

BILL ANALYSIS

C.S.H.B. 3971
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that judicial salaries in Texas are adjusted too infrequently, leaving many judges inadequately compensated. C.S.H.B. 3971 seeks to ensure a competent judiciary in Texas by establishing a consistent formula for determining state judicial salaries.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3971 amends the Government Code to change the annual salary from the state to which a judge of a district court is entitled from a salary of at least \$125,000 to a salary that is equal to 82.5 percent of the salary of a justice of the Supreme Court of Texas other than the chief justice. The bill changes the annual salary from the state to which a justice of a court of appeals other than the chief justice is entitled from a salary equal to 110 percent of the salary of a district judge to a salary equal to 91 percent of the salary of a justice of the supreme court other than the chief justice. The bill clarifies that the supreme court justice salary that provides the basis for calculating the cap on the combined salary of a justice of a court of appeals other than the chief justice from all state and county sources and the cap on the combined salary of the chief justice of such a court is the salary provided for a justice of the supreme court other than the chief justice.

C.S.H.B. 3971 changes the annual salary from the state to which a justice of the supreme court other than the chief justice and a judge of the court of criminal appeals other than the presiding judge are entitled from a salary equal to 120 percent of the salary of a district judge to a salary calculated by a formula specified by the bill based on the salaries of certain other justices in certain populous states, judges of a United States Court of Appeals, and first-year associate attorneys employed in Texas by certain private law firms. The bill requires the Office of Court Administration of the Texas Judicial System and the State Bar of Texas, as applicable, to collect and provide to the Legislative Budget Board (LBB) the salary information required for such calculation not later than February 1 of each year. The bill requires the LBB to calculate such annual salary based on certain information collected and provided to the LBB under the bill and to provide the amount to the comptroller of public accounts not later than March 1 of each year. The bill requires the comptroller, on October 1 of each year, to adjust all judicial salaries for state judges paid by the state based on the amount provided by the LBB but prohibits the adjusted salary from increasing by more than four percent per year or by the inflation rate during

the previous calendar year, as determined by the comptroller on the basis of changes in the U.S. Bureau of Labor Statistics Consumer Price Index for All Urban Consumers, whichever is higher. The bill requires the comptroller to publish in the Texas Register, not later than May 1 of each year, a list of all such judicial salaries to be paid beginning on the following October 1.

C.S.H.B. 3971 repeals Chapter 35, Government Code, which governs the Judicial Compensation Commission, effective August 31, 2021.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3971 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 659.012(a), Government Code, is amended to read as follows:

(a) Notwithstanding Section 659.011:

(1) a judge of a district court is entitled to an annual salary from the state that is equal to 82.5 percent of the salary of a justice of the supreme court other than the chief justice [~~of at least \$125,000~~], except that the combined salary of a district judge from state and county sources, including compensation for any extrajudicial services performed on behalf of the county, may not exceed the amount that is \$5,000 less than the salary provided for a justice of a court of appeals other than a chief justice;

(2) a justice of a court of appeals other than the chief justice is entitled to an annual salary from the state that is equal to 91 [~~110~~] percent of the salary of a justice of the supreme court other than the chief justice [~~district judge~~], except that the combined salary of a justice of the court of appeals other than the chief justice from all state and county sources, including compensation for any extrajudicial services performed on behalf of the county, may not exceed the amount that is \$5,000 less than the salary provided for a justice of the supreme court;

(3) a justice of the supreme court other than the chief justice or a judge of the court of criminal appeals other than the presiding judge is entitled to an annual salary from the state that is the amount as determined by

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 659.012(a), Government Code, is amended to read as follows:

(a) Notwithstanding Section 659.011:

(1) a judge of a district court is entitled to an annual salary from the state that is equal to 82.5 percent of the salary of a justice of the supreme court other than the chief justice [~~of at least \$125,000~~], except that the combined salary of a district judge from state and county sources, including compensation for any extrajudicial services performed on behalf of the county, may not exceed the amount that is \$5,000 less than the salary provided for a justice of a court of appeals other than a chief justice;

(2) a justice of a court of appeals other than the chief justice is entitled to an annual salary from the state that is equal to 91 [~~110~~] percent of the salary of a justice of the supreme court other than the chief justice [~~district judge~~], except that the combined salary of a justice of the court of appeals other than the chief justice from all state and county sources, including compensation for any extrajudicial services performed on behalf of the county, may not exceed the amount that is \$5,000 less than the salary provided for a justice of the supreme court other than the chief justice;

(3) a justice of the supreme court other than the chief justice or a judge of the court of criminal appeals other than the presiding judge is entitled to an annual salary from the state that is the amount as determined by

~~Section 659.0121 [equal to 120 percent of the salary of a district judge]; and~~
(4) the chief justice or presiding judge of an appellate court is entitled to an annual salary from the state that is \$2,500 more than the salary provided for the other justices or judges of the court, except that the combined salary of the chief justice of a court of appeals may not exceed the amount that is \$2,500 less than the salary provided for a justice of the supreme court.

