

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**May 24, 2003**

**TO:** Honorable Will Hartnett, Chair, House Committee on Judicial Affairs

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: SB1107** by Duncan (Relating to the assignment and compensation of certain justices or judges as visiting judges and to service credit in the judicial retirement system for visiting judges.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB1107, Committee Report 2nd House, Substituted: a positive impact of \$1,935,662 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2004	\$921,391
2005	\$1,014,271
2006	\$1,025,321
2007	\$1,025,321
2008	\$1,032,091

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from GENERAL REVENUE FUND 1</b>
2004	\$921,391
2005	\$1,014,271
2006	\$1,025,321
2007	\$1,025,321
2008	\$1,032,091

**Fiscal Analysis**

The bill would amend Government Code, Chapters 74 and 75 relating to the assignment of certain active, retired or former justices or judges as visiting judges. The bill would set certain requirements for persons eligible to serve as visiting judges and would amend procedures relating to objections to the assignment of a visiting judge. The bill would allow the state to compensate visiting judges serving for a half day or less in an amount equal to one-half of the amount the judge would be entitled for serving a full day.

The bill would also amend Government Code, Chapters 835 and 840 relating to service credit in the judicial retirement system for visiting state district judges. The bill would require a visiting or assigned state district judge to contribute the same amount as a full-time presiding district judge to

receive service credit for the month of the contribution. The bill would result in a decrease in state contributions for the Judicial Retirement System, Plan Two (JRS II) and reduce state spending on the Judicial Retirement System, Plan One (JRS I), which is a pay-as-you-go retirement plan.

The bill would amend Government Code, Chapter 22 to provide that the state pay the compensation of an active, former, or retired statutory probate judge assigned as a visiting judge over a probate matter in a county court. The Comptroller reports that currently the state pays the compensation of former or retired district judges serving as visiting judges in probate matters. The Comptroller reports that to the extent the state may incur additional costs if statutory probate judges rather than former or retired district judges are assigned as visiting judges in probate matters, the fiscal implication is not anticipated to be significant.

The bill would take effect September 1, 2003.

## **Methodology**

According to the Judiciary Section, Comptroller's Department, visiting judges served 3,708 days in courts of appeals in fiscal year 2002. Of this amount, 21% (778.7 days) were served by former judges or justices who received an average of \$414 pay per day. Assuming 20% of these days were half days, which under the bill would be compensated at a rate of \$207 per day, the state would realize a savings of \$32,237 in each fiscal year: [20% of 778.7 days = 155.7 days; 155.7 days x \$207/day = \$32,237.]

Additionally, 79% of the total 3,708 days served in fiscal year 2002 (2929.3 days) were served by retired judges or justices who received an average of \$431 pay per day. Assuming 20% of these days were half days, which under the bill would be compensated at a rate of \$215.5 per day, the state would realize a savings of \$126,254 in each fiscal year: [20% of 2929.32 days = 585.9 days; 585.9 days x \$215.5/day = \$126,254.]

Also according to the Judiciary Section, Comptroller's Department, visiting judges served 21,031 days in district courts in fiscal year 2002. Of this amount, 15% (3,154.6 days) were served by former judges who received an average of \$333 pay per day. Assuming 20% of these days were half days, which under the bill would be compensated at a rate of \$166.50 per day, the state would realize a savings of \$105,050 in each fiscal year: [20% of 3154.6 days = 630.9 days; 630.9 days x \$166.50/day = \$105,050.]

Additionally, 85% of the total 21,031 days served in fiscal year 2002 (17,876.4 days) were served by retired judges who received an average of \$365 pay per day. Assuming 20% of these days were half days, which under the bill would be compensated at a rate of \$184 per day, the state would realize a savings of \$657,850 in each fiscal year: [20% of 17,876.4 days = 3,575.3 days; 3,575.3 days x \$184/day = \$657,850.]

This estimate does not include possible savings to the state for assignments of active judges as visiting judges. An active judge, as a state employee receiving a state salary, would serve as a visiting judge in addition to the judge's regular duties, and would receive no extra compensation.

According to ERS, all visiting or assigned judges will make the necessary contributions to receive the service credit for each month that they serve. As a result, the bill is expected to increase future member contributions, and cause an offsetting reduction in state contributions. The biennial savings is estimated to be \$92,800 in fiscal years 2005, \$103,930 in fiscal years 2006 and 2007, and \$110,700 in fiscal year 2008.

## **Local Government Impact**

According to the Comptroller's Office, the criminal statutory county court in Bexar County paid used visiting judges 487 days in fiscal year 2002. At an average cost of \$413 per day to the extent the state may realize savings under the provisions of the bill, Bexar County may incur costs of \$201,131 in fiscal year 2004 and each year thereafter, assuming the same use of visiting judges in county-level courts. Similar savings to the state offset by costs to the following counties based upon use of visiting judges would be as follows: Travis County, \$48,734 (118 days at \$413/day); Montgomery County,

\$36,344 (88 days at \$413/day); and Henderson County, \$4,543 (11 days at \$413/day).

Additionally, a county would realize savings if any probate matters were to be resolved by a statutory probate judge as opposed to a district judge. However, Denton, Grayson, and Lubbock counties all reported that the savings would be minimal.

**Source Agencies:** 201 Supreme Court of Texas, 212 Office of Court Administration, Texas Judicial Council, 242 State Commission on Judicial Conduct, 304 Comptroller of Public Accounts

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