

## **BILL ANALYSIS**

Senate Research Center  
77R4142 JMC-F

S.B. 397  
By: Duncan  
Jurisprudence  
2/2/2001  
As Filed

### **DIGEST AND PURPOSE**

Currently, Texas law allows retired and former judges to participate in the visiting judge program (program). As proposed, S.B. 397 sets eligibility requirements, including at least 96 months of experience in a district, statutory probate, statutory county, or appellate court, for retired and former judges who participate in the program to ensure that the program consists of qualified and experienced judges.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 74.003, Government Code, by amending Subsection (b) and adding Subsection (f), to require a retired justice or judge, who is to be assigned for active service by the chief justice of the supreme court, to meet certain requirements under this subsection. Provides that for the purposes of this section, a month of service is calculated as a calendar month or a portion of a calendar month in which a justice or judge was authorized by election or appointment to preside.

SECTION 2. Amends Section 74.053, Government Code, as follows:

Sec. 74.053. New heading: OBJECTION TO JUDGE ASSIGNED TO A TRIAL COURT. Requires an objection to be filed not later than the seventh day after the date that the party receives actual notice of the assignment or before the date that the first hearing or trial, including pretrial hearings, commences, whichever date occurs earlier. Authorizes the presiding judge to extend the time to file an objection under this section on written motion by a party who demonstrates good cause. Deletes text regarding trials or hearings over which the assigned judge is to preside. Prohibits an assigned, rather than a former, judge or justice who was defeated in the last primary or general election for which the judge or justice was a candidate for the judicial office held by the judge or justice, rather than not a retired judge, from sitting in a case if either party objects to the judge or justice. Defines "party." Authorizes a notice of an assignment and an objection to an assignment to be filed by electronic mail. Makes a conforming change.

SECTION 3. Amends Section 74.055(c) and (e), Government Code, by requiring a retired or former judge to have served as an active judge for at least 96, rather than 48, months in a district, statutory probate, statutory county, or appellate court, in order to be eligible to be named on the list. Provides that for purposes of Subsection (c) (1), a month of service is calculated as a calendar month or a portion of a calendar month in which a judge was authorized by election or appointment, rather than by the governor, to preside.

SECTION 4. Amends Section 75.551, Government Code, by prohibiting a judge or justice, rather than former judge or justice, who was defeated in the last primary or general election for the judicial

office previously held by the judge or justice, from sitting in an appellate case if either party objects to the judge or justice. Deletes text regarding the first hearing in which the assigned judge or justice is assigned to sit. Makes conforming changes.

SECTION 5. Repealer: Section 74.055(d) (List of Retired and Former Judges Subject to Assignment), Government Code.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 2001.