

## **BILL ANALYSIS**

Senate Research Center

S.J.R. 9  
By: Duncan  
Jurisprudence  
2/10/1999  
As Filed

### **DIGEST**

Currently, Texas is one of the few states in which judges are elected, not appointed. Texas has come under criticism for this system which forces judges to wage expensive political battles. This bill would reduce the partisan election of judges by requiring certain judicial offices to be filled by gubernatorial appointment, and allowing voters to decide upon the retention of those judges at the completion of their appointment term.

### **PURPOSE**

As proposed, S.J.R. 9 requires the submission to the voters of a constitutional amendment to make the offices of Chief Justice of the Supreme Court, Court of Criminal Appeals Judge, and Court of Appeals Justice, available only through a gubernatorial appointment of six years. S.J.R. 9 provides that at the completion of the first appointment term, a judge can serve another six year term after succeeding in a nonpartisan retention election held during a general election. S.J.R. 9 also provides that a judge is eligible for another six-year reappointment term at the completion of a retention term.

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

Sec. 2. Prohibits a person from serving on the Supreme Court, unless elected or appointed to that position. Requires a chief justice, after an appointment term, to be subject to a retention election and to serve a six-year term for each appointment or retention. Provides that a retained chief justice is eligible for reappointment after completion of a retention term. Deletes text requiring the governor to fill a Supreme Court vacancy by appointment which would last only until the next general election. Assigns subsection designations to this section and makes a nonsubstantive change.

Sec. 4. Requires Court of Criminal Appeals judges to have the same qualifications and receive the same salaries as justices of the Supreme Court, rather than associate justices of the Supreme Court. Requires judges, after an appointment term, to be subject to a retention election and to serve a six-year term for each appointment or retention. Provides that a judge can serve another appointment term at the completion of a retention term. Deletes text requiring the governor to appoint a judge for the purpose of filling a vacancy. Assigns subsection designations to this section.

Sec. 6. Requires the concurrence of a majority of the justices, rather than the judges, sitting in a Court of Appeals section to decide a case. Requires justices, after an appointment term, to be subject to a retention election and to serve a six-year term for each appointment or retention. Provides that a justice can serve another appointment term at the completion of a retention term. Requires a justice to receive the sum provided by law for the justice's services. Assigns subsection designations to this section.

Sec. 28. Requires vacancies in the offices of justices or judges of the Supreme Court and the Courts of Appeals, among others, to be filled by the governor. Requires district court judge vacancies to be filled until the next succeeding general election. Deletes this section's heading. Makes nonsubstantive changes.

SECTION 2. Adds a temporary provision to the Texas Constitution, as follows:

TEMPORARY PROVISION. (a) Provides that this provision applies to the constitutional amendment providing for gubernatorial appointment to fill appellate justice and judge vacancies and the office of district judge, and retention elections for appellate justices and judges.

(b) Effective date for this constitutional amendment: January 1, 2000.

(c) Effective date for this temporary provision: January 1, 2001.

SECTION 3. Requires this proposed constitutional amendment to be submitted to the voters at an election to be held on November 2, 1999. Sets forth the required language for the ballot.