

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

20 May 09

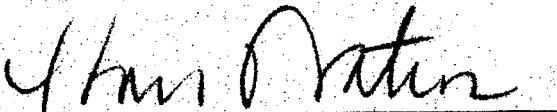
Date

Honorable David Dewhurst
President of the Senate


Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

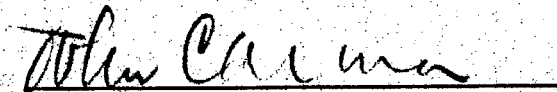
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 2298 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



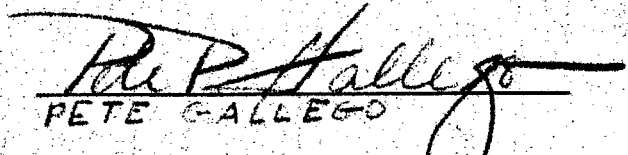
KIRK WATSON



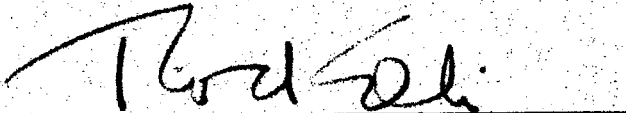
DAVID FARABEE



JOHN CARONA



PETE GALLEGO



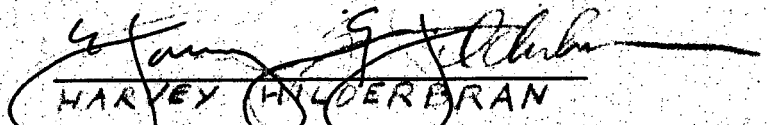
RODNEY ELLIS



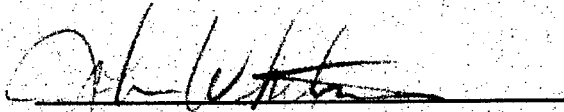
PATRICIA HARLESS



KEVIN ELTIFE



HARVEY HILDBERAN



On the part of the Senate
JOHN WHITMIRE

On the part of the House
DIANA MALDONADO

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 2298

A BILL TO BE ENTITLED

AN ACT

relating to compensation of certain state employees.

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

SECTION 1. Section 51.962, Education Code, is amended by adding Subsection (f) to read as follows:

(f) This subsection applies to an employee employed by the institution of higher education for more than six months. The requirement that six months elapse between merit salary increases prescribed by Subsection (e) does not apply to a one-time merit payment if the chief administrative officer of the institution of higher education determines in writing that the one-time merit payment is made in relation to the employee's performance during a natural disaster or other extraordinary circumstance.

SECTION 2. The heading to Section 659.0125, Government Code, is amended to read as follows:

Sec. 659.0125. SALARY FOR DISTRICT JUDGE OR RETIRED JUDGE PRESIDING OVER MULTIDISTRICT LITIGATION.

SECTION 3. Section 659.0125, Government Code, is amended by adding Subsection (c) to read as follows:

(c) A retired judge appointed to an MDL pretrial court, as defined by Section 90.001, Civil Practice and Remedies Code, is entitled to receive the same compensation and benefits to which a district judge is entitled.

SECTION 4. Section 659.015, Government Code, is amended by

1 amending Subsection (g) and adding Subsections (i) and (j) to read
2 as follows:

3 (g) Compensatory time off to which an employee is entitled
4 under Subsection (f) must be taken during the 12-month period
5 following the end of the workweek in which the compensatory time was
6 accrued or it lapses. An employee may not be paid for that
7 compensatory time, except as provided by this subsection and
8 Subsections (i) and (j). An [~~However, an~~] employee of an
9 institution of higher education as defined by Section 61.003,
10 Education Code, or an employee engaged in a public safety activity,
11 including highway construction and maintenance or an emergency
12 response activity, may be paid at the employee's regular rate of pay
13 for that compensatory time if the employer determines that taking
14 the compensatory time off would disrupt normal teaching, research,
15 or other critical functions.

16 (i) With authorization from the administrative head of the
17 agency for which an employee works, or that person's designee, an
18 employee may be paid for the hours of compensatory time the employee
19 earns for work directly related to a disaster or emergency declared
20 by the appropriate officer of the state or federal government.

21 (j) With authorization from the administrative head of the
22 agency for which an employee works, or that person's designee, an
23 employee employed by a state mental health or mental retardation
24 facility may be paid for any unused compensatory time if the
25 employing agency determines that taking the compensatory time off
26 would disrupt the normal business functions of the agency.

