

BILL ANALYSIS

Senate Research Center
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S.B. 629
By: Wentworth
Jurisprudence
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DIGEST AND PURPOSE

The commissioners court of Comal County has requested the authority to authorize the appointment of one or more magistrates in that county. As proposed, S.B. 629 authorizes the commissioners court of Comal County to authorize district and county court at law judges in Comal County to appoint one or more full-time or part-time magistrates and sets forth the qualifications, compensation, jurisdiction, responsibility, and powers of such magistrates.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 54, Government Code, by adding Subchapter W, as follows:

SUBCHAPTER W. MAGISTRATES IN COMAL COUNTY

Sec. 54.1151. AUTHORIZATION; APPOINTMENT; ELIMINATION. (a) Authorizes the Commissioners Court of Comal County to authorize the judges of the district and statutory county courts in Comal County to appoint one or more part-time or full-time magistrates to perform the duties authorized by this subchapter.

(b) Authorizes the judges of the district and statutory county courts in Comal County by a unanimous vote to appoint magistrates as authorized by the Commissioners Court of Comal County.

(c) Requires an order appointing a magistrate to be signed by the local presiding judge of the district courts serving Comal County and requires the order to state certain information.

(d) Provides that an authorized magistrate's position may be eliminated on a majority vote of the Commissioners Court of Comal County.

Sec. 54.1152. QUALIFICATIONS; OATH OF OFFICE. (a) Requires a person, to be eligible for appointment as a magistrate, to meet certain qualifications.

(b) Requires a magistrate appointed under Section 54.1151 to take the constitutional oath of office required of appointed officers of this state.

Sec. 54.1153. COMPENSATION. (a) Provides that a magistrate is entitled to the salary determined by the Commissioners Court of Comal County.

(b) Prohibits a full-time magistrate's salary from being less than that of a justice of the

peace of Comal County as established by the annual budget of Comal County.

(c) Provides that a part-time magistrate's salary is equal to the per-hour salary of a justice of the peace. Provides that the per-hour salary is determined by dividing the annual salary by a 2000 work-hour year. Requires the local administrative judge of the district courts serving Comal County to approve the number of hours to be paid a part-time magistrate.

(d) Provides that the magistrate's salary is paid from the county fund available for payment of officers' salaries.

Sec. 54.1154. JUDICIAL IMMUNITY. Provides that a magistrate has the same judicial immunity as a district judge.

Sec. 54.1155. TERMINATION OF EMPLOYMENT. (a) Authorizes a magistrate to be terminated by a majority vote of all the judges of the district and statutory county courts of Comal County.

(b) Requires the local administrative judge of the district courts serving Comal County, in order to terminate a magistrate's employment, to sign a written order of termination. Requires the order to state certain information.

Sec. 54.1156. JURISDICTION; RESPONSIBILITY; POWERS. (a) Requires the judges of the district or statutory county courts to establish standing orders to be followed by a magistrate or parties appearing before a magistrate, as applicable.

(b) Provides that to the extent authorized by this subchapter and the standing orders a magistrate has jurisdiction to exercise the authority granted by the judges of the district or statutory county courts.

(c) Provides that a magistrate has all of the powers of a magistrate under the laws of this state and may administer an oath for any purpose.

(d) Requires a magistrate to give preference to performing the duties of a magistrate under Article 15.17, Code of Criminal Procedure.

(e) Provides that a magistrate is authorized to perform certain duties.

(f) Authorizes a magistrate, with the express authorization of a justice of the peace, to exercise concurrent criminal jurisdiction with the justice of the peace to dispose as provided by law of cases filed in the precinct of the authorizing justice of the peace, except for a trial on the merits following a plea of not guilty.

(g) Authorizes a magistrate to perform certain duties.

Sec. 54.1157. PERSONNEL, EQUIPMENT, AND OFFICE SPACE. Requires the Commissioners Court of Comal County to provide personnel for the legal or clerical functions necessary to perform the magistrate's duties authorized by this chapter and to provide sufficient equipment and office space for the magistrate and personnel to perform the magistrate's essential functions.

SECTION 2. Effective date: upon passage or September 1, 2003.