

## **BILL ANALYSIS**

Senate Research Center

S.B. 1063  
By: Carona  
Jurisprudence  
3-13-97  
As Filed

### **DIGEST**

Currently, there are no municipal courts of record in the City of Richardson. This bill would authorize the City of Richardson to create municipal courts of record; allows council appointments of judges, election of judges not even mentioned; limits appeals to question of law, not questions of guilt; allows for electronic recording of proceedings; and provides for preparation of transcripts only for appeal.

### **PURPOSE**

As proposed, S.B. 1063 creates municipal courts of record in the City of Richardson; allows council appointments of judges, election of judges not even mentioned; limits appeals to question of law, not questions of guilt; allows for electronic recording of proceedings; and provides for preparation of transcripts only for appeal.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 30, Government Code, by adding Subchapter KK, as follows:

#### **SUBCHAPTER KK. RICHARDSON**

Sec. 30.01401. APPLICATION. Provides that this subchapter applies to the City of Richardson (city).

Sec. 30.01402. CREATION. Authorizes the governing body of the city to create and determine a number of municipal courts of record, by ordinance. Requires an ordinance establishing municipal courts to give each court a numerical designation, beginning with "Municipal Court of Record No. 1." Requires the governing body of the city to determine the method of selecting municipal judges by using certain procedures. Prohibits a municipal court of record from existing concurrently with a municipal court that is not of record. Provides that a municipal court of record has no terms and is authorized to sit at any time.

Sec. 30.01403. JURISDICTION. Sets forth the jurisdiction of a municipal court of record.

Sec. 30.01404. WRIT POWER. Authorizes a judge of a municipal court to grant certain writs and to issue administrative search warrants.

Sec. 30.01405. APPLICATION OF OTHER LAWS. Provides that general law regarding justice courts on matters not covered by the law regarding municipal courts, and any charter provision or ordinance of the city relating to the municipal court apply to a municipal court of record, unless the law, charter provision, or ordinance is in conflict or inconsistent with this chapter.

Sec. 30.01406. JUDGE. Sets forth requirements for municipal judges.

Sec. 30.01407. VACANCIES; TEMPORARY REPLACEMENT; REMOVAL. Sets forth requirements for a vacancy, temporary replacement, and removal of a municipal judge.

Sec. 30.01408. CLERK; OTHER PERSONNEL. Requires the city manager to appoint a clerk to be known as the municipal court clerk. Sets forth the duties of the clerk and the duties of the clerk's deputies.

Sec. 30.01409. COURT REPORTER. Requires the city to provide a court reporter. Requires the clerk to appoint the court reporter. Authorizes the clerk to record the proceedings of a municipal court of record. Sets forth requirements for recording testimony. Provides that appealed proceedings are to be transcribed from a recording by an official court reporter. Authorizes a court reporter to use certain methods of recording. Sets forth how long a recording is to be kept and stored. Provides that no one is required to record testimony in a case unless the judge or the parties request a record. Sets forth requirements of the request. Requires the court reporter to certify the official record.

Sec. 30.01410. PROSECUTION BY CITY ATTORNEY. Requires all prosecutions in the municipal court of record to be conducted by the city attorney or an assistant or deputy attorney.

Sec. 30.01411. COMPLAINT; PLEADING. Sets forth the requirements of a complaint.

Sec. 30.01412. JURY. Provides that a defendant in a municipal court of record is entitled to be tried by a jury of six persons, unless that right is waived. Provides that a juror who serves is to meet the qualifications required by jurors. Provides for compensation to jurors. Requires the clerk to establish a fair and objective juror selection process.

Sec. 30.01413. COURT RULES. Provides that the Code of Criminal Procedure as applied to county courts governs cases before to municipal courts of record. Requires bonds to be payable to the state. Prohibits the court from assessing costs other than warrant fees, capias fees, and other fees authorized for municipal courts. Authorizes a peace officer to serve a process issued by a municipal court of record. Sets forth court rules in a conviction. Requires fines, fees, and bonds to be paid to the municipal court clerk and deposited into the city general fund.

Sec. 30.01414. APPEAL. Sets forth requirements and procedures of an appeal from a municipal court of record.

Sec. 30.01415. APPEAL BOND; RECORD ON APPEAL. Prohibits the defendant from taking an appeal until the defendant files an appeal bond with the municipal court of record, if the defendant is not in custody. Sets forth requirements and procedures of the appeal bond. Sets forth the requirements and procedures of the record.

Sec. 30.01416. TRANSCRIPT. Requires the clerk to prepare a transcript of the court proceedings after paying a fee. Sets forth requirements and procedures of the transcript. Requires the defendant to file a copy of written instructions with the clerk and deliver a copy to the city attorney. Requires the city attorney to file a written direction to the clerk if additional portions of the trial proceedings in the transcript are to be included.

Sec. 30.01417. STATEMENT OF FACTS. Sets forth the required contents of a statement of facts. Requires the court reporter to transcribe any portion of the recorded proceedings at the request of the parties or the judge. Requires the defendant to pay for the transcription, unless the defendant is unable to pay. Requires the court reporter to be paid for the services by the city.

Sec. 30.01418. TRANSFER OF RECORD; FEE. Requires parties to file certain materials with the municipal court clerk within a certain period of time.

Sec. 30.01419. BRIEF ON APPEAL. Sets forth requirements and deadlines of a brief on appeal.

Sec. 30.01420. PROCEDURE; DISPOSITION ON APPEAL. Requires the appellate court to hear appeals from the municipal court at the earliest possible time. Authorizes the court to determine the rules for oral argument. Provides that the case may be submitted without oral argument. Authorizes the appellate court to make certain decisions according to law and the nature of the case. Requires an appellate court to presume certain matters unless the matter was made an issue or appears to the contrary from the transcript. Sets forth the requirements of an opinion of the court.

Sec. 30.01421. CERTIFICATE OF APPELLATE PROCEEDINGS. Sets forth the duties of the clerk of the court when the judgment of the appellate court becomes final. Provides that if the municipal court of record judgment is affirmed, further action to enforce the judgment is not necessary except in certain matters.

Sec. 30.01422. EFFECT OR ORDER OF NEW TRIAL. Provides that if an appellate court awards a new trial to a defendant, the case stands as if a new trial had been granted by the municipal court.

Sec. 30.01423. APPEAL TO COURT OF APPEALS. Sets forth requirements for appeal of the appellate court decision to the court of appeals.

SECTION 2. Emergency clause.

Effective date: upon passage.