

By: Alonzo

H.B. No. 1475

A BILL TO BE ENTITLED

AN ACT

relating to longevity pay for judicial staff counsel and assistant public defenders.

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

SECTION 1. Subtitle D, Title 2, Government Code, is amended by adding Chapter 58 to read as follows:

CHAPTER 58. LONGEVITY PAY FOR JUDICIAL STAFF COUNSEL

Sec. 58.001. DEFINITIONS. In this chapter:

(1) "Full-time employee" means a judicial staff counsel who is normally scheduled to work at least 40 hours a week as a judicial staff counsel.

(2) "Judicial staff counsel" means a licensed attorney:

(A) employed by a county to assist one or more district judges or statutory county court judges in the county with criminal law cases filed in the district court or statutory county court; and

(B) whose duties include performing legal research and preparing legal memorandums and judicial orders.

(3) "Part-time employee" means a judicial staff counsel who is not a full-time employee.

Sec. 58.002. LONGEVITY PAY. (a) A judicial staff counsel is entitled to longevity pay if the judicial staff counsel:

(1) is a full-time employee of a county on the last day

1 of a state fiscal quarter;

2 (2) is not on leave without pay on the last day of a
3 state fiscal quarter; and

4 (3) has been employed by a county and accrued
5 employment credit of at least four years not later than the last day
6 of the month preceding the last month of a state fiscal quarter.

7 (b) The county that employs the judicial staff counsel shall
8 certify the eligibility of the judicial staff counsel to receive a
9 longevity pay supplement under this chapter.

10 Sec. 58.003. AMOUNT. (a) Except as provided by Section
11 58.005(e), the amount of longevity pay is \$20 per month for each
12 year of employment.

13 (b) The increase is effective beginning with the month
14 following the month in which the fourth year of employment credit
15 accrues.

16 (c) A judicial staff counsel may not receive as longevity
17 pay under this chapter:

18 (1) more than \$20 for each year of employment,
19 regardless of the number of positions the judicial staff counsel
20 holds or the number of hours the judicial staff counsel works each
21 week; or

22 (2) more than \$5,000 annually.

23 Sec. 58.004. LIMITATIONS ON LAW PRACTICE. (a) A judicial
24 staff counsel who receives longevity pay under this chapter may not
25 engage in the private practice of law if, from all funds received,
26 the judicial staff counsel receives a salary that is equal to or
27 more than 80 percent of the salary paid by the state to a district

1 judge.

2 (b) A judicial staff counsel who becomes subject to this
3 section may complete all civil cases that are pending in court
4 before the judicial staff counsel exceeds the salary cap.

5 Sec. 58.005. FUNDING. (a) The county shall pay a longevity
6 pay supplement under this chapter to the extent the county receives
7 funds from the comptroller as provided by Subsection (c).

8 (b) The county may not reduce the salary of the judicial
9 staff counsel to offset the longevity pay supplement.

10 (c) Not later than the 15th day after the start of each state
11 fiscal quarter, the county shall certify to the comptroller the
12 total amount of longevity pay supplement due to all judicial staff
13 counsel employed by the county for the preceding state fiscal
14 quarter. The comptroller shall issue a warrant to the county for
15 the amount certified. The comptroller shall issue a warrant to the
16 county not later than the 60th day after the first date of each
17 state fiscal quarter.

18 (d) On the receipt of funds from the comptroller as provided
19 by Subsection (c), the county shall pay longevity supplements to
20 eligible judicial staff counsel in the next regularly scheduled
21 salary payment or in a separate payment.

22 (e) A county is not required to pay longevity supplements if
23 the county does not receive funds from the comptroller as provided
24 by Subsection (c). If sufficient funds are not available to meet
25 the requests made by counties for funds for payment of judicial
26 staff counsel qualified for longevity supplements, the comptroller
27 shall apportion the available funds to the eligible counties by

1 reducing the amount payable to each county on an equal percentage
2 basis. A county that receives from the comptroller an amount less
3 than the amount certified by the county to the comptroller under
4 Subsection (c) shall apportion the funds received by reducing the
5 amount payable to eligible judicial staff counsel on an equal
6 percentage basis, but is not required to use county funds to make up
7 any difference between the amount certified and the amount
8 received.

9 (f) If previous payments under this chapter have been
10 reduced for insufficient funds under Subsection (e), or if a county
11 submits the required information but not in a timely manner as
12 required by Subsection (c), the comptroller shall:

13 (1) make a payment of the balance when the funds are
14 available; or

15 (2) carry forward the balance owed to the county and
16 pay that amount to the county when the next payment is required.

17 Sec. 58.006. CHANGE IN STATUS. If a judicial staff counsel
18 ceases being a full-time employee after the first workday of a month
19 but otherwise qualifies for longevity pay, the judicial staff
20 counsel's compensation for that month includes full longevity pay.

21 Sec. 58.007. ACCRUAL OF EMPLOYMENT CREDIT. (a) A judicial
22 staff counsel accrues employment credit for the period in which the
23 judicial staff counsel serves as a full-time, part-time, or
24 temporary judicial staff counsel.

