

1-1 By: Duncan, Ellis S.J.R. No. 33
1-2 (In the Senate - Filed March 3, 2003; March 5, 2003, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 April 15, 2003, reported favorably by the following vote: Yeas 6,
1-5 Nays 1; April 15, 2003, sent to printer.)

1-6 SENATE JOINT RESOLUTION

1-7 proposing a constitutional amendment providing for appointment to
1-8 fill vacancies in certain judicial offices and for nonpartisan
1-9 retention elections for those offices.

1-10 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 2, Article V, Texas Constitution, is
1-12 amended by amending Subsections (b) and (c) and adding Subsection
1-13 (d) to read as follows:

1-14 (b) No person shall be eligible to serve in the office of
1-15 Chief Justice or Justice of the Supreme Court unless the person is
1-16 licensed to practice law in this state and is, at the time of
1-17 election or appointment, a citizen of the United States and of this
1-18 state, and has attained the age of thirty-five years, and has been a
1-19 practicing lawyer, or a lawyer and judge of a court of record
1-20 together at least ten years.

1-21 (c) On appointment to a vacancy, a Chief Justice or Justice
1-22 serves an initial term that ends January 1 of the third odd-numbered
1-23 year that occurs after the Chief Justice or Justice takes the oath
1-24 of office. At the end of the appointed term and of each successive
1-25 term, the Chief Justice or Justice [Said Justices] shall be
1-26 subject, in the manner provided by law, to retention or rejection on
1-27 a nonpartisan ballot [elected (three of them each two years)] by the
1-28 qualified voters of the state at a general election and if
1-29 retained[+] shall hold office for a term of [their offices] six
1-30 years.

1-31 (d) The Chief Justice and Justices[+, and] shall each receive
1-32 the [such] compensation [as shall be] provided by law.

1-33 SECTION 2. Subsection (a), Section 4, Article V, Texas
1-34 Constitution, is amended to read as follows:

1-35 (a) The Court of Criminal Appeals shall consist of eight
1-36 Judges and one Presiding Judge. The Judges shall have the same
1-37 qualifications and receive the same salaries as the Associate
1-38 Justices of the Supreme Court, and the Presiding Judge shall have
1-39 the same qualifications and receive the same salary as the Chief
1-40 Justice of the Supreme Court. On appointment to a vacancy, a
1-41 Presiding Judge or Judge serves an initial term that ends January 1
1-42 of the third odd-numbered year that occurs after the Presiding
1-43 Judge or Judge takes the oath of office. At the end of the appointed
1-44 term and of each successive term, the [The] Presiding Judge or Judge
1-45 [and the Judges] shall be subject, in the manner provided by law, to
1-46 retention or rejection on a nonpartisan ballot [elected] by the
1-47 qualified voters of the state at a general election and if retained
1-48 shall hold office [their offices] for a term of six years.

1-49 SECTION 3. Subsection (b), Section 6, Article V, Texas
1-50 Constitution, is amended to read as follows:

1-51 (b) Each of said Courts of Appeals shall hold its sessions
1-52 at a place in its district to be designated by the Legislature, and
1-53 at such time as may be prescribed by law. On appointment to a
1-54 vacancy, a Chief Justice or Justice serves an initial term that ends
1-55 January 1 of the third odd-numbered year that occurs after the Chief
1-56 Justice or Justice takes the oath of office. At the end of the
1-57 appointed term and of each successive term, the Chief Justice or
1-58 Justice [Said Justices] shall be subject, in the manner provided by
1-59 law, to retention or rejection on a nonpartisan ballot [elected] by
1-60 the qualified voters of their respective districts at a general
1-61 election and if retained shall hold office[+] for a term of six
1-62 years. The Chief Justice and Justices [and] shall receive for their
1-63 services the compensation [sum] provided by law.

1-64 SECTION 4. Section 7, Article V, Texas Constitution, is

2-1 amended to read as follows:

2-2 Sec. 7. (a) The State shall be divided into judicial
2-3 districts, with each district having one or more Judges as may be
2-4 provided by law or by this Constitution.

