

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1107
By: Duncan
Jurisprudence
4/17/2003
Committee Report (Substituted)

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. C.S.S.B. 1107 requires certain qualifications for retired judges to sit as a visiting judge on the appellate bench and makes provisions for salaries for visiting judges.

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 the heading to Section 74.003, Government Code, to read as follows:

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

SECTION 2. Amends Section 74.003, Government Code, by amending Subsection (b) and adding Subsections (f) and (g), 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.

(g) Authorizes an active district court judge, notwithstanding any other provision of law, to be assigned to hear a matter pending in an appellate court.

SECTION 3. Amends Sections 74.041 and 74.053, Government Code, as follows:

Sec. 74.041. Defines "active judge," "former judge," and "retired judge." Redesignates subdivisions accordingly.

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 4. Amends Section 74.054, Government Code, by amending Subsections (a) and (b) and adding Subsection (e), as follows:

(a) Authorizes an active, rather than a regular, district, constitutional county, or statutory county court judge in this state; and a senior, rather than district or appellate, judge who has consented to assignment to be assigned as provided by this chapter. Deletes a requirement that a judge be a retiree.

(b) Makes a conforming change.

(e) Provides that an active district or appellate judge may be assigned to hear a matter pending in a court in a county outside the county of the judge’s residence.

SECTION 5. 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 6. Amends Section 74.057, Government code, by adding Subsection (c), to authorize the chief justice to assign any judge that may be assigned by the presiding judge of an administrative region under Section 74.054. Provides that an assignment by the chief justice under this section is not subject to objection under Section 74.053.

SECTION 7. Amends Section 74.061, Government Code, by amending Subsection (c) and adding Subsections (j) and (k), as follows:

(c) Deletes a statutory county court from provisions pertaining to the salary of a retired judge serving in a district court.

(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, 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.

SECTION 8. 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 9. Repealer: Section 74.055(d) (List of Retired and Former Judges Subject to Assignment), Government Code.

SECTION 10. (a) Makes application of Sections 74.053 and 75.551, Government Code, as amended by this Act, prospective.

(b) Makes application of this Act to the assignment of a judge or justice under Chapter 74 or 75, Government Code, prospective.

(c) Provides that 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 11. Effective date: September 1, 2003.