

BILL ANALYSIS

Senate Research Center
85R6753 CAE-F

H.B. 1761
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State Affairs
5/5/2017
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties contend that the statutory jurisdiction of the Texas Supreme Court (supreme court) to review interlocutory orders is too limited. H.B. 1761 seeks to expand such jurisdiction by granting the supreme court discretionary jurisdiction over any interlocutory appeal that presents an issue that is important to the jurisprudence of the state.

H.B. 1761 amends the Government Code to change the scope of the supreme court's appellate civil jurisdiction from all questions of law arising in certain types of cases when such cases have been brought to the courts of appeals from appealable judgment of the trial courts, excluding those cases in which the jurisdiction of the court of appeals is made final by statute, to all appealable orders or judgments of the trial courts in which the supreme court determines that the appeal presents a question of law that is important to the jurisprudence of the state, subject to such exclusion. The bill updates provisions relating to the method by which a case over which the supreme court has appellate civil jurisdiction is carried to the court. H.B. 1761 clarifies that, excluding an appeal from an order of a trial court granting or denying an interlocutory or permanent injunction on the ground of the constitutionality of a state statute, an appeal may be taken to the supreme court only if the appeal was first brought to the court of appeals. H.B. 1761 removes the supreme court's duty to prescribe the necessary rules of procedure to be followed in perfecting an appeal of such a trial court order.

H.B. 1761 repeals provisions relating to certain civil cases for which a petition for review is not allowed to the supreme court due to the court of appeals judgment being conclusive on the law and facts and a provision allowing a petition for review to the supreme court for an appeal from certain interlocutory orders.

H.B. 1761 amends current law relating to jurisdiction of the Texas Supreme Court.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 22.001(a), (b), and (c), Government Code, as follows:

(a) Provides that the Texas supreme court (supreme court) has appellate jurisdiction, except in criminal law matters, of an appealable order or judgment of the trial courts if the court determines that the appeal presents a question of law that is important to the jurisprudence of the state. Provides that the supreme court's jurisdiction does not include cases in which the jurisdiction of the court of appeals is made final by statute. Deletes existing text providing that the supreme court has appellate jurisdiction, except in criminal law matters, coextensive with the limits of the state and extending to all questions of law arising in certain cases when they have been brought to the courts of appeals from appealable judgment of the trial courts. Makes conforming changes.

(b) Authorizes a case over which the court has jurisdiction under Subsection (a) to be carried to the supreme court by petition for review, rather than either by writ of error or

by certificate from the court of appeals, but the court of appeals may certify a question of law arising in any of those cases at any time it chooses, either before or after the decision of the case in that court.

(c) Authorizes an appeal, except as provided by this subsection, to be taken to the supreme court only if the appeal was first brought to the court of appeals. Deletes existing text providing that it is the duty of the supreme court to prescribe the necessary rules of procedure to be followed in perfecting the appeal.

SECTION 2. Amends the heading to Section 22.007, Government Code, to read as follows:

Sec. 22.007. PETITION FOR REVIEW.

SECTION 3. Amends Sections 22.007(a) and (e), Government Code, as follows:

(a) Authorizes the supreme court to act on petitions for review, rather than applications for writ of error, when the supreme court deems it expedient. Deletes existing text requiring the supreme court to pass on an application for writ of error in a case in which the justices of the courts of appeals have disagreed or have declared void a statute of the state.

(e) Provides that the granting of a petition for review, rather than an application for writ of error, admits the case into the supreme court, and requires the supreme court to proceed with the case as provided by law. Provides that the denial or dismissal of a petition for review, rather than the refusal or dismissal of an application, has the same effect of denying the admission of the case into the supreme court, except that a motion for rehearing is authorized to be made, rather than is authorized to be made to the designated justices, in the manner that a motion for rehearing to the supreme court is made in a case in that the court granted the review. Prohibits the denial or dismissal of a petition for review from being regarded as a precedent or authority, rather than requiring the refusal or dismissal of an application to not be regarded as a precedent or authority.

SECTION 4. Repealer: Section 22.001(e) (relating to providing that when one court holds differently from another, there is inconsistency in their respective decisions that should be clarified to remove uncertainty in the law and unfairness to litigants), Government Code.

Repealers: Sections 22.007 (b) (relating to requiring the chief justice or any two justices on the supreme court to designate certain justices of the court of appeals to act on certain applications for writs of error), (c) (relating to requiring the designated justices of the courts of appeals to assemble in Austin and carry out duties regarding certain applications for writs of error), (d) (relating to requiring a designated justice of a court of appeals to not act on an application for writ of error in a case decided during the justice's incumbency by the court of which he is a member), (f) (relating to the powers conferred on the justices of the supreme court and the courts of appeals) and (g) (relating to providing that a designated justice of a court of appeals is entitled to certain actual and necessary expenses), Government Code.

Repealers: Sections 22.225 (b) (relating to providing that a judgment of a court of appeals is conclusive on the law and facts, and a petition for review is not allowed to the supreme court in certain cases), (c) (relating to not depriving the supreme court of jurisdiction of a civil case brought to the court of appeals from an appealable judgment of a trial court in which the justices of the court of appeals disagree on certain holdings), (d) (relating to providing that a petition for review is allowed to the supreme court for an appeal from certain interlocutory orders), and (e) (relating to providing that when one court holds differently from another, there is inconsistency in their respective decisions that should be clarified to remove uncertainty in the law and unfairness to litigants), Government Code.

SECTION 5. Makes application of the repeal of Section 22.225(d), Government Code, prospective.

SECTION 6. Effective date: September 1, 2017.