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By:  Huffman S.B. No. 387

A BILL TO BE ENTITLED

AN ACT

relating to judicial compensation and the contributions to, benefits from, membership in, and administration of the Judicial Retirement System of Texas Plan One and Plan Two; making conforming changes.

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

SECTION 1.  Section 201.105(a), Family Code, is amended to read as follows:

(a)  An associate judge appointed under this subchapter is entitled to a salary in the amount equal to [~~be determined by a majority vote of the presiding judges of the administrative judicial regions. The salary may not exceed~~] 90 percent of the state base salary paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a), Government Code.

SECTION 2.  Section 201.205(a), Family Code, is amended to read as follows:

(a)  An associate judge appointed under this subchapter is entitled to a salary in the amount equal to [~~as determined by a majority vote of the presiding judges of the administrative judicial regions. The salary may not exceed~~] 90 percent of the state base salary paid to a district judge as set by the [~~state~~] General Appropriations Act in accordance with Section 659.012(a), Government Code.

SECTION 3.  Section 25.0015(a), Government Code, is amended to read as follows:

(a)  Beginning on the first day of the state fiscal year, the state shall annually compensate each county in an amount equal to 60 percent of the state base salary paid to [~~of~~] a district court judge as set by [~~in~~] the General Appropriations Act in accordance with Section 659.012(a) [~~county~~] for each statutory county court judge in the county who:

(1)  does not engage in the private practice of law; and

(2)  presides over a court with at least the jurisdiction provided by Section 25.0003.

SECTION 4.  Section 26.006, Government Code, is amended to read as follows:

Sec. 26.006.  SALARY SUPPLEMENT FROM STATE FOR [~~CERTAIN~~] COUNTY JUDGES. (a) A county judge is entitled to an annual salary supplement from the state in an amount equal to 18 percent of the state base salary paid to [~~annual compensation provided for~~] a district judge as set by [~~in~~] the General Appropriations Act in accordance with Section 659.012(a) [~~if at least 40 percent of the functions that the judge performs are judicial functions~~].

(b)  [~~To receive a supplement under Subsection (a), a county judge must file with the comptroller's judiciary section an affidavit stating that at least 40 percent of the functions that the judge performs are judicial functions.~~

[~~(c)~~]  The commissioners court of [~~in~~] a county [~~with a county judge who is entitled to receive a salary supplement under this section~~] may not reduce the county funds provided for the salary or office of the county judge as a result of the salary supplement required by this section.

SECTION 5.  Section 41.013, Government Code, is amended to read as follows:

Sec. 41.013.  COMPENSATION OF CERTAIN PROSECUTORS. Except as otherwise provided by law, a district attorney or criminal district attorney is entitled to receive from the state annual compensation in an amount equal to at least 80 percent of the state base salary paid to [~~annual compensation provided for~~] a district judge as set by [~~in~~] the General Appropriations Act in accordance with Section 659.012(a).

SECTION 6.  Section 46.001(2), Government Code, is amended to read as follows:

(2)  "Benchmark salary" means the state base salary paid to [~~that is provided for~~] a district judge as set by [~~in~~] the General Appropriations Act in accordance with Section 659.012(a).

SECTION 7.  Section 46.003(a), Government Code, is amended to read as follows:

(a)  The state prosecuting attorney and each state prosecutor is entitled to receive from the state a salary in an amount [~~compensation~~] equal to the state base salary paid to [~~compensation that is provided for~~] a district judge as set by [~~in~~] the General Appropriations Act in accordance with Section 659.012(a).

SECTION 8.  Section 54.653(b), Government Code, is amended to read as follows:

(b)  The salary of a full-time magistrate may not exceed an amount equal to 90 percent of the sum of:

(1)  the state base salary paid to a district judge as set by the General Appropriations Act in accordance with [~~by the state under~~] Section 659.012(a) [~~659.012~~]; and

(2)  the maximum amount of county contributions and supplements allowed by law to be paid to a district judge under Section 659.012.

SECTION 9.  Section 74.003(e), Government Code, is amended to read as follows:

(e)  A retired 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. For purposes of determining the amount to be paid to a retired justice or judge under this subsection, the compensation received from the state by a justice of the court of appeals to which the retired justice or judge is assigned is the amount equal to the state base salary paid to a justice of that court of appeals as set in accordance with Section 659.012(a).

