

Diana Clark's notebook

1991

1991

1991

1991

1991

Committee Members and Staff

1991

Chairman: Senator Kent A. Caperton

Staff Presentation of the Following:

1991

time limits on raising
election funds



amounts raised

A G E N D A

Subcommittee of the Senate-House Select
Committee on the Judiciary

Old Supreme Court Room
Room 310, Capitol
Austin, Texas

Thursday, November 8, 1984

1:00 P.M.

- I. Call the Meeting to Order
- II. Call the Roll
- III. Introduction of Subcommittee Members and Staff
- IV. Approval of the Minutes
- V. Opening Remarks by the Chair, Senator Kent A. Caperton
- VI. Discussion and Vote on Staff Presentation of the Following:
Selection Alternatives
Compensation
Tenure
Retirement
Related Issues
- VII. Adjournment

SELECTION AND COMPENSATION SUBCOMMITTEE

SENATE HOUSE SELECT COMMITTEE ON THE JUDICIARY

Senator Caperton, Chairman

Date _____

Question: _____

	Yeas	Nays	Present	Absent
Ms. Diana Clark	_____	_____	_____	_____
Senator Bob Glasgow	_____	_____	_____	_____
Representative Terral Smith	_____	_____	_____	_____
Dean Max Sherman	_____	_____	_____	_____
Judge Joe Spurlock	_____	_____	_____	_____
Representative Mike Toomey	_____	_____	_____	_____
Senator Kent Caperton	_____	_____	_____	_____

MINUTES OF THE SUBCOMMITTEE ON JUDICIAL
SELECTION, COMPENSATION, RETIREMENT, AND RELATED MATTERS

July 4, 1984

The Subcommittee on Judicial Selection, Compensation, Retirement, and Related Matters met July 4, 1984, at 1:30 P.M., in Room #2 of the Convention Center, San Antonio, Texas. The Chair called the Subcommittee to order. The following is an attendance record:

Ms. Clark	Present
Senator Glasgow	Absent
Representative Smith	Absent
Mr. Sherman	Absent
Judge Spurlock	Present
Representative Toomey	Absent
Senator Caperton, Chair	Present

Even though a quorum was not present, Senator Caperton proceeded with the meeting and introduced Rita Horwitz, Executive Director, State Pension Review Board, Austin, Texas, who testified on judicial retirement. Discussion followed.

The Subcommittee's Work Session included an informal discussion with interested guests. Among those who contributed their ideas were:

Judge Raul Longoria, Judge Barbara Culver, Judge Preston Dial, Judge Paul Murphy, Judge John Clark, Mr. Lloyd Lochridge, and Mr. Garland Smith.

The Chair then opened the meeting for discussion of the draft bills contained in the members' packets. Senator Caperton suggested that specific requests for draft legislation be forwarded to Geri Elliott before the next Subcommittee meeting, expected to be in early September, 1984.

Senator Caperton expressed his appreciation to everyone present for their attendance. The meeting adjourned at 4:15 P.M., subject to call of the Chair.

SUBCOMMITTEE ON JUDICIAL
SELECTION, COMPENSATION, TENURE, RETIREMENT AND
RELATED ISSUES

*patterned after
Arizona*

I. SELECTION ALTERNATIVES

A. Merit System. An appellate court commission and trial court commissions would be established by constitutional amendment. All appointments to fill vacancies in either appellate or district benches will be made by the Governor from a list of three nominees selected by the appropriate court commission. The Governor must appoint one of the three nominees selected by the commission and his nominees will be subject to Senate confirmation. At the next general election following one year of service, the incumbent would stand for election on a retention ballot as follows:

"Shall Justice (or Judge) _____ continue as a Justice (or Judge) of the _____ Court?" Yes ___ No ___.

Provision is made for continuance in office for those judges holding office at the time of adoption of the system. As those terms expire, the incumbent may declare his or her desire to be retained in office. The name of the incumbent who so declares will be placed on the ballot in the same manner as shown above for appointed judges. The retention election is to be decided by a majority vote. If the judge or justice fails to obtain approval by a majority of those voting, a vacancy will be declared and the selection process begun again. Both appellate and trial judges would be subject to retention elections at six-year intervals.

*counties in excess of 400,000
local option*

[SAMPLE COMMISSION PROVISIONS ARE ATTACHED AS ITEM IA1 (APPELLATE) AND AS IA2 (TRIAL). NO DRAFT BILL HAS BEEN PREPARED BUT ONE COULD BE PATTERNED AFTER THE ARIZONA CONSTITUTIONAL PROVISION ATTACHED AS ITEM IA3.]

13

B. Hammett Plan. A constitutional amendment would authorize the Legislature to create and appropriate funds for the operation of one or more Judicial Screening Commissions to investigate

candidates for nomination (and, in the case of newly created positions or vacancies, candidates for appointment) to the offices of Justice of the Supreme Court, Judge of the Court of Criminal Appeals, Justice of the Courts of Appeals, and District Judges. Such commissions shall have such powers as the Legislature may provide, including the powers to issue and enforce subpoenas. The Legislature may require (1) that a person must submit his or her name to the designated commission for screening at such time as the Legislature may specify in order to be eligible for appointment or to be placed on the ballot, and (2) that the commission's determination of the qualifications of each judicial candidate be printed on the ballot for election next to the candidate's name.

[A DRAFT OF THE HAMMETT PLAN IS ATTACHED AS ITEM IB.]

- C. Nonpartisan Nomination and Election. The Election Code would be amended to provide that all candidates for judicial office (except municipal judges and constitutional county judges) be nominated in a nonpartisan primary election and elected from a nonpartisan judicial ballot in the general election. It would also prohibit a political party from endorsing a candidate for judicial office.

*State Bar
Endorsed*

[A DRAFT OF THE NONPARTISAN BILL IS ATTACHED AS ITEM IC.]

D. Miscellaneous.

1. The name of the incumbent judge or justice is to be placed on the ballot and the ballot would identify that person as "incumbent." *- not in book -*
2. A judicial screening commission would be created which would screen ONLY those persons being considered by the Governor to fill a vacancy in the office of judge or justice of a district court or an appellate court.

*Tx Trial
Lawyers*

[A DRAFT RESOLUTION OF THIS CONCEPT IS ATTACHED AS ITEM ID2.]

- appellate only*
experience
3. Eligibility for Justice of the Supreme Court or Judge of the Court of Criminal Appeals would include a requirement that the person have served at least four years as a judge of a court of record OR obtain the written endorsement of at least 100 members of the State Bar. Eligibility for Justice of Court of Appeals would include a requirement that the person have served at least two years as a judge of a court of record OR obtain the written endorsement of 50 members of the State Bar who are residents of the Supreme Judicial District for that court.

[A DRAFT BILL OF THIS CONCEPT IS ATTACHED AS ITEM ID3.]

II. COMPENSATION

Chief Justice of the Court of Appeals is to receive \$500 more than associate justices (who would receive 5 percent less than a Supreme Court Justice) but combined salary of each associate justice must be at least \$1,000 less than the salary of a Supreme Court Justice. District Court Judges will be paid 10 percent less than the salary of a Supreme Court Justice, but the combined salary (from all State and County sources) must be at least \$1,000 less than the combined salary of an associate justice of the Court of Appeals in whose district the district court is located. The comptroller may reduce state payment accordingly.

[A DRAFT BILL ON THIS CONCEPT IS ATTACHED AS ITEM II.]

III. TENURE

The terms of Supreme Court Justices and Judges of the Court of Criminal Appeals are extended from six to eight years. The terms of Courts of Appeals Justices are extended from six to eight years. The terms of District Judges are extended from four to six years.

[A DRAFT RESOLUTION OF THIS CONCEPT IS ATTACHED AS ITEM III.]

IV. RETIREMENT

The Judicial Retirement System would be structured into two tiers. All judges in the system on the effective date of the bill would remain in tier 1 (the current benefit plan). All judges coming into the system after the effective date would be in tier 2. Tier 2 sets up a trust fund wherein contributions (by appropriation and from the judges) will accumulate and be invested with the earnings on these investments going back into the fund to help defray the costs of the system. Unfunded liability would continue for the present system until such time as the Legislature decided to fund it or the membership in that system ceased. Tier 2 benefits will be 3 percent times years of service for a maximum of 60 percent of the final salary.

[A DRAFT OF THE JUDICIAL RETIREMENT BILL IS ATTACHED AS ITEM IV. ALSO ATTACHED AS ITEM IVA IS AN AMENDMENT SUBMITTED WHICH WOULD ALLOW THE PRESENT 10 PERCENT INCREASE (FOR EARLY RETIREMENT) TO BE PAID IF THE TERM OF THE JUDGE BEGAN BEFORE AGE 71, BUT WOULD NOT EXPIRE UNTIL HE OR SHE PASSED THAT AGE.]

V. STAFF SUPPORT

District judges would receive an amount equal to the amount provided for district attorneys under the Professional Prosecutors Act for the purpose of staffing and equipping their offices.

[A DRAFT OF THIS CONCEPT IS ATTACHED AS ITEM V.]

APPELLATE COURT COMMISSION

1. Number. Fifteen (15) members, with the chief justice and presiding judge serving as additional ex officio, non-voting members.
2. Term. Three years, staggered terms and limited to two terms.
3. Appointment of Commissioners. Subject to senate confirmation:
 - A. Governor appoints two lawyers and two non-lawyers, not all of whom may be of the same political party.
 - B. Lieutenant Governor appoints two lawyers and one non-lawyer, not all of whom may be of the same political party.
 - C. Speaker appoints two lawyers and one non-lawyer, not all of whom can be of the same political party.
 - D. President of the State Bar of Texas appoints three lawyers.
 - E. State Chairmen of the two political parties polling the highest number of votes for statewide office in the last general election appoint one non-lawyer each.
4. Qualifications.
 - A. Except for the required partisan or lawyer status, appointments must be made without regard to race, sex, religion, wealth, or ethnicity.
 - B. No other office of trust or profit under the United States, Texas, or other governments.
 - C. No commissioner may be appointed to judicial office within three years of the end of his tenure on the commission.
 - D. No more than two commissioners from any county or city.
5. Nominations. The commission will nominate three people and will submit thier names to the governor in alphabetical order.
6. Appointment to the Bench.
 - A. Governor appoints from among the nominees within thirty days, with the appointment subject to senate confirmation.
 - B. If the governor does not appoint, the lieutenant governor and then the speaker have fifteen days, after which the commission itself selects the judge.
7. Applications. Prospective nominees or third parties may submit names, but applications must contain a consent to the appointment, and they will become public at the time of the nominations.

TRIAL COURT COMMISSION

1. **Number of Commissions.** There will be fourteen trial court commissions:

A. One commission will serve each of the nine administrative judicial districts, except that:

B. One commission will each serve Bexar, Dallas, Harris, Tarrant, and Travis Counties.

2. **Number of Commissioners.** Fifteen (15) members, with the chief justices of all courts of appeals whose districts are part of the commission's district serving as additional ex officio, non-voting members.

3. **Term.** Three years, staggered terms and limited to two terms.

4. **Appointment of Commissioners.** Subject to senate confirmation:

A. Governor appoints two lawyers and two non-lawyers, not all of whom may be of the same political party.

B. Lieutenant Governor appoints two lawyers and one non-lawyer, not all of whom may be of the same political party.

C. Speaker appoints two lawyers and one non-lawyer, not all of whom can be of the same political party.

D. President of the State Bar of Texas appoints three lawyers.

E. State Chairmen of the two political parties polling the highest number of votes for statewide office in the last general election appoint one non-lawyer each.

5. **Qualifications.**

A. Except for the required partisan or lawyer status, appointments must be made without regard to race, sex, religion, wealth, or ethnicity.

B. No other office of trust or profit under the United States, Texas, or other governments.

C. No commissioner may be appointed to judicial office within three years of the end of his tenure on the commission.

D. No more than five commissioners from any county or city, except for the commissions for the five counties in 1B.

6. Nominations. The commission will nominate three people and will submit thier names to the governor in alphabetical order; if fewer than three names are submitted on the commission's certification that the affected district has too few qualified prospects, the governor may once reject the commissions nominations and require a resubmission.

7. Appointment to the Bench.

A. Governor appoints from among the nominees within thirty days, with the appointment subject to senate confirmation.

B. If the governor does not appoint, the lieutenant governor and then the speaker have fifteen days, after which the commission itself selects the judge.

8. Applications. Prospective nominees or third parties may submit names, but applications must contain a consent to the appointment, and they will become public at the time of the nominations.

Art. 6 § 34

CONSTITUTION OF ARIZONA

§ 34. Absence of judicial officer from state

Section 34. Any judicial officer except a retired justice or judge who absents himself from the State for more than sixty consecutive days shall be deemed to have forfeited his office, but the Governor may extend the leave of absence for such time as reasonable necessity therefor exists.

