

By: Duncan, Ellis

S.J.R. No. 33

1 SENATE JOINT RESOLUTION

2 proposing a constitutional amendment providing for appointment to
3 fill vacancies in certain judicial offices and for nonpartisan
4 retention elections for those offices.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 2, Article V, Texas Constitution, is
7 amended by amending Subsections (b) and (c) and adding Subsection
8 (d) to read as follows:

9 (b) No person shall be eligible to serve in the office of
10 Chief Justice or Justice of the Supreme Court unless the person is
11 licensed to practice law in this state and is, at the time of
12 election or appointment, a citizen of the United States and of this
13 state, and has attained the age of thirty-five years, and has been a
14 practicing lawyer, or a lawyer and judge of a court of record
15 together at least ten years.

16 (c) On appointment to a vacancy, a Chief Justice or Justice
17 serves an initial term that ends January 1 of the third odd-numbered
18 year that occurs after the Chief Justice or Justice takes the oath
19 of office. At the end of the appointed term and of each successive
20 term, the Chief Justice or Justice [~~Said Justices~~] shall be
21 subject, in the manner provided by law, to retention or rejection on
22 a nonpartisan ballot [~~elected (three of them each two years)~~] by the
23 qualified voters of the state at a general election and if
24 retained[+] shall hold office for a term of [~~their offices~~] six

1 years.

2 (d) The Chief Justice and Justices~~[, and]~~ shall each receive
3 the ~~[such]~~ compensation ~~[as shall be]~~ provided by law.

4 SECTION 2. Subsection (a), Section 4, Article V, Texas
5 Constitution, is amended to read as follows:

6 (a) The Court of Criminal Appeals shall consist of eight
7 Judges and one Presiding Judge. The Judges shall have the same
8 qualifications and receive the same salaries as the Associate
9 Justices of the Supreme Court, and the Presiding Judge shall have
10 the same qualifications and receive the same salary as the Chief
11 Justice of the Supreme Court. On appointment to a vacancy, a
12 Presiding Judge or Judge serves an initial term that ends January 1
13 of the third odd-numbered year that occurs after the Presiding
14 Judge or Judge takes the oath of office. At the end of the appointed
15 term and of each successive term, the ~~[The]~~ Presiding Judge or Judge
16 ~~[and the Judges]~~ shall be subject, in the manner provided by law, to
17 retention or rejection on a nonpartisan ballot ~~[elected]~~ by the
18 qualified voters of the state at a general election and if retained
19 shall hold office ~~[their offices]~~ for a term of six years.

20 SECTION 3. Subsection (b), Section 6, Article V, Texas
21 Constitution, is amended to read as follows:

22 (b) Each of said Courts of Appeals shall hold its sessions
23 at a place in its district to be designated by the Legislature, and
24 at such time as may be prescribed by law. On appointment to a
25 vacancy, a Chief Justice or Justice serves an initial term that ends
26 January 1 of the third odd-numbered year that occurs after the Chief
27 Justice or Justice takes the oath of office. At the end of the

1 appointed term and of each successive term, the Chief Justice or
2 Justice [~~Said Justices~~] shall be subject, in the manner provided by
3 law, to retention or rejection on a nonpartisan ballot [~~elected~~] by
4 the qualified voters of their respective districts at a general
5 election and if retained shall hold office[~~7~~] for a term of six
6 years. The Chief Justice and Justices [~~and~~] shall receive for their
7 services the compensation [~~sum~~] provided by law.

8 SECTION 4. Section 7, Article V, Texas Constitution, is
9 amended to read as follows:

10 Sec. 7. (a) The State shall be divided into judicial
11 districts, with each district having one or more Judges as may be
12 provided by law or by this Constitution.

13 (b) On appointment to a vacancy, a district judge serves an
14 initial term that ends January 1 of the second odd-numbered year
15 that occurs after the district judge takes the oath of office. At
16 the end of the appointed term and of each successive term, the
17 [~~Each~~] district judge shall be subject, in the manner provided by
18 law, to retention or rejection on a nonpartisan ballot [~~elected~~] by
19 the qualified voters at a General Election [~~and shall be a citizen~~
20 ~~of the United States and of this State, who is licensed to practice~~
21 ~~law in this State and has been a practicing lawyer or a Judge of a~~
22 ~~Court in this State, or both combined, for four (4) years next~~
23 ~~preceding his election, who has resided in the district in which he~~
24 ~~was elected for two (2) years next preceding his election, and who~~
25 ~~shall reside in his district during his term of office] and if
26 retained shall hold [~~his~~] office for a term [~~the period~~] of four
27 [~~4~~] years. A district judge must reside in the district the judge~~

1 serves during the judge's term of office~~[7]~~ and ~~[who]~~ shall receive
2 for his services an annual salary to be fixed by the Legislature.

3 (c) A person is not eligible to serve as a district judge
4 unless the person is a citizen of the United States and of this
5 State, who is licensed to practice law in this State and has been a
6 practicing lawyer or a Judge of a Court in this State, or both
7 combined, for four years next preceding the person's appointment,
8 and who has resided in the district to which the person was
9 appointed for two years next preceding the person's appointment.

10 (d) The Court shall conduct its proceedings at the county
11 seat of the county in which the case is pending, except as otherwise
12 provided by law. He shall hold the regular terms of his Court at the
13 County Seat of each County in his district in such manner as may be
14 prescribed by law. The Legislature shall have power by General or
15 Special Laws to make such provisions concerning the terms or
16 sessions of each Court as it may deem necessary.

17 (e) The Legislature shall also provide for the holding of
18 District Court when the Judge thereof is absent, or is from any
19 cause disabled or disqualified from presiding.

20 SECTION 5. Subsection (a), Section 28, Article V, Texas
21 Constitution, is amended to read as follows:

22 (a) A vacancy in the office of Chief Justice, Justice, or
23 Judge of the Supreme Court, the Court of Criminal Appeals, the Court
24 of Appeals, or the District Courts shall be filled by the Governor
25 ~~[until the next succeeding General Election for state officers, and~~
26 ~~at that election the voters shall fill the vacancy for the unexpired~~
27 ~~term]~~. In exercising its duty to provide advice and consent on an

1 appointment made by the Governor under Section 12, Article IV of
2 this constitution, the senate by rule may provide for the
3 confirmation or rejection of a person appointed to fill a vacancy
4 described by this subsection during a recess of the senate by a
5 two-thirds vote of the membership of a committee of the senate
6 designated for that purpose. Notwithstanding a temporary
7 confirmation as provided by this section, Section 12, Article IV of
8 this constitution, applies to the appointee when the senate next
9 convenes.

10 SECTION 6. The following temporary provision is added to
11 the Texas Constitution:

12 TEMPORARY PROVISION. (a) This temporary provision applies
13 to the constitutional amendment proposed by the 78th Legislature,
14 Regular Session, 2003, providing for appointment to fill vacancies
15 in certain judicial offices and for nonpartisan retention elections
16 for those offices.

17 (b) The constitutional amendment takes effect January 1,
18 2004.

19 (c) This temporary provision expires January 2, 2004.

20 SECTION 7. This proposed constitutional amendment shall be
21 submitted to the voters at an election to be held November 4, 2003.
22 The ballot shall be printed to provide for voting for or against the
23 proposition: "The constitutional amendment providing for
24 appointment to fill vacancies in the offices of the justices and
25 judges of the appellate and district courts and for nonpartisan
26 retention elections for those offices."