

- SUBJECT:** Revising appointments by the governor and the chief justice
- COMMITTEE:** Judiciary—favorable, without amendment
- VOTE:** 6 ayes — Hartnett, Hughes, Alonzo, Hopson, Straus, Van Arsdale
0 nays
3 absent — Gonzales, Keel, Solis
- WITNESSES:** For — None
Against — None
On — Ken Anderson, Office of the Governor
- BACKGROUND:** The governor, with the advice and consent of the Senate, currently appoints one judge to serve as the presiding judge in each of the state’s nine administrative judicial regions. On the death, resignation, or expiration of a presiding judge’s term, the governor appoints a new judge or reappoints the presiding judge.
- The Employees Retirement System (ERS) Board of Trustees is responsible for the general administration and operation of the retirement system for state employees. The board comprises six members — one each is appointed by the governor, the chief justice of the Supreme Court, and the speaker of the House, with the advice and consent of the Senate. The three remaining board members are elected by ERS members and retirees.
- DIGEST:** HB 2795 would amend the Government Code to require the chief justice of the Supreme Court, rather than the governor, to appoint each presiding judge of an administrative judicial region and to fill vacancies that may occur due to a judge’s death, resignation, or expired term.
- The chief justice of Supreme Court no longer would appoint a member of the ERS board. The governor would appoint two board members rather than one.

The bill would take effect September 1, 2005, and would not affect the term of a person appointed before its effective date.

**SUPPORTERS
SAY:**

The Texas Constitution and Texas law charge the chief justice of the Supreme Court with the responsibility of overseeing the administration of justice in the state. Because regional presiding judges serve judicial administrative roles, their appointment would be a more appropriate duty for the chief justice than for the governor. Moreover, because the chief justice naturally is more in tune with the needs of the judiciary, that official would be able to choose the most appropriate person to serve as presiding judge.

The bill also would help to preserve the separation of powers. Under current law, because the governor is responsible for the appointment of presiding judges, they are accountable to the governor. This is inappropriate in a system of government in which the judiciary is supposed to be independent from the executive. Because the bill would require the chief justice to appoint the presiding judges, they would be accountable to the chief justice rather than to the governor. This change would help to ensure that judicial powers and decision-making were within the hands of the judiciary, not the executive.

The Governor's Office has much better resources than the chief justice to find qualified individuals for the ERS board and therefore would better be equipped to make this appointment. Additionally, it is not the role of justices to administer agencies other than those related to the judiciary. Therefore it would be more appropriate for the governor, rather than the chief justice, to make appointments to the ERS board.

**OPPONENTS
SAY:**

Many judges' pensions are governed by ERS. If the chief justice no longer made an appointment to the ERS board, judges would lose their say in the pension system.