

S.B. No. 1045

AN ACT relating to the creation of the Fifteenth Court of Appeals with jurisdiction over certain civil cases, the compensation of the justices of that court, and the jurisdiction of the courts of appeals in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS: ARTICLE 1. FIFTEENTH COURT OF APPEALS

SECTION 1.01.

Section 22.201, Government Code, is amended by amending Subsection (a) and adding Subsection (p) to read as follows:

- (a) The state is organized into 15 courts of appeals districts with a court of appeals in each district.
- (p) The Fifteenth Court of Appeals District is composed of all counties in this state.

SECTION 1.02.

Subchapter C, Chapter 22, Government Code, is amended by adding Section 22.2151 to read as follows:

Sec. 22.2151. FIFTEENTH COURT OF APPEALS.

- (a) The Court of Appeals for the Fifteenth Court of Appeals District shall be held in the City of Austin.
- (b) The Fifteenth Court of Appeals may transact its business in any county in the district as the court determines is necessary and convenient.

SECTION 1.03.

Subchapter C, Chapter 22, Government Code, is amended by adding Section 22.2152 to read as follows:

Sec. 22.2152. REPORT ON FIFTEENTH COURT OF APPEALS.

Not later than December 1 of each year, the Office of Court Administration of the Texas Judicial System shall submit to the legislature a report on the number and types of cases heard by the Court of Appeals for the Fifteenth Court of Appeals District in the preceding state fiscal year.

SECTION 1.04.

Section 22.216, Government Code, is amended by adding Subsections (n-1) and (n-2) to read as follows:

- (n-1) The Court of Appeals for the Fifteenth Court of Appeals District consists of a chief justice and of four justices holding places numbered consecutively beginning with Place 2.
- (n-2) Notwithstanding Subsection (n-1), the Court of Appeals for the Fifteenth Court of Appeals District consists of a chief justice and of two justices holding places numbered consecutively beginning with Place 2 for the first three years following the court's creation. This subsection expires September 1, 2027.

SECTION 1.05.

Section 22.220, Government Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

- (a) Except as provided by Subsection (d), 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.
- (d) The Court of Appeals for the Fifteenth Court of Appeals District has exclusive intermediate appellate jurisdiction over the following matters arising out of or related to a civil case:
 - (1) matters brought by or against the state or a board, commission, department, office, or other agency in the executive branch of the state government, including a university system or institution of higher education as defined by Section 61.003, Education Code, or by or against an officer or employee of the state or a board, commission, department, office, or other agency in the executive branch of the state government arising out of that officer's or employee's official conduct, other than:
 - (A) a proceeding brought under the Family Code and any related motion or proceeding;
 - (B) a proceeding brought under Chapter 7B or Article 17.292, Code of Criminal Procedure;
 - (C) a proceeding brought against a district attorney, a criminal district attorney, or a county attorney with criminal jurisdiction;
 - (D) a proceeding relating to a mental health commitment;
 - (E) a proceeding relating to civil asset forfeiture;

- (F) a condemnation proceeding for the acquisition of land or a proceeding related to eminent domain;
- (G) a proceeding brought under Chapter 101, Civil Practice and Remedies Code;
- (H) a claim of personal injury or wrongful death;
- (I) a proceeding brought under Chapter 125, Civil Practice and Remedies Code, to enjoin a common nuisance;
- (J) a proceeding brought under Chapter 55, Code of Criminal Procedure;
- (K) a proceeding under Chapter 22A, Government Code;
- (L) a proceeding brought under Subchapter E-1, Chapter 411, Government Code;
- (M) a proceeding brought under Chapter 21, Labor Code;
- (N) a removal action under Chapter 87, Local Government Code; or
- (O) a proceeding brought under Chapter 841, Health and Safety Code;

(2) matters in which a party to the proceeding files a petition, motion, or other pleading challenging the constitutionality or validity of a state statute or rule and the attorney general is a party to the case; and

(3) any other matter as provided by law.

SECTION 1.06.

