

By: Ellis

S.J.R. No. 41

A JOINT RESOLUTION

1 proposing a constitutional amendment related to the number of
2 justices on the supreme court and the number of judges on the court
3 of criminal appeals.

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

5 SECTION 1. Sections 2(a) and (c), Article V, Texas
6 Constitution, are amended to read as follows:

7 (a) The Supreme Court shall consist of the Chief Justice and
8 six [~~eight~~] Justices, any four [~~five~~] of whom shall constitute a
9 quorum, and the concurrence of four [~~five~~] shall be necessary to a
10 decision of a case; provided, that when the business of the court
11 may require, the court may sit in sections as designated by the
12 court to hear argument of causes and to consider applications for
13 writs of error or other preliminary matters.

14 (c) Said Justices shall be elected [~~(three of them each two~~
15 ~~years)~~] by the qualified voters of the state at a general election;
16 shall hold their offices six years; and shall each receive such
17 compensation as shall be provided by law.

18 SECTION 2. Section 4, Article V, Texas Constitution, is
19 amended to read as follows:

20 Sec. 4. (a) The Court of Criminal Appeals shall consist of
21 six [~~eight~~] Judges and one Presiding Judge. The Judges shall have
22 the same qualifications and receive the same salaries as the
23 Associate Justices of the Supreme Court, and the Presiding Judge
24 shall have the same qualifications and receive the same salary as

1 the Chief Justice of the Supreme Court. The Presiding Judge and the
2 Judges shall be elected by the qualified voters of the state at a
3 general election and shall hold their offices for a term of six
4 years.

5 (b) For the purpose of hearing cases, the Court of Criminal
6 Appeals may sit in panels of three Judges, the designation thereof
7 to be under rules established by the court. In a panel of three
8 Judges, two Judges shall constitute a quorum and the concurrence of
9 two Judges shall be necessary for a decision. The Presiding Judge,
10 under rules established by the court, shall convene the court en
11 banc for the transaction of all other business and may convene the
12 court en banc for the purpose of hearing cases. The court must sit
13 en banc during proceedings involving capital punishment and other
14 cases as required by law. When convened en banc, four [~~five~~] Judges
15 shall constitute a quorum and the concurrence of four [~~five~~] Judges
16 shall be necessary for a decision. The Court of Criminal Appeals
17 may appoint Commissioners in aid of the Court of Criminal Appeals as
18 provided by law.

19 SECTION 3. The following temporary provision is added to
20 Article V, Texas Constitution:

21 TEMPORARY PROVISION. (a) This temporary provision applies
22 to the constitutional amendment proposed by the 78th Legislature,
23 Regular Session, 2003, reducing the number of justices on the
24 supreme court and the number of judges on the court of criminal
25 appeals. The constitutional amendment takes effect January 1,
26 2004, and this temporary provision expires January 1, 2012.

27 (b) Notwithstanding the expiration date of the term for

1 which a justice of the supreme court was elected or appointed to
2 fill a vacancy, the term of the chief justice and each justice
3 expires December 31, 2004.

4 (c) Notwithstanding the expiration date of the term for
5 which a judge of the court of criminal appeals was elected or
6 appointed to fill a vacancy, the term of the presiding judge and
7 each judge expires December 31, 2004.

8 (d) Notwithstanding the requirements of Section 2, Article
9 V, of this constitution, the supreme court consists of a chief
10 justice and eight justices until the court is reduced to seven
11 members on January 1, 2005, and, until that date, a majority of
12 justices shall constitute a quorum, and the concurrence of a
13 majority of justices shall be necessary for a decision of a case.

14 (e) Notwithstanding the requirements of Section 4, Article
15 V, of this constitution, the court of criminal appeals consists of a
16 presiding judge and eight judges until the court is reduced to seven
17 members on January 1, 2005, and, until that date, when convened en
18 banc, a majority of judges shall constitute a quorum, and the
19 concurrence of a majority of judges shall be necessary for a
20 decision of a case.

21 (f) A chief justice and six justices shall be elected to the
22 supreme court in the manner provided by Section 2, Article V, of
23 this constitution, at the general election held in 2004. To effect
24 staggered terms, the voters of this state shall elect a chief
25 justice and justices of the supreme court in accordance with this
26 subsection. This subsection does not affect an election to fill a
27 vacancy for an unexpired term. At the general election held in

1 2004, the voters shall elect one chief justice and six justices to
2 serve on the supreme court beginning January 1, 2005. The chief
3 justice shall serve a six-year term. Of the six justices elected at
4 that election, two of the justices shall serve six-year terms, two
5 of the justices shall serve four-year terms, and two of the justices
6 shall serve two-year terms. The six justices elected at that
7 election shall draw lots to determine the length of each justice's
8 term. At the general election held in 2006 and each sixth year
9 thereafter, the voters shall elect two justices to the supreme
10 court to serve six-year terms. At the general election held in 2008
11 and each sixth year thereafter, the voters shall elect two justices
12 to the supreme court to serve six-year terms. At the general
13 election held in 2010 and each sixth year thereafter, the voters
14 shall elect a chief justice and two justices to the supreme court to
15 serve six-year terms.

16 (g) A presiding judge and six judges shall be elected to the
17 court of criminal appeals in the manner provided by Section 4,
18 Article V, of this constitution, at the general election held in
19 2004. To effect staggered terms, the voters of this state shall
20 elect a presiding judge and judges of the court of criminal appeals
21 in accordance with this subsection. This subsection does not
22 affect an election to fill a vacancy for an unexpired term. At the
23 general election held in 2004, the voters shall elect one presiding
24 judge and six judges to serve on the court of criminal appeals
25 beginning January 1, 2005. The presiding judge shall serve a
26 six-year term. Of the six judges elected at that election, two of
27 the judges shall serve six-year terms, two of the judges shall serve

1 four-year terms, and two of the judges shall serve two-year terms.
2 The six judges elected at that election shall draw lots to determine
3 the length of each judge's term. At the general election held in
4 2006 and each sixth year thereafter, the voters shall elect two
5 judges to the court of criminal appeals to serve six-year terms. At
6 the general election held in 2008 and each sixth year thereafter,
7 the voters shall elect two judges to the court of criminal appeals
8 to serve six-year terms. At the general election held in 2010 and
9 each sixth year thereafter, the voters shall elect a presiding
10 judge and two judges to the court of criminal appeals to serve
11 six-year terms.

12 SECTION 4. This proposed constitutional amendment shall be
13 submitted to the voters at an election to be held November 4, 2003.
14 The ballot shall be printed to provide for voting for or against the
15 proposition: "The constitutional amendment reducing the number of
16 justices on the supreme court and judges on the court of criminal
17 appeals."