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By:  Meyer H.B. No. 2547

A BILL TO BE ENTITLED

AN ACT

relating to the assignment of certain former and retired justices and judges.

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

SECTION 1.  Sections 74.003(b), (c), and (e), Government Code, are amended to read as follows:

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

(1)  have served as an active justice or judge for at least 72 [~~96~~] months in a district, statutory probate, statutory county, or appellate court, with at least 48 of those months in an appellate court;

(2)  not have been removed from office for misconduct described by Section 1-a(6), Article V, Texas Constitution, or for incapacity;

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

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

(B)  the justice or judge:

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

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

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

(5)  certify to the chief justice of the supreme court a willingness not to appear and plead as an attorney in any court in this state in which the justice or judge served as a justice or judge for a period of two years following that service.

(c)  An active, [~~or~~] retired, or former justice or judge assigned as provided by this section out of the county of the justice's or judge's [~~his~~] residence is entitled to receive the same expenses and per diem as those allowed a district judge assigned as provided by Subchapter C. The state shall pay the expenses and per diem on certificates of approval by the chief justice of the supreme court or the chief justice of the court of appeals to which the justice or judge is assigned. The compensation authorized by this subsection is in addition to all other compensation authorized by law.

(e)  A retired or former justice or judge assigned as provided by this section is entitled to receive, pro rata for the time serving on assignment, from money appropriated from the general revenue fund for that purpose, an amount equal to the compensation received from state and county sources by a justice of the court of appeals to which assigned.

SECTION 2.  Section 74.055, Government Code, is amended to read as follows:

Sec. 74.055.  LIST OF RETIRED AND FORMER JUSTICES AND JUDGES SUBJECT TO ASSIGNMENT. (a) Each presiding judge shall maintain a list of retired and former justices and judges who meet the requirements of this section.

(b)  The presiding judge shall divide the list into area specialties of criminal, civil, or domestic relations cases. A retired or former justice or judge may only be assigned to a case in the justice's or judge's area of specialty. A justice or judge may qualify for assignment in more than one area of specialty.

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

(1)  have served as an active justice or judge for at least 72 [~~96~~] months in a district, statutory probate, statutory county, or appellate court;

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

(3)  not have been removed from office for misconduct described by Section 1-a(6), Article V, Texas Constitution, or for incapacity;

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

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

(B)  the justice or judge:

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

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

(5)  annually demonstrate that the justice or judge has completed in the past state fiscal year the educational requirements for active district, statutory probate, and statutory county court judges; and

(6)  certify to the presiding judge a willingness not to appear and plead as an attorney in any court in this state in which the justice or judge served as a justice or judge for a period of two years following that service.

(e)  For purposes of Subsection (c)(1), a month of service is calculated as a calendar month or a portion of a calendar month in which a justice or judge was authorized by election or appointment to preside.

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

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

SECTION 3.  The change in law made by this Act applies only to a certification or recertification that takes effect after the effective date of this Act. A certification or recertification that takes effect before the effective date of this Act is governed by the law in effect on the date the certification or recertification took effect, and the former law is continued in effect for that purpose.

SECTION 4.  This Act takes effect September 1, 2019.