

REPORT OF THE JUDICIAL COMPENSATION COMMISSION

NOVEMBER 21, 2014



OFFICE OF COURT ADMINISTRATION
DAVID SLAYTON
ADMINISTRATIVE DIRECTOR

Judicial Compensation Commission

William Strawn, Chair

Term Expires: 2/1/15

Bill Brod, Member

Term Expires 2/1/17

Patrick Mizell, Member

Term Expires 2/1/19

Conrith Warren Davis , Member

Term Expires 2/1/17

P. Bane Phillippi, Member

Expires 2/1/15

Cruz G. Hernandez, Member

Term Expires 2/1/15

Linda Russell, Member

Term Expires 2/1/19

Robert E. Lindsey, Member

Term Expires 2/1/19

Michael Slack, Member

Term Expires 2/1/17

205 W. 14th Street, Suite 600

P O Box 12066

Austin, Texas 78711-2066

(512) 463-1625

<http://www.txcourts.gov/jcc.aspx>

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
HISTORY AND FUNCTION OF THE COMMISSION	4
CURRENT STRUCTURE OF JUDICIAL SALARIES.....	5
FACTORS REQUIRED TO BE CONSIDERED BY THE COMMISSION	6
Factor 1: Skill and Experience Required of the Particular Judgeship at Issue	7
Factor 2: Value of Compensable Service Performed by Justices and Judges, as Determined by Reference to Judicial Compensation in Other States and the Federal Government	10
Factor 3: Value of Comparable Services Performed in the Private Sector, Including Private Judging, Arbitration and Mediation	11
Factor 4: Compensation of Attorneys in the Private Sector	11
Factor 5: Cost of Living and Changes in the Cost of Living	11
Factor 6: Compensation from the State Presently Received by Other Public Officials	13
Factor 7: Other Factors Traditionally Considered.....	14
Factor 8: Level of Overall Compensation that is Adequate to Attract the Most Highly Qualified Individuals, from a Diversity of Life and Professional Experiences, to Serve in the Judiciary Without Unreasonable Economic Hardship and with Judicial Independence Unaffected by Financial Concerns.....	14
OTHER JUDICIAL SALARIES CONSIDERED.....	14
CONCLUSION AND RECOMMENDATIONS.....	16
Appendix A: Estimated Cost of Recommendation	18
Appendix B: County Supplements Paid to District Court Judges	19
Appendix C: County Supplements Paid to Intermediate Appellate Court Judges	20

EXECUTIVE SUMMARY

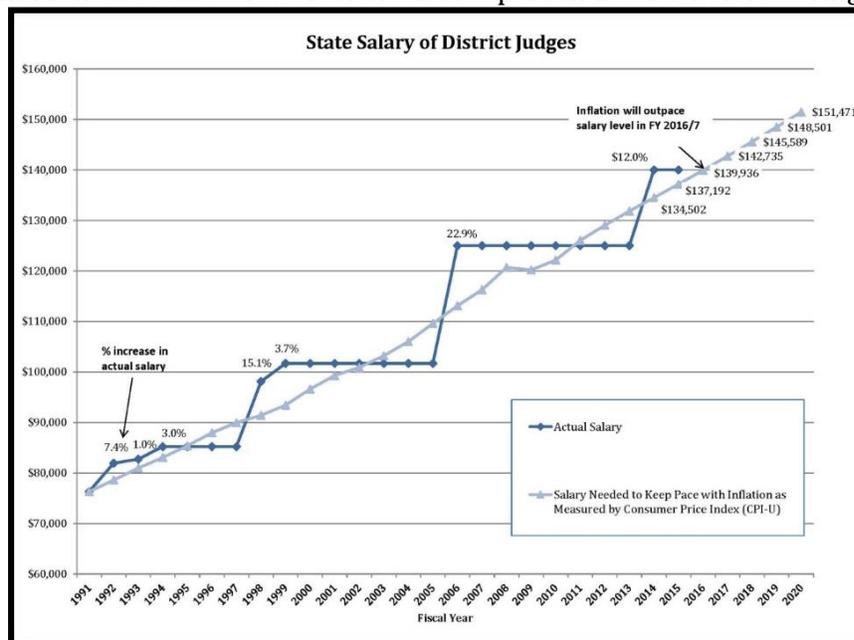
Texas is the second largest state in our nation, in both area and population, and it continues to grow in both population and commerce and industry. A basic requirement to ensuring that citizens and businesses can manage their affairs effectively is a stable and predictable judiciary.¹ Therefore, to effectively and efficiently address the needs of the State of Texas and its citizens, it is essential to have and support a competent judiciary. Adequate judicial compensation is one of the many factors that contribute to the support of the judiciary.

In 2007, the Texas Legislature formed the Judicial Compensation Commission (the “Commission”) specifically to look at this factor and, each biennium, recommend the proper salaries to be paid by the state for all justices and judges of the Supreme Court, the Court of Criminal Appeals, the courts of appeals, and the district courts.

Findings

Based on the information it has gathered and reviewed, the Commission makes the following findings:

- In order to maintain a strong, qualified and independent judiciary, and in order to attract qualified candidates and retain experienced judges, appropriate judicial compensation is essential.
- The last judicial salary increase effective September 1, 2014, increased the salaries of the state’s judges by 12% and brought them to a level that is consistent with the pace of inflation based on the judicial salaries in effect in 1991.
- By the end of the 2014-15 biennium, judicial salaries will again begin to lag behind the rate of inflation and will be lower than salaries paid in 1991 when factoring inflation.



¹ Eskridge, William N. Jr. and Philip P. Frickey, eds. 1994, *Hart and Sack's The Legal Process: Basic Problems in the Making and Application of Law*. Westbury, N.Y.: Foundation Press.

