

BILL ANALYSIS

Senate Research Center

S.J.R. 26
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Jurisprudence
3-6-97
As Filed

DIGEST

Currently, justices and judges in Texas are elected to their positions as part of the general election. This forces judges to spend a significant amount of time and energy running for office as opposed to concentrating on their judicial responsibilities. Moreover, judges often raise money from the lawyers who practice in their courts, creating a perception of improper influence. In addition, judges are as susceptible to partisan sweeps as any other candidate; qualifications, integrity, and ability often have very little to do with whether a judge remains in office. This bill will change the election of justices and judges in Texas to make the election nonpartisan, provide for retention elections, and create new judicial districts. In addition, S.J.R. 26 requires the governor to fill vacancies so that the persons appointed fairly reflect the geographic distribution and ethnic and racial composition of the population of the district.

PURPOSE

As proposed, S.J.R. 26 establishes a constitutional amendment regarding the appointment, election, and retention elections of appellate justices, appellate judges, and district judges; and provides for the alteration of the terms of certain judicial offices.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 2, 4, 6, 7, and 28, Article V, Texas Constitution, as follows:

Sec. 2. (a) and (b) Created from existing text.

(c) Requires the Chief Justice and Justices of the Supreme Court to be subject to retention or rejection on a nonpartisan ballot, rather than elected, by the qualified voters of the state at a general election; and on retention by the voters, to hold their offices six years, or until their successors are qualified, rather than elected. Sets forth the terms by which, on appointment to a vacancy, a Chief Justice or a Justice serves an initial term.

(d) Deletes the existing provisions regarding vacancies in the office of the Chief Justice or any Justice of the Supreme Court. Makes a conforming change.

Sec. 4. (a) and (b) Created from existing text.

(c) Requires the Presiding Judge and the Judges of the Court of Criminal Appeals to be subject to retention or rejection on a nonpartisan ballot, rather than elected, by the qualified voters of the state at a general election; and on retention by the voters, to hold their offices for a term of six years. Sets forth the terms by which, on appointment to a vacancy, a Presiding Judge or Judge serves an initial term. Deletes the existing provisions regarding vacancies in the office of a Judge.

(d) Created from existing text.

Sec. 6. Creates Subsections (a)-(g) from existing text. Makes conforming changes.

Sec. 7. (a) Created from existing text.

(b) Requires the legislature to provide for the election and retention or rejection, on a nonpartisan ballot, of Judges of the judicial districts of this state; and the retention or rejection by the qualified voters of the entire judicial district.

(c) Requires the Judges of judicial districts composed entirely of one of the state's most populous counties to be elected from state representative districts or commissioners court precincts in the county. Requires all other district judges to be elected from within the boundaries of the judicial district. Sets forth the service and residential requirements for district judges.

(d) Requires each district judge to be elected for a term of four years beginning on a date provided by general law. Sets forth the conditions regarding a district judge elected following the occurrence of a vacancy.

(e) Deletes the provision requiring a district judge to reside in the judge's district during the judge's term of office. Makes a conforming change.

(f) and (g) Created from existing text.

(h) Provides that Section 7a(i) of this article does not affect the election of a district judge from a state representative district or commissioners court precinct under Subsection (c) of this section.

Sec. 28. (a) Deletes the section heading. Requires vacancies in the office of the judges of the Supreme Court, the Court of Criminal Appeals, and the Courts of Appeals to be filled by the governor. Deletes similar provisions regarding the Court of Civil Appeals and the District Courts.

(b) Sets forth the terms by which the Governor is required to fill vacancies in order to fairly reflect the geographic distribution and ethnic and racial composition of the population of the district.

(c) Sets forth the terms by which an appointment by the governor is subject to Senate confirmation.

(d) Requires a vacancy in the office of judge of a District Court to be filled by the governor for a certain period.

(e) Makes a conforming change.

SECTION 2. Amends Article V, Texas Constitution, by adding Section 32, as follows:

Sec. 32. Authorizes the legislature to alter the terms of offices created by this article to implement a change in election date for those offices, a restructuring of any part of the judicial system, or a staggering of the terms of those offices.

SECTION 3. Adds a temporary provision to the Texas Constitution, as follows:

TEMPORARY PROVISION. (a) Provides that this temporary provision applies to the constitutional amendment proposed by the 75th Legislature, Regular Session, 1997, relating to the appointment of appellate justices and judges by the governor and retention or rejection of those justices and judges; to the election and retention or rejection of district judges; to the election of district judges in certain counties; and to the alteration of the terms of certain judicial offices.

(b) Effective date: January 1, 1998.

(c) Provides that this temporary provision expires January 1, 2006.

SECTION 4. Provides that this proposed constitutional amendment is required to be submitted to the voters at an election to be held November 4, 1997. Sets forth the required language of the ballot.