No. 15-24-00128-CV

ACCEPTED

15-24-00128-CV

FIFTEENTH COURT OF APPEALS AUSTIN, TEXAS

12/16/2024 12:00 AM

CHRISTOPHER A. PRINE

In the Fifteenth Court of Appeals

CLERK

Austin, Texas

FILED IN 15th COURT OF APPEALS AUSTIN, TEXAS CHRISTOPHER A. PRINE ~~Clerk~~ **------------------------VOID CAP -~~----~~-------------------**12/15/2024 4:17:26 PM

**HARBOR AMERICA CENTRAL, INC. APPELLANT**

**V.**

**WILLIAM REEVES**

On Appeal from the 55th District Court Harris County, Texas

No. 2017-25574

FILED IN 15th COURT OF APPEALS AUSTIN, TEXAS 12/16/2024 8:00:00 AM CHRISTOPHER A. PRINE Clerk**APPELLEE**

**APPELLEE WILLIAM REEVES’ MOTION TO**

**TRANSFER APPEAL TO FOURTEENTH COURT OF APPEALS**

Anthony G. Buzbee

Texas Bar No. 24001820 tbuzbee@txattorneys.com Lionel Sims III

Texas Bar No. 24107465 lsims@txattorneys.com THE BUZBEE LAW FIRM J.P. Morgan Chase Tower 600 Travis, Suite 7500 Houston, Texas 77002 Telephone: (713) 223-5393 Facsimile: (713) 223-5909 www.txattorneys.com

David George

Texas Bar No. 00793212 THE GEORGE LAW FIRM PLLC 440 Louisiana Street, Suite 900 Houston, Texas 77002

Telephone: (713) 857-2280 dgeorge@georgeappeals.com

*Counsel for Appellee William Reeves*

**TABLE OF CONTENTS**

Table of Contents ..................................................................................... ii Index of Authorities ..................................................................................v Argument................................................................................................. 1

I. This Court does not have jurisdiction over this appeal. ........... 3

A. Harbor America is attempting to create a loophole that would allow any civil appeal in Texas involving

more than $250 to be filed in this Court............................ 3

B. If Harbor America’s view is adopted, this Court will have appellate jurisdiction over every divorce, child

custody, car wreck, probate, and juvenile case where

more than $250 is involved. ............................................... 7

C. If Harbor America’s view is adopted, this Court will be inundated with untold appeals and its backlog

will be unfathomably long.................................................11

D. Neither the legislative history nor the views of legal commentators even hinted that SB 1045 gave this

Court appellate jurisdiction over every civil appeal in

Texas involving more than $250. ......................................14

1. The legislative history shows the Legislature did

not think SB 1045 gave the Fifteenth Court of

Appeals appellate jurisdiction over every civil

appeal in Texas with more than $250 at issue. .........14

2. Legal commentators did not understand SB

1045 as allowing any civil case in Texas with

over $250 at issue to be appealed to this Court.........20

II. This Court should transfer this case to the Fourteenth Court of Appeals even if it determines that it has

appellate jurisdiction................................................................22

A. The Fourteenth Court of Appeals has heard the three previous appeals in this case.............................................23

ii

B. This appeal will require the justices to sit in

judgment of Chief Justice Brister’s arguments and

work...................................................................................24 III. Conclusion ................................................................................25 Certificate of Service...............................................................................27 Certificate of Conference ........................................................................27 Exhibits

Act of May 21, 2023, 88th Leg., R.S., ch. 459,

2023 Tex. Sess. Law Serv. 1115, 112 ................................................A Harbor America Notice of Appeal .....................................................B

Office of the Texas Governor, Gov. Abbott Appoints Inaugural Members to Fifteenth Court of Appeals (Jun. 11, 2024) ..................C

SB 1045 Bill Analysis as Filed,

Tex. Leg. 88th RS (Mar. 20, 2023) ....................................................D

SB 1045 Bill Analysis—Committee Report,

Tex. Leg. 88th RS (Mar. 23, 2023). ...................................................E

SB 1045 Bill Analysis as Enrolled,

Tex. Leg. 88th RS (June 20, 2023)....................................................F

House Research Organization Bill Digest of SB 1045,

Tex. Leg. 88th RS (May 15, 2023),....................................................G

Enrolled Bill Summary of SB 1045,

Tex. Leg. 88th RS (Sep. 1, 2023)...................................................... H

Dale Wainwright & Justin Bernstein,

Introducing Texas’s Fifteenth Court of Appeals,

The National Law Review (July 5, 2024)........................................... I

Dale Wainwright & Justin Bernstein, Introducing Texas’s Fifteenth Court of Appeals, GT Alert,

GreenbergTraurig (July 5, 2024) ...................................................... J

Crowell, Texas Creates Two New Courts: State Supreme |Court Upholds Legislature’s Right to Create Statewide Court of Appeals (Aug. 30, 2024) ......................................................K

iii

Andrew D. Bergman & Ryan Hartman, Arnold & Porter, Open for Business: Texas Launches New Business Court and Court of Appeals (Aug. 28, 2024) ...............................................L

Gibson Dunn Client Alert, Texas Supreme Court

Unanimously Upholds Constitutionality Of Fifteenth Court Of Appeals (Aug. 23, 2024) ....................................................M

Mark C. Walker, Dickinson Wright, Texas’ New Business Courts and Court of Appeals (Aug. 2023)........................................ N

Reed Smith In-Depth, Texas business courts are up and running: Key points to consider (Sept. 20, 2024)..............................O

Crain Caton & James, New Texas Appellate Court for Cases with State Agencies ................................................................P

David Coale, Proposed ‘business court’ isn’t worth the constitutional risk, THE DALLAS MORNING NEWS (Apr. 22, 2023).....Q

Nicholas Bruno & Madison Moore, Beck Redden, 4 Things Cos. Must Know About Texas’ New Business Courts (July 21, 2023) .....R

iv

**INDEX OF AUTHORITIES**

**Cases**

*A.H. Belo & Co. v. Smith*, 42 S.W. 850 (Tex. 1897) ................................. 8

*Cadena Comercial USA Corp. v. Tex. Alcoholic Beverage Comm’n*, 518 S.W.3d 318 (Tex. 2017) .............................................................. 9

*Harbor Am. Cent., Inc. v. Reeves*, No. 14-21-00526-CV, 2021 WL 4472680 (Tex. App.—Houston [14th Dist.] Sept. 30, 2021, no pet.)..............................................................................................1, 23

*In re Dallas Cnty.*, 697 S.W.3d 142, 158 (Tex. 2024)............................... 7 *Interest of J.N.*, 670 S.W.3d 614- (Tex. 2023) .......................................... 8 *Matter of J.R.R.*, 696 S.W.2d 382 (Tex. 1985) ......................................... 8

*Reeves v. Harbor Am. Cent., Inc.*, 552 S.W.3d 389 (Tex. App.— Houston [14th Dist.] 2018, no pet.) .............................................1, 23

*Reeves v. Harbor Am. Cent., Inc.*, 631 S.W.3d 299 (Tex. App.— Houston [14th Dist.] 2020, pet. denied)............................................ 1

*Tex. Health Presbyterian Hosp. of Denton v. D.A.*, 569 S.W.3d 126 (Tex. 2018) ...................................................................................9, 14

**Statutes**

Act of May 21, 2023, 88th Leg., R.S., ch. 459, 2023 Tex. Sess. Law Serv. 1115 ......................................................................................... 2

TEX. CIV. PRAC. & REM. CODE § 22.220(d) ................................................ 1 TEX. CIV. PRAC. & REM. CODE 22.220(d)................................................... 4 TEX. GOV’T CODE § 22.201 ........................................................................ 4 TEX. GOV’T CODE § 22.201(p).................................................................... 4 TEX. GOV’T CODE § 22.216 .......................................................................11 TEX. GOV’T CODE § 22.220(a).......................................................4, 6, 8, 11 TEX. GOV’T CODE § 22.220(d).................................................................... 5

v

TEX. GOV’T CODE § 22.221(d).................................................................... 5 TEX. GOV’T CODE § 25A.007(a) ..........................................................1, 4, 5 TEX. GOV’T CODE § 311.023(7).................................................................. 6 TEX. GOV’T CODE § 73.001(a)...................................................................13 TEX. GOV’T CODE § 73.001(b).............................................................13, 23

**Other Authorities**

Amicus Brief of Lee Parsley as General Counsel of Texans for Lawsuit Reform Texas Business Law Foundation in *In re Dallas County*, No. 24-0426, In the Supreme Court of Texas .........19

Amicus Brief of Texas Business Law Foundation in *In re Dallas County*, No. 24-0426, In the Supreme Court of Texas.....................12

House Research Organization Bill Digest of SB 1045, Tex. Leg. 88th RS (May 15, 2023) ...................................................................16

SB 1045 Bill Analysis as Enrolled, Tex. Leg. 88th RS (June 20, 2023) ................................................................................................15

SB 1045 Bill Analysis as Filed, Tex. Leg. 88th RS (Mar. 20, 2023) .......15

SB 1045 Bill Analysis—Committee Report, Tex. Leg. 88th RS (Mar. 23, 2023).................................................................................15

Tex. S. Comm. on Jurisprudence Hearing, Tex. S.B. 1045, 88th Leg., R.S. (Mar. 22, 2023)..............................................17, 18, 19, 20

Tex. S.J. Res. 16, 22d Leg., R.S., 1891 Tex. Gen. Laws 197.................... 8

vi

**ARGUMENT**

This case has nothing to do with claims involving the State of Texas, the constitutionality of any statute, or the Business Court—the cases this Court was created to hear.1 Instead, this is a breach-of contract lawsuit brought by an individual against his former employer. Nonetheless, Appellant Harbor America Central, Inc. (“Harbor America”) appealed to this Court.

This case has been appealed three times before, with each appeal going to the Fourteenth Court of Appeals.2 Appellee William Reeves (“Reeves”) won the two appeals that he filed, while Harbor America voluntarily dismissed the appeal it filed.3

Given Harbor America’s dismal track record in the Fourteenth Court of Appeals, it’s not surprising Harbor America is using whatever

1 TEX. CIV. PRAC. & REM. CODE § 22.220(d); TEX. GOV’T CODE § 25A.007(a).

2 Harbor America Docketing Statement at § XIII; *Harbor America Central, Inc. v. Reeve*s, No. 14-21-00526-CV, In the Fourteenth Court of Appeals at Houston, Texas; *Reeves v. Harbor America Central, Inc*., No. 14-18-00594-CV, In the Fourteenth Court of Appeals at Houston, Texas; *Reeves v. Harbor America Central, Inc*., No. 14- 17-00518-CV, In the Fourteenth Court of Appeals at Houston, Texas.

3 *Reeves v. Harbor Am. Cent., Inc.*, 552 S.W.3d 389 (Tex. App.—Houston [14th Dist.] 2018, no pet.); *Reeves v. Harbor Am. Cent., Inc.*, 631 S.W.3d 299 (Tex. App.— Houston [14th Dist.] 2020, pet. denied); *Harbor Am. Cent., Inc. v. Reeves*, No. 14-21- 00526-CV, 2021 WL 4472680 (Tex. App.—Houston [14th Dist.] Sept. 30, 2021, no pet.).

1

longshot tactic it can to get out of that court. Especially since it owes a judgment of $34 million in this case. But a party’s desire to avoid litigating in a specific court—no matter how fervent—is not one that Texas law indulges.

This case has no business being in this Court. The only reason it is here is because Harbor America has used a creative reading of a poorly drafted statute to argue that this Court has appellate jurisdiction over this case. But Harbor America’s argument proves too much. If Harbor America is correct, then Senate Bill 1045—the statute that created this Court—gives this Court appellate jurisdiction over every civil case in Texas with more than $250 at issue.4

So—if Harbor America is correct—any appellant in any civil case in Texas with more than $250 at issue can, by right, appeal to the Fifteenth Court of Appeals. This would include divorce, car wreck, probate, child custody, and juvenile cases. That is an absurd result never imagined by the Legislature when it created this specialized court.

4 Act of May 21, 2023, 88th Leg., R.S., ch. 459, 2023 Tex. Sess. Law Serv. 1115, 1121 (“SB 1045”), attached as Ex. A.

2

This Court should reject Harbor America’s expansive view of its appellate jurisdiction and transfer this appeal to the appellate court that heard the previous three appeals in this case: The Fourteenth Court of Appeals in Houston, Texas.

**I. This Court does not have jurisdiction over this appeal.** This Court should reject Harbor America’s invitation to extend this Court’s appellate jurisdiction to every civil case in Texas with more than $250 at issue. Adopting Harbor America’s interpretation will result in this Court being inundated with untold appeals and its backlog will be unfathomably long

**A. Harbor America is attempting to create a loophole that would allow any civil appeal in Texas involving more than $250 to be filed in this Court.**

In its notice of appeal, Harbor America admits that this appeal does not fall within this Court’s exclusive appellate jurisdiction.5 But it claims this Court has appellate jurisdiction over every civil appeal in Texas with more than $250 at issue.6 Harbor America is attempting to exploit poor drafting to expand this Court’s jurisdiction far beyond cases

5 Harbor America Notice of Appeal at 1, attached as Ex. B.

6 Ex. B at 1-2.

3

involving claims against the State, the constitutionality of a statute, or the Business Court.7

Texas is organized into 15 court of appeals districts.8 The First through Fourteenth Courts of Appeals are composed of specific counties, but the new Fifteenth Court of Appeals “is composed of all counties in this state.”9

Texas Government Code § 22.220 contains the provisions regarding the civil jurisdiction of Texas intermediate appellate courts. The general jurisdiction provision in § 22.220(a) states that:

Except as provided by Subsection (d), each court of

appeals has appellate jurisdiction of all civil cases

within its district of which the district courts or county courts have jurisdiction when the amount in

controversy or the judgment rendered exceeds $250,

exclusive of interest and costs.10

Subsection (d) gives the Fifteenth Court of Appeals “exclusive intermediate appellate jurisdiction over” certain cases involving the

7 TEX. CIV. PRAC. & REM. CODE 22.220(d); Tex. Gov’t Code § 25A.007(a). 8 TEX. GOV’T CODE § 22.201.

9 TEX. GOV’T CODE § 22.201(p).

10 TEX. GOV’T CODE § 22.220(a). SB 1045 amended § 22.220(a) to add “Except as provided by Subsection (d)” before the language previously in the statute. SB 1045ß at § 1.05.