27 SECTION 5. Section 659.016, Government Code, is amended by

1 amending Subsection (i) and adding Subsection (j) to read as
2 follows:

3 (i) Except as provided by this subsection and Subsection
4 (j), an [An] employee covered by this section may not be paid for
5 any unused compensatory time. With authorization from the
6 administrative head of the agency for which a state employee works,
7 or that person's designee, an employee may be paid for the hours of
8 compensatory time the employee earns for work directly related to a
9 disaster or emergency declared by the appropriate officer of the
10 state or federal government.

11 (j) With authorization from the administrative head of the
12 agency for which an employee works, or that person's designee, an
13 employee employed by a state mental health or mental retardation
14 facility may be paid for any unused compensatory time if the
15 employing agency determines that taking the compensatory time off
16 would disrupt the normal business functions of the agency.

17 SECTION 6. Section 659.018, Government Code, is amended to
18 read as follows:

19 Sec. 659.018. COMPENSATORY TIME: PLACE WHERE WORK
20 PERFORMED. (a) Except under circumstances specified in the
21 General Appropriations Act or as provided by Subsection (b), an
22 employee of a state agency as defined by Section 658.001 may not,
23 for hours worked during any calendar week, accumulate compensatory
24 time off under Section 659.015(f) or 659.016 to the extent that the
25 hours are attributable to work performed at a location other than
26 the employee's regular or temporarily assigned place of employment.

27 (b) An employee may accumulate compensatory time off for

1 hours worked during any calendar week at the [The] employee's
2 personal residence if the employee obtains the advance approval of
3 the administrative head of the agency for which the employee works
4 or that person's designee [~~may not be considered the employee's~~
5 ~~regular or temporarily assigned place of employment~~].

6 SECTION 7. Section 659.255, Government Code, is amended by
7 adding Subsection (g) to read as follows:

8 (g) The six-month limitations prescribed by Subsections
9 (f)(2) and (5) do not apply if the administrative head of the agency
10 determines in writing that the merit payment is made in relation to
11 the employee's performance during a natural disaster or other
12 extraordinary circumstance.

13 SECTION 8. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2009.

Senate Bill 2298
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

SECTION __. Adds Section 51.962(f), Education Code, to exempt a one-time merit payment from the requirement that six months elapse between merit salary increases if the chief administrative officer of the institution of higher education determines in writing that the one-time merit payment is made in relation to the employee's performance during a natural disaster or other extraordinary circumstance and makes the provision applicable to an employee employed by the institution of higher education for more than six months.

SECTION 1. Same as House version.

No equivalent provision.

SECTION __. Adds subchapter FF, Chapter 61, Education Code, LEGISLATIVE EMPLOYEE LOAN REPAYMENT ASSISTANCE PROGRAM.

Same as Senate version.

No equivalent provision.

SECTION __. Requires the Texas Higher Education Coordinating Board to adopt the rules for repayment assistance under Subchapter FF, Chapter 61, Education Code, as added by this Act, not later than December 1, 2009.

Same as Senate version.

No equivalent provision.

SECTION __. The heading to Section 659.0125, Government Code, is amended to read as follows: SALARY FOR DISTRICT JUDGE OR RETIRED JUDGE PRESIDING OVER MULTIDISTRICT LITIGATION.

SECTION 2. Same as House version.

Senate Bill 2298
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

SECTION __. Adds Section 659.0125(c), Government Code, to entitle a retired judge appointed to an MDL pretrial court to receive the same compensation and benefits to which a district judge is entitled.

SECTION 3. Same as House version.

No equivalent provision.

SECTION __. Amends Subsection (g) and adds Subsections (i) and (j), Section 659.015, Government Code, relating to state employee compensatory time, as follows:

SECTION 4. Same as House version except requires authorization from the administrative head of the agency for which an employee works, or that person's designee, in order for an employee to be paid for house of compensatory time an employee earns for disaster or emergency-related work or for an employee employed by a state mental health or mental retardation facility to be paid for any unused compensatory time if the employing agency determines that the compensatory time would disrupt normal business functions of the agency.

(g) Makes a conforming change relating to the addition of subsections (i) and (j).

(i) Authorizes a state employee to be paid for the hours of compensatory time the employee earns for work directly related to a disaster or emergency declared by the appropriate officer of the state or federal government.

(j) Authorizes an employee employed by a state mental health or mental retardation facility to be paid for any unused compensatory time if the employing agency determines that taking the compensatory time off would disrupt the normal business functions of the agency.

