

BILL ANALYSIS

C.S.H.B. 1761

By: Leach

Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee of the need to address several issues surrounding the judiciary, including judicial compensation, judicial transparency, and the State Commission on Judicial Conduct (SCJC) complaint process. Texas continues to lag behind other states in the amount of compensation provided to its judges and justices and their staff, and Texas cannot afford to continue to lose talent due to a lack of appropriate compensation. Additionally, while judicial discretion is an important tenet of the judiciary preserving a judge's separation of powers and ensuring an equitable legal process, this discretion should work within the confines of state laws passed by duly elected members of the legislature. And finally, the SCJC is the state agency created to protect the public, promote public confidence in the integrity, independence, competence, and impartiality of the judiciary, and encourage judges to maintain high standards of conduct, but the SCJC is limited in the types of complaints that it is allowed to review and the actions it can take to address judicial misconduct.

C.S.H.B. 1761 aims to support the judiciary while also strengthening judicial accountability and transparency by increasing the state base salary for district court judges, which in turn results in higher salaries for elected prosecutors and appellate court judges, by revising the process by which the SCJC investigates and takes action on complaints of judicial misconduct, and by providing for quarterly reports regarding certain district court judges' performance of their judicial duties, among other provisions.

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 rulemaking authority is expressly granted to the Texas Supreme Court in SECTIONS 18 and 32 of this bill, the Texas Court of Criminal Appeals in SECTION 32 of this bill, and the State Commission on Judicial Conduct in SECTION 33 of this bill.

ANALYSIS

Use of Teleconferencing Technology

C.S.H.B. 1761 amends the Government Code, with respect to the location in which an appellate court uses teleconferencing technology, to replace the authorization for the Texas Supreme Court, the Texas Court of Criminal Appeals, or a court of appeals to participate in oral argument from any location through the use of teleconferencing technology with a requirement for such courts to participate in oral argument presented through teleconferencing technology from a courtroom or other facility provided to the court by the state unless exigent circumstances require otherwise. The bill requires the supreme court and the court of criminal appeals, not later

than March 1, 2026, to adopt rules necessary to implement that requirement. The bill makes a conforming change in a provision relating to the use of teleconferencing technology by an appellate court to which a case is transferred.

Procedures Related to Motions for Summary Judgement; Annual Report

C.S.H.B. 1761 requires the business court, a district court, or a statutory county court, with respect to a motion for summary judgment, to do the following:

- hear oral argument on the motion or consider the motion without oral argument not later than the 45th day after the date the response to the motion was filed; and
- file with the clerk of the court and provide to the parties a written ruling on the motion not later than the 90th day after the date the motion was argued or considered.

If a motion for summary judgment is considered by such a court without oral argument, the court must record in the docket the date the motion was considered without argument. The bill requires the clerk of the court to report the court's compliance with those deadlines to the Office of Court Administration of the Texas Judicial System (OCA) not less than once per quarter using the procedure OCA prescribes for the submission of those reports and requires OCA to prescribe those procedures as soon as practicable after the bill's effective date.

C.S.H.B. 1761 requires OCA to prepare an annual report regarding the compliance of courts and clerks with these requirements during the preceding state fiscal year. The bill requires OCA, not later than December 31 of each year, to submit the report to the governor, lieutenant governor, and speaker of the house of representatives and make the report publicly available.

C.S.H.B. 1761 prohibits modification or repeal by supreme court rule of the requirements for courts with respect to a motion for summary judgment under these bill provisions.

C.S.H.B. 1761 requires the supreme court and the court of criminal appeals, not later than March 1, 2026, to adopt rules necessary to implement these provisions. These provisions apply only to a motion for summary judgment filed on or after the bill's effective date. A motion for summary judgment filed before the bill's effective date is governed by the law in effect on the date the motion was filed, and that law is continued in effect for that purpose.

Discipline of Judges by State Commission on Judicial Conduct

Definitions

C.S.H.B. 1761, with respect to provisions relating to the State Commission on Judicial Conduct (SCJC), revises the definition of "judge" to include a justice of the peace and defines "official misconduct" by reference to its meaning under the Code of Criminal Procedure.