4

State of Texas.11 There are exclusions from the grant of exclusive intermediate appellate jurisdiction to the Fifteenth Court of Appeals. For example, mental-health commitments, civil-asset forfeitures, eminent domain, and personal injury cases involving the State are not part of the Fifteenth Court of Appeals’ exclusive intermediate appellate jurisdiction.12 In addition, “the Fifteenth Court of Appeals has exclusive jurisdiction over an appeal from an order or judgment of the business court.”13 The Fifteenth Court of Appeals is authorized to grant mandamus only in cases where it has exclusive intermediate appellate jurisdiction.14

Harbor America’s position is that the Texas Government Code gives the Fifteenth Court of Appeals jurisdiction over every civil case in the State of Texas with more than $250 at issue.15 It bases that on §22.220(a)’s general rule giving intermediate appellate courts appellate jurisdiction over civil cases in their district with more than $250 at

11 TEX. GOV’T CODE § 22.220(d).

12 TEX. GOV’T CODE § 22.220(d).

13 TEX. GOV’T CODE § 25A.007(a).

14 TEX. GOV’T CODE § 22.221(d).

15 Ex. B at 1-2.

5

issue.16 Because the Fifteenth Court of Appeals’ district is the entire State of Texas, according to Harbor America it can hear appeals from the entire State. Harbor America’s position is that the “exclusive intermediate appellate jurisdiction” provision strips other courts of appeals of jurisdiction over those cases, but does not limit the Fifteenth Court of Appeals to cases where it has exclusive intermediate appellate jurisdiction.

SB 1045 is titled “An Act relating to the creation of the Fifteenth Court of Appeals with jurisdiction over certain civil cases, the compensation of the justices of that court, and the jurisdiction of the courts of appeals in this state.”17 It would be odd for the Legislature to describe every civil case in Texas with at least $250 at issue as “certain civil cases.” The Legislature has instructed that a statute’s title and caption can be considered when interpreting a statute.18 The title is strong evidence that the Legislature did not secretly perform the most substantial overhaul of Texas’ intermediate appellate courts since 1891.

16 TEX. GOV’T CODE § 22.220(a); Ex. B at 1-2.

17 SB 1045.

18 TEX. GOV’T CODE § 311.023(7).

6

In its opinion upholding the constitutionality of the Fifteenth Court of Appeals, the Supreme Court warned against “hyperliteral” and rigid readings of textual language.19 That is exactly what Harbor America is asking this Court to engage in. Only through hyperliteral and rigid readings of multiple parts of the Texas Government Code can one conclude that the Legislature gave this Court appellate jurisdiction over every civil case in Texas with at least $250 at issue. This Court should reject Harbor America’s interpretation.

**B. If Harbor America’s view is adopted, this Court will have appellate jurisdiction over every divorce, child-custody, car wreck, probate, and juvenile case where more than $250 is involved.**

This Court should not be mistaken about the breadth of Harbor America’s argument. It claims that the Fifteenth Court of Appeals “has appellate jurisdiction of *all civil cases* within its district of which the district courts or county courts have jurisdiction when the amount in controversy or the judgment rendered exceeds $250, exclusive of

19 *In re Dallas Cnty.*, 697 S.W.3d 142, 158 (Tex. 2024). In its notice of appeal, Harbor America claims the Supreme Court blessed its statutory reading in *Dallas County*. Ex. B at 1-2. But the Supreme Court did not address whether Texas Government Code § 220.22(a) gives the Fifteenth Court of Appeals jurisdiction over cases outside its exclusive jurisdiction. It did not address that statutory provision at all.

7

interest and costs.”20

The category of “civil cases” is broad, encompassing all but criminal cases. That is the same term the Texas Constitution used in its 1891 amendment creating the Court of Civil Appeals.21 So under Texas law, a case is civil or criminal. The breadth of civil—or non-criminal— cases is staggering, covering everything from car wrecks to custody disputes to probate proceedings to juvenile proceedings22 to toxic-tort cases.23 Anything that is not criminal.24

20 TEX. GOV’T CODE § 22.220(a) (emphasis added). Harbor America is claiming appellate jurisdiction under the general jurisdiction statute for intermediate appellate courts. Ex. B at 1-2. It claims this Court has appellate jurisdiction even over cases where the Legislature expressly removed this Court’s exclusive appellate jurisdiction. *Id*.

21 Tex. S.J. Res. 16, 22d Leg., R.S., 1891 Tex. Gen. Laws 197, 198-99. This is also the same term the Texas Constitution uses regarding the right to trial by jury. Tex. Const. art. V, § 10 (“no jury shall be empaneled in any *civil case* unless demanded by a party to the case, and a jury fee be paid by the party demanding a jury, for such sum, and with such exceptions as may be prescribed by the Legislature”) (emphasis added).

22 The Texas Supreme Court has held that “juvenile delinquency procedures are civil in nature” and, for that reason, it—not the Texas Court of Criminal Appeals— hears juvenile cases. *Matter of J.R.R.*, 696 S.W.2d 382, 383 (Tex. 1985).

23 *A.H. Belo & Co. v. Smith*, 42 S.W. 850, 851 (Tex. 1897) (divorce and probate are civil matters).

24 For example, just last year the Supreme Court applied that provision in a child custody case. *Interest of J.N.*, 670 S.W.3d 614, 620 (Tex. 2023) (“The record here shows that Mother had requested, paid for, and was therefore constitutionally entitled to a jury trial. *See* TEX. CONST. art. V, § 10.”).

8

A court’s “fundamental goal when reading statutes is to ascertain and give effect to the Legislature’s intent.”25 While the textual language is a good guide to the Legislature’s intent, courts will reject even “the plain meaning of the words” if it “leads to absurd or nonsensical results.”26

It is absurd to think that SB 1045 gave this Court appellate jurisdiction over every divorce, car wreck or juvenile appeal in Texas where over $250 was involved. The idea that the Legislature intended the justices of this specialized appellate court to spend their time on who is entitled to the television in the divorce is absurd. The result of the Fifteenth Court of Appeals spending its time on these cases far outside its mandate is absurd.

This image of a divorcing couple dividing their beanie-baby collection in court offers a glimpse of what awaits the Fifteenth Court of

25 *Cadena Comercial USA Corp. v. Tex. Alcoholic Beverage Comm’n*, 518 S.W.3d 318, 325 (Tex. 2017) (internal quotation omitted).

26 *Cadena Comercial*, 518 S.W.3d at 325; *see also Tex. Health Presbyterian Hosp. of Denton v. D.A.*, 569 S.W.3d 126, 131 (Tex. 2018) (“we construe the statute by applying the terms’ common, ordinary meaning unless the text supplies a different meaning or the common meaning leads to absurd results”).

9

Appeals if Harbor America is correct:27



Gov. Abbott issued a press release when he appointed the inaugural members of the Fifteenth Court of Appeals.28 He did not highlight the justices’ familiarity with family law or juvenile law. Nothing about probate or personal injury. He made no mention of those areas at all. It’s almost as if Gov. Abbott did not think the Fifteenth Court of Appeals had appellate jurisdiction over every random car wreck, divorce, probate, or delinquent teenager.

27 STR New/Reuters (Nov. 5, 1999), https://www.huffpost.com/entry/beanie-baby fever-in-1999\_n\_58af7d12e4b060480e0661fe.

28 Office of the Texas Governor, Gov. Abbott Appoints Inaugural Members to Fifteenth Court of Appeals (Jun. 11, 2024),

https://gov.texas.gov/news/post/governor-abbott-appoints-inaugural-members-to fifteenth-court-of-appeals, attached as Ex. C.

10

**C. If Harbor America’s view is adopted, this Court will be inundated with untold appeals and its backlog will be unfathomably long.**

Accepting Harbor America’s interpretation of this Court’s appellate jurisdiction will also lead to the absurd result of a three justice court created to be a specialist court being given jurisdiction over civil appeals currently being decided by 80 justices.29 It will lead to untold numbers of appeals being filed in this three-justice Court, leading to enormous backlogs.

There are many appellants who are happy to have their appeals extend indefinitely. Appellants seeking delay will soon be filing their civil appeals in the Fifteenth Court of Appeals. Those new filings will increase the delay, which will lead to even more filings by appellants seeking delay. This will create extreme backlog in this Court, despite this Court’s justices’ best efforts. And the backlog will beget more backlog in a vicious circle.

The absurdity is more apparent when one considers the reason the Fifteenth Court of Appeals was created. The delay and overcrowding

29 TEX. GOV’T CODE § 22.216. The intermediate appellate courts’ civil jurisdiction is limited to cases with over $250 at issue. TEX. GOV’T CODE § 22.220(a).

11

caused by Harbor America’s interpretation is the opposite of what the Legislature intended when it created the Fifteenth Court of Appeals. The Texas Business Law Foundation’s amicus brief to the Supreme Court in *In re Dallas County* succinctly explained the reasons this Court was created:

The business court’s singular focus is replicated in the Fifteenth Court where the limited docket will enable

drastically greater attention to business disputes than the dockets of the other fourteen courts of appeals.

This will protect the relative speed of resolution

businesses will receive at the business court level,

preventing cases that move quickly through trial from stagnating on appeal.30

That understanding is non-sensical if Harbor America’s interpretation is correct. If Harbor America is correct, then this Court’s docket will be unlimited regarding civil cases with over $250 at issue. Rather than this Court mirroring the Business Court’s “relative speed of resolution,” cases brought to this Court will “stagnat[e] on appeal.”

If this court will not transfer this case that (1) has no relationship to the cases this court was designed to handle and (2) his previously

30 Amicus Brief of Texas Business Law Foundation in *In re Dallas County*, No. 24- 0426, In the Supreme Court of Texas, at 23.

12

been in another appellate court for multiple appeals over multiple years, then the appellate bar knows the floodgates are open and any civil case with over $250 at issue can be appealed to this court.

The Supreme Court will not be able to alleviate the backlog in this Court if Harbor America’s interpretation is adopted. The Texas Government Code authorizes the Supreme Court to transfer cases between intermediate appellate courts to equalize their dockets.31 But the Supreme Court is forbidden from transferring an appeal “properly filed in the Court of Appeals for the Fifteenth Court of Appeals District to another court of appeals for the purpose of equalizing the dockets of the courts of appeals.”32

This Court should reject Harbor America’s interpretation because it will lead to the absurd result of untold numbers of appeals that have nothing to do with this Court’s purpose being filed in it, creating the very backlog this Court was created to stop. Harbor America’s interpretation will bring the Texas civil judicial system to a grinding halt.

31 TEX. GOV’T CODE § 73.001(a).

32 TEX. GOV’T CODE § 73.001(b).

13

**D. Neither the legislative history nor the views of legal commentators even hinted that SB 1045 gave this Court appellate jurisdiction over every civil appeal in Texas involving more than $250.**

The wrongness of Harbor America’s position is shown by the fact that it seems no one in the Legislature, nor any legal commentators, had any idea that SB 1045 supposedly gave this Court appellate jurisdiction over every civil appeal in Texas involving more than $250. So if Harbor America is correct, then the most extreme overhaul of the Texas intermediate appellate court system in over 130 years was done without anyone mentioning it at the time.

**1. The legislative history shows the Legislature did not think SB 1045 gave the Fifteenth Court of Appeals**

**appellate jurisdiction over every civil appeal in Texas with more than $250 at issue.**

Regardless how the language is interpreted or construed, one thing is beyond certain: No legislator intended that any civil case in Texas with more than $250 at issue could be filed in this three-justice court. The legislative history is clear.33 The bill analyses and discussion

33 Reeves recognizes the limited role legislative history currently plays under Texas law. *Tex. Health Presbyterian Hosp. of Denton v. D.A.*, 569 S.W.3d 126, 135-37 (Tex. 2018). Reeves is using legislative history here because SB 1045 is not clear and unambiguous. The legislative history also bolsters the absurdity argument. The fact that no legislator—nor any observers or commentators—recognized the truly

14

during hearings make no mention of this extraordinary grant of appellate jurisdiction that Harbor America advances.

All of SB 1045’s legislative history is based on the assumption that the Fifteenth Court of Appeals’ jurisdiction would be limited to appeals involving the State of Texas, the constitutionality of statutes, and the Business Court, as well as any cases added by the Legislature. Nothing in the legislative history even hints that the Fifteenth Court of Appeals would have appellate jurisdiction over every civil case in the State of Texas with more than $250 at issue.

Senator Joan Huffman was the author of SB 1045. She provided the Author’s Statements of Intent regarding the bill when it (1) was filed, (2) passed out of committee, and (3) was enrolled.34 Nothing in

revolutionary nature of SB 1045 is evidence that SB 1045 is not really so revolutionary, after all. A bill that was designed to streamline appeals of cases with significance to the State of Texas actually creating a system where three justices potentially decide every civil appeal in Texas with over $250 at issue is absurd.

34 SB 1045 Bill Analysis as Filed, Tex. Leg. 88th RS (Mar. 20, 2023), https://capitol.texas.gov/tlodocs/88R/analysis/pdf/SB01045I.pdf#navpanes=0, attached as Ex. D; SB 1045 Bill Analysis—Committee Report, Tex. Leg. 88th RS (Mar. 23, 2023),

https://capitol.texas.gov/tlodocs/88R/analysis/pdf/SB01045S.pdf#navpanes=0, attached as Ex. E; SB 1045 Bill Analysis as Enrolled, Tex. Leg. 88th RS (June 20, 2023), https://capitol.texas.gov/tlodocs/88R/analysis/pdf/SB01045F.pdf#navpanes=0, attached as Ex. F.

15

Sen. Huffman’s Statements of Intent even hinted at—let alone stated— that SB 1045 would give the new Fifteenth Court of Appeals jurisdiction over any Texas civil appeal involving $250 or more. Instead, Sen. Huffman stressed that SB 1045 was being filed to address the perceived problem of “appeals in cases of statewide significance” being “decided by one of Texas’s 14 intermediate appellate courts,” with these courts’ “varying levels of experience with the complex legal issues involved in cases of statewide significance, resulting in inconsistent results for litigants.”35

Similarly, the House Research Organization’s summary of SB 1045 also makes no mention of the bill giving the Fifteenth Court of Appeals jurisdiction over every civil appeal in Texas involving more than $250.36 Nor does the enrolled bill summary give any hint that SB

1045 gives the Fifteenth Court of Appeals jurisdiction over every civil

35 Ex. D at 1; Ex. E at 1; Ex. F at 1.

36 House Research Organization Bill Digest of SB 1045, Tex. Leg. 88th RS (May 15, 2023), https://hro-dfr.house.texas.gov/bill

analysis?legislature=88&session=R&billNumber=SB1045, attached as Ex. G.

