

## **BILL ANALYSIS**

Senate Research Center  
79R3057 RMB-D

S.B. 368  
By: Duncan  
State Affairs  
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### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Current judicial salaries are inadequate, and are unequal because some judges receive disproportionate county salary supplements. As proposed, S.B. 368 increases judicial salaries paid by the state and changes the methodology for determining those salaries. S.B. 368 equalizes judicial salaries by prohibiting counties from paying salary supplements to judges except to those judges on juvenile boards who may be compensated by the county for this additional service within certain limits, and to those judges who already earn more than the increased salaries but only by the amount necessary to maintain the current salary.

The district court judges will receive one-half of the pay raise in fiscal year 2006, and the rest in fiscal year 2007. All appellate court judges will receive the entire pay raise beginning in fiscal year 2006. The pay raise is funded by two additional filing fees: a \$35 civil filing fee per case, and a \$2 criminal filing fee per case.

S.B. 368 requires data collection by the Office of Court Administration regarding the reasons for judges' resigning or not seeking reelection. The State Bar of Texas is required to compile data regarding compensation of attorneys in private practice.

S.B. 368 delinks retirement of those in the elected class, including legislators, from the salary of a district judge and relinks it to the salary of the governor. Prosecutorial retirement remains linked to the salary of a district judge.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 659.012, Government Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Increases the minimum salaries and changes the methods for calculating the minimum salaries of the judges of the district courts, the justices of the courts of appeals, and the justices of the supreme court and removes the caps on total salary from state and county sources. Provides for higher compensation for the presiding judge of the court of criminal appeals in addition to higher compensation for chief justices of appellate courts.

(a-1) Provides that Subsection (a)(1) (entitling a judge of the district court to an annual salary of at least \$125,000 from the state) applies beginning September 1, 2006. Provides that for the fiscal year beginning September 1, 2005, a judge of a district court is entitled to an annual salary from the state of at least \$113,350. Provides that this section expires September 1, 2006.

SECTION 2. Amends Section 659.0125, Government Code, to entitle certain district judges serving as local administrative district judges to a \$5,000 increase of the minimum salary to which the judge is otherwise entitled under Section 659.012, rather than Section 659.012(c).

SECTION 3. Amends Section 152.0003, Human Resources Code, to prohibit the combined salary of a district judge serving on a juvenile board, notwithstanding any other law, from

exceeding the salary provided for the chief justice of the supreme court or the presiding judge of the court of criminal appeals by Section 659.012, Government Code.

SECTION 4. Amends Subchapter C, Chapter 72, Government Code, by adding Section 72.030, as follows:

Sec. 72.030. **COLLECTION OF DATA RELATING TO JUDICIAL TURNOVER.** Requires the Office of Court Administration (office) biennially to collect data relating to the rate at which state judges resign from office or do not seek reelection, and the reasons for those actions.

(b) Requires the office, not later than December 1 of each even-numbered year, to file a report containing the data collected under Subsection (a) for the preceding state fiscal biennium with certain government officials.

SECTION 5. Amends Subchapter H, Chapter 81, Government Code, by adding Section 81.116, as follows:

Sec. 81.116. **COLLECTION OF DATA RELATING TO ATTORNEY COMPENSATION.** (a) Requires the state bar to biennially collect data relating to the compensation of lawyers engaged in the private practice of law.

(b) Requires the state bar, not later than December 1 of each even-numbered year, to file a report containing the data collected under Subsection (a) for the preceding state fiscal biennium with certain government officials.

SECTION 6. Amends Section 814.103, Government Code, as follows:

Sec. 814.103. **SERVICE RETIREMENT BENEFITS FOR ELECTED CLASS SERVICE.** (a) Creates an exception, as provided by Section 814.1031, to the standard service retirement annuity for service credited in the elected class of membership. Provides that the standard service retirement annuity for service credited in the elected class of membership is the amount equal to the number of years of service in that class times 2.3, rather than two, percent of the state salary, as adjusted from time to time, being paid the governor, rather than a district judge.

(b) Prohibits the standard service retirement annuity for service credited in the elected class from exceeding at any time 100 percent of the state salary being paid the governor, rather than a district judge.

