

SUBJECT: Election and terms of office for county court-at-law judges in Bexar County

COMMITTEE: Judicial Affairs — favorable, without amendment

VOTE: 7 ayes — Thompson, Hartnett, Garcia, Hinojosa, Solis, Talton, Uresti

0 nays

2 absent — Capelo, Deshotel

WITNESSES: None

BACKGROUND: Under Election Code, ch. 29, when the Legislature creates a new state or county office, a vacancy occurs as of the effective date of the act creating the office. For offices of statutory county court judges, the county commissioner's court is authorized to fill the vacancies by appointment until the next election. Election Code, ch. 202, provides that if the new office was created after March 1 of an odd-numbered year, the office must appear on the ballot in the subsequent even-numbered year.

Texas Constitution Art. 16, sec. 65, as originally added in 1954, staggered the election of county offices with four-year terms so that all offices would not be elected in the same year. The next election cycle for statutory county judges will be 2002, and the next election cycle for county attorneys will be 2004.

The 76th Legislature in 1999 enacted SB 158 by Luna, establishing County Courts at Law Nos. 10, 11, and 12 in Bexar County, effective September 1, 1999. The vacancies created in the new courts initially were filled by appointment, and, as required by the Election Code, the first election for the positions was held in 2000. Because the Constitution requires all county court-at-law judges to be elected in 2002, these courts will be up for election again in 2002.

DIGEST: HJR 8 would amend Art. 16 of the Texas Constitution by adding section 65b, making the election and term of office for judges in Bexar County Courts at Law No. 10, 11, and 12 the same as for county attorneys.

The term of office for judges of these courts that were elected in the 2000 general election would end January 1, 2005. This provision would be temporary and would take effect on the adoption of the amendment by voters and would expire January 2, 2005.

The proposal would be presented to the voters at an election on November 6, 2001. The ballot proposal would read: "The constitutional amendment requiring a judge of County Court at Law No. 10, 11, or 12 of Bexar County, Texas, to be elected and serve a term in the manner provided by general law for county attorneys."

**SUPPORTERS
SAY:**

Bexar County Courts at Law Nos. 10, 11, and 12 were created because of the rapid population growth experienced by Bexar County, which needed more courts to handle the growing criminal and civil dockets. The new courts were created September 1, 1999, and appointments were made by the commissioners court of Bexar County. Because of the need for additional courts, these three county courts at law were created in what happened to be the middle of the election cycle for statutory county courts.

The appointees were required to hold office until the next general election, which was November 7, 2000, and the election was held as required. However, according to the Secretary of State, the constitutional election schedule requires judges of all statutory county courts to be elected for a full term at the November 5, 2002, general election. As a result, the judges of the three new Bexar County courts may serve only two-year terms before having to face the voters again in 2002.

HJR 8 would change the election cycle for these three courts so that the judges who were just elected in November 2000 would have a full four-year term ending in January 1, 2005, rather than having to run and finance a reelection campaign in November 2002. These judges should not be singled out to serve less than a four-year term because of a constitutional technicality. HJR 8 would establish a narrow exception only for these three courts. Since the Texas Constitution sets forth the election cycle for state and county officers, any proposal to change the election cycle requires a constitutional amendment.

OPPONENTS
SAY:

HJR 8 would amend in Texas Constitution to change permanently the election cycle for the benefit of three county court-at-law judges in Bexar County. It would put these three statutory county courts on a different election cycle than all other county courts at law in Bexar County and in the state just because the judges do not want to run for reelection in 2002. Because of crowded dockets, new statutory county courts are created every session, regardless of where they fall in an election cycle. Having to run for reelection after serving only two years of a four-year term is not unprecedented or uncommon. Voters should not be asked to amend the Constitution just to create this special exception.

Other officials must face reelection after serving less than their full term. For instance, some state senators will have to run for reelection after serving only two years of their four-year terms because of redistricting. Once district lines are redrawn, all senators are forced to run for reelection even if they have only served two years of their four-year terms. Senators elected in 2000 will have to run again in 2002, and if they draw a two-year term when the terms are re-staggered, they will have to run again in 2004, for an office that otherwise has a four-year term. Unlike senators, the three Bexar County court-at-law judges will face reelection after two years only once, then these courts always will have a four-year term.