16

appeal in Texas involving more than $250.37

Harbor America bases its argument on Texas Government Code § 22.220(a), which is the general jurisdiction provision of intermediate appellate courts. If Harbor America were correct, one would expect the Senate Bill Analyses to explain that §22.220(a) gives the Fifteenth Court of Appeals appellate jurisdiction over any civil case with more than $250 at issue. But the Senate Bill Analyses does not do that. Instead, they merely state that § 22.220“(a) Creates an exception under Subsection (d).”38 That is a rather odd way of saying that § 22.220(a) gives the Fifteenth Court of Appeals jurisdiction over every civil appeal in Texas involving more than $250.

Sen. Huffman spoke in favor of SB 1045 at the Senate Jurisprudence Committee hearing on the bill.39 Sen. Huffman said a benefit of SB 1045 was prohibiting forum shopping.40 In response to a

37 Enrolled Bill Summary of SB 1045, Tex. Leg. 88th RS (Sep. 1, 2023), https://capitol.texas.gov/BillLookup/BillSummary.aspx?LegSess=88R&Bill=SB1045, attached as Ex. H.

38 Ex. D at 2; Ex. E at 2; Ex. F at 2.

39 Tex. S. Comm. on Jurisprudence Hearing, Tex. S.B. 1045, 88th Leg., R.S. (Mar. 22, 2023) (“Hearing”)

https://capitol.texas.gov/tlodocs/88R/witlistbill/html/SB01045S.htm 40 Hearing at 16:20.

17

question of why cases against the State should not be heard by all appellate courts, Sen. Huffman said that having one appellate court hear all appeals regarding the State would avoid forum shopping.41 But instead of prohibiting forum shopping—as Sen. Huffman stated SB 1045 did—Harbor America’s interpretation turbocharges forum shopping. If Harbor America’s interpretation prevails, then every appellant in a civil case worth over $250 can choose to have its appeal heard by the regional intermediate appellate court or this Court. That makes appellate forum shopping a standard part of every civil appeal.

Lee Parsley, the General Counsel of Texans for Lawsuit Reform, testified in favor of the bill. He began his testimony by emphasizing that “the issues this Court is considering are issues of statewide importance. In fact, I think that’s all the Court will be hearing.”42 Parsley compared this Court to the United States Court of Appeals for the Federal Circuit, which he described as “a national court that hears issues of national importance.”43 He said that the creation of the

41 Hearing at 16:20.

42 Hearing at 20:40

43 Hearing at 21:10

18

Fifteenth Court “mirrors the federal system.”44 Nothing Parsley said is remotely true if Harbor America is correct. To follow Harbor America’s interpretation is to believe that a major proponent of SB 1045—who spoke in favor of the bill and filed an amicus brief at the Supreme Court supporting it—actually didn’t understand how the bill worked. At all.45

Grace Weatherly testified on behalf of the three major trial bars in Texas: American Board of Trial Advocates, Texas Association of Defense Counsel, and Texas Trial Lawyer’s Association.46 All three groups opposed SB 1045, but they did not raise the issue of any civil case with over $250 at issue being able to be filed in the Fifteenth Court of Appeals.47 So if Harbor America is correct, the major trial bars in Texas were staggeringly ignorant and failed to understand the SB 1045’s true breadth.

44 Hearing at 21:10

45 Amicus Brief of Lee Parsley as General Counsel of Texans for Lawsuit Reform Texas Business Law Foundation in *In re Dallas County*, No. 24-0426, In the Supreme Court of Texas, at 23.

46 Hearing at 23:30-27:18.

47 Hearing at 23:30-27:18.

19

Justice Dennise Garcia of the Fifth Court of Appeals testified regarding SB 1045.48 She explained that by giving the Fifteenth Court of Appeals jurisdiction over State-related cases and cases from the Business Court, litigants would be deprived of having local appellate justices decide their appeals.49 She did not address this Court having appellate jurisdiction over every civil case in Texas over $250.50 Justice Garcia, therefore, did not interpret SB 1045 as Harbor America does.

It strains credulity to believe that the senator who wrote SB 1045, a Texas Court of Appeals Justice, and the organizations that supported—and opposed— it all failed to understand the bill’s true breadth.

**2. Legal commentators did not understand SB 1045 as allowing any civil case in Texas with over $250 at**

**issue to be appealed to this Court.**

Many major Texas and national law firms provided client updates on SB 1045’s passage and the new Fifteenth Court of Appeals. Those updates uniformly failed to recognize the “fact” that SB 1045 granted

48 Hearing at 45:10-49:35.

49 Hearing at 45:10-49:35.

50 Hearing at 45:10-49:35.

20

the Fifteenth Court of Appeals appellate jurisdiction over every civil case in Texas with over $250 at issue. If Harbor America were correct, then none of those lawyers examining SB 1045 actually understood what the bill did. That is strong evidence of the weakness of Harbor America’s argument.51

51 Dale Wainwright & Justin Bernstein, Introducing Texas’s Fifteenth Court of Appeals, The National Law Review (July 5, 2024),

https://natlawreview.com/article/introducing-texass-fifteenth-court appeals#google\_vignette, attached as Ex. I; Dale Wainwright & Justin Bernstein, Introducing Texas’s Fifteenth Court of Appeals, GT Alert, GreenbergTraurig (July 5, 2024), https://www.gtlaw.com/en/insights/2024/7/introducing-texass-fifteenth court-of-appeals, attached as Ex. J; Crowell, Texas Creates Two New Courts: State Supreme Court Upholds Legislature’s Right to Create Statewide Court of Appeals (Aug. 30, 2024), https://www.crowell.com/en/insights/client-alerts/texas-creates-two new-courts-state-supreme-court-upholds-legislatures-right-to-create-statewide court-of-appeals, attached as Ex. K; Andrew D. Bergman & Ryan Hartman, Arnold & Porter, Open for Business: Texas Launches New Business Court and Court of Appeals (Aug. 28, 2024),

https://www.arnoldporter.com/en/perspectives/advisories/2024/08/texas-launches new-business-court-and-court-of-appeals, attached as Ex. L; Gibson Dunn Client Alert, Texas Supreme Court Unanimously Upholds Constitutionality Of Fifteenth Court Of Appeals (Aug. 23, 2024), https://www.gibsondunn.com/texas-supreme court-unanimously-upholds-constitutionality-of-fifteenth-court-of-appeals/, attached as Ex. M; Mark C. Walker, Dickinson Wright, Texas’ New Business Courts and Court of Appeals (Aug. 2023), https://www.dickinson-wright.com/news-alerts/texas new-business-courts-and-court-of-appeals, attached as Ex. N; Reed Smith In-Depth, Texas business courts are up and running: Key points to consider (Sept. 20, 2024), https://www.reedsmith.com/en/perspectives/2024/09/texas-business-courts-are-up and-running-key-points-to-consider, attached as Ex. O; Crain Caton & James, New Texas Appellate Court for Cases with State Agencies,

https://www.craincaton.com/new-texas-appellate-court-for-cases-with-state agencies/, attached as Ex. P; David Coale, Proposed ‘business court’ isn’t worth the constitutional risk, THE DALLAS MORNING NEWS (Apr. 22, 2023), https://www.dallasnews.com/opinion/commentary/2023/04/22/proposed-business court-isnt-worth-the-constitutional-risk/, attached as Ex. Q.

21

Even Beck Redden—Harbor America’s law firm in this appeal— missed the “fact” that the Fifteenth Court of Appeals was given appellate jurisdiction over any civil case in Texas with over $250 at issue. In a July 21, 2023 legal update, Beck Redden lawyers explained how the Fifteenth Court of Appeals would work, but they did not mention the expansive jurisdiction Harbor America is now claiming.52

The fact that the most learned observers of Texas courts and Texas appellate law did not realize the supposed true import of SB 1405 is strong evidence that the Fifteenth Court of Appeals’ appellate jurisdiction is not as broad as Harbor America claims.

**II. This Court should transfer this case to the Fourteenth Court of Appeals even if it determines that it has appellate jurisdiction.**

Even if this Court were to conclude that it has appellate jurisdiction over this appeal, it should still transfer this appeal to the Fourteenth Court of Appeals for two reasons:

1. The Fourteenth Court of Appeals has heard the

three previous appeals in this case; and

52 Nicholas Bruno & Madison Moore, Beck Redden, 4 Things Cos. Must Know About Texas’ New Business Courts (July 21, 2023), https://beckredden.com/wp content/uploads/2023/07/Law360-4-Things-Cos.-Must-Know-About-Texas-New Business-Courts.pdf, attached as Ex. R.

22

2. This appeal will require the justices to sit in

judgment of Chief Justice Brister’s arguments and

work.53

These are independent grounds on which this Court can transfer this appeal to the Fourteenth Court of Appeals.

**A. The Fourteenth Court of Appeals has heard the three previous appeals in this case.**

This case has been appealed three times before, with each appeal going to the Fourteenth Court of Appeals.54 Reeves won the two appeals that he filed, while Harbor America voluntarily dismissed the appeal it filed.55

53 The Texas Supreme Court is barred from transferring an appeal “properly filed in the Court of Appeals for the Fifteenth Court of Appeals District to another court of appeals for the purpose of equalizing the dockets of the courts of appeals.” TEX. GOV’T CODE § 73.001(b). But that provision does not apply here for at least two reasons. First, it would be the Fifteenth Court of Appeals—not the Supreme Court—transferring the case. Second, the appeal would not be transferred for docket equalization, but because the previous three appeals in the case were heard by the Fourteenth Court of Appeals or because of Chief Justice Brister’s representation of Harbor America in this case.

54 Harbor America Docketing Statement at § XIII; *Harbor America Central, Inc. v. Reeve*s, No. 14-21-00526-CV, In the Fourteenth Court of Appeals at Houston, Texas; *Reeves v. Harbor America Central, Inc*., No. 14-18-00594-CV, In the Fourteenth Court of Appeals at Houston, Texas; *Reeves v. Harbor America Central, Inc*., No. 14- 17-00518-CV, In the Fourteenth Court of Appeals at Houston, Texas.

55 *Reeves v. Harbor Am. Cent., Inc.*, 552 S.W.3d 389 (Tex. App.—Houston [14th Dist.] 2018, no pet.); *Reeves v. Harbor Am. Cent., Inc.*, 631 S.W.3d 299 (Tex. App.— Houston [14th Dist.] 2020, pet. denied); *Harbor Am. Cent., Inc. v. Reeves*, No. 14-21- 00526-CV, 2021 WL 4472680 (Tex. App.—Houston [14th Dist.] Sept. 30, 2021, no pet.).

23

Given Harbor America’s dismal track record in the Fourteenth Court of Appeals, it’s not surprising Harbor America is using whatever longshot tactic it can to get out of that court. But a party’s desire to avoid litigating in a specific court—no matter how fervent—is not one that Texas law indulges. This Court should transfer this appeal to the appellate court that has heard the previous three appeals in this case: The Fourteenth Court of Appeals in Houston, Texas.

**B. This appeal will require the justices to sit in judgment of Chief Justice Brister’s arguments and work.**

The fact that this appeal causes this Court to sit in judgment over the work of its chief justice weighs in favor of transferring this case. Chief Justice Brister was brought in as Harbor America’s appellate lawyer after it was hit with the $34 million verdict in this case.56 Chief Justice Brister was Harbor America’s chief appellate lawyer on its opposition to Reeve’s motion for judgment in this case as well as Harbor America’s opposition to Reeve’s motion for sanctions.57

In this appeal, this Court will be determining if its Chief Justice’s

56 *See* Reeves’ Notice of Disqualification (Dec. 15, 2024).

57 *Id.*

24

strategy and argument were correct. While the Chief Justice is constitutionally disqualified, so he will not hear this appeal, his presence looms over it. It will strain the bonds collegiality—so important for any appellate court, but especially important for a new and untested court—to ask it to sit in judgment over their colleague’s work. Especially when that colleague is the chief justice of their three justice court that was just established less than four months ago.

It is best for this Court, as well as the administration of justice, to not have its members put in such an uncomfortable and unseemly position.

**III. Conclusion**

This Court should transfer this appeal to the Fourteenth Court of Appeals at Houston, Texas.

25

Anthony G. Buzbee

Respectfully submitted,

*/s/ David George*

David George

Texas Bar No. 24001820 tbuzbee@txattorneys.com Lionel Sims III

Texas Bar No. 24107465 lsims@txattorneys.com THE BUZBEE LAW FIRM J.P. Morgan Chase Tower 600 Travis, Suite 7500 Houston, Texas 77002 Telephone: (713) 223-5393 Facsimile: (713) 223-5909 www.txattorneys.com

Texas Bar No. 00793212 THE GEORGE LAW FIRM PLLC 440 Louisiana Street, Suite 900 Houston, Texas 77002

Telephone: (713) 857-2280 dgeorge@georgeappeals.com

*Counsel for Appellee William Reeves*

26

**CERTIFICATE OF SERVICE**

I certify that on December 15, 2024, I served a copy of the foregoing document upon the following counsel of record via electronic filing:

Joshua S. Smith

jsmith@beckredden.com

Russell S. Post

rpost@beckredden.com

BECK REDDEN LLP

1221 McKinney, Suite 4500

Houston, Texas 77010

*Counsel for Appellant*

*Harbor America Central, Inc.*

*/s/ David George*

David George

**CERTIFICATE OF CONFERENCE**

I certify that on December 14, 2024, I conferred with Appellant’s counsel Russell S. Post. He stated that Appellant opposed the Court granting the relief requested in this motion.

*/s/ David George*

David George

27

S.B. No. 1045

AN ACT

1

relating to the creation of the Fifteenth Court of Appeals with 2

jurisdiction over certain civil cases, the compensation of the 3

justices of that court, and the jurisdiction of the courts of 4

appeals in this state.

5

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS: 6

ARTICLE 1. FIFTEENTH COURT OF APPEALS

7

SECTION 1.01. Section 22.201, Government Code, is amended 8

9

by amending Subsection (a) and adding Subsection (p) to read as

10

follows:

11

(a) The state is organized [~~divided~~] into 15 [~~14~~] courts of

12

appeals districts with a court of appeals in each district.

13

(p) The Fifteenth Court of Appeals District is composed of

14

all counties in this state.

15

SECTION 1.02. Subchapter C, Chapter 22, Government Code, is

16

amended by adding Section 22.2151 to read as follows:

17

Sec. 22.2151. FIFTEENTH COURT OF APPEALS. (a) The Court of

18

Appeals for the Fifteenth Court of Appeals District shall be held in

19

the City of Austin.