Addition approved election Nov. 8, 1960, eff. Dec. 9, 1960.

Historical Note

Source:

A.R.S. Const. former Art. 6, § 8.

The governor, on December 9, 1960, proclaimed that the addition of this section, as

proposed by Initiative Petition, filed July 5, 1960 (see Laws 1961, p. 379), had been approved by a majority of the electors in the November 8, 1960 general election and had become law.

§ 35. Continuance in office; continued existence of offices; application of prior statute and rules

Section 35. All justices, judges, justices of the peace and officers of any court who are holding office as such by election or appointment at the time of the adoption of this section shall serve or continue in office for the respective terms for which they are so elected or for their respective unexpired terms, and until their successors are elected or appointed and qualify or they are retained in office pursuant to section 38 of this article; provided, however, that any justice or judge elected at the general election at which this section is adopted shall serve for the term for which he is so elected. The continued existence of any office heretofore legally established or held shall not be abolished or repealed by the adoption of this article. The statutes and rules relating to the authority, jurisdiction, practice and procedure of courts, judicial officers and offices in force at the time of the adoption of this article and not inconsistent herewith, shall, so far as applicable, apply to and govern such courts, judicial officers and offices until amended or repealed. Addition approved election Nov. 8, 1960, eff. Dec. 9, 1960. Amendment approved election Nov. 5, 1974, eff. Dec. 5, 1974.

Historical Note

Source:

A.R.S. Const. former Art. 6, §§ 3, 5, 23.

The governor, on December 9, 1960, proclaimed that the addition of this section, as proposed by Initiative Petition, filed July 5, 1960 (see Laws 1961, p. 379), had been approved by a majority of the electors in the November 8, 1960 general election and had become law.

The governor, on December 5, 1974, proclaimed that the amendment of this section, as proposed by Initiative Petition, filed July

5, 1974, had been approved by a majority of the electors in the November 5, 1974 general election and had become law.

The 1974 amendment rewrote the first sentence, which had read:

"All justices, judges, justices of the peace and officers of any court holding office by election or appointment at the time of the adoption of this article shall continue in office for their respective terms, and until their successors are elected and qualify."

ARIZONA

JUDICIAL DEPARTMENT

Art. 6 § 36

Cross References

Jurisdiction of superior courts, see Const. Art. 6, § 14 et seq.

Law Review Commentaries

Judicial reform in Arizona—administration of the courts. Heinz R. Hink, 6 Ariz.L. Rev. 13, 20 (1964).

Merit selection of judges in Arizona. Ariz. State L.J. 3, 1976, p. 425.

Library References

Judges ⇨7.

C.J.S. Judges §§ 21 to 24, 27 to 29.

Notes of Decisions

1. Jurisdiction

The superior court, as it existed prior to 1960 amendment repealing former Const. Art. 6 and enacting a new Art. 6 in order to create an intermediate court of appeals and to reorganize and integrate whole judicial structure, and as the court has existed since that amendment, is one and the same and there has been no hiatus in its jurisdiction. *King v. Uhlmann* (1968) 103 Ariz. 136, 437 P.2d 928.

Supreme court, on appeal from superior court in criminal cases originating in justice court, will consider only validity of statutes, etc. *Hancock v. State* (1927) 31 Ariz. 389, 254 P. 225.

In the case of *McBride v. McDonald* (1923) 25 Ariz. 207, 215 P. 166, the court said:

"The words 'superior court of the state,' appearing in the caption of the affidavits, and 'district court of the Second judicial district in the territory of Arizona,' as used in the entitling portion of the judgment, refer to the same court, the only difference being in name, so far as the rights, actions, suits, and proceedings of every kind pending in the latter at the time of statehood are concerned, since these were preserved and transferred by the Constitution to the jurisdiction of the former, to be dealt with by it from statehood on as though the district courts had never existed."

§ 36. Commissions on appellate and trial court appointments and terms, appointments and vacancies on such commissions

Section 36(A). There shall be a nonpartisan commission on appellate court appointments which shall be composed of the chief justice of the Supreme Court, who shall be chairman, three attorney members, who shall be nominated by the Board of Governors of the State Bar of Arizona and appointed by the Governor with the advice and consent of the Senate in the manner prescribed by law, and five nonattorney members who shall be appointed by the Governor with the advice and consent of the Senate in the manner prescribed by law.

Attorney members of the commission shall have resided in the State and shall have been admitted to practice before the Supreme Court for not less than five years. Not more than two attorney members shall be members of the same political party and not more than one attorney member shall be a resident of any one county. Nonattorney members shall have resided in the State for not less than five years and shall not be judges, retired judges or admitted to practice before the Supreme Court. Not more than three nonattorney members shall be members of the same political party. Not more than one nonattorney member shall

be a resident of any one county. None of the attorney or nonattorney members of the commission shall hold any governmental office, elective or appointive, for profit, and no attorney member shall be eligible for appointment to any judicial office of the State until one year after he ceases to be a member. Attorney members of the commission shall serve staggered four-year terms, and nonattorney members shall serve staggered four-year terms, except that initial appointments for attorney members shall consist of one appointment for a two-year term, one appointment for a three-year term, and one appointment for a four-year term, and except that initial appointments for nonattorney members shall consist of two appointments for a one-year term, one appointment for a two-year term, one appointment for a three-year term and one appointment for a four-year term. Vacancies shall be filled for the unexpired terms in the same manner as the original appointments.

Section 36(B). There shall be a nonpartisan commission on trial court appointments for each county having a population of one hundred fifty thousand persons or more according to the United States census which shall be composed of the chief justice of the Supreme Court, who shall be chairman, three attorney members, who shall be nominated by the Board of Governors of the State Bar of Arizona and appointed by the Governor with the advice and consent of the Senate in the manner prescribed by law and five nonattorney members, who shall be appointed by the Governor and with the advice and consent of the Senate in the manner prescribed by law.

Attorney members of such commission shall have resided in the State and shall have been admitted to practice before the Supreme Court for not less than five years, and shall be residents of the county from which appointed. Nonattorney members shall have resided in the State for not less than five years and shall not be judges, retired judges or admitted to practice before the Supreme Court and shall be residents of the county from which appointed. On each of such commissions not more than two attorney members and not more than three nonattorney members shall be members of the same political party. None of the attorney or nonattorney members of any such commission shall hold any governmental office, elective or appointive, for profit, and no attorney member shall be eligible for appointment to any judicial office of the State until one year after he ceases to be a member. Attorney members shall serve staggered four-year terms, and nonattorney members shall serve staggered four-year terms, except that initial appointments for attorney members shall consist of one appointment for a two-year term, one appointment for a three-year term, and one appointment for a four-year term, and except that initial appointments for nonattorney members shall consist of two appointments for a one-year term, one appointment for a two-year term, one appointment for a three-year term and one appoint-

ARIZONA

JUDICIAL DEPARTMENT

Art. 6 § 36

Note 2

ment for a four-year term. Vacancies shall be filled for the unexpired terms in the same manner as the original appointments.

Section 36(C). No person other than the chief justice shall serve at the same time as a member of more than one of such commissions.

Section 36(D). The chairman of such commissions shall cast votes only in the event of ties. In the event of the absence or incapacity of any such chairman the Supreme Court shall appoint a justice thereof to serve in his place and stead.

Section 36(E). Prior to making recommendations to the Governor as hereinafter provided, the one of such commissions having jurisdiction shall conduct such investigation and hold such hearings, either public or executive, as it deems advisable. Final decisions as to recommendations shall be made on the basis of merit alone without regard to political affiliation. Voting shall be by secret, written ballot. The expenses of meetings of such commissions and the attendance of members thereof for travel and subsistence shall be paid from the general fund of the State as State officers are paid, upon claims approved by the chairman. Addition approved election Nov. 5, 1974, eff. Dec. 5, 1974. Amendment approved election Nov. 2, 1976, eff. Nov. 22, 1976.

Historical Note

The governor, on December 5, 1974, proclaimed that the addition of this section, as proposed by Initiative-Petition, filed July 5, 1974, had been approved by a majority of the electors in the November 5, 1974 general election and had become law.

The governor, on November 22, 1976, proclaimed that the amendment of this section,

as proposed by Laws 1976, S.C.R. No. 1009, filed July 6, 1976, had been approved by a majority of the electors in the November 2, 1976 general election and had become law.

The 1976 amendment inserted "in the manner prescribed by law" in two places in the first paragraph of § 36(A) and in two places of § 36(B).

Law Review Commentaries

Merit selection of judges in Arizona. Ariz. State L.J. 3, 1976, p. 425.

Organization of Arizona Supreme Court. James Duke Cameron, 17 Ariz.L.Rev. 643 (1975).

Notes of Decisions

In general 1
Meetings 2

1. In general

The five sections of Laws 1976, S.C.R. No. 1009 proposing amendments to this section and Const. Art. 6.1, § 1, Art. 11, §§ 3 and 5, and Art. 15, § 5 would have to be considered as contemplating the submission

of five separate propositions for separate consideration by the voters and, therefore, would be constitutional. Op.Atty.Gen. No. R76-314, p. 115, 1976-77.

2. Meetings

Commission on trial court appointments has discretion to conduct its meetings in public or executive sessions. Op.Atty.Gen. No. 179-229.

Art. 6 § 37

CONSTITUTION OF ARIZONA

§ 37. Judicial vacancies and appointments; initial terms; residence; age

Section 37. Within sixty days from the occurrence of a vacancy in the office of a justice or judge of any court of record, except for vacancies occurring in the office of a judge of the superior court or a judge of a court of record inferior to the superior court in a county having a population of less than one hundred fifty thousand persons according to the United States census, the commission on appellate court appointments, if the vacancy is in the Supreme Court or an intermediate appellate court of record, or the commission on trial court appointments for the county in which the vacancy occurs, if the vacancy is in the superior court or a court of record inferior to the superior court, shall submit to the Governor the names of not less than three persons nominated by it to fill such vacancy, no more than two of whom shall be members of the same political party unless there are more than four such nominees, in which event not more than sixty per centum of such nominees shall be members of the same political party.

A vacancy in the office of a justice or a judge of such court of record shall be filled by appointment by the Governor on the basis of merit alone without regard to political affiliation from one of the nominees whose names shall be submitted to him as hereinabove provided. If the Governor shall not appoint one of such nominees to fill such vacancy within sixty days after their names are submitted to the Governor by such commission, the chief justice of the Supreme Court forthwith shall appoint on the basis of merit alone without regard to political affiliation one of such nominees to fill such vacancy. If such commission shall not, within sixty days after such vacancy occurs, submit the names of nominees as hereinabove provided, the Governor shall have the power to appoint any qualified person to fill such vacancy at any time thereafter prior to the time the names of three or more nominees to fill such vacancy shall be submitted to the Governor as hereinabove provided.

Each justice or judge so appointed shall initially hold office for a term ending sixty days following the next regular general election after the expiration of a term of two years in office. Thereafter, the terms of justices or judges of the Supreme Court and the superior court shall be as provided by this article.

A person appointed to fill a vacancy on an intermediate appellate court, a superior court, or another court of record now existing or hereafter established by law shall have been a resident of the counties or county in which that vacancy exists for at least one year prior to his appointment, in addition to possessing the other required qualifications. A nominee shall be under sixty-five years of age at the time his name is submitted to the Governor.

Addition approved election Nov. 5, 1974, eff. Dec. 5, 1974.

Historical Note

Source:

A.R.S. Const. former Art. 6, §§ 3, 5.
The governor, on December 5, 1974, proclaimed that the addition of this section, as

proposed by Initiative Petition, filed July 5, 1974, had been approved by a majority of the electors in the November 5, 1974 general election and had become law.

Law Review Commentaries

Judicial evaluation in Arizona. Francis J. Slavin, Jr., 12 Ariz. Bar J. No. 2, p. 40 (1976).

Merit selection of judges in Arizona. Ariz. State L.J. 3, 1976, p. 425.

Library References

Judges ⇐8.
C.J.S. Judges §§ 30 to 34.

§ 38. Declaration of candidacy; form of judicial ballot, rejection and retention; failure to file declaration

Section 38. A justice or judge of the Supreme Court or an intermediate appellate court shall file in the office of the Secretary of State, and a judge of the superior court or other court of record including such justices or judges who are holding office as such by election or appointment at the time of the adoption of this section except for judges of the superior court and other courts of record inferior to the superior court in counties having a population of less than one hundred fifty thousand persons, according to the United States census, shall file in the office of the clerk of the board of supervisors of the county in which he regularly sits and resides, not less than sixty nor more than ninety days prior to the regular general election next preceding the expiration of his term of office, a declaration of his desire to be retained in office, and the Secretary of State shall certify to the several boards of supervisors the appropriate names of the candidate or candidates appearing on such declarations filed in his office.

