

First Extraordinary Session, 2002

SENATE BILL NO. 37

BY SENATOR HAINKEL

COURTS. Provides for a commissioner for the Twenty-Second Judicial District Court.

1 AN ACT

2 To enact R.S. 13:721 and 722 and to repeal R.S. 13:719 and 720, relative to
3 the Twenty-Second Judicial District Court; to provide for the office of
4 commissioner for the Twenty-Second Judicial District Court in criminal
5 matters; to provide for the selection and removal of the commissioner
6 from office; to provide for the qualifications of office, salary, related
7 benefits, expenses of office, and office space; to provide for the sources
8 of funding for the commissioner and his office and employees; to
9 provide for the duties and powers of the commissioner; to provide for
10 conduct of proceedings by the commissioner upon consent of the
11 parties; to provide for delays to traverse the findings and to provide for
12 hearings thereon; to provide for the authority of a judge to accept,
13 reject, or modify the findings; to repeal provisions providing for the
14 existing office of commissioner; to provide for effective dates; and to
15 provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

1 Section 1. R.S. 13:721 and 722 are hereby enacted to read as follows:

2 §721. Commissioner for the Twenty-Second Judicial District Court

3 **R.S. 13:721 is all proposed new law.**

4 A. There is hereby created one office of commissioner for the
5 Twenty-Second Judicial District Court.

6 B. The commissioner shall be selected by a majority of the
7 judges of the Twenty-Second Judicial District and may be removed
8 from office by a majority of those judges. There shall be no term of
9 such office. A commissioner shall serve at the pleasure of the court.
10 Additionally, the commissioner may be subject to removal from office
11 for any reason for which a district judge may be removed.

12 C. The commissioner shall have jurisdiction over criminal
13 matters.

14 D. The provisions of this Section shall not affect or limit the
15 jurisdiction of a district judge as provided by law.

16 E.(1) Subject to the other provisions of this Subsection, the
17 commissioner shall have all of the powers as are enumerated below.
18 The powers of the commissioner shall not be inconsistent with the
19 constitution and laws of this state, the constitution and laws of the
20 United States, or the rules of the Twenty-Second Judicial District
21 Court. The commissioner shall perform such duties as are assigned by
22 the Twenty-Second Judicial District Court, in accordance with the rules
23 which shall be prescribed by the elected judges of the court.

24 (2) The powers of the commissioner when hearing criminal
25 matters may include but shall not be limited to the power to:

26 (a) Administer oaths and affirmations.

27 (b) Take acknowledgments, affidavits, and depositions.

1 (c) Act on felony charges through arraignment; however, the
2 commissioner shall not accept pleas of guilty on or sign orders
3 disposing of felony charges.

4 (d) Hear preliminary motions prior to filing the bill of
5 information or indictment and make recommendations to the district
6 judge.

7 (e) Act on misdemeanor charges including accepting pleas in
8 misdemeanor cases preliminary to trial on the merits and conduct
9 evidentiary hearings of misdemeanor cases. A trial on the merits in a
10 misdemeanor case shall be tried by the commissioner only upon the
11 written consent of the defendant and the expressed waiver of the
12 defendant's right to have his case heard by a district court judge.

13 (f) Fix bail.

14 (g) Review probable cause affidavits within forty-eight hours
15 of warrantless arrests.

16 (h) Conduct seventy-two hour hearings.

17 (i) Sign waivers of extradition only upon the written consent of
18 the defendant and the expressed waiver of the defendant's right to have
19 his extradition heard by a district court.

20 (j) Supervise defendants sentenced under the provisions of the
21 drug court in accordance with the policies set down by the judges of the
22 Twenty-Second Judicial District Court.

23 (k) Supervise all conditions of bail bonds.

24 (l) Supervise special conditions of protective orders, domestic
25 violence, and any other probation conditions.

26 F.(1) When a misdemeanor case, with the written consent of the
27 defendant and the expressed waiver of the defendant's right to have his

1 case heard by a district court judge, is referred to the commissioner by
2 rule of court or assigned to the commissioner by a judge of the Twenty-
3 Second Judicial District Court, the commissioner shall receive all
4 evidence and prepare a written report of his findings which shall
5 contain the following elements:

6 (a) A statement of the pleadings.

7 (b) A statement of the facts as found by the commissioner.

8 (c) An opinion based on the pleadings and facts.

