

SUBJECT: Judicial salary increases

COMMITTEE: Judicial Affairs— favorable, without amendment

VOTE: 7 ayes — Thompson, Hartnett, Crabb, Garcia, Luna, Shields, Solis
0 nays
1 present, not voting — Zbranek
1 absent — Clark

SENATE VOTE: On final passage, April 24 — voice vote (Moncrief recorded nay, Lindsay, present, not voting)

WITNESSES: No public hearing.

BACKGROUND : Salaries of state judges are established in the general appropriations act. The salaries of all judges and district attorneys under the Professional Prosecutors Act are tied to the salary set for justices of the Supreme Court. The salaries for members of the judicial branch for fiscal 1997 are:

| Position | Salary | Total Number |
|---|----------|--------------|
| Chief Justice, Supreme Court and Presiding Judge, Court of Criminal Appeals | \$97,470 | 2 |
| Justices, Supreme Court and Judges, Court of Criminal Appeals | \$94,686 | 16 |
| Chief Justices, Courts of Appeals | \$90,482 | 14 |
| Justices, Courts of Appeals | \$89,952 | 66 |
| District judges | \$85,217 | 396 |
| District attorneys | \$85,217 | 119 |

Judges receive retirement benefits from one of two plans. Judges serving before 1985 belong to the Judicial Retirement System One (JRS I) plan, which is a closed, pay-as-you-go retirement plan. No trust fund exists, and all benefits are paid by direct appropriation as they become due. The Judicial Retirement System Two (JRS II) plan is an amortized pension plan.

The pension plan of elected class officials in the Employees Retirement System (ERS) is based on the salary of state district judges. All legislators are elected class officials.

DIGEST:

SB 310 would raise the salary of a justice of the Supreme Court to at least \$102,463. Because the salaries of all other members of the judicial branch are tied to the salary of Supreme Court justices, the salaries of all justices of the Supreme Court and judges of the Court of Criminal Appeals, including the chief justice and presiding judge of those respective courts, would increase by \$7,777 per year. Salaries of the justices of the courts of appeals, including the 14 chief justices, would increase by \$7,388 per year. The salaries of district court judges and district attorneys under the Professional Prosecutors Act would increase by \$7,000 per year.

SB 310 would also set the salaries of retired or assigned judges at the greater of the regular judge's salary as of August 31, 1997, or 85 percent of the salary of the sitting judge.

SB 310 would take effect September 1, 1997.

**SUPPORTERS
SAY:**

Unless current and prospective members of the Texas judiciary are provided adequate compensation relative to similarly situated members of the federal bench, the judiciary of other states, and lawyers with comparable experience in private practice and public service in Texas, the Texas judiciary will not attract the most able attorneys to the bench and will not retain experienced judges. The Texas Commission on Judicial Efficiency recently completed a study of this issue and found that Texas judges were paid well below the average of those serving in comparable positions.

Most judges on the bench have at least 10 to 15 years of legal experience. A survey of attorneys in private practice conducted in 1994 found that attorneys with similar levels of experience make an average salary of

\$124,048. The average yearly salary of all attorneys, including recent graduates, was \$86,700, just above the pay of a district judge. Compared to other states Texas consistently falls in the bottom half in judicial salaries, but compared to the other 12 states with populations over six million, Texas ranks dead last. Federal judges are also compensated much higher than Texas state judges. The lowest paid federal judge makes \$122,912 a year, while judges comparable to Texas appellate judges make \$141,700 annually.

Texas judges need to be paid more to attract the most qualified lawyers to the bench and keep good judges from leaving to go into private practice. The Commission on Judicial Efficiency heard testimony from countless former judges who voluntarily left the bench to go into private practice because of financial considerations. Many had children to put through college and could simply not afford to do so on their salary.

The amount needed to fund these salary increases has been included in the most recent version of the general appropriations act agreed to by the conference committee on HB 1. An additional contingency rider is available to increase the amount of the salaries even more if additional funds are certified available.

**OPPONENTS
SAY:**

Raising the salaries of judges as well as the increases in the retirement benefit plans would cost more than \$13 million in the next biennium, increasing each biennium after that. With the other budget priorities, including property tax relief, education finance, health and human service needs, and criminal justice, legislators must decide whether this additional amount of money given to judges would actually accomplish the goal of attracting the best judges.

The lack of accrued actuarial liability in JRS II means that the Legislature would have to appropriate additional money to the plan in order to keep the amortization period of the fund under the 30-year statutory limit. If that additional money is not provided to the plan, JRS II may become actuarially unsound.

OTHER
OPPONENTS
SAY:

Legislator pensions are linked to the salary of district court judges. Any raise given to district court judges would result in any increase in retirement benefits for legislators. In order to remove the perception that legislators would be voting themselves an increase in benefits, an independent judicial compensation panel should be created that could examine the issue and make independent recommendations to the Legislature.

The recommendation of the Commission on Judicial Efficiency would tie the salary of Supreme Court justices to the salary of the lowest paid federal judges, currently \$122,912.

NOTES:

SJR 20, and its enabling legislation, SB 328, both by Brown, would create a judicial compensation commission composed of nine appointed members that would determine the adequate level of judicial salaries. Any recommendation by the compensation commission would become effective unless affirmatively rejected by either house of the Legislature before enactment of the general appropriations act. SJR 20 and SB 328 were approved by the Senate on February 27 and have been reported favorably by the House Judicial Affairs Committee.