

By: Landgraf

H.J.R. No. 148

A JOINT RESOLUTION

1 proposing a constitutional amendment providing for appointments to  
2 fill vacancies for certain judicial offices 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 the  
11 appointment ~~[election]~~, 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) The Chief Justice and ~~[Said]~~ Justices shall be appointed  
16 in accordance with Section 28(b) of this article. The Chief Justice  
17 and Justices shall be subject to retention or rejection on a  
18 nonpartisan ballot ~~[elected (three of them each two years)]~~ by the  
19 qualified voters of the state as provided by the Legislature and ~~[at~~  
20 ~~a general election,~~] shall hold their offices for a term provided by  
21 Section 28a of this article. ~~[their offices six years, and]~~

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

24 SECTION 2. Section 4(a), Article V, Texas Constitution, is

1 amended to read as follows:

2 (a) The Court of Criminal Appeals shall consist of eight  
3 Judges and one Presiding Judge. The Judges shall have the same  
4 qualifications and receive the same compensation [~~salaries~~] as the  
5 [~~Associate~~] Justices of the Supreme Court, and the Presiding Judge  
6 shall have the same qualifications and receive the same  
7 compensation [~~salary~~] as the Chief Justice of the Supreme Court.  
8 The Presiding Judge and the Judges shall be appointed in accordance  
9 with Section 28(b) of this article. The Presiding Judge and the  
10 Judges shall be subject to retention or rejection on a nonpartisan  
11 ballot [~~elected~~] by the qualified voters of the state as provided by  
12 the Legislature [~~at a general election~~] and shall hold their  
13 offices for a term provided by Section 28a of this article [~~of six~~  
14 ~~years~~].

15 SECTION 3. Sections 6(a) and (b), Article V, Texas  
16 Constitution, are amended to read as follows:

17 (a) The state shall be divided into courts of appeals  
18 districts, with each district having a Chief Justice, two or more  
19 other Justices, and such other officials as may be provided by law.  
20 The Chief Justice and Justices shall have the qualifications  
21 prescribed for Justices of the Supreme Court and shall reside in the  
22 district the Chief Justice or Justice serves during the term of  
23 office. The Court of Appeals may sit in panels [~~sections~~] as  
24 authorized by law. The concurrence of a majority of the justices  
25 [~~judges~~] sitting in a panel [~~section~~] is necessary to decide a case.  
26 The [~~Said~~] Court of Appeals shall have appellate jurisdiction  
27 co-extensive with the limits of their respective districts, which

1 shall extend to all cases of which the District Courts or County  
 2 Courts have original or appellate jurisdiction, under such  
 3 restrictions and regulations as may be prescribed by law.  
 4 Provided, that the decision of the ~~[said]~~ courts shall be  
 5 conclusive on all questions of fact brought before them on appeal or  
 6 error. The ~~[said]~~ courts shall have such other jurisdiction,  
 7 original and appellate, as may be prescribed by law.

8 (b) Each Court ~~[of said Courts]~~ of Appeals shall hold its  
 9 sessions at a place in its district to be designated by the  
 10 Legislature, and at such time as may be prescribed by law. The  
 11 Chief Justice and ~~[said]~~ Justices shall be appointed in accordance  
 12 with Section 28(b) of this article. The Chief Justice and Justices  
 13 shall be subject to retention or rejection on a nonpartisan ballot  
 14 [elected] by the qualified voters of their respective districts as  
 15 provided by the Legislature, [at a general election,] shall hold  
 16 their offices for a term provided by Section 28a of this article,  
 17 [of six years] and shall receive for their services the  
 18 compensation ~~[sum]~~ provided by law.

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

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

24 (b) Except as provided by Subsection (c) of this section,  
 25 each ~~[Each]~~ district judge shall be elected by the qualified voters  
 26 at a General Election ~~[and shall be a citizen of the United States~~  
 27 ~~and of this State, who is licensed to practice law in this State and~~

1 ~~has been a practicing lawyer or a Judge of a Court in this State, or~~  
2 ~~both combined, for four (4) years next preceding his election, who~~  
3 ~~has resided in the district in which he was elected for two (2)~~  
4 ~~years next preceding his election,]~~ and [who] shall [reside in his  
5 district during his term of office and] hold [his] office for the  
6 term [period] of four [(4)] years. A vacancy in the office shall be  
7 filled under Section 28(a) of this article.

8 (c) The initial appointment of a district judge shall be  
9 made under Section 28(b) of this article in a district that includes  
10 a county with a population above the threshold provided by the  
11 Legislature or a county where the voters have voted to have judicial  
12 offices filled under Section 28(b) of this article. After  
13 appointment, the district judge shall be subject to retention or  
14 rejection on a nonpartisan ballot by the qualified voters of the  
15 district as provided by the Legislature and shall hold their office  
16 for the term provided by Section 28a of this article. A vacancy in  
17 the office shall be filled under Section 28(a) of this article.

18 (d) To be eligible for appointment or election to the office  
19 of district judge, a person shall be a citizen of the United States  
20 and a resident of this state who is licensed to practice law in this  
21 state, has been a practicing lawyer or a judge of a court of record,  
22 or both combined, for seven years preceding the judge's appointment  
23 or election, has attained the age of thirty-two, has resided in the  
24 district the judge will be appointed or elected to serve for at  
25 least two years preceding the date of the appointment or election,  
26 and continues to reside in the district during the judge's term of  
27 office.

