

1 AN ACT

2 relating to certain appropriations made in support of the courts by  
3 the legislature to certain individuals and governmental entitites,  
4 to the assignment and compensation of certain visiting judges, and  
5 to the Eighth, Ninth, and Eleventh courts of appeals districts.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 2(f), Article 11.071, Code of Criminal  
8 Procedure, is amended to read as follows:

9 (f) The convicting court shall reasonably compensate as  
10 provided by Section 2A an attorney appointed under this section,  
11 regardless of whether the attorney is appointed by the convicting  
12 court or was appointed by the court of criminal appeals under prior  
13 law [as provided by Section 2A].

14 SECTION 2. Section 2A, Article 11.071, Code of Criminal  
15 Procedure, is amended by adding Subsection (d) to read as follows:

16 (d) The comptroller shall reimburse a county for the  
17 compensation and payment of expenses of an attorney appointed by  
18 the court of criminal appeals under prior law. A convicting court  
19 seeking reimbursement for a county as permitted by this subsection  
20 shall certify the amount the county is entitled to receive under  
21 this subsection for an application filed under this article, not to  
22 exceed a total amount of \$25,000.

23 SECTION 3. Section 3(d), Article 11.071, Code of Criminal  
24 Procedure, is amended to read as follows:

1 (d) Counsel may incur expenses for habeas corpus  
2 investigation, including expenses for experts, without prior  
3 approval by the convicting court or the court of criminal appeals.  
4 On presentation of a claim for reimbursement, which may be  
5 presented ex parte, the convicting court shall order reimbursement  
6 of counsel for expenses, if the expenses are reasonably necessary  
7 and reasonably incurred. If the convicting court denies in whole or  
8 in part the request for expenses, the court shall briefly state the  
9 reasons for the denial in a written order provided to the applicant.  
10 The applicant may request reconsideration of the denial for  
11 reimbursement by the convicting court.

12 SECTION 4. Sections 22.201(i) and (l), Government Code, are  
13 amended to read as follows:

14 (i) The Eighth Court of Appeals District is composed of the  
15 counties of Andrews, Brewster, Crane, Crockett, Culberson,  
16 [~~Ector,~~] El Paso, [~~Gaines, Glasscock,~~] Hudspeth, Jeff Davis,  
17 Loving, [~~Martin, Midland,~~] Pecos, Presidio, Reagan, Reeves,  
18 Terrell, Upton, Ward, and Winkler.

19 (l) The Eleventh Court of Appeals District is composed of  
20 the counties of Baylor, Borden, Brown, Callahan, Coleman, Comanche,  
21 Dawson, Eastland, Ector, Erath, Fisher, Gaines, Glasscock,  
22 Haskell, Howard, Jones, Knox, Martin, Midland, Mitchell, Nolan,  
23 Palo Pinto, Scurry, Shackelford, Stephens, Stonewall, Taylor, and  
24 Throckmorton.

25 SECTION 5. Section 22.216(h), Government Code, is amended  
26 to read as follows:

27 (h) The Court of Appeals for the Eighth Court of Appeals

1 District consists of a chief justice and two [~~three~~] justices.

2 SECTION 6. Section 22.216(i), Government Code, is amended  
3 to read as follows:

4 (i) The Court of Appeals for the Ninth Court of Appeals  
5 District consists of a chief justice and three [~~two~~] justices.

6 SECTION 7. The heading to Section 74.003, Government Code,  
7 is amended to read as follows:

8 Sec. 74.003. ASSIGNMENT OF JUSTICES AND JUDGES FOR  
9 APPELLATE COURTS [~~JUDGES~~].

10 SECTION 8. Section 74.003, Government Code, is amended by  
11 amending Subsection (b) and adding Subsections (f), (g), and (h) to  
12 read as follows:

13 (b) The chief justice of the supreme court may assign a  
14 qualified retired justice or judge of the supreme court, of the  
15 court of criminal appeals, or of a court of appeals to a court of  
16 appeals for active service regardless of whether a vacancy exists  
17 in the court to which the justice is assigned. To be eligible for  
18 assignment under this subsection, a retired justice or judge must:

19 (1) have served as an active justice or judge for at  
20 least 96 months in a district, statutory probate, statutory county,  
21 or appellate court, with at least 48 of those months in an appellate  
22 court;

23 (2) not have been removed from office;

24 (3) certify under oath to the chief justice of the  
25 supreme court, on a form prescribed by the chief justice, that:

