

**SUBJECT:** Modifying the state judicial compensation and retirement systems

**COMMITTEE:** Judiciary and Civil Jurisprudence — committee substitute recommended

**VOTE:** 8 ayes — Leach, Farrar, Julie Johnson, Krause, Meyer, Neave, Smith, White

1 nay — Y. Davis

**WITNESSES:** For — Joe K. Longley, State Bar of Texas; Lee Parsley, Texans for Lawsuit Reform; Will Adams, Texas Trial Lawyers Association; and six individuals; (*Registered, but did not testify*: Kerry Cammack, Alliance for Judicial Funding; Samantha Omey, ExxonMobil; Alfonso Charles, Judicial Section, State Bar of Texas; Guy Herman, Statutory Probate Judges of Texas; George Christian, Texas Association of Defense Counsel; Carol Sims, Texas Civil Justice League; Windy Johnson, Texas Conference of Urban Counties; Shea Place, Texas Criminal Defense Lawyers Association; Ware Wendell, Texas Watch; Cheryl Lieck; Thomas Parkinson;)

Against — (*Registered, but did not testify*: Julie Gilberg; Arthur Simon)

On — Nathan Hecht, Supreme Court of Texas; Robert Kepple, Texas District and County Attorneys Association; David Slayton, Texas Judicial Council, Office of Court Administration; Shawn Dick

**BACKGROUND:** Government Code subtitle D, chs. 831-835 and subtitle E, chs. 836-840 establish the Judicial Retirement System of Texas Plan One and Plan Two, respectively, and limit membership to judges, justices, and commissioners of the Supreme Court, the Court of Criminal Appeals, courts of appeals, district courts, and certain commissions to courts.

Government Code sec. 659.012 sets the minimum state annual salary of a district judge. This salary serves as the basis for determining other types of compensation for certain public officials, including:

- state annual base salaries of various other judges, justices, magistrates, and prosecutors;
- contributions paid by the state to counties in connection with statutory county court judges and statutory probate court judges;
- compensation paid by the state to administrative counties of a multicounty statutory county court for the salary of the judges of that court;
- annual salary supplements paid by the state to county judges;
- service retirement annuities for persons who hold offices normally filled by statewide election that are not included in the judicial retirement systems, members of the legislature, and certain district and criminal district attorneys; and
- service retirement annuities under the Judicial Retirement System of Texas Plan One and the Judicial Retirement System of Texas Plan Two.

Government Code sec. 659.0445 provides that an active judge who is a member of the Judicial Retirement System of Texas Plan One or Plan Two is entitled to a longevity pay increase of 3.1 percent after completing 16 years of service credit.

**DIGEST:**

CSHB 2384 would increase the minimum annual base salary for district judges from \$125,000 to \$140,000 and would provide for periodic increases in the state annual salaries of certain judges and justices based on their years of service. Certain family court associate judges and presiding judges of administrative judicial regions would be added to the list of persons whose salaries were tied to that of a district judge. CSHB 2384 would make changes to the contributions, supplements, and compensation paid to various persons in connection with judicial salaries. The bill also would make changes to the retirement systems for certain judges, justices, and prosecutors.

**Periodic salary increases.** CSHB 2384 would increase the state annual salary of district judges and justices of courts of appeals, the Supreme Court, and Court of Criminal appeals every four years for the first 12 years of judicial service. These increases would take effect beginning with

the pay period after the judges or justices accrued four, eight, or 12 years of:

- contributing service credit in the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two;
- service as a judge of a statutory county court, multicounty statutory county court, and statutory probate court; or
- any combination of the above.

The state annual salary of such judges or justices would be 110 percent of the applicable base salary after four years, 120 percent of the applicable base salary after eight years, and 130 percent of the applicable base salary after 12 years.

Judges of statutory county courts, multicounty statutory county courts, and statutory probate courts would be entitled to similar periodic increases based on their years of service.

The salary of district attorneys, criminal district attorneys, county prosecutors, state prosecutors, and state prosecuting attorneys also would be adjusted to a percentage of the state annual salary of a district judge with comparable years of experience.

**Maximum salaries of certain judges.** The bill would set the maximum annual salary of statutory county court judges and statutory probate court judges at \$1,000 less than the sum of 130 percent of the state base salary paid to district judges, including the longevity pay increase received by district judges after 16 years of service.

**State contributions and compensation to counties.** The bill would change the state contribution to a county for each statutory probate judge from \$40,000 to 60 percent of the state annual salary paid to district judges with comparable years of service.

The state contribution to a county for each statutory county court judge in

the county would be adjusted to account for the state annual salary of a district judge with comparable years of experience.

The amount that the state would be required to compensate the administrative county of a multicounty statutory county court for the salary of the judge of that court also would be adjusted to reflect the state annual salary of a district judge with comparable years of experience.

**Presiding judges of administrative judicial regions.** CSHB 2385 would change the maximum salary of presiding judges of administrative judicial regions from \$33,000 to 30 percent of the state base salary of district judges without regard to periodic salary increases based on years of service.

The salary of a retired or former district judge or a retired appellate judge who was the presiding judges of administrative judicial regions with at least 30 district courts, statutory county courts, and retired and former judges subject to assignment would be changed from certain flat dollar amounts to amounts that would range from 30 percent to 45 percent of the state base salary of district judges without regard to periodic salary increases based on years of service. The applicable percentage would be determined based on the number of courts and judges in the region, as specified in the bill.

