

BILL ANALYSIS

Senate Research Center

C.S.S.B. 999
By: Fraser
Jurisprudence
4-14-97
Committee Report (Substituted)

DIGEST

Currently, under the visiting judge statute, if any motion during a legal cause is heard by a visiting judge, parties acquiescing to the visiting judge can be held to have waived their right to have the trial heard by the district judge wherein the case is filed. As a result of this law, parties routinely object to visiting judges and do not allow them to preside over any disputes that arise during litigation. This bill amends the visiting judge statute to allow visiting judges to hear parts of the case while allowing the parties to retain the right to have the presiding district judge control the trial and other crucial matters of the case.

PURPOSE

As proposed, C.S.S.B. 999 sets forth revised objections to the assignment of visiting judges in a judicial matter.

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 Section 74.053, Government Code, to require objections to judges assigned for trial to be filed 15 days after notice of assignment has been given. Provides that allowing any judge to conduct any hearing does not waive the right to object pursuant to this section, except that if a hearing before an assigned judge results in an order, no objection may be made to such judge's being assigned by the presiding judge to hear any motion to reconsider, revise, or amend that order. Makes conforming and nonsubstantive changes.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 1997.

SECTION 4. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 74.053, Government Code, to make conforming and nonsubstantive changes to Subsection (b). Revises Subsection (c) to provide that objections to judges assigned for trial must be filed within 15 days after notice of the assignment has been given, rather than filed 30 days before the trial over which the assigned judge is to preside. Omits proposed Subsection (d), requiring objections to judges assigned for hearing any part of a case other than trial to be filed before such hearing. Makes a nonsubstantive change to proposed Subsection (e). Redesignates Subsections (e)-(f) as (d)-(e).