

SUBJECT: Extending retirement benefits for visiting judges

COMMITTEE: Pensions and Investments — committee substitute recommended

VOTE: 5 ayes — Ritter, McClendon, Grusendorf, Martinez Fischer, Pena
0 nays
2 absent — Telford, Rose

WITNESSES: For — Pat Priest
Against — None
On — William Nail, Employees Retirement System

BACKGROUND: The 77th Legislature in 2001 enacted SB 372 by Barrientos and Duncan to create a uniform rule on reestablishing public retirement system service credit. The act amended judicial retirement law so that a judge whose last year of service toward retirement benefits was as a visiting judge and who retires within one year of that service may obtain a 10 percent increase in retirement benefits. SB 372 took effect January 1, 2002.

In Opinion No. JC-0533 (July 2002), Attorney General John Cornyn concluded that the provisions of SB 372 “operate prospectively and apply only to visiting judges who retire after the January 1, 2002 date. They do not provide the additional benefits to a visiting judge who retired before the effective date of the provisions.”

DIGEST: CSHB 94 would extend the retirement benefit increase of 10 percent of the applicable state salary to a visiting judge who had or had not served in that capacity for one year.

The Employees Retirement System (ERS) would have to recompute annuities of all people who had retired or received a death benefit annuity from the Judicial Retirement System Plan One or Plan Two before January 1, 2002, as if the changes made by SB 372 had been in effect on the date of the person’s

retirement or death. The first payment of any annuity increased by this provision would become payable with the first payment due on or after the bill's effective date of September 1, 2003.

**SUPPORTERS
SAY:**

CSHB 94 would extend the 10 percent "bump" in retirement pay, from 50 percent to 60 percent of state salary, to visiting judges who had served a year or more before retiring. Essentially, the bill would alter the effective date of last session's SB 372 to treat all visiting judges equally so that all would receive the 10 percent supplemental annuity upon retirement — not only visiting judges who had presided less than a year before January 1, 2002. Although the bill would require recalculation of annuities for all affected people, the newly calculated payments would begin September 1, 2003. The benefits would affect only 29 judges and nine surviving spouses.

By extending the 10 percent increase in retirement pay to all visiting judges or their beneficiaries, CSHB 94 would avoid punishing visiting judges who had worked in that capacity for more than a year before January 1, 2002. Judges who presided during their terms of office and then chose to serve the state further by acting as visiting judges — often to reduce case backlogs — should not be treated differently from those who happened to serve less than a year before the effective date of SB 372. The estimated cost of \$600,000 for the coming biennium would be relatively minor in view of the contributions that visiting judges have made beyond their regular terms on the bench.

**OPPONENTS
SAY:**

A judge who has served as a visiting judge to meet retirement requirements already is entitled to an annuity of 50 percent. Increasing that annuity to 60 percent would cost the state \$600,000 in general revenue during the coming biennium. The Legislature should apply that amount to needier recipients who stand to lose services as a result of the current budget shortfall.

NOTES:

The fiscal note for CSHB 94 projects a general revenue cost of \$600,000 during fiscal 2004-05 and \$1.9 million through fiscal 2008. According to ERS, the 10 percent benefit increase would not require an increase in the state contribution rate for the Judicial Retirement System until fiscal 2007. The estimated increase required to keep the system actuarially sound would be 0.20 percent.

The committee substitute would make the bill's provisions retroactive to

accommodate people who retired or qualified for a death benefit before January 1, 2002, and would provide that the newly calculated payments would begin as of the bill's effective date.