

## **BILL ANALYSIS**

Senate Research Center  
82R20665 TJB-F

C.S.S.B. 1233  
By: West  
Intergovernmental Relations  
4/7/2011  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

C.S.S.B. 1233 amends current law relating to the promotion of efficiencies in and the administration of certain county services and functions.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the board of Texas Department of Housing and Community Affairs in SECTION 16 (Section 51.0022, Property Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 2, Code of Criminal Procedure, by adding Article 2.31, as follows:

Art. 2.31. COUNTY JAILERS. Authorizes a jailer licensed under Chapter 1701 (Law Enforcement Officers), Occupations Code, to execute lawful process issued to the jailer by any magistrate or court on a person confined in the jail at which the jailer is employed to the same extent that a peace officer is authorized to execute process under Article 2.13(b)(2) (relating to executing all lawful process), including:

- (1) a warrant under Chapter 15 (Arrest Under Warrant), 17 (Bail), or 18 (Search Warrants);
- (2) a capias under Chapter 17 or 23 (The Capias);
- (3) a subpoena under Chapter 20 (Duties and Powers of the Grand Jury) or 24 (Subpoena and Attachment); or
- (4) an attachment under Chapter 20 or 24.

SECTION 2. Amends Article 20.011(a), Code of Criminal Procedure, as follows:

(a) Authorizes only the following persons to be present in a grand jury room while the grand jury is conducting proceedings:

- (1) grand jurors;
- (2) bailiffs;
- (3) the attorney representing the state;
- (4) witnesses while being examined or when necessary to assist the attorney representing the state in examining other witnesses or presenting evidence to the grand jury;
- (5) interpreters, if necessary;

(6) a stenographer or person operating an electronic recording device, as provided by Article 20.012 (Recording of Certain Testimony); and

(7) a person operating a video teleconferencing system for use under Article 20.151.

Makes a nonsubstantive change.

SECTION 3. Amends Article 20.02(b), Code of Criminal Procedure, as follows:

(b) Provides that a grand juror, bailiff, interpreter, stenographer or person operating an electronic recording device, person preparing a typewritten transcription of a stenographic or electronic recording, or person operating a video teleconferencing system for use under Article 20.151 who discloses anything transpiring before the grand jury, regardless of whether the thing transpiring is recorded, in the course of the official duties of the grand jury, is liable to a fine as for contempt of the court, not exceeding \$500, imprisonment not exceeding 30 days, or both the fine and imprisonment. Makes nonsubstantive changes.

SECTION 4. Amends Chapter 20, Code of Criminal Procedure, by adding Article 20.151, as follows:

Art. 20.151. CERTAIN TESTIMONY BY VIDEO TELECONFERENCING. (a) Authorizes a peace officer summoned to testify before the grand jury, with the consent of the foreman of the grand jury and the attorney representing the state, to testify through the use of a closed circuit video teleconferencing system that provides an encrypted, simultaneous, compressed full motion video and interactive communication of image and sound between the peace officer, the attorney representing the state, and the grand jury.

(b) Requires a peace officer testifying through the use of a closed circuit video teleconferencing system under this article, in addition to being administered the oath described by Article 20.16(a) (relating to the oath administered by the foreman), before being interrogated, to affirm that:

(1) no person other than a person in the grand jury room is capable of hearing the peace officer's testimony; and

(2) the peace officer's testimony is not being recorded or otherwise preserved by any person at the location from which the peace officer is testifying.

(c) Requires that testimony received from a peace officer under this article be recorded and preserved.

SECTION 5. Amends Article 27.18, Code of Criminal Procedure, by amending Subsection (c) and adding Subsections (c-1) and (c-2), as follows:

(c) Provides that a court reporter or court recorder is not required to transcribe or make a separate recording of a plea taken under this article unless an appeal is taken in the case and a party requests a transcript.

(c-1) Creates this subsection from existing text. Authorizes the defendant to obtain a copy of a recording made under Subsection (c), rather than a copy of the recording, on payment of a reasonable amount to cover the costs of reproduction or, if the defendant is indigent, the court shall provide a copy to the defendant without charging a cost for the copy.

(c-2) Provides that the loss or destruction of or failure to make a video recording of a plea entered under this article is not alone sufficient grounds for a defendant to withdraw

the defendant's plea or to request the court to set aside a conviction or sentence based on the plea.

SECTION 6. Amends Article 38.073, Code of Criminal Procedure, as follows:

Art. 38.073. TESTIMONY OF INMATE WITNESSES. Authorizes any deposition or testimony of the inmate witness, in a proceeding in the prosecution of a criminal offense in which an inmate in the custody of the TDCJ is required to testify as a witness, to be conducted by a video teleconferencing system in the manner described by Article 27.18 (Plea or Waiver of Rights by Closed Circuit Video Teleconferencing), rather than by electronic means, in the same manner as permitted in civil cases under Section 30.012 (Use of Communication Equipment in Certain Proceedings), Civil Practice and Remedies Code.