20

(b) The Fifteenth Court of Appeals may transact its business

21

in any county in the district as the court determines is necessary

22

and convenient.

23

SECTION 1.03. Subchapter C, Chapter 22, Government Code, is

24

amended by adding Section 22.2152 to read as follows:

1

S.B. No. 1045

1

Sec. 22.2152. REPORT ON FIFTEENTH COURT OF APPEALS. Not

2

later than December 1 of each year, the Office of Court

3

Administration of the Texas Judicial System shall submit to the

4

legislature a report on the number and types of cases heard by the

5

Court of Appeals for the Fifteenth Court of Appeals District in the

6

preceding state fiscal year.

7

SECTION 1.04. Section 22.216, Government Code, is amended

8

by adding Subsections (n-1) and (n-2) to read as follows:

9

(n-1) The Court of Appeals for the Fifteenth Court of

10

Appeals District consists of a chief justice and of four justices

11

holding places numbered consecutively beginning with Place 2.

12

(n-2) Notwithstanding Subsection (n-1), the Court of

13

Appeals for the Fifteenth Court of Appeals District consists of a

14

chief justice and of two justices holding places numbered

15

consecutively beginning with Place 2 for the first three years

16

following the court ’s creation. This subsection expires September

17

1, 2027.

18

SECTION 1.05. Section 22.220, Government Code, is amended

19

by amending Subsection (a) and adding Subsection (d) to read as

20

follows:

21

(a) Except as provided by Subsection (d), each [~~Each~~] court

22

of appeals has appellate jurisdiction of all civil cases within its

23

district of which the district courts or county courts have

24

jurisdiction when the amount in controversy or the judgment

25

rendered exceeds $250, exclusive of interest and costs.

26

(d) The Court of Appeals for the Fifteenth Court of Appeals

27

District has exclusive intermediate appellate jurisdiction over 2

S.B. No. 1045

the following matters arising out of or related to a civil case: 1

(1) matters brought by or against the state or a board, 2

commission, department, office, or other agency in the executive 3

branch of the state government, including a university system or 4

institution of higher education as defined by Section 61.003, 5

6

Education Code, or by or against an officer or employee of the state

7

or a board, commission, department, office, or other agency in the

8

executive branch of the state government arising out of that

9

officer ’s or employee ’s official conduct, other than:

10

(A) a proceeding brought under the Family Code

11

and any related motion or proceeding;

12

(B) a proceeding brought under Chapter 7B or

13

Article 17.292, Code of Criminal Procedure;

14

(C) a proceeding brought against a district

15

attorney, a criminal district attorney, or a county attorney with

16

criminal jurisdiction;

17

(D) a proceeding relating to a mental health

18

commitment;

19

(E) a proceeding relating to civil asset

20

forfeiture;

21

(F) a condemnation proceeding for the

22

acquisition of land or a proceeding related to eminent domain;

23

(G) a proceeding brought under Chapter 101, Civil

24

Practice and Remedies Code;

25

(H) a claim of personal injury or wrongful death;

26

(I) a proceeding brought under Chapter 125, Civil

27

Practice and Remedies Code, to enjoin a common nuisance; 3

S.B. No. 1045

1

(J) a proceeding brought under Chapter 55, Code

2

of Criminal Procedure;

3

(K) a proceeding under Chapter 22A, Government

4

Code;

5

(L) a proceeding brought under Subchapter E-1,

6

Chapter 411, Government Code;

7

(M) a proceeding brought under Chapter 21, Labor

8

Code;

9

(N) a removal action under Chapter 87, Local

10

Government Code; or

11

(O) a proceeding brought under Chapter 841,

12

Health and Safety Code;

13

(2) matters in which a party to the proceeding files a

14

petition, motion, or other pleading challenging the

15

constitutionality or validity of a state statute or rule and the

16

attorney general is a party to the case; and

17

(3) any other matter as provided by law.

18

SECTION 1.06. Section 22.221, Government Code, is amended

19

by amending Subsection (b) and adding Subsections (c) and (c-1) to

20

read as follows:

21

(b) Subject to Subsection (c-1), each [~~Each~~] court of

22

appeals for a court of appeals district may issue all writs of

23

mandamus, agreeable to the principles of law regulating those

24

writs, against [~~:~~

25

[~~(1)~~] a judge of a district, statutory county,

26

statutory probate county, or county court in the court of appeals

27

district[~~;~~

4

S.B. No. 1045

1

[~~(2) a judge of a district court who is acting as a~~

2

~~magistrate at a court of inquiry under Chapter 52, Code of Criminal~~

3

~~Procedure, in the court of appeals district; or~~

4

[~~(3) an associate judge of a district or county court~~

5

~~appointed by a judge under Chapter 201, Family Code, in the court of~~

6

~~appeals district for the judge who appointed the associate judge~~].

7

(c) Each court of appeals for a court of appeals district,

8

other than the Court of Appeals for the Fifteenth Court of Appeals

9

District, may issue all writs of mandamus, agreeable to the

10

principles of law regulating those writs, against:

11

(1) a judge of a district court who is acting as a

12

magistrate at a court of inquiry under Chapter 52, Code of Criminal

13

Procedure, in the court of appeals district; or

14

(2) an associate judge of a district or county court

15

appointed by a judge under Chapter 201, Family Code, in the court of

16

appeals district for the judge who appointed the associate judge.

17

(c-1) The original jurisdiction of the Court of Appeals for

18

the Fifteenth Court of Appeals District to issue writs is limited to

19

writs arising out of matters over which the court has exclusive

20

intermediate appellate jurisdiction under Section 22.220(d).

21

SECTION 1.07. Section 22.229(a), Government Code, is

22

amended to read as follows:

23

(a) An appellate judicial system fund is established for

24

each court of appeals, other than the Court of Appeals of the

25

Fifteenth Court of Appeals District, to:

26

(1) assist the court of appeals in the processing of

27

appeals filed with the court of appeals from the county courts, 5

S.B. No. 1045

1

statutory county courts, statutory probate courts, and district

2

courts in the counties the court of appeals serves; and

3

(2) defray costs and expenses incurred in the

4

operation of the court of appeals.

5

SECTION 1.08. Section 73.001, Government Code, is amended

6

to read as follows:

7

Sec. 73.001. AUTHORITY TO TRANSFER. (a) Except as provided

8

by Subsection (b), the [~~The~~] supreme court may order cases

9

transferred from one court of appeals to another at any time that,

10

in the opinion of the supreme court, there is good cause for the

11

transfer.

12

(b) The supreme court may not transfer any case or

13

proceeding properly filed in the Court of Appeals for the Fifteenth

14

Court of Appeals District to another court of appeals for the

15

purpose of equalizing the dockets of the courts of appeals.

16

(c) The supreme court shall adopt rules for:

17

(1) transferring an appeal inappropriately filed in

18

the Fifteenth Court of Appeals to a court of appeals with

19

jurisdiction over the appeal; and

20

(2) transferring to the Fifteenth Court of Appeals

21

from another court of appeals the appeals over which the Fifteenth

22

Court of Appeals has exclusive intermediate appellate jurisdiction

23

under Section 22.220(d).

24

SECTION 1.09. Section 659.012(a), Government Code, is

25

amended to read as follows:

26

(a) Notwithstanding Section 659.011 and subject to

27

Subsections (b) and (b-1):

6

S.B. No. 1045

1

(1) a judge of a district court is entitled to an

2

annual base salary from the state as set by the General

3

Appropriations Act in an amount equal to at least $140,000, except

4

that the combined base salary of a district judge from all state and

5

county sources, including compensation for any extrajudicial

6

services performed on behalf of the county, may not exceed the

7

amount that is $5,000 less than the maximum combined base salary

8

from all state and county sources for a justice of a court of

9

appeals other than a chief justice as determined under this

10

subsection;

11

(2) except as provided by Subdivision (3), a justice

12

of a court of appeals other than the chief justice is entitled to an

13

annual base salary from the state in the amount equal to 110 percent

14

of the state base salary of a district judge as set by the General

15

Appropriations Act, except that the combined base salary of a

16

justice of the court of appeals other than the chief justice from

17

all state and county sources, including compensation for any

18

extrajudicial services performed on behalf of the county, may not

19

exceed the amount that is $5,000 less than the base salary for a

20

justice of the supreme court as determined under this subsection;

21

(3) a justice of the Court of Appeals for the Fifteenth

22

Court of Appeals District other than the chief justice is entitled

23

to an annual base salary from the state in the amount equal to

24

$5,000 less than 120 percent of the state base salary of a district

25

judge as set by the General Appropriations Act;

26

(4) a justice of the supreme court other than the chief

27

justice or a judge of the court of criminal appeals other than the 7

S.B. No. 1045

1

presiding judge is entitled to an annual base salary from the state

2

in the amount equal to 120 percent of the state base salary of a

3

district judge as set by the General Appropriations Act; and

4

(5) [~~(4)~~] the chief justice or presiding judge of an

5

appellate court is entitled to an annual base salary from the state

6

in the amount equal to $2,500 more than the state base salary

7

provided for the other justices or judges of the court, except that

8

the combined base salary of the chief justice of a court of appeals

9

from all state and county sources may not exceed the amount equal to

10

$2,500 less than the base salary for a justice of the supreme court

11

as determined under this subsection.

12

SECTION 1.10. Section 2001.038(f), Government Code, is

13

amended to read as follows:

14

(f) A Travis County district court in which an action is

15

brought under this section, on its own motion or the motion of any

16

party, may request transfer of the action to the Court of Appeals

17

for the Fifteenth [~~Third~~] Court of Appeals District if the district

18

court finds that the public interest requires a prompt,

19

authoritative determination of the validity or applicability of the

20

rule in question and the case would ordinarily be appealed. After

21

filing of the district court ’s request with the court of appeals,

22

transfer of the action may be granted by the court of appeals if it

23

agrees with the findings of the district court concerning the

24

application of the statutory standards to the action. On entry of

25

an order by the court of appeals granting transfer, the action is

26

transferred to the court of appeals for decision, and the validity

27

or applicability of the rule in question is subject to judicial 8

S.B. No. 1045

1

review by the court of appeals. The administrative record and the

2

district court record shall be filed by the district clerk with the

3

clerk of the court of appeals. The court of appeals may direct the

4

district court to conduct any necessary evidentiary hearings in

5

connection with the action.

6

SECTION 1.11. Section 2001.176(c), Government Code, is

7

amended to read as follows:

8

(c) A Travis County district court in which an action is

9

brought under this section, on its own motion or on motion of any

10

party, may request transfer of the action to the Court of Appeals

11

for the Fifteenth [~~Third~~] Court of Appeals District if the district

12

court finds that the public interest requires a prompt,

13

authoritative determination of the legal issues in the case and the

14

case would ordinarily be appealed. After filing of the district

15

court ’s request with the court of appeals, transfer of the action

16

may be granted by the court of appeals if it agrees with the

17

findings of the district court concerning the application of the

18

statutory standards to the action. On entry of an order by the

19

court of appeals granting transfer, the action is transferred to

20

the court of appeals for decision, and the agency decision in the

21

contested case is subject to judicial review by the court of

22

appeals. The administrative record and the district court record

23

shall be filed by the district clerk with the clerk of the court of

24

appeals. The court of appeals may direct the district court to

25

conduct any necessary evidentiary hearings in connection with the

26

action.

27

SECTION 1.12. Section 2301.751(a), Occupations Code, is 9

S.B. No. 1045

1

amended to read as follows:

2

(a) A party to a proceeding affected by a final order, rule,

3

or decision or other final action of the board with respect to a

4

matter arising under this chapter or Chapter 503, Transportation

5

Code, may seek judicial review of the action under the substantial

6

evidence rule in:

7

(1) a district court in Travis County; or

8

(2) the court of appeals for the Fifteenth [~~Third~~]

9

Court of Appeals District.

10

SECTION 1.13. Section 39.001(e), Utilities Code, is amended

11

to read as follows:

12

(e) Judicial review of competition rules adopted by the

13

commission shall be conducted under Chapter 2001, Government Code,

14

except as otherwise provided by this chapter. Judicial review of

15

the validity of competition rules shall be commenced in the Court of

16

Appeals for the Fifteenth [~~Third~~] Court of Appeals District and

17

shall be limited to the commission ’s rulemaking record. The

18

rulemaking record consists of:

19

(1) the notice of the proposed rule;

20

(2) the comments of all interested persons;

21

(3) all studies, reports, memoranda, or other

22

materials on which the commission relied in adopting the rule; and

23

(4) the order adopting the rule.

24

SECTION 1.14. (a) Except as otherwise provided by this Act,

25

the Court of Appeals for the Fifteenth Court of Appeals District is

26

created September 1, 2024.

27

(b) If the Court of Appeals for the Fifteenth Court of 10

S.B. No. 1045

1

Appeals District is created, the initial vacancies in the offices

2

of chief justice and justices of the court shall be filled by

3

appointment.

4

SECTION 1.15. (a) The changes in law made by this Act apply

5

to appeals perfected on or after September 1, 2024.

6

(b) On September 1, 2024, all cases pending in other courts

7

of appeal that were filed on or after September 1, 2023, and of

8

which the Court of Appeals for the Fifteenth Court of Appeals

9

District has exclusive intermediate appellate jurisdiction are

10

transferred to the Court of Appeals for the Fifteenth Court of

11

Appeals District.

12

(c) When a case is transferred as provided by Subsection (b)

13

of this section:

14

(1) all processes, writs, bonds, recognizances, or

15

other obligations issued from the other courts of appeal are

16

returnable to the Court of Appeals for the Fifteenth Court of

17

Appeals District as if originally issued by that court; and

18

(2) the obligees on all bonds and recognizances taken

19

in and for the other courts of appeal and all witnesses summoned to

20

appear in another court of appeals are required to appear before the

21

Court of Appeals for the Fifteenth Court of Appeals District as if

22

originally required to appear before the Court of Appeals for the

23

Fifteenth Court of Appeals District.