The name of any justice or judge whose declaration is filed as provided in this section shall be placed on the appropriate official ballot at the next regular general election under a nonpartisan designation and in substantially the following form:

Shall _____, (Name of Justice or Judge) of the _____ Court be retained in Office? Yes _____ No _____ (Mark X after one).

If a majority of those voting on the question vote "No," then, upon the expiration of the term for which such justice or judge was serving, a vacancy shall exist, which shall be filled as provided by this article. If a majority of those voting on the question vote "Yes," such justice or judge shall remain in office for another term, subject to removal as provided by this Constitution.

The votes shall be counted and canvassed and the result declared as in the case of State and county elections, whereupon a certificate of

Art. 6 § 38

CONSTITUTION OF ARIZONA

retention or rejection of the incumbent justice or judge shall be delivered to him by the Secretary of State or the clerk of the board of supervisors, as the case may be.

If a justice or judge shall fail to file a declaration of his desire to be retained in office, as required by this section, then his office shall become vacant upon expiration of the term for which such justice or judge was serving.

Addition approved election Nov. 5, 1974, eff. Dec. 5, 1974.

Historical Note

Source:

A.R.S. Const. former Art. 6, § 5.

The governor, on December 5, 1974, proclaimed that the addition of this section, as

proposed by Initiative Petition, filed July 5, 1974, had been approved by a majority of the electors in the November 5, 1974 general election and had become law.

Law Review Commentaries

Merit selection of judges in Arizona.
Ariz. State L.J. 3, 1976, p. 425.

Organization of Arizona Supreme Court.
James Duke Cameron, 17 Ariz.L.Rev. 643 (1975).

§ 39. Retirement of justices and judges; vacancies

Section 39. On attaining the age of seventy years a justice or judge of a court of record shall retire and his judicial office shall be vacant, except as otherwise provided in section 35 of this article. In addition to becoming vacant as provided in this section, the office of a justice or judge of any court of record becomes vacant upon his death or his voluntary retirement pursuant to statute or his voluntary resignation, and also, as provided in section 38 of this article, upon the expiration of his term next following a general election at which a majority of those voting on the question of his retention vote in the negative or for which general election he is required, but fails, to file a declaration of his desire to be retained in office.

This section is alternative to and cumulative with the methods of removal of judges and justices provided in parts 1 and 2 of Article 8 and Article 6.1 of this Constitution.

Addition approved election Nov. 5, 1974, eff. Dec. 5, 1974.

Historical Note

The governor, on December 5, 1974, proclaimed that the addition of this section, as proposed by Initiative Petition, filed July 5,

1974, had been approved by a majority of the electors in the November 5, 1974 general election and had become law.

Law Review Commentaries

Merit selection of judges in Arizona.
Ariz. State L.J. 3, 1976, p. 425.

ARIZONA

be delivered
supervisors,

do to be
off shall
ch justice or

filed July 5,
majority of
1974 gener-

Supreme Court.
Art. L Rev. 648

or judge
be vacant,
addition to
justice or
or his
resignation,
expiration of
of those
or for which
of his desire

methods of
Article 8 and

majority of
1974 gener-

JUDICIAL DEPARTMENT

Art. 6 § 40

Library References

Judges 7.
C.J.S. Judges §§ 21 to 24, 27 to 29.

§ 40. Option for counties with less than one hundred fifty thousand persons

Section 40. Notwithstanding any provision of this article to the contrary, any county having a population of less than one hundred fifty thousand persons, according to the United States census, may choose to select its judges of the superior court or of courts of record inferior to the superior court as if it had a population of one hundred fifty thousand or more persons. Such choice shall be determined by vote of the qualified electors of such county voting on the question at an election called for such purpose by resolution of the board of supervisors of such county. If such qualified electors approve, the provisions of sections 12, 28, 30 and 35 through 39 shall apply as if such county had a population of one hundred fifty thousand persons or more.

Addition approved election Nov. 5, 1974, eff. Dec. 5, 1974.

Historical Note

The governor, on December 5, 1974, proclaimed that the addition of this section, as proposed by Initiative Petition, filed July 5, 1974, had been approved by a majority of the electors in the November 5, 1974 general election and had become law.

Law Review Commentaries

Merit selection of judges in Arizona.
Ariz. State L.J. 3, 1976, p. 425.

GENERAL EXPLANATION

*Hammett
Plan*

A Constitutional Amendment to provide for the creation of Judicial Screening Commissions to investigate candidates for Appellate and District Courts is proposed, along with the requirement that the findings of the Commission regarding the candidate's qualifications be printed on the ballot next to that candidate's name. The Legislature is empowered to prescribe the powers and duties of these commissions.

The proposed enabling act sets out the composition of these commissions, their powers and duties and enumerates the characteristics that will be considered in ascertaining the qualifications of the candidate. It provides for investigations and reports on the findings of the commission.

ANALYSIS BY SECTION

JOINT RESOLUTION

- SECTION 1. (a) Amends Article V of the Texas Constitution to allow the Legislature to create screening commissions, investigate candidates, and nominees for judicial office, and to establish qualifications, compensation, and number of commission members.
- (b) The Legislature to set out the powers and duties of commissions.
- (c) The Legislature may require that all candidates or nominees submit to the screening process, and that the results of that screening be printed on the ballot.

SECTION 2. Temporary Provision - Effective date.

SECTION 3. The proposed amendment to be submitted to the voters November 1986.

BILL ANALYSIS

SECTION 1. Establishes the Appellate Judicial Screening Commission, composed of 6 non-lawyers, 3 appointed by Governor, 3 by Lieutenant Governor, and two lawyers appointed by each; 2 lawyers appointed by the Bar, one civil, one criminal; 3 retired judges, 2 by the Chief Justice and one by the presiding judge; two lawyers, one appointed by the Republican and one by the Democratic party chairs.

- SECTION 2. Establishes District Judicial Screening Commissions, sets out their boundaries, number of members and method of appointment.
- SECTION 3. Sets out direction for ethnic, racial geographic and bipartisan representation on the commissions.
- SECTION 4. Members serve staggered six year terms; provides for filling vacancies.
- SECTION 5. Sets out reasons for removal; 10 affirmative votes needed.
- SECTION 6. Sets out provisions for electing a chair, meetings, and per diem.
- SECTION 7. Provides for the employment of personnel.
- SECTION 8. Sets out method for screening appointments to the bench by the Governor.
- SECTION 9. Provides for a commission report to the Governor.
- SECTION 10. Provides for the screening of candidates for judicial office, the method to be used and exceptions.
- SECTION 11. Sets out the characteristics to be considered when qualifying a nominee or candidate: legal ability, communications ability, experience, Code of Judicial Conduct considerations, professional character, health, and past adherence to the laws.
- SECTION 12. Provides for declaring a candidate or nominee ineligible who refused to submit to screening.
- SECTION 13. Provides for investigations, subpoena power.
- SECTION 14. Provides for the commissions' reports and what they should contain.
- SECTION 15. Provides for a minority report; confidentiality.
- SECTION 16. Provides for an appeal.
- SECTION 17. Provides for the initial appointments to the Appellate Commission.
- SECTION 18. Provides for the initial appointments to the District Commission.
- SECTION 19. Effective date upon adoption of the Constitutional Amendment.
- SECTION 20. Emergency clause.

TEXAS LEGISLATIVE COUNCIL
Preliminary Draft

By _____

___J.R. No. ___

A JOINT RESOLUTION

1 proposing a constitutional amendment authorizing the legislature to
2 create judicial screening commissions.

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

4 SECTION 1. That Article V of the Texas Constitution be
5 amended by adding Section 28a to read as follows:

6 Sec. 28a. (a) The legislature by law may create one or more
7 judicial screening commissions to investigate candidates for the
8 offices of justice of the supreme court, judge of the court of
9 criminal appeals, justice of a court of appeals, and judge of a
10 district court, and to investigate persons being considered for
11 nomination by the governor to fill vacancies in those offices. The
12 qualifications, compensation, appointment, and number of members of
13 the commissions shall be as prescribed by law.

14 (b) The legislature by law shall prescribe the duties and
15 powers of the commission and may provide for the commissions to
16 have the power to issue and enforce subpoenas.

17 (c) The legislature by law may require:

18 (1) that a person submit his name to the designated
19 commission for screening at a time specified by law in order to be
20 eligible for appointment or to be placed on the ballot; and

21 (2) that a commission's determination of the qualifications
22 of each judicial candidate be printed on the election ballot next
23 to the candidate's name.

24 SECTION 2. That the following temporary provision be added

1 to the Texas Constitution:

2 TEMPORARY PROVISION. (a) This temporary provision applies
3 to the constitutional amendment proposed by the 69th Legislature,
4 Regular Session, 1985, authorizing creation of judicial screening
5 commissions.

6 (b) Article V, Section 28a, of the Texas Constitution, takes
7 effect January 1, 1987.

8 (c) This temporary provision expires January 2, 1987.

9 SECTION 3. This proposed constitutional amendment shall be
10 submitted to the voters at an election to be held on November 4,
11 1986. The ballot shall be printed to provide for voting for or
12 against the proposition: "The constitutional amendment authorizing
13 creation of judicial screening commissions to investigate and
14 screen nominees and candidates for appointment and election to the
15 offices of the district and appellate judges."

TEXAS LEGISLATIVE COUNCIL
Preliminary Draft

By _____

__B. No. ____

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation of judicial screening commissions to
3 investigate candidates for certain judicial offices and to
4 investigate persons being considered by the governor to fill
5 vacancies in those offices.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. APPELLATE JUDICIAL SCREENING COMMLSSION. The
8 Appellate Judicial Screening Commission is composed of:

9 (1) six persons who are not attorneys, of whom three are
10 appointed by the governor and three by the lieutenant governor;

11 (2) two members of the state bar, of whom one is appointed
12 by the governor and one by the lieutenant governor;

13 (3) two members of the state bar appointed by the president
14 of the state bar, of whom one specializes primarily in civil law
15 and one primarily in criminal law;

16 (4) three retired appellate judges or justices who have
17 elected to be subject to assignment under Chapter 156, Acts of the
18 40th Legislature, Regular Session, 1927 (Article 200a, Vernon's
19 Texas Civil Statutes), of whom two are appointed by the chief
20 justice of the supreme court and one by the presiding judge of the
21 court of criminal appeals; and

22 (5) two members of the state bar, of whom one is appointed
23 by the state chair of the Republican party and one by the state
24 chair of the Democratic party.

1 SECTION 2. DISTRICT JUDICIAL SCREENING COMMISSIONS. (a) A
2 district judicial screening commission for each of the supreme
3 judicial districts 1-13 is composed of:

4 (1) four residents of the supreme judicial district who are
5 not attorneys, of whom two are appointed by the governor and two by
6 the lieutenant governor;

7 (2) seven residents of the supreme judicial district who are
8 members of the state bar, of whom one is appointed by the governor,
9 one by the lieutenant governor, three by the president of the state
10 bar, one by the state chair of the Republican party, and one by the
11 state chair of the Democratic party; and

12 (3) one resident of the supreme judicial district who is a
13 retired judge or justice who has elected to be subject to
14 assignment under Chapter 156, Acts of the 40th Legislature, Regular
15 Session, 1927 (Article 200a, Vernon's Texas Civil Statutes),
16 appointed by the chief justice of the supreme court.

17 (b) An active judge or justice is not eligible for
18 appointment to a district screening commission.

19 (c) A member of the Appellate Judicial Screening Commission
20 is eligible for appointment to the district screening commission in
21 the supreme judicial district in which the member resides.

22 SECTION 3. APPOINTMENTS. In making appointments to each
23 commission, the appointing officials shall select members who
24 constitute a bipartisan commission and members who are
25 representative of the racial, geographical, and ethnic composition
26 of the state.

27 SECTION 4. TERMS; VACANCIES. (a) Members of the

1 commissions serve for staggered terms of six years. The appointing
2 official who appointed a member whose term has expired shall
3 appoint a new member.

4 (b) A person who has been appointed to a full or unexpired
5 term is not eligible for appointment to another full or unexpired
6 term.

7 (c) A vacancy on a commission is filled for the remainder of
8 the term in the same manner as the original appointment.

9 SECTION 5. REMOVAL. A member who is found to be lacking in
10 fairness, moral character, honesty, impartiality, or diligence may
11 be removed from a commission on the affirmative vote of 10 members
12 of that commission.

13 SECTION 6. CHAIRMAN; MEETINGS. (a) Each commission
14 biennially shall elect one of its members as chairman.

15 (b) Meetings of each commission shall be held at times and
16 places designated by the chairman or by a majority of the
17 commission.

