

BILL ANALYSIS

C.S.H.B. 2088
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The judicial selection process in Texas requires partisan elections for most judicial positions. Interested parties contend that over the years party affiliation has contributed to the loss of highly qualified jurists due in part to partisan sweeps when political winds shift. Some parties cite the influence of special interest groups and their campaign contributions as reasons for reforming judicial elections in Texas. To address these concerns, C.S.H.B. 2088 seeks to form a joint interim committee on judicial selection to study the current judicial selection system in Texas, as well as alternative judicial selection methods.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2088 establishes the joint interim committee on judicial selection to study and review the method by which statutory county court judges, including probate court judges, district judges, and appellate justices and judges are selected for office in Texas. The bill requires the study to consider the fairness, effectiveness, and desirability of selecting such judicial officers through partisan elections; the fairness, effectiveness, and desirability of judicial selection methods proposed or adopted by other states; and the relative merits of alternative methods for selecting such judicial officers.

C.S.H.B. 2088 sets out the composition of the 12-member committee, which consists of senators appointed by the lieutenant governor, members of the house of representatives appointed by the speaker of the house of representatives, and the chairs of specified committees. The bill requires the lieutenant governor and the speaker of the house to each ensure that the appointed members equally represent the majority and minority parties of the senate or house of representatives, as applicable.

C.S.H.B. 2088 requires the lieutenant governor and speaker of the house to each designate a co-chair from among the committee members and requires the committee to convene at the call of one of the co-chairs. The bill grants the committee all other powers and duties provided to a special or select committee by the rules of the senate and house of representatives, by the Legislative Reorganization Act of 1961, and by policies of the senate and house committees on administration. The bill requires the committee, not later than January 6, 2017, to report the committee's findings and recommendations to the lieutenant governor, the speaker of the house,

and the governor and to include in its recommendations specific constitutional and statutory changes that appear necessary from the results of the study.

C.S.H.B. 2088 provides for the reimbursement of member expenses and the payment of other necessary expenses from the contingent expense fund of the senate and the contingent expense fund of the house of representatives equally. The bill requires the Texas Legislative Council to provide legal and policy research, bill drafting, and statistical analysis services to the committee. The bill's provisions expire and the committee is abolished on January 12, 2017.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2088 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. INTERIM COMMITTEE; STUDY. (a) The joint interim committee on judicial selection is established to study and review the method by which district judges and appellate justices and judges are selected for office in this state.

(b) The study must consider:

- (1) the fairness, effectiveness, and desirability of selecting district judges and appellate justices and judges through partisan elections;
- (2) the fairness, effectiveness, and desirability of judicial selection methods proposed or adopted by other states; and
- (3) the relative merits of alternative methods for selecting district judges and appellate justices and judges, including:

- (A) lifetime appointment;
- (B) appointment for a term;
- (C) appointment for a term, followed by a partisan election;
- (D) appointment for a term, followed by a nonpartisan election;
- (E) appointment for a term, followed by a nonpartisan retention election;
- (F) partisan election for an open seat, followed by a nonpartisan retention election for incumbents; and
- (G) any other method or combination of

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. INTERIM COMMITTEE; STUDY. (a) The joint interim committee on judicial selection is established to study and review the method by which the following judges and justices are selected for office in this state:

- (1) statutory county court judges, including probate court judges;
- (2) district judges; and
- (3) appellate justices and judges.

(b) The study must consider:

- (1) the fairness, effectiveness, and desirability of selecting a judicial officer described in Subsection (a) of this section through partisan elections;
- (2) the fairness, effectiveness, and desirability of judicial selection methods proposed or adopted by other states; and
- (3) the relative merits of alternative methods for selecting a judicial officer described in Subsection (a) of this section, including:

- (A) lifetime appointment;
- (B) appointment for a term;
- (C) appointment for a term, followed by a partisan election;
- (D) appointment for a term, followed by a nonpartisan election;
- (E) appointment for a term, followed by a nonpartisan retention election;
- (F) partisan election for an open seat, followed by a nonpartisan retention election for incumbents; and
- (G) any other method or combination of

methods for selecting district judges and appellate judges and justices.

(c) The joint interim committee shall be composed of six senators and six members of the house of representatives as follows:

(1) the chair of the senate state affairs committee, the chair of the senate criminal justice committee, and four senators appointed by the lieutenant governor; and

(2) the chair of the judiciary and civil jurisprudence committee of the house of representatives, the chair of the criminal jurisprudence committee of the house of representatives, and four members of the house of representatives appointed by the speaker of the house of representatives.

(d) When making appointments under Subsection (c) of this section, the lieutenant governor shall ensure that three senators from the majority party of the senate are appointed to the committee and three senators from the minority party of the senate are appointed to the committee. When making appointments under Subsection (c) of this section, the speaker of the house of representatives shall ensure that three members from the majority party of the house of representatives are appointed to the committee and three members from the minority party of the house of representatives are appointed to the committee.

(e) The lieutenant governor and speaker of the house of representatives shall each designate a co-chair from among the committee members.

(f) The joint interim committee shall convene at the call of one of the co-chairs.

(g) The joint interim committee has all other powers and duties provided to a special or select committee by the rules of the senate and house of representatives, by Subchapter B, Chapter 301, Government Code, and by policies of the senate and house committees on administration.

(h) Not later than January 6, 2017, the joint interim committee shall report the committee's findings and recommendations to the lieutenant governor, the speaker of the house of representatives, and the governor. The committee shall include in its recommendations specific constitutional and statutory changes that appear necessary from the results of the committee's study.

(i) From the contingent expense fund of the

methods for selecting a judicial officer described in Subsection (a) of this section.

(c) The joint interim committee shall be composed of six senators and six members of the house of representatives as follows:

(1) the chair of the senate state affairs committee, the chair of the senate criminal justice committee, and four senators appointed by the lieutenant governor; and

(2) the chair of the judiciary and civil jurisprudence committee of the house of representatives, the chair of the criminal jurisprudence committee of the house of representatives, and four members of the house of representatives appointed by the speaker of the house of representatives.

(d) When making appointments under Subsection (c) of this section, the lieutenant governor shall ensure that three senators from the majority party of the senate are appointed to the committee and three senators from the minority party of the senate are appointed to the committee. When making appointments under Subsection (c) of this section, the speaker of the house of representatives shall ensure that three members from the majority party of the house of representatives are appointed to the committee and three members from the minority party of the house of representatives are appointed to the committee.

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(i) From the contingent expense fund of the

senate and the contingent expense fund of the house of representatives equally, the members of the joint interim committee shall be reimbursed for expenses incurred in carrying out the provisions of this Act in accordance with the senate and house of representatives rules of procedure and the policies of the committees on administration. Other necessary expenses of operation shall be paid from the contingent expense fund of the senate and the contingent expense fund of the house of representatives equally.

(j) The Texas Legislative Council shall provide legal and policy research, bill drafting, and statistical analysis services to the committee created under this section.

SECTION 2. ABOLITION OF COMMITTEE. The committee is abolished and this Act expires January 12, 2017.

SECTION 3. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

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(j) The Texas Legislative Council shall provide legal and policy research, bill drafting, and statistical analysis services to the committee created under this section.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.