

AN ACT

relating to certain appropriations made in support of the courts by the legislature to certain individuals and governmental entities, to the assignment and compensation of certain visiting judges, and to the Eighth, Ninth, and Eleventh courts of appeals districts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2(f), Article 11.071, Code of Criminal Procedure, is amended to read as follows:

(f) The convicting court shall reasonably compensate as provided by Section 2A 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 [as provided by Section 2A].

SECTION 2. Section 2A, Article 11.071, Code of Criminal Procedure, is amended by adding Subsection (d) to read as follows:

(d) The comptroller shall reimburse a county for the compensation and payment of expenses of an attorney appointed by the court of criminal appeals under prior law. A convicting court seeking reimbursement for a county as permitted by this subsection shall 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. Section 3(d), Article 11.071, Code of Criminal Procedure, is amended to read as follows:

1 (d) Counsel may incur expenses for habeas corpus
2 investigation, including expenses for experts, without prior
3 approval by the convicting court or the court of criminal appeals.
4 On presentation of a claim for reimbursement, which may be
5 presented ex parte, the convicting court shall order reimbursement
6 of counsel for expenses, if the expenses are reasonably necessary
7 and reasonably incurred. If the convicting court denies in whole or
8 in part the request for expenses, the court shall briefly state the
9 reasons for the denial in a written order provided to the applicant.
10 The applicant may request reconsideration of the denial for
11 reimbursement by the convicting court.

12 SECTION 4. Sections 22.201(i) and (l), Government Code, are
13 amended to read as follows:

14 (i) The Eighth Court of Appeals District is composed of the
15 counties of Andrews, Brewster, Crane, Crockett, Culberson,
16 [~~Ector~~] El Paso, [~~Gaines, Glasscock~~] Hudspeth, Jeff Davis,
17 Loving, [~~Martin, Midland~~] Pecos, Presidio, Reagan, Reeves,
18 Terrell, Upton, Ward, and Winkler.

19 (l) The Eleventh Court of Appeals District is composed of
20 the counties of Baylor, Borden, Brown, Callahan, Coleman, Comanche,
21 Dawson, Eastland, Ector, Erath, Fisher, Gaines, Glasscock,
22 Haskell, Howard, Jones, Knox, Martin, Midland, Mitchell, Nolan,
23 Palo Pinto, Scurry, Shackelford, Stephens, Stonewall, Taylor, and
24 Throckmorton.

25 SECTION 5. Section 22.216(h), Government Code, is amended
26 to read as follows:

27 (h) The Court of Appeals for the Eighth Court of Appeals

1 District consists of a chief justice and two [~~three~~] justices.

2 SECTION 6. Section 22.216(i), Government Code, is amended
3 to read as follows:

4 (i) The Court of Appeals for the Ninth Court of Appeals
5 District consists of a chief justice and three [~~two~~] justices.

6 SECTION 7. The heading to Section 74.003, Government Code,
7 is amended to read as follows:

8 Sec. 74.003. ASSIGNMENT OF JUSTICES AND JUDGES FOR
9 APPELLATE COURTS [~~JUDGES~~].

10 SECTION 8. Section 74.003, Government Code, is amended by
11 amending Subsection (b) and adding Subsections (f), (g), and (h) to
12 read as follows:

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

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

23 (2) not have been removed from office;

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

26 (A) the justice or judge has never been publicly
27 reprimanded or censured by the State Commission on Judicial

1 Conduct; and

2 (B) the justice or judge:

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

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

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

16 (5) certify to the chief justice of the supreme court a
17 willingness not to appear and plead as an attorney in any court in
18 this state for a period of two years.

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

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

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

1 SECTION 9. Section 74.041, Government Code, is amended by
2 adding Subdivisions (4)-(7) to read as follows:

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

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

8 (6) "Retired judge" means:

9 (A) a retiree; or

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

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

15 SECTION 10. Section 74.053, Government Code, is amended to
16 read as follows:

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

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

22 (2) the presiding judge shall, if it is reasonable and
23 practicable and if time permits, give notice of the assignment to
24 each attorney representing a party to the case that is to be heard
25 in whole or part by the assigned judge.