18 (c) Except as otherwise provided by this section, each
19 commission shall act by majority vote of the entire membership of
20 that commission.

21 (d) Each commissioner of a judicial screening commission is
22 entitled to receive the per diem as provided by the General
23 Appropriations Act plus reimbursement for actual and necessary
24 expenses incurred in the performance of official duties.

25 SECTION 7. PERSONNEL. Each commission may employ personnel
26 as necessary to administer this Act.

27 SECTION 8. SCREENING OF NOMINEES TO VACANCY. (a) When a

1 vacancy occurs in the office of a judge or a justice of an
2 appellate court, the governor shall submit to the appellate
3 screening commission the names of persons being considered by him
4 for appointment to fill the vacancy.

5 (b) When a vacancy occurs in the office of district judge,
6 the governor shall submit to the district screening commission for
7 the supreme judicial district the names of persons being considered
8 by him for appointment to fill the vacancy.

9 SECTION 9. COMMISSION REPORT. The commission to which the
10 governor has submitted a name shall report to the governor on the
11 qualifications of each nominee. The governor shall select the
12 appointee from those determined by the appropriate commission to be
13 qualified for the office.

14 SECTION 10. SCREENING OF CANDIDATES FOR ELECTION. (a) The
15 appellate screening commission shall screen all candidates for the
16 office of a judge or justice of an appellate court. Each district
17 screening commission shall screen all candidates for the office of
18 district judge in the commission's supreme judicial district.

19 (b) Before each election in which a candidate is to be voted
20 on, the appropriate commission shall issue a public determination
21 as to whether it finds the candidate to be well qualified,
22 qualified, or unqualified for the office sought. The commission's
23 determination shall be printed on the ballot for each election next
24 to the candidate's name.

25 (c) A candidate who is screened before the primary election
26 is not required to submit to additional screening for the runoff
27 primary election or the general election, and the commission's

1 public determination issued for the candidate before the primary
2 shall be issued at the appropriate times for the subsequent
3 elections.

4 SECTION 11. QUALIFICATIONS CONSIDERED. In determining the
5 qualifications of a nominee or candidate for office, a commission
6 shall consider, among other things, the following characteristics
7 of the person:

- 8 (1) legal ability and aptitude;
- 9 (2) ability to speak and write clearly and expressively;
- 10 (3) litigation and other professional experience;
- 11 (4) judicial experience and performance;
- 12 (5) experience as a published writer of the practice,
13 teaching, or administration of the law;
- 14 (6) knowledge of and readiness to adhere to the Code of
15 Judicial Conduct;
- 16 (7) professional character;
- 17 (8) physical and mental health; and
- 18 (9) past adherence to the laws of this state and the United
19 States.

20 SECTION 12. NOMINEES AND CANDIDATES NOT SCREENED INELIGIBLE.
21 A nominee submitted by the governor or a candidate for the office
22 of a judge or justice of a district court or an appellate court who
23 does not submit to screening by the appropriate commission is
24 ineligible for appointment to fill the vacancy or to have his name
25 placed on the ballot.

26 SECTION 13. INVESTIGATIONS. In conducting their
27 investigations, the commissions have the power of subpoena, which

1 is enforceable by proceedings in the district court, and may
2 require answers to written questions.

3 SECTION 14. CANDIDATE'S SUBMISSION; COMMISSION REPORT. (a)
4 At or before the time a candidate for the office of judge or
5 justice of a district court or an appellate court takes the action
6 necessary to have his name placed on the ballot, the candidate must
7 submit his name to the appropriate commission for screening.

8 (b) A commission shall issue its public determination of the
9 fitness of each candidate not later than the 50th day before
10 election day.

11 (c) If a commission determines that a candidate is
12 unqualified, the commission shall notify the candidate not later
13 than the 55th day before election day.

14 (d) The public report on candidates a commission determines
15 are unqualified must contain a detailed explanation of the findings
16 of the commission on the qualifications of the candidate.

17 SECTION 15. REPORTS. (a) The fitness of a candidate or the
18 content of a commission's report to the governor on the
19 qualifications of nominees is determined by a majority vote of the
20 entire membership of the commission. A minority report signed by
21 at least three members of a commission may be issued on nominees.

22 (b) A dissenting or concurring opinion by any member of a
23 commission may be issued on the commission's public determination
24 of the fitness of a candidate or a public report on the candidate's
25 qualifications.

26 (c) Each report to the governor on the qualifications of the
27 nominees is confidential, except that the report on a nominee who

1 is appointed becomes a public report and is available for use at
2 the hearings on the appointee's confirmation by the senate. The
3 hearings before and papers filed with a commission are
4 confidential.

5 SECTION 16. APPEAL OF DETERMINATION. A candidate graded
6 unqualified by a commission may appeal the commission's
7 determination in the manner provided for the appeal of contested
8 cases in the Administrative Procedure and Texas Register Act
9 (Article 6252-13a, Vernon's Texas Civil Statutes).

10 SECTION 17. INITIAL APPOINTEES--APPELLATE COMMISSION. (a)
11 The appointing officials shall appoint the initial members of the
12 Appellate Judicial Screening Commission, with the governor being
13 first with his appointment of four members, the lieutenant governor
14 being second with his appointment of four members, the chief
15 justice of the supreme court being third with his appointment of
16 two appellate judges, the presiding judge of the court of criminal
17 appeals being fourth with his appointment of one appellate judge,
18 the president of the state bar being fifth with his appointment of
19 two members of the state bar, the state chair of the Republican
20 party being sixth with his appointment of one member of the state
21 bar, and the state chair of the Democratic party being seventh with
22 his appointment of one member of the state bar.

23 (b) The initial members of the commission shall draw lots
24 for initial terms to determine which five members will serve terms
25 ending December 31, 1988, which five members will serve terms
26 ending December 31, 1990, and which five members will serve terms
27 ending December 31, 1992.

1 (c) The commission shall elect one of its members to serve
2 as the initial chairman of the commission for a term ending
3 December 31, 1989.

4 SECTION 18. INITIAL APPOINTEES--DISTRICT COMMISSIONS. (a)
5 The appointing officials shall appoint the initial members of each
6 district judicial screening commission, with the governor being
7 first with his appointment of three members, the lieutenant
8 governor being second with his appointment of three members, the
9 chief justice of the supreme court being third with his appointment
10 of one member, the president of the state bar being fourth with his
11 appointment of three members, the state chair of the Republican
12 party being fifth with his appointment of one member, and the state
13 chair of the Democratic party being sixth with his appointment of
14 one member.

15 (b) The initial members of each district screening
16 commission shall draw lots for initial terms to determine which
17 four members will serve terms ending December 31, 1988, which four
18 members will serve terms ending December 31, 1990, and which four
19 members will serve terms ending December 31, 1992.

20 (c) Each district screening commission shall elect one of
21 its members to serve as the initial chairman of the commission for
22 a term ending December 31, 1989.

23 SECTION 19. EFFECTIVE DATE. This Act takes effect on
24 adoption of the constitutional amendment proposed by the 69th
25 Legislature authorizing the legislature to create judicial
26 screening commissions. If that amendment is not adopted, this Act
27 has no effect.

1 SECTION 20. EMERGENCY. The importance of this legislation
2 and the crowded condition of the calendars in both houses create an
3 emergency and an imperative public necessity that the
4 constitutional rule requiring bills to be read on three several
5 days in each house be suspended, and this rule is hereby suspended.

GENERAL EXPLANATION

All elected judges and justices, except municipal judges and constitutional county judges, shall be elected as non-partisan candidates; nomination for these offices by a political party is prohibited.

The general nonpartisan election of judges shall be held in even-numbered years on the Tuesday after the first Monday of November; any primary nonpartisan election of judges shall be held on the first Saturday of May in even-numbered years.

Elections shall be held for regular terms for all offices with regular terms expiring at the end of the calendar year of the election and for unexpired terms for all offices created or vacated more than 45 days before the May election date.

If one or two candidates qualify for a place on the non-partisan judicial ballot, those who qualify will be placed on the general election ballot for the Tuesday after the first Monday of November, and the candidate receiving the higher vote shall be elected; and

If more than two candidates qualify for a place on the nonpartisan judicial ballot, those who qualify will be placed on the primary nonpartisan judicial ballot, the voting for which is in conjunction with the party primaries on the first Saturday of May;

If any candidate receives a majority of the votes cast, that candidate shall be elected; or

If no candidate receives a majority of the votes cast, the two candidates having the highest vote totals shall have their names put on the general election nonpartisan judicial ballot in November, and the candidate receiving the higher vote in November shall be elected.

BILL ANALYSIS BY SECTION

SECTION 1.

- 401. Provides for the nonpartisan election of judges.
- 402. Sets the time for primary and general elections to coincide with present schedules.
- 403. Offices covered are all judicial offices except municipal and constitutional county benches.
- 404. Sets out the means for determining the winners of the primary election (the two highest) who shall have their names placed on the general election ballot.
- 405. Sets out how to apply to be on the ballot.
- 406. Provides for filing fees.
- 407. Provides for certification by the Secretary of State of eligible candidates.
- 408. Sets out the arrangement of the ballot.
- 409. Provides for a separate judicial ballot.
- 410. Sets out the voting procedures to be used in the primary, canvassing procedure, and certification of candidates for the general election.

BY _____

_____ .B. No. _____

A BILL TO BE ENTITLED

AND ACT

relating to the nonpartisan election of certain judicial officers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The Texas Election Code is amended by adding Chapter 16 to read as follows:

CHAPTER 16

NONPARTISAN ELECTION OF JUDGES

401. JUDGES ELECTED AS NONPARTISAN CANDIDATES. All elected judges and justices, except municipal judges and constitutional county judges, shall be elected as nonpartisan candidates. Nomination for these offices by a political party is prohibited.

402. TIME OF ELECTION. The general nonpartisan election of judges shall be held on the date of the general election for state and county officers. Any primary nonpartisan election of judges shall be held on the date of the general primary election.

403. OFFICES COVERED. Election shall be held under this chapter for regular terms for each office with a regular term expiring at the end of the calendar year in which the election is held for unexpired terms for each office created or vacated before the 45th day preceding the date of the general primary election.

404. ELECTION. (a) If only one or two candidates qualify for a place on the nonpartisan judicial ballot for a particular office, the name of each candidate shall be placed on the ballot for the general election for state and county officers, and the candidate receiving the highest number of votes shall

be declared elected.

(b) If more than two candidates qualify for a place on the nonpartisan judicial ballot for a particular office, the name of each candidate shall be placed on the primary nonpartisan judicial ballot, the voting for which shall be in conjunction with each party's general primary election. If a candidate receives a majority of the votes cast for the office, the candidate shall be declared elected. If no candidate receives a majority of the votes cast, the names of the two candidates receiving the highest and second highest number of votes shall be placed on the general election ballot, and the candidate receiving the highest number of votes shall be declared elected.

(c) If a candidate whose name is to appear on the nonpartisan primary of general election ballot dies, withdraws, or is declared ineligible on or after the 45th day before general primary election day, the votes cast for him shall be counted, and if he receives the vote necessary for election, the office becomes vacant, and the election for the unexpired term shall be held the following even-numbered year. If no candidate receives a majority vote in the primary, and a deceased, withdrawn, or ineligible candidate receives the highest or second highest number of votes, his name shall be placed on the general election ballot with the name of the other candidate.

405. APPLICATION FOR PLACE ON BALLOT. (a) A candidate must apply for a place on the nonpartisan judicial ballot by filing a written application with:

(1) the secretary of state if the office is a state or district office;

or

(2) the county clerk if the office is a county or precinct office.

(b) To be valid, the application must contain the information required by this code for an application of a candidate in a primary election, except for

references to party affiliation, and must be filed not later than the regular filing deadline for partisan candidates.

(c) If a candidate dies, withdraws, or is declared ineligible under circumstances that would result in an extension of the filing deadline in a party primary, the filing deadline for nonpartisan judicial candidates for that office is extended in the same manner as for a primary election.

406. FILING FEE AND PETITION. (a) An application for a place on the nonpartisan judicial ballot is not valid unless accompanied by a filing fee or petition in accordance with this section.

(b) The amount of the filing fee is five percent of the annual salary for the office, including any county supplements, in effect on January 1 of the year in which the election is to be held.

(c) A filing fee received by the secretary of state shall be deposited in the general revenue fund, and a filing fee received by the county clerk shall be deposited in the county general fund. A filing fee is refundable under the same rules that apply to the refund of a filing fee in a partisan primary election.