- While maintaining a 1991 level of compensation should be a goal so that real compensation does not decrease with inflation, the 1991 level of compensation in the 2016-2017 biennium is inadequate to recruit and retain the best judges for Texas.
- The age of judges serving in the Texas judiciary is increasing, and it is anticipated that many may retire in the near future making it more important than ever to set compensation at a level adequate to recruit a future generation of judges to the bench.
- Regular, systematic increases make judicial compensation more predictable and are essential to ensure that judicial compensation remains at a level that is sufficient to attract a competent and well-qualified judiciary.
- The state-paid associate judges for child protection courts and child support courts, who hear a significant portion of the cases that would otherwise be heard by additional district judges, perform a critical state service, have not received a merit-based increase in compensation in over 15 years, and are inadequately compensated for their service.
- The ability of the Commission to ensure its recommendations are brought before the Legislature is hampered by the fact that there is no formal mechanism for legislators to consider the recommendation.

Recommendations

As a result of its findings, the Commission recommends that salaries of the justices and judges of the Supreme Court, the Court of Criminal Appeals, the 14 courts of appeals, and the district courts be established as shown in the table below for the 2016-2017 biennium:

Recommended Judicial Compensation

Judge	State Salary	Additional Compensation ²	Total	% Increase Above Current Total Compensation	Adjusted National Ranking ^{3,4}
Supreme Court Chief Justice/ Court of Criminal Appeals Presiding Judge	\$178,900	n/a	\$178,900	5%	---
Supreme Court Justice/ Court of Criminal Appeals Judge	\$176,400	n/a	\$176,400	5%	12
Court of Appeals Chief Justice	\$164,200	up to \$9,700	\$173,900	5%	---
Court of Appeals Justice	\$161,700	up to \$9,700	\$171,400	5%	12
District Court Judge	\$147,000	up to \$19,400	\$166,400	5%	19

² If the Commission's recommended salary increases are adopted, county supplements could increase to the amounts shown in the chart. (See Tex. Gov't Code 659.012.) The current maximum county supplement for courts of appeals justices is \$9,000 and for district court judges it is \$18,000.

³ National Center for State Courts. (2014). *Survey of Judicial Salaries, Vol. 39, No. 1 (As of January 1, 2014)*. Williamsburg, VA.

⁴ National rankings are not adjusted for cost of living differences and do not take into account potential salary supplements paid by counties.

Cost

The state fiscal impact of the judicial salary increases recommended by the Commission is estimated to be approximately \$19,056,512 million for the 2016-2017 biennium.⁵ Sixty-one percent of the total cost is for judicial salaries and retirement, 39 percent is for other salaries that are linked to the salary of a district judge. For more detailed information regarding the cost of implementing the Commission's recommended salaries, refer to Appendix A.

Additional Recommendations

- The Commission also recommends that the Legislature make regular adjustments to judicial salaries in order to avoid lengthy periods between pay increases which make judicial salaries unpredictable and are a barrier to attracting and maintaining a strong, qualified and independent judiciary.
- The Commission also recommends that legislation be passed requiring the Commission's salary recommendations for the appellate courts and district courts published in its report to the Legislature be listed as the salary for the judges in the appellate courts' and the Comptroller Judiciary Section's appropriation patterns in the introduced versions of the General Appropriations Acts filed in the House and Senate.
- The Commission also recommends that the salaries of the child protection court and child support court associate judges appointed by the regional presiding judges under Sec. 201.101 and Sec. 201.201 of the Texas Family Code be set to the statutory maximum of 90% of a district judge's state salary.

⁵ This cost includes state-paid judicial salaries, longevity pay increases, increases in pay for state and county prosecutors, increases in funding provided for statutory county court salaries, and impacts on the Judicial Retirement System (JRS) Plan I and Plan II for the same time period.

HISTORY AND FUNCTION OF THE COMMISSION

The Judicial Compensation Commission was created by the 80th Legislature, effective September 1, 2007.⁶ It is composed of nine members who are appointed by the Governor with the advice and consent of the Senate to serve six-year terms. No more than three members serving on the Commission may be licensed to practice law.

The Commission is responsible for making a report to the Texas Legislature no later than December 1 of each even-numbered year recommending the proper salaries to be paid by the state for all justices and judges of the Supreme Court of Texas, the Court of Criminal Appeals of Texas, the courts of appeals and the district courts. In recommending the proper salaries for the justices and judges, the Commission is required to consider the factors listed in Section 35.102(b) of the Texas Government Code. (*See* page 6).

The Commission held its first meeting of the biennium on May 27, 2014, and reviewed data relating to the factors to be considered in setting judicial compensation. At this meeting, Commissioner Pat Mizell agreed to continue to chair the Data Gathering Committee, and Commissioner Michael Slack agreed to continue to chair the Public Comment Committee. Commission Chair William Strawn also agreed to continue as chair of the Legislative Support Committee.

The Public Comment Committee took comment on issues related to judicial compensation at a meeting the morning of August 7, 2014. The full Commission met that afternoon and made the recommendations included in this report.

The Commission also met on November 19, 2014, to adopt this report.

The minutes of the Commission's meetings for the biennium are available on the Commission's webpage at: www.txcourts.gov/jcc.aspx.

⁶ Acts 2007, 80th Legislature, Regular Session, Ch. 1090, September 1, 2007. Texas Government Code, Chapter 35.

CURRENT STRUCTURE OF JUDICIAL SALARIES

The state salary of justices and judges of the Supreme Court, the Court of Criminal Appeals, the courts of appeals and the district courts are set by the Texas Legislature in the General Appropriations Act. Section 659.012 of the Texas Government Code provides the salary minimums that must be paid by the State and provides salary differentials that must be maintained between the three levels of the judiciary paid by the state—the highest appellate courts, the intermediate appellate courts and the district courts. In addition, Sections 31.001 and 32.001 of the Texas Government Code authorize counties to supplement the salaries of the courts of appeals justices and the district court judges that have jurisdiction in their counties.

Current Judicial Compensation Levels			
Judge	State Salary	Additional Compensation ¹	Total
Supreme Court Chief Justice/ Court of Criminal Appeals Presiding Judge	\$170,500	n/a	\$170,500
Supreme Court Justice/ Court of Criminal Appeals Judge	\$168,000	n/a	\$168,000
Court of Appeals Chief Justice	\$156,500	up to \$9,000	\$165,500
Court of Appeals Justice	\$154,000	up to \$9,000	\$163,000
District Court Judge	\$140,000	up to \$18,000	\$158,000

Effective September 1, 2013, the annual state salary of a district judge increased from \$125,000 to \$140,000.⁷ The total annual salary including county supplements for a district judge is limited to \$158,000—\$5,000 less than the combined salary from state and county sources provided for a justice of a court of appeals. In counties with more than five district courts, local administrative district judges are entitled to an additional \$5,000 from the state.

