

Amend CSHB 3306 (committee printing) as follows:

(1) Strike SECTION 8 of the bill (page 2, lines 6 through 10) and substitute the following appropriately numbered SECTION:

SECTION \_\_\_\_\_. Section 74.003, Government Code, is amended by amending Subsection (b) and adding Subsections (f), (g), and (h) to read as follows:

(b) The chief justice of the supreme court may assign a qualified retired justice or judge of the supreme court, of the court of criminal appeals, or of a court of appeals to a court of appeals for active service regardless of whether a vacancy exists in the court to which the justice is assigned. To be eligible for assignment under this subsection, a retired justice or judge must:

(1) have served as an active justice or judge for at least 96 months in a district, statutory probate, statutory county, or appellate court, with at least 48 of those months in an appellate court;

(2) not have been removed from office;

(3) certify under oath to the chief justice of the supreme court, on a form prescribed by the chief justice, that:

(A) the justice or judge has never been publicly reprimanded or censured by the State Commission on Judicial Conduct; and

(B) the justice or judge:

(i) did not resign or retire from office after the State Commission on Judicial Conduct notified the justice or judge of the commencement of a full investigation into an allegation or appearance of misconduct or disability of the justice or judge as provided in Section 33.022 and before the final disposition of that investigation; or

(ii) if the justice or judge did resign from office under circumstances described by Subparagraph (i), the justice or judge was not publicly reprimanded or censured as a result of the investigation;

(4) annually demonstrate that the justice or judge has completed in the past state fiscal year the educational requirements for active appellate court justices or judges; and

(5) certify to the chief justice of the supreme court a

willingness not to appear and plead as an attorney in any court in this state for a period of two years.

(f) For the purposes of Subsection (b)(1), a month of service is calculated as a calendar month or a portion of a calendar month in which a justice or judge was authorized by election or appointment to preside.

(g) Subsection (b)(1) does not apply to a retired justice of the supreme court.

(h) Notwithstanding any other provision of law, an active district court judge may be assigned to hear a matter pending in an appellate court.

(2) Add the following appropriately numbered SECTIONS and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 74.041, Government Code, is amended by adding Subdivisions (4)-(7) to read as follows:

(4) "Active judge" means a person who is a current judicial officeholder.

(5) "Former judge" means a person who has served as an active judge in a district, statutory probate, statutory county, or appellate court, but who is not a retired judge.

(6) "Retired judge" means:

(A) a retiree; or

(B) a person who served as an active judge for at least 96 months in a statutory probate or statutory county court and has retired under the Texas County and District Retirement System.

(7) "Senior judge" means a retiree who has elected to be a judicial officer under Section 75.001.

SECTION \_\_\_\_\_. Section 74.053, Government Code, is amended to read as follows:

Sec. 74.053. OBJECTION TO ~~[ASSIGNED]~~ JUDGE ASSIGNED TO A TRIAL COURT. (a) When a judge is assigned to a trial court under this chapter:

(1) the order of assignment must state whether the judge is an active, former, retired, or senior judge; and

(2) the presiding judge shall, if it is reasonable and practicable and if time permits, give notice of the assignment to each attorney representing a party to the case that is to be heard

in whole or part by the assigned judge.

(b) If a party to a civil case files a timely objection to the assignment, the judge shall not hear the case. Except as provided by Subsection (d), each party to the case is only entitled to one objection under this section for that case.

(c) An objection under this section must be filed not later than the seventh day after the date the party receives actual notice of the assignment or before the date the first hearing or trial, including pretrial hearings, commences, whichever date occurs earlier. The presiding judge may extend the time to file an objection under this section on written motion by a party who demonstrates good cause [~~over which the assigned judge is to preside~~].

(d) An assigned [~~A former~~] judge or justice who was defeated in the last primary or general election for which the judge or justice was a candidate for the judicial office held by the judge or justice [~~not a retired judge~~] may not sit in a case if either party objects to the judge or justice.

(e) An active judge assigned under this chapter is not subject to an objection.

(f) For purposes of this section, notice of an assignment may be given and an objection to an assignment may be filed by electronic mail.