Conduct Inconsistent With Proper Performance of Duties

C.S.H.B. 1761 includes the following among the conduct that constitutes wilful or persistent conduct that is clearly inconsistent with the proper performance of a judge's duties for purposes of Texas Constitution provisions authorizing discipline of a judge on such grounds:

- wilful, persistent, and unjustifiable failure to meet deadlines, performance measures or standards, or clearance rate requirements set by statute, administrative rule, or binding court order;
- persistent or wilful violation of the rules established by the Code of Criminal Procedure for setting the amount of bail and any conditions of bail; and
- persistent or wilful violation of provisions relating to the use of teleconferencing technology by appellate courts.

The bill requires the SCJC to adopt rules as soon as practicable after September 1, 2025, to implement this provision. This provision of the bill applies only to an allegation of judicial misconduct received by the SCJC on or after September 1, 2025, regardless of whether the

conduct or act that is the subject of the allegation occurred or was committed before, on, or after that date.

Additional Documentation for Filed Complaints

C.S.H.B. 1761 authorizes a person who files a complaint with the SCJC to submit to the SCJC, not later than the 45th day after the date the complaint is filed, additional documentation to support the complaint and requires such additional documentation to be included in the complaint file maintained by the SCJC.

Statute of Limitations

C.S.H.B. 1761 prohibits the SCJC from investigating and requires the SCJC to dismiss a complaint filed on or after the seventh anniversary of the date the alleged misconduct occurred or the complainant knew, or with the exercise of reasonable diligence should have known, of the alleged misconduct. However, the bill authorizes the SCJC to investigate and not dismiss such a complaint if the SCJC determines good cause exists for investigating the complaint. These provisions apply only to a complaint filed with the SCJC on or after September 1, 2025.

False Complaint; Administrative Penalty

C.S.H.B. 1761 authorizes the SCJC to impose administrative sanctions against a person who knowingly files a false complaint and to impose an administrative penalty on such a person in an amount as follows:

- not more than \$500 for the first false complaint;
- not more than \$2,500 for the second false complaint; and
- not less than \$5,000 but not more than \$10,000 for each false complaint filed subsequent to the second.

The bill makes an order imposing an administrative penalty or other sanction under this provision a public record and requires the SCJC to publish notice of the penalty or other sanction on the SCJC's website.

Report and Recommendations on Filed Complaints

C.S.H.B. 1761 changes the process in current law by which the SCJC finalizes an investigation report and takes action on recommendations in that report, which is prepared by SCJC staff and filed with each member of the SCJC on complaints filed with the SCJC. Currently, this report must be filed not later than the 120th day after the date a complaint is filed and must detail the investigation of the complaint and make recommendations for SCJC action. In addition, while the SCJC under current law must determine any action to be taken not later than the 90th day following the date SCJC staff file the report with each SCJC member, extensions of time may be granted, on SCJC staff's request, to complete the report and recommendations and finalize the complaint. Current law also requires the SCJC, if such an extension of time is granted, to timely inform the legislature of such an extension of time and prohibits disclosure to the legislature of any confidential information regarding the complaint. However, the bill provides for a revised process whereby SCJC staff conduct a preliminary investigation and prepare an initial investigation report for an initial meeting of the SCJC that is followed by a second meeting at which an investigation report is finalized and an action is determined by the SCJC, unless time for finalizing the report is extended on order of the SCJC. Accordingly, the revised process provides for the following:

- as soon as practicable after a complaint is filed with the SCJC, SCJC staff must conduct a preliminary investigation of the filed complaint and draft recommendations for SCJC action;
- if, after completing a preliminary investigation, SCJC staff determine that given the content of a complaint a full investigation is necessary before the next SCJC meeting, SCJC staff may commence the full investigation but must provide to the judge written

notice that complies with requirements for notice to a judge who is the subject of a full investigation of an allegation or appearance of misconduct or disability under applicable provisions;