Of the 457 district court judges in the state, only 9 do not receive a county salary supplement. Forty-four percent (201 judges) receive the maximum salary allowed by law. However, this is a significant decrease from fiscal year 2013, when 74% (338 judges) received the maximum allowed by law. A table listing the county supplements received by district judges is provided in Appendix B.

The annual salary of a justice of a court of appeals is 110 percent of the state salary of a district judge, which is currently \$154,000. The total annual salary including supplements for a court of appeals justice, other than a chief justice, is limited to \$5,000 less than the salary of a justice on the Supreme Court, for a current maximum of \$163,000. Chief justices of the courts of appeals are entitled to an additional \$2,500 from the state.

⁷ The Judicial Compensation Commission had recommended an increase to \$151,909.

All 80 of the justices of the 14 courts of appeals in Texas receive county supplements, but only 34 (42.5 percent) of the justices receive the maximum salary allowed by law. This is a significant decrease from fiscal year 2013, when 91.3 percent of justices received the maximum salary allowed by law. A table listing the county supplements received by the justices of the courts of appeals is provided in Appendix C.

A justice or judge on the highest appellate courts—the Supreme Court and the Court of Criminal Appeals—is entitled to an annual salary from the state that is equal to 120 percent of the annual state salary of a district court judge, for a current salary of \$168,000. The chief justice of the Supreme Court and the presiding judge of the Court of Criminal Appeals are entitled to an additional \$2,500 from the state. None of the justices or judges sitting on the highest courts of Texas are entitled to receive any county supplements.

Judges who have completed at least 16 years of service also receive longevity pay in an amount equal to 3.1 percent of the judge’s current monthly state salary (approximately \$362 per month, or \$4,340 per year for district judges; \$398 per month for intermediate appellate court judges; \$434 per month for high court justices and judges). Longevity pay is not dependent on whether a judge serves on a district, intermediate appellate, or high court.

Presiding judges of the administrative judicial regions,⁸ and district judges who preside over silica or asbestos multi-district litigation are entitled to additional compensation as well.⁹

FACTORS REQUIRED TO BE CONSIDERED BY THE COMMISSION

In determining what a “proper” salary would be, the Commission is required to consider the following eight factors:

- 1) the skill and experience required of the particular judgeship at issue;
- 2) the value of compensable service performed by justices and judges, as determined by reference to judicial compensation in other states and the federal government;
- 3) the value of comparable service performed in the private sector, including private judging, arbitration, and mediation;
- 4) the compensation of attorneys in the private sector;
- 5) the cost of living and changes in the cost of living;
- 6) the compensation from the state presently received by other public officials in the state, including:
 - a) state constitutional officeholders;
 - b) deans, presidents, and chancellors of the public university systems; and
 - c) city attorneys in major metropolitan areas for which that information is readily available;
- 7) other factors that are normally or traditionally taken into consideration in the determination of judicial compensation; and
- 8) most importantly, the level of overall compensation adequate to attract the most highly qualified individuals in the state, from a diversity of life and professional experiences, to serve in the judiciary without unreasonable economic hardship and with judicial independence unaffected by financial concerns.¹⁰

⁸ Tex. Govt. Code §74.051

⁹ Tex. Govt. Code §659.0125

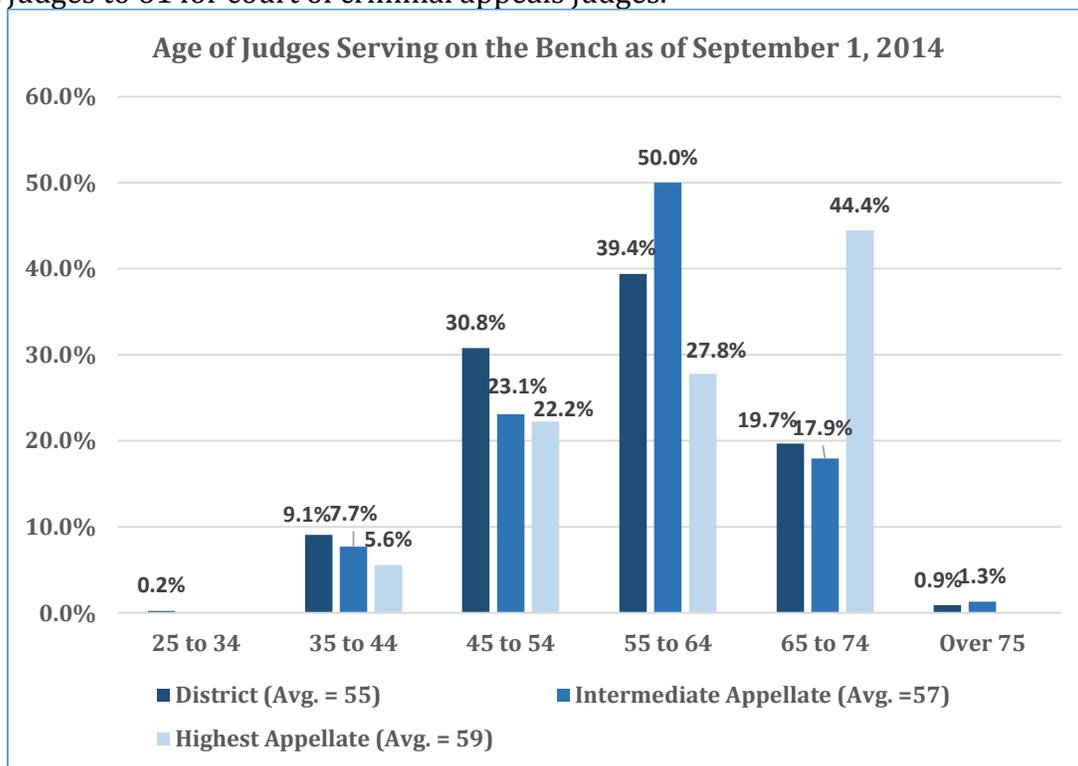
¹⁰ Government Code, Section 35.102(b).