(d) A candidate's application may be accompanied by a petition of voters instead of a filing fee. The petition, which may be in multiple parts, must be signed by registered voters eligible to vote for the office to which the petition applies and contain:

(1) for a statewide office, 5,000 signatures; or

(2) for a district, county, or precinct office, a number equal to two percent of the total vote cast in the territory from which the office is elected for all candidates for governor in the most recent gubernatorial general election or 2,500, whichever is fewer.

407. CERTIFICATION OF CANDIDATES FOR NONPARTISAN PRIMARY BALLOT. (a)

Within the time prescribed by this code for certification of the names of the statewide candidates for party nominations to the appropriate county authorities to be placed on the ballot in the party's general primary, the secretary of state shall certify to the county clerk of each county the names of the candidates for statewide offices and for district offices that are to be placed on the judicial nonpartisan primary ballot in that county.

(b) Within the time for making up the party primary ballots for a county, the county clerk shall make up the official nonpartisan primary ballot and shall certify the ballot forms to the authority charged with the responsibility of making up the primary ballot for each political party that is holding a primary election in the county. At the same time, the county clerk shall certify the number of separate nonpartisan ballots that are to be printed for each precinct.

408. NONPARTISAN JUDICIAL ELECTION BALLOT. (a) The nonpartisan judicial offices and candidates shall be listed as a part of each party's primary ballot, if appropriate, and the general election ballot, but separately from the partisan offices, under the heading "Nonpartisan Judicial Offices."

(b) The titles of the offices shall be arranged on the ballot in the following order:

(1) state offices:

Chief Justice, Supreme Court

Justice, Supreme Court

Presiding Judge, Court of Criminal Appeals

Judge, Court of Criminal Appeals.

(2) district offices:

Chief Justice, Court of Appeals

Associate Justice, Court of Appeals

District Judge

Criminal District Judge.

(3) county offices:

Judge, County Court at Law

Judge, County Criminal Court

Judge, County Probate Court

(4) precinct office:

Justice of the Peace.

409. SEPARATE NONPARTISAN BALLOTS IN PRIMARY. There shall be provided a sufficient number of separate ballots, listing only the judicial nonpartisan candidates, for the use of voters who desire to vote in the nonpartisan primary but who do not desire to vote in the party primary. The separate nonpartisan ballots and the nonpartisan section of the primary ballot shall be paid for from the funds appropriated for the administration of the primary elections.

410. VOTING PROCEDURES IN PRIMARY; CANVASS: CERTIFICATION OF CANDIDATES FOR GENERAL ELECTION. (a) A qualified voter is eligible to vote in the judicial nonpartisan primary, whether or not he desires to vote in the primary of a political party. The poll lists for the election shall be kept in a way to indicate the voters who vote in a party primary and those who vote only in the nonpartisan primary. The secretary of state shall issue directives for keeping the poll lists and the lists of registered voters used at the election and shall prescribe the forms for tally lists, returns, and other necessary forms for recording and reporting the votes cast for the nonpartisan judicial candidates. Except as otherwise provided by this section, the voting procedures for the party primary election also apply to the judicial nonpartisan primary.

(b) After the precinct returns are canvassed, the number of votes cast for

each candidate for a nonpartisan county or precinct judicial office shall be certified to the county clerk, and the number of votes cast for each candidate for a statewide or district judicial office shall be certified to the secretary of state, within the time prescribed by this code for certifying the results of the election for the statewide and district partisan offices. The State Board of Canvassers shall make the final canvass for the statewide and district offices on the day specified by this code for the final canvass of partisan statewide and district offices in the party primary. If two or more political parties are holding primaries in a particular county, the county clerk shall make the final canvass for the nonpartisan county and precinct offices from the results certified to him for each of the parties.

411. PROCEDURE IN GENERAL ELECTION. (a) Except as otherwise provided by this chapter, the general election for judicial nonpartisan offices shall be conducted and the votes shall be canvassed in the manner provided for partisan offices in the election.

(b) Certificates of election shall be issued to the winning candidates in the manner provided for candidates elected to partisan offices.

412. APPLICABILITY OF OTHER PARTS OF CODE. This code applies to a nonpartisan election for judicial offices except provisions that are inconsistent with this chapter or that cannot feasibly be applied in a nonpartisan election for judicial offices.

413. SECRETARY OF STATE TO PRESCRIBE SUPPLEMENTAL PROCEDURES. The secretary of state by rule shall prescribe the procedures not provided by this code that are necessary for the conduct of elections held under this chapter.

414. COMPENSATION OF PARTIES. In each county where a nonpartisan primary election is held in conjunction with the partisan primary elections, the

political parties conducting primaries will be compensated for conducting the nonpartisan judicial primary by payment of:

(a) three-quarters of the filing fees attributable to the offices involved in the nonpartisan judicial primary, to be distributed, within 120 days from the date of the primary, in the percentage determined by dividing the number total number of primary voters in all primaries into the total vote case in each party's primary; and

(b) one-quarter will be paid into the General Revenue Fund of the state.

SECTION 2. Section 61, Texas Election Code (Article 6.05, Vernon's Texas Election Code), is amended by adding Subdivision 3a to read as follows:

Subdiv. 3a. When judicial officers are to be elected in a nonpartisan election, as provided by Chapter 16 of this code, the ballot for the general election shall be prepared as provided by that chapter.

SECTION 3. Subsection (a), Subdivision 1, Section 61c, Texas Election Code (Article 6.05c, Vernon's Texas Election Code), is amended to read as follows:

(a) Whenever there are to appear on the ballot for any general, special, or primary election, two or more office titles of offices which are regularly filled at the general election provided for in Section 9 of this code (Article 2.01, Vernon's Texas Election Code), they shall be listed on the ballot in the following relative order:

Federal offices:

President and Vice President

United States Senator

Congressman-at-Large

United States Representative (district office)

(1) Statewide offices

Governor

Lieutenant Governor

Attorney General

Comptroller of Public Accounts

State Treasurer

Commissioner of General Land Office

Commissioner of Agriculture

Railroad Commissioner

~~[Chief Justice, Supreme Court]~~

~~[Justice, Supreme Court]~~

~~[Presiding Judge, Court of Criminal Appeals]~~

~~[Judge, Court of Criminal Appeals]~~

(2) District offices

State Senator

State Representative

Member, State Board of Education

~~[Chief Justice, Court of Appeals]~~

~~[Associate Justice, Court of Appeals]~~

~~[District Judge]~~

~~[Criminal District Judge]~~

District Attorney

(3) County offices

County Judge

~~[Judge, County Court at Law]~~

~~[Judge, County Criminal Court]~~

~~[Judge, County Probate Court]~~

County Attorney

District Clerk

District and County Clerk

County Clerk

Sheriff

Sheriff and Tax Assessor-Collector

County Tax Assessor-Collector

County Treasurer

County School Superintendent

County School Trustee (county with population of two million or more, according to the most recent federal census)

County Surveyor

Inspector of Hides and Animals

(4) Precinct offices

County Commissioner

~~[Justice of the Peace]~~

Constable

Public Weigher.

The headings "federal offices" and "state offices" and the subheadings under "state offices" shall not be printed on the ballot.

SECTION 4. Section 180, Texas Election Code (Article 13.02, Vernon's Texas Election Code), is amended to read as follows:

180. NOMINATED AT PRIMARY. On primary election day ~~[in 1974 and every two years thereafter]~~, candidates for all state offices to be chosen, and candidates for Congress and all District offices to be chosen by the vote of any district comprising more than one county, to be nominated by each organized political

party that casts twenty percent (20%) or more of the votes for Governor at the last general election for that office, ~~[shall,]~~ together with all candidates for offices to be filed by the voters of a county, or of a portion of a county, except the non-partisan judicial offices, shall be nominated in primary elections by the qualified voters of such party.

SECTION 5. Section 186(c), Texas Election Code (Article 13.08, Vernon's Texas Election Code), is amended to read as follows:

(c) The schedule of filing fees for either a full term or an unexpired term for the various offices is as follows:

- (1) United States Senator. \$2,000
- (2) All other statewide offices 1,500
- (3) United States representative 1,500
- (4) State senator 750
- (5) State representative 400
- (6) Member, state board of education 250

~~[(7) Chief Justice or associate justice,
court of appeals 750]~~

~~[(8) District judge or judge of any court
having status of a district court as
classified in Section 61e of this code,
as added and amended (Article 6.05c,
Vernon's Texas Election Code). 700]~~

~~[(9) Judge of a statutory county court or
judge of any court having status of a
county court as classified in Section
61e of this code, as added and amended~~

~~(Article 6.05c, Vernon's Texas Election Code), other than the constitutional county court 700]~~

(7) ~~[(10)]~~ District attorney or criminal district attorney or a county attorney that performs the same functions as either of the above 600

(8) ~~[(11)]~~ A county office as classified in Section 61c of this code, as added and amended (Article 6.05c, Vernon's Texas Election Code), for which a specific fee is not set by this subsection 300

(9) ~~[(12)]~~ County surveyor or inspector of hides and animals 50

(10) ~~[(13)]~~ Judge of the constitutional county court and county commissioner, County of 200,000 or more inhabitants 600
County under 200,000 inhabitants 300

(11) ~~[(14)]~~ Justice of the peace or constable, County of 200,000 or more inhabitants 500
County under 200,000 inhabitants 200

(12) ~~[(15)]~~ Public weigher 50

No fee shall be charged for any office of a political party.

SECTION 6. Section 187, Texas Election Code (Article 13.09, Vernon's Texas Election Code), is amended by adding Subsection (e) to read as follows:

(e) If candidates for nonpartisan judicial offices are to be voted on at a

non-partisan primary election held in conjunction with the primary election of a political party, as provided by Chapter 16 of this code, the ballot for the primary election shall be prepared as provided by the applicable provisions of Chapter 16.

SECTION 7. Subdivision 1, Section 227, Texas Election Code (Article 13.50, Vernon's Texas Election Code), is amended to read as follows:

Subdiv. 1. This section applies to nonpartisan or independent candidates for federal, state, district, county, and precinct offices in the general election provided for in Section 9 of this code (Article 2.01, Vernon's Texas Election Code). A person may run as a nonpartisan or independent candidate for any such office, other than the offices of president, vice president, and presidential elector, and the nonpartisan judicial offices specified by Chapter 16 of this code, by complying with this section and other applicable provisions of this code.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

JUDICIAL SCREENING COMMISSION

SUMMARY:

Provides for a constitutional amendment to establish a judicial screening commission which would screen nominees for gubernatorial appointments only.

SECTION SUMMARY:

- SECTION 1. (a) Establishes the composition of the commission: 6 non-lawyers, 3 each appointed by the Lt. Governor and Speaker of the House; 4 lawyers appointed by the President of the State Bar (2 civil, 2 criminal); 3 appellate judges, 2 appointed by the Chief Justice of the Supreme Court, 1 appointed by the Presiding Judge of the Court of Criminal Appeals; 2 lawyers, 1 appointed by each political party.
- (b) Provides for ethnic, racial and geographic representation.
- (c) } Provides for staggered terms, removal, election
(d) } of chair, meetings, and appropriations.
(e) }
- (f) Sets out procedure for the submission of nominees names.
- (g) Sets out qualification criteria to be considered.
- (h) Provides for refusal to submit to screening.
- (i) Provides for a report to the Governor and a minority report.
- (j) Provides for confidentiality except during confirmation.
- SECTION 2. Temporary provision setting up the commission.
- SECTION 3. Provision for putting amendment on the ballot.

TEXAS LEGISLATIVE COUNCIL
Preliminary Draft

By _____

J.R. No. _____

A JOINT RESOLUTION

1 proposing a constitutional amendment relating to the creation of
2 the Judicial Screening Commission.

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

4 SECTION 1. That Article V of the Texas Constitution be
5 amended by adding Section 28a to read as follows:

6 Sec. 28a. (a) The Judicial Screening Commission is composed
7 of six persons who are not attorneys, of whom three are appointed
8 by the governor and three by the lieutenant governor; four members
9 of the state bar appointed by the president of the state bar, of
10 whom two specialize primarily in civil law and two primarily in
11 criminal law; three appellate judges or justices, of whom two are
12 appointed by the chief justice of the supreme court and one by the
13 presiding judge of the court of criminal appeals; and two members
14 of the state bar, of whom one is appointed by the state chair of
15 the Republican party and one by the state chair of the Democratic
16 party.

17 (b) In making appointments to the commission, the appointing
18 officials shall select members who constitute a bipartisan
19 commission and members who are representative of the racial,
20 geographical, and ethnic composition of the state. A member of the
21 commission may not hold an elected or appointed public office
22 during or for two years after the member's tenure on the
23 commission, except that each appellate judge or justice continues
24 to hold his elected or appointed office.

