

By: Duncan

S.J.R. No. 23

A JOINT RESOLUTION

1 proposing a constitutional amendment for filling vacancies in
2 appellate judicial offices by appointment 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 28, Article V, Texas Constitution, is
8 amended to read as follows:

9 (a) A vacancy in the office of Chief Justice, Justice, or
10 Judge of the Supreme Court, the Court of Criminal Appeals, or the
11 Court of Appeals [~~7, or the District Courts~~] shall be filled by the
12 Governor. In exercising its duty to provide advice and consent on
13 an appointment made by the Governor under Section 12, Article IV, of
14 this constitution, the senate by rule may provide for the
15 confirmation or rejection of a person appointed to fill a vacancy
16 described by this subsection during a recess of the senate by a
17 two-thirds vote of the membership of a committee of the senate
18 designated for that purpose. Notwithstanding a temporary
19 confirmation as provided by this section, Section 12, Article IV,
20 of this constitution applies to the appointee when the senate next
21 convenes.

22 (b) A vacancy in the District Courts shall be filled by the
23 Governor until the next succeeding General Election for state
24 officers, and at that election the voters shall fill the vacancy for
25 the unexpired term.

26 (c) [~~(b)~~] A vacancy in the office of County Judge or Justice
27 of the Peace shall be filled by the Commissioners Court until the

1 next succeeding General Election.

2 SECTION 5. The following temporary provision is added to
3 the Texas Constitution:

4 TEMPORARY PROVISION. (a) This temporary provision applies
5 to the constitutional amendment proposed by the 81st Legislature,
6 Regular Session, 2009, providing for appointment to fill vacancies
7 in appellate judicial offices and for nonpartisan retention
8 elections for those offices.

9 (b) The constitutional amendment takes effect January 1,
10 2010.

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

12 SECTION 6. This proposed constitutional amendment shall be
13 submitted to the voters at an election to be held November 3, 2009.
14 The ballot shall be printed to provide for voting for or against the
15 proposition: "The constitutional amendment providing for
16 appointment to fill vacancies in the offices of the justices and
17 judges of the appellate courts and for nonpartisan retention
18 elections for those offices."