

## **BILL ANALYSIS**

Senate Research Center  
77R2108 GGS-D

S.J.R. 3  
By: Duncan  
Jurisprudence  
3/8/2001  
As Filed

### **DIGEST AND PURPOSE**

Currently, Texas is one of the few states in which judges are elected, not appointed. As proposed, S.J.R. 3 requires the submission to the voters of a constitutional amendment to make the offices of chief justice and justices of the supreme court, presiding judge and judges of the court of criminal appeals, and chief justice and justices of the courts of appeals available only through a gubernatorial appointment. S.J.R. 3 provides that at the completion of the first appointment term, a judge can serve successive terms by succeeding in a nonpartisan retention election held during a general election.

### **RULEMAKING AUTHORITY**

This bill does not expressly 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 being eligible to serve in the office of chief justice or justice of the supreme court unless the person is licensed to practice law in this state and is, at the time of election or appointment, a citizen of this state, thirty-five years of age, and has been a practicing lawyer, or a lawyer and judge of a court of record together at least ten years. Requires the chief justice and justices following the appointed term to be subject to retention or rejection on a nonpartisan ballot, rather than elected (three of them each two years), during a general election, and requires the chief justice and justices to hold their offices for six years on each successive retention by the voters, or until their successors are qualified, rather than elected and qualified. Provides that a chief justice or justice serves an initial term, upon appointment to a vacancy, that ends January 1 of the third odd-numbered year that occurs after taking the oath of office. Deletes text regarding vacancies in the offices of the supreme court. Makes conforming and nonsubstantive changes.

Sec. 4. Requires the presiding judge and judges of the court of criminal appeals to have the same salary as the chief justice and justices, rather than associate justices, of the supreme court respectively. Requires the presiding judge and judges following the appointed term to be subject, in the manner provided by law, to retention or rejection on a nonpartisan ballot, rather than elected, by qualified voters of the state at a general election and on each successive retention by the voters are required to hold their offices for a term of six years. Provides that the presiding judge and judges serve an initial term, upon appointment to a vacancy, that ends January 1 of the third odd-numbered year that occurs after taking the oath of office. Deletes text regarding vacancies in the court of criminal appeals.

Sec. 6. Changes “judges” to “justices” when referring to the courts of appeals. Requires the chief justices and justices following the appointed term to be subject, in the manner provided by law, to retention or rejection on a nonpartisan ballot, rather than elected, by qualified voters of the state at a general election and on each successive retention by the voters are required to

hold their offices for a term of six years. Provides that the chief justices and justices serve an initial term, upon appointment to a vacancy, that ends January 1 of the third odd-numbered year that occurs after taking the oath of office.

Makes nonsubstantive changes.

Sec. 28. Requires the governor to fill the vacancies in the offices of justices or judges of the supreme court, the court of criminal appeals, the courts of appeals, rather than civil appeals, and the district courts. Requires that the vacancies in the office of judge of a district court to be filled until the next succeeding general election. Makes nonsubstantive changes.

SECTION 2. Adds a temporary provision to the Texas Constitution that applies to the constitutional amendment proposed by the 77th Legislature, Regular Session, 2001, providing for gubernatorial appointment to fill vacancies in the offices of appellate justices and judges and for nonpartisan retention elections for those justices and judges. Provides that this constitutional amendment takes effect January 1, 2002, and this temporary provision expires January 1, 2010.

SECTION 3. Requires this proposed constitutional amendment to be submitted to the voters at an election to be held November 6, 2001. Requires the ballot to be printed to permit voting for or against the proposition: "The constitutional amendment providing for the governor to fill vacancies in the offices of appellate justices and judges and providing for nonpartisan retention elections for those justices and judges."