

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

2-1 odd-numbered year that occurs after the Chief Justice or Justice
 2-2 takes the oath of office.

2-3 SECTION 4. Section 7, Article V, Texas Constitution, is
 2-4 amended to read as follows:

2-5 Sec. 7. (a) The State shall be divided into judicial
 2-6 districts, with each district having one or more Judges as may be
 2-7 provided by law or by this Constitution.

2-8 (b) Each district judge shall be subject, in the manner
 2-9 provided by law, to election [elected] by the qualified voters at a
 2-10 General Election. At the end of the district judge's initial full
 2-11 term to which the judge was elected and of each successive term, the
 2-12 judge shall be subject, in the manner provided by law, to retention
 2-13 or rejection on a nonpartisan ballot. On election and on each
 2-14 successive retention by the voters, a district judge shall [and
 2-15 shall be a citizen of the United States and of this State, who is
 2-16 licensed to practice law in this State and has been a practicing
 2-17 lawyer or a Judge of a Court in this State, or both combined, for
 2-18 four (4) years next preceding his election, who has resided in the
 2-19 district in which he was elected for two (2) years next preceding
 2-20 his election, and who shall reside in his district during his term
 2-21 of office and] hold [his] office for a term [the period] of four
 2-22 [4] years. A district judge must reside in the district the judge
 2-23 serves during the judge's term of office[–] and [who] shall receive
 2-24 for the judge's [his] services an annual salary to be fixed by the
 2-25 Legislature.

2-26 (c) A person is not eligible to serve as a district judge
 2-27 unless the person is a citizen of the United States and of this
 2-28 State, who is licensed to practice law in this State and has been a
 2-29 practicing lawyer or a Judge of a Court in this State, or both
 2-30 combined, for four years next preceding the person's election or
 2-31 appointment, and who has resided in the district to which the person
 2-32 was elected or appointed for two years next preceding the person's
 2-33 election or appointment.

2-34 (d) The Court shall conduct its proceedings at the county
 2-35 seat of the county in which the case is pending, except as otherwise
 2-36 provided by law. A district judge [He] shall hold the regular terms
 2-37 of the judge's [his] Court at the County Seat of each County in the
 2-38 judge's [his] district in such manner as may be prescribed by law.
 2-39 The Legislature shall have power by General or Special Laws to make
 2-40 such provisions concerning the terms or sessions of each Court as it
 2-41 may deem necessary.

2-42 (e) The Legislature shall also provide for the holding of
 2-43 District Court when the Judge thereof is absent, or is from any
 2-44 cause disabled or disqualified from presiding.

2-45 SECTION 5. Section 28, Article V, Texas Constitution, is
 2-46 amended to read as follows:

2-47 Sec. 28. (a) A vacancy in the office of Chief Justice,
 2-48 Justice, or Judge of the Supreme Court, the Court of Criminal
 2-49 Appeals, or the Court of Appeals[–or the District Courts] shall be
 2-50 filled by the Governor. In exercising its duty to provide advice
 2-51 and consent on an appointment made by the Governor under Section 12,
 2-52 Article IV, of this constitution, the senate by rule may provide for
 2-53 the confirmation or rejection of a person appointed to fill a
 2-54 vacancy described by this subsection during a recess of the senate
 2-55 by a two-thirds vote of the membership of a committee of the senate
 2-56 designated for that purpose. Notwithstanding a temporary
 2-57 confirmation as provided by this section, Section 12, Article IV,
 2-58 of this constitution applies to the appointee when the senate next
 2-59 convenes.

2-60 (b) A vacancy in the District Courts shall be filled by the
 2-61 Governor until the next succeeding General Election for state
 2-62 officers, and at that election the voters shall fill the vacancy for
 2-63 the unexpired term.

2-64 (c) [b] A vacancy in the office of County Judge or Justice
 2-65 of the Peace shall be filled by the Commissioners Court until the
 2-66 next succeeding General Election.

2-67 SECTION 6. The following temporary provision is added to
 2-68 the Texas Constitution:

2-69 TEMPORARY PROVISION. (a) This temporary provision applies

3-1 to the constitutional amendment proposed by the 81st Legislature,
3-2 Regular Session, 2009, providing for appointment to fill vacancies
3-3 in appellate judicial offices, for partisan elections for all
3-4 judicial offices, and for subsequent nonpartisan retention
3-5 elections for all judicial offices.

3-6 (b) The constitutional amendment takes effect January 1,
3-7 2010.

3-8 (c) This temporary provision expires January 2, 2010.

3-9 SECTION 7. This proposed constitutional amendment shall be
3-10 submitted to the voters at an election to be held November 3, 2009.
3-11 The ballot shall be printed to provide for voting for or against the
3-12 proposition: "The constitutional amendment providing for
3-13 appointment to fill vacancies in the offices of the justices and
3-14 judges of the appellate courts, for partisan elections for all
3-15 judicial offices, and for subsequent nonpartisan retention
3-16 elections for all judicial offices."

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