The following is a summary of the Commission’s analysis of the data collected for purposes of determining the proper salary for the state’s justices and judges of the Supreme Court, the Court of Criminal Appeals, the courts of appeals, and the district courts.

Factor 1: Skill and Experience Required of the Particular Judgeship at Issue

District court judges must be at least 25 years old and have been a practicing lawyer or judge, or both combined, for at least four years. Appellate court justices and judges must be at least ten years older—35 years or older—and have practiced law or been the judge of a court of record and practiced law for at least 10 years.

Data reviewed by the Commission show that the Texas state judiciary is very experienced. According to demographic statistics maintained by the Office of Court Administration, the average age of the judges serving at the different levels of courts ranges from 55 for district court judges to 61 for court of criminal appeals judges.



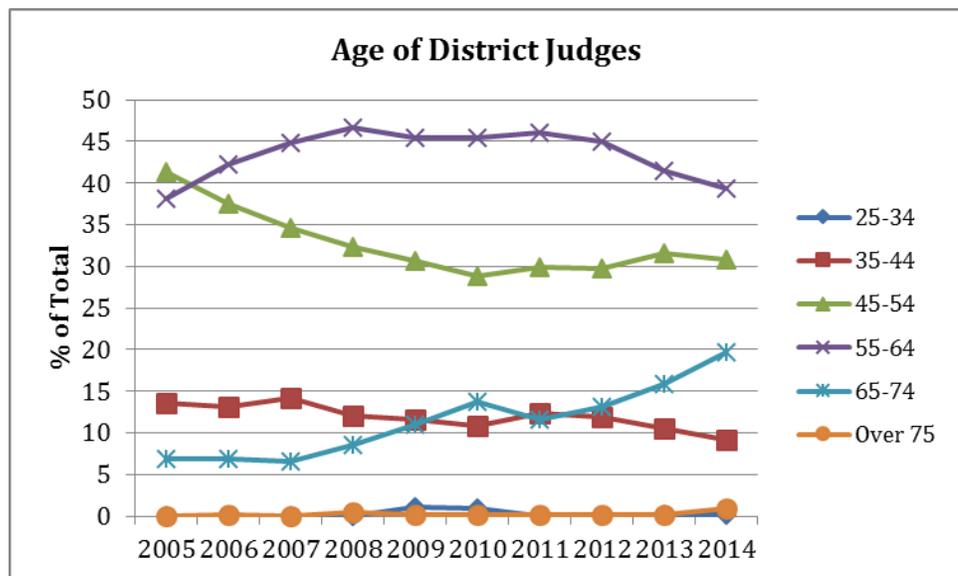
As of September 1, 2014, active district judges had served an average of 9 years and 10 months on the bench and an average of 30 years as attorneys (including the years of judicial service). Justices of the intermediate appellate courts had served an average of 8 years and 10 months on the bench and an average of 31 years as attorneys. Justices on the Supreme Court has served an average of 7 years and 5 months on the bench and an average of 31 years as attorneys. Judges on the Court of Criminal Appeals had served an average of 14 years and 4 months on the bench and an average of 38 years as attorneys.

Court	Average Service	Longest Service	Mean Year Licensed to Practice Law
Supreme Court	7 Yr 5 Mo	25 Yr 8 Mo	1983
Court of Criminal Appeals	14 Yr 4 Mo	21 Yr 8 Mo	1977
Court of Appeals	8 Yr 10 Mo	20 Yr 6 Mo	1984
District Courts	9 Yr 10 Mo	33 Yr 8 Mo	1985
Criminal District Courts	6 Yr 1 Mo	19 Yr 6 Mo	1985

As of September 1, 2014

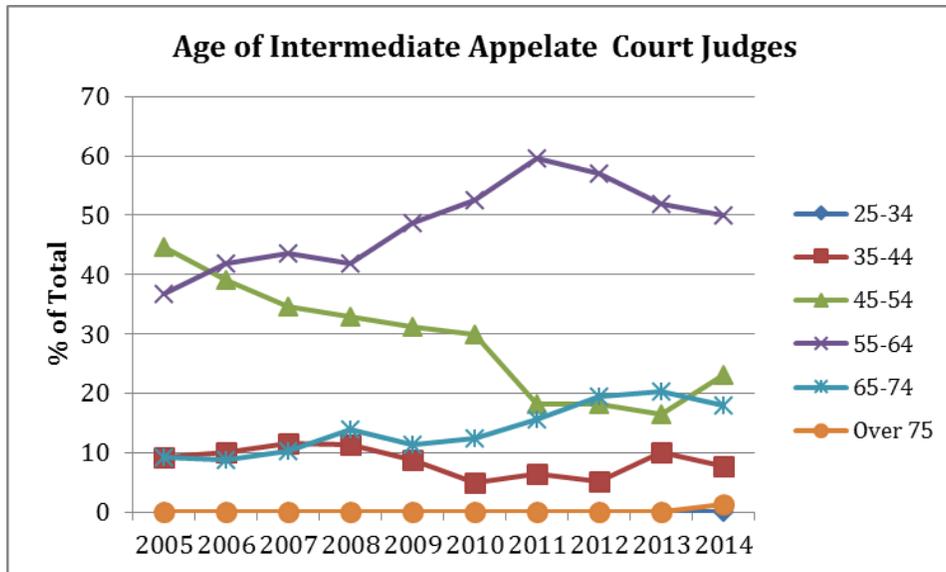
This information reveals that the Judiciary is able to attract individuals to the bench who have significant experience. While this experience may be viewed positively, it may also indicate that compensation is a barrier to younger but still experienced attorneys. Instead, those younger attorneys may be required to pursue private practice, where compensation levels are often significantly higher, before entering public service.

