

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**May 17, 2023**

**TO:** Honorable Joan Huffman, Chair, Senate Committee on Finance

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB2779** by Leach (Relating to the compensation and retirement benefits of certain elected state officials.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds for HB2779, As Engrossed :** a negative impact of (\$96,688,533) through the biennium ending August 31, 2025.

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>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2024	(\$45,230,966)
2025	(\$51,457,567)
2026	(\$51,354,116)
2027	(\$51,231,880)
2028	(\$51,107,680)

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

<i>Fiscal Year</i>	<i>Probable (Cost) from General Revenue Fund 1</i>
2024	(\$45,230,966)
2025	(\$51,457,567)
2026	(\$51,354,116)
2027	(\$51,231,880)
2028	(\$51,107,680)

**Fiscal Analysis**

The bill would amend the Government Code to increase salaries for district court judges, court of appeals justices, supreme court justices, and court of criminal appeals justices by increasing the annual base salary of a district court judge from \$140,000 to \$172,494. According to the provisions of the bill, the base salary would increase to \$155,400 in fiscal year 2024 and \$172,494 in fiscal year 2025. The bill would also increase a county judge salary equal to 18 percent of the annual salary paid to a district judge.

The bill would clarify who is ineligible for retirement benefits, including those convicted of certain felonies or persons who have been expelled by the legislature under Section 11, Art III. The bill would also allow the

reinstatement of benefits if a felony or expulsion described by this chapter were overturned on appeal.

The bill would also amend the Government Code to retain the salary at which the elected class membership annuity (except district and criminal attorneys) is based at the current state salary of a district court judge of \$140,000 and any additional increases determined by the Texas Ethics Commission to reflect inflation or any other relevant factors. The annuity would no longer be adjusted with future increases in the state salary of a district court judge. The annuities for certain district and criminal attorneys would be based on the salary of a district judge who has the same number of years of contributing service credit and would no longer be adjusted with future increases in the state salary of a district court judge.

## **Methodology**

**Judicial Salaries:** OCA has data reflecting the length of state service that a judge/justice has, 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 FY2022-2023 biennium, the biennial cost of salaries is \$33,658,772 (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 \$3,193,836 (including the 1% payroll health contribution and 0.5% agency retirement contribution) beginning in the 2024-2025 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 \$1,155,031 over the 2024-2025 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, in the first year, the active judges would make \$46,620 (30% of \$155,400), an increase per judge of \$4,620, or a total of \$27,720 (\$55,440 for the biennium). The judges of the 4th, 8th, and 11th AJRs would make \$69,930 (45% of \$155,400), an increase of \$6,930 per judge, or \$20,790 (\$41,580 for the biennium). The judges of the 6th and 7th AJRs would make \$54,390 (35% of \$155,400), an increase of \$5,390 per judge, or \$10,780 (\$21,560 for the biennium). In the second year, the active judges would make \$51,748 (30% of \$172,494), an increase per judge of \$9,748, or a total of \$58,489 (\$116,978 for the biennium). The judges of the 4th, 8th, and 11th AJRs would make \$77,622 (45% of \$172,494), an increase of \$14,622 per judge, or \$43,867 (\$87,734 for the biennium). The judges of the 6th and 7th AJRs would make \$60,373 (35% of \$172,494), an increase of \$11,373 per judge, or \$22,746 (\$45,492 for the biennium). The total statewide biennial impact to counties would be \$368,784.

**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 \$9,150,799.

**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 \$2,071,588.

**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 \$9,240 in the first year and \$19,496 in the second year per judge. With 258 statutory county court judges, the increased biennial cost to the state would be \$7,413,888.

**Statutory Probate 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 \$9,240 in the first year and \$19,496 in the second year per judge. With 19 statutory county court judges, the increased biennial cost to the state would be \$545,984.

**1st Multicounty Court at Law Judge:** The increased reimbursement due to the recalculated salary would be

\$15,400 in the first year and \$32,494 in the second year for an increased biennial cost to the state would of \$47,894.

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 \$691 per day for a biennial increase of \$1,301,171.

The salary of the state prosecuting attorney, including the 1% payroll health contribution and .5% agency retirement contribution) would increase by \$32,480 in the first year and \$52,993 in the second year, or \$86,755, per biennium. The state prosecuting attorney will be at the highest salary tier by September 1, 2025.

The cost of the increased supplement to be paid to certain constitutional county court judges who perform judicial functions is estimated to be \$2,224,197. For purposes of this calculation, OCA assumed all constitutional county court judges who are currently receiving the supplement have more than 8 years of service.

According to the Employees Retirement System (ERS), the increase in judicial salaries impacts the benefits provided by Judicial Retirement System Plan 2 (JRS 2), as well as the unfunded liability of the JRS 2 plan. The JRS 2 plan is currently actuarially unsound. According to information previously provided by ERS, an appropriation of approximately \$111.5 million would be required to make the fund sound as of August 31, 2024. This analysis assumes these funds would be appropriated in House Bill 1. The increased unfunded liability to the JRS 2 plan resulting from the provisions of the bill is \$19.8 million, and the additional contributions needed for the plan are \$1.9 million in fiscal year 2024 and \$2.1 million in fiscal year 2025 and subsequent years.

According to ERS, the additional cost to Judicial Retirement System Plan 1 (JRS 1), from the provisions of the bill is \$1.7 million in fiscal year 2024, \$3.3 million in fiscal year 2025, \$3.2 million in fiscal year 2026, \$3.1 million in fiscal year 2027, and \$3.0 million in fiscal year 2028. The costs on potential increases determined by the Texas Ethics Commission for elected class annuities cannot be determined, but they would result in some actuarial cost to the ERS plan.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 327 Employees Retirement System, 356 Texas Ethics Commission

**LBB Staff:** JMc, KK, MW, JPa, JPO