2-5 (b) On appointment to a vacancy, a district judge serves an
2-6 initial term that ends January 1 of the second odd-numbered year
2-7 that occurs after the district judge takes the oath of office. At
2-8 the end of the appointed term and of each successive term, the
2-9 [Each] district judge shall be subject, in the manner provided by
2-10 law, to retention or rejection on a nonpartisan ballot [elected] by
2-11 the qualified voters at a General Election [and shall be a citizen
2-12 of the United States and of this State, who is licensed to practice
2-13 law in this State and has been a practicing lawyer or a Judge of a
2-14 Court in this State, or both combined, for four (4) years next
2-15 preceding his election, who has resided in the district in which he
2-16 was elected for two (2) years next preceding his election, and who
2-17 shall reside in his district during his term of office] and if
2-18 retained shall hold [his] office for a term [the period] of four
2-19 [-(4)] years. A district judge must reside in the district the judge
2-20 serves during the judge's term of office[-] and [who] shall receive
2-21 for his services an annual salary to be fixed by the Legislature.

2-22 (c) A person is not eligible to serve as a district judge
2-23 unless the person is a citizen of the United States and of this
2-24 State, who is licensed to practice law in this State and has been a
2-25 practicing lawyer or a Judge of a Court in this State, or both
2-26 combined, for four years next preceding the person's appointment,
2-27 and who has resided in the district to which the person was
2-28 appointed for two years next preceding the person's appointment.

2-29 (d) The Court shall conduct its proceedings at the county
2-30 seat of the county in which the case is pending, except as otherwise
2-31 provided by law. He shall hold the regular terms of his Court at the
2-32 County Seat of each County in his district in such manner as may be
2-33 prescribed by law. The Legislature shall have power by General or
2-34 Special Laws to make such provisions concerning the terms or
2-35 sessions of each Court as it may deem necessary.

2-36 (e) The Legislature shall also provide for the holding of
2-37 District Court when the Judge thereof is absent, or is from any
2-38 cause disabled or disqualified from presiding.

2-39 SECTION 5. Subsection (a), Section 28, Article V, Texas
2-40 Constitution, is amended to read as follows:

2-41 (a) A vacancy in the office of Chief Justice, Justice, or
2-42 Judge of the Supreme Court, the Court of Criminal Appeals, the Court
2-43 of Appeals, or the District Courts shall be filled by the Governor
2-44 [until the next succeeding General Election for state officers, and
2-45 at that election the voters shall fill the vacancy for the unexpired
2-46 term]. In exercising its duty to provide advice and consent on an
2-47 appointment made by the Governor under Section 12, Article IV of
2-48 this constitution, the senate by rule may provide for the
2-49 confirmation or rejection of a person appointed to fill a vacancy
2-50 described by this subsection during a recess of the senate by a
2-51 two-thirds vote of the membership of a committee of the senate
2-52 designated for that purpose. Until the appointee is confirmed or
2-53 rejected by an affirmative vote of two-thirds of the members of the
2-54 committee, the appointee's eligibility to continue in office is not
2-55 affected and Section 12, Article IV of this constitution, applies
2-56 to the appointee when the senate next convenes.

2-57 SECTION 6. The following temporary provision is added to
2-58 the Texas Constitution:

2-59 TEMPORARY PROVISION. (a) This temporary provision applies
2-60 to the constitutional amendment proposed by the 78th Legislature,
2-61 Regular Session, 2003, providing for appointment to fill vacancies
2-62 in certain judicial offices and for nonpartisan retention elections
2-63 for those offices.

2-64 (b) The constitutional amendment takes effect January 1,
2-65 2004.

2-66 (c) This temporary provision expires January 2, 2004.

2-67 SECTION 7. This proposed constitutional amendment shall be
2-68 submitted to the voters at an election to be held November 4, 2003.
2-69 The ballot shall be printed to provide for voting for or against the

3-1 proposition: "The constitutional amendment providing for
3-2 appointment to fill vacancies in the offices of the justices and
3-3 judges of the appellate and district courts and for nonpartisan
3-4 retention elections for those offices."

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