9 (d) A judgment as he determines should be rendered with the
10 recommendation to the judge that it be made the judgment of the court.

11 (2) In such a case, the commissioner shall file a report
12 containing proposed findings and recommendations with the court, and
13 a copy shall be promptly provided to all parties or their counsel of
14 record either at the hearing or by mail.

15 (3) Any party, within ten days after filing the report, may
16 traverse such findings or recommendations in writing in such manner
17 as shall be specified by the rules of the district court.

18 (4) If exceptions to the report are timely filed within ten days,
19 the judge may set the exceptions for hearing within thirty days, may
20 hear argument on the exceptions and decide the exceptions on the
21 record and evidence previously made before the commissioner.

22 (5) The judge may accept, reject, or modify in whole or in part
23 the findings or recommendations made by the commissioner and also
24 may receive further evidence or recommit the matter to the
25 commissioner with instructions or may hear the case de novo and enter
26 judgment.

27 §722. Commissioners: qualifications; salary and benefits; restrictions

1 on employment; office space; supplies; equipment;
2 employees

3 **R.S. 13:722 is all proposed new law.**

4 A. The qualifications for the office of commissioner for the
5 Twenty-Second Judicial District Court shall be the same as the
6 qualifications for office for district court judges.

7 B. The salary of the commissioner shall be set by a majority of
8 the elected judges of the Twenty-Second Judicial District Court and
9 shall not exceed seventy-two thousand five hundred dollars per annum.

10 A commissioner may be a member of the Parochial Employees'
11 Retirement System. A commissioner may be reimbursed for his
12 expenses as provided for by court rule.

13 C. A commissioner shall be a full-time employee of the
14 Twenty-Second Judicial District Court. A commissioner shall not
15 engage in any outside business, occupation, or employment that is
16 inconsistent with the expeditious, proper, and impartial performance of
17 his duties as judicial officer, nor shall he engage in the practice of law.
18 Any question regarding the conduct of any outside business,
19 occupation, or employment by the commissioner shall be resolved by
20 a majority of the elected judges of the Twenty-Second Judicial District
21 Court. The provisions of this Subsection shall not abrogate or
22 supersede any provisions of the Rules for Lawyer Disciplinary
23 Enforcement or the Code of Judicial Conduct applicable to judges and
24 attorneys.

25 D. Office space for the commissioner may be provided by the
26 Twenty-Second Judicial District Court, out of funds available to the
27 court.

1 E. Any employee of the office of commissioner shall be hired
2 only upon the prior approval of employment by a majority of the
3 elected judges of the court pursuant to adopted rules or the specific
4 order of the court and may be a member of the Parochial Employees'
5 Retirement System.

6 F. The salaries, related benefits, and expenses of the
7 commissioner, and the salaries and related benefits of the employees of
8 the commissioner, the costs of the equipment and supplies of the
9 commissioner and his employees, and other costs of implementing this
10 Section and R.S. 13:721 shall be paid from funds available to the
11 Twenty-Second Judicial District Court.

12 G. The sources of funding for the commissioner and his offices
13 and employees shall include but shall not be limited to the following
14 sources:

15 (1) Subject to the other provisions of this Section, there is
16 hereby imposed an additional fee on all persons convicted in the
17 Twenty-Second Judicial District Court of felony, misdemeanor, and
18 traffic offenses. The amount of the additional fees shall be set by the
19 judges of the Twenty-Second Judicial District Court sitting en banc.
20 The amount of the additional fee in felony cases shall not exceed one
21 hundred dollars. The amount of the additional fee in misdemeanor and
22 traffic cases shall not exceed seven dollars and fifty cents.

23 (2) The additional fees created in this Section shall be collected
24 by the sheriffs in the same manner as all other criminal court costs. All
25 additional fees collected under this Section shall be remitted by the
26 sheriffs to the police juries of the parishes of St. Tammany and
27 Washington and deposited into special accounts. These funds are to be

1 used by the parishes, only when authorized by court order from the
2 chief judge of the Twenty-Second Judicial District Court, to defray the
3 costs and expenses incurred pursuant to the provisions of this Section
4 and other related judicial expenditures.

5 (3) If any part of the provisions of this Section become
6 dependent upon monies from the general fund of the respective
7 parishes, the provisions of this Section and of R.S. 13:721 shall
8 terminate if the parish police juries fail to appropriate sufficient monies
9 to provide for the continuation of the office of commissioner for the
10 Twenty-Second Judicial District Court.

