

SUBJECT: Creating the Texas Commission on Judicial Selection

COMMITTEE: House Administration — committee substitute recommended

VOTE: 10 ayes — Geren, Howard, Anchia, Anderson, Flynn, Ortega, Parker,
Sanford, Thierry, E. Thompson

1 nay — Sherman

WITNESSES: For — Joanne Richards, Common Ground for Texans; (*Registered, but did not testify*: Dave Jones, Clean Elections Texas; Anthony Gutierrez, Common Cause Texas; Amanda Boudreault, League of Women Voters Texas; Lee Parsley, Texans for Lawsuit Reform; Michael Garcia, Texas Association of Manufacturers; Lisa Kaufman, Texas Civil Justice League)

Against — None

DIGEST: CSHB 3040 would establish the Texas Commission on Judicial Selection to study and review the method by which certain judges and justices were selected for office.

Study. The commission would be required to study statutory county court judges, probate court judges, district judges, justices of the courts of appeals, judges of the Texas Court of Criminal Appeals, and justices of the Texas Supreme Court.

The study would have to consider the fairness, effectiveness, and desirability of selecting the judicial officers specified by the bill through partisan elections, as well as judicial selection methods proposed or adopted by other states. The merits of using a public member board to nominate or assess the qualifications of candidates for judicial office also would have to be considered.

Alternative methods for selecting judicial officers would have to be assessed, including:

- lifetime appointment;
- appointment for a term;
- appointment for a term, followed by a partisan election;
- appointment for a term, followed by a nonpartisan election;
- appointment for a term, followed by a nonpartisan retention election;
- partisan election for an open seat, followed by a nonpartisan retention election for incumbents; and
- any other method or combination of methods for selecting a judicial officer described by the bill.

The Texas Commission on Judicial Selection. The Texas Commission on Judicial Selection would consist of 15 members appointed as follows:

- four members appointed by the governor;
- four members appointed by the lieutenant governor, including three senators, with at least one member of the same political party as the lieutenant governor and one member of a different party;
- four members appointed by House speaker, including three members of the House of Representatives, with at least one representative that was a member of the same political party as the speaker and one representative that was a member of a different party;
- one member appointed by the chief justice of the Supreme Court of Texas;
- one member appointed by the presiding judge of the Texas Court of Criminal Appeals; and
- one member appointed by the board of directors of the State Bar of Texas.

Board members would not be entitled to compensation but could receive reimbursement for certain expenses. The bill would require the governor, lieutenant governor, and House speaker to coordinate to ensure that the members appointed to the commission reflected, to the extent possible, the racial, ethnic, and geographic diversity of Texas and include individuals

who were attorneys and individuals who were not attorneys.

The governor would be required to designate a presiding officer for the commission, and the commission would convene at the call of the presiding officer.

Requirements. By December 31, 2020, the commission would be required to submit to the governor and the Legislature a report on the commission's findings and recommendations on a method or methods for selecting for office judges listed in the bill that ensured a fair, impartial, qualified, competent, and stable judiciary. The report would have to include specific recommendations on constitutional and statutory changes that appeared necessary from the results of the study.

The Office of Court Administration of the Texas Judicial System would be required to provide necessary administrative support to the commission. The office would be required to implement a provision of the bill only if the Legislature appropriated money specifically for that purpose. If the Legislature did not appropriate such funding, the office could implement a provision of the bill using other appropriations that were available for that purpose.

The commission would be abolished January 2, 2021.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of about \$373,000 to general revenue related funds through fiscal 2020-21.