

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

March 31, 2013

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB577 by Duncan (Relating to filling vacancies in appellate judicial offices by appointment, partisan elections for all judicial offices, and nonpartisan elections for the retention or rejection for all judicial offices.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB577, As Introduced: a negative impact of (\$915,375) through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	(\$915,375)
2015	\$0
2016	(\$923,625)
2017	\$0
2018	(\$915,375)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund
2014	(\$915,375)
2015	\$0
2016	(\$923,625)
2017	\$0
2018	(\$915,375)

Fiscal Analysis

The bill would amend the Government Code and the Election Code relating to filling vacancies in appellate judicial offices by appointment, partisan elections for all judicial offices, and nonpartisan elections for the retention or rejection for all judicial offices. The bill would change certain definitions, filing date deadlines, procedures, and requirements for the election, retention, and appointment of appellate justices and judges as well as district court judges.

The bill would require the justices and judges in the state's appellate courts (including the Supreme Court and Court of Criminal Appeals) along with the state's district judges to be elected initially in a partisan election. At the end of each justice's or judge's initial term of office, the justice or judge would be subject to a nonpartisan retention election. Under provisions of the bill, if the justice or judge receives a majority of the votes cast in the retention election that justice or judge would be entitled to remain in office for a regular term beginning the first day of the following January. If the justice or judge does not receive a majority of the votes in the retention election than a vacancy in the office would exist the first day of the following January, and the office would be filled by partisan election.

The bill would also require a justice or judge subject to retention or rejection who seeks to continue to serve in that office to file a declaration of candidacy with the Secretary of State not later than 5 p.m. on November 1 preceding the nonpartisan judicial retention election. A declaration would not be able to be filed earlier than the 30th day preceding the filing deadline date. Under the bill, a candidate would be prohibited from withdrawing from the nonpartisan judicial retention election after the 74th day preceding an election.

The bill would require the Secretary of State to prescribe any additional procedures needed for the orderly and proper administration of elections under the chapters affected by this bill.

The bill would amend the Election Code to prohibit the acceptance of political contributions by judicial candidates or officeholders, specific-purpose committees for supporting or opposing a judicial candidate, or a specific-purpose committee for assisting a judicial officeholder, starting on the 210th day before the date a declaration of candidacy must be filed if the office is subject to a nonpartisan judicial retention election.

The bill would take effect only if the constitutional amendment proposed by the Eighty-third Legislature, Regular Session, 2013 (Senate Joint Resolution 34 or similar legislation), for filling vacancies in appellate judicial offices by appointment, for partisan elections for all judicial offices, and for subsequent nonpartisan elections for all judicial offices is adopted by voters. If the constitutional amendment is adopted, the bill would take effect January 1, 2014.

Methodology

According to the Secretary of State's Office, the agency would lose filing fees to assist with the cost of holding primary elections if the bill is enacted because incumbent judges that run for retention election would not pay a filing fee. The agency assumes that all appellate justices and judges, along with district court judges, would run for retention election. The agency's estimate assumes an average of 1.5 candidates for each potential race, based on a historical average of the number of candidates for a given primary office, multiplied by the filing fee for each respective race. Using similar figures for 2014, 2016, 2018, the agency estimates a loss of filing fees of \$915,375, \$923,625, and \$915,375 respectively.

Local Government Impact

Local governments would have to change procedures and forms for holding judicial elections, which would result in additional costs; however, those costs are not anticipated to be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 307 Secretary of State

LBB Staff: UP, AG, EP, CK, AHE