

BILL ANALYSIS

C.S.H.B. 103
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

State law allows for the appointment of a retired judge as a visiting judge of a constitutional county court under specified circumstances. However, a recent opinion by the attorney general indicates that a former constitutional county judge would not meet the applicable statutory definition of "retired judge" and would therefore not be eligible for appointment as a visiting judge unless they have other experience that qualifies them as a retired judge. C.S.H.B. 103 seeks to make a former constitutional county judge eligible to be appointed as a visiting judge of a constitutional county court in certain counties.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 103 amends the Government Code to authorize a county judge serving in a county in which there is no statutory county court or statutory probate court and in which all duties of the constitutional county court devolve on the judge to appoint a former constitutional county judge as a visiting judge in the following circumstances:

- when the county judge is absent from the county or absent because of physical incapacity; or
- if the county judge finds that the dockets of the court reflect a case load that the judge considers to be in excess of that which can be disposed of properly in a manner consistent with the efficient administration of justice.

The bill defines a "former constitutional county judge" as a person who served as a judge for at least 96 months in a constitutional county court or who served as a judge for at least 48 months in a constitutional county court and is a licensed attorney in Texas.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 103 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Both the introduced and the substitute make a former constitutional county judge who served as a judge for at least 96 months in a constitutional county court or who served at least 48 months in a constitutional county court and is a licensed attorney in Texas eligible to serve as a visiting judge in certain circumstances, but their methods of providing for such eligibility differ. The introduced included a person with such qualifications in the definition of "retired judge" under the Court Administration Act and made that definition applicable to statutory provisions authorizing the appointment of a retired judge as a visiting judge of a constitutional county court in certain counties. The substitute does not revise the existing definition of "retired judge" and instead authorizes the appointment of a former constitutional county judge as a visiting judge of a constitutional county court in certain counties in the same circumstances a retired judge may be appointed as such.

The substitute does not include the provision from the introduced that authorized a former constitutional county judge with the applicable qualifications to be named on a list of retired and former judges subject to assignment in an administrative judicial region.