

BILL ANALYSIS

Senate Research Center

S.J.R. 25
By: Duncan
Jurisprudence
4-9-97
Committee Report (Amended)

DIGEST

Currently, Texas appellate judges are elected in partisan elections every six years. As a practical matter, judges are forced to spend a significant amount of time and energy running for office as opposed to concentrating on their judicial responsibilities. Moreover, in order to finance these expensive campaigns, judges often must raise money from the lawyers who practice in their courts, creating a perception of improper influence. Additionally, judges are as susceptible to partisan sweeps as any other candidate; qualifications, integrity, and ability often have very little to do with whether a judge remains in office. This resolution will require the submission to the voters of a constitutional amendment regarding gubernatorial appointments to fill vacancies in certain judicial offices and for retention elections for certain judicial offices.

PURPOSE

As proposed, S.J.R. 25 requires the submission to the voters of a constitutional amendment regarding gubernatorial appointments to fill vacancies in certain judicial offices and for elections for 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 Article V(2), (4), (6), and (28), Texas Constitution, as follows:

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

(b) Requires a justice of the supreme court to be licensed to practice law at the time of election or appointment.

(c) Requires the chief justice and justices to be subject to election on a partisan ballot followed by retention or rejection on a nonpartisan ballot by qualified voters of the state in a general election; and on election; and on each successive retention by the voters to hold their offices six years or until their successors are qualified. Sets forth the initial terms of a chief justice or a justice. Requires the chief justice and justices to receive compensation as provided by law. Deletes requirements for filling vacancies of the supreme court.

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

(c) Requires the presiding judge and judges to be subject to election on a partisan ballot followed by retention or rejection on a nonpartisan ballot at a general election and on election and on each successive retention by the voters to hold their offices for six years. Provides that on appointment to a vacancy, a presiding judge or judge serves an initial term that ends January 1 of the first odd-numbered year that begins more than 18 months after the presiding judge or judge takes the oath of office. Deletes a provision concerning vacancies in the Court of Criminal Appeals. Makes a conforming change.

(d) Created from existing text.

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

(b) Makes a nonsubstantive change.

(c) Created from existing text.

(d) Requires a chief justice or justice to be subject to election on a partisan ballot followed by retention or rejection on a nonpartisan ballot. Provides that on appointment to a vacancy, a chief justice or justice serves an initial term that ends January 1 of the first odd-numbered year that begins more than 18 months after the chief justice or justice takes the oath of office. Makes a conforming change.

(e) Requires a chief justice or justice to receive a sum provided by law for the justice's services. Makes a conforming change.

(f) and (g) Created from existing text.

Sec. 28. (a) Deletes a provision requiring the governor to fill vacancies in the district courts. Makes conforming and nonsubstantive changes.

(b) Sets forth the requirements under which the governor shall fill appointments in certain courts.

(c) Sets forth procedures for Senate confirmation of appointments by the governor.

(d) Requires vacancies in the office of judge of district court to be filled by the governor until the next succeeding general election.

(e) Makes a nonsubstantive change.

SECTION 2. Adds a temporary provision, as follows:

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 certain judges.

(b) Effective date: January 1, 1998.

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

SECTION 3. 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.

SUMMARY OF COMMITTEE CHANGES

Amendment 1.

1. Page 5, line 19, strike the words "The governor shall fill vacancies under this section" and insert "In filling vacancies under this section, the governor shall consider factors".

2. Page 5, line 27, insert the words "consider factors to" after the word "shall".