BILL ANALYSIS

DIGEST

The method by which judges are selected in Texas is greatly contested and there is concern as to whether there is need for reform. This bill would establish a system of nonpartisan judicial elections for all state appellate justices and judges.

PURPOSE

As proposed, H.B. 1175 establishes a system of nonpartisan judicial elections for all state appellate justices and judges.

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 Section 41.002, Election Code, to require the general election for state and county officers, including the general nonpartisan judicial election, to be held on the first Tuesday after the first Monday in November in even-numbered years. Requires a runoff judicial election to be held on the first Tuesday after the first Monday in December following the general election.

SECTION 2. Amends the Election Code by adding Title 17, as follows:

TITLE 17. NONPARTISAN JUDICIAL ELECTIONS

CHAPTER 291. NONPARTISAN JUDICIAL ELECTION

SUBCHAPTER A. NONPARTISAN ELECTION OF JUDGES GENERALLY

Sec. 291.001. APPLICABILITY OF CHAPTER. Provides that an appellate justice or judge is subject to nonpartisan election in accordance with this chapter at the last general nonpartisan judicial election to be held before the date the justice's or judge's term expires.

Sec. 291.002. PARTY NOMINATION PROHIBITED. Prohibits nomination for a nonpartisan judicial office by a political party.

Sec. 291.003. VOTE REQUIRED FOR ELECTION. Requires a candidate to receive a majority of the total number of votes received by all candidates for the office to be elected to a nonpartisan judicial office. Provides that if no candidate for a particular office receives the vote required for election, a runoff election for that office is required. Provides that except as otherwise provided by this chapter, Chapter 2B applies to a runoff election held under this chapter.

Sec. 291.004. APPLICABILITY OF OTHER PARTS OF CODE. Provides that other titles of this code apply to a nonpartisan judicial election except provisions that are inconsistent with this title or that cannot feasibly be applied in a nonpartisan judicial election.

Sec. 291.005. ADDITIONAL PROCEDURES. Requires the secretary of state to prescribe

any additional procedures necessary for the orderly and proper administration of elections held under this chapter.

SUBCHAPTER B. APPLICATION FOR PLACE ON BALLOT

Sec. 291.021. APPLICATION REQUIRED. Requires a candidate to make an application for a place on the ballot to be entitled to a place on the nonpartisan judicial election ballot. Sets forth requirements regarding an application. Sets forth provisions regarding a candidate for office specified by Section 291.024(a)(3) who chooses to pay the filing fee or who chooses to file a certain petition.

Sec. 291.022. AUTHORITY WITH WHOM APPLICATION FILED. Requires an application for a place on the nonpartisan judicial election ballot to be filed with the secretary of state.

Sec. 291.023. REGULAR FILING DEADLINE. Requires an application for a place on the nonpartisan judicial election ballot to be filed not later than 5 p.m. of the 70th day before election day, except as provided by Section 291.053. Prohibits an application from being filed earlier than the 30th day before the date of the regular filing deadline.

Sec. 291.024. FILING FEE. Sets forth provisions regarding the filing fee for a nonpartisan judicial candidate.

Sec. 291.025. NUMBER OF PETITION SIGNATURES REQUIRED. Sets forth the requirements regarding minimum number of signatures that must appear on the petition authorized by Section 291.021.

Sec. 291.026. STATEMENT ON PETITION. Requires a certain statement to appear at the top of each page of a petition to be filed under Section 291.021 and sets forth the statement.

Sec. 291.027. CERTIFICATION OF NAMES FOR PLACEMENT ON NONPARTISAN JUDICIAL ELECTION BALLOT. Requires the secretary of state, except as provided by Subsection (c), to certify in writing for placement on the nonpartisan judicial election ballot the name of each candidate who files with the secretary an application that complies with Section 291.021(b). Requires the secretary of state to deliver the certification, within a certain deadline, to the authority responsible for having the official ballot prepared in each county in which the candidate's name is to appear on the ballot. Sets forth certain prohibitions regarding the certification of a candidate's name.

SUBCHAPTER C. WITHDRAWAL, DEATH, AND INELIGIBILITY OF CANDIDATE

Sec. 291.051. WITHDRAWAL, DEATH, OR INELIGIBILITY GENERALLY. Provides that, with respect to withdrawal, death, or ineligibility of a candidate in a nonpartisan judicial election, this subchapter supersedes Chapter 145A, to the extent of any conflict.

Sec. 291.052. WITHDRAWAL FROM NONPARTISAN JUDICIAL ELECTION. Sets forth provisions regarding withdrawal from a nonpartisan judicial election.

Sec. 291.053. EXTENDED FILING DEADLINE. Sets forth provisions regarding the extension of the deadline for filing an application for a place on the nonpartisan judicial election.