- not later than the 10th day before a scheduled SCJC meeting, SCJC staff must prepare and file with each SCJC member a report detailing the following:
 - each complaint for which a preliminary investigation has been conducted under the bill's provisions but for which the investigation report has not been finalized;
 - the results of the preliminary investigation of the complaint, including whether SCJC staff commenced a full investigation; and
 - SCJC staff's recommendations for SCJC action regarding the complaint, including any recommendation for further investigation or termination of the investigation and dismissal of the complaint;
- not later than the 120th day following the date of the first SCJC meeting at which a complaint is included in the initial investigation report, the SCJC must finalize the investigation report and determine any action to be taken regarding the complaint, including the following actions in current law that are retained by the bill:
 - a public sanction;
 - a private sanction;
 - a suspension;
 - an order of education;
 - an acceptance of resignation in lieu of discipline;
 - a dismissal; or
 - an initiation of formal proceedings;
- after the SCJC meeting at which an investigation report is finalized and an action is determined, the SCJC must provide to the judge who is the subject of a complaint the following notices:
 - written notice of the action to be taken regarding the complaint not more than five business days after the SCJC meeting if the SCJC determines no further action will be taken on the complaint or not more than seven business days after the SCJC meeting if the SCJC determines to take any further action on the complaint, including by pursuing further investigation; and
 - as the SCJC determines appropriate, published notice of the action to be taken by posting the notice on the SCJC's website not less than five business days after such written notice is provided;
- if, because of extenuating circumstances, the SCJC is unable to finalize an investigation report and determine the action to be taken regarding a filed complaint before the 120th day following the date of the first SCJC meeting at which a complaint is included in the report, the SCJC may order an extension of not more than 240 days from the date of the first SCJC meeting at which a complaint is included in the initial investigation report;
- if a complaint against a judge alleges multiple instances of misconduct or the SCJC determines multiple complaints have been submitted against the judge, the SCJC may order an additional extension of not more than 90 days after the date the original extension expires;
- each member of the SCJC must certify an investigation report finalized in accordance with these provisions by signing the report, which may be signed electronically;
- if the SCJC orders an extension of time or an additional extension of time to complete the report, the SCJC must timely inform the following individuals of the extension:
 - the governor;
 - the lieutenant governor;
 - the speaker of the house of representatives;
 - the presiding officer of each legislative standing committee with primary jurisdiction over the judiciary;
 - the chief justice of the supreme court;
 - OCA; and
 - the presiding judge of the administrative judicial region in which is located the court the judge who is the subject of the complaint serves; and

- the SCJC may not disclose any confidential information regarding the complaint to the same individuals whom the SCJC must timely inform of an extension.

Private Sanctions

C.S.H.B. 1761, effective January 1, 2026, removes references to the SCJC's authority to act on a complaint by issuing a private admonition, warning, or reprimand, contingent on voter approval of the constitutional amendment proposed by the 89th Legislature, Regular Session, 2025, regarding the membership of SCJC and the authority of the SCJC and the supreme court to more effectively sanction judges and justices for judicial misconduct. If that amendment is not approved by the voters, these changes have no effect. If they take effect, these changes apply only to a sanction issued by the SCJC on or after January 1, 2026.

Notification of Law Enforcement Agency Investigation

C.S.H.B. 1761 replaces the provision giving the SCJC, once notified by any law enforcement agency investigating an action for which a complaint has been filed with the SCJC, the discretion to continue an investigation that would not jeopardize a law enforcement investigation with a provision that instead requires the SCJC, on such notice, to continue such an investigation regarding the conduct subject to the complaint and that authorizes the SCJC to issue a censure or sanction based on the complaint.

Investigations of Allegations or Appearance of Misconduct or Disability

C.S.H.B. 1761 revises the procedures in current law relating to preliminary investigations conducted by the SCJC regarding the circumstances surrounding an allegation or appearance of misconduct or disability of a judge. Currently, if the SCJC determines after conducting a preliminary investigation that such an allegation or appearance of misconduct or disability is unfounded or frivolous, the SCJC must terminate the investigation. The bill replaces that requirement with a requirement that SCJC staff recommend the SCJC terminate the preliminary investigation and dismiss the complaint if, after conducting a preliminary investigation, SCJC staff determine the allegation or appearance is unfounded or frivolous. However, the bill also authorizes SCJC staff to terminate a preliminary investigation and dismiss a complaint without action by the SCJC if, after conducting a preliminary investigation, SCJC staff determine administrative deficiencies in the complaint preclude further investigation. The bill requires the SCJC to notify the judge in writing of the dismissal not more than five business days after the dismissal date if the complaint is dismissed under either of the grounds described under these provisions.

With respect to the requirements in current law relating to a full investigation conducted by the SCJC regarding the circumstances surrounding an allegation or appearance of misconduct or disability of a judge, C.S.H.B. 1761 makes the following changes:

- sets a deadline by which written notice of certain information must be given to the judge of not more than seven business days after SCJC staff commence a full investigation; and
- includes among the information that must be provided in the notice the judge's right to attend each SCJC meeting at which the complaint is included in the initial investigation report filed with SCJC members under the bill's provisions.