24

ARTICLE 2. CONFORMING AMENDMENTS

25

SECTION 2.01. Article 4.01, Code of Criminal Procedure, is

26

amended to read as follows:

27

Art. 4.01. WHAT COURTS HAVE CRIMINAL JURISDICTION. The 11

S.B. No. 1045

1

following courts have jurisdiction in criminal actions:

2

1. The Court of Criminal Appeals;

3

2. Courts of appeals, other than the Court of Appeals

4

for the Fifteenth Court of Appeals District;

5

3. The district courts;

6

4. The criminal district courts;

7

5. The magistrates appointed by the judges of the

8

district courts of Bexar County, Dallas County, Tarrant County, or

9

Travis County that give preference to criminal cases and the

10

magistrates appointed by the judges of the criminal district courts

11

of Dallas County or Tarrant County;

12

6. The county courts;

13

7. All county courts at law with criminal

14

jurisdiction;

15

8. County criminal courts;

16

9. Justice courts;

17

10. Municipal courts;

18

11. The magistrates appointed by the judges of the

19

district courts of Lubbock County;

20

12. The magistrates appointed by the El Paso Council

21

of Judges;

22

13. The magistrates appointed by the Collin County

23

Commissioners Court;

24

14. The magistrates appointed by the Brazoria County

25

Commissioners Court or the local administrative judge for Brazoria

26

County; and

27

15. The magistrates appointed by the judges of the 12

S.B. No. 1045

1

district courts of Tom Green County.

2

SECTION 2.02. Article 4.03, Code of Criminal Procedure, is

3

amended to read as follows:

4

Art. 4.03. COURTS OF APPEALS. The Courts of Appeals, other

5

than the Court of Appeals for the Fifteenth Court of Appeals

6

District, shall have appellate jurisdiction coextensive with the

7

limits of their respective districts in all criminal cases except

8

those in which the death penalty has been assessed. This article

9

[~~Article~~] shall not be so construed as to embrace any case which has

10

been appealed from any inferior court to the county court, the

11

county criminal court, or county court at law, in which the fine

12

imposed or affirmed by the county court, the county criminal court

13

or county court at law does not exceed one hundred dollars, unless

14

the sole issue is the constitutionality of the statute or ordinance

15

on which the conviction is based.

16

SECTION 2.03. Article 44.25, Code of Criminal Procedure, is

17

amended to read as follows:

18

Art. 44.25. CASES REMANDED. The courts of appeals, other

19

than the Court of Appeals of the Fifteenth Court of Appeals

20

District, or the Court of Criminal Appeals may reverse the judgment

21

in a criminal action, as well upon the law as upon the facts.

22

SECTION 2.04. Section 31.001, Government Code, is amended

23

to read as follows:

24

Sec. 31.001. AUTHORITY FOR COUNTY PAYMENT OF COMPENSATION.

25

The commissioners courts in the counties of each of the 15 [~~14~~]

26

courts of appeals districts may pay additional compensation in an

27

amount that does not exceed the limitations of Section 659.012 to 13

S.B. No. 1045

1

each of the justices of the courts of appeals, other than a justice

2

of the Court of Appeals of the Fifteenth Court of Appeals District,

3

residing within the court of appeals district that includes those

4

counties. The compensation is for all extrajudicial services

5

performed by the justices.

6

ARTICLE 3. SPECIFIC APPROPRIATION REQUIRED; CONSTITUTIONAL

7

CHALLENGE; EFFECTIVE DATE

8

SECTION 3.01. (a) Notwithstanding Section 22.201(a),

9

Government Code, as amended by this Act, and Sections 22.201(p) and

10

22.2151, Government Code, as added by this Act, the Court of Appeals

11

for the Fifteenth Court of Appeals District is not created unless

12

the legislature makes a specific appropriation of money for that

13

purpose. For purposes of this subsection, a specific appropriation

14

is an appropriation identifying the Court of Appeals for the

15

Fifteenth Court of Appeals District or an Act of the 88th

16

Legislature, Regular Session, 2023, relating to the creation of the

17

Court of Appeals for the Fifteenth Court of Appeals District.

18

(b) Notwithstanding Section 22.220(a), Government Code, as

19

amended by this Act, a court of appeals has the same jurisdiction

20

the court had on August 31, 2023, if the Court of Appeals for the

21

Fifteenth Court of Appeals District is not created as a result of

22

Subsection (a) of this section.

23

SECTION 3.02. The Texas Supreme Court has exclusive and

24

original jurisdiction over a challenge to the constitutionality of

25

this Act or any part of this Act and may issue injunctive or

26

declaratory relief in connection with the challenge.

27

SECTION 3.03. This Act takes effect September 1, 2023. 14

S.B. No. 1045

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ President of the Senate Speaker of the House

I hereby certify that S.B. No. 1045 passed the Senate on March 30, 2023, by the following vote: Yeas 19, Nays 12; and that the Senate concurred in House amendments on May 21, 2023, by the following vote: Yeas 19, Nays 12.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Secretary of the Senate

I hereby certify that S.B. No. 1045 passed the House, with amendments, on May 19, 2023, by the following vote: Yeas 91, Nays 47, two present not voting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Chief Clerk of the House

Approved:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Governor

15

WILLIAM REEVES

*Plaintiff,*

v.

CAUSE NO. 2017-25574

§

§

§

§

§

ACCEPTED

11/15/2024 2:56 PM

15-24-00128-CV

Marilyn Burgess - District Clerk Harris County

Envelope No. 94357219

FIFTEENTH COURT OF APPEALS By: Melissa Medina

AUSTIN, TEXAS

Filed: 11/15/2024 2:56 PM

11/27/2024 10:36 AM

CHRISTOPHER A. PRINE

CLERK

IN THE DISTRICT COURT OF

FILED IN 15th COURT OF APPEALS AUSTIN, TEXAS

HARRIS COUNTY, TEXAS

11/27/2024 10:36:15 AM

CHRISTOPHER A. PRINE Clerk

HARBOR AMERICA CENTRAL INC.,

§

*Defendant.*

§

55th JUDICIAL DISTRICT

**DEFENDANT HARBOR AMERICA CENTRAL INC.’S NOTICE OF APPEAL**

Defendant, Harbor America Central, Inc., gives notice that it desires to appeal from the following judgment and order in Cause No. 2017-25574; *William Reeves v. Harbor America Central, Inc.*; In the 55th Judicial District Court of Harris County, Texas:

• the Final Judgment signed on August 19, 2024, all interlocutory rulings that merged into that Final Judgment, and the denial of all Defendant’s post-judgment motions (which were all overruled by operation of law); and

• the Order Granting Plaintiff’s Supplemental Application for Sanctions Related to His Anti-SLAPP Motion to Dismiss signed on October 2, 2024, along with the denial by operation of law of Defendant’s Motion to Reconsider that order.

This appeal will be to the Fifteenth Court of Appeals at Austin. The Fifteenth Court has exclusive jurisdiction over appeals involving the State and certain other enumerated subjects. Tex. Gov’t Code § 22.220(d). But in addition, each of the courts of appeals—including the Fifteenth Court—has “appellate jurisdiction of all civil cases within its district of which the district courts or county courts have jurisdiction….” *Id.* § 22.220(a). The Supreme Court of Texas recently affirmed that the “district” of the Fifteenth Court extends statewide:

Since the Fifteenth Court’s district is statewide, the court may exercise appellate jurisdiction over cases from any district and county court, subject to legislative restriction.

*In re Dallas Cnty.*, 697 S.W.3d 142, 159 (Tex. 2024). This civil appeal comes from a district court in a county within the Fifteenth Court’s “district” and it is not subject to any legislative restriction. Thus, it comes within the plain language of the Fifteenth Court’s concurrent jurisdiction pursuant to § 22.220(a).

Respectfully submitted,

BARNWELL LAW GROUP, P.C.

Cory Barnwell

GA Bar No.: 466740,

AZ Bar No.: 034721

Suwanee, Georgia 30024

Telephone: (678) 559-6214 Facsimile: (678) 559-0778

cbarnwell@barnwelllawgroup.com AMINI & CONANT

Jared A. Greathouse

TX Bar No.: 24077284

1204 San Antonio St., Second Floor Austin, Texas 78701

Telephone: (512) 222-6883 Facsimile: (678) 900-7967

jared@aminiconant.com

BECK REDDEN LLP

By: */s/ Joshua S. Smith* Joshua S. Smith

State Bar No. 24093173

jsmith@beckredden.com Russell S. Post

State Bar No. 00797258

rpost@beckredden.com

1221 McKinney, Suite 4500 Houston, Texas 77010-2010 Telephone: 713-951-3700

Attorneys for Defendant, Harbor America Central Inc.

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing document was served upon all counsel of record herein on November 15, 2024 in accordance with the Texas Rules of Civil Procedure.

*/s/ Joshua S. Smith*

Joshua S. Smith

**Automated Certificate of eService**

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Jesse Crochet on behalf of Joshua Smith

Bar No. 24093173

jcrochet@beckredden.com

Envelope ID: 94357219

Filing Code Description: Notice of Appeal

Filing Description: Defendant Harbor America Central, Inc.'s Notice of Appeal

Status as of 11/15/2024 3:14 PM CST

Case Contacts

**Name**

Cheryl Bayley

Kayla Irvin

Jessica Salto

Crystal Del Toro Charles A.Sturm Christopher Leavitt Anthony Buzbee Buzbee Law Firm Charles Sturm

Russell S.Post

Joshua S.Smith Lionel Sims

Colby Holler

James RFrancis Patrick CoryBarnwell Jared AGreathouse Jared Greathouse Cameron Davis

**BarNumber Email**

Cbayley@txattorneys.com

kirvin@txattorneys.com

jsalto@txattorneys.com

cdeltoro@txattorneys.com

csturm@sturmlegal.com

cleavitt@txattorneys.com

tbuzbee@txattorneys.com

efiling@txattorneys.com

service@sturmlegal.com

rpost@beckredden.com

jsmith@beckredden.com

Lsims@txattorneys.com

CHoller@txattorneys.com

jfrancis@barnwelllawgroup.com

cbarnwell@barnwelllawgroup.com

jared@aminiconant.com

Service@aminiconant.com

cdavis@huntonak.com

**TimestampSubmitted** 11/15/2024 2:56:09 PM 11/15/2024 2:56:09 PM 11/15/2024 2:56:09 PM 11/15/2024 2:56:09 PM 11/15/2024 2:56:09 PM 11/15/2024 2:56:09 PM 11/15/2024 2:56:09 PM 11/15/2024 2:56:09 PM 11/15/2024 2:56:09 PM 11/15/2024 2:56:09 PM 11/15/2024 2:56:09 PM 11/15/2024 2:56:09 PM 11/15/2024 2:56:09 PM 11/15/2024 2:56:09 PM 11/15/2024 2:56:09 PM 11/15/2024 2:56:09 PM 11/15/2024 2:56:09 PM 11/15/2024 2:56:09 PM

**Status** SENT SENT SENT SENT SENT SENT SENT SENT SENT SENT SENT SENT SENT SENT SENT SENT SENT SENT

**Automated Certificate of eService**

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Jesse Crochet on behalf of Joshua Smith

Bar No. 24093173

jcrochet@beckredden.com

Envelope ID: 94757615

Filing Code Description: Docketing Statement

Filing Description: Docketing Statement

Status as of 11/27/2024 12:53 PM CST

Associated Case Party: Harbor America Central, Inc.

**Name**

Russell S.Post Joshua S.Smith

**BarNumber Email**

rpost@beckredden.com

jsmith@beckredden.com

**TimestampSubmitted** 11/27/2024 10:36:15 AM 11/27/2024 10:36:15 AM

**Status**

SENT

I I SENT

Associated Case Party: William Reeves

**Name**

Anthony G.Buzbee Lionel Sims

Chris J.leavitt

Ryan Pigg

Thomas Holler Anthony Buzbee

**BarNumber** 24107465

24088227 24126898 24001820

**Email**

tbuzbee@txattorneys.com lsims@txattorneys.com cleavitt@txattorneys.com rpigg@txattorneys.com choller@txattorneys.com ledelacruz@txattorneys.com

**TimestampSubmitted** 11/27/2024 10:36:15 AM 11/27/2024 10:36:15 AM 11/27/2024 10:36:15 AM 11/27/2024 10:36:15 AM 11/27/2024 10:36:15 AM 11/27/2024 10:36:15 AM

**Status** SENT

SENT

SENT

SENT

SENT

ERROR

f w

Flag Status: Full-Sta Español Contact

**Office of the Texas Governor | Greg Abbott**

Home Governor

AbbottFirst

Lady Initiatives News Organization

Home News Governor Abbott Appoints Inaugural Members To Fifteenth Court Of Appeals

**Governor Abbott Appoints Inaugural Members To Fifteenth Court Of Appeals**

June 11, 2024 | Austin, Texas | Press Release

Governor Greg Abbott today announced his inaugural appointments to the new Fifteenth Court of Appeals, which was created last year to have exclusive intermediate appellate jurisdiction over appeals involving disputes brought by or against the State and its officers and challenges to the constitutionality of a state statute. It will also have exclusive jurisdiction to review judgments from Texas’ business courts.

The Governor has appointed Scott A. Brister as Chief Justice, Place 1, Scott K. Field, Place 2, and April L. Farris, Place 3, to the Fifteenth Court of Appeals, effective September 1, 2024, for terms set to expire on December 31, 2026, or until their successors shall be duly elected and qualified.

“Last year, I worked with the Texas Legislature to pass a law creating a centralized court of appeals to resolve public law disputes and constitutional challenges that impact Texans across our great state, as well as appeals from the first-ever Texas business courts,” said Governor Abbott. “Today, those plans come to fruition, and I am proud to appoint the first three members of the Fifteenth Court of Appeals. These highly experienced individuals will serve a vital role in our state’s effort to ensure that the Texas Constitution and state statutes

are applied uniformly throughout Texas and that businesses have a sophisticated and efficient process to resolve their disputes. I look forward to working with them as we continue to create a bigger, better Texas for all.”

Scott A. Brister of Austin is a Senior Partner at Hunton Andrews Kurth LLP. Previously, he served as a Justice on the Supreme Court of Texas, Justice and Chief Justice of the First and Fourteenth Courts of Appeals, and Judge of the 234th Judicial District Court. He is a member of the State Bar of Texas and its Pattern Jury Charge Committee and is board certified in Civil Appellate Law, Civil Trial Law, and Personal Injury Law by the Texas Board of Legal Specialization. He is a former member of the Supreme Court Advisory Committee, Supreme Court Jury Task Force, and American Law Institute and former chair of the Texas Commission on Public School Finance. Brister received a Bachelor of Arts in History from Duke University and a Juris Doctor from Harvard Law School.

Scott K. Field of Liberty Hill is Judge of the 480th Judicial District Court in Williamson County. Previously, he served as a Justice of the Third Court of Appeals, partner at Butler Snow, LLP, managing partner of the Field Law Firm, PLLC and York, Keller & Field, LLP, and an attorney at Baker Botts LLP. He is a member of the State Bar of Texas, Williamson County Bar Association, Austin Bar Association, Texas Supreme Court Historical Society, The Federalist Society, and the Williamson County Christian Legal Society and a board member of Williamson County Inn of Court. Additionally, he is a life fellow of the Texas Bar Foundation and Austin Bar Foundation and former director of the Texas Aggie Bar Association. He is a mentor for The University of Texas (UT) School of Law Mentoring Program and a Deacon and Trustee of Austin Baptist Church. Field received a Bachelor of Arts in Political Science from Texas A&M University and a Juris Doctor from UT Austin School of Law.