(e) A district judge [~~, and who~~] shall receive for the judge's [~~his~~] services [~~an~~] compensation as provided [~~annual salary to be fixed~~] by the Legislature.

(f) A District [~~The~~] Court shall conduct its proceedings at the county seat of the county in which the case is pending, except as otherwise provided by law. The District Court [~~He~~] shall hold the regular terms [~~of his Court~~] at the County Seat of each County in the District Court's [~~his~~] district in such manner as may be prescribed by law. The Legislature shall have power by General or Special Laws to make such provisions concerning the terms or sessions of each District Court as it may deem necessary.

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

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

Sec. 28. (a) Except as provided by Subsection (b), a [~~A~~] vacancy in the office of [~~Chief Justice, Justice, or Judge of the Supreme Court, the Court of Criminal Appeals, the Court of Appeals,~~ ~~or~~] the District Court [~~Courts~~] shall be filled by an appointment by the Governor until the next succeeding General Election for state officers, and at that election the voters shall fill the vacancy for the unexpired term.

(b) A vacancy on the Supreme Court, the Court of Criminal Appeals, a Court of Appeals, a District Court in a district that includes a county with a population above the threshold provided by the Legislature, or a District Court in a district where the voters

1 have voted to have district court vacancies filled by an  
2 appointment made under this subsection shall be filled by an  
3 appointment by the Governor with the advice and consent of the  
4 Senate and shall be subject to Section 28a of this article. Once a  
5 vacancy is filled by an appointment as provided by this subsection,  
6 a future vacancy shall be filled as provided by this subsection.

7       (c) A vacancy in the office of County Judge or Justice of the  
8 Peace shall be filled by the Commissioners Court until the next  
9 succeeding General Election.

10       SECTION 6. Article V, Texas Constitution, is amended by  
11 adding Sections 28a and 28b to read as follows:

12       Sec. 28a. (a) A person appointed to fill a vacancy in a  
13 judicial office under Section 28(b) of this article may serve for an  
14 initial term that ends on January 1 of the first odd-numbered year  
15 occurring after the person takes office. The person may then serve  
16 without interruption for a term of 12 years following the initial  
17 term, subject to retention or rejection on a nonpartisan ballot by  
18 the qualified voters as provided by the Legislature. A position  
19 becomes vacant on December 31 of a person's 12th year in office. A  
20 person who completes a 12-year term may be reappointed to the  
21 office.

22       (b) Unless a person dies, is declared ineligible, resigns,  
23 or withdraws from an election, the name of a person appointed to a  
24 judicial vacancy under Section 28(b) of this article shall appear  
25 on a nonpartisan ballot on the second and fourth general elections  
26 held in November of even-numbered years after the conclusion of the  
27 person's initial term in the office, at which the qualified voters

1 of the state or district in which the person serves shall vote in a  
2 manner provided by the Legislature whether to retain the person in  
3 office. If the voters do not vote to retain a person in a judicial  
4 office, the office becomes vacant on December 31 of the year the  
5 election is held. A person who is not retained by the voters is not  
6 eligible for the next appointment to that office.

7 Sec. 28b. (a) The Legislature shall provide for the  
8 membership, terms, and jurisdiction of one or more judicial  
9 appointments advisory boards to advise the Senate about a person's  
10 qualification to hold an office to which the person may be appointed  
11 under Section 28(b) of this article.

12 (b) Notwithstanding Section 1, Article II, of this  
13 constitution, the members of a judicial appointments advisory board  
14 may be appointed by an official serving in any branch of the  
15 government as provided by law.

16 (c) Before serving on the judicial appointments advisory  
17 board, a person shall take the following oath, "I swear or affirm  
18 that I will perform my duties on this board without prejudice and  
19 without regard to partisan affiliation, and my conclusions about  
20 the qualifications for a candidate for a position as a judge or  
21 justice will be based on the person's academic credentials,  
22 substantive legal experience, and reputation for competence,  
23 fairness, and integrity."

24 SECTION 7. Section 30, Article V, Texas Constitution, is  
25 amended to read as follows:

26 Sec. 30. Unless otherwise provided by this constitution,  
27 the [The] Judges of all Courts of county-wide jurisdiction

1 heretofore or hereafter created by the Legislature of this State,  
2 and all Criminal District Attorneys now or hereafter authorized by  
3 the laws of this State, shall be elected for a term of four years,  
4 and shall serve until their successors have qualified.

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

7 TEMPORARY PROVISION. (a) This temporary provision applies  
8 to the constitutional amendment proposed by the 86th Legislature,  
9 Regular Session, 2019, providing for appointment to fill vacancies  
10 for certain judicial offices and for nonpartisan retention  
11 elections for those offices.

12 (b) This constitutional amendment takes effect January 1,  
13 2020.

14 (c) This temporary provision expires January 2, 2020.

15 SECTION 9. This proposed constitutional amendment shall be  
16 submitted to the voters at an election to be held November 5, 2019.  
17 The ballot shall be printed to provide for voting for or against the  
18 proposition: "The constitutional amendment providing for  
19 appointments to fill vacancies in the offices of the supreme court,  
20 court of criminal appeals, courts of appeals, and certain district  
21 courts, for nonpartisan retention elections every four years for  
22 those offices, and for the creation of a judicial appointments  
23 advisory board."