

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 17, 2021

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1876 by Schofield (Relating to the annual base salaries of state judges and justices.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1876, As Introduced : an impact of \$0 through the biennium ending August 31, 2023.

However, there will be an impact of (\$12,452,498) beginning in the 2024-25 biennium.

The annual state base salary for a judge or justice of the two highest appellate courts may be reduced when the estimated revenue available for judicial salaries in a state fiscal biennium is determined by the legislature to be insufficient to satisfy the total salary obligations for all state justices and judges in the general appropriations bill as required by the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2022	\$0
2023	\$0
2024	(\$6,125,283)
2025	(\$6,327,215)
2026	(\$6,327,218)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from General Revenue Fund 1</i>	<i>Probable Savings/(Cost) from Federal Funds 555</i>
2022	\$0	\$0
2023	\$0	\$0
2024	(\$6,125,283)	(\$71,502)
2025	(\$6,327,215)	(\$71,502)
2026	(\$6,327,218)	(\$71,502)

Fiscal Analysis

The bill would amend the Government Code to establish a formula for calculating the state salary of a state judge and would set annual limits on state salary increases resulting from this formula. The bill would set judicial salaries for district judges and appellate court justices as a percentage of the salary of a Justice of the

Supreme Court of Texas or Judge of the Court of Criminal Appeals, other than the Chief Justice or Presiding Judge. A district judge's state salary would be set at 82.5 percent of a judge or justice of the two highest appellate courts and a Court of Appeal's Justice at 91.0 percent.

The bill would amend the Government Code to establish the annual base salary for a judge or justice of the two highest appellate courts and would require the Legislative Budget Board to calculate the annual base salary for this position and all other state judicial positions no later than December 31st of each even-numbered calendar year. The bill would require this salary calculation to be a summation of the following components:

1. The state base salary paid annually to a judge or justice of the two highest appellate courts in the preceding state fiscal biennium; and
2. The state base salary paid annually to a judge or justice of the two highest appellate courts in the preceding state fiscal biennium multiplied by the average percentage change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics during the two years preceding the year in which the state fiscal biennium begins.

The bill would require the Legislative Budget Board to make the initial salary calculations as required by the bill not later than December 31, 2022 and would require the amounts calculated for these salaries to be the listed state salaries for these judicial positions in the introduced general appropriations bills beginning with the general appropriations bills for the 2024–25 biennium.

The bill would also repeal Government Code, Chapter 35, which establishes the Judicial Compensation Commission on September 1, 2021.

The bill would take effect on September 1, 2021.

Methodology

Based on analysis by the Office of Court Administration, under the provisions of the bill the annual base salary of a justice of the supreme court other than the chief Justice, currently set at \$168,000, would be reestablished by multiplying the changes in the Consumer Price Index for All Urban Consumers (CPI-U) during the presiding two state fiscal years for 2019 and 2020, or 3.0 percent. ($\$168,000 \times 1.03 = \$173,040$).

The annual base salary of a justice of a court of appeals other than the chief justice will be set at 91.0 percent of the state base salary of a justice of the supreme court other than the chief justice, or \$157,466 ($\$173,040 \times .91 = \$157,466$)

The annual base salary of a district judge would be set as 82.5 percent of the state base salary of a justice of the supreme court other than the chief justice, or \$142,758 ($\$173,040 \times .825 = \$142,758$)

The CPI-U was calculated by taking the changes in the Consumer Price Index for All Urban Consumers for 2019 and 2020 and adding them together. Both years totaled 3.0 percent.

All judicial salaries and supplements that are statutory tied to the annual base salary of a district judge would be adjusted accordingly based on the newly established annual base salary (\$142,758). Judicial salaries and supplements that are statutorily linked to the annual base salary of a district judge include Associate Judges for the child support courts and child protection courts, who receive 90.0 percent of the annual base salary of a district judge; Prosecutors, who receive 100.0 percent of the annual base salary of a district judge; Regional Presiding Judges who receive an apportionment based on a formula based on the number of counties in the region and the annual base salary of a district judge; Constitutional County Judge supplements; Statutory County Court supplements for which the state reimburse 60.0 percent of the annual state base salary of a district judge for each statutory county court judge; and the State Prosecuting Attorney.

The provisions of the bill would take effect beginning September 1, 2023, which would have no fiscal impact in the 2022-23 biennium. The fiscal impact for the 2024-25 biennium would total \$12,452,498 and would include \$12,595,502 in General Revenue offset by \$143,004 in federal reimbursements for salaries of

the child support courts.

The Pension Review Board actuarial review states that since the bill would not change the relationship of judicial salaries and codifies current assumptions, there would be no impact on the ERS Retirement Program or Judicial Retirement System - Plan 2.

This analysis assumes no turnover at the end of the 2022-23 biennium.

Local Government Impact

The bill would have a negative fiscal impact to counties due to increases in local salary supplements paid to state positions and increases in county-level judge and prosecutor positions with local compensation that is statutorily linked to a district judge's salary. However, that decrease is not anticipated to be significant.

Source Agencies: 212 Office of Court Admin, 304 Comptroller of Public Accounts, 327 Employees Retirement System

LBB Staff: JMc, SLE, MW, GDz, SD, DA, JPo