

BILL ANALYSIS

Senate Research Center

S.B. 621
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Jurisprudence
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As Filed

DIGEST

Currently, appellate justices and judges in Texas are elected to their positions as part of the general election. This forces judges to spend a significant amount of time and energy running for office as opposed to concentrating on their judicial responsibilities. Moreover, judges often raise money from the lawyers who practice in their courts, creating a perception of improper influence. In addition, judges are just as susceptible to partisan sweeps as any other candidate; qualifications, integrity, and ability often have very little to do with whether a judge remains in office. This bill will provide for retention or rejection elections for appellate justices and judges and eliminate straight-party voting in connection with appellate and district justices and judges.

PURPOSE

As proposed, S.B. 621 provides for retention or rejection elections for appellate justices and judges and eliminate straight-party voting in connection with appellate and district justices and judges.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the secretary of state in SECTIONS 3 and 7 (Sections 291.009 and 52.0661(c), Election Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 22, Government Code, by adding Subchapter E, as follows:

SUBCHAPTER E. APPOINTMENT, ELECTION, AND RETENTION OF JUSTICES AND JUDGES

Sec. 22.401. ELECTION AND RETENTION CYCLE. Provides that an appellate justice or judge is subject to partisan election in accordance with the applicable provisions of the Election Code at the last general election for state and county officers to be held before the date the justice's or judge's initial appointed term expires. Provides that in conjunction with the last general election for state and county officers to be held before the end of a term of office to which a justice or judge is elected, and in conjunction with the last general election to be held before the end of each following continuous term in that office, the justice or judge is subject to retention or rejection at the nonpartisan judicial retention election in accordance with Chapter 291, Election Code. Requires a vacancy, if a justice or judge does not seek retention, or withdraws from the retention election, as provided by Chapter 291, Election Code, to be filled in the manner prescribed by the Texas Constitution. Requires a vacancy, if the vacancy occurs in the office of a justice or judge seeking retention and the justice's or judge's name is omitted from the retention election ballot under Chapter 291, Election Code, to be filled in the manner prescribed by the Texas Constitution.

Sec. 22.402. EFFECT OF RETENTION VOTE. Sets forth effects of the retention election in various circumstances.

SECTION 2. Amends Section 41.002, Election Code, to require the nonpartisan judicial retention election to be held on the first Tuesday after the first Monday in November in even-numbered years.

SECTION 3. Amends the Election Code, by adding Title 17, as follows:

TITLE 17. NONPARTISAN JUDICIAL RETENTION ELECTIONS

CHAPTER 291. RETENTION ELECTION

Sec. 291.001. DECLARATION OF CANDIDACY. Sets forth procedures a justice or judge must follow to declare the justice's or judge's candidacy to succeed to the next term.

Sec. 291.002. WITHDRAWAL, DEATH, OR INELIGIBILITY. Sets forth the effects of withdrawal, death, or ineligibility of a candidate in a retention election.

Sec. 291.003. CERTIFICATION OF NAMES FOR PLACEMENT ON RETENTION ELECTION BALLOT. Sets forth procedures for certification of the name the secretary of state must follow to be placed on the retention election ballot.

Sec. 291.004. RETENTION ELECTION BALLOT. Sets forth the required form and language of the retention election ballot.

Sec. 291.005. GENERAL PROCEDURE FOR CONDUCT OF RETENTION ELECTION. Requires the retention election, except as otherwise provided by this code, to be conducted and the results canvassed, tabulated, and reported in the manner applicable to partisan offices in the general election for state and county officers. Requires a certificate of election to be issued to a retained officer in the same manner as provided for a candidate elected to the office.

Sec. 291.006. WRITE-IN VOTING PROHIBITED. Provides that write-in voting is not permitted in a retention election.

Sec. 291.007. POLITICAL CONTRIBUTIONS AND EXPENDITURES. Provides that a candidate for retention of a judicial office is subject to Title 15. Requires a candidate for retention of a judicial office to comply with that title in the same manner as a candidate for election to the office.

Sec. 291.008. APPLICABILITY OF OTHER PARTS OF CODE. Provides that the other titles of this code apply to a retention election under this chapter except provisions that are inconsistent with this title or that cannot feasibly be applied in a retention election.

Sec. 291.009. ADDITIONAL PROCEDURES. Requires the secretary of state to prescribe additional procedures necessary for the orderly and proper administration of retention elections held under this chapter.

