

## **BILL ANALYSIS**

Senate Research Center  
78R6426 SLO-D

S.J.R. 41  
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Jurisprudence  
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As Filed

### **DIGEST AND PURPOSE**

S.J.R. 41 is a recommendation that Texas Supreme Court Chief Justice Thomas Phillips made during his presentation to the Senate Finance Committee and House Appropriations Committee. Texas has approximately 90 appellate judges on all appellate levels. As proposed, S.J.R. 41 reduces the number of justices on the Supreme Court of Texas from eight justices and a chief justice to six justices and a chief justice. This bill also reduces the number of judges on the Texas Court of Criminal Appeals from eight judges and one presiding judge to six judges and one presiding judge.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 2(a) and (c), Article V, Texas Constitution, as follows:

- (a) Requires the supreme court to consist of six, rather than eight justices, and one chief justice. Decreases from five to four the number of justices required to constitute a quorum, and from five to four the concurrence of justices necessary to decide a case.
- (c) Requires said justices to be elected by the qualified voters of the state at a general election. Deletes requirement that three of them be elected each two years.

SECTION 2. Amends Section 4, Article V, Texas Constitution, as follows:

- Sec. 4. (a) Requires the court of criminal appeals to consist of six, rather than eight judges and one presiding judge.
- (b) Requires, when convened en banc, four, rather than five Judges to constitute a quorum and the concurrence of four, rather than five judges to be necessary for a decision.

SECTION 3. Provides that the following temporary provision is added to Article V, Texas Constitution:

TEMPORARY PROVISION. (a) Provides that this temporary provision applies to the constitutional amendment proposed by the 78th Legislature, Regular Session, 2003, reducing the number of justices on the supreme court and the number of judges on the court of criminal appeals. Provides that this constitutional amendment takes effect January 1, 2004, and this temporary provision expires January 1, 2012.

- (b) Provides that, notwithstanding the expiration date of the term for which a justice of the supreme court was elected or appointed to fill a vacancy, the term of the chief justice and each justice expires December 31, 2004.
- (c) Provides that notwithstanding the expiration date of the term for which a

judge of the court of criminal appeals was elected or appointed to fill a vacancy, the term of the presiding judge and each judge expires December 31, 2004.

(d) Provides that notwithstanding the requirements of Section 2, Article V, of this constitution, the supreme court consists of a chief justice and eight justices until the court is reduced to seven members on January 1, 2005, and, until that date, a majority of justices is required to constitute a quorum, and the concurrence of a majority of justices is necessary for a decision of a case.

(e) Provides that notwithstanding the requirements of Section 4, Article V, of this constitution, the court of criminal appeals consists of a presiding judge and eight judges until the court is reduced to seven members on January 1, 2005, and, until that date, when convened en banc, a majority of judges is required to constitute a quorum, and the concurrence of a majority of judges is necessary for a decision of a case.

(f) Requires a chief justice and six justices to be elected to the supreme court in the manner provided by Section 2, Article V, of this constitution, at the general election held in 2004. Requires the voters of this state to elect a chief justice and justices of the supreme court in accordance with this subsection, to effect staggered terms. Provides that this subsection does not affect an election to fill a vacancy for an unexpired term. Requires that at the general election held in 2004, the voters elect one chief justice and six justices to serve on the supreme court beginning January 1, 2005. Requires the chief justice to serve a six-year term. Requires, of the six justices elected at that election, two of the justices serve six year terms, two of the justices serve four-year terms, and two of the justices serve two-year terms. Requires the six justices elected at that election to draw lots to determine the length of each justice's term. Requires, at the general election held in 2006 and each sixth year thereafter, the voters to elect two justices to the supreme court to serve six-year terms. Requires, at the general election held in 2008 and each sixth year thereafter, the voters to elect two justices to the supreme court to serve six-year terms. Requires, at the general election held in 2010 and each sixth year thereafter, the voters to elect a chief justice and two justices to the supreme court to serve six-year terms.

(g) Requires a presiding judge and six judges to be elected to the court of criminal appeals in the manner provided by Section 4, Article V, of this constitution, at the general election held in 2004. Requires the voters of this state to elect a presiding judge and judges of the court of criminal appeals in accordance with this subsection, to effect staggered terms. Provides that this subsection does not affect an election to fill a vacancy for an unexpired term. Requires that at the general election held in 2004, the voters elect one presiding judge and six judges to serve on the court of criminal appeals beginning January 1, 2005. Requires the presiding judge to serve a six-year term. Requires, of the six judges elected at that election, two of the judges serve six-year terms, two of the judges serve four-year terms, and two of the judges serve two-year terms. Requires the six judges elected at that election to draw lots to determine the length of each judge's term. Requires, at the general election held in 2006 and each sixth year thereafter, the voters elect two judges to the court of criminal appeals to serve six-year terms. Requires, at the general election held in 2008 and each sixth year thereafter, the voters elect two judges to the court of criminal appeals to serve six-year terms. Requires at the general election held in 2010 and each sixth year thereafter, the voters elect a presiding judge and two judges to the court of criminal appeals to serve six-year terms.

SECTION 4. Requires this proposed constitutional amendment to be submitted to the voters at an election to be held November 4, 2003. Requires the ballot to be printed to provide for voting for or against the proposition: "The constitutional amendment reducing the number of justices on the supreme court and judges on the court of criminal appeals."