

CHAPTER 900

H.B. No. 1335

An Act relating to the creation of the County Court at Law No. 2 of Brazos County and to the County Court at Law of Brazos County.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Sections 1 through 7, Chapter 50, Acts of the 64th Legislature, Regular Session, 1975 (Article 1970-359, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 1. CREATION. (a) The ~~[On January 1, 1977, the]~~ County Court at Law of Brazos County is created.

(b) *The County Court at Law No. 2 of Brazos County is created January 1, 1986.*

Sec. 2. JURISDICTION. (a) The county courts ~~[court]~~ at law have ~~[has]~~ jurisdiction over all causes and proceedings, original and appellate, civil, criminal, juvenile, and probate, prescribed by law for county courts.

(b) The county courts ~~[court]~~ at law have ~~[has]~~ the general jurisdiction of a probate court within the limits of Brazos County, and *their [its]* jurisdiction is concurrent with that of the County Court of Brazos County in probate, administrations, guardianship, and mental illness proceedings. The County Court of Brazos County shall have no other jurisdiction, civil or criminal, original or appellate. This provision does not affect the jurisdiction of the Commission-

ers Court or the County Judge of Brazos County as the presiding officer of the commissioners court.

(c) The county courts [court] at law have [has] jurisdiction concurrent with the district court in eminent domain cases, in juvenile proceedings if designated to serve as juvenile court, and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$50,000 [~~\$10,000~~], exclusive of interest.

(d) *The county courts at law have concurrent civil jurisdiction with the district court in suits and causes involving family law matters, including adoptions; birth records; removal of disability of minority or coverture; change of name of persons; divorce and marriage annulment cases, including the adjustment of property rights, custody and support of minor children involved, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; independent actions involving child welfare, custody, support and reciprocal support, dependency, neglect, and delinquency; and independent actions involving controversies between parents, between parent and child, and between husband and wife.*

(e) [~~(d)~~] The county courts [court] at law, or their judges, may [its judge, has the power to] issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. The county courts at law [it] may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the courts [court] or of any other court of inferior jurisdiction in the county. The courts [court] and judges may [judge have the power to] punish for contempt as prescribed by law for county courts. The judges [judge] of the county courts [court] at law have [has] all other powers, duties, immunities, and privileges provided by law for county court judges.

(f) [~~(e)~~] The County Judge of Brazos County is the judge of the County Court of Brazos County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Brazos County unless by this Act committed to the judges [judge] of the county courts [court] at law.

Sec. 3. *TERMS.* The terms of the County Court at Law of Brazos County and the County Court at Law No. 2 of Brazos County are the same as those for the County Court of Brazos County.

Sec. 4. *JUDGE.* (a) Each [~~The~~] judge of the county courts at law [County Court at Law of Brazos County] must be a duly licensed and practicing member of the State Bar of Texas who has been a bona fide resident of Brazos County, and actively engaged in the practice of law in Brazos County for a period of not less than two years prior to his appointment or election.

(b) At each [~~the~~] general election at which county court at law judges are regularly elected after creation of each court, [~~in 1976, there shall be elected by~~] the qualified voters of Brazos County shall elect a judge of the County Court at Law of Brazos County and a judge of the County Court at Law No. 2 of Brazos County [court created by this Act] for a four-year [~~two-year~~] term [~~beginning on January 1, 1977~~]. Every four years thereafter, the judges [~~this officer~~] shall be elected by the qualified voters of Brazos County for a regular four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) *The [~~Any vacancy in the office shall be filled by the~~] Commissioners Court of Brazos County shall appoint a person to fill a vacancy occurring in the office of judge of either of the county courts at law. The [; and the] appointee holds office until [January 1st of the year following] the next general election and until his successor is [~~has been duly~~] elected and has qualified.*

(d) Each [~~The~~] judge of the county courts [court] at law may be removed from office in the same manner and for the same causes as provided by the laws of this state for removal of county judges.

(e) [~~(e)~~] The judges [judge] of the county courts at law [County Court at Law of Brazos County] shall execute a bond and take the oath of office prescribed by law for county judges.

(f) Each [~~(d) The~~] judge of the county courts at law is entitled to [County Court at Law of Brazos County shall] receive a salary set [~~to be determined~~] by the Commissioners Court of Brazos County in an amount that is at least equal to [~~not less than~~] the salary of the county judge of Brazos County and to be paid from the same fund and in the same manner as other county officials. Each judge is [~~He shall be~~] entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as is allowed the county judge. The commissioners court shall provide adequate courtroom and office space for the judges [judge] of the county courts at law [County Court at Law of Brazos County].

(g) [~~(e)~~] A special judge of either of the county courts [court] at law with the same qualifications as the regular judge may be appointed in the manner provided by law for the appointment of a special county judge. If a judge of either [~~the~~] county court at law is disqualified to try a case pending in his court, the parties or their attorneys may agree on the

selection of a special judge for the case. A special judge is entitled to the same rate of compensation as the regular judge.

