

SUBJECT: Supreme Court 180-day deadline to rule on motions for rehearing

COMMITTEE: Judicial Affairs— favorable, without amendment

VOTE: 8 ayes — Thompson, Hartnett, Clark, Crabb, Garcia, Luna, Shields, Solis

0 nays

1 absent — Zbranek

WITNESSES: None

BACKGROUND : When appealing a civil case to the Texas Supreme Court, applicants file a petition for writ of error. The court can choose which cases it will hear by granting or denying that petition. If the petition is granted, the case will be decided by the court. If that petition is denied, applicants may file a motion for rehearing within 15 days. If the court hears the case and renders a judgment, a motion for rehearing can also be filed. If a motion for rehearing is filed, the decision of the court is not considered final until the court rules on that motion. There is no deadline for court action on a motion for rehearing.

DIGEST: HJR 55 would require the Texas Supreme Court to rule on a motion for rehearing within 180 days. If the court did not rule within that time period, the motion would be deemed denied.

The proposal would be presented to voters at an election on November 4, 1997. The ballot proposal would read: “The constitutional amendment to establish a deadline for supreme court action on a motion for rehearing.”

SUPPORTERS SAY: Without a deadline for the Texas Supreme Court to decide a motion for rehearing, a litigant’s case could be tied up for years before a final judgment was reached. While a case is still pending, winning plaintiffs are unable to collect money owed them on a judgment and winning defendants still have the possibility of having a judgment entered against them. This constitutional amendment would seek to ensure that a final judgment would be entered in a reasonable length of time.

The procedure proposed by this amendment is used in other circumstances. A trial court must rule on a motion for a new trial within 90 days or that motion is deemed denied. This practice helps in the efficient movement of cases through the court system because a case cannot be appealed until a motion for new trial is denied.

Nearly all motions for rehearing filed with the Supreme Court are dealt with within 30 days, and nearly all such motions are also denied. This change in the law seeks to give those few whose cases could drag on for years the same efficiency of justice enjoyed by nearly all other litigants.

While the Supreme Court, through the Rules Advisory Committee, normally would be responsible for including this change in the rules of appellate procedure, a deadline has never been included nor is one proposed in the next draft of the rules currently being circulated for comment.

**OPPONENTS
SAY:**

HJR 55 would be unnecessary interference with the internal workings of the Texas Supreme Court. The justices on the court have no reason to deliberately delay the judicial process and should be allowed to consider each case based on individual circumstances rather than being constrained by an arbitrary deadline.

The Texas Constitution authorizes the Supreme Court to develop rules of civil procedure. If this rule is needed, it should be developed through that process. The separation of powers doctrine dictates that the Legislature should not govern how the judiciary should conduct its internal affairs.