11 H. The commissioner shall use the title of commissioner in the
12 performance of his duties under the provisions of this Section and R.S.
13 13:721.

14 Section 2. R.S. 13:719 and 720 are hereby repealed in their entirety.

15 Section 3. The provisions of Section 1 of this Act shall become
16 effective on August 16, 2002.

17 Section 4. The provisions of Section 2 of this Act shall become
18 effective on August 15, 2002.

The original instrument and the following digest, which
constitutes no part of the legislative instrument, were prepared
by Tracy Sudduth.

Hainkel (SB 37)

DIGEST

Present law provides for the office of commissioner for the 22nd JDC (parishes of St. Tammany and Washington) and terminates on August 15, 2002.

Proposed law repeals those provisions of present law.

Proposed law creates a new office of commissioner for the 22nd JDC and provides that the commissioner shall be selected and may be removed by a majority of the judges of the court.

Proposed law grants to the commissioner certain powers in criminal cases, which includes the following powers:

- (1) To administer oaths and affirmations.
- (2) To take acknowledgments, affidavits, and depositions.
- (3) To act on felony charges through arraignment; however, the commissioner shall not accept pleas of guilty on or sign orders disposing of felony charges.
- (4) To hear preliminary motions prior to filing the bill of information or indictment and make recommendations to the district judge.
- (5) To act on misdemeanor charges including accepting pleas in misdemeanor cases preliminary to trial on the merits and conduct evidentiary hearings of misdemeanor cases.
- (6) To fix bail.
- (7) To review probable cause affidavits within 48 hours of warrantless arrests.
- (8) To conduct 72 hour hearings.
- (9) To sign waivers of extradition only upon the written consent of the defendant and the expressed waiver of the defendant's right to have his extradition heard by a district court.
- (10) To supervise defendants sentenced under the provisions of the drug court in accordance with the policies set down by the judges of the Twenty-Second Judicial District Court.
- (11) To supervise all conditions of bail bonds.
- (12) To supervise special conditions of protective orders, domestic violence, and any other probation conditions.

Proposed law provides that when a misdemeanor case with the written consent of the defendant and the expressed waiver of the defendant's right to have his case heard by a district court judge is referred to the commissioner by rule of court or assigned to him by a judge, the commissioner shall receive all evidence and prepare a written report of his findings containing these elements:

- (1) A statement of the pleadings.
- (2) A statement of the facts as found by the commissioner.
- (3) An opinion based on the pleadings and facts.
- (4) A judgment as he determines should be rendered with the recommendation to the judge that it be made the judgment of the court.

Proposed law requires the commissioner to file his proposed findings and recommendations with the court and a copy to be mailed to all parties or their counsel of record; grants any party 10 days to traverse the findings or recommendations in writing; authorizes the judge to set the matter for hearing on exceptions made on the record to the findings and recommendations of the commissioner; and grants to the judge the authority to accept, reject, or modify in whole or in part the findings or recommendations of the commissioner and to receive further evidence or to recommit the matter to the commissioner with further instructions.

Proposed law requires the qualifications for the office of commissioner to be the same as the qualifications for office for district court judge.

Proposed law provides that the salary of the commissioner shall be set by a majority of the elected judges of the district, but shall not exceed \$72,500 per year and authorizes the commissioner and any of his employees to be a member of the Parochial Employees' Retirement System.

Proposed law provides that the commissioner shall be a full-time employee of the district court and prohibits him from engaging in any outside business inconsistent with his duties as a judicial officer and from engaging in the practice of law.

Proposed law authorizes the 22nd JDC to be responsible for providing office space for the commissioner and requires the 22nd JDC to be responsible for his salary, related benefits, and expenses and the salaries and related benefits of his employees, and the costs of equipment and supplies of the commissioner and his employees.

Proposed law provides for funding of the office of commissioner by an imposition of an additional fee not to exceed \$100 in felony cases and \$7.50 in misdemeanor and traffic cases, as set by the judges of the court.

Effective on 8/16/02. Present law providing for the existing commissioner of the 22nd JDC terminates and is repealed on 8/15/02.

(Adds R.S. 13:721 and 722; repeals R.S. 13:719 and 720)