

**SUBJECT:** Allowing judicial retirement contributions past 20 years

**COMMITTEE:** Pensions and Investments — favorable, without amendment

**VOTE:** 6 ayes — Eiland, McClendon, Griggs, Krusee, Rodriguez, Straus  
0 nays  
1 absent — Flynn

**WITNESSES:** For — Craig Enoch; Adele Hedges; Mark Davidson; (*Registered, but did not testify:* Lynn Nabers, Alliance for Judicial Funding Inc.)  
Against — None  
On — Lamar McCorkle, Judicial Section; William S. Nail, Employees Retirement System of Texas

**BACKGROUND:** Since August 31, 1985, judges, justices, and commissioners of the Supreme Court, Court of Criminal Appeals, courts of appeals, or district courts have been required to join the Judicial Retirement System Plan (JRS) II. Each judge must contribute 6 percent of the judge's annual salary to the plan. These contributions cease after 20 years of service credit, and retirement benefits do not increase for judges who continue to serve after that time.

Government Code, sec. 839 lays out the requirements judges must meet to receive JRS II retirement benefits. A judge may retire at age 60 through age 64 and receive between 40 percent and 47.7 percent, depending on the judge's age, of the salary paid to a judge of the same court at the time the judge retires. To receive these benefits, the judge must have at least 12 years of service credited in the retirement system or currently hold office and have at least 10 years of credited service.

If a judge retires at age 65 or older, the judge may receive benefits equivalent to 50 percent of the salary of someone serving on a comparable court at the time of the judge's retirement. In order to receive such benefits, the judge must retire under one of four circumstances:

- The judge is age 65 or older with 10 years of credited service and currently holds judicial office;
- The judge is age 65 or older with at least 12 years of credited service, regardless of whether the judge currently is in office;
- The judge is age 55 or older with 20 years of credited service regardless of whether the judge currently is in office; or
- The judge has served at least two full terms on an appellate court and the sum of the judge's age and the amount of service credited in the retirement system equals 70 or more.

The judge may receive an additional 10 percent of the applicable salary if the judge has not been out of judicial office for more than one year at retirement or has accepted an assignment as a visiting judge within one year of the date of retirement.

**DIGEST:**

HB 1114 would allow a judge who accrued more than 20 years of service credit to file an application with the retirement system to continue making contributions for up to an additional 10 years of service credit. In each additional year of service, the participating judge would contribute 2 percent of the judge's salary and receive retirement benefits of up to 80 percent of the applicable salary at retirement. The bill sets forth the formula for determining the amount of service retirement annuity a judge would receive.

The bill would take effect September 1, 2005.

**SUPPORTERS  
SAY:**

One purpose of a pension system is to provide an incentive for employees to stay on the job. However, the current retirement system discourages judges from remaining on the bench after they reach retirement age. Under current law, after 20 years of judicial service, judges no longer can increase retirement benefits by continuing to pay into the retirement system. Many judges receive a maximum pension of 60 percent of their salaries even if they work 15 years beyond retirement age. Instead of encouraging judges to retire at the earliest opportunity, this bill would provide an incentive for judges to remain on the bench by giving them a way to increase their retirement benefits for an additional 10 years. As a result, Texas would retain more experienced and highly qualified judges.

By encouraging judges to remain longer on the bench, this bill would save money. When a judge retires, the state must pay retirement benefits equal to between 50 percent and 60 percent of salary, plus the annual salary of

the replacement judge. If a judge chooses not to retire, the state need pay only that judge's salary. In other words, when a judge retires, the state effectively must pay 160 percent of the judge's salary to replace the judge. For a judge who remains on the bench after retirement age, the state need pay only the judge's salary. The judicial retirement system would not be significantly affected and would remain actuarially sound.

**OPPONENTS  
SAY:**

According to the fiscal note, this bill would increase costs to the state at some point beyond fiscal 2006-07 and may require that the judicial retirement system receive additional contributions to remain actuarially sound. State judges currently are very well compensated while serving on the bench, and many retire with substantial pensions in the neighborhood of \$60,000 a year. There is no pressing need for a new mechanism to extend their retirement benefits.

**NOTES:**

SB 368 by Duncan, which the Senate passed by 29-0 on March 30, includes a provision identical to HB 1114.