

## **BILL ANALYSIS**

Senate Research Center

S.J.R. 23  
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Jurisprudence  
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As Filed

### **DIGEST**

Currently, district judges are elected by county-wide, at-large elections. There are concerns that in counties with large urban areas, this process often dilutes minority voting strength. While approximately 40 percent of Texans are people of color, fewer than 10 percent of Texas judges are minorities. This bill makes certain policies more uniform by eradicating any discrepancies within the election process for judges and justices.

### **PURPOSE**

As proposed, S.J.R. 23 requires the submission to the voters of a constitutional amendment that provides for the appointment of appellate justice and judges by the governor with retention elections on a nonpartisan ballot for those justices and judges, for the nonpartisan election and retention or rejection of district judges, for the election of certain district judges from commissioners court precincts, and for the alteration of the terms of certain judicial offices.

### **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, 7, and 28, Article V, Texas Constitution, as follows:

Sec. 2. (a) and (b) Created from existing text.

(c) Requires the chief justice and justices to be subject, in the manner provided by law, to retention or rejection on a nonpartisan ballot by the qualified voters of the state at a general election; and on retention by the voters shall hold their offices six years, or until their successors are qualified, rather than elected. Provides that a chief justice or a justice serves an initial term that ends by a certain date.

(d) Requires the chief justice and justices to each receive such compensation as shall be provided by law. Deletes text that requires the governor to fill a vacancy in the office of the chief justice or any justice of the supreme court until the next general election for state officers. Deletes text that requires the justices of the supreme court who are in office at the time that this amendment takes effect to continue in office until a certain time.

Sec. 4. (a) and (b) Created from existing text.

(c) Makes conforming changes.

(d) Created from existing text.

Sec. 6. (a) Created from existing text.

(b) Provides that the concurrence of a majority of the justices, rather than judges, sitting in a section is necessary to decide a case.

- (c) Created from existing text.
- (d) Makes conforming changes.
- (e) Requires a chief justice or justice to receive for the justice's services the sum provided by law.
- (f) and (g) Created from existing text.

Sec. 7. (a) Created from existing text.

- (b) Requires the legislature to provide for the election and retention or rejection, on a nonpartisan ballot, of judges of the judicial districts of this state. Requires the legislature to provide for the retention or rejection by qualified voters of the entire judicial district.
- (c) Requires the judges of judicial districts composed entirely of the state's most populous counties to be elected from commissioners court precincts in the county as provided by law. Requires all other district judges to be elected from within the boundaries of the judicial district. Provides that a district judge elected from a commissioners court precinct serves the entire judicial district. Provides that the district judge must reside in the judicial district, and a district judge elected from a commissioners court may, but need not, reside in the commissioners court precinct.
- (d) Requires each district judge to be elected by the qualified voters at a general election for a term of four years beginning on a date provided by general law. Provides that the district judge elected following the occurrence of a vacancy serves a full term of four years without regard to the term of the district judge vacating the office, and Section 27, Article XVI, of this Constitution does not apply in that event.
- (e) Requires a district judge to be a citizen of the United States and of this state and to reside in the judicial district in which he or she was elected for two years next preceding the election, rather than reside in the district during his or her term of office and hold his or her office for the period of four years.
- (f) and (g) Created from existing text.
- (h) Provides that Section 7a(i) of this article does not affect the election of a district judge from a commissioners court precinct under Subsection (c) of this section.

Sec. 28. (a) Requires vacancies in the office of judges of the supreme court, the court of criminal appeals, and the court of appeals to be filled by the governor.

- (b) Requires the governor to fill vacancies under this section so that the persons serving in those offices fairly reflect the geographic distribution and ethnic and racial composition of the population of the district served by the court or the state, as applicable, according to the most recent decennial census.
- (c) Provides that an appointment by the governor is subject to senate confirmation in the manner provided by this constitution. Requires the senate to ensure that the persons serving in those offices fairly reflect the geographic distribution and ethnic and racial composition of the population of the district served by the court or the state, as applicable, according to the most recent federal decennial census.
- (d) Requires a vacancy in the office of judge of a district court to be filled by the governor until the beginning of the term of the judge elected to that court at the next succeeding general election.
- (e) Makes a nonsubstantive change.

SECTION 2. Amends Article V, Texas Constitution, by adding Section 32, as follows:

Sec. 32. Authorizes the legislature to alter the terms of offices created by this article as necessary to implement a change in election date for those offices, a restructuring of any part of the judicial system, or a staggering of the terms of those offices.

SECTION 3. Adds the following temporary provision to the Texas Constitution:

TEMPORARY PROVISION. (a) Provides that this temporary provision applies to the constitutional amendment proposed by the 75th Legislature, Regular Session, 1997, relating to the appointment of appellate justices and judges by the governor and retention or rejection of those justices and judges, to the election and retention or rejection of district judges, to the election of district judges in certain counties, and to the alteration of the terms of certain judicial offices.

(b) Effective date: January 1, 1998.

(c) Provides that this temporary provision expires January 1, 2006.

SECTION 4. Requires this proposed constitutional amendment to be submitted to the voters at an election to be held November 4, 1997. Sets forth the required language for the ballot.