Section 22.221, Government Code, is amended by amending Subsection (b) and adding Subsections (c) and (c-1) to read as follows:

- (b) Subject to Subsection (c-1), each court of appeals for a court of appeals district may issue all writs of mandamus, agreeable to the principles of law regulating those writs, against a judge of a district, statutory county, statutory probate county, or county court in the court of appeals district.
- (c) Each court of appeals for a court of appeals district, other than the Court of Appeals for the Fifteenth Court of Appeals District, may issue all writs of mandamus, agreeable to the principles of law regulating those writs, against:
 - (1) a judge of a district court who is acting as a magistrate at a court of inquiry under Chapter 52, Code of Criminal Procedure, in the court of appeals district; or
 - (2) an associate judge of a district or county court appointed by a judge under Chapter 201, Family Code, in the court of appeals district for the judge who appointed the associate judge.

(c-1) The original jurisdiction of the Court of Appeals for the Fifteenth Court of Appeals District to issue writs is limited to writs arising out of matters over which the court has exclusive intermediate appellate jurisdiction under Section 22.220(d).

SECTION 1.07.

Section 22.229(a), Government Code, is amended to read as follows:

- (a) An appellate judicial system fund is established for each court of appeals, other than the Court of Appeals of the Fifteenth Court of Appeals District, to:
 - (1) assist the court of appeals in the processing of appeals filed with the court of appeals from the county courts, statutory county courts, statutory probate courts, and district courts in the counties the court of appeals serves; and
 - (2) defray costs and expenses incurred in the operation of the court of appeals.

SECTION 1.08.

Section 73.001, Government Code, is amended to read as follows:

Sec. 73.001. AUTHORITY TO TRANSFER.

- (a) Except as provided by Subsection (b), the supreme court may order cases transferred from one court of appeals to another at any time that, in the opinion of the supreme court, there is good cause for the transfer.
- (b) The supreme court may not transfer any case or proceeding properly filed in the Court of Appeals for the Fifteenth Court of Appeals District to another court of appeals for the purpose of equalizing the dockets of the courts of appeals.
- (c) The supreme court shall adopt rules for:
 - (1) transferring an appeal inappropriately filed in the Fifteenth Court of Appeals to a court of appeals with jurisdiction over the appeal; and
 - (2) transferring to the Fifteenth Court of Appeals from another court of appeals the appeals over which the Fifteenth Court of Appeals has exclusive intermediate appellate jurisdiction under Section 22.220(d).

equal to \$2,500 less than the base salary for a justice of the supreme court as determined under this subsection.

SECTION 1.09.

Section 659.012(a), Government Code, is amended to read as follows:

- (a) Notwithstanding Section 659.011 and subject to Subsections (b) and (b-1):
- (1) a judge of a district court is entitled to an annual base salary from the state as set by the General Appropriations Act in an amount equal to at least \$140,000, except that the combined base salary of a district judge from all state and county sources, including compensation for any extrajudicial services performed on behalf of the county, may not exceed the amount that is \$5,000 less than the maximum combined base salary from all state and county sources for a justice of a court of appeals other than a chief justice as determined under this subsection;
 - (2) except as provided by Subdivision (3), a justice of a court of appeals other than the chief justice is entitled to an annual base salary from the state in the amount equal to 110 percent of the state base salary of a district judge as set by the General Appropriations Act, except that the combined base salary of a justice of the court of appeals other than the chief justice from all state and county sources, including compensation for any extrajudicial services performed on behalf of the county, may not exceed the amount that is \$5,000 less than the base salary for a justice of the supreme court as determined under this subsection;
 - (3) a justice of the Court of Appeals for the Fifteenth Court of Appeals District other than the chief justice is entitled to an annual base salary from the state in the 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;
 - (4) a justice of the supreme court other than the chief justice or a judge of the court of criminal appeals other than the presiding judge is entitled to an annual base salary from the state in the amount equal to 120 percent of the state base salary of a district judge as set by the General Appropriations Act; and
 - (5) the chief justice or presiding judge of an appellate court is entitled to an annual base salary from the state in the amount equal to \$2,500 more than the state base salary provided for the other justices or judges of the court, except that the combined base salary of the chief justice of a court of appeals from all state and county sources may not exceed the amount

SECTION 1.10.