SECTION 7. Amends Article 49.25, Code of Criminal Procedure, by adding Section 13A, as follows:

Sec. 13A. FEES. Authorizes a medical examiner to charge reasonable fees for services provided by the office of medical examiner under this article, including cremation approvals, court testimonies, consultations, and depositions.

SECTION 8. Amends Section 31.037, Election Code, as follows:

Sec. 31.037. New heading: SUSPENSION OR TERMINATION OF EMPLOYMENT. Authorizes the employment of the county elections administrator to be suspended, with or without pay, or terminated at any time for good and sufficient cause on the four-fifths vote of the county election commission and approval of that action by a majority vote of the commissioners court.

SECTION 9. Amends Section 203.005(b), Family Code, as follows:

(b) Provides that the first payment of a fee under Subsection (a)(5) (relating to a monthly service fee not to exceed \$3 to be paid annually in advance by a managing conservator and possessory conservator for whom the domestic relations office provides child support services), rather than Subsection (a)(4) (relating to a reasonable attorney's fee and court costs incurred or ordered by the court), is due on the date that the person required to pay support is ordered to begin child support, alimony, or separate maintenance payments. Provides that subsequent payments of the fee are due annually and in advance.

SECTION 10. Amends Sections 51.318(b) and (e), Government Code, as follows:

(b) Sets forth certain fees, including that, the fee, notwithstanding Section 51.3195 (Copies of Court Records Preserved Only on Microfilm or by Electronic Method), for an electronic certified copy of a record, judgment, order, pleading, or paper on file or of record in the district clerk's office, including certificate and seal, for each page or part of a page is not to exceed \$1.

(e) Prohibits the district clerk from charging the United States Immigration and Customs Enforcement or the United States Citizenship and Immigration Services, rather than the United States Immigration and Naturalization Service, a fee for a copy of any document on file or of record in the clerk's office relating to an individual's criminal history, regardless of whether the document is certified.

SECTION 11. Amends Subchapter D, Chapter 101, Government Code, by adding Section 101.06118, as follows:

Sec. 101.06118. ADDITIONAL DISTRICT COURT FEES: GOVERNMENT CODE. Requires the clerk of a district court to collect for an electronic certified copy of a record, judgment, order, pleading, or paper on file or of record in the district clerk's office,

including certificate and seal, a fee not to exceed \$1 for each page or part of a page under Section 51.318 (Fees Due When Service Performed or Requested), Government Code.

SECTION 12. Amends Section 551.0415, Government Code, as follows:

Sec. 551.0415. New heading: GOVERNING BODY OF MUNICIPALITY OR COUNTY: REPORTS ABOUT ITEMS OF COMMUNITY INTEREST REGARDING WHICH NO ACTION WILL BE TAKEN. (a) Authorizes a quorum of the governing body of a municipality or county, notwithstanding Sections 551.041 and 551.042, to receive from municipal or county staff, and authorizes a member of the governing body to make, a report about items of community interest during a meeting of the governing body without having given notice of the report as required by this subchapter if no action is taken and, except as provided by Section 551.042, possible action is not discussed regarding the information provided in this report.

(b) Provides that, for purposes of Subsection (a), "items of community interest" includes:

- (1) expressions of thanks, congratulations, or condolence;
- (2) information regarding holiday schedules;
- (3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;
- (4) a reminder about an upcoming event organized or sponsored by the governing body;
- (5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality or county; and
- (6) announcements involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.

SECTION 13. Amends Section 551.0725(a), Government Code, as follows:

(a) Authorizes the commissioners court of a county, rather than the commissioners court of a county with a population of 400,000 or more, to conduct a closed meeting to deliberate business and financial issues relating to a contract being negotiated if, before conducting the meeting:

- (1) the commissioners court votes unanimously that deliberation in an open meeting would have a detrimental effect on the position of the commissioners court in negotiations with a third person; and
- (2) the attorney advising the commissioners court issues a written determination that deliberation in an open meeting would have a detrimental effect on the position of the commissioners court in negotiations with a third person.

SECTION 14. Amends Subchapter Z, Chapter 157, Local Government Code, by adding Section 157.9031, as follows:

Sec. 157.9031. AUTHORITY TO REQUIRE REIMBURSEMENT FOR CERTAIN COVERAGE. Authorizes a self-insuring county or the intergovernmental pool operating under Chapter 119 (County Government Liability Insurance Pool), under policies

concerning the provision of coverages adopted by the county's commissioners court or the pool's governing body, to require reimbursement for the provision of punitive damage coverage from a person to whom the county or intergovernmental pool provides coverage.