Demographic profile data on the ages and service on the bench for Texas judges shows that while the years of service on the bench has stayed consistent over the past decade at most court levels, the age of those serving as judges has increased. At the district court level, over 46% of the judges serving on the bench in 2003 were between the ages of

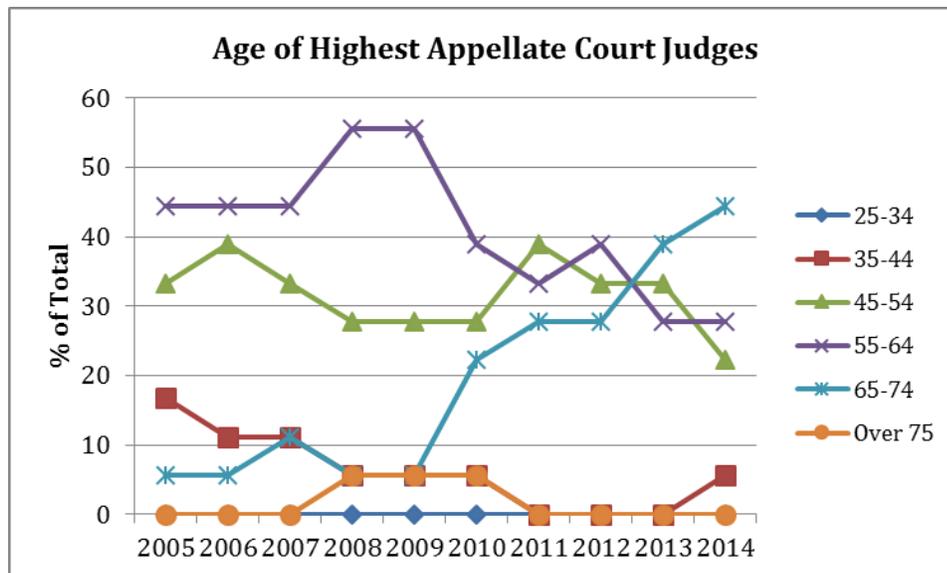


45-54 and just under 33% of the judges serving were between the ages of 55-64. That demographic has switched in 2014 where the majority of judges now are between the ages of 55-64 or above. The three younger age ranges are decreasing while the three older age ranges are increasing.

The intermediate appellate court demographic shift is even more dramatic. While 45% of justices were between the ages of 45-54 in 2003, only 23% are in that age range now and almost 70% of the justices are now over the age of 55.



The demographic shift has occurred at the highest appellate courts as well. In 2003, 39% of the justices/judges were between the ages of 45-54, while only 22% of the justices/judges are now in that age range today. While only 47% of the justices were over 55 in 2003, over 72% of the justices/judges are now in that age range. Justices/judges over age 65 now make up the largest portion of the high courts.



With the reality that a large percentage of judges and justices may be retiring in the near future, it is more important than ever to ensure that compensation is set at a level adequate to recruit the future generation of judges and justices to the bench.

Factor 2: Value of Compensable Service Performed by Justices and Judges, as Determined by Reference to Judicial Compensation in Other States and the Federal Government

Other States - A wealth of data exists about the judicial salaries in other states. These data have been collected by the National Center for State Courts (“NCSC”) for each year since 1974. The NCSC provides data on the actual and “normalized” salaries of judges. The purpose of normalizing data is to allow for an apples-to-apples comparison of salaries between states by adjusting salaries in each state by a cost-of living factor to determine the purchasing power of that salary in a given state. The Center uses the most widely accepted United States source of cost-of-living indices, the indices produced by the Council for Community and Economic Research (C2ER, formerly known as the ACCRA organization).¹¹

For its comparison of compensation in other states, the Commission focused on salaries in the six most populous states, including Texas.

Although Texas state judges received an increase in salary as of September 1, 2013, the state salaries of state judges in Texas continue to lag behind the salaries of judges at corresponding levels in all five states closest to Texas in population.

State Salaries of Judges in the Six Most Populous States as of January 1, 2014 Listed in Population Order						
Judge	California	Texas	New York	Florida	Illinois	Pennsylvania
High Courts	\$221,292	\$168,000	\$184,800	\$162,200	\$213,552	\$200,205
Court of Appeals	\$207,463	\$154,000	\$170,700	\$154,140	\$200,992	\$188,903
District Courts	\$181,292	\$140,000	\$167,000	\$146,080	\$184,436	\$173,791

Federal Judges¹² - In the past, the Commission has chosen not to tie its recommendation to the salaries of federal judges. No other state does so, and federal salaries are not normalized; that is, a federal judge in California earns the same salary as a federal judge in Illinois, even though there is a large difference in the cost of living between those states. The Commission did take notice that federal judge salaries far outpace Texas judges’ salaries. For the previously stated reasons, the Commission did not consider federal judges’ salaries in making its recommendation.

¹¹ National Center for State Courts, *Survey of Judicial Salaries*, Vol. 39, No. 1, pg. 2, January 1, 2014.

¹² Federal district court judges are currently paid \$199,100; circuit court of appeals justices are paid \$211,200 and associate justices on the United States Supreme Court are paid \$244,400. The Chief Justice of the Supreme Court is paid an additional \$11,100.

Factor 3: Value of Comparable Services Performed in the Private Sector, Including Private Judging, Arbitration and Mediation

In the past, the Commission was unable to gather definitive information about the rates of compensation that can be obtained in the private sector by serving as a private judge, arbitrator or mediator. As a result, the Commission did not examine data for this factor.

Factor 4: Compensation of Attorneys in the Private Sector

The Commission reviewed data collected by the State Bar of Texas in 2014 for its 2013 *Income Fact Sheet*. Results of the data collected by the Bar showed that the salaries of lawyers vary widely. Overall, full-time private practitioners had a median salary of \$123,982 and an average salary of \$161,560. Thirty-two percent of the attorneys had salaries of \$187,500 or more.

Lawyers with 11 to 15 years of experience had a median salary of \$146,634 and an average salary of \$186,200. Thirty-seven percent of attorneys in this group had salaries of \$187,500 or more. Lawyers with 16 to 20 years of experience had a median salary of \$159,308 and an average salary of \$207,737. Forty-four percent of lawyers in this group had salaries of \$187,500 or more.