SECTION 10.  Sections 74.051(b) and (c), Government Code, are amended to read as follows:

(b)  Except as provided by Subsection (c), a presiding judge shall receive a salary in an amount not to exceed 30 percent of the state base salary paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a) [~~$33,000 a year~~]. The Texas Judicial Council shall set the salary biennially and, in arriving at the amount of the salary, shall consider whether the presiding judge is active in administrative duties, performs part time, or is a retired judge. The salary set by the Texas Judicial Council shall be apportioned to each county in the region according to the population of the counties in [~~comprising~~] the region and shall be paid through the county budget process.

(c)  A presiding judge who is a retired or former district judge or a retired appellate judge and who presides over an administrative region with 30 or more district courts, statutory county courts, and retired and former judges named on the list maintained under Section 74.055 for the administrative region is entitled to an annual salary for each fiscal year in an amount equal to [~~as follows~~]:

Number of Courts and Judges     Salary

30 to 49                  30 percent of the state base salary paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a) [~~$35,000~~]

50 to 69                  35 percent of the state base salary paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a) [~~$40,000~~]

70 to 89                  40 percent of the state base salary paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a) [~~$45,000~~]

90 or more                45 percent of the state base salary paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a) [~~$50,000~~]

SECTION 11.  Sections 74.061(b), (h), and (i), Government Code, are amended to read as follows:

(b)  While serving in a county outside the judge's [~~his~~] judicial district or county, an assigned [~~a~~] judge is entitled to receive, in addition to the assigned judge's [~~his~~] necessary expenses, additional compensation from the county to which the assigned judge [~~he~~] is assigned in an amount not to exceed the difference between the compensation of the assigned judge from all sources, exclusive of the per diem provided by Subsection (f), and the compensation received from all sources by the judge of the court to which the assigned judge [~~he~~] is assigned. If the judge of the court to which the assigned judge is assigned is paid an annual salary from the state in accordance with Section 659.012(b), the amount by which that annual salary exceeds the amount of the state base salary as set by the General Appropriations Act for the judge's position in accordance with Section 659.012(a) is not included in the compensation of the judge for purposes of determining the compensation of the assigned judge under this subsection. The county shall pay the compensation provided by this subsection on approval of the presiding judge of the administrative region in which the court to which the assigned judge is assigned is located.

(h)  Notwithstanding Subsection (c), the salary from the state of a retired judge or justice assigned to a district court is determined pro rata based on the amount of the state base salary paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a) [~~sum of the regular judge's salary from the county plus the greater of:~~

[~~(1)  the regular judge's salary from the state on August 31, 2007; or~~

[~~(2)  100 percent of the regular judge's salary from the state, as established by the General Appropriations Act for any fiscal year~~].

(i)  Notwithstanding Subsection (d):

(1)  [~~,~~] the salary from the state of a former judge or justice assigned to a [~~district~~] court of appeals is determined pro rata based on the amount of the state base salary paid to a justice of a court of appeals as set in accordance with Section 659.012(a); and

(2)  the salary from the state of a former judge or justice assigned to a district court is determined pro rata based on the amount of the state base salary paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a) [~~greater of:~~

[~~(1)  the regular judge's salary from the state on August 31, 2007; or~~

[~~(2)  100 percent of the regular judge's salary from the state, as established by the General Appropriations Act for any fiscal year~~].

SECTION 12.  Section 75.016(c), Government Code, is amended to read as follows:

(c)  The Commissioners Court of Travis County may set additional compensation to be paid to the presiding criminal judge by the county in any amount that does not exceed the amount the local administrative district judge of Travis County receives from this state. Notwithstanding any other law, compensation paid the presiding criminal judge under this subsection is not included as part of the judge's combined base salary from all state and county sources for purposes of the salary limitations provided by Section 659.012.

SECTION 13.  Section 659.012, Government Code, is amended to read as follows:

Sec. 659.012.  JUDICIAL SALARIES. (a) Notwithstanding Section 659.011 and subject to Subsections (b) and (b-1):

(1)  a judge of a district court is entitled to an annual base salary from the state as set by the General Appropriations Act in an amount equal to [~~of~~] at least $140,000 [~~$125,000~~], except that the combined base salary of a district judge 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 maximum combined base salary from all state and county sources [~~provided~~] for a justice of a court of appeals other than a chief justice as determined under this subsection;

