

BILL ANALYSIS

Senate Research Center
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S.B. 1107
By: Duncan
Jurisprudence
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As Filed

DIGEST AND PURPOSE

During the interim before the 76th Legislature, the Texas Judicial Council was charged with looking at the current visiting judges program across the state. After public hearings were held, certain recommendations were made in lieu of simply building more courthouses. As proposed, S.B. 1107 requires certain qualifications for retired judges to sit as a visiting judge on the appellate bench.

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 74.003, Government Code, by amending Subsection (b) and adding Subsection (f), as follows:

- (b) Requires a retired justice or judge, to be eligible for assignment under this subsection, to meet certain qualifications.
- (f) Provides that 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.

SECTION 2. Amends Section 74.053, Government Code, as follows:

Sec. 74.053. New heading: OBJECTION TO JUDGE ASSIGNED TO A TRIAL COURT.

- (a) Requires the presiding judge, when a judge is assigned to a trial court under this chapter, to, 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) Makes no change.
- (c) Requires an objection under this section to be filed not later than the seventh day after the date that the party receives actual notice of the assignment or before the date that the first hearing or trial, including pretrial hearings, commences, whichever date occurs earlier. Authorizes the presiding judge to extend the time to file an objection under this section on written motion by a party who demonstrates good cause.
- (d) Prohibits an assigned, rather than former, judge or justice who was defeated in the last primary or general election in which the judge or justice was a candidate for the judicial office held by the judge or justice from sitting in a case if either party objects to the judge or justice.

(e) Defines “party.”

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

SECTION 3. Amends Sections 74.055(c) and (e), Government Code, as follows:

(c) Requires a retired or former judge, to be eligible to be named on the list, to have served at least 96, rather than 48, months on the bench in addition to other qualifications.

(e) Provides that 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 to preside.

SECTION 4. Amends Section 75.551, Government Code, by amending Subsections (c) and (d) and adding Subsections (e) and (f), as follows:

(c) Requires an objection under this section to be filed not later than the seventh day after the date that the party receives actual notice of the assignment or before the date that the case is submitted to the court, whichever date occurs earlier. Authorizes the court to extend the time to file an objection under this section on a showing of good cause.

(d) Prohibits a judge or justice who was defeated in the last primary or general election in which the judge or justice was a candidate for the judicial office held by the judge or justice from sitting in an appellate case if either party objects to the judge or justice.

(e) Defines “party.”

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

SECTION 5. Repealer: Section 74.055(d) (List of Retired and Former Judges Subject to Assignment), Government Code.

SECTION 6. (a) Provides that the change in law made by Sections 2 and 4 of this Act applies only to a case that is pending or commences on or after September 1, 2003.

(b) Provides that except as provided by Subsection (c) of this section, the change in law made by Sections 1, 3, and 5 of this Act applies only to the assignment of a judge or justice under Chapter 74 or 75, Government Code, made on or after September 1, 2003. Provides that an assignment made before September 1, 2003, 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) Provides that the change in law made by Sections 1, 3, and 5 of this Act does not apply to a person who immediately before September 1, 2003, meets the eligibility requirements to be assigned as a visiting judge 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.

SECTION 7. Effective date: September 1, 2003.