

By: Crownover

H.J.R. No. 85

A JOINT RESOLUTION

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (b) On appointment to a vacancy, a district judge serves an  
13 initial term that ends January 1 of the second odd-numbered year  
14 that occurs after the district judge takes the oath of office. At  
15 the end of the appointed term and of each successive term, the  
16 [~~Each~~] district judge shall be subject, in the manner provided by  
17 law, to retention or rejection on a nonpartisan ballot [~~elected~~] by  
18 the qualified voters at a General Election [~~and shall be a citizen~~  
19 ~~of the United States and of this State, who is licensed to practice~~  
20 ~~law in this State and has been a practicing lawyer or a Judge of a~~  
21 ~~Court in this State, or both combined, for four (4) years next~~  
22 ~~preceding his election, who has resided in the district in which he~~  
23 ~~was elected for two (2) years next preceding his election, and who~~  
24 ~~shall reside in his district during his term of office] and if  
25 retained shall hold [~~his~~] office for a term [~~the period~~] of four  
26 [~~4~~] years. A district judge must reside in the district the judge  
27 serves during the judge's term of office[~~7~~] and [~~who~~] shall receive~~

1 for his services an annual salary to be fixed by the Legislature.

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

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

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

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

21 (a) A vacancy in the office of Chief Justice, Justice, or  
22 Judge of the Supreme Court, the Court of Criminal Appeals, the Court  
23 of Appeals, or the District Courts shall be filled by the Governor  
24 [~~until the next succeeding General Election for state officers, and~~  
25 ~~at that election the voters shall fill the vacancy for the unexpired~~  
26 ~~term~~]. In exercising its duty to provide advice and consent on an  
27 appointment made by the Governor under Section 12, Article IV of

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

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

11 TEMPORARY PROVISION. (a) This temporary provision applies  
12 to the constitutional amendment proposed by the 79th Legislature,  
13 Regular Session, 2005, providing for appointment to fill vacancies  
14 in certain judicial offices and for nonpartisan retention elections  
15 for those offices.

16 (b) The constitutional amendment takes effect January 1,  
17 2006.

18 (c) This temporary provision expires January 2, 2006.

19 SECTION 7. This proposed constitutional amendment shall be  
20 submitted to the voters at an election to be held November 8, 2005.  
21 The ballot shall be printed to provide for voting for or against the  
22 proposition: "The constitutional amendment providing for  
23 appointment to fill vacancies in the offices of the justices and  
24 judges of the appellate and district courts and for nonpartisan  
25 retention elections for those offices."