

## **BILL ANALYSIS**

Senate Research Center

S.B. 1938  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 1938 creates a more consistent funding formula for the salaries of state judges. Currently, the legislature sets all judicial salaries based on a district judge salary.

- District judges are set by the legislature, currently at \$140,000.
- A justice on the Texas Court of Appeals is 110 percent of district judge salary.
- A justice on the Texas Supreme Court and court of criminal appeals is 120 percent of district judge salary.
- Judges of statutory county courts must make at least \$1,000 less than a district judge.

Since 2000, the judiciary has received only two pay increases. If Texas is to retain the most highly qualified individuals to serve in the judiciary, the legislature must ensure Texas remains competitive with judicial salaries in comparable states, federal judicial salaries, salaries of attorneys in the private sector, and the cost of living.

S.B. 1938 sets a formula for the salary of a supreme court justice. The formula proposes a salary equal to the sum of:

- a. 1/3 of the average salary on January 1, of the justices on the highest courts of appeals in the nine most populous states, not including Texas;
- b. 1/3 of the salary on January 1, of a judge on the United States Court of Appeals; and
- c. 1/3 of the average starting salary on January 1, of first year associates at the five largest law firms in Texas.

Salaries of all other state judges are based off of the salary of the supreme court:

- The salary of a court of appeals justice is 91 percent of a justice on the Supreme Court.
- The salary of a district judge is 82.5 percent of the salary of a justice on the supreme court.

S.B. 1938 does not take effect until 2019.

As proposed, S.B. 1938 amends current law relating to the method of calculating the salary of state 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 Section 659.012(a), Government Code, as follows:

(a) Provides that, notwithstanding Section 659.011 (Salaries Set in Appropriations Act):

(1) a judge of the 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 Texas supreme court (supreme court) other than the chief justice, rather than of at least \$125,000;

(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 percent of the salary of a justice of the supreme court other than the chief justice, rather than an annual salary from the state that is equal to 110 percent of the salary of a district judge;

(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, rather than an annual salary from the state that is equal to 120 percent of the salary of a district judge; and

(4) makes no changes to this subdivision.

SECTION 2. Amends Subchapter B, Chapter 659, Government Code, by adding Section 659.0121, as follows:

659.0121. DETERMINATION OF JUDICIAL SALARIES. (a) Provides that 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 the first-year associate attorneys employed with the five private law firms with the largest number of attorneys licensed in this state.

(b) Requires the Office of Court Administration of the Texas Judicial System (OCA) to collect and provide to the Legislative Budget Board (LBB) the information described by Subsection (a)(1) and (2), not later than February 1 of each year.

(c) Requires the State bar of Texas (state bar) to collect and provide to the LBB the information described by Subsection (a)(3) not later than February 1 of each year.

(d) Requires LBB to calculate the salary under Subsection (a) using the information received under Subsections (b) and (c) and notify the Texas comptroller of public accounts (comptroller) of the amount not later than March 1 of each year.

(e) Requires the comptroller, on October 1 of each year, to adjust all salaries paid under Section 659.012 based on the amount provided by LBB under Subsection (d).

(f) Prohibits 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, notwithstanding Subsection (a), from increasing annually by more than the greater of four percent, and the percentage by which the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the U.S. Department of Labor, or its successor index, increased during the previous calendar year.

(g) Requires the comptroller to 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. Provides that, effective August 31, 2021, Chapter 35 (Judicial Compensation Commission), Government Code, is repealed.

SECTION 4. Provides that, except as otherwise provided by this Act, this Act takes effect January 1, 2019.