

By: Fallon

S.B. No. 1902

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the office of criminal district attorney of Cooke County, the abolition of the office of county attorney in Cooke County, the application of the professional prosecutors law to the district attorney for the 235th Judicial District, and the compensation of a county auditor in certain counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 44.001, Government Code, is amended to read as follows:

Sec. 44.001. ELECTION. The voters of each of the following counties elect a criminal district attorney: Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Comal, Cooke, Dallas, Deaf Smith, Denton, Eastland, Fannin, Galveston, Grayson, Gregg, Harrison, Hays, Hidalgo, Jackson, Jasper, Jefferson, Kaufman, Kendall, Lubbock, McLennan, Madison, Navarro, Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum.

SECTION 2. Subchapter B, Chapter 44, Government Code, is amended by adding Section 44.149 to read as follows:

Sec. 44.149. COOKE COUNTY. (a) The criminal district attorney of Cooke County must be at least 30 years of age and must have been a practicing attorney in this state and in Cooke County

1 for at least five years. If a person meeting those qualifications
2 does not file as a candidate for the office on or before the 30th day
3 before the last day on which a person may file as a candidate in an
4 election to that office, the qualifications imposed by this
5 subsection do not apply to that election only.

6 (b) A vacancy in the elected office of criminal district
7 attorney is filled by appointment by the Commissioners Court of
8 Cooke County. The appointee holds office until the next general
9 election.

10 (c) The criminal district attorney shall attend each term
11 and session of the district courts and the county courts at law in
12 Cooke County and each term and session of the inferior courts of
13 Cooke County held for the transaction of criminal business and
14 shall exclusively represent the state in all criminal matters
15 before those courts.

16 (d) The criminal district attorney is entitled to receive
17 compensation from the state in the amount provided by the General
18 Appropriations Act for a district judge.

19 (e) The Commissioners Court of Cooke County may supplement
20 the salary of the criminal district attorney paid by the state but
21 may not pay a supplement to the criminal district attorney that is
22 an amount less than the supplement the county pays to the highest
23 paid district judge in the county.

24 (f) The criminal district attorney shall perform the duties
25 conferred by law on county and district attorneys in the various
26 counties and districts.

27 (g) The criminal district attorney shall collect the fees,

commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(h) The criminal district attorney, for the purpose of conducting the affairs of the criminal district attorney's office, may appoint a staff composed of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel as the Commissioners Court of Cooke County may authorize. The commissioners court shall pay the salaries of the staff in equal monthly, bimonthly, biweekly, or weekly installments from the officers' salary fund of the county.

(i) The criminal district attorney:

(1) shall, with the advice and consent of the commissioners court, designate one or more individuals to act as assistant criminal district attorney with responsibility for assisting the commissioners court; and

(2) may designate an assistant to represent the interests of the state in civil matters in Cooke County.

(j) The criminal district attorney may, subject to the approval of the Commissioners Court of Cooke County, contract with attorneys as special assistants to conduct specialized tasks as needed.

SECTION 3. Effective January 1, 2021, Section 46.002, Government Code, is amended to read as follows:

Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. This chapter applies to the state prosecuting attorney, all county prosecutors, and the following state prosecutors:

(1) the district attorneys for Kenedy and Kleberg

Counties and for the 1st, 2nd, 8th, 9th, 18th, 21st, 23rd, 26th, 27th, 29th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th, 42nd, 43rd, 46th, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th, 66th, 69th, 70th, 76th, 79th, 81st, 83rd, 84th, 85th, 88th, 90th, 97th, 100th, 105th, 106th, 109th, 110th, 112th, 118th, 119th, 123rd, 132nd, 142nd, 143rd, 145th, 156th, 159th, 173rd, 196th, 198th, 216th, 220th, 229th, 235th, 253rd, 258th, 259th, 266th, 268th, 271st, 286th, 287th, 329th, 344th, 349th, 355th, 369th, 452nd, and 506th judicial districts;

(2) the criminal district attorneys for the counties of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Comal, Cooke, Dallas, Deaf Smith, Denton, Eastland, Fannin, Galveston, Grayson, Gregg, Harrison, Hays, Hidalgo, Jasper, Jefferson, Kaufman, Kendall, Lubbock, McLennan, Madison, Navarro, Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum; and

(3) the county attorneys performing the duties of district attorneys in the counties of Andrews, Aransas, Callahan, Cameron, Castro, Colorado, Crosby, Ellis, Falls, Freestone, Gonzales, Guadalupe, Lamar, Lamb, Lampasas, Lavaca, Lee, Limestone, Marion, Milam, Morris, Ochiltree, Oldham, Orange, Rains, Red River, Robertson, Rusk, Swisher, Terry, Webb, and Willacy.

SECTION 4. Section [152.032](#)(d), Local Government Code, is amended to read as follows:

(d) The amount of the compensation and allowances of a

1 county auditor in a county subject to this subsection may be set in
2 an amount that exceeds the limit established by Subsection (a) if
3 the compensation and allowances are approved by the commissioners
4 court of the county. This subsection applies only to:

5 (1) a county with a population of more than 108,000 and
6 less than 110,000;

7 (2) a county with a population of 120,000 or more,
8 excluding a county subject to Subsection (b);

9 (3) a county with a population of more than 1,000 and
10 less than 23,000 that borders the Gulf of Mexico;

11 (4) a county with a population of more than 11,000 and
12 less than 11,650; ~~and~~

13 (5) a county that:

14 (A) borders a county with a population of more
15 than one million; and

16 (B) has a population of more than 36,000 and less
17 than 40,000; and

18 (6) a county with a population of less than 100,000
19 that borders Lake Ray Roberts.

20 SECTION 5. Effective January 1, 2021, the office of county
21 attorney of Cooke County is abolished.

22 SECTION 6. Notwithstanding Section 41.010, Government
23 Code, the initial vacancy in the office of criminal district
24 attorney of Cooke County on creation of the office shall be filled
25 by election. The office of criminal district attorney of Cooke
26 County exists only for the purposes of the primary and general
27 elections in 2020. The qualified voters of the county shall elect

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1 the initial criminal district attorney of Cooke County at the
2 general election in 2020 for a four-year term beginning January 1,
3 2021. Thereafter the criminal district attorney of Cooke County
4 shall be elected for a four-year term as provided by Section 30,
5 Article V, Texas Constitution. A vacancy after the initial vacancy
6 is filled as provided by Section 12, Article IV, Texas
7 Constitution.

8 SECTION 7. This Act takes effect January 1, 2020.