

## CHAPTER 387

## H.B. No. 1345

An Act relating to the creation of the County Court at Law of Polk County.

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

**SECTION 1. CREATION.** The County Court at Law of Polk County is created.

**SECTION 2. JURISDICTION.** (a) The County Court at Law of Polk County has jurisdiction in all causes and proceedings, civil, criminal, and probate, original and appellate, prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of Polk County.

(b) The County Court at Law of Polk County has concurrent civil jurisdiction with the district courts in Polk County in:

(1) cases in which the amount in controversy exceeds \$500 but does not exceed \$50,000, excluding interest and attorney's fees;

(2) appeals of final rulings and decisions of the Industrial Accident Board, regardless of the amount in controversy;

(3) eminent domain cases and proceedings, regardless of the amount in controversy;

(4) cases and proceedings involving the collection of delinquent taxes, penalties, interest, and costs and the foreclosure of tax liens; and

(5) cases and proceedings involving adoptions, birth records, or removal of disability of minority or coverture; change of names of persons; child welfare, custody, support and reciprocal support, dependency, neglect, or delinquency; divorce and marriage annulment, including the adjustment of property rights, custody and support of minor children involved therein, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; independent actions involving child support and custody of minors and wife or child desertion; and independent actions involving controversies between parent and child, between parents, and between spouses.

(c) The county court at law has concurrent jurisdiction with the county and district courts in juvenile matters and proceedings as provided by Chapter 178, Acts of the 66th Legislature, Regular Session, 1979 (Article 2338-1.1, Vernon's Texas Civil Statutes).

(d) This Act does not diminish the jurisdiction of the district courts of Polk County or the County Court of Polk County, and those courts retain and continue to exercise the jurisdiction conferred by law on those courts. The jurisdiction conferred by this Act is concurrent with the jurisdiction of those courts.

(e) The county judge of Polk County is the judge of the County Court of Polk County. The county judge shall perform all ex officio duties of his office, the executive functions of the county judge as a member of the commissioners court, and the other executive and administrative functions of his office.

**SECTION 3. POWERS AND DUTIES.** (a) The County Court at Law of Polk County or its judge may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. The court or the judge may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court in the county of inferior jurisdiction.

(b) The county court at law or its judge may punish for contempt as prescribed by law for county courts.

(c) The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges, except that a judge of the county court at law does not have any authority over the administrative business of the county that is performed by the county judge of the county.

**SECTION 4. TERMS.** The terms of the county court at law begin on the first Mondays in January and July of each year. Each term of court continues until the next succeeding term begins.

**SECTION 5. JUDGE.** (a) At the first general election at which county court at law judges are regularly elected after creation of the court, the qualified voters of the county shall elect a judge of the court created by this Act for a four-year term. Every four years thereafter, the judge shall be elected for a regular four-year term as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(b) The judge must be a licensed attorney in this state who has actively practiced law in this state for at least four years prior to his appointment or election, be well informed in the laws of this state, and must have resided in and been actively engaged in the practice of law in Polk County for at least two years prior to his appointment or election.

(c) The commissioners court shall appoint a person to fill a vacancy occurring in the office of the judge of the County Court at Law of Polk County. The appointee holds office until the next general election and until his successor is elected and has qualified.

(d) The judge of the County Court at Law of Polk County shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(e) The judge of the County Court at Law of Polk County is entitled to receive an annual salary in an amount that is at least equal to 80 percent of the annual salary, including supplements, paid the district judges in Polk County. The salary shall be paid in equal monthly installments by the county treasurer on order of the commissioners court. The judge of the county court at law shall assess the same fees that a county judge may assess. The clerk of the court collects the fees and pays them into the county treasury. The fees may not be paid to the judge.

(f) The judge may not engage in the private practice of law.

**SECTION 6. PERSONNEL.** (a) The county attorney or district attorney and sheriff of Polk County shall attend each county court at law session as required by the judge of the court. The county clerk of Polk County serves as the clerk of the County Court at Law of Polk County, except that the district clerk of Polk County serves as the clerk of the county court at law in cases of concurrent jurisdiction between the district courts and the county court at law. The district clerk shall establish dockets for the county court at law separate from the dockets of the district courts. The Commissioners Court of Polk County may employ as many additional assistant county attorneys, deputy sheriffs, and clerks as are necessary to serve the court created by this Act. Those serving, shall perform the duties and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices in Polk County.

(b) The Commissioners Court of Polk County shall authorize the judge of the county court at law to appoint or contract with a person to serve as the official court reporter. The court reporter must have the qualifications prescribed by law for that office and is entitled to compensation, fees, and allowances set by the commissioners court.

**SECTION 7. PRACTICE AND PROCEDURE.** (a) Practice in the County Court at Law of Polk County must conform to that prescribed by law for the County Court of Polk County except that the practice and procedure, rules of evidence, issuance of process, and all other matters pertaining to the conduct of trials and hearings in the county court at law involving matters of concurrent jurisdiction with the district court shall be governed by provisions of this Act and the laws and rules pertaining to district courts, general or special, as well as county courts. Juries in all civil or criminal matters shall be composed of 12 members, except that in misdemeanor criminal cases and any other cases in which the court has concurrent jurisdiction with the county court, the juries shall be composed of six members.

(b) The judges of the county court and the county court at law in Polk County may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. All cases of concurrent jurisdiction between the district courts and the county court at law may be instituted in or transferred between the district courts of Polk County and the County Court at Law of Polk County. However, a case may not be transferred from one court to another court without the consent of the judge of the court to which it is transferred, and a case may not be transferred to another court unless it is within the jurisdiction

of the court to which it is transferred. In a case transferred to any of the courts in Polk County by order of the judge of another court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases 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 cases are transferred. All processes issued or returned before transfer of the cases, as well as all bonds and recognizances taken before transfer, are valid and binding as though originally issued out of the court to which the transfer is made.

(c) The county judge and the judge of the County Court at Law of Polk County may freely exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, one of the others may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the county court or county court at law, but only in matters within their jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring the case to his own docket. However, a judge may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. This section is cumulative of the law relating to the selection and appointment of a special judge.

(d) Appeals in all cases from judgments and orders of the county court at law shall be to the court of appeals as provided for appeals from district and county courts.

**SECTION 8. FACILITIES.** The commissioners court shall furnish and equip a suitable courtroom and office space for the court created by this Act.

**SECTION 9. SEAL.** The seal of the court created by this Act shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law of Polk County."

**SECTION 10. JUVENILE BOARD.** The judge of the County Court at Law of Polk County is a member of the Juvenile Board of Polk County and may be paid additional compensation for service on that board by the Commissioners Court of Polk County not to exceed the amount paid by the county to the other members of the juvenile board.

**SECTION 11. EFFECTIVE DATE.** This Act takes effect September 1, 1985.

**SECTION 12. INITIAL APPOINTMENT OF JUDGE.** The commissioners court shall appoint a person to fill the vacancy existing on the creation of the office of judge as provided by Section 5(c) of this Act. The appointee must have the qualifications required of the regular judge.

**SECTION 13. EMERGENCY.** 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; passed by the Senate on May 17, 1985, by the following vote: Yeas 30, Nays 0.

Approved: June 10, 1985

Effective: September 1, 1985