26 (b) If a party to a civil case files a timely objection to
27 the assignment, the judge shall not hear the case. Except as

1 provided by Subsection (d), each party to the case is only entitled
2 to one objection under this section for that case.

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

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

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

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

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

23 SECTION 11. Sections 74.054(a) and (b), Government Code,
24 are amended to read as follows:

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

1 judge resides:

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

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

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

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

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

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

26 SECTION 12. Section 74.055, Government Code, is amended by
27 amending Subsections (c) and (e) and adding Subsections (f) and (g)

1 to read as follows:

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

4 (1) have served as an active [~~a~~] judge for at least 96
5 [~~48~~] months in a district, statutory probate, statutory county, or
6 appellate court;

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

9 (3) not have been removed from office;

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

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

14 (B) the judge:

15 (i) did not resign or retire from office
16 after [~~having received notice that formal proceedings by~~] the State
17 Commission on Judicial Conduct notified the judge of the
18 commencement of a full investigation into an allegation or
19 appearance of misconduct or disability of the judge [~~had been~~
20 instituted] as provided in Section 33.022 and before the final
21 disposition of that investigation; or

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

26 (5) annually demonstrate that the judge has completed
27 in the past state fiscal [~~calendar~~] year the educational

1 requirements for active district, statutory probate, and statutory
2 county court judges; and

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

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

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

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

20 SECTION 13. Section 74.061, Government Code, is amended by
21 amending Subsections (c) and (d) and adding Subsections (j) and (k)
22 to read as follows:

23 (c) The salary of a retired judge or justice while assigned
24 under this chapter shall be paid out of money appropriated from the
25 general revenue fund for that purpose in an amount equal to the
26 compensation received from state and county sources of the judge of
27 the court to which he is assigned. The salary of a retired judge or

1 justice while assigned shall be determined pro rata for the period
2 of time that the judge or justice actually sits as the assigned
3 judge. The salary of a retired statutory county court judge
4 assigned under this chapter to serve in a district court [~~or~~
5 ~~statutory county court~~] shall be paid by the state in the same
6 manner as the salary of a retired district judge assigned under this
7 chapter to serve in a district court [~~or statutory county court~~] is
8 paid by the state.

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

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

26 (k) Notwithstanding any other provision of law, a former,
27 retired, or active judge is not entitled to compensation paid by the

1 state when the judge sits as an assigned judge for a statutory
2 county court.

3 SECTION 14. Section 75.551, Government Code, is amended to
4 read as follows:

5 Sec. 75.551. OBJECTION TO JUDGE OR JUSTICE ASSIGNED TO AN
6 APPELLATE COURT. (a) When a judge or justice is assigned to an
7 appellate court under this chapter or Chapter 74:

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

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

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

20 [~~(1)~~] each party to the case is entitled to only one
21 objection under this section for that case in the appellate court[✓
22 and

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

26 (c) An objection under this section must be filed not later
27 than the seventh day after the date the party receives actual notice

1 of the assignment or before the date the case is submitted to the
2 court, whichever date occurs earlier. The court may extend the time
3 to file an objection under this section on a showing of good cause
4 [first hearing in which the assigned judge or justice is assigned to
5 sit].

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

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

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

16 (g) In this section, "party" includes multiple parties
17 aligned in a case as determined by the appellate court.

18 SECTION 15. Section 74.055(d), Government Code, is
19 repealed.

20 SECTION 16. The amounts or entitlements required by statute
21 for individuals or entities that receive state funds under Article
22 IV of the General Appropriations Act may be reduced or eliminated in
23 order to achieve a balanced budget.

24 SECTION 17. An active, former, or retired visiting judge or
25 justice is not entitled to an amount from the state for expenses,
26 per diem, travel, or salary that exceeds the amount authorized for
27 those purposes by the General Appropriations Act.

1 SECTION 18. A local administrative district judge is not
2 entitled to a salary from the state under Section 659.0125,
3 Government Code, that exceeds the amount authorized for that salary
4 by the General Appropriations Act.

5 SECTION 19. An active district judge is not entitled to
6 travel expenses under Section 24.019, Government Code, in an amount
7 that exceeds the amount authorized for those expenses by the
8 General Appropriations Act.

