

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 22, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3452 by Jetton (Relating to the discipline of judges by the State Commission on Judicial Conduct and the legislature.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3452, As Passed 2nd House : a negative impact of (\$494,948) 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	(\$247,474)
2025	(\$247,474)
2026	(\$247,474)
2027	(\$247,474)
2028	(\$247,474)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from General Revenue Fund 1</i>	<i>Change in Number of State Employees from FY 2023</i>
2024	(\$247,474)	2.0
2025	(\$247,474)	2.0
2026	(\$247,474)	2.0
2027	(\$247,474)	2.0
2028	(\$247,474)	2.0

Fiscal Analysis

The bill would amend the Government Code to shorten the timeframes for investigating and disposing of complaints filed with the State Commission on Judicial Conduct (SCJC).

The bill would amend the Government Code to require SCJC to conduct a preliminary investigation and draft recommendations for commission action as soon as practicable after complaint has been filed.

The bill would require SCJC to provide to judges who are the subject of a complaint of the commission staff's recommendations for commission action and the judge's right to attend each commission meeting at which a

report prepared and filed not later than the 10th business day before a scheduled commission meeting includes the complaint against the judge.

The bill would require SCJC to prepare and file, not later than the 10th business day before a scheduled commission meeting, a report detailing each complaint for which a preliminary investigation has been conducted but for which the investigation report is not finalized; the results of the preliminary investigation; and the commission staff's recommendations for commission action regarding the complaint.

The bill would also require the agency, not later than the 120th day following the date of the first commission meeting at which the complaint is included in the the report filed not later than the 10th business day before a scheduled commission meeting, to finalize the investigation report.

The bill would require SCJC, within 5 days of the commission meeting at which the investigation report is finalized and a commission action is determined, to provide the judge who is subject to a complaint written notice of the action to be taken regarding the complaint and to publish notice of the action to be taken on the commission's website not more than 7 business days after the commission meeting.

If, because of extenuating circumstances, the agency is unable to finalize an investigation report and determine an action to be taken regarding the complaint before the 120th day from the date of the first commission meeting at which the complaint is included in the the report filed not later than the 10th business day before the commission meeting, the bill would provide that the agency could order an extension of not more than 240 days from the date of that first commission meeting.

The bill would also amend the Government Code to add persistent or willful violation of the rules for setting bail under Article 17.15 of the Code of Criminal Procedure to the definition of "willful or persistent conduct that is clearly inconsistent with the proper performance of a judge's duties" for the purposes of Section 1-a, Article V, Texas Constitution.

The bill would require SCJC to suspend a judge from office without pay for 60 days under certain circumstances and, if they do, to notify the governor, lieutenant governor, speaker of the House of Representatives, the presiding officers of the standing committees of each house of the legislature with applicable jurisdiction, and the comptroller.

The bill would allow the commission to suspend, or place on hold, an investigation if the person is under continued investigation by any law enforcement agency.

The bill would take effect September 1, 2023.

Methodology

Costs reflected in the table above are based on information provided by SCJC.

Based on the information provided by SCJC, this analysis assumes the agency would need additional staff to resolve complaints in the shorter times frames that would be established by the bill. Because many of the complaints the agency receives involve issues requiring substantial legal research and analysis it is assumed 2.0 additional attorney positions (2.0 FTEs) would be required to implement the bill's provisions.

Salary, benefit, and payroll contributions for these positions would total \$245,204 in fiscal year 2024; \$245,204 in fiscal year 2025; \$245,204 in fiscal year 2026; \$245,204 in fiscal year 2027; and \$245,204 in fiscal year 2028.

Other operating expenses would total \$2,270 in fiscal year 2024; \$2,270 in fiscal year 2025; \$2,270 in fiscal year 2026; \$2,270 in fiscal year 2027; and \$2,270 in fiscal year 2028.

Technology

Operating expenses above include technology impacts of \$1,325 in Fiscal Year 2024 and \$1,325 in Fiscal Year 2025, for hardware and Lexis Nexis licenses.

Local Government Impact

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

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 242 State Commission on Judicial Conduct

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