

**SUBJECT:** Operation and administration of the judicial branch of state government

**COMMITTEE:** Judiciary and Civil Jurisprudence — committee substitute recommended

**VOTE:** 9 ayes — Jackson, Lewis, Bohac, Hartnett, Madden, Raymond, Scott, Thompson, Woolley

0 nays

2 absent — Castro, S. Davis

**SENATE VOTE:** On final passage, April 26 — 30-1 (Birdwell)

**WITNESSES:** For — Lee Parsley, Texas Civil Justice League

Against — Greg Magee, Texas Justice Court Judges Association

On — Gary Harger, Carl Reynolds, Office of Court Administration

**BACKGROUND:** According to the Office of Court Administration (OCA), Texas has 3311 trial courts and 16 appellate courts.

Small Claims Courts, presided over by justices of the peace, have jurisdiction over civil actions where the amount in controversy is \$10,000 or less. There are 819 Justice Courts.

Statutory county courts (SCCs) have jurisdiction over all civil, criminal, original, and appellate actions prescribed by the individual statute that creates the court. In general, SCCs, also known as county courts at law, have jurisdiction over civil matters where the amount in controversy is \$100,000 or less. Several statutory county courts are allowed to hear cases in which the amount in controversy is greater than \$100,000. There are 233 statutory county courts.

District courts have original jurisdiction in civil actions over \$200, divorce, title to land, and contested elections. They have original jurisdiction in felony and criminal matters. They also have original jurisdiction in juvenile matters. Thirteen district courts are designated as

criminal district courts. Some others are directed to give preference to certain specialized areas of civil law. There are 456 district courts.

DIGEST: CSSB 1717 would make several changes to the Texas court system.

**District courts.** CSSB 1717 would direct that judges recusing themselves be replaced by appointment of the local presiding administrative judge and would remove the governor's power to appoint replacements for these judges.

The bill would allow counties with two or more courts of similar jurisdiction to transfer cases and exchange benches without formal transfers of cases from one docket into another. This would be a decrease from the current limit of five or more courts of similar jurisdiction.

The bill would grant district courts original jurisdiction in civil matters in which the amount in controversy was more than \$500.

The bill would create two terms of court for each district court, beginning on January 1 and July 1 of each year.

The bill would require that all district judges within a county be paid equal amounts of supplemental compensation from the county. A district judge would be entitled to juvenile board supplements that were equal to what other judges serving on the juvenile board received.

The bill would direct that the initial vacancy in a newly created district court be filled by an appointment by the governor.

**Statutory county courts.** CSSB 1717 would repeal 101 specific provisions relating to individual SCCs. It would increase the jurisdictional limit in civil matters to \$200,000 for all SCCs. The 59 SCCs that already have jurisdiction limits above \$200,000 would retain those existing limits. SCC judges would not be allowed to engage in the private practice of law. County commissioners courts would be required to set at least two terms per year for each statutory county court.

The bill would reduce from eight to six the number of years a retired probate court judge would have to have served as an active judge before qualifying as an assigned statutory probate court judge.

The bill would require that SCC judges and statutory probate judges be U.S. citizens.

The bill would create a new Webb County Court at Law No. 3.

**Justice and small claims courts.** Under CSSB 1717, on May 1, 2013, all small claims courts would be abolished. Their dockets would be transferred to the presiding justice's justice court.

Small claims cases would be conducted according to rules set by the Supreme Court of Texas. The rules would require that the Supreme Court rules promote fair, expeditious and inexpensive resolution of small claims.

CSSB 1717 would require justices of the peace to take an additional 15 hours of training in substantive, procedural, and evidentiary law in civil matters.

**Associate judges.** CSSB 1717 would make several changes concerning:

- criminal law associate judges, known as magistrates;
- civil law associate judges;
- probate associate judges; and
- juvenile law associate judges.

The bill would repeal several statutes specific to associate judges in individual courts and would provide rules applicable to all associate judges regarding authority and powers, including the ability to conduct hearings, hear evidence, make findings of fact, formulate conclusions of law, and recommend rulings, orders, or judgment in a case.

**Court administration.** CSSB 1717 would allow the presiding judge of an administrative judicial region to hire a full- or part-time staff attorney if the state appropriated funds for one. A staff attorney would be allowed to assist a district court judge on a specific case.

The bill would create the Judicial Committee for Additional Resources, which would provide assistance, on the request of a trial court, for particularly massive, complex, or burdensome cases. Assistance could include:

- assignment of an active or retired judge;
- additional legal, administrative, or clerical personnel;
- information technology or software;
- specialized continuing legal education;
- an associate judge;
- special accommodations or furnishings for parties; and
- other services or items deemed necessary by the committee.

The state would pay the cost of this assistance through existing funds and grants. Counties or parties would not be required to pay for them. The Supreme Court of Texas would implement rules to determine whether a case required additional resources to ensure efficient judicial management of a case.

**Appellate courts.** CSSB 1717 would permit appeals of any eviction judgment, including evictions from commercial property.

**Grant programs.** CSSB 1717 would direct the Office of Court Administration to develop and administer a program to provide grants from available funds to counties for initiatives that would enhance local court systems. The Judicial Committee for Additional Resources would decide which counties would receive a grant.