26 (A) the justice or judge has never been publicly  
27 reprimanded or censured by the State Commission on Judicial

1 Conduct; and

2 (B) the justice or judge:

3 (i) did not resign or retire from office  
4 after the State Commission on Judicial Conduct notified the justice  
5 or judge of the commencement of a full investigation into an  
6 allegation or appearance of misconduct or disability of the justice  
7 or judge as provided in Section 33.022 and before the final  
8 disposition of that investigation; or

9 (ii) if the justice or judge did resign from  
10 office under circumstances described by Subparagraph (i), the  
11 justice or judge was not publicly reprimanded or censured as a  
12 result of the investigation;

13 (4) annually demonstrate that the justice or judge has  
14 completed in the past state fiscal year the educational  
15 requirements for active appellate court justices or judges; and

16 (5) certify to the chief justice of the supreme court a  
17 willingness not to appear and plead as an attorney in any court in  
18 this state for a period of two years.

19 (f) For the purposes of Subsection (b)(1), a month of  
20 service is calculated as a calendar month or a portion of a calendar  
21 month in which a justice or judge was authorized by election or  
22 appointment to preside.

23 (g) Subsection (b)(1) does not apply to a retired justice of  
24 the supreme court.

25 (h) Notwithstanding any other provision of law, an active  
26 district court judge may be assigned to hear a matter pending in an  
27 appellate court.

1 SECTION 9. Section 74.041, Government Code, is amended by  
2 adding Subdivisions (4)-(7) to read as follows:

3 (4) "Active judge" means a person who is a current  
4 judicial officeholder.

5 (5) "Former judge" means a person who has served as an  
6 active judge in a district, statutory probate, statutory county, or  
7 appellate court, but who is not a retired judge.

8 (6) "Retired judge" means:

9 (A) a retiree; or

10 (B) a person who served as an active judge for at  
11 least 96 months in a statutory probate or statutory county court and  
12 has retired under the Texas County and District Retirement System.

13 (7) "Senior judge" means a retiree who has elected to  
14 be a judicial officer under Section 75.001.

15 SECTION 10. Section 74.053, Government Code, is amended to  
16 read as follows:

17 Sec. 74.053. OBJECTION TO ~~ASSIGNED~~ JUDGE ASSIGNED TO A  
18 TRIAL COURT. (a) When a judge is assigned to a trial court under  
19 this chapter:

20 (1) the order of assignment must state whether the  
21 judge is an active, former, retired, or senior judge; and

22 (2) the presiding judge shall, if it is reasonable and  
23 practicable and if time permits, give notice of the assignment to  
24 each attorney representing a party to the case that is to be heard  
25 in whole or part by the assigned judge.

26 (b) If a party to a civil case files a timely objection to  
27 the assignment, the judge shall not hear the case. Except as

1 provided by Subsection (d), each party to the case is only entitled  
2 to one objection under this section for that case.

3 (c) An objection under this section must be filed not later  
4 than the seventh day after the date the party receives actual notice  
5 of the assignment or before the date the first hearing or trial,  
6 including pretrial hearings, commences, whichever date occurs  
7 earlier. The presiding judge may extend the time to file an  
8 objection under this section on written motion by a party who  
9 demonstrates good cause [~~over which the assigned judge is to~~  
10 ~~preside~~].

11 (d) An assigned [~~A former~~] judge or justice who was defeated  
12 in the last primary or general election for which the judge or  
13 justice was a candidate for the judicial office held by the judge or  
14 justice [~~not a retired judge~~] may not sit in a case if either party  
15 objects to the judge or justice.

16 (e) An active judge assigned under this chapter is not  
17 subject to an objection.

18 (f) For purposes of this section, notice of an assignment  
19 may be given and an objection to an assignment may be filed by  
20 electronic mail.

21 (g) In this section, "party" includes multiple parties  
22 aligned in a case as determined by the presiding judge.