The state-funded portion of salaries for district and intermediate appellate court judges is less than the average salary of lawyers overall, and the state-funded portion of salaries for all judges is less than the average salary of lawyers with more than 10 years of experience even though over half of Texas' judges have been licensed attorneys for more than 30 years.

To become a judge, many attorneys may not only have to take a decrease in salary but may also have to relinquish many opportunities for income and investment due to the code of judicial conduct that is unique to the judicial branch of government.

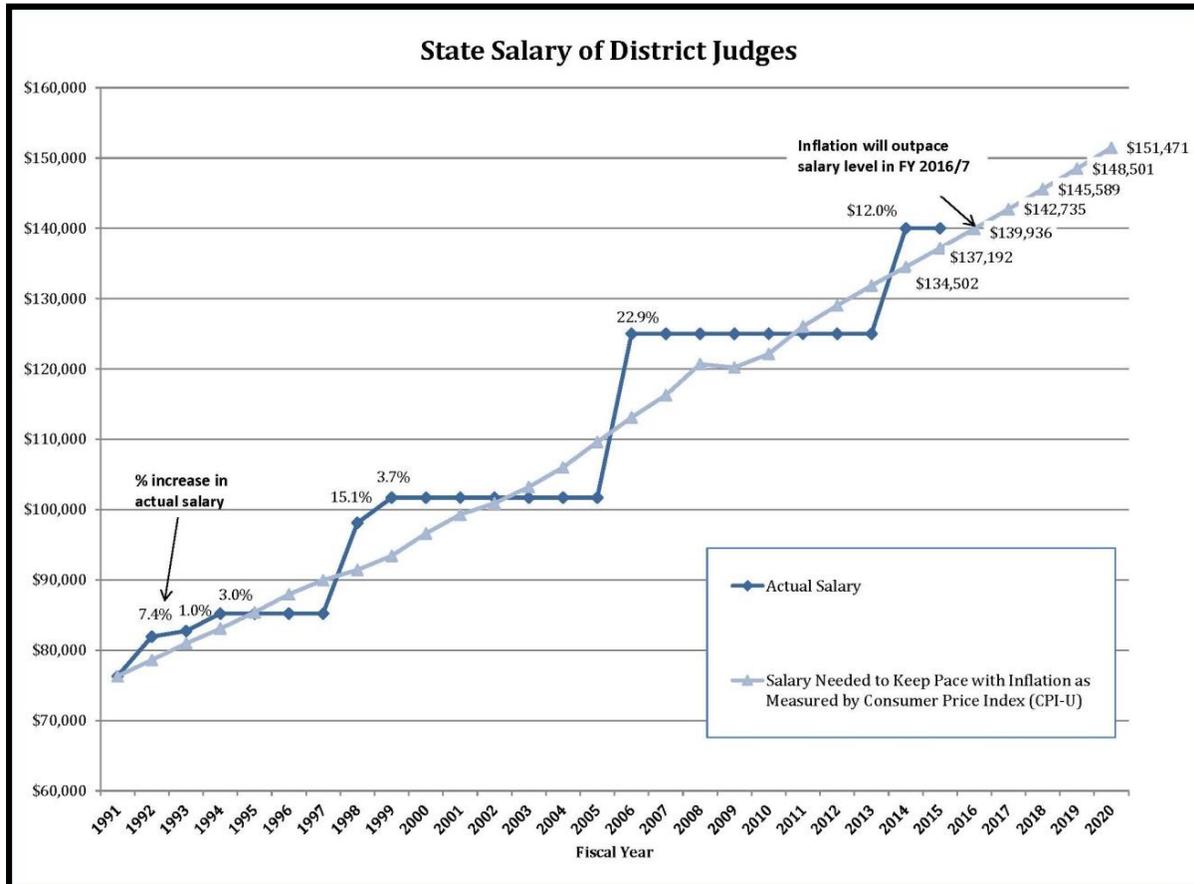
While every public servant knows that they are unlikely to earn as much as they would in the private sector, the current level of and process for establishing judicial compensation are disincentives for high quality, experienced attorneys to enter the judiciary. They are also incentives for current judges to leave the judiciary, as has been testified to by numerous judges at each of the Commission's Public Comment Committee held since the creation of the Commission.

Factor 5: Cost of Living and Changes in the Cost of Living

Reported by the U.S. Bureau of Labor Statistics, the Consumer Price Index for all Urban Workers (CPI-U) is a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services, such as transportation, food and medical care.

The following chart illustrates the relationship between judicial salaries and the CPI-U from 1991 to present. From 1998 to 2005, judicial salaries stayed static while inflation (measured

by the CPI-U) climbed by 20 percent. This trend continued again between 2005 and 2013, where judicial salaries remained unchanged while inflation increased by another 20 percent. The salary increase effective September 1, 2013, brought the salaries to an amount that is slightly above the rate of inflation after having been outpaced by inflation from December 2005 (when the last salary increase prior to the September 2013 increase was implemented) to September 2013, by 20.5 percent. The chart also shows that if another judicial salary increase is not implemented in the upcoming legislative session, judicial salaries will again fall behind the rate of inflation.



Note: This chart assumes that the salaries of judges in 1991 were proper and adequate, which may or may not have been the case.

As noted in previous reports, the Commission also finds this chart to be a compelling display of:

- the inconsistent and unpredictable changes made to judicial salaries over the years;
- the eroding power of inflation on judicial salaries; and
- the substantial increases that had to be made to “catch up” salaries with the cost of living due to the inconsistent and infrequent adjustments made to judicial salaries.

This unpredictable pattern of adjustments can cause an otherwise adequate salary to become inadequate and financially worrisome. In addition, while the occasionally significant increases made to judicial salaries may seem to “catch up” salaries levels to the cost of living, the judges actually lose potential income from interest they could have earned on increased salary levels during that period.

