

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1529
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Jurisprudence
4/1/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Civil cases of statewide significance frequently involve the state, a state agency, or a state official (in connection with their official action) as a party. These cases require courts to apply highly specialized precedent in complex subject areas including sovereign immunity, administrative law, and constitutional law.

Under the current judicial system, appeals in cases of statewide significance are decided by one of Texas's 14 intermediate appellate courts. The court presiding on appeal is sometimes determined based on the county where the case originated, but cases of statewide significance can be brought in any county. What's more, cases are frequently transferred among courts of appeal for docket-equalization. The intermediate appellate courts have varying levels of experience with the complex legal issues involved in cases of statewide significance, resulting in inconsistent outcomes for litigants. This not only brings volatility to the state's jurisprudence, it does so at taxpayer expense.

C.S.S.B. 1529 addresses these problems by establishing an intermediate court of appeals with exclusive jurisdiction over cases to which the state, a state agency, or a state official is a party. The justices on this new Texas Court of Appeals are elected statewide, ensuring that all Texans have a voice in the selection of judges who decide cases of statewide importance.

C.S.S.B. 1529 amends current law relating to the creation of the Texas Court of Appeals to hear certain cases and authorizes fees.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 1.02 (Section 22.2155, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. TEXAS COURT OF APPEALS

SECTION 1.01. Amends Section 22.201(a), Government Code, as follows:

(a) Provides that the state is divided into 14 courts of appeals districts with a court of appeals of general jurisdiction, rather than with a court of appeals, in each district. Provides that the state has one statewide court of appeals district for the Texas Court of Appeals.

SECTION 1.02. Amends Subchapter C, Chapter 22, Government Code, by adding Section 22.2155, as follows:

Sec. 22.2155. TEXAS COURT OF APPEALS. (a) Provides that the Texas Court of Appeals has exclusive appellate jurisdiction over all cases or any matters arising out of or related to a civil case:

(1) brought by or against the state or a state agency, board, or commission, or by or against an officer of the state or a state agency, board, or commission other than:

(A) a proceeding brought under Title 5, Family Code;

(B) a proceeding brought against an elected official of a political subdivision or the judge of a trial court arising from an act or omission made in the official's or judge's official capacity;

(C) a proceeding relating to a mental health commitment or a civil asset forfeiture;

(D) a juvenile case;

(E) a proceeding brought under Chapter 125, Civil Practice and Remedies Code, to enjoin a common nuisance; or

(F) a quo warranto proceeding; or

(2) in which a party to the proceeding files a petition, motion, or other pleading challenging the constitutionality of the statute of this state.

(b) Provides that the court is composed of five justices elected by the qualified voters of the state.

(c) Requires that the court sit in the City of Austin, but authorizes it to transact its business in any county in the state as the court determines is necessary and convenient.

(d) Provides that, except as otherwise provided by this section or a rule adopted by the Supreme Court of Texas (supreme court) under Subsection (e), the following apply to the court in the same manner as to other courts of appeals:

(1) provisions of this code, including Sections 22.217 through 22.228, or other law;

(2) rule of procedure and appeal; and

(3) standards of practice relating to the precedent and authority from the supreme court and other courts of appeals.

(e) Requires the supreme court to adopt rules to:

(1) provide for the administration of the Texas Court of Appeals as a subject matter jurisdiction court of appeals and assist the court in processing appeals filed from the district courts, statutory county courts, and county courts of the state; and

(2) set court costs and fees for the court.

SECTION 1.03. Amends Section 22.216, Government Code, by adding Subsection (n-1) to provide that the Texas Court of Appeals consists of a chief justice and of four justices holding places numbered consecutively beginning with Place 2.

SECTION 1.04. Amends Section 22.220(a), Government Code, as follows:

(a) Provides that each court of appeals of general jurisdiction, rather than each court of appeals, has appellate jurisdiction of all civil cases within its district of which the district courts or county courts have jurisdiction when the amount in controversy or the judgment

rendered exceeds \$250, exclusive of interest and costs, other than cases over which the Texas Court of Appeals has exclusive appellate jurisdiction under Section 22.2155.

SECTION 1.05. (a) Provides that, except as otherwise provided by this Act, the Texas Court of Appeals is created on January 1, 2023.

(b) Requires that, if the Texas Court of Appeals is created, the initial vacancies in the offices of chief justice and justice of the Texas Court of Appeals be filled by election. Provides that the offices exist for purposes of the primary and general elections in 2022.

SECTION 1.06. (a) Provides that on the date the Texas Court of Appeals is created, all cases pending in courts of appeals of general jurisdiction filed on or after January 1, 2021, and of which the Texas Court of Appeals has exclusive jurisdiction are transferred to the Texas Court of Appeals.

(b) Provides that when a case is transferred as provided by Subsection (a) of this section:

(1) all processes, writs, bonds, recognizances, or other obligations issued from the court of appeals of general jurisdiction are returnable to the Texas Court of Appeals as if originally issued by that court; and

(2) the obligees on all bonds and recognizances taken in and for a court of appeals of general jurisdiction and all witnesses summoned to appear in a court of appeals of general jurisdiction are required to appear before the Texas Court of Appeals as if originally required to appear before that court.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Amends Article 4.01, Code of Criminal Procedure, to make a conforming change.

SECTION 2.02. Amends Article 4.03, Code of Criminal Procedure, to make a conforming change.

SECTION 2.03. Amends Article 44.25, Code of Criminal Procedure, to make a conforming change.

SECTION 2.04. Amends Section 612.004(f)(2), Government Code, to redefine "state agency."

ARTICLE 3. SPECIFIC APPROPRIATION REQUIRED; EFFECTIVE DATE

SECTION 3.01. (a) Provides that, notwithstanding Section 22.201(a), Government Code, as amended by this Act and Section 22.2155, Government Code, as added by this Act, the Texas Court of Appeals is not created unless the legislature makes a specific appropriation of money for that purpose. Provides that, for the purposes of this subsection, a specific appropriation is an appropriation identifying the Texas Court of Appeals or an Act of the 87th Legislature, Regular Session, 2021, relating to the creation of the Texas Court of Appeals.

(b) Provides that, notwithstanding Section 22.220(a), Government Code, as amended by this Act, a court of appeals of general jurisdiction has the same jurisdiction the court had on December 31, 2021, if the Texas Court of Appeals is not created as a result of Subsection (a) of this section.

SECTION 3.02. Effective date: January 1, 2022.