23 SECTION 11. Sections 74.054(a) and (b), Government Code,  
24 are amended to read as follows:

25 (a) Except as provided by Subsections (b) and (c), the  
26 following judges may be assigned as provided by this chapter by the  
27 presiding judge of the administrative region in which the assigned

1 judge resides:

2 (1) an active [~~a regular~~] district, constitutional  
3 county, or statutory county court judge in this state;

4 (2) a senior judge [~~a district or appellate judge who~~  
5 ~~is a retiree under Subtitle D or E of Title 8,~~] who has consented to  
6 be subject to assignment[~~7~~] and who is on the list maintained by the  
7 presiding judge under this chapter;

8 (3) a former district or appellate judge, retired or  
9 former statutory probate court judge, or retired or former  
10 statutory county court judge who certifies to the presiding judge a  
11 willingness to serve and who is on the list maintained by the  
12 presiding judge as required by this chapter;

13 (4) a retiree or a former judge whose last judicial  
14 office before retirement was justice or judge of the supreme court,  
15 the court of criminal appeals, or a court of appeals and who has  
16 been assigned by the chief justice to the administrative judicial  
17 region in which the retiree or former judge resides for  
18 reassignment by the presiding judge of that region to a district or  
19 statutory county court in the region; and

20 (5) an active judge or justice of the supreme court,  
21 the court of criminal appeals, or a court of appeals who has had  
22 trial court experience.

23 (b) An active [~~A regular~~] statutory county court judge may  
24 not be assigned to hear a matter pending in a district court outside  
25 the county of the judge's residence.

26 SECTION 12. Section 74.055, Government Code, is amended by  
27 amending Subsections (c) and (e) and adding Subsections (f) and (g)

1 to read as follows:

2 (c) To be eligible to be named on the list, a retired or  
3 former judge must:

4 (1) have served as an active [a] judge for at least 96  
5 [48] months in a district, statutory probate, statutory county, or  
6 appellate court;

7 (2) have developed substantial experience in the  
8 judge's area of specialty;

9 (3) not have been removed from office;

10 (4) certify under oath to the presiding judge, on a  
11 form prescribed by the state board of regional judges, that:

12 (A) the judge has never been publicly reprimanded  
13 or censured by the State Commission on Judicial Conduct; and

14 (B) the judge:

15 (i) did not resign or retire from office  
16 after [having received notice that formal proceedings by] the State  
17 Commission on Judicial Conduct notified the judge of the  
18 commencement of a full investigation into an allegation or  
19 appearance of misconduct or disability of the judge [had been  
20 instituted] as provided in Section 33.022 and before the final  
21 disposition of that investigation; or

22 (ii) if the judge did resign from office  
23 under circumstances described by Subparagraph (i), was not publicly  
24 reprimanded or censured as a result of the investigation [the  
25 proceedings];

26 (5) annually demonstrate that the judge has completed  
27 in the past state fiscal [calendar] year the educational



1 requirements for active district, statutory probate, and statutory  
2 county court judges; and

3 (6) certify to the presiding judge a willingness not  
4 to appear and plead as an attorney in any court in this state for a  
5 period of two years.

6 (e) For purposes of Subsection (c)(1), a month of service is  
7 calculated as a calendar month or a portion of a calendar month in  
8 which a judge was authorized by election or appointment [~~by the~~  
9 ~~governor~~] to preside.

10 (f) A former or retired judge is ineligible to be named on  
11 the list if the former or retired judge is identified in a public  
12 statement issued by the State Commission on Judicial Conduct as  
13 having resigned or retired from office in lieu of discipline.

14 (g) A former or retired judge named on the list shall  
15 immediately notify the presiding judge of a full investigation by  
16 the State Commission on Judicial Conduct into an allegation or  
17 appearance of misconduct or disability by the judge. A judge who  
18 does not notify the presiding judge of an investigation as required  
19 by this subsection is ineligible to remain on the list.

20 SECTION 13. Section 74.061, Government Code, is amended by  
21 amending Subsections (c) and (d) and adding Subsections (j) and (k)  
22 to read as follows:

23 (c) The salary of a retired judge or justice while assigned  
24 under this chapter shall be paid out of money appropriated from the  
25 general revenue fund for that purpose in an amount equal to the  
26 compensation received from state and county sources of the judge of  
27 the court to which he is assigned. The salary of a retired judge or

1 justice while assigned shall be determined pro rata for the period  
2 of time that the judge or justice actually sits as the assigned  
3 judge. The salary of a retired statutory county court judge  
4 assigned under this chapter to serve in a district court [~~or~~  
5 ~~statutory county court~~] shall be paid by the state in the same  
6 manner as the salary of a retired district judge assigned under this  
7 chapter to serve in a district court [~~or statutory county court~~] is  
8 paid by the state.