April L. Farris of Houston is a Justice on the First Court of Appeals, where she has served since January 2021. Previously, she was an Appellate Litigation Partner at Yetter Coleman, LLP and served as an Assistant Solicitor General for the Texas Solicitor General’s Office. She is an editorial board member for The Advocate, executive committee member for the Garland R. Walker Inn of Court, and an honorary board member for Houston's Christian Legal Society. Additionally, she is a member of the American Law Institute, Texas State Bar Appellate Section, Texas Supreme Court Historical Society, and the Texas Pattern

Jury Charge Oversight Committee, a life fellow of the Texas Bar Foundation, and a volunteer as a National Association of Women Judges mentor judge. Farris received a Bachelor of Science in Integrated Marketing Communications from Abilene Christian University and a Juris Doctor from Harvard Law School.

Home Governor

AbbottFirst

Lady Initiatives News OrganizationContact

**Office of the Texas Governor** P.O. Box 12428 

Austin Texas 78711

(512) 463-2000

Employment Where the Money Goes

Site Policies TRAIL Search Accessibility Texas Veterans Portal

Report Fraud Texas.gov Site Map RSS Feed

f You •,n om ••

**BILL ANALYSIS**

Senate Research Center S.B. 1045 88R9072 AMF-F By: Huffman Jurisprudence

3/20/2023

As Filed

**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Civil cases of statewide significance frequently involve the state, a state agency, or a state official (sued in connection with their official action) as a party. These cases require courts to apply highly specialized precedent in complex areas of law including sovereign immunity, administrative law, and constitutional law.

Under the current judicial system, appeals in cases of statewide significance are decided by one of Texas's 14 intermediate appellate courts. These courts have varying levels of experience with the complex legal issues involved in cases of statewide significance, resulting in inconsistent results for litigants.

S.B. 1045 addresses these problems by establishing an intermediate court of appeals with exclusive jurisdiction over cases to which the state, a state agency, or a state official is a party. The justices on this new Fifteenth Court of Appeals are elected statewide, ensuring that all Texans have a voice in the selection of judges who decide cases of statewide importance.

As proposed, S.B. 1045 amends current law relating to the creation of the Fifteenth Court of Appeals with jurisdiction over certain civil cases, the compensation of the justices of that court, and the jurisdiction of the courts of appeals in this state and authorizes fees.

**RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 1.07 (Section 73.001, Government Code) of this bill.

**SECTION BY SECTION ANALYSIS**

ARTICLE 1. FIFTEENTH COURT OF APPEALS

SECTION 1.01. Amends Section 22.201, Government Code, by amending Subsection (a) and adding Subsection (p), as follows:

(a) Provides that the state is organized into 15, rather divided into than 14, courts of appeals districts with a court of appeals in each district.

(p) Provides that the Fifteenth Court of Appeals District is composed of all counties in this state.

SECTION 1.02. Amends Subchapter C, Chapter 22, Government Code, by adding Section 22.2151, as follows:

Sec. 22.2151. FIFTEENTH COURT OF APPEALS. (a) Requires the Court of Appeals for the Fifteenth Court of Appeals District to be held in the City of Austin.

(b) Requires the facilities made available to other courts of appeals under Subchapter C (Courts of Appeals), including furnishings and equipment, to be made available to the Fifteenth Court of Appeals District and the justices of that court without expense to this state.

SRC-AJM S.B. 1045 88(R) Page 1 of 6

(c) Authorizes the Fifteenth Court of Appeals to transact its business in any county in the district as the court determines is necessary and convenient.

SECTION 1.03. Amends Section 22.216, Government Code, by adding Subsection (n-1), as follows:

(n-1) Provides that the Court of Appeals for the Fifteenth Court of Appeals District consists of a chief justice and of four justices holding places numbered consecutively beginning with Place 2.

SECTION 1.04. Amends Section 22.220, Government Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Creates an exception under Subsection (d).

(d) Provides that the Court of Appeals for the Fifteenth Court of Appeals District has exclusive intermediate appellate jurisdiction over the following matters arising out of or related to a civil case:

(1) matters brought by or against the state or a board, commission, department, office, or other agency in the executive branch of the state government, including a university system or institution of higher education as defined by Section 61.003 (Definitions), Education Code, or by or against an officer or employee of the state or a board, commission, department, office, or other agency in the executive branch of the state government arising out of that officer's or employee's official conduct, other than:

(A) a proceeding brought under the Family Code and any related motion or proceeding;

(B) a proceeding brought under Chapter 7B (Protective Orders) or Article 17.292 (Magistrate's Order for Emergency Protection), Code of Criminal Procedure;

(C) a proceeding brought against a district attorney, a criminal district attorney, or a county attorney with criminal jurisdiction;

(D) a proceeding relating to a mental health commitment;

(E) a proceeding relating to civil asset forfeiture;

(F) a condemnation proceeding for the acquisition of land or a proceeding related to eminent domain;

(G) a proceeding brought under Chapter 125 (Common and Public Nuisances), Civil Practice and Remedies Code, to enjoin a common nuisance;

(H) a proceeding brought under Chapter 55 (Expunction of Criminal Records), Code of Criminal Procedure;

(I) a proceeding under Chapter 22A (Special Three-Judge District Court), Government Code;

(J) a proceeding brought under Subchapter E-1 (Order of Nondisclosure of Criminal History Record Information), Chapter 411, Government Code;

(K) a proceeding brought under Chapter 21 (Employment Discrimination), Labor Code;

SRC-AJM S.B. 1045 88(R) Page 2 of 6

(L) a removal action under Chapter 87 (Removal of County Officers from Office; Filling of Vacancies), Local Government Code; or

(M) a proceeding brought under Chapter 841 (Civil Commitment of Sexually Violent Predators), Health and Safety Code;

(2) matters in which a party to the proceeding files a petition, motion, or other pleading challenging the constitutionality or validity of a state statute or rule and the attorney general is a party to the case; and

(3) any other matter as provided by law.

SECTION 1.05. Amends Section 22.221, Government Code, by amending Subsection (b) and adding Subsections (c) and (c-1), as follows:

(b) Authorizes each court of appeals for a court of appeals district to issue all writs of mandamus, subject to Subsection (c-1), agreeable to the principles of law regulating those writs, against a judge of a district, statutory county, statutory probate county, or county court in the court of appeals district. Deletes existing text authorizing a court of appeals for a court of appeals district to issue all writs of mandamus, agreeable to the principles of law regulating those writs, against a judge of a district court who is acting as a magistrate at a court of inquiry under Chapter 52 (Court of Inquiry), Code of Criminal Procedure, in the court of appeals district or an associate judge of a appeals district or county court appointed by a judge under Chapter 201 (Associate Judge), Family Code, in the court of appeals district for the judge who appointed the associate judge.

(c) Authorizes each court of appeals for a court of appeals district, other than the Court of Appeals for the Fifteenth Court of Appeals District, to issue all writs of mandamus, agreeable to the principles of law regulating those writs, against:

(1) a judge of a district court who is acting as a magistrate at a court of inquiry under Chapter 52, Code of Criminal Procedure, in the court of appeals district; or

(2) an associate judge of a district or county court appointed by a judge under Chapter 201, Family Code, in the court of appeals district for the judge who appointed the associate judge.

(c-1) Provides that the original jurisdiction of the Court of Appeals for the Fifteenth Court of Appeals District to issue writs is limited to writs arising out of matters over which the court has exclusive intermediate appellate jurisdiction under Section 22.220(d).

SECTION 1.06. Amends Section 22.229(a), Government Code, as follows:

(a) Provides that an appellate judicial system fund is established for each court of appeals, other than the Court of Appeals of the Fifteenth Court of Appeals District, for certain purposes.

SECTION 1.07. Amends Section 73.001, Government Code, as follows:

Sec. 73.001. AUTHORITY TO TRANSFER. (a) Creates an exception under Subsection (b).

(b) Prohibits the Supreme Court of Texas (supreme court) from transferring any case or proceeding properly filed in the Court of Appeals for the Fifteenth Court of Appeals District to another court of appeals for the purpose of equalizing the dockets of the courts of appeals.

(c) Prohibits the supreme court from transferring to the Court of Appeals for the Fifteenth Court of Appeals District any case or proceeding over which the Court

SRC-AJM S.B. 1045 88(R) Page 3 of 6

of Appeals for the Fifteenth Court of Appeals District does not have exclusive intermediate appellate jurisdiction.

(d) Requires the supreme court to adopt rules for:

(1) transferring an appeal inappropriately filed in the Fifteenth Court of Appeals to a court of appeals with jurisdiction over the appeal; and

(2) transferring to the Fifteenth Court of Appeals from another court of appeals the appeals over which the Fifteenth Court of Appeals has exclusive intermediate appellate jurisdiction under Section 22.220(d).

SECTION 1.08. Amends Section 659.012(a), Government Code, as follows:

(a) Provides that notwithstanding Section 659.011 (Salaries Set in Appropriations Act) and subject to Subsections (b) (relating to the salary of a judge or justice) and (b-1) (relating to the applicability or a limitation on the combined base salary from all state and county sources to a judge or justice):

(1) makes no changes to this subdivision;

(2) creates an exception under Subdivision (3);

(3) a justice of the Court of Appeals for the Fifteenth Court of Appeals District other than the chief justice is entitled to an annual base salary from the state in the amount equal to $5,000 less than 120 percent of the state base salary of a district judge as set by the General Appropriations Act;

(4)-(5) makes nonsubstantive changes to these subdivisions.

SECTION 1.09. Amends Section 2001.038(f), Government Code, as follows:

(f) Authorizes a Travis County district court in which an action is brought under Section 2001.038 (Declaratory Judgment), on its own motion or the motion of any party, to request transfer of the action to the Court of Appeals for the Fifteenth, rather than the Third, Court of Appeals District if the district court finds that the public interest requires a prompt, authoritative determination of the validity or applicability of the rule in question and the case would ordinarily be appealed.

SECTION 1.10. Amends Section 2001.176(c), Government Code, as follows:

(c) Authorizes a Travis County district court in which an action is brought under this section, on its own motion or on motion of any party, to request transfer of the action to the Court of Appeals for the Fifteenth, rather than Third, Court of Appeals District if the district court finds that the public interest requires a prompt authoritative determination of the legal issues in the case and the case would ordinarily be appealed.

SECTION 1.11. Amends Section 2301.751(a), Occupations Code, as follows:

(a) Authorizes a party to a proceeding affected by a final order, rule, or decision or other final action of the board of the Texas Department of Motor Vehicles with respect to a matter arising under Chapter 2301 (Sale or Lease of Motor Vehicles) or Chapter 503 (Dealer's and Manufacturer's Vehicle License Plates), Transportation Code, to seek judicial review of the action under the substantial evidence rule in:

(1) makes no changes to this subdivision; or

(2) the court of appeals for the Fifteenth, rather than Third, Court of Appeals District.

SRC-AJM S.B. 1045 88(R) Page 4 of 6

SECTION 1.12. Amends Section 39.001(e), Utilities Code, as follows:

(e) Requires that judicial review of the validity of competition rules be commenced in the Court of Appeals for the Fifteenth, rather than Third, Court of Appeals District and be limited to the Public Utility Commission of Texas' rulemaking record.

SECTION 1.13. (a) Provides that except as otherwise provided by this Act, the Court of Appeals for the Fifteenth Court of Appeals District is created September 1, 2024.

(b) Requires the initial vacancies in the offices of chief justice and justices of the Court of Appeals for the Fifteenth Court of Appeals District to be filled by appointment if the court is created.

SECTION 1.14. (a) Provides that the changes in law made by this Act apply to appeals perfected on or after September 1, 2024.

(b) Provides that on September 1, 2024, all cases pending in other courts of appeal that were filed on or after September 1, 2023, and of which the Court of Appeals for the Fifteenth Court of Appeals District has exclusive intermediate appellate jurisdiction are transferred to the Court of Appeals for the Fifteenth Court of Appeals District.

(c) Provides that when a case is transferred as provided by Subsection (b) of this section:

(1) all processes, writs, bonds, recognizances, or other obligations issued from the other courts of appeal are returnable to the Court of Appeals for the Fifteenth Court of Appeals District as if originally issued by that court; and

(2) the obligees on all bonds and recognizances taken in and for the other courts of appeal and all witnesses summoned to appear in another court of appeals are required to appear before the Court of Appeals for the Fifteenth Court of Appeals District as if originally required to appear before the Court of Appeals for the Fifteenth Court of Appeals District.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Amends Article 4.01, Code of Criminal Procedure, as follows:

Art. 4.01. WHAT COURTS HAVE CRIMINAL JURISDICTION. Provides that certain courts have jurisdiction in criminal actions, including courts of appeals, other than the Court of Appeals for the Fifteenth Court of Appeals District.

SECTION 2.02. Amends Article 4.03, Code of Criminal Procedure, as follows:

Art. 4.03. COURTS OF APPEALS. Requires the Courts of Appeals, other than the Court of Appeals for the Fifteenth Court of Appeals District, to have appellate jurisdiction coextensive with the limits of their respective districts in all criminal cases except those in which the death penalty has been assessed. Makes a nonsubstantive change.

SECTION 2.03. Amends Article 44.25, Code of Criminal Procedure, as follows:

Art. 44.25. CASES REMANDED. Authorizes the court of appeals, other than the Court of Appeals of the Fifteenth Court of Appeals District, or the Court of Criminal Appeals to reverse the judgment in a criminal action, as well upon the law as upon the facts.

SECTION 2.04. Amends Section 31.001, Government Code, as follows:

Sec. 31.001. AUTHORITY FOR COUNTY PAYMENT OF COMPENSATION. Authorizes the commissioners courts in the counties of each of the 15, rather than 14, courts of appeals districts to pay additional compensation in an amount that does not

SRC-AJM S.B. 1045 88(R) Page 5 of 6

exceed the limitations of Section 659.012 (Judicial Salaries) to each of the justices of the courts of appeals residing within the court of appeals district that includes those counties.

