

1-1 By: Duncan S.J.R. No. 44
1-2 (In the Senate - Filed March 13, 2009; March 31, 2009, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 17, 2009, reported favorably by the following vote: Yeas 5,
1-5 Nays 1; April 17, 2009, sent to printer.)

1-6 SENATE JOINT RESOLUTION

1-7 proposing a constitutional amendment for filling vacancies in
1-8 appellate judicial offices by appointment, for partisan elections
1-9 for all judicial offices, and for subsequent nonpartisan retention
1-10 elections for all judicial offices.

1-11 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 2, Article V, Texas Constitution, is
1-13 amended by amending Subsections (b) and (c) and adding Subsection
1-14 (d) to read as follows:

1-15 (b) No person shall be eligible to serve in the office of
1-16 Chief Justice or Justice of the Supreme Court unless the person is
1-17 licensed to practice law in this state and is, at the time of
1-18 election or appointment, a citizen of the United States and of this
1-19 state, and has attained the age of thirty-five years, and has been a
1-20 practicing lawyer, or a lawyer and judge of a court of record
1-21 together at least ten years.

1-22 (c) A Chief Justice or Justice ~~[Said Justices]~~ shall be
1-23 subject, in the manner provided by law, to election on a partisan
1-24 ballot followed by retention or rejection on a nonpartisan ballot
1-25 ~~[elected (three of them each two years)]~~ by the qualified voters of
1-26 the state at a general election, and on election and on each
1-27 successive retention by the voters~~[+]~~ shall hold office for a term
1-28 of ~~[their offices]~~ six years. On appointment to a vacancy, a Chief
1-29 Justice or Justice serves an initial term that ends January 1 of the
1-30 third odd-numbered year that occurs after the Chief Justice or
1-31 Justice takes the oath of office.

1-32 (d) The Chief Justice and Justices~~[+ and]~~ shall each receive
1-33 the ~~[such]~~ compensation ~~[as shall be]~~ provided by law.

1-34 SECTION 2. Subsection (a), Section 4, Article V, Texas
1-35 Constitution, is amended to read as follows:

1-36 (a) The Court of Criminal Appeals shall consist of eight
1-37 Judges and one Presiding Judge. The Judges shall have the same
1-38 qualifications and receive the same salaries as the Associate
1-39 Justices of the Supreme Court, and the Presiding Judge shall have
1-40 the same qualifications and receive the same salary as the Chief
1-41 Justice of the Supreme Court. A ~~[The]~~ Presiding Judge or Judge ~~[and~~
1-42 ~~the Judges]~~ shall be subject, in the manner provided by law, to
1-43 election on a partisan ballot followed by retention or rejection on
1-44 a nonpartisan ballot ~~[elected]~~ by the qualified voters of the state
1-45 at a general election, and on election and on each successive
1-46 retention by the voters shall hold office ~~[their offices]~~ for a term
1-47 of six years. On appointment to a vacancy, a Presiding Judge or
1-48 Judge serves an initial term that ends January 1 of the third
1-49 odd-numbered year that occurs after the Presiding Judge or Judge
1-50 takes the oath of office.

1-51 SECTION 3. Subsection (b), Section 6, Article V, Texas
1-52 Constitution, is amended to read as follows:

1-53 (b) Each of said Courts of Appeals shall hold its sessions
1-54 at a place in its district to be designated by the Legislature, and
1-55 at such time as may be prescribed by law. The Chief Justice or
1-56 Justice ~~[Said Justices]~~ shall be subject, in the manner provided by
1-57 law, to election on a partisan ballot followed by retention or
1-58 rejection on a nonpartisan ballot ~~[elected]~~ by the qualified voters
1-59 of their respective districts at a general election, and on
1-60 election and on each successive retention by the voters shall hold
1-61 office for a term of six years. The Chief Justice and Justices
1-62 ~~[and]~~ shall receive for their services the compensation ~~[sum]~~
1-63 provided by law. On appointment to a vacancy, a Chief Justice or
1-64 Justice serves an initial term that ends January 1 of the third

odd-numbered year that occurs after the Chief Justice or Justice takes the oath of office.

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

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

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

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

(d) 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. A district judge ~~He~~ shall hold the regular terms of the judge's ~~his~~ Court at the County Seat of each County in the judge'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 Court as it may deem necessary.

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

(b) A vacancy in the District Courts shall be filled 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.

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

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

TEMPORARY PROVISION. (a) This temporary provision applies

to the constitutional amendment proposed by the 81st Legislature,
Regular Session, 2009, providing for appointment to fill vacancies
in appellate judicial offices, for partisan elections for all
judicial offices, and for subsequent nonpartisan retention
elections for all judicial offices.

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

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

SECTION 7. This proposed constitutional amendment shall be
submitted to the voters at an election to be held November 3, 2009.
The ballot shall be printed to provide for voting for or against the
proposition: "The constitutional amendment providing for
appointment to fill vacancies in the offices of the justices and
judges of the appellate courts, for partisan elections for all
judicial offices, and for subsequent nonpartisan retention
elections for all judicial offices."

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