate court to make certain decisions according to law and the nature of the case. Sets forth the procedures in disposing an appeal.

Sec. 30.01270. CERTIFICATE OF APPELLATE PROCEEDINGS. Sets forth the duties of the clerk of the court when the judgment of the appellate court becomes final. Provides that if the municipal court of record judgment is affirmed, further action to enforce the judgment is not necessary except in certain matters.

Sec. 30.01271. EFFECT OF ORDER OF NEW TRIAL. Provides that if an appellate court awards a new trial to a defendant, the case stands as if a new trial had been granted by the municipal court.

Sec. 30.01272. APPEAL TO COURT OF APPEALS. Sets forth requirements for appeal to the court of appeals.

Sec. 30.1273. JOINT COURTS: CREATION. Authorizes the governing body of the city to contract with one or more municipalities that have municipal courts of record to establish a joint municipal court of record. Provides that a joint municipal court of record under this section replaces each municipality's individual municipal court of record.

Sec. 30.01274. JOINT COURT: JUDGES. Sets forth requirements for joint court judges, including removal.

Sec. 30.01275. JOINT COURTS: JURISDICTION. Sets forth jurisdiction of joint courts.

Sec. 30.01276. JOINT COURT: PROSECUTING ATTORNEY. Authorizes a municipality to provide its own prosecuting attorney or the contracting municipalities may agree on the selection of one or more prosecuting attorneys.

Sec. 30.01277. JOINT COURT: APPLICABLE LAW. Sets forth the laws applicable to joint courts.

SECTION 2. Emergency clause.
Effective date: upon passage.