SECTION 7. Amends Chapter 814, Government Code, by adding Section 814.1031, as follows:

Sec. 814.1031. **SERVICE RETIREMENT BENEFITS FOR ELECTED CLASS SERVICE AS STATE PROSECUTOR.** (a) Defines "state prosecutor."

(b) Sets forth the formula for computing the standard service retirement annuity for service credited in the elected class of membership paid to the state prosecutor, except as provided by Subsection (c).

(c) Prohibits the standard service retirement annuity paid to a state prosecutor for service credited in the elected class as a state prosecutor from exceeding at any time 100 percent of the state salary being paid a district judge.

SECTION 8. Amends Section 133.003, Local Government Code, to apply this chapter (Criminal and Civil Fees Payable to the Comptroller) to the criminal fee of the cost on conviction imposed under Section 133.105. Makes nonsubstantive changes.

SECTION 9. Amends Section 133.004, Local Government Code, to apply this chapter to the civil fee of the filing fee imposed in district court and statutory county court under Section 133.154. Makes nonsubstantive changes.

SECTION 10. Amends Subchapter C, Chapter 133, Local Government Code, by adding Section 133.105, as follows:

Sec. 133.105. FEE FOR JUDICIAL SALARIES. (a) Requires a person convicted of any offense, other than certain minor offenses, to pay an additional \$2 court cost to fund judicial salaries.

(b) Requires the treasurer to deposit 10 percent of the fees collected under this section in the general fund of the county or municipality for administrative purposes.

(c) Requires the treasurer to remit the remainder of the fees collected under this section to the comptroller.

SECTION 11. Amends Subchapter D, Chapter 133, Local Government Code, by adding Section 133.154, as follows:

Sec. 133.154. ADDITIONAL FILING FEE IN DISTRICT OR STATUTORY COUNTY COURT FOR JUDICIAL SALARIES. (a) Requires the clerk of a district or statutory county court to collect an additional \$35 fee on the filing of any civil suit to fund judicial salaries.

(b) Requires the treasurer to deposit 10 percent of the fees collected under this section in the general fund of the county or municipality for administrative purposes.

(c) Requires the treasurer to remit the remainder of the fees collected under this section to the comptroller.

SECTION 12. Amends Section 101.061, Government Code, to require the clerk of a district court to collect an additional filing fee of \$35 for each civil suit filed, to fund judicial salaries.

SECTION 13. Amends Section 101.081, Government Code, to require the clerk of a statutory county court to collect an additional filing fee of \$35 for each civil suit filed, to fund judicial salaries.

SECTION 14. Amends Section 102.021, Government Code, to require a person convicted of an offense to pay an additional \$2 court cost on conviction of any offense, other than certain minor offenses.

SECTION 15. Repealer: Sections 22.214(e) (regarding the automobile allowance to judges of the thirteenth court of appeals not being subject to limitations on additional compensation or salary differentials), 659.012(b) and (d) (Judicial Salaries), Chapter 31 (Additional Compensation of Justices of Courts of Appeal), and Subchapter A (Supplemental Salary Paid by County), Chapter 32, Government Code.

SECTION 16. Authorizes a county, notwithstanding the repeal of Chapter 31, and Subchapter A, Chapter 32, Government Code, by this Act, to continue to supplement the salary under the General Appropriations Act of a judge serving on September 1, 2005, and sets a cap on the county supplement.

SECTION 17. Requires the Office of Court Administration to begin collecting the data required by Section 72.030, Government Code, as added by this Act, not later than December 1, 2005. Requires the State Bar of Texas to begin collecting the data required by Section 81.116, Government Code, as added by this Act, not later than December 1, 2005.

SECTION 18. (a) Makes application of Section 814.103, as amended by this Act, and Section 814.1031, Government Code, as added by this Act, prospective.

(b) Requires the Employees Retirement System of Texas to recompute an annuity that first became payable before September 1, 2005, as though Section 814.103, Government

Code, as amended by this Act, and Section 814.1031, as added by this Act, were in effect on the date the annuity first became payable.

(c) Provides that the first payment of the recomputed annuity is payable on the first payment date occurring on or after September 1, 2005.

SECTION 19. Effective date: September 1, 2005.