

By: Duncan

S.J.R. No. 45

A JOINT RESOLUTION

1 proposing a constitutional amendment for filling vacancies in
2 appellate judicial offices by appointment, for partisan elections
3 for all judicial offices, and for subsequent nonpartisan retention
4 elections for all judicial offices.

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

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

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

16 (c) A Chief Justice or Justice [~~Said Justices~~] shall be
17 subject, in the manner provided by law, to election on a partisan
18 ballot followed by retention or rejection on a nonpartisan ballot
19 [~~elected (three of them each two years)~~] by the qualified voters of
20 the state at a general election, and on election and on each
21 successive retention by the voters [→] shall hold office for a term
22 of [~~their offices~~] six years. The terms of the members of the court
23 shall be staggered so that three members of the court are elected or
24 retained for a full term every two years. On appointment to a

1 vacancy, a Chief Justice or Justice serves until the next
2 succeeding general election for state officers, and at that
3 election the voters shall fill the vacancy for the unexpired term on
4 a partisan ballot. A Chief Justice or Justice elected to fill an
5 unexpired term shall be subject to retention in the same manner as a
6 Chief Justice or Justice elected on a partisan ballot to a full
7 term.

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

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

12 (a) The Court of Criminal Appeals shall consist of eight
13 Judges and one Presiding Judge. The Judges shall have the same
14 qualifications and receive the same salaries as the Associate
15 Justices of the Supreme Court, and the Presiding Judge shall have
16 the same qualifications and receive the same salary as the Chief
17 Justice of the Supreme Court. A ~~[The]~~ Presiding Judge or Judge ~~[and~~
18 ~~the Judges]~~ shall be subject, in the manner provided by law, to
19 election on a partisan ballot followed by retention or rejection on
20 a nonpartisan ballot ~~[elected]~~ by the qualified voters of the state
21 at a general election, and on election and on each successive
22 retention by the voters shall hold office ~~[their offices]~~ for a term
23 of six years. On appointment to a vacancy, a Presiding Judge or
24 Judge serves until the next succeeding general election for state
25 officers, and at that election the voters shall fill the vacancy for
26 the unexpired term on a partisan ballot. A Presiding Judge or Judge
27 elected to fill an unexpired term shall be subject to retention in

1 the same manner as a Presiding Judge or Judge elected on a partisan
2 ballot to a full term.

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

5 (b) Each of said Courts of Appeals shall hold its sessions
6 at a place in its district to be designated by the Legislature, and
7 at such time as may be prescribed by law. The Chief Justice or
8 Justice [~~Said Justices~~] shall be subject, in the manner provided by
9 law, to election on a partisan ballot followed by retention or
10 rejection on a nonpartisan ballot [~~elected~~] by the qualified voters
11 of their respective districts at a general election, and on
12 election and on each successive retention by the voters shall hold
13 office [~~r~~] for a term of six years. The Chief Justice and Justices
14 [~~and~~] shall receive for their services the compensation [~~sum~~]
15 provided by law. On appointment to a vacancy, a Chief Justice or
16 Justice serves until the next succeeding general election for state
17 officers, and at that election the voters shall fill the vacancy for
18 the unexpired term on a partisan ballot. A Chief Justice or Justice
19 elected to fill an unexpired term shall be subject to retention in
20 the same manner as a Chief Justice or Justice elected on a partisan
21 ballot to a full term.

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

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

27 (b) Each district judge shall be subject, in the manner

1 provided by law, to election [elected] by the qualified voters at a
2 General Election. At the end of the district judge's initial term
3 to which the judge was elected and of each successive term, the
4 judge shall be subject, in the manner provided by law, to retention
5 or rejection on a nonpartisan ballot. On election and on each
6 successive retention by the voters, a district judge shall [and
7 ~~shall be a citizen of the United States and of this State, who is~~
8 ~~licensed to practice law in this State and has been a practicing~~
9 ~~lawyer or a Judge of a Court in this State, or both combined, for~~
10 ~~four (4) years next preceding his election, who has resided in the~~
11 ~~district in which he was elected for two (2) years next preceding~~
12 ~~his election, and who shall reside in his district during his term~~
13 ~~of office and] hold [his] office for a term [the period] of four~~
14 ~~[(4)] years.~~ A district judge must reside in the district the judge
15 serves during the judge's term of office[7] and [who] shall receive
16 for the judge's [his] services an annual salary to be fixed by the
17 Legislature.

18 (c) A person is not eligible to serve as a district judge
19 unless the person is a citizen of the United States and of this
20 State, who is licensed to practice law in this State and has been a
21 practicing lawyer or a Judge of a Court in this State, or both
22 combined, for four years next preceding the person's election or
23 appointment, and who has resided in the district to which the person
24 was elected or appointed for two years next preceding the person's
25 election or appointment.

26 (d) The Court shall conduct its proceedings at the county
27 seat of the county in which the case is pending, except as otherwise

1 provided by law. A district judge [~~He~~] shall hold the regular terms
2 of the judge's [~~his~~] Court at the County Seat of each County in the
3 judge's [~~his~~] district in such manner as may be prescribed by law.
4 The Legislature shall have power by General or Special Laws to make
5 such provisions concerning the terms or sessions of each Court as it
6 may deem necessary.

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

10 SECTION 5. Section 28, Article V, Texas Constitution, is
11 amended to read as follows:

12 Sec. 28. (a) A vacancy in the office of Chief Justice,
13 Justice, or Judge of the Supreme Court, the Court of Criminal
14 Appeals, or the Court of Appeals [~~, or the District Courts~~] shall be
15 filled by the Governor. In exercising its duty to provide advice
16 and consent on an appointment made by the Governor under Section 12,
17 Article IV, of this constitution, the senate by rule may provide for
18 the confirmation or rejection of a person appointed to fill a
19 vacancy described by this subsection during a recess of the senate
20 by a two-thirds vote of the membership of a committee of the senate
21 designated for that purpose. Notwithstanding a temporary
22 confirmation as provided by this section, Section 12, Article IV,
23 of this constitution applies to the appointee when the senate next
24 convenes.

25 (b) A vacancy in the District Courts shall be filled by the
26 Governor until the next succeeding General Election for state
27 officers, and at that election the voters shall fill the vacancy for

1 the unexpired term on a partisan ballot. A District Judge elected
2 to fill an unexpired term shall be subject to retention in the same
3 manner as a District Judge elected on a partisan ballot to a full
4 term.

5 (c) [~~(b)~~] A vacancy in the office of County Judge or Justice
6 of the Peace shall be filled by the Commissioners Court until the
7 next succeeding General Election.

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

10 TEMPORARY PROVISION. (a) This temporary provision applies
11 to the constitutional amendment proposed by the 82nd Legislature,
12 Regular Session, 2011, providing for appointment to fill vacancies
13 in appellate judicial offices, for partisan elections for all
14 judicial offices, and for subsequent nonpartisan retention
15 elections for all judicial offices.

16 (b) The constitutional amendment takes effect January 1,
17 2012.

18 (c) This temporary provision expires January 2, 2012.

19 SECTION 7. This proposed constitutional amendment shall be
20 submitted to the voters at an election to be held November 8, 2011.
21 The ballot shall be printed to provide for voting for or against the
22 proposition: "The constitutional amendment providing for
23 appointment, partisan election, and subsequent nonpartisan
24 retention election for each judicial office of this state."