Sec. 291.054. WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM BALLOT. Requires a candidate's name to be omitted from the nonpartisan judicial election ballot if the candidate withdraws, dies, or is declared ineligible on or before the 65th day before election day.

Sec. 291.055. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON THE BALLOT. Sets forth provisions regarding a deceased or ineligible candidate's name

appearing on the nonpartisan judicial election ballot.

Sec. 291.056. WITHDRAWAL FROM RUNOFF. Sets forth provisions regarding withdrawal from the runoff nonpartisan judicial election.

Sec. 291.057. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON RUNOFF BALLOT. Sets forth provisions regarding the name of a deceased or ineligible candidate's name appearing on the runoff ballot in a nonpartisan judicial election.

SUBCHAPTER D. CONDUCT OF ELECTION

Sec. 291.071. NONPARTISAN JUDICIAL ELECTION BALLOT. Requires the nonpartisan judicial officers and candidates to be listed as a separate ballot on the general election ballot following the partisan offices under the heading "Election For Nonpartisan Judicial Offices."

Sec. 291.072. GENERAL PROCEDURES FOR CONDUCT OF NONPARTISAN JUDICIAL ELECTION. Sets forth provisions regarding the general procedures for conduct of a nonpartisan judicial election.

Sec. 291.073. CERTIFICATION OF CANDIDATES FOR PLACEMENT ON RUNOFF BALLOT. Requires the secretary of state to certify in writing for placement on the runoff nonpartisan judicial election ballot the name of each candidate who is to be a candidate in the runoff. Requires the secretary of state to deliver the certification to the authority responsible for having the official ballot prepared in each affected county as soon as practicable after the state canvass of the general nonpartisan judicial election is completed.

Sec. 291.074. GENERAL PROCEDURE FOR CONDUCT OF RUNOFF NONPARTISAN JUDICIAL ELECTION. Sets forth provisions regarding the general procedure for conduct of a runoff nonpartisan judicial election.

SECTION 3. Amends Section 1.005, Election Code, by amending Subdivision (9) and by adding Subdivisions (25) and (26), to redefine "independent candidate" and define "nonpartisan judicial election" and "nonpartisan judicial candidate."

SECTION 4. Amends Section 52.092, Election Code, by amending Subsections (a), (c), (d), and (g)-(j) and by adding Subsection (k), to set forth the order in which offices regularly filled at the general election for state and county officers, including the nonpartisan judicial election, are to be listed on the ballot. Removes certain entries from the list. Requires the nonpartisan judicial officer to be listed a certain order and sets forth the list. Requires the secretary of state to assign a place number to each position to be filled at the nonpartisan judicial election for certain officers, rather than requiring the secretary of state to assign a place number to each position to be filled at the general election for state and county officers for each full or unexpired term, and sets forth the list. Makes conforming changes.

SECTION 5. Amends Section 67.003, Election Code, to require each local canvassing authority to convene to conduct the local canvass not earlier than the second day or later than the sixth day after election day at the time set by the canvassing authority's presiding officer, except that the canvass for the nonpartisan judicial election is to be conducted not later than the third day after election day.

SECTION 6. Amends Section 67.012(a), Election Code, to make a conforming change.

SECTION 7. Amends Section 141.001(a), Election Code, to set forth requirements regarding eligibility for public elective office in this state, including the requirements for nonpartisan judicial candidate.

SECTION 8. Amends Section 145.003(b), Election Code, to authorize a candidate in the general election for state and county officers, including the nonpartisan judicial election, to be declared ineligible before the 30th day preceding election day by certain means.

SECTION 9.   Amends Section 145.005(a), Election Code, to make a conforming change.

SECTION 10.   Amends Section 146.021, Election Code, to make a conforming change.

SECTION 11.   Amends Sections 172.021(c) and (e), Election Code, to provide that an application filed by mail is considered to be filed at the time of its receipt by the appropriate authority. Sets forth provisions regarding a candidate for an office specified by Section 172.024(a)(8) or (10), or for justice of the peace in a county with a population of more than one million, rather than 850,000.

SECTION 12.   Amends Section 172.024(a), Election Code, to set forth the filing fees for a candidate for nomination in the general primary election.

SECTION 13.   Amends Section 202.001, Election Code, to provide that this chapter does not apply to the office of justice or judge of an appellate court. Makes a conforming change.

SECTION 14.   Provides that each supreme court justice, court of criminal appeals judge, and court of appeals justice in office January 1, 1998, unless otherwise removed as provided by law, continues in office for the term in which election.

SECTION 15.   Provides that this Act takes effect only if the constitutional amendment proposed by the 75th Legislature, Regular Session, 1997, relating to the filling by gubernatorial appointment of vacancies in the offices of appellate justices and judges and to the nonpartisan election of those justicies and judges is adopted. Provides that if the amendment is adopted, this Act takes effect January 1, 1998.

SECTION 16.   Emergency clause.