9 (d) For services actually performed while assigned under  
10 this chapter, a retired or former judge or justice shall receive  
11 from county funds and money appropriated by the legislature the  
12 same amount of salary, compensation, and expenses that the regular  
13 judge is entitled to receive from the county and from the state for  
14 those services. The presiding judge of the administrative region  
15 shall certify to the county and the state the services rendered  
16 under this chapter by a retired or former judge or justice and the  
17 share to be paid by the state. The amount certified by the  
18 presiding judge as the state's share shall be paid from an item in  
19 the Judicial Section--Comptroller's Department of the General  
20 Appropriations Act for the payment of salaries of district and  
21 criminal district judges.

22 (j) A judge or justice who sits as an assigned judge for half  
23 a day or less shall be compensated in an amount that is equal to  
24 one-half of the amount to which a judge or justice is entitled for  
25 sitting as an assigned judge for a full day under this section.

26 (k) Notwithstanding any other provision of law, a former,  
27 retired, or active judge is not entitled to compensation paid by the

1 state when the judge sits as an assigned judge for a statutory  
 2 county court.

3 SECTION 14. Section 75.551, Government Code, is amended to  
 4 read as follows:

5 Sec. 75.551. OBJECTION TO JUDGE OR JUSTICE ASSIGNED TO AN  
 6 APPELLATE COURT. (a) When a judge or justice is assigned to an  
 7 appellate court under this chapter or Chapter 74:

8 (1) the order of assignment must state whether the  
 9 judge or justice is an active, former, retired, or senior judge or  
 10 justice; and

11 (2) [✓] the person who assigns the judge or justice  
 12 shall, if it is reasonable and practicable and if time permits, give  
 13 notice of the assignment to each attorney representing a party to  
 14 the case that is to be heard in whole or part by the assigned judge  
 15 or justice.

16 (b) A judge or justice assigned to an appellate court may  
 17 not hear a civil case if a party to the case files a timely objection  
 18 to the assignment of the judge or justice. Except as provided by  
 19 Subsection (d), [+]

20 [(-)] each party to the case is entitled to only one  
 21 objection under this section for that case in the appellate court [+]  
 22 and

23 [(-) a party to an appeal may not in the same case  
 24 object in an appellate court to the assignment of a judge or justice  
 25 under Section 74.053(b) and under this subsection].

26 (c) An objection under this section must be filed not later  
 27 than the seventh day after the date the party receives actual notice

1 of the assignment or before the date the case is submitted to the  
2 court, whichever date occurs earlier. The court may extend the time  
3 to file an objection under this section on a showing of good cause  
4 ~~[first hearing in which the assigned judge or justice is assigned to~~  
5 ~~sit].~~

6 (d) A ~~[former]~~ judge or justice who was defeated in the last  
7 primary or general election for which the judge or justice was a  
8 candidate for the judicial office held by the judge or justice ~~[not~~  
9 ~~a retired judge or justice]~~ may not sit in an appellate case if  
10 either party objects to the judge or justice.

11 (e) An active judge or justice assigned under this chapter  
12 is not subject to an objection.

13 (f) For purposes of this section, notice of an assignment  
14 may be given and an objection to an assignment may be filed by  
15 electronic mail.

16 (g) In this section, "party" includes multiple parties  
17 aligned in a case as determined by the appellate court.

18 SECTION 15. Section 74.055(d), Government Code, is  
19 repealed.

20 SECTION 16. The amounts or entitlements required by statute  
21 for individuals or entities that receive state funds under Article  
22 IV of the General Appropriations Act may be reduced or eliminated in  
23 order to achieve a balanced budget.

24 SECTION 17. An active, former, or retired visiting judge or  
25 justice is not entitled to an amount from the state for expenses,  
26 per diem, travel, or salary that exceeds the amount authorized for  
27 those purposes by the General Appropriations Act.

1 SECTION 18. A local administrative district judge is not  
2 entitled to a salary from the state under Section 659.0125,  
3 Government Code, that exceeds the amount authorized for that salary  
4 by the General Appropriations Act.

5 SECTION 19. An active district judge is not entitled to  
6 travel expenses under Section 24.019, Government Code, in an amount  
7 that exceeds the amount authorized for those expenses by the  
8 General Appropriations Act.

9 SECTION 20. A judge, justice, or prosecuting attorney is  
10 not entitled to an amount from the state for a salary, a salary  
11 supplement, office expenses or reimbursement of office expenses, or  
12 travel that exceeds the amount authorized for those purposes by the  
13 General Appropriations Act.

14 SECTION 21. (a) A county is not entitled to receive from  
15 the state supplemental salary compensation for county prosecutors  
16 under Section 46.0031, Government Code, or longevity pay  
17 supplements reimbursement under Section 41.255, Government Code,  
18 or any other supplements for prosecutors, in an amount that exceeds  
19 the amount appropriated for those purposes by the General  
20 Appropriations Act.

