

RESOLUTION NO. 09-28-2015-1

WHEREAS, Texas statutes provide for the orderly conduct of county business and include provisions addressing staffing for the county and district courts in a county; and

WHEREAS, the Texas Local Government Code sets forth the process by which elected district, county and precinct officers may appoint deputies, assistants, clerks and other employees that are required in the performance of the officer's duties, and requires commissioners court approval of both the creation of, and compensation for, each such position; and

WHEREAS, the Texas Constitution grants district courts supervisory authority over county commissioners courts that can be invoked **only** when a commissioners court acts beyond its jurisdiction or when the commissioners court clearly abuses the discretion conferred upon it by law; and

WHEREAS, there exists almost 90 years of judicial precedent holding that a district court may not invoke its own supervisory authority over a commissioners court, and that a lawsuit challenging an action of the commissioners court is required to invoke such authority; and

WHEREAS, a district court's inherent power to require the legislative and executive branches of government to provide essential staffing for the court to perform its judicial functions has long been recognized by the courts of Texas to be limited and subject to principles of due process; and

WHEREAS, the county commissioners courts of Texas, as the sole authority responsible for setting annual budgets and assessing taxes on county residents to fund such budgets, are the appropriate bodies for making decisions of a budgetary nature within each county; and

WHEREAS, in the matter of The Hon. Lonnie Cox v. The Hon. Mark Henry, Cause No. 15CVO583, now pending in the 56th Judicial District Court, Galveston County, these fundamental principles for the orderly conduct of county business are at issue; and

WHEREAS, any appellate court decision in the case is likely to have statewide impact of profound importance to all counties in the state;

NOW THEREFORE, be it resolved, that the Commissioners Court of Castro County, Texas supports the efforts of the Galveston County Commissioners Court to defend: (1) the well-defined authority of county commissioners courts in budget matters within each county; and (2) principles of due process applicable to district court review of county commissioners courts' decisions; and

BE IT FURTHER RESOLVED, that the Commissioners Court of Castro County, Texas urges other counties to support the Galveston County Commissioners Court through appropriate means, such as resolutions of support and amicus curiae.

UPON MOTION DULY MADE AND SECONDED, the above Resolution was adopted on this 28th day September 2015 by a vote of 5 ayes and 0 nays.

SIGNED FOR THE COURT:


CARROLL GERBER, CASTRO COUNTY JUDGE

ATTEST:


JOANNA BLANCO, CASTRO COUNTY CLERK