

SUBJECT: Exempting retirement-eligible judges from making system contributions

COMMITTEE: Pensions and Investments — committee substitute recommended

VOTE: 6 ayes — Eiland, Flynn, Griggs, McClendon, Rodriguez, Straus

0 nays

1 absent — Krusee

WITNESSES: For — Richard Barajas; William S. Nail, Employees Retirement System of Texas

Against — None

BACKGROUND: Since August 31, 1985, judges, justices and commissioners of the Supreme Court, Court of Criminal Appeals, courts of appeals, and 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.

Under Government Code, sec. 839.101, a member of JRS II is eligible to retire and receive a service retirement annuity if the member has served at least two full terms on an appellate court and the sum of the member's age and the amount of service credited to JRS II equals or exceeds 70, regardless of whether the member currently holds a judicial office. JRS II members may purchase additional retirement credits for up to four years of active military service or for additional months in the calendar year in which the judge served. Those with 10 years of service may purchase up to five years of additional service credit.

DIGEST: CSHB 617 would specify that a member of JRS II who had served at least 12 years on an appellate court would stop making contributions to the retirement system if the sum of the judge's age and the amount of service credited in the retirement system equaled or exceeded 70.

The bill would take effect September 1, 2005.

**SUPPORTERS
SAY:**

CSHB 617 would remove a disincentive for appellate judges to stay on the bench by eliminating a requirement that judges who qualify for full retirement benefits continue paying into the retirement system. Under current law, judges who decide to stay on the bench after qualifying for retirement under the “rule of 70” must continue paying 6 percent of their salaries into JRS II until age 60, even though they will not get any of that money back because they have reached a cap on retirement benefits. Some of these judges have prior military service credits that have enabled them to reach the “rule of 70” in their early fifties. The younger a judge is, the more the judge is penalized under the current system.

While the bill initially would affect only a handful of appellate judges, currently six in the state, a number of other judges who are about to qualify for retirement under the “rule of 70” would benefit from this change. The bill would have no significant fiscal impact on the state or the actuarial soundness of the retirement system and would conform with existing provisions governing JRS II.

**OPPONENTS
SAY:**

CSHB 617 should give judges who qualify for retirement under the “rule of 70” the option of continuing to pay into the system and receiving a higher benefit at retirement. This would create an incentive for judges to remain on the bench by allowing higher pension payments at retirement.

NOTES:

The committee substitute changed the service requirement from two full terms to 12 years.

A related bill, HB 1114 by Nixon, which the House passed on April 5, 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. SB 368 by Duncan, which the Senate passed by 29-0 on March 30, includes a provision identical to HB 1114.