Physical or Mental Examination of Judges

C.S.H.B. 1761 revises the process by which the SCJC may order a judge to submit to a physical or mental examination by a qualified physician or psychologist. Under current law, in any investigation or proceeding that involves the physical or mental incapacity of a judge, the SCJC may order the judge to submit to such an examination but must give the judge written notice of the examination not later than 10 days before the date of the examination. The bill includes

substance abuse by a judge among the grounds on which the SCJC may order the judge to submit to an examination, in addition to physical or mental incapacity as under current law, and provides for the following with respect to the process by which the SCJC may order a judge to submit to an examination:

- for each filed complaint alleging substance abuse by, or the physical or mental incapacity of, a judge and questioning the judge's ability to perform their official duties, the SCJC must conduct a preliminary investigation of the complaint and present the results of the preliminary investigation to each member of the SCJC not later than the 30th day after the date the complaint is filed;
- if, after reviewing the results of the preliminary investigation, the SCJC determines the judge's alleged substance abuse or physical or mental incapacity brings into question the judge's ability to perform their official duties, the SCJC must provide the judge written notice of the complaint and subpoena the judge to appear before the SCJC at the SCJC's next regularly scheduled meeting;
- if, following the judge's appearance before the SCJC at the next regularly scheduled meeting, the SCJC decides to require the judge to submit to the examination, the SCJC must take the following actions:
 - suspend the judge from office with pay for a period not to exceed 90 days;
 - provide the judge written notice of the suspension;
 - order the judge to submit to the examination; and
 - provide the judge written notice of the examination not later than 10 days before the date of the examination;
- if, after receiving the written report of an examining physician or the physician's deposition testimony concerning the report, the SCJC determines the judge is unable to perform the judge's official duties because of substance abuse or physical or mental incapacity, the SCJC must take the following actions:
 - recommend to the supreme court suspension of the judge from office; or
 - enter into an indefinite voluntary agreement with the judge for suspension of the judge with pay until the SCJC determines the judge is physically and mentally competent to resume the judge's official duties; and
- if the judge refuses to submit to the examination, the SCJC may recommend to the supreme court suspension of the judge from office, in addition to petitioning a district court for an order compelling the judge to submit to the examination as authorized under current law.

The bill retains the provisions of current law that specify the required contents of the notice to the judge, provide for an examining physician's written report to be filed with the SCJC and received as evidence, require a copy of the report to be given to the judge on request, and authorize the physician's oral or deposition testimony concerning the report to be required by the SCJC or by written demand of the judge. These provisions apply only to a complaint filed with the SCJC on or after September 1, 2025.

Review of SCJC Decision

C.S.H.B. 1761 removes the provision entitling a judge who receives from the SCJC a sanction or censure issued by the SCJC under the discretionary authority granted to the SCJC by the Texas Constitution or any other type of sanction to a review of the SCJC's decision by a special court of review appointed by the chief justice of the supreme court and replaces it with a provision authorizing that judge to request such a review but only for a sanction or censure issued by the SCJC under the discretionary authority granted by the Texas Constitution.

C.S.H.B. 1761 requires the SCJC, if it issues a public reprimand of a judge based on the judge's persistent or wilful violation of the rules established by the Code of Criminal Procedure for setting the amount of bail and any conditions of bail, to send notice of the reprimand to the following:

- the governor;
- the lieutenant governor;

- the speaker of the house of representatives;
- the presiding officer of each legislative standing committee with primary jurisdiction over the judiciary;
- the chief justice of the supreme court;
- OCA;
- the presiding judge of the administrative judicial region in which the court the reprimanded judge serves is located; and
- each judge of a constitutional county court in the geographic region in which the reprimanded judge serves.

Suspension From Office

C.S.H.B. 1761 requires the SCJC, not later than the 21st day after the date the SCJC initiates formal proceedings against a judge based on the judge's persistent or wilful violation of the rules established by the Code of Criminal Procedure for setting the amount of bail and any conditions of bail, to recommend to the supreme court that the judge be suspended from office under the Texas Constitution.

Judicial Directory; Notice

C.S.H.B. 1761 requires OCA to establish a judicial directory, as soon as practicable after the bill's effective date, that contains the contact information, including the email address, for each judge in Texas and to provide the SCJC with access to the directory for the purpose of providing to a judge a written notice required under provisions relating to the SCJC. Such written notice may be provided to a judge by email.