**Certain family court associate judges.** CSHB 2384 would tie the salaries of child support and child protection court associate judges to the state base salary of district judges by removing the discretion of presiding judges of administrative judicial regions to determine their salaries. These judges would be required to receive a salary of 90 percent of the state base salary of district judges without regard to periodic increases based on years of service.

**Salary supplements.** The bill would eliminate a requirement that at least 40 percent of the functions that county judges performed be judicial in order to receive annual salary supplements from the state. These salary supplements would be an amount equal to 18 percent of the state base

salary of district judges without taking into account any periodic salary increases for years of service.

The bill also would specify that the state supplemental salary compensation for county prosecutors would be calculated based on the years of service that the prosecutor had accrued as of September 1 of the state fiscal year in which the payment was made.

**Other salary provisions.** The periodic salary increases of district judges based on years of service would not be used to calculate:

- the pro rata compensation paid to former or retired judges or justices assigned to appellate courts;
- the state salaries of judges who were serving in counties outside of their judicial districts or counties;
- the compensation of retired judges or justices assigned to a district court; or
- the salaries of full-time magistrates.

**Judicial Retirement System of Texas Plan One.** CSHB 2384 would provide that the service retirement annuity of members of the Judicial Retirement System of Texas Plan One would be calculated based on 130 percent of the salary of judges of courts of the same classification as the court on which the retiree last served before retirement. This system no longer would provide disability retirement benefits.

Members of the retirement system who had accrued 20 years of service credit and had elected to make contributions for each subsequent year of service credit would contribute at a rate of 9.5 percent of the member's state compensation for each payroll period.

The medical board designated by the Employees Retirement System of Texas would be required to review all medical examinations required under the retirement system. The chief justice of the Supreme Court no longer would be required to certify an applicant's entitlement to an annuity.

**Judicial Retirement System of Texas Plan Two.** CSHB 2384 would adjust the standard service retirement annuity under the Judicial Retirement System of Texas Plan Two to reflect periodic salary increases related to years of service. The salary earned by visiting judges could not be used to determine service retirement annuities.

The bill would change the contribution rate for each payroll period from 6.6 percent to 9.5 percent of a member's compensation for service rendered after September 1, 2019.

The bill would change the procedures for members of retirement system to apply for a disability retirement annuity. Members who were eligible for service retirement annuities or who were current judicial officeholders would not be eligible to receive disability retirement annuities.

Members could apply for disability retirement annuities by filing an application for retirement with the board of trustees or having an application filed with the board by the member's spouse, employer or legal representative.

Applications for disability retirement annuities could not be made after the earlier of the date that the retirement was to become effective or two years after the date the members ceased making contributions to the retirement system, or earlier than 90 days before the date the retirement was to become effective. Applicants would be required to submit to a medical examination and provide other pertinent information as required by the retirement system.

In determining whether a members were mentally or physically incapacitated, the medical board designated by the retirement system's board of trustees would be allowed to apply the standard that would apply to determining disability under the Employees Retirement System of Texas. The medical board no longer would have to report its conclusions to the chief justice of the Supreme Court about any matters referred to it.

Retirees who received disability retirement annuities would have to undergo medical examinations each year for the first five years after retiring and once every three years after that.

**Employees Retirement System.** The standard service retirement annuity for service credited for members who were district or criminal district attorneys whose effective date of retirement was on or after September 1, 2019, would be an amount equal to the number of years of service credit, multiplied by 2 percent of the state salary being paid to district judges who had the same number of years of contributing service credit as the members on the members' last days of service as district or criminal district attorneys. In computing service retirement annuities, the longevity increase in pay for district judges after 16 years would be excluded.

**Effective date.** Provisions relating service retirement annuities under the Judicial Retirement System of Texas Plan Two would apply only to members who retired on or after the effective date of the bill. Provisions relating to disability retirement annuities under that system would apply only to an application for a disability retirement annuity filed on or after the effective date.

The bill would take effect September 1, 2019.

SUPPORTERS  
SAY:

CSHB 2384 would help attract and retain qualified and experienced judges by increasing judicial salary based on years served on the bench.

Judicial salaries in Texas are 20 to 35 percent lower than those in other states, ranking in the bottom half of judicial salaries in the country. Over the past 18 years, Texas judges have received only two pay raises, and, adjusting for inflation, they are receiving less on average than they did in 1991.

Judges in the state also make less than they would make in the private sector. Most former judges cite the pay gap as one of the primary reasons for leaving the judiciary. CSHB 2384 would help solve this problem by increasing judicial salary every four years for the first 16 years served on

the bench. Tying increases in pay to longevity would bring judicial compensation in line with that of the private sector, where more experienced attorneys usually have higher salaries. This would encourage judges to stay longer on the bench, rewarding them for their hard work while providing the public with experienced judges. At the same time, the bill would help attract younger judges to fill the spots that come open as the judiciary ages.

**OPPONENTS  
SAY:**

CSHB 2384 would create an arbitrary compensation system based on longevity that would treat judges elected to do the same job differently. The bill also could be perceived to devalue the experience that individuals bring with them when they come to the bench.

**NOTES:**

According the Legislative Budget Board, the bill would have a negative impact of \$59.5 million on general revenue related funds through fiscal 2020-21.