

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 29, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB438 by Schofield (Relating to the annual base salary from the state of a district judge.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB438, As Introduced : an impact of \$0 through the biennium ending August 31, 2025.

However, there will be an impact of (\$21,525,368) to GR beginning in FY 2026.

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:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2024	\$0
2025	\$0
2026	(\$21,525,368)
2027	(\$21,525,368)
2028	(\$21,525,368)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from General Revenue Fund 1	Probable Savings/(Cost) from Federal Funds 555
2024	\$0	\$0
2025	\$0	\$0
2026	(\$21,525,368)	(\$431,102)
2027	(\$21,525,368)	(\$431,102)
2028	(\$21,525,368)	(\$431,102)

Fiscal Analysis

The bill would amend the Government Code related to judicial salaries. Under current law, the Legislature sets the state base salary of a district judge in the General Appropriations Act at an amount that is at or above the minimum amount set in statute. Currently, that amount is \$140,000. Under the tiered, tenure-based compensation structure established in Government Code Chapter 659, the salaries of the justices of the courts of appeals and the justices and judges of the Supreme Court and Court of Criminal Appeals are set by statute at

110.0 percent and 120.0 percent of that amount, respectively.

The bill would replace the current salary structure with one in which the Legislative Budget Board would calculate the base salary for a district judge by adding their current base salary to the amount equal to their current base salary multiplied by the percentage change during the preceding two fiscal years in the Consumer Price Index for all Urban Consumers published by the U.S. Bureau of Labor Statistics or its successor index. The salaries of the intermediate appellate court justices would be 110.0 percent of the new calculated base salary of a district judge. The salaries of the Supreme Court justices or Court of Criminal Appeals judges would be 120.0 percent of the new calculated base salary of a district judge. The chiefs/presiding judge of the appellate courts would still be entitled to the additional \$2,500 they are currently entitled to for their additional services.

The bill would not go into effect until September 1, 2025.

Methodology

Costs reflected in the table above are based on analysis provided by the Office of Court Administration (OCA) and judicial salaries in Article IV of the General Appropriations Act.

The CPI was calculated by taking the changes in the Consumer Price Index for 2021 and 2022 through October of 2022 and adding them together. Both years totaled 12.96%.

Judicial Salaries: OCA has data reflecting the state service effective date judicial branch employees, which permits OCA to determine the salary for every judge/justice in the state under this bill. Assuming no turnover between January 1 and the end of the FY2026-2027 biennium, the biennial cost of salaries, including increased longevity payments for those entitled to it, is \$25,036,085 (including the 1% payroll health contribution and 0.5% agency retirement contribution).

Associate Judge Salary Increases: OCA currently employs 73 associate judges for the child support and child protection courts. Increasing the salary for these judges to 90 percent of a district judge's salary would cost \$2,419,884 (including the 1% payroll health contribution and 0.5% agency retirement contribution) beginning in the 2026-2027 biennium. However, the federal government reimburses 66% of all eligible expenses for the IV-D (child support) program. Judicial salaries are an eligible expense. Thus, the increase would be offset by \$862,203 over the 2026-2027 biennium.

Regional Presiding Judge Salary Increases: The salary for the regional presiding judges is apportioned to the counties that comprise the region. Under current law, the judges of the 1st, 2nd, 3rd, 5th, 9th, and 10th AJRs who are active judges make \$42,000; the judges of the 4th, 8th and 11th AJRs make \$63,000; the judges of the 6th and 7th AJRs make \$49,000. Under the bill, the active judges would make \$47,443 (30% of \$158,144), an increase per judge of \$5,443, or a total of \$27,216 (\$54,432 for the biennium). The judges of the 4th, 8th, and 11th AJRs would make \$71,164.80 (45% of \$158,144), an increase of \$8,164.80 per judge, or \$32,659.20 (\$65,318.40 for the biennium). The judges of the 6th and 7th AJRs would make \$55,350.40 (35% of \$158,144), an increase of \$6,350.40 per judge, or \$12,700.80 (\$25,401.60 for the biennium). The total statewide biennial impact to counties would be \$145,152.

Prosecutor Salaries: OCA has the service credit for prosecutors as of June 2022, and is able to calculate the biennial cost of salaries (including the 1% payroll health contribution and 0.5% agency retirement contribution). The increased biennial cost to the state would be \$6,928,612.

County Attorney Supplements: Each county that has a county prosecutor is entitled to receive state supplemental salary compensation and are based on a formula and the number of counties served. A county prosecutor is entitled to no less than 1/6th of the base salary. The increased biennial cost for the county attorney supplements would be \$1,569,642.

Constitutional County Judge Supplements: As of 2022, 215 county judges were receiving the county judge supplement. Under current law, the total supplement is \$25,200. Under the bill, that supplement would be \$28,181. Therefore, the biennial cost to the state would be \$1,404,346.

Statutory County Court Judge Reimbursement: The state reimburses counties for 60% of the state base salary of a district judge for each statutory county court judge. The increased reimbursement due to the recalculated salary would be \$10,886 per year per judge. With 258 statutory county court judges, the increased biennial cost to the state would be \$5,617,176.

Statutory Probate Court Judge Reimbursement: The state reimburses counties for 60% of the state base salary of a district judge for each statutory probate court judge. The increased reimbursement due to the recalculated salary would be \$10,886 per year per judge. With 19 statutory probate court judges, the increased biennial cost to the state would be \$413,668.

1st Multicounty Court at Law Judge: The increased reimbursement due to the recalculated salary would be \$18,144 per year. The increased biennial cost to the state would be \$36,288.

Visiting Judges: Visiting judges are paid a daily rate that is based on the District Judge's state based salary. The daily rate would increase from \$622 per day to \$703 per day for a biennial increase of \$986,520.

The salary of the state prosecuting attorney (including the 1% payroll health contribution and 0.5% agency retirement contribution) would increase by \$35,773 per year, or \$72,619, per biennium. The state prosecuting attorney will be at the highest salary tier by September 1, 2025.

Local Government Impact

The bill may result in an increase in the cost to counties for fiscal year 2026 and subsequent years for the salaries of the regional presiding judges if the current assessments by the administrative judicial regions are insufficient to cover the cost of the increase. While OCA is unable to determine the cost for each county, any anticipated increases in costs are not anticipated to be significant. In addition, the salary of county court at law judges and statutory probate judges will increase under the bill. However, the state's salary reimbursement for statutory county court judges will also increase and will cover some of the increased cost. Therefore, the cost to local government is not anticipated to be significant.

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

LBB Staff: JMc, KDw, MW, JPa, SD, BH