

By: Villarreal

H.J.R. No. 138

1 A JOINT RESOLUTION

2 proposing a constitutional amendment for filling vacancies in the
3 offices of justices of the supreme court, judges of the court of
4 criminal appeals, and district judges by appointment.

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

6 SECTION 1. Sections 2, 4, and 7, Article V, Texas
7 Constitution, are amended to read as follows:

8 Sec. 2. (a) The Supreme Court shall consist of the Chief
9 Justice and eight Justices, any five of whom shall constitute a
10 quorum, and the concurrence of five shall be necessary to a decision
11 of a case; provided, that when the business of the court may
12 require, the court may sit in sections as designated by the court to
13 hear argument of causes and to consider applications for writs of
14 error or other preliminary matters.

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

22 (c) Said Chief Justice and Justices shall be appointed by
23 the governor, subject to confirmation by the Senate and by the
24 House, for a term of [~~elected (three of them each two years) by the~~
25 ~~qualified voters of the state at a general election, shall hold~~

1 ~~their offices]~~ six years; or until their successors are sworn. On
2 appointment to a vacancy, a Chief Justice or Justice serves an
3 initial term that ends January 31 of the odd-numbered year that
4 occurs after the Chief Justice or Justice takes the oath of office.

5 (d) The Chief Justice and Justices ~~[elected and qualified,~~
6 ~~and]~~ shall each receive such compensation as shall be provided by
7 law. ~~[In case of a vacancy in the office of the Chief Justice or any~~
8 ~~Justice of the Supreme Court, the Governor shall fill the vacancy~~
9 ~~until the next general election for state officers, and at such~~
10 ~~general election the vacancy for the unexpired term shall be filled~~
11 ~~by election by the qualified voters of the state.]~~ The Justices of
12 the Supreme Court who may be in office at the time this amendment
13 takes effect shall continue in office until the expiration of their
14 term of office under the present Constitution, and until their
15 successors are appointed by the governor and confirmed by the
16 Senate and by the House ~~[elected and qualified].~~

17 Sec. 4. (a) The Court of Criminal Appeals shall consist
18 of eight Judges and one Presiding Judge.

19 (b) The Judges shall have the same qualifications and
20 receive the same salaries as the ~~[Associate]~~ Justices of the
21 Supreme Court, and the Presiding Judge shall have the same
22 qualifications and receive the same salary as the Chief Justice of
23 the Supreme Court.

24 (c) The Presiding Judge and the Judges shall be appointed by
25 the governor, subject to confirmation by the Senate and by the
26 House, ~~[elected by the qualified voters of the state at a general~~
27 ~~election and shall hold their offices]~~ for a term of six years. On

1 appointment to a vacancy, a Presiding Judge or Judge serves an
2 initial term that ends January 31 of the odd-numbered year that
3 occurs after the Presiding Judge or Judge takes the oath of office
4 ~~[In case of a vacancy in the office of a Judge of the Court of~~
5 ~~Criminal Appeals, the Governor shall, with the advice and consent~~
6 ~~of the Senate, fill said vacancy by appointment until the next~~
7 ~~succeeding general election].~~

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

22 Sec. 7. The State shall be divided into judicial districts,
23 with each district having one or more Judges as may be provided by
24 law or by this Constitution. Each district judge shall be appointed
25 by the governor, subject to the advice and consent of the Senate and
26 of the House, ~~[elected by the qualified voters at a General~~
27 ~~Election]~~ and shall be a citizen of the United States and of this

1 State, who is licensed to practice law in this State and has been a
2 practicing lawyer or a Judge of a Court in this State, or both
3 combined, for four (4) years next preceding the appointment [~~his~~
4 ~~election~~], who has resided in the district [~~in which he was elected~~]
5 for two (2) years next preceding the appointment [~~his election~~],
6 and who shall reside in his district during his term of office and
7 hold his office for the period of four (4) years, and who shall
8 receive for his services an annual salary to be fixed by the
9 Legislature. 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 SECTION 2. The following temporary provision is added to
17 the Texas Constitution:

18 TEMPORARY PROVISION. (a) This temporary provision applies
19 to the constitutional amendment proposed by the 81st Legislature,
20 Regular Session, 2009, providing for appointment to fill vacancies
21 in appellate judicial offices and for nonpartisan retention
22 elections for those offices.

23 (b) The constitutional amendment takes effect January 1,
24 2010.

25 (c) This temporary provision expires January 2, 2010.

26 SECTION 3. This proposed constitutional amendment shall be
27 submitted to the voters at an election to be held November 3, 2009.

1 The ballot shall be printed to permit voting for or against the
2 proposition: "The constitutional amendment providing for
3 appointment to fill vacancies in the offices of the justices of the
4 supreme court and judges of the court of criminal appeals and courts
5 of appeals, and the judges of the district courts."