Section 2001.038(f), Government Code, is amended to read as follows:

- (f) A Travis County district court in which an action is brought under this section, on its own motion or the motion of any party, may request transfer of the action to the Court of Appeals for the Fifteenth Court of Appeals District if the district court finds that the public interest requires a prompt, authoritative determination of the validity or applicability of the rule in question and the case would ordinarily be appealed. After filing of the district court's request with the court of appeals, transfer of the action may be granted by the court of appeals if it agrees with the findings of the district court concerning the application of the statutory standards to the action. On entry of an order by the court of appeals granting transfer, the action is transferred to the court of appeals for decision, and the validity or applicability of the rule in question is subject to judicial review by the court of appeals. The administrative record and the district court record shall be filed by the district clerk with the clerk of the court of appeals. The court of appeals may direct the district court to conduct any necessary evidentiary hearings in connection with the action.

SECTION 1.11.

Section 2001.176(c), Government Code, is amended to read as follows:

- (c) A Travis County district court in which an action is brought under this section, on its own motion or on motion of any party, may request transfer of the action to the Court of Appeals for the Fifteenth Court of Appeals District if the district court finds that the public interest requires a prompt, authoritative determination of the legal issues in the case and the case would ordinarily be appealed. After filing of the district court's request with the court of appeals, transfer of the action may be granted by the court of appeals if it agrees with the findings of the district court concerning the application of the statutory standards to the action. On entry of an order by the court of appeals granting transfer, the action is transferred to the court of appeals for decision, and the agency decision in the contested case is subject to judicial review by the court of appeals. The administrative record and the district court record shall be filed by the district clerk with the clerk of

the court of appeals. The court of appeals may direct the district court to conduct any necessary evidentiary hearings in connection with the action.

chief justice and justices of the court shall be filled by appointment.

SECTION 1.12.

Section 2301.751(a), Occupations Code, is amended to read as follows:

(a) A party to a proceeding affected by a final order, rule, or decision or other final action of the board with respect to a matter arising under this chapter or Chapter 503, Transportation Code, may seek judicial review of the action under the substantial evidence rule in:

- (1) a district court in Travis County; or
- (2) the court of appeals for the Fifteenth Court of Appeals District.

SECTION 1.13.

Section 39.001(e), Utilities Code, is amended to read as follows:

(e) Judicial review of competition rules adopted by the commission shall be conducted under Chapter 2001, Government Code, except as otherwise provided by this chapter. Judicial review of the validity of competition rules shall be commenced in the Court of Appeals for the Fifteenth Court of Appeals District and shall be limited to the commission's rulemaking record. The rulemaking record consists of:

- (1) the notice of the proposed rule;
- (2) the comments of all interested persons;
- (3) all studies, reports, memoranda, or other materials on which the commission relied in adopting the rule; and
- (4) the order adopting the rule.

SECTION 1.14.

(a) Except as otherwise provided by this Act, the Court of Appeals for the Fifteenth Court of Appeals District is created September 1, 2024.

(b) If the Court of Appeals for the Fifteenth Court of Appeals District is created, the initial vacancies in the offices of

SECTION 1.15.

(a) The changes in law made by this Act apply to appeals perfected on or after September 1, 2024.

(b) On September 1, 2024, all cases pending in other courts of appeal that were filed on or after September 1, 2023, and of which the Court of Appeals for the Fifteenth Court of Appeals District has exclusive intermediate appellate jurisdiction are transferred to the Court of Appeals for the Fifteenth Court of Appeals District.

(c) When a case is transferred as provided by Subsection (b) of this section:

- (1) all processes, writs, bonds, recognizances, or other obligations issued from the other courts of appeal are returnable to the Court of Appeals for the Fifteenth Court of Appeals District as if originally issued by that court; and
- (2) the obligees on all bonds and recognizances taken in and for the other courts of appeal and all witnesses summoned to appear in another court of appeals are required to appear before the Court of Appeals for the Fifteenth Court of Appeals District as if originally required to appear before the Court of Appeals for the Fifteenth Court of Appeals District.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01.