Judicial Transparency Information

C.S.H.B. 1761 requires each district court judge required to submit information under rules adopted by the supreme court under these provisions to submit to the presiding judge of the administrative judicial region in which the judge's court sits, not later than the 20th day of each calendar quarter, information for the preceding quarter in which the judge attests to the following:

- the number of hours the judge presided over the judge's court at the courthouse or another court facility; and
- the number of hours the judge performed judicial duties other than presiding over the judge's court, including the number of hours the judge performed case-related duties, performed administrative tasks, and completed continuing education.

The bill requires the supreme court, as soon as practicable after September 1, 2025, to adopt rules to implement the reporting of the information, including the following:

- rules establishing the eligibility criteria for a judge required to submit information based on performance measures reported under state law and other measures the court considers appropriate;
- rules establishing a penalty for the failure to submit required information and the submission of false information; and
- rules providing guidance on the form and manner of reporting the information.

C.S.H.B. 1761 further requires the following:

- the presiding judge of each administrative judicial region to submit the information from district court judges to OCA in the manner prescribed by the supreme court; and
- OCA to take the following actions:
 - provide administrative support for the submission and collection of the information submitted by the district court judges, including providing a system for electronic submission of the information; and

- prepare and submit a written report compiling the information submitted by the presiding judges not later than December 1 of each year to the governor, the lieutenant governor, the speaker of the house of representatives, and each presiding officer of a legislative standing committee with primary jurisdiction over the judiciary.

Removal From Office by Address for Incompetency

C.S.H.B. 1761 includes the persistent or wilful violation of the rules established by the Code of Criminal Procedure for setting the amount of bail and any conditions of bail as a cause for the removal by address of an individual from an applicable public office on the grounds of incompetency. This bill provision applies only to an allegation of judicial misconduct received by the SCJC on or after September 1, 2025, regardless of whether the conduct or act that is the subject of the allegation occurred or was committed before, on, or after that date.

List of Retired and Former Judges Subject to Assignment

C.S.H.B. 1761 changes eligibility requirements for a retired or former judge to be named on the list of retired and former judges subject to assignment that is maintained by each presiding judge of an administrative judicial region. With respect to the requirement under current law that a retired or former judge certify under oath to the presiding judge, on a form prescribed by the state board of regional judges, that the judge has never been publicly reprimanded or censured by the SCJC, the bill does the following:

- excludes from that requirement any reprimand or censure reviewed and rescinded by a special court of review selected to review an SCJC decision; and
- requires that the retired or former judge additionally certify under oath to the presiding judge that the retired or former judge has not received more than one of any other type of public sanction, excluding any sanction reviewed and rescinded by a special court of review selected to review an SCJC decision.

The bill requires that a retired or former judge on an applicable list of judges who is ineligible to be named on the list under the bill's provisions be struck from the list on September 1, 2025, and prohibits the assignment of the judge to any court on or after that date.

Judicial Salary

C.S.H.B. 1761 increases from at least \$140,000 to at least \$182,000 the annual state base salary to which a district court judge or a judge of a division of the business court is entitled as set by the General Appropriations Act.

C.S.H.B. 1761 revises the compensation to which the chief justice or presiding judge of an appellate court is entitled. Under current law, these individuals are excepted from the annual state base salary that applies to other justices or judges of the court they serve and are instead entitled to an annual state base salary in an amount equal to \$2,500 more than the annual state base salary provided for the other justices or judges, except that the combined base salary of the chief justice of a court of appeals from all state and county sources may not exceed the amount equal to \$2,500 less than the base salary for a justice of the supreme court. The bill entitles such a chief justice or presiding judge to the following instead:

- the annual state base salary that applies to other justices or judges of the applicable court; and
- additional compensation from the state in the amount equal to seven percent of that base salary.

The bill makes the limitation on the combined base salary of a justice of a court of appeals from all state and county sources applicable to the combined base salary of the chief justice of a court of appeals from such sources but establishes that the additional state compensation under the bill is not included as part of a chief justice's or the presiding judge's combined base salary for purposes of determining whether their salary exceeds the limitation.