1 (c) Members of the commission serve for staggered terms of
2 six years. The appointing official who appointed a member whose
3 term has expired shall appoint a new member. A person who has been
4 appointed to a full or unexpired term is not eligible for
5 appointment to another full or unexpired term. A vacancy on the
6 commission is filled for the remainder of the term in the same
7 manner as the original appointment.

8 (d) A member who is found to be lacking in fairness, moral
9 character, honesty, impartiality, or diligence may be removed from
10 the commission on the affirmative vote of 10 members of the
11 commission.

12 (e) The commission biennially shall elect one of its members
13 as chairman. Meetings of the commission shall be held at times and
14 places designated by the chairman or by a majority of the
15 commission. Except as otherwise provided by this section, the
16 commission shall act by majority vote of the entire membership.
17 The legislature shall provide the necessary appropriations for the
18 operation of the commission.

19 (f) When a vacancy occurs in the office of a judge or
20 justice of a district court or an appellate court, the governor
21 shall submit to the commission the names of persons being
22 considered by him for appointment to fill the vacancy, and the
23 commission shall submit to the governor a report on the
24 qualifications of each nominee. The governor shall select the
25 appointee from those determined by the commission to be qualified
26 for the office.

27 (g) In determining the qualifications of a nominee, the

1 commission shall consider, among other things, the following
2 characteristics of the person: (1) legal ability and
3 aptitude; (2) ability to speak and write clearly and
4 expressively; (3) litigation and other professional
5 experience; (4) judicial experience and performance; (5) experience
6 as a published writer of the practice, teaching, or administration
7 of the law; (6) knowledge of and readiness to adhere to the Code of
8 Judicial Conduct; (7) professional character; (8) physical and
9 mental health; and (9) past adherence to the laws of this state and
10 the United States.

11 (h) A nominee submitted by the governor for the office of a
12 judge or justice of a district court or an appellate court who does
13 not submit to screening by the commission is ineligible for
14 appointment to fill the vacancy. In conducting its investigations,
15 the commission has the power of subpoena, which is enforceable by
16 proceedings in the district court, and may require answers to
17 written questions.

18 (i) The content of the commission's report to the governor
19 on the qualifications of nominees is determined by a majority vote
20 of the entire membership of the commission. A minority report
21 signed by at least three members of the commission may be issued on
22 nominees.

23 (j) Each report to the governor on the qualifications of the
24 nominees is confidential, except that the report on a nominee who
25 is appointed becomes a public report and is available for use at
26 the hearings on the appointee's confirmation by the senate. The
27 hearings before and papers filed with the commission are

1 confidential.

2 SECTION 2. That the following temporary provision be added
3 to the Texas Constitution:

4 TEMPORARY PROVISION. (a) This temporary provision applies
5 to the constitutional amendment proposed by the 69th Legislature,
6 Regular Session, 1985, providing for the Judicial Screening
7 Commission.

8 (b) Article V, Section 28a, of the Texas Constitution, takes
9 effect January 1, 1987.

10 (c) The appointing officials shall appoint the initial
11 members of the Judicial Screening Commission, with the governor
12 being first with his appointment of three members, the lieutenant
13 governor being second with his appointment of three members, the
14 chief justice of the supreme court being third with his appointment
15 of two appellate judges, the presiding judge of the court of
16 criminal appeals being fourth with his appointment of one appellate
17 judge, the president of the state bar being fifth with his
18 appointment of four members of the state bar, the state chair of
19 the Republican party being sixth with his appointment of one member
20 of the state bar, and the state chair of the Democratic party being
21 seventh with his appointment of one member of the state bar.

22 (d) The initial members of the commission shall draw lots
23 for initial terms to determine which five members will serve terms
24 ending December 31, 1988, which five members will serve terms
25 ending December 31, 1990, and which five members will serve terms
26 ending December 31, 1992.

27 (e) The commission shall elect one of its members to serve

1 as the initial chairman of the commission for a term ending
2 December 31, 1989.

3 (f) This temporary provision takes effect on the adoption of
4 the amendment by the voters and expires January 1, 1993.

5 SECTION 3. This proposed constitutional amendment shall be
6 submitted to the voters at an election to be held on November 4,
7 1986. The ballot shall be printed to provide for voting for or
8 against the proposition: "The constitutional amendment creating
9 the Judicial Screening Commission to investigate, screen, and
10 recommend nominees for appointment to the offices of the district
11 and appellate judges."

By: _____

____.J.R. No. _____

A JOINT RESOLUTION

1 proposing a constitutional amendment relating to the qualifications
2 of justices and judges of the appellate courts of this state.

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

4 SECTION 1. That Article V, Section 2, of the Texas
5 Constitution be amended to read as follows:

6 "Section 2. The Supreme Court shall consist of the Chief
7 Justice and eight Justices, any five of whom shall constitute a
8 quorum, and the concurrence of five shall be necessary to a
9 decision of a case; provided, that when the business of the court
10 may require, the court may sit in sections as designated by the
11 court to hear argument of causes and to consider applications for
12 writs of error or other preliminary matters. No person shall be
13 eligible to serve in the office of Chief Justice or Justice of the
14 Supreme Court unless the person is licensed to practice law in this
15 state and is, at the time of election, a citizen of the United
16 States and of this state, and has attained the age of thirty-five
17 years, and has been a practicing lawyer, or a lawyer and judge of a
18 court of record together at least ten years, and has met such other
19 requirements as may be provided by law. Said Justices shall be
20 elected (three of them each two years) by the qualified voters of
21 the state at a general election; shall hold their offices six
22 years, or until their successors are elected and qualified; and
23 shall each receive such compensation as shall be provided by law.
24 In case of a vacancy in the office of the Chief Justice or any
25 Justice of the Supreme Court, the Governor shall fill the vacancy

1 until the next general election for state officers, and at such
2 general election the vacancy for the unexpired term shall be filled
3 by election by the qualified voters of the state. The Justices of
4 the Supreme Court who may be in office at the time this amendment
5 takes effect shall continue in office until the expiration of their
6 term of office under the present Constitution, and until their
7 successors are elected and qualified."

8 SECTION 2. That Article V, Section 4, of the Texas
9 Constitution be amended to read as follows:

10 "Section 4. The Court of Criminal Appeals shall consist of
11 eight Judges and one Presiding Judge. The Judges shall have the
12 same qualifications as provided by this Constitution and by law
13 for, and receive the same salaries as, the Associate Justices of
14 the Supreme Court, and the Presiding Judge shall have the same
15 qualifications as provided by this Constitution and by law for, and
16 receive the same salary as, the Chief Justice of the Supreme Court.
17 The Presiding Judge and the Judges shall be elected by the
18 qualified voters of the state at a general election and shall hold
19 their offices for a term of six years. In case of a vacancy in the
20 office of a Judge of the Court of Criminal Appeals, the Governor
21 shall, with the advice and consent of the Senate, fill said vacancy
22 by appointment until the next succeeding general election.

23 "For the purpose of hearing cases, the Court of Criminal
24 Appeals may sit in panels of three Judges, the designation thereof
25 to be under rules established by the court. In a panel of three
26 Judges, two Judges shall constitute a quorum and the concurrence of

____.J.R. No. ____

1 two Judges shall be necessary for a decision. The Presiding Judge,
2 under rules established by the court, shall convene the court en
3 banc for the transaction of all other business and may convene the
4 court en banc for the purpose of hearing cases. The court must sit
5 en banc during proceedings involving capital punishment and other
6 cases as required by law. When convened en banc, five Judges shall
7 constitute a quorum and the concurrence of five Judges shall be
8 necessary for a decision. The Court of Criminal Appeals may
9 appoint Commissioners in aid of the Court of Criminal Appeals as
10 provided by law."

11 SECTION 3. That Article V, Section 6, of the Texas
12 Constitution be amended to read as follows:

13 "Section 6. The Legislature shall divide the State into such
14 Supreme judicial districts as the population and business may
15 require, and shall establish a Court of Appeals in each of said
16 districts, which shall consist of a Chief Justice and at least two
17 Associate Justices, who shall have the qualifications [as--herein]
18 prescribed by this Constitution and by law for Justices of the
19 Supreme Court. The Court of Appeals may sit in sections as
20 authorized by law. The concurrence of a majority of the judges
21 sitting in a section is necessary to decide a case. Said Court of
22 Appeals shall have appellate jurisdiction co-extensive with the
23 limits of their respective districts, which shall extend to all
24 cases of which the District Courts or County Courts have original
25 or appellate jurisdiction, under such restrictions and regulations
26 as may be prescribed by law. Provided, that the decision of said

____.J.R. No. ____

1 courts shall be conclusive on all questions of fact brought before
2 them on appeal or error. Said courts shall have such other
3 jurisdiction, original and appellate, as may be prescribed by law.

4 "Each of said Courts of Appeals shall hold its sessions at a
5 place in its district to be designated by the Legislature, and at
6 such time as may be prescribed by law. Said Justices shall be
7 elected by the qualified voters of their respective districts at a
8 general election, for a term of six years and shall receive for
9 their services the sum provided by law. Each Court of Appeals
10 shall appoint a clerk in the same manner as the clerk of the
11 Supreme Court which clerk shall receive such compensation as may be
12 fixed by law.

13 "On the effective date of this amendment, the Justices of the
14 present Courts of Civil Appeals become the Justices of the Courts
15 of Appeals for the term of office to which elected or appointed as
16 Justices of the Courts of Civil Appeals, and the Supreme Judicial
17 Districts become the Supreme Judicial Districts for the Courts of
18 Appeals. All constitutional and statutory references to the Courts
19 of Civil Appeals shall be construed to mean the Courts of Appeals."

20 SECTION 4. This amendment becomes effective January 1, 1986.

21 SECTION 5. This proposed constitutional amendment shall be
22 submitted to the voters at an election to be held on November 5,
23 1985. The ballot shall be printed to provide for voting for or
24 against the proposition: "The constitutional amendment relating to
25 the qualifications of justices and judges of the appellate courts
26 of this state."

By: _____

.B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to the qualifications of appellate justices and judges.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 1716, Revised Civil Statutes of Texas, 1925, is amended to read as follows:

"Article 1716. QUALIFICATIONS. (a) No person shall be eligible to serve in the office of Chief Justice or Justice of the Supreme Court unless the person is licensed to practice law in this state and, at the time of election, is a citizen of the United States and of this State, has attained the age of thirty-five years, and has been a practicing lawyer, or a lawyer and judge of a court of record together, at least ten years.

"(b) In addition to the requirements of Subsection (a) of this article, a person who has not served at least four years as a Justice or Judge of an appellate court of this State or as a Judge of a District Court, Criminal District Court, or statutory County Court at Law of this State, or in a combination of those offices for four years, must have the endorsement by signature of at least 100 members in good standing of the State Bar of Texas. The endorsements shall be filed with the Secretary of State prior to the date of the election. This subsection does not apply to persons holding the offices of Chief Justice or Associate Justice of the Supreme Court on the effective date of this amendment, to a person seeking reelection to one of those offices, or to a person appointed by the Governor to fill a vacancy in one of those

____.B. No. ____

1 offices."

2 SECTION 2. Title 38, Revised Civil Statutes of Texas, 1925,
3 as amended, is amended by adding Article 1801a to read as follows:

4 "Article 1801a. QUALIFICATIONS. (a) No person is eligible
5 to be a judge of the Court of Criminal Appeals unless the person is
6 licensed to practice law in this state and, at the time of
7 election, the person is at least 35 years of age, a citizen of the
8 United States and of this state, and has been a practicing lawyer
9 or a judge of a court in this state, or such lawyer and judge
10 together, at least 10 years.

11 "(b) In addition to the requirements of Subsection (a) of
12 this article, a person who has not served at least four years as a
13 justice or judge of an appellate court of this state or as a judge
14 of a district court, criminal district court, or statutory county
15 court at law of this state, or in a combination of those offices
16 for four years, must have the endorsement by signature of at least
17 100 members in good standing of the State Bar of Texas. The
18 endorsements shall be filed with the secretary of state prior to
19 the date of the election. This subsection does not apply to
20 persons holding the offices of presiding judge or judge of the
21 Court of Criminal Appeals on the effective date of this amendment,
22 to a person seeking reelection to one of those offices, or to a
23 person appointed by the governor to fill a vacancy in one of those
24 offices."

25 SECTION 3. Article 1814, Revised Civil Statutes of Texas,
26 1925, is amended to read as follows:

____.B. No. ____

1 "Article 1814. QUALIFICATIONS OF JUDGES. (a) No person
2 shall be eligible to serve in the office of Justice of a Court of
3 Appeals unless the person is licensed to practice law in this state
4 and at the time of election is a citizen of the United States and
5 of this state, has attained the age of thirty-five years, is a
6 resident of the district from which he is elected, and has been a
7 practicing lawyer, or a lawyer and judge of a court of record
8 together, at least ten years.