Article 4.01, Code of Criminal Procedure, is amended to read as follows:

Art. 4.01. WHAT COURTS HAVE CRIMINAL JURISDICTION.

The following courts have jurisdiction in criminal actions:

1. The Court of Criminal Appeals;
2. Courts of appeals, other than the Court of Appeals for the Fifteenth Court of Appeals District;
3. The district courts;
4. The criminal district courts;
5. The magistrates appointed by the judges of the district courts of Bexar County, Dallas County, Tarrant County, or Travis County that give preference to criminal cases and the magistrates appointed by the judges of the criminal district courts of Dallas County or Tarrant County;
6. The county courts;
7. All county courts at law with criminal jurisdiction;
8. County criminal courts;
9. Justice courts;
10. Municipal courts;
11. The magistrates appointed by the judges of the district courts of Lubbock County;
12. The magistrates appointed by the El Paso Council of Judges;
13. The magistrates appointed by the Collin County Commissioners Court;
14. The magistrates appointed by the Brazoria County Commissioners Court or the local administrative judge for Brazoria County; and
15. The magistrates appointed by the judges of the district courts of Tom Green County.

SECTION 2.02.

Article 4.03, Code of Criminal Procedure, is amended to read as follows:

Art. 4.03. COURTS OF APPEALS.

The Courts of Appeals, other than the Court of Appeals for the Fifteenth Court of Appeals District, shall have appellate jurisdiction coextensive with the limits of their respective districts in all criminal cases except those in which the death penalty has been assessed. This article shall not be so construed as to embrace any case which has been appealed from any inferior court to the county court, the county criminal court, or county court at law, in which the fine imposed or affirmed by the county court, the county criminal court or county court at law does not exceed one hundred dollars, unless the sole issue is the constitutionality of the statute or ordinance on which the conviction is based.

SECTION 2.03.

Article 44.25, Code of Criminal Procedure, is amended to read as follows:

Art. 44.25. CASES REMANDED.

The courts of appeals, other than the Court of Appeals of the Fifteenth Court of Appeals District, or the Court of Criminal Appeals may reverse the judgment in a criminal action, as well upon the law as upon the facts.

SECTION 2.04.

Section 31.001, Government Code, is amended to read as follows:

Sec. 31.001. AUTHORITY FOR COUNTY PAYMENT OF COMPENSATION.

The commissioners courts in the counties of each of the 15 courts of appeals districts may pay additional compensation in an amount that does not exceed the limitations of Section 659.012 to each of the justices of the courts of appeals, other than a justice of the Court of Appeals of the Fifteenth Court of Appeals District, residing within the court of appeals district that includes those counties. The compensation is for all extrajudicial services performed by the justices.

**ARTICLE 3. SPECIFIC APPROPRIATION REQUIRED;
CONSTITUTIONAL CHALLENGE; EFFECTIVE DATE**

SECTION 3.01.

- (a) Notwithstanding Section 22.201(a), Government Code, as amended by this Act, and Sections 22.201(p) and 22.2151, Government Code, as added by this Act, the Court of Appeals for the Fifteenth Court of Appeals District is not created unless the legislature makes a specific appropriation of money for that purpose. For purposes of this subsection, a specific appropriation is an appropriation identifying the Court of Appeals for the Fifteenth Court of Appeals District or an Act of the 88th Legislature, Regular Session, 2023, relating to the creation of the Court of Appeals for the Fifteenth Court of Appeals District.
- (b) Notwithstanding Section 22.220(a), Government Code, as amended by this Act, a court of appeals has the same jurisdiction the court had on August 31, 2023, if the Court of Appeals for the Fifteenth Court of Appeals District is not created as a result of Subsection (a) of this section.

SECTION 3.02.

The Texas Supreme Court has exclusive and original jurisdiction over a challenge to the constitutionality of this Act or any part of this Act and may issue injunctive or declaratory relief in connection with the challenge.

SECTION 3.03.

This Act takes effect September 1, 2023.