SECTION 4. Amends Section 1.005, Election Code, by amending Subdivisions (9) and (20), and adding Subdivisions (25)-(27), to redefine "independent candidate" and "straight-party vote." Defines "nonpartisan judicial retention election," "nonpartisan judicial candidate," and "partisan appellate or district court office."

SECTION 5. Amends Section 52.065, Election Code, by adding Subsection (f), to require partisan appellate and district court offices to appear on the ballot in the same format as the other offices but under the heading "Partisan Appellate and District Court Offices" after the listing of the other offices.

SECTION 6. Amends Section 52.066, Election Code, by adding Subsection (e), to require partisan appellate and district court offices to appear on the ballot in the same format as the other offices but under the heading "Partisan Appellate and District Court Offices" after the listing of the other offices.

SECTION 7. Amends Chapter 52C, Election Code, by adding Section 52.0661, as follows:

Sec. 52.0661. SEPARATE LISTING OF UNOPPOSED PARTISAN APPELLATE AND DISTRICT COURT CANDIDATES. Requires any unopposed candidates for partisan

appellate or district court offices to be listed separately on the ballot under the heading "Uncontested Partisan Appellate and District Court Races" following the contested races for those offices. Requires the party alignment of each unopposed candidate for an office covered by this section to be indicated next to the candidate's name in the general election for state and county officers. Requires the secretary of state to prescribe any procedures or instructions necessary to implement this section.

SECTION 8. Amends Section 52.070(b), Election Code, to make a conforming change.

SECTION 9. Amends Section 52.071, Election Code, to require on a ballot on which a party column appears in connection with offices other than partisan appellate or district court offices, a square larger than the square prescribed by Section 52.070(a) to be printed to the left of each political party's name. Makes conforming changes.

SECTION 10. Amends Section 52.092, Election Code, to remove the state treasurer from the list of statewide offices of the state government to be listed on the ballot. Makes conforming changes.

SECTION 11. Amends Sections 65.007(b) and (c), Election Code, to make conforming changes.

SECTION 12. Amends Chapter 124A, Election Code, by amending Section 124.003 and adding Section 124.0031, as follows:

Sec. 124.003. New heading: SEPARATE LISTING OF UNOPPOSED CANDIDATES. Makes conforming and nonsubstantive changes.

Sec. 124.0031. SEPARATE LISTING OF UNOPPOSED PARTISAN APPELLATE AND DISTRICT COURT CANDIDATES. Authorizes the candidates listed under the uncontested partisan appellate and district court races heading to be arranged in a manner requiring voting on them as one or more groups, but only if an additional ballot or ballot label would otherwise be necessary to accommodate all the candidates and propositions to be listed.

SECTION 13. Amends Section 124.061(b), Election Code, to require the first sheet of a punch-card ballot label to indicate the sheet on which the listing of partisan appellate and district court offices, if any, begins.

SECTION 14. Amends Section 124.063(a), Election Code, to require the ballot to contain an instruction on how to vote in conjunction with any partisan appellate or district court offices appearing on the ballot.

SECTION 15. Amends Section 145.003(b), Election Code, to make conforming changes.

SECTION 16. Amends Section 145.005(a), Election Code, to require the votes cast for the candidate, if the name of a deceased or ineligible candidate appears on the ballot, to be counted and entered on the official election returns in the same manner as for the other candidates.

SECTION 17. Amends Section 202.001, Election Code, to provide that this chapter does not apply to the office of justice or judge of an appellate court.

SECTION 18. (a) Provides that each supreme court justice, court of criminal appeals judge, and court of appeals justice in office January 1, 1998, unless otherwise removed as provided by law, continues in office for the term to which elected.

(b) Provides that each supreme court justice, court of criminal appeals judge, and court of appeals justice who is in office January 1, 1998, is subject to retention or rejection, in the manner provided by law, at the general election preceding the expiration of the regular or unexpired term for which each was elected or appointed. Provides that a vacancy does not exist in those offices until the expiration of the term of the person who held the office January

1, 1998, or until that person does not hold the office, whichever occurs first.

SECTION 19. Provides that this Act takes effect only if the constitutional amendment proposed by the 75th Legislature, Regular Session, 1997, relating to the filing by gubernatorial appointment of vacancies in the offices of appellate justices and judges, and to the appointment of district judges in accordance with certain standards is adopted. Provides that if the amendment is adopted, this Act takes effect January 1, 1998.

SECTION 20. Emergency clause.