21 (b) A county is not entitled to state contributions for  
22 salaries or supplements under Chapter 25 or 26, Government Code, in  
23 an amount that exceeds the amounts appropriated for those purposes  
24 in the General Appropriations Act.

25 (c) A county is not entitled to reimbursement under Article  
26 11.071, Code of Criminal Procedure, for reimbursement for  
27 compensation and payment of expenses of counsel under Article

1 11.071, Code of Criminal Procedure, for counsel appointed under  
2 that article or prior law in an amount that exceeds the amount  
3 appropriated for that purpose in the General Appropriations Act.

4 SECTION 22. A person reimbursed by the state for travel and  
5 expenses for attendance as a witness as provided by Article 35.27,  
6 Code of Criminal Procedure, is not entitled to an amount that  
7 exceeds the amount appropriated for that purpose by the General  
8 Appropriations Act.

9 SECTION 23. (a) The change in law made by this Act to  
10 Sections 74.053 and 75.551, Government Code, applies only to a case  
11 that is pending or commences on or after the effective date of this  
12 Act.

13 (b) Except as provided by Subsection (c) of this section,  
14 the change in law made by this Act to Sections 74.003, 74.054, and  
15 74.055, Government Code, applies only to the assignment of a judge  
16 or justice under Chapter 74 or 75, Government Code, made on or after  
17 the effective date of this Act. An assignment made before the  
18 effective date of this Act is governed by the law in effect at the  
19 time the assignment is made, and that law is continued in effect for  
20 that purpose.

21 (c) The change in law made by this Act to Sections 74.003,  
22 74.054, and 74.055, Government Code, does not apply to a person who  
23 immediately before the effective date of this Act meets the  
24 eligibility requirements to be assigned by the chief justice of the  
25 supreme court under Section 74.003(b) or Chapter 75, Government  
26 Code, or to be named on a list of retired and former judges under  
27 Section 74.055(c), Government Code, other than the certification

1 requirement under Section 74.055(c)(6), Government Code, and the  
2 former law is continued in effect for determining that person's  
3 eligibility for those purposes.

4 SECTION 24. Section 74.061, Government Code, as amended by  
5 this Act, applies only to the assignment of a judge or justice under  
6 Chapter 74 or 75, Government Code, made on or after the effective  
7 date of this Act. An assignment made before the effective date of  
8 this Act is governed by the law in effect at the time the assignment  
9 is made, and that law is continued in effect for that purpose.

10 SECTION 25. Notwithstanding Section 22.216(h), Government  
11 Code, as amended by this Act, the Eighth Court of Appeals consists  
12 of a chief justice and three justices until a vacancy occurs or the  
13 term of a justice expires, whichever occurs first. Section  
14 22.216(h), Government Code, as amended by this Act, does not affect  
15 the office of a justice of the Eighth Court of Appeals serving on  
16 September 1, 2003, and the justice, unless otherwise removed,  
17 continues to serve for the term to which the justice was elected.

18 SECTION 26. This Act does not affect the jurisdiction on  
19 appeal of any case from a county that is transferred by this Act to a  
20 different court of appeals district if the notice of appeal for the  
21 case was filed before the effective date of this Act in the  
22 appropriate court of appeals district.

23 SECTION 27. (a) Except as provided by Subsection (b), this  
24 Act takes effect immediately if it receives a vote of two-thirds of  
25 all the members elected to each house, as provided by Section 39,  
26 Article III, Texas Constitution. If this Act does not receive the  
27 vote necessary for immediate effect, this Act takes effect

1 September 1, 2003.

2 (b) Sections 4, 5, and 13 of this Act take effect September  
3 1, 2003, and Section 6 of this Act takes effect January 1, 2005.



David Newkum

President of the Senate

Jim Caddick

Speaker of the House

I certify that H.B. No. 3306 was passed by the House on May 10, 2003, by the following vote: Yeas 131, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3306 on May 29, 2003, by the following vote: Yeas 142, Nays 0, 2 present, not voting.

Robert Haney  
Chief Clerk of the House

I certify that H.B. No. 3306 was passed by the Senate, with amendments, on May 27, 2003, by the following vote: Yeas 31, Nays 0.

Larry Gail  
Secretary of the Senate

APPROVED: 18 JUNE '03

Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
8:30 PM O'CLOCK

Shea  
JUN 18 2003  
Secretary of State