

SUBJECT: Creating a judicial compensation commission

COMMITTEE: Judicial Affairs — favorable, without amendment

VOTE: 6 ayes — Thompson, Hartnett, Capelo, Deshotel, Jim Solis, Uresti
1 nay — Shields
2 absent — Garcia, Hinojosa

SENATE VOTE: On final passage, April 15 — 30-0

WITNESSES: None

BACKGROUND: The Legislature establishes salaries for members of the Texas Supreme Court, the Court of Criminal Appeals, the 14 courts of appeal, and the 396 district courts. Salaries of all state officers, including state judges, are set in the General Appropriations Act. Government Code sec. 659.012 establishes a formula for determining judicial salaries based on the salary set by the Legislature for a Supreme Court justice.

DIGEST: SJR 10 would amend Article 5 of the Texas Constitution to authorize the Legislature to create a judicial compensation commission. The commission’s recommendations for judicial salaries would become law if neither the Senate nor the House rejected the recommendations by majority vote. The commission could make recommendations on salaries only for members of the Texas Supreme Court, the Court of Criminal Appeals, the courts of appeals, and district courts.

The proposal would be presented to the voters at an election on November 2, 1999. The ballot proposal would read: “The constitutional amendment authorizing the legislature to create a judicial compensation commission.”

SUPPORTERS SAY: Approval by Texas voters of SJR 10, along with enactment of SB 71 by Brown, would create an independent panel that would determine judicial salaries on the basis of clear criteria. In the past, the Legislature’s determination of judicial salaries has been a political “hot potato,” in part because of the connection of judicial salaries to the legislative retirement

plan. After an evaluation of the Texas judicial system, the Texas Commission on Judicial Efficiency recommended creation of a commission that would be responsible for making recommendations on judicial salaries.

The elected Legislature would retain a large role in the determination of judicial salaries because either the House or the Senate could veto the commission's recommendation. Nothing would preclude the Legislature from overriding the commission's recommendations and setting different salaries.

Currently, judicial salaries in Texas lag behind those in other states. In setting salaries for Texas judges, the proposed independent commission could consider judicial salaries in other states as well as the compensation packages for private-sector attorneys and public officials. Setting appropriate salary levels would ensure that the Texas judiciary could continue to attract and retain the high-quality judges that Texans expect and deserve. SJR 10 would let Texas voters decide whether to establish this commission.

**OPPONENTS
SAY:**

The proposed judicial compensation commission would have authority best reserved to the Legislature. The Legislature is elected to make difficult decisions that often may involve political considerations. Elected officials, not commission members appointed by the governor, should determine judicial salaries, which are paid from taxpayer dollars.

Granting an appointed commission even limited lawmaking authority would set a bad precedent and blur the separation of powers. It would stand the lawmaking process on its head, allowing an executive-appointed commission to make law subject to veto by the Legislature in setting salaries for the judicial branch.

NOTES:

SB 71 by Brown, which would establish the structure, membership, and powers of the judicial compensation commission, is on today's Major State Calendar.

An identical proposal, SJR 20 by Brown, was adopted by the Senate during the 1997 legislative session, but died in the House Calendars Committee.