(g) In this section, "party" includes multiple parties aligned in a case as determined by the presiding judge.

SECTION \_\_\_\_\_. Sections 74.054(a) and (b), Government Code, are amended to read as follows:

(a) Except as provided by Subsections (b) and (c), the following judges may be assigned as provided by this chapter by the presiding judge of the administrative region in which the assigned judge resides:

(1) an active [~~a regular~~] district, constitutional county, or statutory county court judge in this state;

(2) a senior judge [~~a district or appellate judge who is a retiree under Subtitle D or E of Title 8,~~] who has consented to be subject to assignment[~~7~~] and who is on the list maintained by the presiding judge under this chapter;

(3) a former district or appellate judge, retired or former statutory probate court judge, or retired or former statutory county court judge who certifies to the presiding judge a willingness to serve and who is on the list maintained by the presiding judge as required by this chapter;

(4) a retiree or a former judge whose last judicial office before retirement was justice or judge of the supreme court, the court of criminal appeals, or a court of appeals and who has been assigned by the chief justice to the administrative judicial region in which the retiree or former judge resides for reassignment by the presiding judge of that region to a district or statutory county court in the region; and

(5) an active judge or justice of the supreme court, the court of criminal appeals, or a court of appeals who has had trial court experience.

(b) An active [~~A regular~~] statutory county court judge may not be assigned to hear a matter pending in a district court outside the county of the judge's residence.

SECTION \_\_\_\_\_. Section 74.055, Government Code, is amended by amending Subsections (c) and (e) and adding Subsections (f) and (g) to read as follows:

(c) To be eligible to be named on the list, a retired or former judge must:

(1) have served as an active [~~a~~] judge for at least 96 [~~48~~] months in a district, statutory probate, statutory county, or appellate court;

(2) have developed substantial experience in the judge's area of specialty;

(3) not have been removed from office;

(4) certify under oath to the presiding judge, on a form prescribed by the state board of regional judges, that:

(A) the judge has never been publicly reprimanded or censured by the State Commission on Judicial Conduct; and

(B) the judge:

(i) did not resign or retire from office after [having received notice that formal proceedings by] the State Commission on Judicial Conduct notified the judge of the

commencement of a full investigation into an allegation or appearance of misconduct or disability of the judge ~~[had been instituted]~~ as provided in Section 33.022 and before the final disposition of that investigation; or

(ii) if the judge did resign from office under circumstances described by Subparagraph (i), was not publicly reprimanded or censured as a result of the investigation ~~[the proceedings]~~;

(5) annually demonstrate that the judge has completed in the past state fiscal ~~[calendar]~~ year the educational requirements for active district, statutory probate, and statutory county court judges; and

(6) certify to the presiding judge a willingness not to appear and plead as an attorney in any court in this state for a period of two years.

(e) For purposes of Subsection (c)(1), a month of service is calculated as a calendar month or a portion of a calendar month in which a judge was authorized by election or appointment ~~[by the governor]~~ to preside.

(f) A former or retired judge is ineligible to be named on the list if the former or retired judge is identified in a public statement issued by the State Commission on Judicial Conduct as having resigned or retired from office in lieu of discipline.

(g) A former or retired judge named on the list shall immediately notify the presiding judge of a full investigation by the State Commission on Judicial Conduct into an allegation or appearance of misconduct or disability by the judge. A judge who does not notify the presiding judge of an investigation as required by this subsection is ineligible to remain on the list.

(3) Strike SECTION 9 of the bill (page 2, lines 11 through 34), and substitute the following appropriately numbered SECTION:

SECTION \_\_\_\_\_. Section 74.061, Government Code, is amended by amending Subsections (c) and (d) and adding Subsections (j) and (k) to read as follows:

(c) The salary of a retired judge or justice while assigned under this chapter shall be paid out of money appropriated from the general revenue fund for that purpose in an amount equal to the

compensation received from state and county sources of the judge of the court to which he is assigned. The salary of a retired judge or justice while assigned shall be determined pro rata for the period of time that the judge or justice actually sits as the assigned judge. The salary of a retired statutory county court judge assigned under this chapter to serve in a district court [~~or statutory county court~~] shall be paid by the state in the same manner as the salary of a retired district judge assigned under this chapter to serve in a district court [~~or statutory county court~~] is paid by the state.

