

By: Gattis

H.J.R. No. 105

A JOINT RESOLUTION

1 proposing a constitutional amendment relating to requiring board
2 certification for appellate judges and justices.

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

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

7 (b) No person shall be eligible to serve in the office of
8 Chief Justice or Justice of the Supreme Court unless the person:

9 (1) is licensed to practice law in this state;

10 (2) [~~and~~] is, at the time of election, a citizen of the
11 United States and of this state;

12 (3) [~~, and~~] has attained the age of thirty-five years;

13 (4) [~~, and~~] has been a practicing lawyer, or a lawyer
14 and judge of a court of record together, at least ten years; and

15 (5) is board certified in at least one practice area,
16 other than criminal law, recognized by the Texas Board of Legal
17 Specialization.

18 (b-1) Notwithstanding Subsection (b) of this section, a
19 person appointed or elected to serve as the Chief Justice or a
20 Justice of the Supreme Court before January 1, 2011, is not required
21 to comply with Subsection (b)(5) of this section to:

22 (1) continue to serve as the Chief Justice or a Justice
23 of the Supreme Court in the office to which the person was appointed
24 or elected before that date; or

1 (2) serve as the Chief Justice of the Supreme Court
2 immediately following service as a Justice of the Supreme Court in
3 the office to which the person was elected or appointed before that
4 date.

5 SECTION 2. Section 4, Article V, Texas Constitution, is
6 amended by amending Subsection (a) and adding Subsections (a-1) and
7 (a-2) to read as follows:

8 (a) The Court of Criminal Appeals shall consist of eight
9 Judges and one Presiding Judge. Except as provided by Subsection
10 (a-1) of this section, the [The] Judges shall have the same
11 qualifications and receive the same salaries as the Associate
12 Justices of the Supreme Court, and the Presiding Judge shall have
13 the same qualifications and receive the same salary as the Chief
14 Justice of the Supreme Court. The Presiding Judge and the Judges
15 shall be elected by the qualified voters of the state at a general
16 election and shall hold their offices for a term of six years.

17 (a-1) The Presiding Judge and the Judges shall be board
18 certified in criminal law by the Texas Board of Legal
19 Specialization. Section 2(b)(5), Article V, of this constitution
20 does not apply to the Presiding Judge and the Judges.

21 (a-2) Notwithstanding Subsection (a-1) of this section, a
22 person appointed or elected to serve as the Presiding Judge or a
23 Judge of the Court of Criminal Appeals before January 1, 2011, is
24 not required to comply with Subsection (a-1) of this section to:

25 (1) continue to serve as Presiding Judge or a Judge of
26 the Court of Criminal Appeals in the office to which the person was
27 appointed or elected before that date; or

1 (2) serve as Presiding Judge of the Court of Criminal
2 Appeals immediately following service as a Judge of the Court of
3 Criminal Appeals in the office to which the person was elected or
4 appointed before that date.

5 SECTION 3. Section 6, Article V, Texas Constitution, is
6 amended by amending Subsection (a) and adding Subsections (a-1) and
7 (a-2) to read as follows:

8 (a) The state shall be divided into courts of appeals
9 districts, with each district having a Chief Justice, two or more
10 other Justices, and such other officials as may be provided by law.
11 Except as provided by Subsection (a-1) of this section, the [The]
12 Justices shall have the qualifications prescribed for Justices of
13 the Supreme Court. The Court of Appeals may sit in sections as
14 authorized by law. The concurrence of a majority of the judges
15 sitting in a section is necessary to decide a case. Said Court of
16 Appeals shall have appellate jurisdiction co-extensive with the
17 limits of their respective districts, which shall extend to all
18 cases of which the District Courts or County Courts have original or
19 appellate jurisdiction, under such restrictions and regulations as
20 may be prescribed by law. Provided, that the decision of said
21 courts shall be conclusive on all questions of fact brought before
22 them on appeal or error. Said courts shall have such other
23 jurisdiction, original and appellate, as may be prescribed by law.

24 (a-1) The Justices must be board certified in at least one
25 area of practice recognized by the Texas Board of Legal
26 Specialization, which may be criminal law.

27 (a-2) Notwithstanding Subsection (a-1) of this section, a

1 person appointed or elected to serve as the Chief Justice or a
2 Justice of a Court of Appeals before January 1, 2011, is not
3 required to comply with Subsection (a-1) of this section to:

4 (1) continue to serve as the Chief Justice or a Justice
5 of a Court of Appeals in the office to which the person was
6 appointed or elected before that date; or

7 (2) serve as Chief Justice of a Court of Appeals
8 immediately following service as a Justice of that Court of Appeals
9 in the office to which the person was elected or appointed before
10 that date.

11 SECTION 4. The following temporary provision is added to
12 the Texas Constitution:

13 TEMPORARY PROVISION. (a) This temporary provision applies
14 to the constitutional amendment proposed by the 81st Legislature,
15 Regular Session, 2009, relating to requiring board certification
16 for appellate judges and justices.

17 (b) The amendments to Sections 2, 4, and 6, Article V, of
18 this constitution take effect January 1, 2011.

19 (c) This temporary provision expires January 1, 2012.

20 SECTION 5. This proposed constitutional amendment shall be
21 submitted to the voters at an election to be held November 3, 2009.
22 The ballot shall be printed to permit voting for or against the
23 proposition: "The constitutional amendment relating to requiring
24 board certification for appellate judges and justices."