ARTICLE 3. SPECIFIC APPROPRIATION REQUIRED; EFFECTIVE DATE

SECTION 3.01. (a) Provides that the Court of Appeals for the Fifteenth Court of Appeals District, notwithstanding Section 22.201(a), Government Code, as amended by this Act, and Sections 22.201(p) and 22.2151, Government Code, as added by this Act, is not created unless the legislature makes a specific appropriation of money for that purpose. Provides that a specific appropriation for the purposes of this subsection, is an appropriation identifying the Court of Appeals for the Fifteenth Court of Appeals District or an Act of the 88th Legislature, Regular Session, 2023, relating to the creation of the Court of Appeals for the Fifteenth Court of Appeals District.

(b) Provides that a court of appeals has the same jurisdiction the court had on August 31, 2023, notwithstanding Section 22.220(a), Government Code, as amended by this Act, if the Court of Appeals for the Fifteenth Court of Appeals District is not created as a result of Subsection (a) of this section.

SECTION 3.02. Effective date: September 1, 2023.

SRC-AJM S.B. 1045 88(R) Page 6 of 6

**BILL ANALYSIS**

Senate Research Center C.S.S.B. 1045 88R19486 AMF-F By: Huffman Jurisprudence

3/24/2023

Committee Report (Substituted)

**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Civil cases of statewide significance frequently involve the state, a state agency, or a state official (sued in connection with their official action) as a party. These cases require courts to apply highly specialized precedent in complex areas of law including sovereign immunity, administrative law, and constitutional law.

Under the current judicial system, appeals in cases of statewide significance are decided by one of Texas's 14 intermediate appellate courts. These courts have varying levels of experience with the complex legal issues involved in cases of statewide significance, resulting in inconsistent results for litigants.

S.B. 1045 addresses these problems by establishing an intermediate court of appeals with exclusive jurisdiction over cases to which the state, a state agency, or a state official is a party. The justices on this new Fifteenth Court of Appeals are elected statewide, ensuring that all Texans have a voice in the selection of judges who decide cases of statewide importance.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1045 amends current law relating to the creation of the Fifteenth Court of Appeals with jurisdiction over certain civil cases, the compensation of the justices of that court, and the jurisdiction of the courts of appeals in this state.

**RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 1.07 (Section 73.001, Government Code) of this bill.

**SECTION BY SECTION ANALYSIS**

ARTICLE 1. FIFTEENTH COURT OF APPEALS

SECTION 1.01. Amends Section 22.201, Government Code, by amending Subsection (a) and adding Subsection (p), as follows:

(a) Provides that the state is organized into 15, rather than divided into 14, courts of appeals districts with a court of appeals in each district.

(p) Provides that the Fifteenth Court of Appeals District is composed of all counties in this state.

SECTION 1.02. Amends Subchapter C, Chapter 22, Government Code, by adding Section 22.2151, as follows:

Sec. 22.2151. FIFTEENTH COURT OF APPEALS. (a) Requires the Court of Appeals for the Fifteenth Court of Appeals District to be held in the City of Austin.

(b) Authorizes the Fifteenth Court of Appeals to transact its business in any county in the district as the court determines is necessary and convenient.

SRC-AJM C.S.S.B. 1045 88(R) Page 1 of 6

SECTION 1.03. Amends Section 22.216, Government Code, by adding Subsection (n-1), to provide that the Court of Appeals for the Fifteenth Court of Appeals District consists of a chief justice and of four justices holding places numbered consecutively beginning with Place 2.

SECTION 1.04. Amends Section 22.220, Government Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Creates an exception under Subsection (d).

(d) Provides that the Court of Appeals for the Fifteenth Court of Appeals District has exclusive intermediate appellate jurisdiction over the following matters arising out of or related to a civil case:

(1) matters brought by or against the state or a board, commission, department, office, or other agency in the executive branch of the state government, including a university system or institution of higher education as defined by Section 61.003 (Definitions), Education Code, or by or against an officer or employee of the state or a board, commission, department, office, or other agency in the executive branch of the state government arising out of that officer's or employee's official conduct, other than:

(A) a proceeding brought under the Family Code and any related motion or proceeding;

(B) a proceeding brought under Chapter 7B (Protective Orders) or Article 17.292 (Magistrate's Order for Emergency Protection), Code of Criminal Procedure;

(C) a proceeding brought against a district attorney, a criminal district attorney, or a county attorney with criminal jurisdiction;

(D) a proceeding relating to a mental health commitment;

(E) a proceeding relating to civil asset forfeiture;

(F) a condemnation proceeding for the acquisition of land or a proceeding related to eminent domain;

(G) a proceeding brought under Chapter 125 (Common and Public Nuisances), Civil Practice and Remedies Code, to enjoin a common nuisance;

(H) a proceeding brought under Chapter 55 (Expunction of Criminal Records), Code of Criminal Procedure;

(I) a proceeding under Chapter 22A (Special Three-Judge District Court), Government Code;

(J) a proceeding brought under Subchapter E-1 (Order of Nondisclosure of Criminal History Record Information), Chapter 411, Government Code;

(K) a proceeding brought under Chapter 21 (Employment Discrimination), Labor Code;

(L) a removal action under Chapter 87 (Removal of County Officers from Office; Filling of Vacancies), Local Government Code; or

(M) a proceeding brought under Chapter 841 (Civil Commitment of Sexually Violent Predators), Health and Safety Code;

SRC-AJM C.S.S.B. 1045 88(R) Page 2 of 6

(2) matters in which a party to the proceeding files a petition, motion, or other pleading challenging the constitutionality or validity of a state statute or rule and the attorney general is a party to the case; and

(3) any other matter as provided by law.

SECTION 1.05. Amends Section 22.221, Government Code, by amending Subsection (b) and adding Subsections (c) and (c-1), as follows:

(b) Authorizes each court of appeals for a court of appeals district to issue all writs of mandamus, subject to Subsection (c-1), agreeable to the principles of law regulating those writs, against a judge of a district, statutory county, statutory probate county, or county court in the court of appeals district. Deletes existing text authorizing a court of appeals for a court of appeals district to issue all writs of mandamus, agreeable to the principles of law regulating those writs, against a judge of a district court who is acting as a magistrate at a court of inquiry under Chapter 52 (Court of Inquiry), Code of Criminal Procedure, in the court of appeals district or an associate judge of a appeals district or county court appointed by a judge under Chapter 201 (Associate Judge), Family Code, in the court of appeals district for the judge who appointed the associate judge.

(c) Authorizes each court of appeals for a court of appeals district, other than the Court of Appeals for the Fifteenth Court of Appeals District, to issue all writs of mandamus, agreeable to the principles of law regulating those writs, against:

(1) a judge of a district court who is acting as a magistrate at a court of inquiry under Chapter 52, Code of Criminal Procedure, in the court of appeals district; or

(2) an associate judge of a district or county court appointed by a judge under Chapter 201, Family Code, in the court of appeals district for the judge who appointed the associate judge.

(c-1) Provides that the original jurisdiction of the Court of Appeals for the Fifteenth Court of Appeals District to issue writs is limited to writs arising out of matters over which the court has exclusive intermediate appellate jurisdiction under Section 22.220(d).

SECTION 1.06. Amends Section 22.229(a), Government Code, to provide that an appellate judicial system fund is established for each court of appeals, other than the Court of Appeals of the Fifteenth Court of Appeals District, for certain purposes.

SECTION 1.07. Amends Section 73.001, Government Code, as follows:

Sec. 73.001. AUTHORITY TO TRANSFER. (a) Creates this subsection from existing text and creates an exception under Subsection (b).

(b) Prohibits the Supreme Court of Texas (supreme court) from transferring any case or proceeding properly filed in the Court of Appeals for the Fifteenth Court of Appeals District to another court of appeals for the purpose of equalizing the dockets of the courts of appeals.

(c) Requires the supreme court to adopt rules for:

(1) transferring an appeal inappropriately filed in the Fifteenth Court of Appeals to a court of appeals with jurisdiction over the appeal; and

(2) transferring to the Fifteenth Court of Appeals from another court of appeals the appeals over which the Fifteenth Court of Appeals has exclusive intermediate appellate jurisdiction under Section 22.220(d).

SECTION 1.08. Amends Section 659.012(a), Government Code, as follows:

SRC-AJM C.S.S.B. 1045 88(R) Page 3 of 6

(a) Provides that notwithstanding Section 659.011 (Salaries Set in Appropriations Act) and subject to Subsections (b) (relating to the salary of a judge or justice) and (b-1) (relating to the applicability or a limitation on the combined base salary from all state and county sources to a judge or justice):

(1) makes no changes to this subdivision;

(2) creates an exception under Subdivision (3);

(3) a justice of the Court of Appeals for the Fifteenth Court of Appeals District other than the chief justice is entitled to an annual base salary from the state in the amount equal to $5,000 less than 120 percent of the state base salary of a district judge as set by the General Appropriations Act; and

(4)-(5) makes nonsubstantive changes to these subdivisions.

SECTION 1.09. Amends Section 2001.038(f), Government Code, as follows:

(f) Authorizes a Travis County district court in which an action is brought under Section 2001.038 (Declaratory Judgment), on its own motion or the motion of any party, to request transfer of the action to the Court of Appeals for the Fifteenth, rather than the Third, Court of Appeals District if the district court finds that the public interest requires a prompt, authoritative determination of the validity or applicability of the rule in question and the case would ordinarily be appealed.

SECTION 1.10. Amends Section 2001.176(c), Government Code, as follows:

(c) Authorizes a Travis County district court in which an action is brought under Section 2001.176 (Petition Initiating Judicial Review), on its own motion or on motion of any party, to request transfer of the action to the Court of Appeals for the Fifteenth, rather than Third, Court of Appeals District if the district court finds that the public interest requires a prompt authoritative determination of the legal issues in the case and the case would ordinarily be appealed.

SECTION 1.11. Amends Section 2301.751(a), Occupations Code, as follows:

(a) Authorizes a party to a proceeding affected by a final order, rule, or decision or other final action of the board of the Texas Department of Motor Vehicles with respect to a matter arising under Chapter 2301 (Sale or Lease of Motor Vehicles) or Chapter 503 (Dealer's and Manufacturer's Vehicle License Plates), Transportation Code, to seek judicial review of the action under the substantial evidence rule in:

(1) makes no changes to this subdivision; or

(2) the court of appeals for the Fifteenth, rather than Third, Court of Appeals District.

SECTION 1.12. Amends Section 39.001(e), Utilities Code, to require that judicial review of the validity of competition rules be commenced in the Court of Appeals for the Fifteenth, rather than Third, Court of Appeals District and be limited to the Public Utility Commission of Texas' rulemaking record.

SECTION 1.13. (a) Provides that except as otherwise provided by this Act, the Court of Appeals for the Fifteenth Court of Appeals District is created September 1, 2024.

(b) Requires the initial vacancies in the offices of chief justice and justices of the Court of Appeals for the Fifteenth Court of Appeals District to be filled by appointment if the court is created.

SRC-AJM C.S.S.B. 1045 88(R) Page 4 of 6

SECTION 1.14. (a) Provides that the changes in law made by this Act apply to appeals perfected on or after September 1, 2024.

(b) Provides that on September 1, 2024, all cases pending in other courts of appeal that were filed on or after September 1, 2023, and of which the Court of Appeals for the Fifteenth Court of Appeals District has exclusive intermediate appellate jurisdiction are transferred to the Court of Appeals for the Fifteenth Court of Appeals District.

(c) Provides that when a case is transferred as provided by Subsection (b) of this section:

(1) all processes, writs, bonds, recognizances, or other obligations issued from the other courts of appeal are returnable to the Court of Appeals for the Fifteenth Court of Appeals District as if originally issued by that court; and

(2) the obligees on all bonds and recognizances taken in and for the other courts of appeal and all witnesses summoned to appear in another court of appeals are required to appear before the Court of Appeals for the Fifteenth Court of Appeals District as if originally required to appear before the Court of Appeals for the Fifteenth Court of Appeals District.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Amends Article 4.01, Code of Criminal Procedure, as follows:

Art. 4.01. WHAT COURTS HAVE CRIMINAL JURISDICTION. Provides that certain courts have jurisdiction in criminal actions, including courts of appeals, other than the Court of Appeals for the Fifteenth Court of Appeals District.

SECTION 2.02. Amends Article 4.03, Code of Criminal Procedure, as follows:

Art. 4.03. COURTS OF APPEALS. Requires the Courts of Appeals, other than the Court of Appeals for the Fifteenth Court of Appeals District, to have appellate jurisdiction coextensive with the limits of their respective districts in all criminal cases except those in which the death penalty has been assessed. Makes a nonsubstantive change.

SECTION 2.03. Amends Article 44.25, Code of Criminal Procedure, as follows:

Art. 44.25. CASES REMANDED. Authorizes the court of appeals, other than the Court of Appeals of the Fifteenth Court of Appeals District, or the Court of Criminal Appeals to reverse the judgment in a criminal action, as well upon the law as upon the facts.

SECTION 2.04. Amends Section 31.001, Government Code, as follows:

Sec. 31.001. AUTHORITY FOR COUNTY PAYMENT OF COMPENSATION. Authorizes the commissioners courts in the counties of each of the 15, rather than 14, courts of appeals districts to pay additional compensation in an amount that does not exceed the limitations of Section 659.012 (Judicial Salaries) to each of the justices of the courts of appeals, other than a justice of the Court of Appeals of the Fifteenth Court of Appeals District, residing within the court of appeals district that includes those counties.

ARTICLE 3. SPECIFIC APPROPRIATION REQUIRED; EFFECTIVE DATE

SECTION 3.01. (a) Provides that the Court of Appeals for the Fifteenth Court of Appeals District, notwithstanding Section 22.201(a), Government Code, as amended by this Act, and Sections 22.201(p) and 22.2151, Government Code, as added by this Act, is not created unless the legislature makes a specific appropriation of money for that purpose. Provides that a specific appropriation, for the purposes of this subsection, is an appropriation identifying the Court of Appeals for the Fifteenth Court of Appeals District or an Act of the 88th Legislature, Regular Session, 2023, relating to the creation of the Court of Appeals for the Fifteenth Court of Appeals District.

SRC-AJM C.S.S.B. 1045 88(R) Page 5 of 6

(b) Provides that a court of appeals has the same jurisdiction the court had on August 31, 2023, notwithstanding Section 22.220(a), Government Code, as amended by this Act, if the Court of Appeals for the Fifteenth Court of Appeals District is not created as a result of Subsection (a) of this section.

SECTION 3.02. Effective date: September 1, 2023.