SECTION 1. Amends Section 659.016(i), Government Code, relating to the prohibition against a state employee who is not subject to the Fair Labor Standards Act receiving payment for any unused compensatory time, to

SECTION 1. Same as Senate version except omits the requirement for authorization from the administrative head of the agency or that person's designee. Also adds Subsection (j) to authorize an employee employed by a

SECTION 5. Same as House version except restores the requirement for authorization from the administrative head of the agency or that person's designee in order for an employee to be authorized to be paid for

Senate Bill 2298
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

provide that, with authorization from the administrative head of the agency for which the employee works or that person's designee, an employee may be paid for the hours of compensatory time the employee earns for work directly related to a disaster or emergency declared by the appropriate officer of the state or federal government.

SECTION 2. Amends Section 659.018, Government Code, relating the place where work is performed by an employee of a state agency accumulating compensatory time.

SECTION 3. Adds Section 659.255(g), Government Code, relating to application of the six-month limitations.

SECTION 4. Effective date.

HOUSE VERSION

state mental health or mental retardation facility to be paid for any unused compensatory time if the employing agency determines that taking the compensatory time off would disrupt the normal business functions of the agency.

Same as Senate version.

Same as Senate version.

Same as Senate version.

CONFERENCE

compensatory time the employee earns for disaster or emergency-related work and adds the same requirement in order for an employee employed by a state mental health or mental retardation facility to be paid for any unused compensatory time under the specified circumstances.

SECTION 6. Same as Senate version.

SECTION 7. Same as Senate version.

SECTION 8. Same as Senate version.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 25, 2009

TO: Honorable David Dewhurst, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: SB2298 by Watson (Relating to compensation of certain state employees.), **Conference Committee Report**

No significant fiscal implication to the State is anticipated.

Retired Judges Compensation

The bill would amend the Government Code relating to compensation and benefits received by a multidistrict litigation (MDL) pretrial judge under Chapter 90 of the Civil Practice and Remedies Code relating to MDL claims involving asbestos and silica cases. The bill would provide that a retired judge serving as a MDL pretrial judge in Chapter 90 claims receive the same compensation as an active judge serving as a MDL judge in Chapter 90 claims. Under current law, retired judges serving in such cases receive the same compensation as an active judge (a prorated daily rate computed from an annual salary ranging from \$125,000 to \$140,000 depending upon the county in which the retired judge serves), but is not eligible to receive an additional annual salary supplement of \$33,000 received by active judges serving as MDL judges in Chapter 90 claims. This analysis assumes that up to one retired judge serving full-time as a MDL judge in Chapter 90 claims statewide would be eligible to receive an additional salary supplement up to \$33,000 in fiscal year 2010 and each year thereafter

Pay for Compensatory Time

The bill would authorize state agencies to pay state employees who are exempt from earning overtime for compensatory time accrued by the employee during a declared disaster or emergency, or if the employee is employed by a state mental health or mental retardation facility and the agency determines that taking regular time off would be disruptive to normal business. The Department of State Health Services and the Department of Aging and Disability Services currently have authority to pay state employees for compensatory time accrued by the employee during a declared disaster or emergency, or if the employee is employed by a state mental health or mental retardation facility and the agency determines that taking regular time off would be disruptive to normal business. Any costs associated with this provision would only affect other agencies with employees who earn compensatory time during a declared disaster or emergency. The number of hours of compensatory time earned by employees during an emergency would vary based on the emergency. It is unknown if another emergency requiring extended work hours will occur in the next five years, therefore, it is unknown if any additional cost will result from this authority. During Hurricane Ike, FLSA exempt-employees at the Animal Health Commission earned 987 hours of compensatory time and at the Texas Department of Criminal Justice 8,734 hours of compensatory time.

The bill requires approval from the agency head or designee before the payment is made. The bill would remove the six month waiting period required between one-time merit payments for state and higher education employees who are paid a one-time merit for performance during a disaster. The bill would authorize state employees to earn compensatory time for hours worked at home if they obtain approval in advance.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety, 554 Animal Health Commission, 696 Department of Criminal Justice, 529 Health and Human Services Commission, 212 Office of Court Administration, Texas Judicial Council, 781 Higher Education Coordinating Board

LBB Staff: JOB, KK, SD, DH, KJG, JI, MN, ZS, TB, RT, GO

Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on S. B. 2298 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.

David Farah
(name)

5-24-09
(date)