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county in which he proposes to act as public weigher is entitled to be appointed public weigher by said court; and it is the duty of the commissioners' court to hear proof of his qualifications and of the sufficiency and solvency of his bond, and, upon proper showing made, to approve his bond and appoint him public weigher." Paschal v. Inman, 106 Tex. 123, 157 S.W. 1188; Martin v. Foy (Tex. Civ. App.) 234 S.W. 698; McCraw v. Sowell (Tex. Civ. App.) 20 S.W. (2d) 235.

". . . . To hear and determine the facts as to whether or not appellant possessed the qualifications prescribed by the above article of the statutes required on the part of the commissioners' court the exercise of judicial discretion. Under article 5668 the duty is imposed upon the commissioners' court to approve the bond of the public weigher. It is held that the approval or disapproval of the official bond is a judicial act. Rains v. Simpson, 50 Tex. 495, 32 Am. Rep. 609. Mandamus may lie to require the performance of an act involving judicial discretion, but not in a particular manner that is to say, it will lie to require the exercise of a judicial duty, but will not lie to revise or correct an error in discretion or judgment committed in the performance of such duty. So, in hearing the evidence and determining the facts therefrom, the commissioners' court was exercising a judicial and not a ministerial function upon its hearing of appellant's application and bond, and mandamus will not lie to revise an error, if any, committed in their conclusion and determination of the facts, when no arbitrary abuse of such discretion is shown." Gauthenour v. Anderson, 35 Tex. Civ. App. 569, 31 S.W. 104.

Texas Jurisprudence, volume 44, page 507, Section 3, provides:

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"It is the duty of the commissioners' court, on application of a qualified citizen for appointment as public weigher, to hear proof of his qualifications and of the sufficiency of his bond, and, upon proper showing made, to approve his bond and appoint him public weigher * * * *"

Trusting that the above answers your inquiry,
I remain

Yours respectfully

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