With respect to the annual state base salary for local administrative district judges, the bill makes the following revisions:

- removes a provision entitling a district judge who serves as a local administrative district judge in a county with more than five district courts to an annual state base salary in the amount equal to \$5,000 more than the maximum state salary to which the judge is otherwise entitled as a district court judge; and
- replaces that provision with provisions entitling a district court judge who serves as a local administrative district judge to an annual state base salary in the amount to which the judge is entitled as a district court judge and an additional annual amount from the state equal to the following:
 - in a county with three or four district courts, three percent of the annual state base salary for a district court judge;
 - in a county with more than four but fewer than 10 district courts, five percent of the annual state base salary for a district court judge; or
 - in a county with 10 or more district courts, seven percent of the annual state base salary for a district court judge.

The bill specifies that a judge of a division of the business court who serves as administrative presiding judge of the court is entitled to the applicable annual state base salary and an additional annual amount from the state equal to the additional amount provided for a district court judge who serves as a local administrative district judge in a county with 10 or more district courts.

Service Retirement Benefits

Service Retirement Benefits Under ERS

C.S.H.B. 1761 retains \$140,000 as the base amount used in the calculation of the standard service retirement annuity for a member of the elected class of the Employees Retirement System of Texas (ERS), excluding a district or criminal district attorney who is in the elected class and whose effective date of retirement is on or after September 1, 2019, by changing the nature of that amount from the state base salary of a district court judge, excluding applicable longevity pay, as set by the General Appropriations Act, to a flat \$140,000. Accordingly, the bill changes the base that such a standard service retirement annuity may not exceed at any time from 100 percent of the state salary of a district judge to 100 percent of that dollar amount.

C.S.H.B. 1761 removes the specification that the base amount used in the calculation of the standard service retirement annuity for a district or criminal district attorney who is in the elected class of ERS is adjusted from time to time.

With respect to the calculation of a member of the legislature's elected class of membership accumulated account balance for cash balance benefits under ERS, C.S.H.B. 1761 retains \$140,000 as the base amount on which the account balance is computed, by changing the nature of that amount from the state base salary of a district court judge, excluding applicable longevity pay, as set by the General Appropriations Act, to a flat \$140,000.

Service Retirement Annuities Under JRS-1

C.S.H.B. 1761 establishes the following:

- any increase in the state base salary being paid to a district judge as set by the General Appropriations Act by the 89th Legislature, Regular Session, 2025, does not apply to a service retirement annuity of a retiree or beneficiary computed under the Judicial Retirement System of Texas Plan One (JRS-1) if the retiree on whose service the annuity is based retired before September 1, 2025; and
- the amount of the state base salary being paid to a district judge as set by Chapter 1170 (H.B. 1), Acts of the 88th Legislature, Regular Session, 2023 (the General Appropriations Act), for the 2025 state fiscal year continues to apply to such retirement

annuities until the effective date of legislation the 90th Legislature or a later legislature enacts that increases a district judge's state base salary.

These provisions relating to service retirement annuities expire on the effective date of legislation the 90th Legislature or a later legislature enacts that increases a district judge's state base salary.

Resumption of Judicial Service By Retiree Under JRS-2

C.S.H.B. 1761 changes the provisions applicable to the manner by which a Judicial Retirement System of Texas Plan Two (JRS-2) retiree who resumes service as a judicial officer, other than by assignment as a visiting judge in an administrative judicial region and inapplicable to a retiree receiving a cash balance annuity, receives service credit in JRS-2 for the resumed service and by which such a retiree's annuity is recomputed on the person's subsequent retirement from the resumed service. Accordingly, the bill provides the following:

- JRS-2 must recompute the annuity the retiree selected at the time of the person's original retirement for a person who rejoins JRS-2 and completes at least 24 months of resumed judicial service, on the person's subsequent retirement from that resumed service, to reflect the following:
 - the highest annual state salary earned by the person while holding a judicial office included within the membership of JRS-2; and
 - the additional service credit established during the person's period of resumed service; and
- for a person who rejoins JRS-2 but who does not complete at least 24 months of resumed service, on the person's subsequent retirement from resumed service, JRS-2 must do the following:
 - resume annuity payments suspended on the resumption of full-time judicial service; and
 - issue the person a refund of the person's accumulated member contributions made during the person's period of resumed service.