(2)  a justice of a court of appeals other than the chief justice is entitled to an annual base salary from the state in the amount [~~that is~~] equal to 110 percent of the state base salary of a district judge as set by the General Appropriations Act, except that the combined base 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 base salary [~~provided~~] for a justice of the supreme court as determined under this subsection;

(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 base salary from the state in the amount [~~that is~~] equal to 120 percent of the state base salary of a district judge as set by the General Appropriations Act; and

(4)  the chief justice or presiding judge of an appellate court is entitled to an annual base salary from the state in the amount equal to [~~that is~~] $2,500 more than the state base salary provided for the other justices or judges of the court, except that the combined base salary of the chief justice of a court of appeals from all state and county sources may not exceed the amount equal to [~~that is~~] $2,500 less than the base salary [~~provided~~] for a justice of the supreme court as determined under this subsection.

(b)  A judge or justice for whom the amount of a state base salary is prescribed by Subsection (a) is entitled to an annual salary from the state in the amount equal to:

(1)  110 percent of the state base salary paid in accordance with Subsection (a) for the judge's or justice's position, beginning with the pay period that begins after the judge or justice accrues four years of service credit in the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two;

(2)  120 percent of the state base salary paid in accordance with Subsection (a) for the judge's or justice's position, beginning with the pay period that begins after the judge or justice accrues eight years of service credit in the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two; and

(3)  130 percent of the state base salary paid in accordance with Subsection (a) for the judge's or justice's position, beginning with the pay period that begins after the judge or justice accrues 12 years of service credit in the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two.

(b-1)  A limitation on the combined base salary from all state and county sources prescribed by Subsection (a)(1) or (2) applies to a judge or justice to whom Subsection (b) applies, except that the amount by which the annual salary from the state paid to the judge or justice in accordance with Subsection (b) exceeds the amount of the state base salary for the judge's or justice's position set by the General Appropriations Act in accordance with Subsection (a) is not included as part of the judge's or justice's combined base salary from all state and county sources for purposes of determining whether the judge's or justice's salary exceeds the limitation.

(c)  To the extent of any conflict, the salary limitations provided by Subsection (a) [~~this section~~] for the combined base salary of a state judge or justice from state and local sources prevail [~~prevails~~] over any provision of Chapter 31 or 32 that authorizes the payment of additional compensation to a state judge or justice.

(d)  Notwithstanding any other provision in this section or other law, in a county with more than five district courts, a district judge who serves as a local administrative district judge under Section 74.091 is entitled to an annual base salary from the state in the amount equal to [~~that is~~] $5,000 more than the maximum salary from the state to which the judge is otherwise entitled under Subsection (a) or (b).

(e)  For the purpose of salary payments by the state, the comptroller shall determine from sworn statements filed by the justices of the courts of appeals and district judges that the required salary limitations provided by Subsection (a) [~~this section~~] are maintained. If the state base [~~a~~] salary for a judge or justice prescribed by Subsection (a) combined with additional compensation from a county would exceed [~~be in excess of~~] the limitations provided by Subsection (a) [~~this section~~], the comptroller shall reduce the [~~state~~] salary payment made by the state by the amount of the excess.

SECTION 14.  Section 814.103, Government Code, is amended to read as follows:

Sec. 814.103.  SERVICE RETIREMENT BENEFITS FOR ELECTED CLASS SERVICE. (a)  Except as provided by Subsection (b), the standard service retirement annuity for service credited in the elected class of membership is an amount equal to the number of years of service credit in that class, times two percent of the state base salary, excluding longevity pay payable under Section 659.0445 and as adjusted from time to time, being paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a).

(b)  The standard service retirement annuity for service credited in the elected class may not exceed at any time 100 percent of the state base salary being paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a).

SECTION 15.  Section 815.204(c), Government Code, is amended to read as follows:

(c)  The medical board shall:

(1)  review all medical examinations required by this subtitle and Subtitle D;

(2)  investigate essential statements and certificates made by or on behalf of a member of the retirement system in connection with an application for disability retirement; and

(3)  report in writing to the executive director its conclusions and recommendations on all matters referred to it.

SECTION 16.  Sections 834.102(a) and (d), Government Code, are amended to read as follows:

(a)  The base service retirement annuity is an amount equal to 50 percent of the state salary, as adjusted from time to time, being paid in accordance with Section 659.012(b)(3) to a judge of a court of the same classification as the court on which the retiree last served before retirement.

