

- SUBJECT:** Redistricting the Eighth and Eleventh Courts of Appeals
- COMMITTEE:** Redistricting — committee substitute recommended
- VOTE:** 10 ayes — Crabb, Grusendorf, King, Krusee, Luna, Marchant, McClendon, Morrison, Pitts, Raymond
- 0 nays
- 5 absent — Villarreal, Flores, Isett, Talton, Wilson
- WITNESSES:** For — Keith Stretcher, City of Midland
- Against — None
- On — Bud Arnot, Eastland Court of Appeals; Richard Barajas, Eighth Court of Appeals
- BACKGROUND:** The 32nd Legislature created the Eighth Court of Appeals in 1911. The court is located in El Paso, and its four justices serve 22 West Texas counties. The court disposed of 559 cases during fiscal 2001. The 39th Legislature created the Eleventh Court of Appeals in 1925. The court is located in Eastland, and its three justices hear cases from 23 counties. The court disposed of 457 cases during fiscal 2002.
- DIGEST:** CSHB 2261 would shift Ector, Gaines, Glasscock, Martin, and Midland counties from the Eighth Court of Appeals district to the Eleventh Court of Appeals district.
- This bill would take effect September 1, 2003. The redistricting would not affect the jurisdiction of any case on appeal from a county being transferred from the Eighth to the Eleventh Court of Appeals district if the transcripts of the case were filed before that date.
- SUPPORTERS SAY:** CSHB 2261 would help equalize the population and caseload between the Eighth and Eleventh court of appeals districts. The fastest area of growth in West Texas has been in El Paso and in counties along the Texas-Mexico

border. The proposed shift would leave the Eighth Court of Appeals district with a population of 781,323, as of the 2000 census, and the Eleventh Court of Appeals district with 683,759. Average caseload is expected to rise from 66 to 107 cases per justice in the Eleventh Court of Appeals district while declining from 99 to 68 cases per justice in the Eighth Court of Appeals district. However, history and demographics suggest that the Eighth Court of Appeals district is growing faster than the Eleventh Court of Appeals district, so the realignment is needed to balance caseload in the near future.

A community of interest already exists among the Interstate 20 corridor cities of Eastland, Abilene, Midland, and Odessa, and placing those cities in the same appellate court district would strengthen those ties. Eastland is closer to Midland-Odessa than those cities are to El Paso. Abilene competes in the same University Interscholastic League district as Midland and Odessa, and members of the respective legal community are as likely to encounter each other at the football stadium as in the courtroom.

Realignment of the court of appeals districts under CSHB 2261 would mesh well with proposed budget decisions affecting all appeals courts. Equalizing caseloads and reducing travel expenses for appeals justices would help meet the Legislature's goals of improving efficiency of state government without raising taxes.

Appellate decisions can vary within appeals courts districts depending upon which justice or justices hear the case, as they can differ between appeals court districts. It is the duty of the Texas Supreme Court to harmonize these differences in interpreting the law and to establish a uniform standard for the entire state.

Statewide redistricting of appeals court districts appears unlikely this session. The House already has approved a bill to move Brazos County out of the First and Fourteenth courts of appeal districts. Such minor adjustments would address questions about population and caseload disparities until completion of a more comprehensive study of appeals court redistricting.

**OPPONENTS
SAY:**

CSHB 2261 would disrupt existing communities of interest among the West Texas legal community. The Eighth Court of Appeals has developed expertise and consistency in deciding cases that involve complex oil and gas issues or

catastrophic injuries due to oilfield accidents. Removing Midland and Ector counties from the Eighth Court of Appeals district would split those jurisdictions from surrounding oil-patch counties where residents of Midland and Ector counties earn their paychecks. Placing these counties under a different court of appeals could result in a lack of consistency in decisions involving similar litigation arising out of neighboring counties.

The Eighth Court of Appeals has pioneered the use of videoconferencing and other technology to hear and dispose of appeals cases. The court's justices often assist courts elsewhere in the state in handling their dockets through videoconferencing, and the justices often come to Midland and Ector counties to hear cases. Technology has shrunk distances in providing justice across sections of West Texas.

CSHB 2261 would compound the disruptions caused by reductions in appeals courts' budgets. The Eighth Court of Appeals may lose funding for a justice, and the Eleventh Court of Appeals might not receive sufficient appropriations to handle an increased caseload. Shifting the focus of the population of the Eleventh Court of Appeals district to the west could lead to moving the court from Eastland, which would be on the extreme eastern edge of the district. Removing the appeals court would harm Eastland's economy.

**OTHER
OPPONENTS
SAY:**

No comprehensive appellate redistricting has occurred since 1927, so a statewide plan is long overdue. CSHB 2261 and other partial measures represent a piecemeal approach to the larger questions of how to equalize population and workload among the appeals courts.

NOTES:

As filed, HB 2261 would have shifted Andrews County from the Eighth to the Eleventh Court of Appeals district. The committee substitute would keep that county in the Eighth Court of Appeals district.

On March 28, the House approved HB 988 by F. Brown, which would remove Brazos County from the First and Fourteenth courts of appeal districts, on the Local, Consent, and Resolutions Calendar. The bill was reported favorably, without amendment, by the Senate Jurisprudence

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Committee on April 22 and recommended for the Local and Uncontested Calendar.