The bill would direct the Permanent Judicial Commission for Children, Youth, and Families to develop and administer a program to provide grants from available funds for initiatives that would improve safety, and permanency outcomes, enhance due process, or increase the timeliness of resolution in child protection cases. The commission would award the grants.

**Vexatious litigants.** CSSB 1717 would make changes to the list of vexatious litigants maintained by the Office of Court Administration (OCA) and would grant vexatious litigants the right to appeal a decision by a local administrative judge preventing the litigant from filing additional lawsuits. The bill would direct OCA to post on its website a list of vexatious litigants. On request of a person designated a vexatious litigant, the list would have to indicate whether the person had appealed that designation.

**Study by OCA of the Texas Judicial System.** CSSB 1717 would direct the Office of Court Administration to study the district courts and the

county courts at law with overlapping jurisdiction in civil cases where the amount in controversy was more than \$200,000. The study would examine the feasibility and potential cost savings of converting those statutory county courts into district courts. The report would be due by January 1, 2013.

**No appropriation.** CSSB 1717 would not make an appropriation. To the extent local governments, the courts, or the courts' support agencies were directed to create new programs, it would not be mandatory unless the Legislature specifically appropriated funding for it.

**Effective date.** Except where otherwise provided, the bill would take effect on January 1, 2012.

**SUPPORTERS  
SAY:**

CSSB 1717 would bring simplicity and rationality to the legal process by reforming the organization and administration of the court system. Ever since the current court system was established in 1891, it has been amended and restructured on a piecemeal and ad hoc basis, resulting in an outdated system of irregularities, inconsistencies, and overlapping jurisdictions. Litigants looking to file suit must look up the specific jurisdiction of each statutory county court and district court in the state to see which cases the court may hear.

CSSB 1717 would help to streamline the jurisdictional levels of these courts. The bill would make it easier for local courts to exchange cases, dockets, and benches. This would make it much easier for courts to address problems in judicial workloads, such as illness, vacation, increases in the volume and complexity of cases, and recusal. The bill also would streamline the kinds of cases that SCCs could take by expanding the limit on the amount in controversy from \$100,000 to \$200,000. This would ease some of the caseload burden of local district courts.

CSSB 1717 would abolish small claims courts and replace them with a rule-based system. The rules would be drafted by the Supreme Court of Texas after extensive hearings to gather evidence and examine best practices. These rules would help to streamline substantive, procedural, and evidentiary practices across the state's JP courts.

The changes CSSB 1717 would make reflect changes suggested by the Judicial Council and the State Bar of Texas. Changes to the court often are

made at the suggestion of the Texas Judicial Council after it has studied an issue and fully vetted suggested improvements.

CSSB 1717 would represent an investment the court system of Texas. As the population and economy of Texas grow, so will the need for an efficient and rational system of courts. The bill's reforms and investments are geared toward creating more efficient and uniform justice across the state.

OPPONENTS  
SAY:

CSSB 1717 would attempt to fix what is not broken. The court system in each county is a reflection of carefully worked out compromises between the local judiciary, the commissioners court, and the Legislature to address local needs for civil and criminal courts. Overall complexity in the state should not be surprising, as there are 254 counties. The number and kinds of courts and the jurisdiction of each reflect the individual needs of each locality. Streamlining these courts for the sake of streamlining would disrupt this local balance. Texas is too diverse a state to demand uniformity of the court system, especially when there never can be uniformity of local needs for types and kinds of courts. Any problems should be addressed on a local basis, as Texas historically has done.

CSSB 1717 should not abolish small claims courts. Litigants with claims of less than \$10,000 rely on these courts because their relaxed rules of evidence mean litigants successfully may represent themselves and because court dates are readily available. Justices of the Peace (JPs), who preside over small claims courts, have not heard complaints from litigants suggesting that small claims courts should be abolished. JPs run these courts successfully under current law.

OTHER  
OPPONENTS  
SAY:

CSSB 1717 would not go far enough. It should grant the Supreme Court of Texas discretionary jurisdiction for interlocutory appeals in civil cases. It has had this jurisdiction for interlocutory appeals in class action cases since 2003 and this has worked very well. The bill should build on this success and expand the Supreme Court's discretionary jurisdiction over all interlocutory appeals.

NOTES:

The House committee substitute differs from the Senate-passed version in several ways. Among other changes, the committee substitute:

- removed language concerning six- and 12-person juries;
- added language regarding the selection of associate judges;

- changed the kinds of motions and subject matter associate judges may hear and rule on;
- created Webb County Court at Law No. 3;
- created additional rules for vexatious litigants and for how the Office of Court Administration deals with these litigants; and
- created rules for recusals in probate courts and eligibility rules visiting probate court judges.

According to the LBB's fiscal note, the bill would cost \$ 1.8 million in fiscal 2012-13.

The sponsor plans to offer floor amendments that would:

- remove the additional 15 hours of required training for JPs;
- remove language allowing the presiding judges of administrative judicial regions to hire staff attorneys;
- require that funding for the Office of Court Administration's study and for grants for court system enhancements and child protection be provided through public and private grants;
- prevent state funds from being used to fund the study or the grant programs.

The amendments would eliminate the bill's fiscal note.

The provisions of CSSB 1717 concerning vexatious litigants are identical to those in HB 720 by Hartnett, which passed the House by 138-0 on May 13 and was referred to the Senate State Affairs Committee on May 16.