9 SECTION 20. A judge, justice, or prosecuting attorney is
10 not entitled to an amount from the state for a salary, a salary
11 supplement, office expenses or reimbursement of office expenses, or
12 travel that exceeds the amount authorized for those purposes by the
13 General Appropriations Act.

14 SECTION 21. (a) A county is not entitled to receive from
15 the state supplemental salary compensation for county prosecutors
16 under Section 46.0031, Government Code, or longevity pay
17 supplements reimbursement under Section 41.255, Government Code,
18 or any other supplements for prosecutors, in an amount that exceeds
19 the amount appropriated for those purposes by the General
20 Appropriations Act.

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

25 (c) A county is not entitled to reimbursement under Article
26 11.071, Code of Criminal Procedure, for reimbursement for
27 compensation and payment of expenses of counsel under Article

1 11.071, Code of Criminal Procedure, for counsel appointed under
2 that article or prior law in an amount that exceeds the amount
3 appropriated for that purpose in the General Appropriations Act.

4 SECTION 22. A person reimbursed by the state for travel and
5 expenses for attendance as a witness as provided by Article 35.27,
6 Code of Criminal Procedure, is not entitled to an amount that
7 exceeds the amount appropriated for that purpose by the General
8 Appropriations Act.

9 SECTION 23. (a) The change in law made by this Act to
10 Sections 74.053 and 75.551, Government Code, applies only to a case
11 that is pending or commences on or after the effective date of this
12 Act.

13 (b) Except as provided by Subsection (c) of this section,
14 the change in law made by this Act to Sections 74.003, 74.054, and
15 74.055, Government Code, applies only to the assignment of a judge
16 or justice under Chapter 74 or 75, Government Code, made on or after
17 the effective date of this Act. An assignment made before the
18 effective date of this Act is governed by the law in effect at the
19 time the assignment is made, and that law is continued in effect for
20 that purpose.

21 (c) The change in law made by this Act to Sections 74.003,
22 74.054, and 74.055, Government Code, does not apply to a person who
23 immediately before the effective date of this Act meets the
24 eligibility requirements to be assigned by the chief justice of the
25 supreme court under Section 74.003(b) or Chapter 75, Government
26 Code, or to be named on a list of retired and former judges under
27 Section 74.055(c), Government Code, other than the certification

1 requirement under Section 74.055(c)(6), Government Code, and the
2 former law is continued in effect for determining that person's
3 eligibility for those purposes.

4 SECTION 24. Section 74.061, Government Code, as amended by
5 this Act, applies only to the assignment of a judge or justice under
6 Chapter 74 or 75, Government Code, made on or after the effective
7 date of this Act. An assignment made before the effective date of
8 this Act is governed by the law in effect at the time the assignment
9 is made, and that law is continued in effect for that purpose.

10 SECTION 25. Notwithstanding Section 22.216(h), Government
11 Code, as amended by this Act, the Eighth Court of Appeals consists
12 of a chief justice and three justices until a vacancy occurs or the
13 term of a justice expires, whichever occurs first. Section
14 22.216(h), Government Code, as amended by this Act, does not affect
15 the office of a justice of the Eighth Court of Appeals serving on
16 September 1, 2003, and the justice, unless otherwise removed,
17 continues to serve for the term to which the justice was elected.

18 SECTION 26. This Act does not affect the jurisdiction on
19 appeal of any case from a county that is transferred by this Act to a
20 different court of appeals district if the notice of appeal for the
21 case was filed before the effective date of this Act in the
22 appropriate court of appeals district.

23 SECTION 27. (a) Except as provided by Subsection (b), this
24 Act takes effect immediately if it receives a vote of two-thirds of
25 all the members elected to each house, as provided by Section 39,
26 Article III, Texas Constitution. If this Act does not receive the
27 vote necessary for immediate effect, this Act takes effect

1 September 1, 2003.

2 (b) Sections 4, 5, and 13 of this Act take effect September
3 1, 2003, and Section 6 of this Act takes effect January 1, 2005.

President of the Senate

Speaker of the House

I certify that H.B. No. 3306 was passed by the House on May 10, 2003, by the following vote: Yeas 131, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3306 on May 29, 2003, by the following vote: Yeas 142, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3306 was passed by the Senate, with amendments, on May 27, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor