

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**March 18, 2019**

**TO:** Honorable Jeff Leach, Chair, House Committee on Judiciary & Civil Jurisprudence

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2384** by Leach (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.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2384, As Introduced: a negative impact of (\$46,998,295) through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2020	(\$23,902,268)
2021	(\$23,096,027)
2022	(\$23,096,027)
2023	(\$22,896,027)
2024	(\$22,896,027)

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from General Revenue Fund</b>	<b>Probable Savings/(Cost) from Federal Funds</b>
	<b>1</b>	<b>555</b>
2020	(\$23,902,268)	(\$354,550)
2021	(\$23,096,027)	(\$354,550)
2022	(\$23,096,027)	(\$354,550)
2023	(\$22,896,027)	(\$354,550)
2024	(\$22,896,027)	(\$354,550)

**Fiscal Analysis**

The bill would amend the Family and Government Codes to modify the compensation structure of state trial and appellate judges and make adjustments to their retirement systems.

The bill would increase the statutory floor for the state salary for a district court judge from \$125,000 to \$140,000 and would clarify that this amount would be the state base salary for this position in addition to continuing the current authority for the salary to be set at an amount established in the General Appropriations Act (\$140,000 for the 2018-19 biennium) every two years. The bill would also make conforming changes to maintain statutory linkages of those judicial and prosecutor positions that are linked to a district judge's state base salary.

The bill would modify the state compensation of district and appellate court judges through establishment of a tiered, tenure-based structure with the state salary of a district or appellate court judge equal to 110 percent of a district judge's state base salary for four or more years of service, 120 percent of a district judge's state base salary for between eight and twelve years of service, and 130 percent of a district judge's state base salary for more than 12 years of service.

The bill would expand eligibility for the constitutional county court judge salary supplement from only those positions where at least 40 percent of the functions that the judge performs are judicial functions to all constitutional county court judges. The bill would set the salary of associate judges employed by the Office of Court Administration (OCA) that hear and dispose of cases in child protection and child support courts to 90 percent of a district judge's salary, or \$126,000. The bill would modify the state compensation paid to a presiding judge of an administrative judicial region to be a percentage of the state base salary for a district court judge.

The bill would change the calculation of retirement annuities for retirees of Judicial Retirement System Plan One (JRS-I) and for members of Judicial Retirement System Plan Two (JRS-II) who retire on after the effective date as well as increase JRS-I and JRS-II member contribution rates from 7.5 to 9.5 percent. The bill would also allow retired judges to receive service credit in JRS-II if they elect to return to the bench and would adjust their annuities accordingly.

The bill would require the ERS medical board, instead of the Chief Justice of the Supreme Court, to certify disability determinations for the purposes of disability retirement.

The bill would take effect September 1, 2019.

## **Methodology**

State judicial compensation is traditionally met through a mix of General Revenue and Judicial Fund No. 573 funding, however for the past several fiscal years Judicial Fund No. 573 revenues have not been sufficient to meet all judicial salary obligations. Due to this, General Revenue funding has been used to meet the remaining obligations. Therefore, this estimate assumes General Revenue funding would be needed to cover the full state obligations for these provisions.

Under the provisions of the bill, the salary for an associate judge employed by OCA for operation of child protection and child support courts would be equal to 90 percent of the state base salary paid to a district court judge, or \$126,000. OCA anticipates operating 25 child protection courts and 43 child support courts for the 2020-21 biennium. Associate judge salaries for these courts range from \$110,495 to \$111,930. Based on OCA's analysis, the cost to increase the salaries of these associate judges to levels provided in the bill would be \$1,066,604 each fiscal year in General Revenue. These costs would be partially offset by \$354,550 in federal funds to support the administration of Title IV-D child support cases that is provided to the Office of Court Administration through an Interagency Contract with the Office of Attorney General for a net annual increase of \$712,054 in All Funds.

Under the provisions of the bill, all 254 constitutional county judges are eligible to receive the constitutional county judge supplement which is equal to 18 percent of a district judge's state base salary, or \$25,200. According to the Judiciary Section, Comptroller of Public Accounts, 215 constitutional county judges received the supplement as of February, 2019, therefore, expanding this supplement to include an additional 39 judges would cost \$982,800 each year (39 judges x \$25,200).

The state salary for a district court judge as established in the General Appropriations Act for the 2018-19 biennium is \$140,000. The state salary for a Justice of the 14 Courts of Appeals (14 Courts) is 110 percent of a district judge's state salary, or \$154,000, with a Chief Justice of the 14 Courts receiving an additional \$2,500 for a state salary of \$156,500. The state salary of a Judge or Justice of the Supreme Court of Texas (Supreme Court) or the Court of Criminal Appeals (CCA) is 120 percent of a district judge's state salary, or \$168,000, with the Chief Justice of the Supreme Court and the Presiding Judge of the CCA receiving an additional \$2,500 for a state salary of \$170,500.

Under the provisions of the bill, the tenure-based compensation structure would adjust the state salaries for state judge positions as established in the General Appropriations Act to certain percentages of that state salary depending on the judge's years of service: 110 percent of the state salary for between 4-8 years of service (Tier 1), 120 percent of the state salary for between 8-12 years of service (Tier 2), and 130 percent of the state salary for more than 12 years of service (Tier 3). This structure would result in state salary amounts for each state judge position depending on years of service within each tier as shown in the table below:

Type of Judge	Court	State Base Salary	Tier 1	Tier 2	Tier 3
Chief Justice Presiding Judge	Supreme Court CCA	\$170,500	\$187,550	\$204,600	\$221,650
Justice Judge	Supreme Court CCA	\$168,000	\$184,800	\$201,600	\$218,400
Chief Justice	14 Courts	\$156,500	\$172,150	\$187,800	\$203,450
Justice	14 Courts	\$154,000	\$169,400	\$184,800	\$200,200
District Judge	District Court	\$140,000	\$154,000	\$168,000	\$182,000

Under the provisions of the bill, the tenure-based compensation structure would require an additional \$603,608 in General Revenue each year (\$1,207,216 for the 2020-21 biennium) for the salaries of the Chief Justice and Justices of the Supreme Court of Texas and the Presiding Judge and Judges of the Court of Criminal Appeals; an additional \$1,739,834 in General Revenue in fiscal year 2020 and \$1,752,246 in fiscal year 2021 (\$3,492,080 for the 2020-21 biennium) for the salaries of the 14 chief justices and 66 justices of the 14 Courts of Appeals Districts; and an additional \$9,463,972 in General Revenue in fiscal year 2020 and \$9,845,318 in fiscal year 2021 (\$19,309,290 for the 2020-21 biennium) for salaries of the district judges. This estimate assumes current years of service and no turnover in the 2020-21 biennium, and factors in the 3.1 percent state judge and justice longevity pay allowed under Government Code Section 659.0445.

Under provisions of the bill, retirement annuities would be based on 130 percent of the state base salary for JRS-I retirees and JRS-II retirees who retire on or after the bill's effective date. The JRS-I system is not pre-funded and the increased annuities to members are a direct cost to the state and included in the tables above (\$10.5 million for 2020-21). The JRS-II system is pre-funded and the costs in the tables above (\$9.1 million for 2020-21) include both the immediate contribution cost that results from increased salaries, as well as the longer-term cost of increasing liabilities and actuarially sound contribution rates. The provisions of the bill also clarify that the annuity

calculation for elected class service is based on the state base salary of a district court judge, which would remain at \$140,000, therefore having no effect on the Employees Retirement System. The agency anticipates that any additional work related to disability determinations could be reasonably be absorbed with current resources.

Government Code Sec. 840.106 requires that legislation providing additional benefits that increase the actuarial cost of JRS-II only be implemented if the state contribution to the system is at least equal to the normal cost plus an amount necessary to amortize the unfunded liabilities of the new benefits structure over a 31-year period. Because the bill would increase benefits for the JRS-II fund, actuaries estimate that the state contribution would need to increase to 16.07 percent of payroll for JRS-II. The additional costs to comply with statute are estimated to average approximately \$380,000 in All Funds annually in fiscal years 2020 through 2024. These amounts are not included in the tables above.

### **Local Government Impact**

According to the Office of Court Administration, The salary for the regional presiding judges is apportioned to the counties that comprise the region. Under current law, the judges of the 1st, 5th, 8th, and 10th administrative judicial regions who are active judges make \$33,000; the judges of the 2nd, 3rd, 4th, and 11th administrative judicial regions make \$50,000; the judges of the 6th and 7th administrative judicial regions make \$40,000; and the judge of the 9th administrative judicial region makes \$35,000.

Under the bill, the active judges would make \$42,000 (30% of \$140,000), an increase per judge of \$9,000, or a total of \$36,000 (\$72,000 for the biennium). The judges of the 2nd, 3rd, 4th, and 11th AJRs would make \$63,000 (45% of \$140,000), an increase of \$13,000 per judge, or \$52,000 (\$104,000 for the biennium). The judges of the 6th and 7th AJRs would make \$49,000 (35% of \$140,000), an increase of \$9,000 per judge, or \$18,000 (\$36,000 for the biennium); and the judge of the 9th AJR would make \$42,000 (30% of \$140,000), an increase of \$7,000 (\$14,000 for the biennium). The total statewide biennial impact to counties would be \$226,000.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 327 Employees Retirement System

**LBB Staff:** WP, SLE, MW, GDz, SD, KFB, AF, DA