

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 30, 2009

Date

Honorable David Dewhurst
President of the Senate

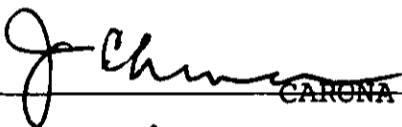
Honorable Joe Straus
Speaker of the House of Representatives

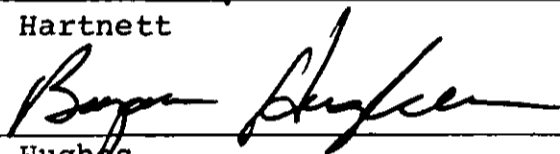
Sirs:

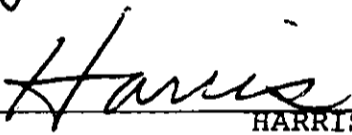
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. No. 764 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.


WENTWORTH



Hartnett

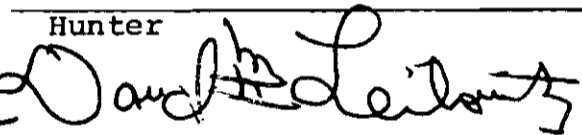

CARONA



Hughes


HARRIS

Hunter


HINOJOSA


Leibowitz


On the part of the Senate
WATSON

On the part of the House
Martinez

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

H.B. No. 764

A BILL TO BE ENTITLED

AN ACT

relating to eligibility for assignment as a visiting judge.

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

SECTION 1. Section 25.0022(t), Government Code, is amended to read as follows:

(t) To be eligible for assignment under this section, a former or retired judge of a statutory probate court must:

(1) not have been removed from office; ~~and~~

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

(A) the judge has not been publicly reprimanded or censured by the State Commission on Judicial Conduct; and

(B) the judge:

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

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

(3) annually demonstrate that the judge has completed

1 in the past state fiscal year the educational requirements for an
2 active statutory probate court judge;

3 (4) have served as an active judge for at least 96
4 months in a district, statutory probate, statutory county, or
5 appellate court; and

6 (5) have developed substantial experience in the
7 judge's area of specialty [~~the proceedings~~].

8 SECTION 2. (a) The change in law made by Chapter 315 (H.B.
9 3306), Acts of the 78th Legislature, Regular Session, 2003, to
10 Section 74.055(c)(1), Government Code, does not apply to a person
11 who:

12 (1) was serving a term as an active judge described by
13 Section 74.054(a)(1), Government Code, on August 31, 2003; and

14 (2) on completion of that term, met the eligibility
15 requirements, other than the requirement of Section 74.055(c)(6),
16 Government Code, to be named on a list of retired and former judges
17 under Section 74.055(c), Government Code, as that law existed on
18 August 31, 2003.

19 (b) Section 74.055(c), Government Code, as it existed on
20 August 31, 2003, is continued in effect for determining the
21 eligibility of a person described by Subsection (a) of this section
22 to be named on the list of retired and former judges subject to
23 assignment.

24 SECTION 3. (a) The change in law made by this Act by
25 amending Section 25.0022(t)(2), Government Code, and by adding
26 Sections 25.0022(t)(4) and (5), Government Code, applies only to an
27 assignment of a visiting judge appointed under Chapter 25,

1 Government Code, made on or after September 1, 2009. An assignment
2 made before September 1, 2009, is governed by Section 25.0022(t),
3 Government Code, as it exists on the date of the assignment, and
4 that law is continued in effect for that purpose.

5 (b) The change in law made by this Act by amending Section
6 25.0022(t)(2), Government Code, and by adding Sections
7 25.0022(t)(4) and (5), Government Code, does not apply to a person
8 who immediately before the effective date of this Act meets the
9 eligibility requirements to be assigned by the presiding judge
10 under Section 25.0022(h), Government Code, and the former law is
11 continued in effect for determining that person's eligibility for
12 that purpose.

13 (c) The change in law made by this Act by adding Section
14 25.0022(t)(3), Government Code, applies only to an assignment of a
15 visiting judge appointed under Chapter 25, Government Code, made on
16 or after September 1, 2010. Except as provided by Subsection (b) of
17 this section, an assignment made before September 1, 2010, is
18 governed by Section 25.0022(t), Government Code, as it exists on
19 the date of the assignment, and that law is continued in effect for
20 that purpose.

21 (d) Section 25.0022(t)(2)(A), Government Code, as added by
22 this Act, applies only to a reprimand or censure issued by the State
23 Commission on Judicial Conduct on or after the effective date of
24 this Act.

