

## **BILL ANALYSIS**

Senate Research Center

S.B. 1825  
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### **DIGEST**

Currently, there are no municipal courts of record in the City of Hill Country Village. Appeals from a municipal court are performed by a trail de novo or a new trial. S.B. 1825 would create a municipal court of record in Hill Country Village.

### **PURPOSE**

Rulemaking authority is granted to the municipal court of record in SECTION 1 (Section 30.01647(a), Government Code) and to the appellate courts in SECTION 1 (Section 30.01647(b), Government Code) of this bill.

### **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 QQ, as follows:

#### **SUBCHAPTER QQ. HILL COUNTRY VILLAGE**

Sec. 30.01631. APPLICATION. Provides that this subchapter applies to the city of Hill Country Village (city).

Sec. 30.01632. CREATION. Authorizes a governing body of the city, by ordinance, to create a municipal court of record (court) if it is determined to be necessary. Authorizes a governing body of the city, by ordinance, to determine the number of courts of record required to dispose of the cases and to establish as many as are needed. Requires the ordinance establishing the courts to give each court a numerical designation, beginning with "Municipal Court of Record No. 1." Prohibits a court from existing concurrently with municipal courts that are not courts of record in the city. Provides that a court has no terms and may sit at any time for the transaction of its business.

Sec. 30.01633. APPLICATION OF OTHER LAWS. Provides that certain general laws, and any charter provision or ordinance of the city relating to the municipal court apply to the court unless the law, charter, or provision is either in conflict or inconsistent with this subchapter.

Sec. 30.01634. JUDGE. Provides that a court is presided over by a municipal judge. Requires the governing body of the city to appoint one of the judges to be the chief judge. Establishes that a municipal judge is appointed for two year terms. Requires a municipal judge to be a licensed attorney in good standing, have at least two years of experience in the practice of law in this state, and be a citizen of the United States and of this state. Requires the judge to devote as much time to the office as is required. Authorizes municipal judges to exchange, sit and act for each other in any proceeding pending in the courts, if there is more than one court in the city. Provides that an act performed by any judge is binding on all parties to the proceeding. Entitles a municipal judge to a salary, the amount of which is determined by the governing body and may not be diminished from the city. Prohibits the salary from being based directly or indirectly on fines, fees, or costs collected by the court. Provides that a municipal judge may be removed at any time for incompetence, misconduct, malfeasance, or disability. Requires a municipal judge to take judicial notice of the city ordinances and corporate limits in a case tried before the court. Authorizes a

judge to grant certain writs necessary to the enforcement of the jurisdiction of the courts and in cases in which the offense charged is within the jurisdiction of the court. Requires the governing body of the city to appoint a qualified person to fill a vacancy in the office of municipal judge. Authorizes a governing body to appoint one or more qualified persons to be available to serve for a municipal judge who is temporarily absent due to certain conditions. Requires the municipal judge, if there is no chief judge, to select one of the persons appointed to serve during the absence. Provides that an alternate judge while serving has all the powers and shall discharge all the duties of a municipal judge. Requires an alternate judge to have the same qualifications as a municipal judge.

Sec. 30.01635. CLERK; OTHER PERSONNEL. Requires the city secretary to be ex officio, the clerk of the municipal court of record and may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office. Requires the clerk and the clerk's deputies to perform certain required duties for the court. Requires the clerk to perform the duties in accordance with statutes, city charters, and city ordinances.

Sec. 30.01636. COURT REPORTER. Requires the city to provide a court reporter for the purpose of preserving a record in cases tried before the court. Requires the clerk to hire a qualified court reporter, and to be compensated by the city. Sets forth authorized methods for recording proceedings, and the length of time required to keep the record. Provides that a court reporter is not required to record testimony in a case unless the judge or one of the parties requests a record. Establishes that a party's request must be in writing and filed with the court. Authorizes the governing body to provide that in lieu of a court reporter, the record may be recorded by a good quality electronic recording device. Sets forth conditions and requirements regarding electronic recording during trial and appeal.

Sec. 30.01637. PROSECUTIONS BY CITY ATTORNEY. Requires all prosecutions in the court to be conducted by the city attorney or an assistant or deputy city attorney.

Sec. 30.01638. JURY. Entitles a person who is brought before the court and charged with an offense to be tried by a jury of six persons unless that right is waived according to law. Requires the jury to decide all questions of fact or credibility of witnesses. Requires the court to determine all matters of law and to charge the jury on the law. Requires a juror to meet certain qualifications.