25 (b) A judicial staff counsel who is on leave without pay for
26 an entire calendar month does not accrue employment credit for the
27 month.

1 (c) A judicial staff counsel who simultaneously holds two or
2 more positions that each accrue employment credit accrues credit
3 for only one of the positions.

4 (d) A judicial staff counsel who begins working on the first
5 workday of a month in a position that accrues employment credit is
6 considered to have begun working on the first day of the month.

7 Sec. 58.008. JUDICIAL STAFF COUNSEL SUPPLEMENT FUND. (a)
8 The judicial staff counsel supplement fund is created in the state
9 treasury.

10 (b) The comptroller shall pay supplements from the judicial
11 staff counsel supplement fund as provided by this chapter. At the
12 end of each fiscal year, any unexpended balance in the fund in
13 excess of \$1.5 million may be transferred to the general revenue
14 fund.

15 SECTION 2. Title 2, Government Code, is amended by adding
16 Subtitle K to read as follows:

17 SUBTITLE K. PUBLIC DEFENDERS

18 CHAPTER 120. LONGEVITY PAY FOR ASSISTANT PUBLIC DEFENDERS

19 Sec. 120.001. DEFINITIONS. In this chapter:

20 (1) "Assistant public defender" means a licensed
21 attorney employed by a public defender to assist in providing legal
22 representation and services to indigent defendants.

23 (2) "Full-time employee" means an assistant public
24 defender who is normally scheduled to work at least 40 hours a week
25 as an assistant public defender.

26 (3) "Part-time employee" means an assistant public
27 defender who is not a full-time employee.

1 (4) "Public defender" has the meaning assigned by
2 Article 26.044(a), Code of Criminal Procedure.

3 Sec. 120.002. LONGEVITY PAY. (a) An assistant public
4 defender is entitled to longevity pay if the assistant public
5 defender:

6 (1) is a full-time employee of a public defender on the
7 last day of a state fiscal quarter;

8 (2) is not on leave without pay on the last day of a
9 state fiscal quarter; and

10 (3) has been employed by a public defender and accrued
11 employment credit of at least four years not later than the last day
12 of the month preceding the last month of a state fiscal quarter.

13 (b) The public defender who employs the assistant public
14 defender shall certify the eligibility of the assistant public
15 defender to receive a longevity pay supplement under this chapter.

16 Sec. 120.003. AMOUNT. (a) Except as provided by Section
17 120.005(e), the amount of longevity pay is \$20 per month for each
18 year of employment.

19 (b) The increase is effective beginning with the month
20 following the month in which the fourth year of employment credit
21 accrues.

22 (c) An assistant public defender may not receive as
23 longevity pay under this chapter:

24 (1) more than \$20 for each year of employment,
25 regardless of the number of positions the assistant public defender
26 holds or the number of hours the assistant public defender works
27 each week; or

1 (2) more than \$5,000 annually.

2 Sec. 120.004. LIMITATIONS ON LAW PRACTICE. (a) An
3 assistant public defender who receives longevity pay under this
4 chapter may not engage in the private practice of law if, from all
5 funds received, the assistant public defender receives a salary
6 that is equal to or more than 80 percent of the salary paid by the
7 state to a district judge.

8 (b) An assistant public defender who becomes subject to this
9 section may complete all civil cases that are pending in court
10 before the assistant public defender exceeds the salary cap.

11 Sec. 120.005. FUNDING. (a) The public defender shall pay a
12 longevity pay supplement under this chapter to the extent the
13 public defender receives funds from the comptroller as provided by
14 Subsection (c).

15 (b) The public defender may not reduce the salary of the
16 assistant public defender to offset the longevity pay supplement.

17 (c) Not later than the 15th day after the start of each state
18 fiscal quarter, the public defender shall certify to the
19 comptroller the total amount of longevity pay supplement due to all
20 assistant public defenders employed by the public defender for the
21 preceding state fiscal quarter. The comptroller shall issue a
22 warrant to the public defender for the amount certified. The
23 comptroller shall issue a warrant to the public defender not later
24 than the 60th day after the first date of each state fiscal quarter.

25 (d) On the receipt of funds from the comptroller as provided
26 by Subsection (c), the public defender shall pay longevity
27 supplements to eligible assistant public defenders in the next

1 regularly scheduled salary payment or in a separate payment.

2 (e) A public defender is not required to pay longevity
3 supplements if the public defender does not receive funds from the
4 comptroller as provided by Subsection (c). If sufficient funds are
5 not available to meet the requests made by public defenders for
6 funds for payment of assistant public defenders qualified for
7 longevity supplements, the comptroller shall apportion the
8 available funds to the eligible public defenders by reducing the
9 amount payable to each public defender on an equal percentage
10 basis. A public defender that receives from the comptroller an
11 amount less than the amount certified by the public defender to the
12 comptroller under Subsection (c) shall apportion the funds received
13 by reducing the amount payable to eligible assistant public
14 defenders on an equal percentage basis, but is not required to use
15 public defender funds to make up any difference between the amount
16 certified and the amount received.