(d) For services actually performed while assigned under this chapter, a retired or former judge or justice shall receive from county funds and money appropriated by the legislature the same amount of salary, compensation, and expenses that the regular judge is entitled to receive from the county and from the state for those services. The presiding judge of the administrative region shall certify to the county and the state the services rendered under this chapter by a retired or former judge or justice and the share to be paid by the state. The amount certified by the presiding judge as the state's share shall be paid from an item in the Judicial Section--Comptroller's Department of the General Appropriations Act for the payment of salaries of district and criminal district judges.

(j) A judge or justice who sits as an assigned judge for half a day or less shall be compensated in an amount that is equal to one-half of the amount to which a judge or justice is entitled for sitting as an assigned judge for a full day under this section.

(k) Notwithstanding any other provision of law, a former, retired, or active judge is not entitled to compensation paid by the state when the judge sits as an assigned judge for a statutory county court.

(4) Add the following appropriately numbered SECTIONS and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 75.551, Government Code, is amended to read as follows:

Sec. 75.551. OBJECTION TO JUDGE OR JUSTICE ASSIGNED TO AN APPELLATE COURT. (a) When a judge or justice is assigned to an

appellate court under this chapter or Chapter 74:

(1) the order of assignment must state whether the judge or justice is an active, former, retired, or senior judge or justice; and

(2) [7] the person who assigns the judge or justice shall, if it is reasonable and practicable and if time permits, give notice of the assignment to each attorney representing a party to the case that is to be heard in whole or part by the assigned judge or justice.

(b) A judge or justice assigned to an appellate court may not hear a civil case if a party to the case files a timely objection to the assignment of the judge or justice. Except as provided by Subsection (d), [+]

[(-1)] each party to the case is entitled to only one objection under this section for that case in the appellate court [+] and

[(-2) a party to an appeal may not in the same case object in an appellate court to the assignment of a judge or justice under Section 74.053(b) and under this subsection].

(c) An objection under this section must be filed not later than the seventh day after the date the party receives actual notice of the assignment or before the date the case is submitted to the court, whichever date occurs earlier. The court may extend the time to file an objection under this section on a showing of good cause [first hearing in which the assigned judge or justice is assigned to sit].

(d) A [former] judge or justice who was defeated in the last primary or general election for which the judge or justice was a candidate for the judicial office held by the judge or justice [not a retired judge or justice] may not sit in an appellate case if either party objects to the judge or justice.

(e) An active judge or justice assigned under this chapter is not subject to an objection.

(f) For purposes of this section, notice of an assignment may be given and an objection to an assignment may be filed by electronic mail.

(g) In this section, "party" includes multiple parties

aligned in a case as determined by the appellate court.

SECTION \_\_\_\_\_. Section 74.055(d), Government Code, is repealed.

SECTION \_\_\_\_\_. (a) The change in law made by this Act to Sections 74.053 and 75.551, Government Code, applies only to a case that is pending or commences on or after the effective date of this Act.

(b) Except as provided by Subsection (c) of this section, the change in law made by this Act to Sections 74.003, 74.054, and 74.055, Government Code, applies only to the assignment of a judge or justice under Chapter 74 or 75, Government Code, made on or after the effective date of this Act. An assignment made before the effective date of this Act is governed by the law in effect at the time the assignment is made, and that law is continued in effect for that purpose.

(c) The change in law made by this Act to Sections 74.003, 74.054, and 74.055, Government Code, does not apply to a person who immediately before the effective date of this Act meets the eligibility requirements to be assigned by the chief justice of the supreme court under Section 74.003(b) or Chapter 75, Government Code, or to be named on a list of retired and former judges under Section 74.055(c), Government Code, other than the certification requirement under Section 74.055(c)(6), Government Code, and the former law is continued in effect for determining that person's eligibility for those purposes.