Sec. 30.01639. APPEAL. Provides that a defendant has the right of appeal from a judgment or conviction in a municipal court. Establishes that county courts at law of Bexar County have jurisdiction over an appeal. Provides that the state has no right to an appeal or to a new trial. Requires an appellate court to determine each appeal from a municipal court conviction on the basis of errors that are set forth and presented. Prohibits a municipal court of record from being a trial de novo. Sets forth the requirements and deadlines for the defendant required in order to perfect an appeal.

Sec. 30.01640. APPEAL BOND. Prohibits the defendant from taking an appeal until the defendant files an appeal bond with the municipal court, providing the defendant is not in custody. Sets forth requirements, deadlines, and fees regarding an appeal bond.

Sec. 30.01641. RECORD ON APPEAL. Provides that the record on appeal consists of a transcript and, if necessary to the appeal, a statement of facts. Requires the court reporter to prepare the record of the proceedings. Requires the defendant, if possible, to incur the cost of the transcription. Requires the court to pay for the transcription if proven that the defendant is not able. Establishes that if the case is reversed on appeal, the court shall refund the defendant the cost of the transcription.

Sec. 30.01642. TRANSCRIPT. Requires the municipal court clerk, upon request of the defendant, to prepare under the clerk's hand and seal a transcript of the municipal court proceedings. Sets forth required copies to be included in the transcript. Authorizes the clerk to include in the transcript additional portions of court proceedings in the court prepared from mechanical or video recordings.

Sec. 30.01643. BILLS OF EXCEPTION. Authorizes either party to include bills of exception

in the transcript subject to the applicable provisions of the Texas Rules of Appellate Procedure. Sets forth deadlines for filing of bills of exception.

Sec. 30.01644. STATEMENTS OF FACTS. Sets forth requirements for a statement of facts included in the record on appeal.

Sec. 30.01645. COMPLETION, APPROVAL, AND TRANSFER OF RECORD. Requires the parties to file certain written documents with the municipal court clerk, by a specific deadline. Requires the judge, upon completion of the record, to approve the record in the manner provided for record completion, approval, and notification in the court of appeals. Requires the clerk to send the record to the appellate court clerk to notify the defendant and the prosecuting attorney that the record has been filed.

Sec. 30.01646. BRIEF ON APPEAL. Requires a defendant's brief on appeal to present points of error in the required manner. Requires the defendant to file the brief with the appellate court clerk by a certain deadline. Requires the defendant to certify that the brief has been properly mailed to the prosecuting attorney. Requires the prosecuting attorney to file the appellee's brief with the appellate court clerk by a certain deadline. Requires each party to deliver a copy of the brief to the opposing party and to the municipal judge.

Sec. 30.01647. COURT RULES. Provides that the Code of Criminal Procedure governs the trial of cases before the court that are not inconsistent with general law. Authorizes the court to make and enforce all rules of practice and procedure that are not inconsistent with general law. Authorizes the appellate court to make and enforce all rules of practice and procedure that are not inconsistent with general law and that are necessary to expedite the dispatch of appeals from the municipal court of record.

Sec. 30.01648. DISPOSITION ON APPEAL. Provides that the appellate court, according to law and the nature of the case, is authorized to affirm, reverse, or reform the original judgment. Requires the appellate court to presume certain conditions exist unless otherwise noted. Requires the court, in each case decided, to deliver a written opinion or order either sustaining or overruling each assignment of error presented, and to set forth the reason for each decision. Requires the appellate court clerk to mail copies of the decision to the parties and to the municipal judge as soon as the decision is rendered.

Sec. 30.01649. CERTIFICATE OF APPELLATE PROCEEDINGS. Requires the clerk of the court to certify the proceedings and the judgment, and to mail the certificate to the municipal court. Requires the municipal court clerk to file the certificate with the papers in the case and note the certificate on the case docket. Provides that if the municipal court of record judgment is affirmed, further action to enforce the judgment is not necessary except to fulfill certain conditions.

Sec. 30.01650. EFFECT OF ORDER ON NEW TRIAL. Provides that if the appellate court awards a new trial to the defendant, the case stands as if a new trial had been granted by the municipal court of record.

Sec. 30.01651. APPEAL TO COURT OF APPEALS. Provides that the defendant has the right to appeal to the court of appeals if the fine assessed against the defendant exceeds \$100 and if the judgment is affirmed by the appellate court. Establishes that provisions of the Code of Criminal Procedure relating to direct appeals from a county or a district court to the court of appeals apply to the appeal, except regarding certain conditions.

Effective date: 90 days upon adjournment.