C.S.H.B. 1761 changes the notice requirement applicable to the retiree's election to rejoin JRS-2 as follows:

- by requiring the retiree to provide the notice not later than the 60th day after the date the retiree takes the oath of office; and
- by adding the specification that the notice be in the form prescribed by JRS-2, in addition to the manner prescribed by JRS-2 as required under current law.

The requirement to provide the notice by that deadline applies only to an election to rejoin JRS-2 made on or after the bill's effective date.

C.S.H.B. 1761 requires a JRS-2 retiree who rejoins JRS-2 as an applicable judicial officer to resume making member contributions of 9.5 percent of the person's state compensation.

C.S.H.B. 1761 establishes that its provisions regarding the resumption of service apply only to a former retiree of JRS-2 who, on the bill's effective date, holds a judicial office and has resumed membership in JRS-2 or a retiree who, on or after the bill's effective date, resumes service as a judicial officer holding a judicial office included in the membership of JRS-2. The bill authorizes such a former retiree to purchase service credit for resumed judicial service performed before the bill's effective date, including service performed before June 18, 2023, by depositing with JRS-2, for each month of service credit, member contributions calculated by multiplying 9.5 percent by the person's monthly judicial state salary on the bill's effective date. The bill sets September 1, 2027, as the deadline by which the former retiree must purchase such service credit and make the required deposits.

JRS-2 Member Contributions After 20 Years of Service Credit or Attaining Rule of 70

C.S.H.B. 1761 increases from six percent to 9.5 percent the rate of contributions to JRS-2 by the following JRS-2 members:

- a judicial officer who accrues 20 years of service credit and elects to make contributions for each subsequent year of service credit that the member accrues; and
- a judicial officer who has served at least 12 years on an appellate court, has attained the rule of 70, and elects to make contributions for each subsequent year of service credit that the member accrues.

Repealed Provision

C.S.H.B. 1761 repeals Section 837.103(e), Government Code, which conditions implementation of provisions governing a JRS-2 retiree's election to rejoin JRS-2 on the system being actuarially sound based on specified criteria and which is set to expire on September 1, 2025, provided that the condition is satisfied and those provisions are implemented. The bill establishes that the repeal of this provision takes effect on passage. If the bill does not receive the necessary vote, the repeal of this provision has no effect.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1761 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.

The substitute includes provisions absent from the introduced that do the following:

- replace the authorization for the supreme court, the court of criminal appeals, or a court of appeals to participate in oral argument from any location through the use of teleconferencing technology with a requirement for such courts to participate in oral argument presented through teleconferencing technology from a courtroom or other facility provided to the court by the state unless exigent circumstances require otherwise; and
- require the supreme court and the court of criminal appeals to adopt rules necessary to implement that requirement by a certain deadline.

The substitute includes provisions absent from the introduced that establish certain requirements for the business court, a district court, or a statutory county court with respect to a motion for summary judgment, related compliance reporting requirements, and a requirement for the supreme court and the court of criminal appeals to adopt rules necessary to implement those requirements by a certain deadline.

The substitute, with respect to provisions relating to the SCJC, expands the definition of "judge" to include a justice of the peace and defines "official misconduct" by reference to its meaning under the Code of Criminal Procedure, whereas the introduced made neither of those changes.

While the substitute and introduced both revise the conduct that constitutes wilful or persistent conduct that is clearly inconsistent with the proper performance of a judge's duties for purposes of Texas Constitution provisions authorizing discipline of a judge on such grounds, the versions differ as follows:

- whereas the introduced included among the conduct the wilful, persistent, and unjustifiable failure to meet deadlines set by statute or binding court order, the substitute includes among the conduct the wilful, persistent, and unjustifiable failure to meet

deadlines, performance measures or standards, or clearance rate requirements set by statute, administrative rule, or binding court order; and

- the substitute includes among the conduct the persistent or wilful violation of provisions relating to the use of teleconferencing technology by appellate courts, whereas the introduced did not.

The substitute includes the following provisions absent from the introduced:

- a provision prohibiting the SCJC from investigating and requiring the SCJC to dismiss a complaint filed on or after the seventh anniversary of the date the alleged misconduct occurred or the complainant knew, or with the exercise of reasonable diligence should have known, of the alleged misconduct; and
- an authorization for the SCJC to investigate and not dismiss such a complaint if the SCJC determines good cause exists for investigating the complaint.