SRC-AJM C.S.S.B. 1045 88(R) Page 6 of 6

**BILL ANALYSIS**

Senate Research Center S.B. 1045 By: Huffman

Jurisprudence

6/20/2023

Enrolled

**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Civil cases of statewide significance frequently involve the state, a state agency, or a state official (sued in connection with their official action) as a party. These cases require courts to apply highly specialized precedent in complex areas of law including sovereign immunity, administrative law, and constitutional law.

Under the current judicial system, appeals in cases of statewide significance are decided by one of Texas's 14 intermediate appellate courts. These courts have varying levels of experience with the complex legal issues involved in cases of statewide significance, resulting in inconsistent results for litigants.

S.B. 1045 addresses these problems by establishing an intermediate court of appeals with exclusive jurisdiction over cases to which the state, a state agency, or a state official is a party. The justices on this new Fifteenth Court of Appeals are elected statewide, ensuring that all Texans have a voice in the selection of judges who decide cases of statewide importance.

(Original Author's/Sponsor's Statement of Intent)

S.B. 1045 amends current law relating to the creation of the Fifteenth Court of Appeals with jurisdiction over certain civil cases, the compensation of the justices of that court, and the jurisdiction of the courts of appeals in this state.

**RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 1.08 (Section 73.001, Government Code) of this bill.

**SECTION BY SECTION ANALYSIS**

ARTICLE 1. FIFTEENTH COURT OF APPEALS

SECTION 1.01. Amends Section 22.201, Government Code, by amending Subsection (a) and adding Subsection (p), as follows:

(a) Provides that the state is organized into 15, rather than divided into 14, courts of appeals districts with a court of appeals in each district.

(p) Provides that the Fifteenth Court of Appeals District is composed of all counties in this state.

SECTION 1.02. Amends Subchapter C, Chapter 22, Government Code, by adding Section 22.2151, as follows:

Sec. 22.2151. FIFTEENTH COURT OF APPEALS. (a) Requires the Court of Appeals for the Fifteenth Court of Appeals District to be held in the City of Austin.

(b) Authorizes the Fifteenth Court of Appeals to transact its business in any county in the district as the court determines is necessary and convenient.

SRC-AJM S.B. 1045 88(R) Page 1 of 6

SECTION 1.03. Subchapter C, Chapter 22, Government Code, by adding Section 22.2152, as follows:

Sec. 22.2152. REPORT ON FIFTEENTH COURT OF APPEALS. Requires the Office of Court Administration of the Texas Judicial System to submit to the legislature a report on the number and types of cases heard by the Court of Appeals for the Fifteenth Court of Appeals District in the preceding state fiscal year, not later than December 1 of each year.

SECTION 1.04. Amends Section 22.216, Government Code, by adding Subsections (n-1) and (n-2), as follows:

(n-1) Provides that the Court of Appeals for the Fifteenth Court of Appeals District consists of a chief justice and of four justices holding places numbered consecutively beginning with Place 2.

(n-2) Provides that the Court of Appeals for the Fifteenth Court of Appeals District, notwithstanding Subsection (n-1), consists of a chief justice and of two justices holding places numbered consecutively beginning with Place 2 for the first three years following the court's creation. Provides that this subsection expires September 1, 2027.

SECTION 1.05. Amends Section 22.220, Government Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Creates an exception under Subsection (d).

(d) Provides that the Court of Appeals for the Fifteenth Court of Appeals District has exclusive intermediate appellate jurisdiction over the following matters arising out of or related to a civil case:

(1) matters brought by or against the state or a board, commission, department, office, or other agency in the executive branch of the state government, including a university system or institution of higher education as defined by Section 61.003 (Definitions), Education Code, or by or against an officer or employee of the state or a board, commission, department, office, or other agency in the executive branch of the state government arising out of that officer's or employee's official conduct, other than:

(A) a proceeding brought under the Family Code and any related motion or proceeding;

(B) a proceeding brought under Chapter 7B (Protective Orders) or Article 17.292 (Magistrate's Order for Emergency Protection), Code of Criminal Procedure;

(C) a proceeding brought against a district attorney, a criminal district attorney, or a county attorney with criminal jurisdiction;

(D) a proceeding relating to a mental health commitment;

(E) a proceeding relating to civil asset forfeiture;

(F) a condemnation proceeding for the acquisition of land or a proceeding related to eminent domain;

(G) a proceeding brought under Chapter 101 (Tort Claims), Civil Practice and Remedies Code;

(H) a claim of personal injury or wrongful death;

SRC-AJM S.B. 1045 88(R) Page 2 of 6

(I) a proceeding brought under Chapter 125 (Common and Public Nuisances), Civil Practice and Remedies Code, to enjoin a common nuisance;

(J) a proceeding brought under Chapter 55 (Expunction of Criminal Records), Code of Criminal Procedure;

(K) a proceeding under Chapter 22A (Special Three-Judge District Court), Government Code;

(L) a proceeding brought under Subchapter E-1 (Order of Nondisclosure of Criminal History Record Information), Chapter 411, Government Code;

(M) a proceeding brought under Chapter 21 (Employment Discrimination), Labor Code;

(N) a removal action under Chapter 87 (Removal of County Officers from Office; Filling of Vacancies), Local Government Code; or

(O) a proceeding brought under Chapter 841 (Civil Commitment of Sexually Violent Predators), Health and Safety Code;

(2) matters in which a party to the proceeding files a petition, motion, or other pleading challenging the constitutionality or validity of a state statute or rule and the attorney general is a party to the case; and

(3) any other matter as provided by law.

SECTION 1.06. Amends Section 22.221, Government Code, by amending Subsection (b) and adding Subsections (c) and (c-1), as follows:

(b) Authorizes each court of appeals for a court of appeals district to issue all writs of mandamus, subject to Subsection (c-1), agreeable to the principles of law regulating those writs, against a judge of a district, statutory county, statutory probate county, or county court in the court of appeals district.

Deletes existing text authorizing each court of appeals for a court of appeals district to issue all writs of mandamus, agreeable to the principles of law regulating those writs, against a judge of a district court who is acting as a magistrate at a court of inquiry under Chapter 52 (Court of Inquiry), Code of Criminal Procedure, in the court of appeals district or against an associate judge of a district or county court appointed by a judge under Chapter 201 (Associate Judge), Family Code, in the court of appeals district for the judge who appointed the associate judge. Makes nonsubstantive changes.

(c) Authorizes each court of appeals for a court of appeals district, other than the Court of Appeals for the Fifteenth Court of Appeals District, to issue all writs of mandamus, agreeable to the principles of law regulating those writs, against:

(1) a judge of a district court who is acting as a magistrate at a court of inquiry under Chapter 52, Code of Criminal Procedure, in the court of appeals district; or

(2) an associate judge of a district or county court appointed by a judge under Chapter 201, Family Code, in the court of appeals district for the judge who appointed the associate judge.

(c-1) Provides that the original jurisdiction of the Court of Appeals for the Fifteenth Court of Appeals District to issue writs is limited to writs arising out of matters over which the court has exclusive intermediate appellate jurisdiction under Section 22.220(d).

SRC-AJM S.B. 1045 88(R) Page 3 of 6

SECTION 1.07. Amends Section 22.229(a), Government Code, to provide that an appellate judicial system fund is established for each court of appeals, other than the Court of Appeals of the Fifteenth Court of Appeals District, for certain purposes.

SECTION 1.08. Amends Section 73.001, Government Code, as follows:

Sec. 73.001. AUTHORITY TO TRANSFER. (a) Creates this subsection from existing text and creates an exception under Subsection (b).

(b) Prohibits the Supreme Court of Texas (supreme court) from transferring any case or proceeding properly filed in the Court of Appeals for the Fifteenth Court of Appeals District to another court of appeals for the purpose of equalizing the dockets of the courts of appeals.

(c) Requires the supreme court to adopt rules for:

(1) transferring an appeal inappropriately filed in the Fifteenth Court of Appeals to a court of appeals with jurisdiction over the appeal; and

(2) transferring to the Fifteenth Court of Appeals from another court of appeals the appeals over which the Fifteenth Court of Appeals has exclusive intermediate appellate jurisdiction under Section 22.220(d).

SECTION 1.09. Amends Section 659.012(a), Government Code, as follows:

(a) Provides that notwithstanding Section 659.011 (Salaries Set in Appropriations Act) and subject to Subsections (b) (relating to the salary of a judge or justice) and (b-1) (relating to the applicability or a limitation on the combined base salary from all state and county sources to a judge or justice):

(1) makes no changes to this subdivision;

(2) creates an exception under Subdivision (3);

(3) a justice of the Court of Appeals for the Fifteenth Court of Appeals District other than the chief justice is entitled to an annual base salary from the state in the amount equal to $5,000 less than 120 percent of the state base salary of a district judge as set by the General Appropriations Act; and

(4)-(5) makes nonsubstantive changes to these subdivisions.

SECTION 1.10. Amends Section 2001.038(f), Government Code, as follows:

(f) Authorizes a Travis County district court in which an action is brought under Section 2001.038 (Declaratory Judgment), on its own motion or the motion of any party, to request transfer of the action to the Court of Appeals for the Fifteenth, rather than the Third, Court of Appeals District if the district court finds that the public interest requires a prompt, authoritative determination of the validity or applicability of the rule in question and the case would ordinarily be appealed.

SECTION 1.11. Amends Section 2001.176(c), Government Code, as follows:

(c) Authorizes a Travis County district court in which an action is brought under Section 2001.176 (Petition Initiating Judicial Review), on its own motion or on motion of any party, to request transfer of the action to the Court of Appeals for the Fifteenth, rather than Third, Court of Appeals District if the district court finds that the public interest requires a prompt, authoritative determination of the legal issues in the case and the case would ordinarily be appealed.

SECTION 1.12. Amends Section 2301.751(a), Occupations Code, as follows:

SRC-AJM S.B. 1045 88(R) Page 4 of 6

(a) Authorizes a party to a proceeding affected by a final order, rule, or decision or other final action of the board of the Texas Department of Motor Vehicles with respect to a matter arising under Chapter 2301 (Sale or Lease of Motor Vehicles) or Chapter 503 (Dealer's and Manufacturer's Vehicle License Plates), Transportation Code, to seek judicial review of the action under the substantial evidence rule in:

(1) makes no changes to this subdivision; or

(2) the court of appeals for the Fifteenth, rather than Third, Court of Appeals District.

SECTION 1.13. Amends Section 39.001(e), Utilities Code, to require that judicial review of the validity of competition rules be commenced in the Court of Appeals for the Fifteenth, rather than Third, Court of Appeals District and be limited to the Public Utility Commission of Texas' rulemaking record.

SECTION 1.14. (a) Provides that except as otherwise provided by this Act, the Court of Appeals for the Fifteenth Court of Appeals District is created September 1, 2024.

(b) Requires the initial vacancies in the offices of chief justice and justices of the Court of Appeals for the Fifteenth Court of Appeals District to be filled by appointment if the court is created.

SECTION 1.15. (a) Provides that the changes in law made by this Act apply to appeals perfected on or after September 1, 2024.

(b) Provides that on September 1, 2024, all cases pending in other courts of appeal that were filed on or after September 1, 2023, and of which the Court of Appeals for the Fifteenth Court of Appeals District has exclusive intermediate appellate jurisdiction are transferred to the Court of Appeals for the Fifteenth Court of Appeals District.

(c) Provides that when a case is transferred as provided by Subsection (b) of this section:

(1) all processes, writs, bonds, recognizances, or other obligations issued from the other courts of appeal are returnable to the Court of Appeals for the Fifteenth Court of Appeals District as if originally issued by that court; and

(2) the obligees on all bonds and recognizances taken in and for the other courts of appeal and all witnesses summoned to appear in another court of appeals are required to appear before the Court of Appeals for the Fifteenth Court of Appeals District as if originally required to appear before the Court of Appeals for the Fifteenth Court of Appeals District.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Amends Article 4.01, Code of Criminal Procedure, as follows:

Art. 4.01. WHAT COURTS HAVE CRIMINAL JURISDICTION. Provides that certain courts have jurisdiction in criminal actions, including courts of appeals, other than the Court of Appeals for the Fifteenth Court of Appeals District.

SECTION 2.02. Amends Article 4.03, Code of Criminal Procedure, as follows:

Art. 4.03. COURTS OF APPEALS. Requires the Courts of Appeals, other than the Court of Appeals for the Fifteenth Court of Appeals District, to have appellate jurisdiction coextensive with the limits of their respective districts in all criminal cases except those in which the death penalty has been assessed. Makes a nonsubstantive change.

SECTION 2.03. Amends Article 44.25, Code of Criminal Procedure, as follows:

SRC-AJM S.B. 1045 88(R) Page 5 of 6

Art. 44.25. CASES REMANDED. Authorizes the court of appeals, other than the Court of Appeals of the Fifteenth Court of Appeals District, or the Court of Criminal Appeals to reverse the judgment in a criminal action, as well upon the law as upon the facts.

SECTION 2.04. Amends Section 31.001, Government Code, as follows:

Sec. 31.001. AUTHORITY FOR COUNTY PAYMENT OF COMPENSATION. Authorizes the commissioners courts in the counties of each of the 15, rather than 14, courts of appeals districts to pay additional compensation in an amount that does not exceed the limitations of Section 659.012 (Judicial Salaries) to each of the justices of the courts of appeals, other than a justice of the Court of Appeals of the Fifteenth Court of Appeals District, residing within the court of appeals district that includes those counties.

ARTICLE 3. SPECIFIC APPROPRIATION REQUIRED; CONSTITUTIONAL CHALLENGE; EFFECTIVE DATE

SECTION 3.01. (a) Provides that the Court of Appeals for the Fifteenth Court of Appeals District, notwithstanding Section 22.201(a), Government Code, as amended by this Act, and Sections 22.201(p) and 22.2151, Government Code, as added by this Act, is not created unless the legislature makes a specific appropriation of money for that purpose. Provides that a specific appropriation, for the purposes of this subsection, is an appropriation identifying the Court of Appeals for the Fifteenth Court of Appeals District or an Act of the 88th Legislature, Regular Session, 2023, relating to the creation of the Court of Appeals for the Fifteenth Court of Appeals District.

(b) Provides that a court of appeals has the same jurisdiction the court had on August 31, 2023, notwithstanding Section 22.220(a), Government Code, as amended by this Act, if the Court of Appeals for the Fifteenth Court of Appeals District is not created as a result of Subsection (a) of this section.

SECTION 3.02. Provides that the supreme court has exclusive and original jurisdiction over a challenge to the constitutionality of this Act or any part of this Act and is authorized to issue injunctive or declaratory relief in connection with the challenge.

SECTION 3.03. Effective date: September 1, 2023.

SRC-AJM S.B. 1045 88(R) Page 6 of 6