(h) *The judges of the county courts at law of Brazos County shall not engage in the private practice of law while serving as judge.*

Sec. 5. **PERSONNEL; SEALS.** (a) *Except as provided by this section, the [The] county attorney, county clerk, and sheriff in Brazos County shall serve as county attorney, clerk, and sheriff, respectively, of the County Court at Law of Brazos County and the County Court at Law No. 2 of Brazos County. In matters within the concurrent jurisdiction of the county courts at law of Brazos County and the district court, the district clerk shall serve as clerk of the county courts at law. They shall perform the duties, and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices.*

(b) *Each [The] judge of the county courts [court] at law may appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the compensation fixed by the Commissioners Court of Brazos County.*

(c) *The seals [seal] of the courts must [court shall] contain the words "County Court at Law of Brazos County[.]" and "County Court at Law No. 2 of Brazos County," but in other respects are [is] identical with the seal of the County Court of Brazos County.*

Sec. 6. **PRACTICE; PROCEDURE; TRANSFER OF CASES.** (a) *Practice in the county courts at law [County Court at Law] of Brazos County shall conform to that prescribed by law for county courts.*

(b) *All [After the effective date of this Act, all] cases of concurrent jurisdiction provided for in this Act may be instituted in or transferred between the courts having concurrent jurisdiction.*

(c) *The judges [Judge] of the county courts at law [County Court at Law] of Brazos County and [or] the Judge of the County Court of Brazos County may, at their [in his] discretion, either in term-time or in vacation, on motion of any party or on agreement of the parties, or on their [his] own motion, transfer any probate matter on their dockets [his docket] to the docket of one of the other courts [court]. The judges of the courts may, in their discretion, in any probate matter exchange benches from time to time. Whenever a judge in one of the courts is disqualified in a probate matter, he shall transfer the matter from his court to another [the other] court. Each [Either] judge may, in his own courtroom, try and determine any probate matter pending in the courts [either court], without having the case transferred, or may sit in the other court and there hear and determine any probate matter there pending. Each judgment and order shall be entered in the minutes of the court in which the matter is pending. The judges may try different probate matters in the same court at the same time and each may occupy his own courtroom or the courtroom of another [the other]. In case of absence, sickness, or disqualification of a [either] judge, another [the other] judge may hold court for him in any probate matter. The [Either of the] judges may hear any part of or question in any probate matter pending in [either of] the courts and determine the matter or question. Any [Either] judge may complete the hearing and render judgment in the case. In any matter transferred by order of the judge of one of the courts, all process, writs, bonds, recognizances, or other obligations issued or made in the matter shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in the matter shall bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the matter is transferred [to] as are fixed by law and by this Act. All processes issued or returned before transfer of the matter as well as all bonds and recognizances before taken shall be valid and binding as though originally issued out of the court to which the transfer may be made.*

Sec. 7. **JURORS.** (a) *The laws that govern the drawing, selection, service, and pay of jurors for county courts apply to the county courts [court] at law.*

(b) *Jurors regularly impaneled for a week by the district court may, on request of either [the] judge of the county courts [court] at law, be made available and shall serve for the week in that judge's [the county] court [at law].*

SECTION 2. (a) *The qualified voters of Brazos County shall elect a judge for the County Court at Law No. 2 of Brazos County at an election to be held November 5, 1985, for a term ending December 31, 1986. The election shall be conducted as provided by this section.*

(b) *The county judge shall issue an order calling for the election not later than the 45th day before the election. The order must provide for a period for filing applications for a place on the ballot that begins on the day after the day the order is issued and ends at 5 p.m. on the 31st day before the election.*

(c) *Each application for a place on the ballot must be filed with the county judge. The application must conform to the requirements of Subdivision 1, Section 32a, Texas Election Code (Article 4.10, Vernon's Texas Election Code), and must be accompanied by either a \$200*

filing fee or a petition signed by at least 500 registered voters of the county. The petition must meet the requirements of Subdivision 3, Section 32a, Texas Election Code (Article 4.10, Vernon's Texas Election Code).

(d) Immediately after the filing deadline, the county judge shall certify the names of all candidates who have filed an application that conforms to the requirements of this section and shall issue instructions to the county clerk to have the candidates' names printed on the special election ballot.

(e) The county clerk shall provide for a ballot drawing as provided by Subdivision 3, Section 61c, Texas Election Code (Article 6.05c, Vernon's Texas Election Code).

(f) The party affiliation of the candidate shall be printed on the official ballot following the name of the candidate. If the candidate has stated in his application that he is not affiliated with any political party, the word "Independent" shall be printed on the ballot following the candidate's name. The remainder of the ballot shall be printed as provided by Section 61, Texas Election Code (Article 6.05, Vernon's Texas Election Code), for a special election in which no party nomination has been made.

(g) To be elected, a candidate must receive a majority of the total number of votes received by all candidates in the election.

(h) The commissioners court shall meet not later than the third day after the date of an election held under this section and shall canvass the returns of the election and declare the results.

(i) If none of the candidates receives the vote required for election, the county judge shall, not later than the fifth day after the results of the election are officially declared, order a runoff election to be held not less than the 15th nor more than the 25th day after the date of the order. In the runoff election the candidates are limited to the two participants in the main election who received the most votes at the election. The county judge shall, not later than the fifth day after the results of the main election are officially declared, certify to the county clerk the names of those two candidates. The clerk shall prepare the ballot for the runoff election according to the certificate. Notice of the runoff election shall be given in the manner provided by general law, except that 10 days' notice is sufficient. The county judge shall, not later than the 10th day before the runoff election, notify each presiding judge of his duty to hold the election. The returns of the runoff election shall be canvassed and the results declared in the same manner as provided for the main election.

(j) If one person has received the vote required for election under this section, the county judge shall immediately prepare, sign, and deliver a certificate of election to that candidate for the unexpired term of the office of judge of the County Court at Law No. 2 of Brazos County.

(k) Except as otherwise provided by this section, the general law relating to elections of state and county officers in this state applies to the special election held under this section.

(l) The secretary of state shall prescribe any additional procedures necessary to implement this section.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 25, 1985, by a non-record vote; House concurred in Senate amendments to H.B. No. 1335 on May 27, 1985, by a non-record vote; passed by the Senate, with amendments, on May 26, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 15, 1985

Effective: August 26, 1985