

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1728
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State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The current judicial selection process in Texas requires partisan elections for most judicial positions. C.S.S.B. 1728 seeks to establish the Texas Commission on Judicial Selection to conduct a study to vet and consider exhaustively the current judicial selection system in Texas, as well as alternatives for judicial selection and retention. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1728 amends current law relating to an interim study by the Texas Commission on Judicial Selection regarding the method by which certain trial and appellate judges are selected.

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. COMMISSION; STUDY. (a) Provides that the Texas Commission on Judicial Selection (commission) is established to study and review the method by which the following judges and justices are selected for office in this state:

- (1) statutory county court judges, including probate court judges;
- (2) district judges; and
- (3) appellate justices and judges.

(b) Requires the study conducted under this section to consider:

- (1) the fairness, effectiveness, and desirability of selecting a judicial officer described in Subsection (a) of this section through partisan elections;
- (2) the fairness, effectiveness, and desirability of judicial selection methods proposed or adopted by other states;
- (3) the relative merits of alternative methods for selecting a judicial officer described in Subsection (a) of this section, including:
 - (A) lifetime appointment;
 - (B) appointment for a term;
 - (C) appointment for a term, followed by a partisan election;
 - (D) appointment for a term, followed by a nonpartisan election;

(E) appointment for a term, followed by a nonpartisan retention election;

(F) partisan election for an open seat, followed by a nonpartisan retention election for incumbents; and

(G) any other method or combination of methods for selecting a judicial officer described in Subsection (a) of this section; and

(4) the merits of using a public member board to nominate or assess the qualifications of candidates for judicial office.

(c) Provides that the commission consists of 15 members appointed as follows:

(1) four members appointed by the governor;

(2) four senators appointed by the lieutenant governor, including:

(A) one senator who is a member of the political party with which the lieutenant governor is affiliated; and

(B) one senator who is a member of a political party other than the political party with which the lieutenant governor is affiliated;

(3) four members of the house of representatives appointed by the speaker of the house of representatives, including:

(A) one representative who is a member of the political party with which the speaker of the house is affiliated; and

(B) one representative who is a member of a political party other than the political party with which the speaker of the house is affiliated;

(4) one member appointed by the chief justice of the Supreme Court of Texas;

(5) one member appointed by the presiding judge of the Texas Court of Criminal Appeals; and

(6) one member appointed by the board of directors of the State Bar of Texas.

(d) Requires the governor, lieutenant governor, and speaker of the house of representatives to coordinate to ensure that the members appointed to the commission reflect, to the extent practicable, the racial, ethnic, and geographic diversity of the state and include individuals who are attorneys and individuals who are not attorneys.

(e) Requires the governor to designate the presiding officer of the commission.

(f) Requires the commission to convene at the call of the presiding officer.

(g) Provides that a member of the commission is not entitled to compensation but is entitled to reimbursement for actual and necessary expenses incurred in serving as a member of the commission.

(h) Requires the Office of Court Administration of the Texas Judicial System to provide necessary administrative support to the commission.

(i) Requires the commission, not later than December 31, 2020, 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 Subsection (a) of this section that ensure a fair, impartial, qualified, competent, and stable judiciary. Requires the commission to include in its recommendations specific constitutional and statutory changes that appear necessary from the results of the commission's study.

SECTION 2. ABOLITION OF COMMISSION. Provides that the commission is abolished and this Act expires January 2, 2021.

SECTION 3. Effective date: upon passage or September 1, 2019.