(d)  The service retirement annuity of a person qualifying for retirement under Section 834.101(b) is an amount computed as a percentage of the state salary, as adjusted from time to time, being paid in accordance with Section 659.012(b)(3) to a judge of a court of the same classification as the court on which the retiree last served before retirement, according to the following schedule:

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | percentage |  |
|  | age at retirement | of state salary |  |
|  | at least 60 but less than 61 | 40   percent |  |
|  | at least 61 but less than 62 | 41.7 percent |  |
|  | at least 62 but less than 63 | 43.6 percent |  |
|  | at least 63 but less than 64 | 45.6 percent |  |
|  | at least 64 but less than 65 | 47.7 percent |  |

SECTION 17.  Section 834.201(b), Government Code, is amended to read as follows:

(b)  A member otherwise eligible may not receive a disability retirement annuity unless the medical board designated under Section 815.204 finds [~~chief justice of the supreme court certifies~~] that the member is mentally or physically incapacitated for the further performance of regular judicial duties and submits a certification of disability to the executive director appointed under Section 815.202.

SECTION 18.  Section 834.202, Government Code, is amended to read as follows:

Sec. 834.202.  APPLICATION FOR DISABILITY; INFORMATION ABOUT PHYSICAL INCAPACITY. (a) A member may apply for a disability retirement annuity by:

(1)  filing an application for retirement with the board of trustees; or

(2)  having an application filed with the board by the member's spouse, employer, or legal representative.

(b)  A member who applies for retirement because of physical incapacity shall file with the board of trustees [~~supreme court~~] written reports by two physicians licensed to practice medicine in this state, fully reporting the claimed physical incapacity.

[~~(b)  The chief justice of the supreme court may appoint a physician licensed in this state to make any additional medical investigation the court finds necessary.~~]

SECTION 19.  Subchapter C, Chapter 834, Government Code, is amended by adding Section 834.2025 to read as follows:

Sec. 834.2025.  DETERMINATION OF DISABILITY. In determining whether a member is mentally or physically incapacitated for the further performance of regular judicial duties, the medical board designated under Section 815.204 may apply the standard prescribed by Section 814.203.

SECTION 20.  Section 835.1015(b), Government Code, is amended to read as follows:

(b)  A member who elects to make contributions under Subsection (a) shall contribute at the member contribution rate required under Section 840.102(a) multiplied by [~~six percent of~~] the member's state compensation for each payroll period in the manner provided by Sections 835.101(a) and (b).

SECTION 21.  Subchapter A, Chapter 837, Government Code, is amended by adding Section 837.004 to read as follows:

Sec. 837.004.  RESUMPTION OF MEMBERSHIP AFTER TERMINATION. (a) A retiree described by Section 837.102(a) may elect to rejoin the retirement system as a member and receive service credit in the retirement system for service performed as a judicial officer after the retiree's effective date of retirement if, before taking the oath of office, the retiree has been separated from judicial service for at least 12 full consecutive months. The retiree must provide notice of the election to the board of trustees in a manner and form prescribed by rules adopted by the board of trustees.

(b)  Notwithstanding Section 840.106, if a member whose membership in the retirement system was made by an election under Subsection (a) again retires:

(1)  the member, at the time of the member's subsequent retirement, may select a service retirement annuity as if the retiree were retiring for the first time; and

(2)  the retirement system shall recompute the annuity to include additional service credit established by the member under this section.

(c)  If a member under Subsection (b)(1) selects an optional service retirement annuity payable under Section 839.103(a)(3) or (4), the retirement system shall reduce the number of months of payments by the number of months for which the annuity was paid before the member resumed service.

(d)  The board of trustees shall adopt rules necessary to implement this section.

SECTION 22.  Section 837.102(a), Government Code, is amended to read as follows:

(a)  Except as provided by Section 837.004, a [~~A~~] retiree who resumes service as a judicial officer other than by appointment or assignment described in Section 837.101 may not rejoin or receive credit in the retirement system for the resumed service.

SECTION 23.  Section 839.102(a), Government Code, as amended by Chapters 1033 (H.B. 1114) and 1203 (H.B. 617), Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(a)  Except as provided by Subsections (b), (c), (d), and (f), the standard service retirement annuity is an amount equal to 50 percent of the state salary being paid in accordance with Section 659.012(b)(3) at the time the member retires to a judge of a court of the same classification as the last court to which the retiring member was elected or appointed.

SECTION 24.  Section 839.102(c), Government Code, is amended to read as follows:

(c)  The standard service retirement annuity of a person qualifying for retirement under Section 839.101(b) is an amount computed as a percentage of the state salary being paid in accordance with Section 659.012(b)(3) at the time the member retires to a judge of a court of the same classification as the last court to which the retiring member was elected or appointed, according to the following schedule:

|  |  |
| --- | --- |
| age at retirement |   percentage of state salary |

|  |  |
| --- | --- |
| at least 60 but less than 61 | 40   percent |
| at least 61 but less than 62 | 41.7 percent |
| at least 62 but less than 63 | 43.6 percent |
| at least 63 but less than 64 | 45.6 percent |
| at least 64 but less than 65 |  47.7 percent. |

SECTION 25.  Section 839.201(b), Government Code, is amended to read as follows:

(b)  A member otherwise eligible may not receive a disability retirement annuity unless the [~~chief justice of the supreme court and the~~] medical board finds [~~certify~~] that the member is mentally or physically incapacitated for the further performance of regular judicial duties and submits a certification of disability to the executive director.

SECTION 26.  Section 839.202, Government Code, is amended to read as follows:

Sec. 839.202.  APPLICATION FOR DISABILITY; DISABILITY REPORTS. (a) A member may apply for a disability retirement annuity by:

(1)  filing an application for retirement with the board of trustees; or

(2)  having an application filed with the board by the member's spouse, employer, or legal representative.

(a-1)  A member who applies for retirement because of physical incapacity shall file with the board of trustees [~~retirement system and the chief justice of the supreme court~~] written reports by two physicians licensed to practice medicine in this state, fully reporting the claimed physical incapacity.

(b)  The board of trustees [~~retirement system~~] shall refer an application for disability retirement to the medical board for its recommendations. The medical board may require an applicant to submit any additional information it considers necessary to enable it to make its recommendations.

[~~(c)  The chief justice of the supreme court may direct the retirement system to employ a physician under Section 840.203 or may direct the medical board to require additional information under Subsection (b).~~]

SECTION 27.  Subchapter C, Chapter 839, Government Code, is amended by adding Section 839.2025 to read as follows:

Sec. 839.2025.  DETERMINATION OF DISABILITY. In determining whether a member is mentally or physically incapacitated for the further performance of regular judicial duties, the medical board may apply the standard prescribed by Section 814.203.

SECTION 28.  Section 840.102(a), Government Code, is amended to read as follows:

(a)  Except as provided by Subsections (g) and (h), each payroll period, a judicial officer who is a member of the retirement system is required to contribute 9.5[~~:~~

[~~(1)  6.6~~] percent of the officer's state compensation for service rendered after [~~August 31, 2013, and before~~] September 1, 2019 [~~2014;~~

[~~(2)  6.9 percent of the officer's state compensation for service rendered after August 31, 2014, and before September 1, 2015;~~

[~~(3)  7.2 percent of the officer's state compensation for service rendered after August 31, 2015, and before September 1, 2016;~~

[~~(4)  7.5 percent of the officer's state compensation for service rendered after August 31, 2016; or~~

[~~(5)  for service rendered on or after September 1, 2017, the lesser of:~~

[~~(A)  7.5 percent of the officer's state compensation; or~~

[~~(B)  a percentage of the officer's state compensation equal to 7.5 percent reduced by one-tenth of one percent for each one-tenth of one percent that the state contribution rate for the fiscal year to which the service relates is less than the state contribution rate established for the 2015 fiscal year~~].

SECTION 29.  Sections 840.202(c) and 840.203, Government Code, are repealed.

SECTION 30.  Sections 834.201(b) and 834.202, Government Code, as amended by this Act, and Section 834.2025, Government Code, as added by this Act, apply only to an application for disability retirement filed on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and that law is continued in effect for that purpose.

SECTION 31.  Section 837.004, Government Code, as added by this Act, applies to a retiree of the Judicial Retirement System of Texas Plan Two regardless of whether the person retired from judicial service before, on, or after the effective date of this Act.

SECTION 32.  Section 839.102, Government Code, as amended by this Act, applies only to a member of the Judicial Retirement System of Texas Plan Two who retires on or after the effective date of this Act. A member who retires before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 33.  Sections 839.201(b) and 839.202, Government Code, as amended by this Act, and Section 839.2025, Government Code, as added by this Act, apply only to an application for disability retirement filed on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and that law is continued in effect for that purpose.

SECTION 34.  This Act takes effect September 1, 2019.