25 SECTION 4. This Act takes effect September 1, 2009.

House Bill 764
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 25.0022(t), Government Code, is amended to read as follows:

(t) To be eligible for assignment under this section, a former or retired judge of a statutory probate court must:

(1) not have been removed from office; ~~and~~
(2) certify under oath to the presiding judge, on a form prescribed by the state board of regional judges, that:

(A) the judge has not been publicly reprimanded or censured by the State Commission on Judicial Conduct; and

(B) the judge:

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

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

(3) annually demonstrate that the judge has completed in the past state fiscal year the educational requirements for an active statutory probate court judge;

(4) have served as an active judge for at least 96 months in a district, statutory probate, statutory county, or appellate court; and

SENATE VERSION

SECTION 1. Subsection (t), Section 25.0022, Government Code, is amended to read as follows:

(t) To be eligible for assignment under this section, a former or retired judge of a statutory probate court must:

(1) not have been removed from office; ~~and~~
(2) certify under oath to the presiding judge, on a form prescribed by the state board of regional judges, that:

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

(B) the judge:

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

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

(3) annually demonstrate that the judge has completed in the past state fiscal year the educational requirements for an active statutory probate court judge;

(4) have served as an active judge for at least 96 months in a district, statutory probate, statutory county, or appellate court; and

CONFERENCE

SECTION 1. Same as House version.

House Bill 764
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

(5) have developed substantial experience in the judge's area of specialty [the proceedings].

(5) have developed substantial experience in the judge's area of specialty [the proceedings].

SECTION 2. (a) The change in law made by Chapter 315 (H.B. 3306), Acts of the 78th Legislature, Regular Session, 2003, to Section 74.055(c)(1), Government Code, does not apply to a person who:

No equivalent provision.

SECTION 2. Same as House version.

(1) was serving a term as an active judge described by Section 74.054(a)(1), Government Code, on August 31, 2003; and

(2) on completion of that term, met the eligibility requirements, other than the requirement of Section 74.055(c)(6), Government Code, to be named on a list of retired and former judges under Section 74.055(c), Government Code, as that law existed on August 31, 2003.

(b) Section 74.055(c), Government Code, as it existed on August 31, 2003, is continued in effect for determining the eligibility of a person described by Subsection (a) of this section to be named on the list of retired and former judges subject to assignment.

SECTION 3. (a) The change in law made by this Act by amending Section 25.0022(t)(2), Government Code, and by adding Sections 25.0022(t)(4) and (5), Government Code, applies only to an assignment of a visiting judge appointed under Chapter 25, Government Code, made on or after September 1, 2009. An assignment made before

SECTION 2. (a) The change in law made by this Act by amending Subdivision (2), Subsection (t), Section 25.0022, Government Code, and by adding Subdivisions (4) and (5), Subsection (t), Section 25.0022, Government Code, applies only to an assignment of a visiting judge appointed under Chapter 25, Government Code, made on

SECTION 3. Same as House version.

House Bill 764
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

September 1, 2009, is governed by Section 25.0022(t), Government Code, as it exists on the date of the assignment, and that law is continued in effect for that purpose.

(b) The change in law made by this Act by amending Section 25.0022(t)(2), Government Code, and by adding Sections 25.0022(t)(4) and (5), Government Code, does not apply to a person who immediately before the effective date of this Act meets the eligibility requirements to be assigned by the presiding judge under Section 25.0022(h), Government Code, and the former law is continued in effect for determining that person's eligibility for that purpose.

(c) The change in law made by this Act by adding Section 25.0022(t)(3), Government Code, applies only to an assignment of a visiting judge appointed under Chapter 25, Government Code, made on or after September 1, 2010. Except as provided by Subsection (b) of this section, an assignment made before September 1, 2010, is governed by Section 25.0022(t), Government Code, as it exists on the date of the assignment, and that law is continued in effect for that purpose.

(d) Section 25.0022(t)(2)(A), Government Code, as added by this Act, applies only to a reprimand or censure issued by the State Commission on Judicial Conduct on or after the effective date of this Act.

or after September 1, 2009. An assignment made before September 1, 2009, is governed by Subsection (t), Section 25.0022, Government Code, as it exists on the date of the assignment, and that law is continued in effect for that purpose.

(b) The change in law made by this Act by amending Subdivision (2), Subsection (t), Section 25.0022, Government Code, and by adding Subdivisions (4) and (5), Subsection (t), Section 25.0022, Government Code, does not apply to a person who immediately before the effective date of this Act meets the eligibility requirements to be assigned by the presiding judge under Subsection (h), Section 25.0022, Government Code, and the former law is continued in effect for determining that person's eligibility for that purpose.

House Bill 764
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SECTION 4. This Act takes effect September 1, 2009.

SENATE VERSION

SECTION 3. Same as House version.

CONFERENCE

SECTION 4. Same as House version.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 30, 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: HB764 by Hartnett (Relating to eligibility for assignment as a visiting judge.), Conference
Committee Report**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, DB, MN