

BILL ANALYSIS

Senate Research Center
78R4442 QS-F

H.B. 1944
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Jurisprudence
4/29/2003
Engrossed

DIGEST AND PURPOSE

Under current law, when a statutory probate court judge or a former or retired probate judge serves as a visiting judge in a statutory county court, his or her compensation is paid by the county. However, if a retired district court judge serves as a visiting judge in a statutory county court, his or her compensation is paid by the state.

Some parties to probate matters prefer that their cases be heard by probate judges, because of certain expertise in a specialized area of the law. Since the compensation of visiting district judges is paid by the state, counties now have a disincentive to bring probate judges in as visiting judges even on probate matters, since their compensation will be charged to the county.

H.B. 1944 provides that visiting probate judges are to be compensated in the same manner as visiting district judges in certain circumstances.

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. Reenacts and amends Section 25.0022, Government Code, as amended by Chapters 65, 440, 468, and 820, Acts of the 77th Legislature, Regular Session, 2001, as follows:

Sec. 25.0022. ADMINISTRATION OF STATUTORY PROBATE COURTS. (a)-(i)
No changes to these subsections.

- (j) Deletes existing Subsection (j), regarding requirements of a former or retired judge of a statutory probate court. Redesignates existing Subsection (k) as (j).
- (k) Redesignated from existing Subsection (l).
- (l) Redesignated from existing Subsection (m).
- (m) Requires the presiding judge to certify to the county judge in the county in which the assigned judge served the expenses approved under Subsection (l) and a determination of the assigned judge's salary, unless the salary is paid by the state in accordance with Subsection (v). Deletes text regarding a judge's jurisdiction, powers, and duties.
- (n) Redesignated from existing Subsection (o).
- (o) Requires the county in which the assigned judge served to make certain payments out of the general fund of the county. Deletes text regarding a judge's salary, compensation, and expenses.
- (p) Deletes text regarding the daily compensation of a former or retired judge and text requiring such a judge to be paid a certain amount.

(q) Deletes text regarding an assigned judge's entitlements and text requiring the judge to furnish a certain statement to the presiding judge.

(r) Provides that except as provided by Subsection (v), Chapter 74 and Subchapter I, Chapter 75, do not apply to the assignment under this section of statutory probate court judges. Deletes text requiring the presiding judge to certify to the county judge certain information.

(s) Makes nonsubstantive changes.

(t) Requires a former or retired judge of a statutory probate court, to be eligible for assignment under this section, to meet certain criteria. Deletes text requiring the assigned judge to pay certain expenses and a salary out of the general fund. Deletes existing Subsections (u)-(x).

(u) Redesignated from existing Subsection (y). Requires, to be eligible for assignment under this section in the judge's county of residence, a former or retired judge of a statutory probate court, in addition to the eligibility requirements under Subsection (t), rather than (x), to certify to the presiding judge a willingness not to perform certain acts.

(v) Requires the salary of a judge or a former or retired judge assigned under Subsection (h)(5) or (7) to serve in a statutory county court or constitutional county court, notwithstanding any other law, to be paid by the state in the same manner as the salary of a retired district judge assigned under Chapter 74 to serve in a district court or statutory county court is paid by the state.

(w) Requires the presiding judge, for an assigned judge whose salary is paid by the state in accordance with Subsection (v), to certify to the state a determination of the assigned judge's salary.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2003.