With respect to the revised process whereby SCJC staff conduct an investigation of a complaint filed with the SCJC under the bill's provisions, the substitute includes the following provisions absent from the introduced:

- an authorization for the SCJC, if a complaint against a judge alleges multiple instances of misconduct or the SCJC determines multiple complaints have been submitted against the judge, to order an additional extension of not more than 90 days after the date the original extension expires; and
- a requirement for each member of the SCJC to certify an investigation report finalized in accordance with the bill's provisions by signing the report, which may be signed electronically.

The substitute includes provisions absent from the introduced that remove references to the SCJC authority to take action on a complaint by issuing a private admonition, warning, or reprimand, effective January 1, 2026, but contingent on passage of a corresponding constitutional amendment.

The substitute makes changes to the process by which the SCJC may order a judge to submit to a physical or mental examination on the basis of alleged physical or mental incapacity and makes the process also applicable to allegations of substance abuse by a judge, whereas the introduced did not include these provisions.

While the substitute and the introduced both require the SCJC, if it issues a public reprimand of a judge based on the judge's persistent or wilful violation of the rules established by the Code of Criminal Procedure for setting the amount of bail and any conditions of bail, to send notice of the reprimand to specified individuals, the substitute includes among those individuals each judge of a constitutional county court in the geographic region in which the reprimanded judge serves, whereas the introduced did not.

The substitute includes requirements absent from the introduced for OCA to establish a judicial directory that contains the contact information for each judge in Texas and to provide the SCJC with access to the directory for the purpose of providing to a judge written notice required under provisions relating to the SCJC. The substitute also establishes that such written notices may be provided to a judge by email, whereas the introduced did not.

While the introduced required every district court judge to submit certain judicial transparency information to the applicable presiding judge quarterly, the substitute limits the application of that reporting requirement by requiring the supreme court to adopt rules establishing eligibility criteria for a judge required to submit information based on performance measures reported under state law and other measures the court considers appropriate. The substitute also requires the supreme court to adopt rules establishing a penalty for the failure to submit required information, whereas the introduced did not.

While the substitute and the introduced both increase the annual state base salary to which a district court judge or a judge of a division of the business court is entitled as set by the General Appropriations Act, the introduced increased that base salary to at least \$161,000, whereas the substitute increases that base salary to at least \$182,000.

The substitute includes provisions absent from the introduced that make changes relating to the amount of the state salary supplement for the chief justice or presiding judge of an appellate court, for certain district judges serving as a local administrative district judge, and for a judge of a division of the business court who serves as the court's administrative presiding judge.

The substitute makes the following changes relating to service retirement benefits under ERS, which the introduced did not make:

- de-links the calculation of standard service retirement annuities for certain members of the elected class of ERS from the state base salary of a district court judge;
- removes the specification that the base amount used in the calculation of the standard service retirement annuity for a district or criminal district attorney who is in the elected class of ERS is adjusted from time to time; and
- de-links the calculation of a member of the legislature's elected class of membership accumulated account balance for cash balance benefits under ERS from the state base salary of a district court judge.

Accordingly, the substitute does not include the introduced version's provision establishing that any increase in the state base salary being paid to a district court judge as set by the General Appropriations Act by the 89th Legislature, Regular Session, 2025, does not apply to a standard service retirement annuity for elected class service computed under ERS for a retiree or beneficiary if the retiree on whose service the annuity is based retired before September 1, 2025.

The substitute includes provisions absent from the introduced relating to a JRS-2 retiree who resumes service as a judicial officer that do the following:

- provide for different manners of recomputing such a retiree's annuity on their subsequent retirement from the resumed service depending on whether the retiree completed at least 24 months of resumed service;
- revise the notice requirement applicable to the retiree's election to rejoin JRS-2, including by setting a deadline for providing notice;
- require the retiree to resume making member contributions of 9.5 percent of the person's state compensation; and
- authorize certain former retirees to purchase service credit for resumed judicial service performed before the bill's effective date.

The substitute does the following, whereas the introduced did not:

- repeals a provision that conditions implementation of provisions governing a JRS-2 retiree's election to rejoin JRS-2 on the system being actuarially sound; and
- provides for that repeal to take effect on passage, contingent on the bill receiving the necessary vote, or to have no effect otherwise.

The substitute increases from six percent to 9.5 percent the rate of contribution to JRS-2 by certain judicial officers who have accrued 20 years of service credit or attained the rule of 70 and elect to continue making contributions, whereas the introduced did not make that change.