The Commission understands and appreciates the need of the Legislature to control the budget by evaluating each biennium the effect of proposed increases, and so the Commission is making a specific recommendation only for the upcoming biennium. As stated in several of its previous reports, the Commission believes that **anticipating regular adjustments is one of the most important policy goals to be achieved for Texas judicial salaries**. The current system for compensating judges is unpredictable and creates lengthy periods during which judges’ compensation is eroded by inflation. Regular, systematic increases would make judicial compensation more predictable and would offset the effects of inflation.

As this Commission is the body statutorily charged with this regular review, ensuring that the Legislature has an opportunity to review the Commission’s recommendations in a formal process is important. In the current structure, there is no formal mechanism for such review, as the Commission’s recommendations do not get automatically presented to the Legislature in the appropriations process.

Factor 6: Compensation from the State Presently Received by Other Public Officials

The Commission is required by statute to consider the compensation from the state presently received by other public officials in the state, including state constitutional officeholders; deans, presidents, and chancellors of the public university systems; and city attorneys in major metropolitan areas for which that information is readily available.

In the past, none of the salaries for other public officials have been compelling other than the salaries of county court at law judges. The results of the data gathered by the Office of Court Administration reveal that county court at law judges in five counties make more than the maximum salary of a district judge, including county salary supplements. The county court at law judges in two counties make more than the chief justices and justices of the intermediate appellate court.

County	Salary as of March 2014
Tom Green	\$167,292
El Paso	\$164,099
Montgomery	\$159,600
Randall	\$159,068
Cherokee	\$158,064

Factor 7: Other Factors Traditionally Considered

Except for a brief discussion on judicial turnover, the Commission did not consider any other factors that are not already discussed above. To provide the Legislature with information to facilitate legislation that ensures that the compensation of state judges is adequate and appropriate, the 79th Texas Legislature charged the Office of Court Administration (OCA) with collecting information related to state judicial turnover. Section 72.030 of the Texas Government Code requires OCA to obtain data on the rate at which state judges resign from office or do not seek re-election, as well as the reason for these actions. The results for the latest report are available on OCA's website at

<http://www.txcourts.gov/media/304626/Judicial-Turnover-Report-FYs-2012-2013.pdf>.

Forty-three judges voluntarily left judicial service between September 1, 2011, and August 31, 2013. Thirty-one of the 43 judges (72%) who voluntarily left the state judiciary responded to OCA's judicial turnover survey. Respondents were asked to indicate which factor(s) influenced their decision to leave the state judiciary. The most common factors that strongly influenced respondents' decision to leave were salary (77%), retirement (70%), and the judicial election process (38%). Nearly three-quarters of the respondents indicated that a change in salary would have compelled them to continue serving.

Factor 8: Level of Overall Compensation that is Adequate to Attract the Most Highly Qualified Individuals, from a Diversity of Life and Professional Experiences, to Serve in the Judiciary Without Unreasonable Economic Hardship and with Judicial Independence Unaffected by Financial Concerns

The Commission viewed the analysis required by the first seven factors to be relevant to the analysis of the last factor. Based on those analyses, **the Commission concludes that though the Legislature increased judicial salaries during the last legislative session, regular adjustments in compensation are necessary and appropriate in order to seek to attract the most highly qualified individuals, from a diversity of life and professional experiences, to serve in the judiciary without unreasonable economic hardship and with judicial independence unaffected by financial concerns.** Therefore, the Commission recommends that judges' salaries be increased during the next legislative session.

OTHER JUDICIAL SALARIES CONSIDERED

During the Commission's Public Comments Committee meeting, Judge David Peeples, the presiding judge of the Fourth Administrative Judicial Region, raised concerns about the compensation of the associate judges appointed by the presiding judges of the administrative judicial regions to hear child support and child abuse and neglect cases throughout the state. Judge Peeples noted that these associate judges who are state

employees have not received a merit increase since fiscal year 2000. Judge Peebles also noted that these judges hear some of the most challenging cases in the state.

The Office of Court Administration provided the Commission additional information regarding the workload of these associate judges. The child support courts serve all but a handful of counties in the state. Approximately 150,000 cases are filed with the child support courts annually and they dispose of ninety-eight percent of these cases within one year of service on all parties. The child protection courts serve 117 counties and in fiscal year 2014, these courts held 30,507 hearings and issued 5,547 final orders.

The Office of Court Administration also informed the Commission that the salary of these associate judges has fallen by 30% since their last raise in 2000 when factoring in inflation. Texas Family Code Sections 201.105 and 201.205 entitle these associate judges to a salary as determined by a majority vote of the presiding judges of the administrative judicial regions not to exceed 90% of the salary paid to a district judge as set by the General Appropriations Act. The presiding judges have unanimously approved that their salaries be raised to 90% of the current district judges' salary, but there are no funds to implement their recommendation.

OTHER CONSIDERATIONS

Increases in the salaries of district judges result, by statute, in increases in pension benefits for other state officials and employees. The reasons why a judge's salary should or should not be increased, however, are different from the reasons why benefits of other public officials or employees should or should not be increased. This is evident in the fact that the Commission, in making its recommendation about judicial pay, is asked to consider factors that are specific to judges.

When a recommendation to increase judicial pay, however, leads to a significantly larger fiscal note than that required to increase judicial pay alone, the inevitable budget pressures make it, realistically, more difficult to achieve increase in judicial pay. Likewise, the linkage between an increase in a judge's pay and an increase in a legislator's pension benefits can lead to perceptions of a conflict of interest.

CONCLUSION AND RECOMMENDATIONS

Based on its evaluation of the factors the Commission is required to consider, the Commission concluded that it is necessary and appropriate to adjust judicial salaries and recommends that salaries be established as shown below for the 2016-2017 biennium:

Recommended Judicial Compensation*

Judge	State Salary	Additional Compensation ¹³	Total	% Increase Above Current Total Compensation	Adjusted National Ranking
Supreme Court Chief Justice/ Court of Criminal Appeals Presiding Judge	\$178,900	n/a	\$178,900	5%	---
Supreme Court Justice/ Court of Criminal Appeals Judge	\$176,400	n/a	\$176,400	5%	12
Court of Appeals Chief Justice	\$164,200	up to \$9,700	\$173,900	5%	---
Court of Appeals Justice	\$161,700	up to \$9,700	\$171,400	5%	12
District Court Judge	\$147,000	up to \$19,400	\$166,400	5%	19

* Cost of recommended salaries is provided in Appendix A

ADDITIONAL RECOMMENDATIONS

As noted in the discussion of Factor 5 above, the Commission believes that gradual, biennial adjustments based on cost of living increases due to inflation are essential in order to maintain and attract top talent to the bench. It is important that individuals considering judicial service know that salary increases will be considered regularly rather than in 8-12 year windows.