9 "(b) In addition to the requirements of Subsection (a) of
10 this article, a person who has not served at least two years as a
11 Justice or Judge of an appellate court of this State or as a Judge
12 of a District Court, Criminal District Court, or statutory County
13 Court at Law of this State, or in a combination of those offices
14 for two years, must have the endorsement by signature of at least
15 50 members in good standing of the State Bar of Texas who are
16 residents of the Supreme Judicial District for that court. The
17 endorsements shall be filed with the Secretary of State prior to
18 the date of the election. This subsection does not apply to
19 persons holding the offices of Chief Justice or Associate Justice
20 of a Court of Appeals on the effective date of this amendment, to a
21 person seeking reelection to one of those offices, or to a person
22 appointed by the Governor to fill a vacancy in one of those
23 offices."

24 SECTION 4. This Act takes effect only if and when the
25 constitutional amendment proposed by ____J.R. No. ____ is adopted.

26 SECTION 5. The importance of this legislation and the

____.B. No. ____

1 crowded condition of the calendars in both houses create an
2 emergency and an imperative public necessity that the
3 constitutional rule requiring bills to be read on three several
4 days in each house be suspended, and this rule is hereby suspended.

GENERAL EXPLANATION

A Constitutional Amendment that would enable the Legislature to expand the eligibility requirements for appellate justices and judges.

The enabling act sets out the requirement that a candidate or nominee for judicial office have a minimum number of years experience as a judge or, in the alternative, obtain the written endorsement of a minimum number of members of the Bar.

ANALYSIS BY SECTION

JOINT RESOLUTION

- SECTION 1. Amends Article V of the Texas Constitution to add "and has met such other requirements as may be provided by law" to the eligibility requirements for Supreme Court Justice.
- SECTION 2. Amends Article V in essentially the same manner as Section 1., for Judges of the Court of Criminal Appeals.
- SECTION 3. Amends Article V in essentially the same manner as Section 1., for Courts of Appeals Justices.
- SECTION 4. Provides for an effective date of January 1, 1986.
- SECTION 5. The amendment to be presented to the voters in November 1985.

BILL ANALYSIS

- SECTION 1. Sets out the qualifications for Supreme Court Justice including a requirement of four years experience as a judge of a court of record or in lieu of such experience, the written endorsement of 100 members of the State Bar.
- SECTION 2. Sets out the same requirements for Judges of the Court of Criminal Appeals as for Supreme Court Justices.
- SECTION 3. Sets out the qualifications for Justices of the Courts of Appeals including a requirement that the candidate have two years experience as a judge of a court of record or in lieu of such experience, the written endorsement of 50 members of the State Bar.
- SECTION 4. Provides for the act to take effect upon the passage of the Constitutional Amendment.
- SECTION 5. Emergency cause.

By: _____

_____.J.R. No. _____

A JOINT RESOLUTION

1 proposing a constitutional amendment relating to the qualifications
2 of justices and judges of the appellate courts of this state.

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

4 SECTION 1. That Article V, Section 2, of the Texas
5 Constitution be amended to read as follows:

6 "Section 2. The Supreme Court shall consist of the Chief
7 Justice and eight Justices, any five of whom shall constitute a
8 quorum, and the concurrence of five shall be necessary to a
9 decision of a case; provided, that when the business of the court
10 may require, the court may sit in sections as designated by the
11 court to hear argument of causes and to consider applications for
12 writs of error or other preliminary matters. No person shall be
13 eligible to serve in the office of Chief Justice or Justice of the
14 Supreme Court unless the person is licensed to practice law in this
15 state and is, at the time of election, a citizen of the United
16 States and of this state, and has attained the age of thirty-five
17 years, and has been a practicing lawyer, or a lawyer and judge of a
18 court of record together at least ten years, and has met such other
19 requirements as may be provided by law. Said Justices shall be
20 elected (three of them each two years) by the qualified voters of
21 the state at a general election; shall hold their offices six
22 years, or until their successors are elected and qualified; and
23 shall each receive such compensation as shall be provided by law.
24 In case of a vacancy in the office of the Chief Justice or any
25 Justice of the Supreme Court, the Governor shall fill the vacancy

____.J.R. No. ____

1 until the next general election for state officers, and at such
2 general election the vacancy for the unexpired term shall be filled
3 by election by the qualified voters of the state. The Justices of
4 the Supreme Court who may be in office at the time this amendment
5 takes effect shall continue in office until the expiration of their
6 term of office under the present Constitution, and until their
7 successors are elected and qualified."

8 SECTION 2. That Article V, Section 4, of the Texas
9 Constitution be amended to read as follows:

10 "Section 4. The Court of Criminal Appeals shall consist of
11 eight Judges and one Presiding Judge. The Judges shall have the
12 same qualifications as provided by this Constitution and by law
13 for, and receive the same salaries as, the Associate Justices of
14 the Supreme Court, and the Presiding Judge shall have the same
15 qualifications as provided by this Constitution and by law for, and
16 receive the same salary as, the Chief Justice of the Supreme Court.
17 The Presiding Judge and the Judges shall be elected by the
18 qualified voters of the state at a general election and shall hold
19 their offices for a term of six years. In case of a vacancy in the
20 office of a Judge of the Court of Criminal Appeals, the Governor
21 shall, with the advice and consent of the Senate, fill said vacancy
22 by appointment until the next succeeding general election.

23 "For the purpose of hearing cases, the Court of Criminal
24 Appeals may sit in panels of three Judges, the designation thereof
25 to be under rules established by the court. In a panel of three
26 Judges, two Judges shall constitute a quorum and the concurrence of

1 two Judges shall be necessary for a decision. The Presiding Judge,
2 under rules established by the court, shall convene the court en
3 banc for the transaction of all other business and may convene the
4 court en banc for the purpose of hearing cases. The court must sit
5 en banc during proceedings involving capital punishment and other
6 cases as required by law. When convened en banc, five Judges shall
7 constitute a quorum and the concurrence of five Judges shall be
8 necessary for a decision. The Court of Criminal Appeals may
9 appoint Commissioners in aid of the Court of Criminal Appeals as
10 provided by law."

11 SECTION 3. That Article V, Section 6, of the Texas
12 Constitution be amended to read as follows:

13 "Section 6. The Legislature shall divide the State into such
14 Supreme judicial districts as the population and business may
15 require, and shall establish a Court of Appeals in each of said
16 districts, which shall consist of a Chief Justice and at least two
17 Associate Justices, who shall have the qualifications [as--herein]
18 prescribed by this Constitution and by law for Justices of the
19 Supreme Court. The Court of Appeals may sit in sections as
20 authorized by law. The concurrence of a majority of the judges
21 sitting in a section is necessary to decide a case. Said Court of
22 Appeals shall have appellate jurisdiction co-extensive with the
23 limits of their respective districts, which shall extend to all
24 cases of which the District Courts or County Courts have original
25 or appellate jurisdiction, under such restrictions and regulations
26 as may be prescribed by law. Provided, that the decision of said

____.J.R. No. ____

1 courts shall be conclusive on all questions of fact brought before
2 them on appeal or error. Said courts shall have such other
3 jurisdiction, original and appellate, as may be prescribed by law.

4 "Each of said Courts of Appeals shall hold its sessions at a
5 place in its district to be designated by the Legislature, and at
6 such time as may be prescribed by law. Said Justices shall be
7 elected by the qualified voters of their respective districts at a
8 general election, for a term of six years and shall receive for
9 their services the sum provided by law. Each Court of Appeals
10 shall appoint a clerk in the same manner as the clerk of the
11 Supreme Court which clerk shall receive such compensation as may be
12 fixed by law.

13 "On the effective date of this amendment, the Justices of the
14 present Courts of Civil Appeals become the Justices of the Courts
15 of Appeals for the term of office to which elected or appointed as
16 Justices of the Courts of Civil Appeals, and the Supreme Judicial
17 Districts become the Supreme Judicial Districts for the Courts of
18 Appeals. All constitutional and statutory references to the Courts
19 of Civil Appeals shall be construed to mean the Courts of Appeals."

20 SECTION 4. This amendment becomes effective January 1, 1986.

21 SECTION 5. This proposed constitutional amendment shall be
22 submitted to the voters at an election to be held on November 5,
23 1985. The ballot shall be printed to provide for voting for or
24 against the proposition: "The constitutional amendment relating to
25 the qualifications of justices and judges of the appellate courts
26 of this state."

By: _____

.B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to the qualifications of appellate justices and judges.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 1716, Revised Civil Statutes of Texas, 1925, is amended to read as follows:

"Article 1716. QUALIFICATIONS. (a) No person shall be eligible to serve in the office of Chief Justice or Justice of the Supreme Court unless the person is licensed to practice law in this state and, at the time of election, is a citizen of the United States and of this State, has attained the age of thirty-five years, and has been a practicing lawyer, or a lawyer and judge of a court of record together, at least ten years.

"(b) In addition to the requirements of Subsection (a) of this article, a person who has not served at least four years as a Justice or Judge of an appellate court of this State or as a Judge of a District Court, Criminal District Court, or statutory County Court at Law of this State, or in a combination of those offices for four years, must have the endorsement by signature of at least 100 members in good standing of the State Bar of Texas. The endorsements shall be filed with the Secretary of State prior to the date of the election. This subsection does not apply to persons holding the offices of Chief Justice or Associate Justice of the Supreme Court on the effective date of this amendment, to a person seeking reelection to one of those offices, or to a person appointed by the Governor to fill a vacancy in one of those

____.B. No. ____

1 offices."

2 SECTION 2. Title 38, Revised Civil Statutes of Texas, 1925,
3 as amended, is amended by adding Article 1801a to read as follows:

4 "Article 1801a. QUALIFICATIONS. (a) No person is eligible
5 to be a judge of the Court of Criminal Appeals unless the person is
6 licensed to practice law in this state and, at the time of
7 election, the person is at least 35 years of age, a citizen of the
8 United States and of this state, and has been a practicing lawyer
9 or a judge of a court in this state, or such lawyer and judge
10 together, at least 10 years.

11 "(b) In addition to the requirements of Subsection (a) of
12 this article, a person who has not served at least four years as a
13 justice or judge of an appellate court of this state or as a judge
14 of a district court, criminal district court, or statutory county
15 court at law of this state, or in a combination of those offices
16 for four years, must have the endorsement by signature of at least
17 100 members in good standing of the State Bar of Texas. The
18 endorsements shall be filed with the secretary of state prior to
19 the date of the election. This subsection does not apply to
20 persons holding the offices of presiding judge or judge of the
21 Court of Criminal Appeals on the effective date of this amendment,
22 to a person seeking reelection to one of those offices, or to a
23 person appointed by the governor to fill a vacancy in one of those
24 offices."

25 SECTION 3. Article 1814, Revised Civil Statutes of Texas,
26 1925, is amended to read as follows:

____.B. No. ____

1 "Article 1814. QUALIFICATIONS OF JUDGES. (a) No person
2 shall be eligible to serve in the office of Justice of a Court of
3 Appeals unless the person is licensed to practice law in this state
4 and at the time of election is a citizen of the United States and
5 of this state, has attained the age of thirty-five years, is a
6 resident of the district from which he is elected, and has been a
7 practicing lawyer, or a lawyer and judge of a court of record
8 together, at least ten years.

9 "(b) In addition to the requirements of Subsection (a) of
10 this article, a person who has not served at least two years as a
11 Justice or Judge of an appellate court of this State or as a Judge
12 of a District Court, Criminal District Court, or statutory County
13 Court at Law of this State, or in a combination of those offices
14 for two years, must have the endorsement by signature of at least
15 50 members in good standing of the State Bar of Texas who are
16 residents of the Supreme Judicial District for that court. The
17 endorsements shall be filed with the Secretary of State prior to
18 the date of the election. This subsection does not apply to
19 persons holding the offices of Chief Justice or Associate Justice
20 of a Court of Appeals on the effective date of this amendment, to a
21 person seeking reelection to one of those offices, or to a person
22 appointed by the Governor to fill a vacancy in one of those
23 offices."

24 SECTION 4. This Act takes effect only if and when the
25 constitutional amendment proposed by ____J.R. No. ____ is adopted.

26 SECTION 5. The importance of this legislation and the

____.B. No. ____

1 crowded condition of the calendars in both houses create an
2 emergency and an imperative public necessity that the
3 constitutional rule requiring bills to be read on three several
4 days in each house be suspended, and this rule is hereby suspended.

JUDICIAL COMPENSATION

BILL ANALYSIS

SUMMARY: Increases salary of associate justices of the Courts of Appeals to ⁹⁰95 percent of that of a Supreme Court justice. Provides for the Chief Justice on the Court of Appeals to receive \$500 more than the associate justices. Provides that those salaries, if supplemented, must be at least \$1,000 less than a Supreme Court justice.

