

BILL ANALYSIS

Senate Research Center
76R5509 GGS-D

C.S.S.J.R. 9
By: Ellis
Jurisprudence
2/16/1999
Committee Report (Substituted)

DIGEST

Currently, Texas is one of the few states in which judges are elected, not appointed. Texas has come under criticism for this system which forces judges to wage expensive political battles. This bill would reduce the partisan election of judges by requiring certain judicial offices to be filled by gubernatorial appointment, and allowing voters to decide upon the retention of those judges at the completion of their appointment term.

PURPOSE

As proposed, C.S.S.J.R. 9 requires the submission to the voters of a constitutional amendment to make the offices of Chief Justice of the Supreme Court, Court of Criminal Appeals Judge, and Court of Appeals Justice, available only through a gubernatorial appointment of six years, succeeded by a retention term.

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, and 28, Article V, Texas Constitution, as follows:

Sec. 2. Prohibits a person from serving on the Supreme Court, unless elected or appointed to that position. Requires a chief justice, after the appointed term, to serve a six-year term for each appointment or retention. Provides that a chief justice, on appointment to a vacancy, serves an initial term of a specified time after taking the oath of office. Deletes text requiring the governor to fill a Supreme Court vacancy by appointment which would last only until the next general election. Assigns subsection designations to this section and makes a nonsubstantive change.

Sec. 4. Requires Court of Criminal Appeals (CCA) judges to have the same qualifications and receive the same salaries as justices of the Supreme Court, rather than associate justices of the Supreme Court. Requires CCA judges, after the appointed term, to serve a six-year term for each appointment or retention. Provides that a CCA judge on appointment to a vacancy, serves an initial term of a specified time after taking the oath of office. Deletes text requiring the governor to appoint a judge for the purpose of filling a vacancy. Assigns subsection designations to this section.

Sec. 6. Requires the concurrence of a majority of the justices, rather than the judges, sitting in a Court of Appeals (CA) section to decide a case. Requires CA justices, after the appointed term, to be subject to a retention election and to serve a six-year term for each retention. Provides that a CA judge on appointment to a vacancy, serves an initial term of a specified time after taking the oath of office. Requires a justice to receive the sum provided by law for the justice's services. Assigns subsection designations to this section.

Sec. 28. Requires vacancies in the offices of justices or judges of the Supreme Court and the Courts of Appeals, among others, to be filled by the governor. Requires district court judge vacancies to be filled until the next succeeding general election. Deletes this section's heading. Makes nonsubstantive changes.

SECTION 2. Adds a temporary provision to the Texas Constitution, as follows:

TEMPORARY PROVISION. (a) Provides that this provision applies to the constitutional amendment providing for gubernatorial appointment to fill appellate justice and judge vacancies, and retention elections for appellate justices and judges.

(b) Effective date for this constitutional amendment: January 1, 2000.

(c) Effective date for this temporary provision: January 1, 2008.

SECTION 3. Requires this proposed constitutional amendment to be submitted to the voters at an election to be held on November 2, 1999. Sets forth the required language for the ballot.

SUMMARY OF COMMITTEE CHANGES

Relating Clause.

Deletes text relating to gubernatorial appointment to fill district judge vacancies.

SECTION 1.

Amends Section 2(c), Article V, Texas Constitution, to subject chief justices to retention or rejection following the appointed term, rather than following appointment. Deletes text subjecting chief justices to retention or rejection on each appointment. Provides that a chief justice on appointment to a vacancy, serves an initial term of a specified time after taking the oath of office. Deletes text providing that a retained chief justice is eligible for reappointment after completion of a retention term.

Amends Section 4(c), Article V, Texas Constitution, to subject judges of the Court of Criminal Appeals (CCA) to retention or rejection following the appointed term, rather than following appointment. Deletes text subjecting CCA judges to retention or rejection on each appointment. Provides that a CCA judge on appointment to a vacancy, serves an initial term of a specified time after taking the oath of office. Deletes text providing that a CCA judge can serve another appointed term at the end of a retention term.

Amends Section 6(d), Article V, Texas Constitution, to make conforming changes.

SECTION 2.

Amends the temporary provision by deleting text related to gubernatorial appointment to fill district judge vacancies.

SECTION 3.

Deletes a provision included in the text of the ballot for the governor to fill district judge vacancies.