

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 3306  
By: Berman (Duncan)  
Finance  
5-23-2003  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Due to the current budget shortfall, state agencies and institutions of higher education were asked to prioritize spending based on core functions and essential services. Legislators looked to these priorities in preparation of the budget; however, certain statutory changes are also needed to conform with appropriations levels in the 2004-05 General Appropriations Act. C.S.H.B. 3306 addresses the number of judges on certain courts of appeal, reimbursement of attorneys and compensation for judges. This bill also authorizes these statutory changes for the judiciary agencies listed under Article IV of the 2004-05 General Appropriations Act.

### **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 Subsectin (f), Section 2, Article 11.071, Code of Criminal Procedure, to require the convicting court to reasonably compensate as provided by Section 2A (State Reimbursement; County Obligation), an attorney appointed under this section, regardless of whether the attorney is appointed by the convicting court or was appointed by the court of criminal appeals under prior law.

SECTION 2. Amends Section 2A, Article 11.071, Code of Criminal Procedure, by adding Subsection (d) to require the comptroller to reimburse a county for the compensation and payment of expenses of an attorney appointed by the court of criminal appeals under prior law. Requires a convicting court seeking reimbursement for a county as permitted by this subsection to certify the amount the county is entitled to receive under this subsection for an application filed under this article, not to exceed a total amount of \$25,000.

SECTION 3. Amends Subsection (d), Section 3, Article 11.071, Code of Criminal Procedure, to authorize counsel to incur expenses for habeas corpus investigation, including expenses for experts, without prior approval by the convicting court or the court of criminal appeals. Requires the convicting court, on presentation of a claim for reimbursement, which may be presented ex parte, to order reimbursement of counsel expenses, if the expenses are reasonably necessary and reasonably incurred. Makes conforming changes.

SECTION 4. Amends Sections 22.201(i) and (1), Government Code, as follows:

(i) Deletes Ector, Gaines, Glasscock, Martin, and Midland counties from the Eighth Court of Appeals District.

(1) Includes Ector, Gaines, Glasscock, Martin, and Midland counties in the Eleventh Court of Appeals District.

SECTION 5. Amends Section 22.216(h), Government Code, to decrease the number of justices on the Court of Appeals for the Eighth Court of Appeals District from three to two.

SECTION 6. Amends Section 22.216(i), Government Code, to increase the number of justices on the Court of Appeals for the Ninth Court of Appeals District from two to three.

SECTION 7. Amends the heading to Section 74.003, Government Code, to read as follows:

Sec. 74.003. ASSIGNMENT OF JUSTICES AND JUDGES FOR APPELLATE COURTS.

SECTION 8. Amends Section 74.003, Government Code, by adding Subsection (f) to authorize an active district court judge, notwithstanding any other provision of law, to be assigned to hear a matter pending in an appellate court.

SECTION 9. Amends Section 74.061, Government Code, by amending Subsection (c) and adding Subsections (j) and (k), as follows:

(c) Deletes a statutory county court as a court to which a retired statutory county court judges would be assigned under this chapter. Makes a conforming change.

(j) Requires a judge or justice who sits as an assigned judge for half a day or less to 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) Provides that, notwithstanding any other provision of law, a former, retire, 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.

SECTION 10. Authorizes the amounts or entitlements required by statute for individuals or entities that receive state funds under Article IV of the General Appropriations Act to be reduced or eliminated in order to achieve a balanced budget.

SECTION 11. Provides that an active, former, or retired visiting judge or justice is not entitled to an amount from the state for expenses, per diem, travel, or salary that exceeds the amount authorized for those purposes by the General Appropriations Act.

SECTION 12. Provides that a local administrative district judge is not entitled to a salary from the state under Section 659.0125, Government Code, that exceeds the amount authorized for that salary by the General Appropriations Act.

SECTION 13. Provides that an active district judge is not entitled to travel expenses under Section 24.019, Government Code, in an amount that exceeds the amount authorized for those expenses by the General Appropriations Act.

SECTION 14. Provides that a judge, justice, or prosecuting attorney is not entitled to an amount from the state for a salary, a salary supplement, office expenses or reimbursement of office expenses, or travel that exceeds the amount authorized for those purposes by the General Appropriations Act.

SECTION 15. (a) Provides that a county is not entitled to receive from the state supplemental salary compensation for county prosecutors under Section 46.0031, Government Code, or longevity pay supplements reimbursement under Section 41.255, Government Code, or any other supplements for prosecutors, in an amount that exceeds the amount appropriated for those purposes by the General Appropriations Act.

(b) Provides that a county is not entitled to state contributions for salaries or supplements under Chapter 25 or 26, Government Code, in an amount that exceeds the amounts appropriated for those purposes in the General Appropriations Act.

(c) Provides that a county is not entitled to reimbursement under Article 11.071, Code of Criminal Procedure, for reimbursement for compensation and payment of expenses of counsel under Article 11.071, Code of Criminal Procedure, for counsel appointed under that article or prior law in an amount that exceeds the amount appropriated for that purpose in the General Appropriations Act.

SECTION 16. Provides that a person reimbursed by the state for travel and expenses for attendance as a witness as provided by Article 35.27, Code of Criminal Procedure, is not entitled to an amount that exceeds the amount appropriated for that purpose by the General Appropriations Act.

SECTION 17. Makes application of Section 74.061, Government Code, as amended by the Act, prospective.

SECTION 18. Makes Section 22.216(h), Government Code, as amended by this Act, prospective to the time when a vacancy occurs or the term of a justice expires, whichever comes first.

SECTION 19. Makes application of any jurisdictional changes made by this Act prospective.

SECTION 20. (a) Effective date: upon passage or September 1, 2003, except as provided by Subsection (b).

(b) Provides that SECTIONS 4, 5, and 9 of this Act take effect September 1, 2003, and SECTION 6 of this Act takes effect January 1, 2003.