SUBJECT: Texas Supreme Court hearings outside Austin

COMMITTEE: Judicial Affairs — favorable, without amendment

VOTE: 7 ayes —Thompson, Hartnett, Clark, Garcia, Luna, Shields, Zbranek

0 nays

2 absent — Crabb, Solis

WITNESSES: For — None

Against — None

On — Tom Phillips, Texas Supreme Court; Marilyn Aboussie, Texas Third District Court of Appeals

BACKGROUND: Article 5, sec. 3(a) of the Texas Constitution authorizes the Texas Supreme Court to sit at any time at the seat of government to transact business.

DIGEST: HJR 62 would amend the Constitution to authorize the Texas Supreme Court to sit at its discretion any other location in the state to transact business.

The proposal would be presented to voters at an election on November 4, 1997. The ballot proposal would read: “The constitutional amendment authorizing the supreme court to sit to transact business at any location in this state.”

SUPPORTERS SAY: HJR 62 would enable more citizens around the state to attend Supreme Court proceedings and thereby enhance knowledge and promote understanding of the civil justice system in Texas and the operations of our highest civil court. Many Texans are confused about the court's authority and functions. The court receives hate mail when unpopular decisions are handed down by the U.S. Supreme Court and when prisoners are executed even though it has nothing to do with these decisions. Allowing the court to travel to other Texas cities would generate discussion about it and go a long way towards correcting many of the public misperceptions.

Texas citizens relate more to the executive and legislative branches of government than to the judiciary, in large part because representatives of those branches travel out to the people. HJR 62 would help educate the public about the relatively unknown third branch. The justices of the courts of appeals in Texas already have authority to move within their districts and more than half of the other states allow justices from their highest courts to travel to various locations to hear cases.

The old restrictions on the location of court hearings are unnecessary. Furthermore, they are unfair to citizens who might be interested in particular proceedings but who cannot travel to Austin to attend court sessions because of financial or time constraints.

HJR 62 would not pose any significant fiscal implication for the state because the court would probably use this authority only occasionally. Overnight stays would not even be required for many times. The court also would be likely to travel to locations, such as college campuses, where the interest would be great and the size of the audience would make the hearing a worthwhile endeavor.

OPPONENTS SAY:

The current system provided by the Texas Constitution has worked well and there is no compelling reason to change it. Austin is the state capital, where the Legislature, the governor, the Texas Court of Criminal Appeals, and many state agencies are located, besides the Texas Supreme Court. These other offices have found no compelling reason to change their location of operation and neither should the court.

Even in Austin the Supreme Court chambers are seldom full when the court is in session because most cases affect only the particular parties before the court. It is unlikely that a visiting Supreme Court would pack the halls at other cities around the state. If a special interest has a stake in a case, they usually are able to find the time and money to attend Supreme Court sessions.

This proposal would also run up unnecessary travel expenses for the justices, court clerks and briefing attorneys. It would also create confusion and expense in additional paperwork and equipment transportation. There is also the possibility that parties can cry foul if the justices elect to sit in one

city versus another. Also, there are no standards or criteria for deciding when and how often the court would sit outside of Austin.

NOTES:

The companion proposal, SJR 19 by Wentworth, was adopted by the Senate by 31-0 on April 2 and was reported favorably, without amendment, by the House Judicial Affairs Committee on April 21, making it eligible to be considered in lieu of HJR 62.

During the 74th session, an identical proposal, SJR 40 by Wentworth, passed the Senate and was reported favorably by the House Judicial Affairs Committee but died in the House Calendars Committee.