17 (f) If previous payments under this chapter have been
18 reduced for insufficient funds under Subsection (e), or if a public
19 defender submits the required information but not in a timely
20 manner as required by Subsection (c), the comptroller shall:

21 (1) make a payment of the balance when the funds are
22 available; or

23 (2) carry forward the balance owed to the public
24 defender and pay that amount to the public defender when the next
25 payment is required.

26 Sec. 120.006. CHANGE IN STATUS. If an assistant public
27 defender ceases being a full-time employee after the first workday

1 of a month but otherwise qualifies for longevity pay, the assistant
2 public defender's compensation for that month includes full
3 longevity pay.

4 Sec. 120.007. ACCRUAL OF EMPLOYMENT CREDIT. (a) An
5 assistant public defender accrues employment credit for the period
6 in which the assistant public defender serves as a full-time,
7 part-time, or temporary assistant public defender.

8 (b) An assistant public defender who is on leave without pay
9 for an entire calendar month does not accrue employment credit for
10 the month.

11 (c) An assistant public defender who simultaneously holds
12 two or more positions that each accrue employment credit accrues
13 credit for only one of the positions.

14 (d) An assistant public defender who begins working on the
15 first workday of a month in a position that accrues employment
16 credit is considered to have begun working on the first day of the
17 month.

18 Sec. 120.008. ASSISTANT PUBLIC DEFENDER SUPPLEMENT FUND.

19 (a) The assistant public defender supplement fund is created in the
20 state treasury.

21 (b) The comptroller shall pay supplements from the
22 assistant public defender supplement fund as provided by this
23 chapter. At the end of each fiscal year, any unexpended balance in
24 the fund in excess of \$1.5 million may be transferred to the general
25 revenue fund.

26 SECTION 3. The heading to Section 41.258, Government Code,
27 is amended to read as follows:

1 Sec. 41.258. ASSISTANT PROSECUTOR SUPPLEMENT FUND,
2 ASSISTANT PUBLIC DEFENDER SUPPLEMENT FUND, JUDICIAL STAFF COUNSEL
3 SUPPLEMENT FUND, AND FAIR DEFENSE ACCOUNT.

4 SECTION 4. Section 41.258(i), Government Code, is amended
5 to read as follows:

6 (i) Of the funds received under this section, the [~~The~~
7 comptroller shall deposit one-fourth [~~two-thirds of the funds~~
8 ~~received under this section~~] in the assistant prosecutor supplement
9 fund, one-fourth in the assistant public defender supplement fund,
10 one-fourth in the judicial staff counsel supplement fund, and
11 one-fourth in [~~one-third of the funds received under this section~~
12 ~~to~~] the fair defense account. A county may not reduce the amount of
13 funds provided for indigent defense services in the county because
14 of funds provided under this subsection.

15 SECTION 5. Section 103.027, Government Code, is amended to
16 read as follows:

17 Sec. 103.027. MISCELLANEOUS FEES AND COSTS: GOVERNMENT
18 CODE. Fees and costs shall be paid or collected under the
19 Government Code as follows:

20 (1) filing a certified copy of a judicial finding of
21 fact and conclusion of law if charged by the secretary of state
22 (Sec. 51.905, Government Code) . . . \$15;

23 (2) cost paid by each surety posting the bail bond for
24 an offense other than a misdemeanor punishable by fine only under
25 Chapter 17, Code of Criminal Procedure, for the assistant
26 prosecutor supplement fund, assistant public defender supplement
27 fund, judicial staff counsel supplement fund, and the fair defense

1 account (Sec. 41.258, Government Code) . . . \$15, provided the cost
2 does not exceed \$30 for all bail bonds posted at that time for an
3 individual and the cost is not required on the posting of a personal
4 or cash bond;

5 (3) to participate in a court proceeding in this
6 state, a nonresident attorney fee [~~for civil legal services to the~~
7 ~~indigent~~] (Sec. 82.0361, Government Code) . . . \$250 except as
8 waived or reduced under supreme court rules for representing an
9 indigent person;

10 (4) on a party's appeal of a final decision in a
11 contested case, the cost of preparing the original or a certified
12 copy of the record of the agency proceeding, if required by the
13 agency's rule, as a court cost (Sec. 2001.177, Government Code)
14 . . . as assessed by the court, all or part of the cost of
15 preparation;

16 (5) compensation to a referee in juvenile court in
17 Wichita County taxed as costs if the judge determines the parties
18 are able to pay the costs (Sec. 54.403, Government Code) . . . as
19 determined by the judge; and

20 (6) the expense of preserving the record as a court
21 cost in Brazos County if imposed on a party by the referring court
22 or magistrate (Sec. 54.1111, Government Code) . . . actual cost.

23 SECTION 6. The changes in law made by this Act apply to
24 employment credit accrued by eligible judicial staff counsel or
25 eligible assistant public defenders before, on, and after the
26 effective date of this Act.

27 SECTION 7. This Act takes effect September 1, 2011.