SECTION 2. Subchapter B, Chapter 659, Government Code, is amended by adding Section 659.0121 to read as follows:

Sec. 659.0121. DETERMINATION OF JUDICIAL SALARIES. (a) The salary of a justice of the supreme court other than the chief justice or a judge of the court of criminal appeals other than the presiding judge is equal to the sum of:

(1) one-third of the average salary, on January 1, of justices, excluding chief justices, on the highest appellate courts of the nine most populous states, as determined by the decennial census, not including Texas;

(2) one-third of the salary, on January 1, of a judge of a United States court of appeals; and

(3) one-third of the average starting base salary, on January 1, of first-year associate attorneys employed with the five private law firms with the largest number of attorneys licensed in this state.

(b) The Office of Court Administration of the Texas Judicial System shall collect and provide to the Legislative Budget Board the information described by Subsections (a)(1) and (2) not later than February 1 of each year.

(c) The state bar shall collect and provide to the Legislative Budget Board the information described by Subsection (a)(3) not later than February 1 of each year.

(d) The Legislative Budget Board shall calculate the salary under Subsection (a) using the information received under Subsections (b) and (c) and notify the comptroller of the amount not later than March 1 of each year.

(e) On October 1 of each year, the comptroller shall adjust all salaries paid

~~Section 659.0121 [equal to 120 percent of the salary of a district judge]; and~~
(4) the chief justice or presiding judge of an appellate court is entitled to an annual salary from the state that is \$2,500 more than the salary provided for the other justices or judges of the court, except that the combined salary of the chief justice of a court of appeals may not exceed the amount that is \$2,500 less than the salary provided for a justice of the supreme court other than the chief justice.

SECTION 2. Subchapter B, Chapter 659, Government Code, is amended by adding Section 659.0121 to read as follows:

Sec. 659.0121. DETERMINATION OF JUDICIAL SALARIES. (a) The salary of a justice of the supreme court other than the chief justice

is equal to the sum of:

(1) one-third of the average salary on January 1 of justices, other than chief justices, on the highest appellate courts of the nine most populous states as determined by the decennial census, not including Texas;

(2) one-third of the salary on January 1 of a judge of a United States Court of Appeals; and

(3) one-third of the average starting base salary on January 1 of first-year associate attorneys employed in this state with the five private law firms with the largest number of attorneys licensed in this state.

(b) The Office of Court Administration of the Texas Judicial System shall collect and provide to the Legislative Budget Board the information required by Subsections (a)(1) and (2) not later than February 1 of each year.

(c) The State Bar of Texas shall collect and provide to the Legislative Budget Board the information required by Subsection (a)(3) not later than February 1 of each year.

(d) The Legislative Budget Board shall calculate the salary under Subsection (a) based on the information collected and provided to the board under Subsection (b) and provide the amount to the comptroller not later than March 1 of each year.

(e) On October 1 of each year, the comptroller shall adjust all salaries paid by

under Section 659.012 based on the amount provided by the Legislative Budget Board under Subsection (d).

(f) Notwithstanding Subsection (a), the salary of a justice of the supreme court other than the chief justice or a judge of the court of criminal appeals other than the presiding judge may not increase annually by more than the greater of:

(1) four percent; and

(2) the percentage by which the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, or its successor index, increased during the previous calendar year.

(g) The comptroller shall publish in the Texas Register, not later than May 1 of each year, a list of all salaries to be paid under Section 659.012 effective October 1.

SECTION 3. Effective August 31, 2021, Chapter 35, Government Code, is repealed.

SECTION 4. Except as otherwise provided by this Act, this Act takes effect January 1, 2019.

the state under Section 659.012 based on the amount provided by the Legislative Budget Board under Subsection (d).

(f) Notwithstanding Subsection (a), the adjusted salary under Subsection (e)

may not increase by more than

four percent per year or by the inflation rate during the previous calendar year, as determined by the comptroller on the basis of changes in the United States Bureau of Labor Statistics Consumer Price Index for All Urban Consumers, whichever is higher.

(g) Not later than May 1 of each year, the comptroller shall publish in the Texas Register a list of all salaries to be paid under Section 659.012 beginning on the following October 1.

SECTION 3. Substantially the same as introduced version.

SECTION 4. Except as otherwise provided by this Act, this Act takes effect September 1, 2019.