

CHAPTER 565

S.B. No. 1236

AN ACT

relating to the creation of the office of criminal district attorney of Waller County, to the abolition of the office of county attorney in Waller County, and to the abolition of the jurisdiction of the district attorney for the 9th Judicial District in Waller County.

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

SECTION 1. Section 43.105, Government Code, is amended to read as follows:

Sec. 43.105. 9TH JUDICIAL DISTRICT. (a) The voters of *Montgomery County* [~~and Waller counties~~] elect a district attorney for the 9th Judicial District who represents the state in that district court only in *that county* [~~these counties~~]. The district attorney also acts as district attorney for the Second 9th Judicial District in Montgomery County.

(b) The district attorney, with the approval of the *Commissioners Court* [~~commissioners court~~] of *Montgomery County* [~~one or more of the counties comprising the district~~], may appoint the assistant district attorneys, investigators, secretaries, and other employees necessary to carry out the duties of the office of district attorney.

(c) An investigator appointed by the district attorney is not required to be a licensed attorney.

(d) The salary of each employee of the district attorney is fixed by the *Commissioners Court* [~~commissioners courts~~] of *Montgomery County* [~~the counties comprising the district~~]. The district attorney, assistant district attorneys, and investigators employed by the district attorney may be allowed the actual and necessary travel expenses incident to carrying out the duties of the district attorney, subject to the approval of the district attorney. This

subsection does not apply to the portion of compensation or travel expenses paid by the state to the district attorney or his employees.

~~(e) [The salaries and expenses paid by the counties comprising the district shall be paid in proportion to the population of each county, except as otherwise provided by Subsection (f).~~

~~[(f) The district attorney may assign employees to a specific county or to specific counties of the district. The commissioners court of a county to which an employee is assigned may, in its discretion, pay a greater share of the salary or expenses of the employee than the proportionate share provided by Subsection (e). To the extent that a commissioners court pays a greater share of an employee's salary or expenses than that provided by Subsection (e), the counties to which the employee is not assigned are relieved of their proportionate share of the salary or expenses.~~

~~[(g)]~~ The salary and expenses of the employees of the district attorney must be paid by ~~the~~ [each] county at the regular pay period of the county from the officers' salary fund of the county, the general fund of the county, or both, at the discretion of the commissioners court.

~~(f) [(h)]~~ The compensation paid by ~~the~~ [a] county to an employee of the district attorney or set for a position on the staff of the district attorney may not be less than the compensation paid by the county to the person or set for the position on June 14, 1973.

~~(g) [(i)]~~ The commissioners court ~~[of a county in the district]~~ may accept gifts and grants from an individual, partnership, corporation, trust, foundation, association, or political subdivision to finance adequate and effective prosecution, crime prevention, or rehabilitation programs in the county or district approved and administered by the district attorney.

SECTION 2. Section 44.001, Government Code, is amended to read as follows:

Sec. 44.001. ELECTION. The voters of each of the following counties elect a criminal district attorney: Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Dallas, Deaf Smith, Denton, Eastland, Galveston, Gregg, Harrison, Hays, Hidalgo, Jackson, Jasper, Jefferson, Kaufman, Lubbock, McLennan, Navarro, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, *Waller*, Wichita, Wood, and Yoakum.

SECTION 3. Subchapter B, Chapter 44, Government Code, is amended by adding Section 44.337 to read as follows:

Sec. 44.337. *WALLER COUNTY.* (a) *The criminal district attorney of Waller County must have been a practicing attorney in this state for at least three years.*

(b) *The criminal district attorney has all the powers, duties, and privileges in Waller County that are conferred by law on county and district attorneys in the various counties and districts.*

(c) *The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.*

(d) *The criminal district attorney shall, with the approval of the commissioners court, appoint an assistant district attorney or attorneys and other personnel necessary to the proper performance of the district attorney's duties. The commissioners court shall pay the salaries of the staff and necessary operating expenses of the office from county funds.*

(e) *The criminal district attorney or the Commissioners Court of Waller County may accept gifts and grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting effective prosecution, crime prevention or suppression, rehabilitation of offenders, substance abuse education, treatment and prevention, or crime victim's assistance programs in Waller County. The criminal district attorney shall account for and report to the commissioners court all gifts or grants accepted under this subsection.*

SECTION 4. Section 46.002, Government Code, is amended to read as follows:

Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. This chapter applies only to the following prosecutors:

(1) the district attorneys for the 2nd, 8th, 9th, 12th, 21st, 22nd, 26th, 27th, 29th, 34th, 36th, 38th, 43rd, 47th, 49th, 51st, 52nd, 63rd, 64th, 66th, 69th, 70th, 76th, 81st, 83rd, 84th, 85th, 90th, 97th, 105th, 106th, 110th, 118th, 119th, 123rd, 142nd, 145th, 159th, 173rd, 196th,

198th, 216th, 220th, 229th, 253rd, 266th, 268th, 271st, 286th, 349th, and 355th judicial districts;

(2) the criminal district attorneys for the counties of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Deaf Smith, Denton, Eastland, Galveston, Gregg, Harrison, Hays, Hidalgo, Jasper, Jefferson, Kaufman, Lubbock, McLennan, Navarro, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, *Waller*, Wichita, Wood, and Yoakum; and

(3) the county attorneys performing the duties of district attorneys in the counties of Andrews, Callahan, Cameron, Castro, Ellis, Falls, Fannin, Fayette, Freestone, Grayson, Lamar, Lamb, Lampasas, Limestone, Marion, Milam, Morris, Ochiltree, Orange, Red River, Robertson, Rusk, Terry, and Willacy.

SECTION 5. The office of county attorney in Waller County is abolished.

SECTION 6. The governor shall appoint, with the advice and consent of the senate, a criminal district attorney of Waller County who holds office until the next general election.

SECTION 7. This Act takes effect September 1, 1993.

SECTION 8. 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 the Senate on May 11, 1993, by a viva-voce vote; passed the House on May 26, 1993, by a non-record vote.

Approved June 11, 1993.

Effective Sept. 1, 1993