For this reason, the Commission also recommends that legislation be passed during the next legislative session requiring the Commission's salary recommendations published in its report to the Legislature for the appellate courts and district courts be listed as the salary for the judges in the courts' and the Comptroller Judiciary Section's appropriation patterns in the introduced versions of the General Appropriations Acts filed in the House and Senate. This will not guarantee adequate regular adjustments, but it will ensure that legislators are given an opportunity to review the Commission's recommendations regarding the level of overall compensation that the

¹³ If the Commission's recommended salary increases are adopted, county supplements could increase to the amounts shown in the chart. (See Tex. Gov't Code 659.012.) The current maximum county supplement for courts of appeals justices is \$9,000 and for district court judges it is \$18,000.

Commission finds to be adequate to attract the most highly qualified individuals in the state, from a diversity of life and professional experiences, to serve in the judiciary without unreasonable economic hardship and with judicial independence unaffected by financial concerns.

Additionally, based on the compelling information presented to the Commission regarding the salaries of associate judges appointed under Sections 201.101 and 201.201 of the Texas Family Code, the Commission recommends that the Legislature fund an increase in their salaries to 90% of a district judge's salary.

Lastly, the current linkage of judicial salaries to the pension benefits of other state officials and employees makes the fiscal note for judicial salaries higher than it would be solely for a judicial salary increase and the linkage to legislator's retirement benefits may give the appearance of a conflict of interest. These factors interfere with an objective assessment of adequate compensation for judges. For this reason, the Commission recommends that the Legislature "delink" the pension benefits of state officers and employees that are currently linked to the salary of a district judge.

Appendix A: Estimated Cost of Recommendation

The following table provides more detailed information regarding potential fiscal impacts related to judicial salaries and budget items that are linked to judicial salaries, such as prosecutors' salaries.¹⁴

Estimated Fiscal Impact of Recommended Salaries

	Annual	Biennial
State Judge Salary Increases	\$4,013,730	\$8,027,460
Highest Courts	\$151,200	\$302,400
Courts of Appeals	\$616,000	\$1,232,000
District Courts	\$3,220,000	\$6,440,000
MDL Judge	\$7,000	\$14,000
Longevity Pay	\$19,530	\$ 39,060
Retirement¹⁵	\$3,020,736	\$6,041,472
JRS 1	\$1,264,239	\$2,528,478
JRS 2	\$522,209	\$1,044,418
ERS Retired Elected Class Members	\$1,234,288	\$2,468,766
District Attorneys¹⁶	\$1,113,000	\$2,226,000
County Attorney Supplements	\$305,590	\$611,180
Statutory County Court Judge Salary Supplements¹⁷	\$1,075,200	\$2,150,400
Total	\$9,528,256	\$19,056,512

¹⁴ See Government Code Sections 25.0015, 41.013, 45.175, 45.280, 46.002, 46.003 and 46.0031.

¹⁵ The fiscal impact information related to the retirement system was provided by the Employees Retirement System of Texas (ERS).

¹⁶ Includes the salary increase for the State Prosecuting Attorney.

¹⁷ Funded by filing fees and court costs under Government Code Section 51.702.

Appendix B: County Supplements Paid to District Court Judges

County Supplements Received by District Judges			
Number of Judges	Percentage of All Judges	County Supplement	Total Salary
201	44.0%	\$17,999 to 18,000	\$158,000¹⁸
19	4.2%	\$17,000 to 17,998	\$157,000 to 157,998
60	13.1%	\$16,000 to 16,999	\$156,000 to 156,999
63	13.8%	\$15,000 to 15,999	\$155,000 to 155,999
24	5.3%	\$14,000 to 14,999	\$154,000 to 154,999
5	1.1%	\$13,000 to 13,999	\$153,000 to 153,999
12	2.6%	\$12,000 to 12,999	\$152,000 to 152,999
7	1.5%	\$11,000 to 11,999	\$151,000 to 151,999
15	3.3%	\$10,000 to 10,999	\$150,000 to 150,999
8	1.8%	\$9,000 to 9,999	\$149,000 to 149,999
8	1.8%	\$8,000 to 8,999	\$148,000 to 148,999
8	1.8%	\$7,000 to 7,999	\$147,000 to 147,999
3	0.7%	\$6,000 to 6,999	\$146,000 to 146,999
1	0.2%	\$5,000 to 5,999	\$145,000 to 145,999
7	1.5%	\$4,000 to 4,999	\$144,000 to 144,999
3	0.7%	\$3,000 to 3,999	\$143,000 to 143,999
3	0.7%	\$2,000 to 2,999	\$142,000 to 142,999
0	0.0%	\$1,000 to 1,999	\$141,000 to 141,999
1	0.2%	\$1 to 999	\$140,001 to 140,999
9	2.0%	\$0	\$140,000
AVERAGE		\$15,314	\$155,247

¹⁸ While the total salary of a district judge cannot exceed \$158,000, one judge receives an additional \$3,644 annually in compensation due to a drug court supplement.

Appendix C: County Supplements Paid to Intermediate Appellate Court Judges

County Supplements Received by Intermediate Appellate Court Justices			
Number of Judges	Percentage of All Judges	County Supplement	Total Salary
34	42.5%	\$9,000	\$163,000
3	3.8%	\$8,628	\$162,828
22	27.5%	\$8,250	\$162,250
17	21.3%	\$7,500	\$161,500
3	3.8%	\$6,573	\$144,073
1	1.3%	\$4,087	\$160,587
AVERAGE		\$8,546	\$162,546

Note: Percentages do not total to 100.0% due to rounding.