St. Bar | *Jud. Body Bd.*
85%

Increases the salary of a district judge to 90 percent of that of a justice on the Supreme Court. Provides that those salaries, if supplemented, must be at least \$1,000 less than the salary allowed for a Court of Appeals associate justice in whose district the District Court is located.

Allows the Comptroller to reduce the state's portion if local supplements cause the salary to be in excess of those limits.

By: _____

.B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to judicial salaries in the Courts of Appeals and the district courts; amending Section 3, Chapter 46, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 6813b, Vernon's Texas Civil Statutes).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 3, Chapter 46, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 6813b, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 3. (a) Associate [~~Effective-September-17-1983-and notwithstanding-any-other-provision-of-this-Act-the-associate~~] justices of the Courts of Appeals of the State of Texas shall each be paid by the State an annual salary that is five [~~10~~] percent less than the salary provided in the General Appropriations Act for a justice of the Supreme Court of Texas. The chief justice of each Court of Appeals shall be paid by the State an annual salary that is \$500 more [~~10-percent-less~~] than the salary provided in the General Appropriations Act for the associate justices of the Courts of Appeals [~~Chief-Justice-of-the-Supreme-Court~~]. The combined salary of each of the associate justices of the Courts of Appeals from all State and county sources must be at least \$1,000 less than the salary provided for a justice of the Supreme Court[, ~~and in the case of the chief justices of the Courts of Appeals, the differential shall be \$500 less than the salary provided for a justice of the Supreme Court~~].

__B. No. ____

1 "(b) Judges of the district courts of the State of Texas
2 shall each be paid by the State an annual salary that is 10 percent
3 less than the salary provided in the General Appropriations Act for
4 a justice of the Supreme Court of Texas. The combined salary of
5 each of the district court judges from all State and county sources
6 must be at least \$1,000 less than the combined salary from all
7 State and county sources for an associate justice of the Court of
8 Appeals in whose district the district court is located.

9 "(c) For the purpose of salary payments by the State, the
10 Comptroller of Public Accounts shall determine from sworn
11 statements filed by the justices of the Courts of Appeals and
12 judges of the district courts that the required salary
13 differentials [~~differentia~~] set out in Subsections [~~Subsectien~~]
14 (a) and (b) of this section are [~~is~~] maintained. In the event the
15 salaries [~~salary~~], with their [~~its~~] county supplements
16 [~~supplement~~], are [~~is~~] in excess of the differentials
17 [~~differentia~~] provided by Subsections [~~Subsectien~~] (a) and (b),
18 the comptroller shall reduce the State's portion of those salaries
19 [~~that-salary~~] by the amount of the excess."

20 SECTION 2. This Act takes effect September 1, 1985.

21 SECTION 3. The importance of this legislation and the
22 crowded condition of the calendars in both houses create an
23 emergency and an imperative public necessity that the
24 constitutional rule requiring bills to be read on three several
25 days in each house be suspended, and this rule is hereby suspended.

JUDICIAL TENURE

SUMMARY: Provides for a constitutional amendment which would increase the terms of Supreme Court justices, Court of Criminal Appeals judges, and justices of the Courts of Appeals to eight years and the terms of district judges to six years.

A temporary provision allows the phasing in (by drawing lots) of these terms.

By: _____

1 A JOINT RESOLUTION

2 proposing a constitutional amendment to increase the terms of
3 district and appellate court judges.

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

5 SECTION 1. That Article V, Sections 2, 4, 6, and 7, of the
6 Texas Constitution be amended to read as follows:

7 "Section 2. The Supreme Court shall consist of the Chief
8 Justice and eight Justices, any five of whom shall constitute a
9 quorum, and the concurrence of five shall be necessary to a
10 decision of a case; provided, that when the business of the court
11 may require, the court may sit in sections as designated by the
12 court to hear argument of causes and to consider applications for
13 writs of error or other preliminary matters. No person shall be
14 eligible to serve in the office of Chief Justice or Justice of the
15 Supreme Court unless the person is licensed to practice law in this
16 state and is, at the time of election, a citizen of the United
17 States and of this state, and has attained the age of thirty-five
18 years, and has been a practicing lawyer, or a lawyer and judge of a
19 court of record together at least ten years. Said Justices shall
20 be elected [~~{three-of-them-each-two-years}~~] by the qualified voters
21 of the state at a general election, with two Justices elected each
22 two years and the Chief Justice elected at the general election
23 preceding the expiration of his term; shall hold their offices
24 eight [~~six~~] years, or until their successors are elected and
25 qualified; and shall each receive such compensation as shall be

__J.R. No. __

1 provided by law. In case of a vacancy in the office of the Chief
2 Justice or any Justice of the Supreme Court, the Governor shall
3 fill the vacancy until the next general election for state
4 officers, and at such general election the vacancy for the
5 unexpired term shall be filled by election by the qualified voters
6 of the state. [~~The--Justices-of-the-Supreme-Court-who-may-be-in~~
7 ~~office-at-the-time-this-amendment-takes-effect--shall--continue--in~~
8 ~~office--until--the--expiration--of--their--term-of-office-under-the~~
9 ~~present-Constitution--and-until-their-successors--are--elected--and~~
10 ~~qualified.]~~"]

11 "Section 4. The Court of Criminal Appeals shall consist of
12 eight Judges and one Presiding Judge. The Judges shall have the
13 same qualifications and receive the same salaries as the Associate
14 Justices of the Supreme Court, and the Presiding Judge shall have
15 the same qualifications and receive the same salary as the Chief
16 Justice of the Supreme Court. The Presiding Judge and the Judges
17 shall be elected by the qualified voters of the state at a general
18 election and shall hold their offices for a term of eight [sic]
19 years. Two Judges shall be elected each two years and the
20 Presiding Judge shall be elected at the general election preceding
21 the expiration of his term.

22 "In case of a vacancy in the office of a Judge of the Court
23 of Criminal Appeals, the Governor shall, with the advice and
24 consent of the Senate, fill said vacancy by appointment until the
25 next succeeding general election.

1 "For the purpose of hearing cases, the Court of Criminal
2 Appeals may sit in panels of three Judges, the designation thereof
3 to be under rules established by the court. In a panel of three
4 Judges, two Judges shall constitute a quorum and the concurrence of
5 two Judges shall be necessary for a decision. The Presiding Judge,
6 under rules established by the court, shall convene the court en
7 banc for the transaction of all other business and may convene the
8 court en banc for the purpose of hearing cases. The court must sit
9 en banc during proceedings involving capital punishment and other
10 cases as required by law. When convened en banc, five Judges shall
11 constitute a quorum and the concurrence of five Judges shall be
12 necessary for a decision. The Court of Criminal Appeals may
13 appoint Commissioners in aid of the Court of Criminal Appeals as
14 provided by law."

15 "Section 6. The Legislature shall divide the State into such
16 Supreme judicial districts as the population and business may
17 require, and shall establish a Court of Appeals in each of said
18 districts, which shall consist of a Chief Justice and at least two
19 Associate Justices, who shall have the qualifications as herein
20 prescribed for Justices of the Supreme Court. The Court of Appeals
21 may sit in sections as authorized by law. The concurrence of a
22 majority of the judges sitting in a section is necessary to decide
23 a case. Said Court of Appeals shall have appellate jurisdiction
24 co-extensive with the limits of their respective districts, which
25 shall extend to all cases of which the District Courts or County

1 Courts have original or appellate jurisdiction, under such
2 restrictions and regulations as may be prescribed by law.
3 Provided, that the decision of said courts shall be conclusive on
4 all questions of fact brought before them on appeal or error. Said
5 courts shall have such other jurisdiction, original and appellate,
6 as may be prescribed by law.

7 "Each of said Courts of Appeals shall hold its sessions at a
8 place in its district to be designated by the Legislature, and at
9 such time as may be prescribed by law. Said Justices shall be
10 elected by the qualified voters of their respective districts at a
11 general election, for a term of eight [~~six~~] years and shall receive
12 for their services the sum provided by law. Each Court of Appeals
13 shall appoint a clerk in the same manner as the clerk of the
14 Supreme Court which clerk shall receive such compensation as may be
15 fixed by law.

16 "[~~On the effective date of this amendment, the Justices of~~
17 ~~the present Courts of Civil Appeals become the Justices of the~~
18 ~~Courts of Appeals for the term of office to which elected or~~
19 ~~appointed as Justices of the Courts of Civil Appeals, and the~~
20 ~~Supreme Judicial Districts become the Supreme Judicial Districts~~
21 ~~for the Courts of Appeals.] All constitutional and statutory~~
22 references to the Courts of Civil Appeals shall be construed to
23 mean the Courts of Appeals.

24 "Section 7. The State shall be divided into as many judicial
25 districts as may now or hereafter be provided by law, which may be

____.J.R. No. ____

1 increased or diminished by law. For each district there shall be
2 elected by the qualified voters thereof, at a General Election, a
3 Judge, who shall be a citizen of the United States and of this
4 State, who shall be licensed to practice law in this State and
5 shall have been a practicing lawyer or a Judge of a Court in this
6 State, or both combined, for four (4) years next preceding his
7 election, who shall have resided in the district in which he was
8 elected for two (2) years next preceding his election, who shall
9 reside in his district during his term of office,, who shall hold
10 his office for the period of six (6) [~~four-(4)~~] years, and shall
11 receive for his services an annual salary to be fixed by the
12 Legislature. The Court shall conduct its proceedings at the county
13 seat of the county in which the case is pending, except as
14 otherwise provided by law. He shall hold the regular terms of his
15 Court at the County Seat of each County in his district at least
16 twice in each year in such manner as may be prescribed by law. The
17 Legislature shall have power by General or Special Laws to make
18 such provisions concerning the terms or sessions of each Court as
19 it may deem necessary.

20 "The Legislature shall also provide for the holding of
21 District Court when the Judge thereof is absent, or is from any
22 cause disabled or disqualified from presiding.

23 "[The--District--Judges--who--may--be--in--office--when--this
24 Amendment--takes--effect--shall--hold--their--offices--until--their
25 respective--terms--shall--expire--under--their--present-election-or

__J.R. No. __

1 ~~appointment.~~]"

2 SECTION 2. That the following temporary provision be added
3 to the Texas Constitution:

4 TEMPORARY PROVISION. (a) This temporary provision applies
5 to the constitutional amendment proposed by __J.R. No. __,
6 69th Legislature, Regular Session, 1985, and expires January 1,
7 2001.

8 (b) Each district judge and appellate judge who may be in
9 office at the time this amendment takes effect shall continue in
10 office until the expiration of his term of office under the
11 constitution as it existed on January 1, 1985, and until his
12 successor is elected and has qualified.

13 (c) The three associate justices of the supreme court who
14 are elected at the general election in 1988 for regular terms
15 beginning January 1, 1989, shall draw lots to determine which two
16 will serve for terms of six years ending December 31, 1994, and
17 which one will serve a term of eight years ending December 31,
18 1996. The three associate justices of the supreme court who are
19 elected at the general election in 1990 for regular terms beginning
20 January 1, 1991, shall draw lots to determine which one will serve
21 a term of six years ending December 31, 1996, and which two will
22 serve for terms of eight years ending December 31, 1998. The two
23 associate justices and the chief justice of the supreme court who
24 are elected at the general election in 1992 for regular terms
25 beginning January 1, 1993, serve for terms of eight years ending

1 December 31, 2000.

2 (d) The three judges of the court of criminal appeals who
3 are elected at the general election in 1988 for regular terms
4 beginning January 1, 1989, shall draw lots to determine which two
5 will serve for terms of six years ending December 31, 1994, and
6 which one will serve a term of eight years ending December 31,
7 1996. The two judges of the court of criminal appeals who are
8 elected at the general election in 1990 for regular terms beginning
9 January 1, 1991, shall draw lots to determine which one will serve
10 a term of six years ending December 31, 1996, and which one will
11 serve a term of eight years ending December 31, 1998. The
12 presiding judge of the court of criminal appeals who is elected at
13 the general election in 1990 for a regular term beginning January
14 1, 1991, serves for a term of eight years ending December 31, 1998.
15 The three judges of the court of criminal appeals who are elected
16 at the general election in 1992 for regular terms beginning January
17 1, 1993, shall draw lots to determine which one will serve a term
18 of six years ending December 31, 1998, and which two will serve for
19 terms of eight years ending December 31, 2000.

20 SECTION 3. This proposed constitutional amendment shall be
21 submitted to the voters at an election to be held November 4, 1986.
22 The ballot shall be printed to provide for voting for or against
23 the proposition: "The constitutional amendment increasing the
24 terms of district court judges to six years and the terms of
25 appellate court judges to eight years."