

BILL ANALYSIS

Senate Research Center
78R4447 KCR-D

S.J.R. 26
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Jurisprudence
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DIGEST AND PURPOSE

Currently in Texas, a property interest must vest in a person entitled to the property within a certain period of time. The principle, commonly known as the rule against perpetuities (RAP), limits the right to control the disposition of trust assets for more than one or two generations by requiring that a trust must terminate within that same period of time, approximately 90 years. Under current federal tax law, however, it is possible to create a trust that can grow, free of estate, gift, or generation-skipping tax, as long as the trust lasts. There are limits on how much can be placed into such a trust. Due to RAP, a trust must terminate after approximately 90 years, and the assets in a trust are taxed again due to estate and generation-skipping taxes. S.J.R. 26 proposes a constitutional amendment to remove the prohibition against perpetual trusts.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 26, Article I, Texas Constitution, to provide that this section prohibiting perpetuities, monopolies, primogeniture, and entailments does not apply to perpetual trusts.

SECTION 2. Requires this proposed constitutional amendment to be submitted to the voters at an election to be held November 4, 2003. Requires the ballot to be printed to permit voting for or against the proposition: "The constitutional amendment removing the prohibition against perpetual trusts."