SECTION 15. Amends Sections 270.007(b) and (f), Local Government Code, as follows:

(b) Authorizes a county, rather than authorizes a county notwithstanding the provisions of Subsections (f) and (g), to exclusively contract with a person to market the application or system. Requires that a contract under this subsection, if the original contract for development of the application or system under Subsection (a) does not include a provision for marketing the application or system, be awarded in compliance, rather than only in compliance, with Section 262.030 (Alternative Competitive Proposal Procedure for Certain Goods), concerning the alternative competitive procedure for insurance or high technology items.

(f) Authorizes a county, except as provided by Subsection (b), to sell or license software under this section for a price negotiated between the county and the purchaser or licensee, including another governmental entity, rather than requires a county, except as provided by Subsection (b), upon request of any person, to sell or license software under this section for a price negotiated between the county and the person, not to exceed the developmental cost to the county. Deletes existing text requiring that developmental cost only include costs incurred under a contract to procure the software or direct employee costs incurred to develop the software. Deletes existing text providing that that this subsection does not apply to any county software that protects county computer systems from unauthorized use or access.

SECTION 16. Amends Chapter 51, Property Code, by adding Section 51.0022, as follows:

Sec. 51.0022. FORECLOSURE DATA COLLECTION. (a) Defines, in this section, "department" as the Texas Department of Housing and Community Affairs (TDHCA).

(b) Requires a person filing a notice of sale of residential property under Section 51.002(b) (requiring that the notice of the sale, which must include a statement of the earliest time at which the sale will begin, be given at least 21 days before the date of the sale) to submit to the county clerk a completed form that provides the zip code for the property.

(c) Requires a person or persons authorized to exercise the power of sale under the terms of a security instrument in accordance with Section 51.0074 (trustee) or sheriff, on completion of a sale of real property, to submit to the county clerk a completed form that contains information on whether the property is residential and the zip code of the property.

(d) Requires the county clerk, not later than the 30th day after the date of receipt of a form under this section, to transmit the form to TDHCA.

(e) Requires the board of TDHCA to prescribe the forms required under this section. Authorizes the forms to only request information on whether the property is residential and the zip code of the property.

(f) Requires TDHCA to report the information received under this section quarterly to the legislature in a format established by the board of TDHCA by rule.

SECTION 17. Repealers: Sections 86.022 (Power to Summon Resident Assistance) and 112.008 (Maintenance of Finance Records by Commissioners Court), Local Government Code.

SECTION 18. (a) Provides that Articles 20.011(a) and 20.02(b), Code of Criminal Procedure, as amended by this Act, and Article 20.151, Code of Criminal Procedure, as added by this Act,

apply only to testimony before a grand jury that is impaneled on or after the effective date of this Act.

(b) Provides that Article 27.18, Code of Criminal Procedure, as amended by this Act, applies to a plea of guilty or nolo contendere entered on or after the effective date of this Act, regardless of whether the offense with reference to which the plea is entered is committed before, on, or after that date.

(c) Provides that Article 38.073, Code of Criminal Procedure, as amended by this Act, applies only to the testimony of an inmate witness that is taken on or after the effective date of this Act.

(d) Makes application of Section 13A, Article 49.25, Code of Criminal Procedure, as added by this Act, only to a service provided by a medical examiner's office on or after the effective date of this Act, prospective.

(e) Makes application of Section 51.318(b), Government Code, as amended by this Act, only to a request for an electronic certified copy of a record, judgment, order, pleading, or paper on file or of record in the district clerk's office, including certificate and seal, made on or after the effective date of this Act, prospective.

(f) Provides that Section 551.0725(a), as amended by this Act, applies only to a meeting held on or after the effective date of this Act. Provides that a meeting held before the effective date of this Act is governed by the law in effect on the date the meeting is held, and the former law is continued in effect for that purpose.

(g) Provides that Sections 270.007(b) and (f), Local Government Code, as amended by this Act, apply only to a contract entered into on or after the effective date of this Act. Provides that a contract entered into before the effective date of this Act is governed by the law in effect when the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 19. (a) Requires the board of TDHCA to adopt the forms and rules required by Section 51.0022, Property Code, as added by this Act, not later than January 1, 2012.

(b) Provides that the change in law made by Section 51.0022, Property Code, as added by this Act, applies only to a notice of sale filed on or after January 1, 2012. Provides that a notice of sale filed before January 1, 2012, is governed by the law in effect on the date the notice is filed, and the former law is continued in effect for that purpose.

SECTION 20. Effective date: upon passage or September 1, 2011.