A BILL TO BE ENTITLED

1   AN ACT

2 relating to filling vacancies in appellate judicial offices by

3 appointment, partisan elections for all judicial offices, and

4 nonpartisan elections for the retention or rejection for all

5 judicial offices.

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

7   SECTION 1. Subchapter D, Chapter 22, Government Code, is

8 amended by adding Sections 22.303 and 22.304 to read as follows:

9   Sec. 22.303. ELECTION, RETENTION, AND APPOINTMENT OF

10 APPELLATE JUSTICES AND JUDGES. (a) The office of appellate justice

11 or judge is subject to partisan election in accordance with the

12 applicable provisions of the Election Code at the last general

13 election for state and county officers to be held before the date:

14   (1) the term of a justice or judge who was elected in a

15 partisan election or retained in a nonpartisan judicial retention

16 election expires, if the justice or judge does not seek retention;

17 or

18   (2) the initial term, including a partial term, of a

19 justice or judge who was appointed expires.

20   (b) In conjunction with the last general election for state

21 and county officers to be held before the end of a term of office to

22 which an appellate justice or judge is elected, and in conjunction

23 with the last general election to be held before the end of each

24 following continuous term in that office, the justice or judge is

1 subject to retention or rejection at the nonpartisan judicial

2 retention election in accordance with Chapter 521, Election Code.

3   (c) If an appellate justice or judge does not seek

4 retention, or withdraws from the retention election, as provided by

5 Chapter 521, Election Code, the vacancy existing at the beginning

6 of the succeeding term shall be filled in the manner prescribed by

7 the constitution.

8   (d) If a vacancy occurs in the office of an appellate

9 justice or judge seeking retention and the name of the justice or

10 judge is omitted from the retention election ballot under Chapter

11 521, Election Code, the vacancy shall be filled in the manner

12 prescribed by the constitution.

13   Sec. 22.304. EFFECT OF RETENTION VOTE. (a) If a majority

14 of the votes received on the question are for the retention of the

15 appellate justice or judge, the person is entitled to remain in

16 office for a regular term beginning on the first day of the

17 following January, unless the person becomes ineligible or is

18 removed as provided by law.

19   (b) If less than a majority of the votes received on the

20 question are for retention, a vacancy in the office exists on the

21 first day of the following January, and the vacancy shall be filled

22 in the manner prescribed by the constitution.

23   (c) If the name of an appellate justice or judge seeking

24 retention appears on the retention election ballot under Chapter

25 521, Election Code, although a vacancy has occurred in the office,

26 the retention election for that office has no effect, and the

27 vacancy shall be filled in the manner prescribed by the

1 constitution.

2   SECTION 2.   Chapter 24, Government Code, is amended by

3 adding Subchapter A-1 to read as follows:

4   SUBCHAPTER A-1. ELECTION AND RETENTION OF DISTRICT JUDGES

5   Sec. 24.051. ELECTION AND RETENTION CYCLE. (a) A district

6 judge is subject to partisan election in accordance with the

7 applicable provisions of the Election Code at the last general

8 election for state and county officers to be held before the date:

9   (1) the term of a judge who was elected in a partisan

10 election or retained in a nonpartisan judicial retention election

11 expires, if the judge does not seek retention; or

12   (2) the initial term, including a partial term, of a

13 judge who was appointed expires.

14   (b) In conjunction with the last general election for state

15 and county officers to be held before the end of a term of office to

16 which a district judge is elected, and in conjunction with the last

17 general election to be held before the end of each following

18 continuous term in that office, the judge is subject to retention or

19 rejection at the nonpartisan judicial retention election in

20 accordance with Chapter 521, Election Code.

21   (c) If a district judge does not seek retention, or

22 withdraws from the retention election, as provided by Chapter 521,

23 Election Code, the vacancy existing at the beginning of the

24 succeeding term shall be filled in the manner prescribed by the

25 constitution.

26   (d) If a vacancy occurs in the office of a district judge

27 seeking retention and the judge's name is omitted from the

1 retention election ballot under Chapter 521, Election Code, the

2 vacancy shall be filled in the manner prescribed by the

3 constitution.

4   Sec. 24.052. EFFECT OF RETENTION VOTE. (a) If a majority

5 of the votes received on the question are for the retention of the

6 district judge, the person is entitled to remain in office for a

7 regular term of four years beginning on the first day of the

8 following January, unless the person becomes ineligible or is

9 removed as provided by law.

10   (b) If less than a majority of the votes received on the

11 question are for retention, a vacancy in the office exists on the

12 first day of the following January, and the vacancy shall be filled

13 in the manner prescribed by the constitution.

14   (c) If the name of a district judge seeking retention

15 appears on the retention election ballot under Chapter 521,

16 Election Code, although a vacancy has occurred in the office, the

17 retention election for that office has no effect, and the vacancy

18 shall be filled in the manner prescribed by the constitution.

19   SECTION 3. The Election Code is amended by adding Title 18

20 to read as follows:

21   TITLE 18. NONPARTISAN JUDICIAL RETENTION ELECTIONS

22   CHAPTER 521. RETENTION ELECTION

23   Sec. 521.001. DECLARATION OF CANDIDACY. (a) Not later than

24 5 p.m. on November 1 of the year preceding the nonpartisan judicial

25 retention election at which the justice or judge is subject to

26 retention or rejection, a justice or judge who seeks to continue to

27 serve in that office must file with the secretary of state a

1 declaration of candidacy to succeed to the next term.

2 (b) A declaration may not be filed earlier than the 30th day

3 before the date of the filing deadline. A declaration filed by mail

4 is considered to be filed at the time of its receipt by the

5 appropriate authority.

6 (c) The filling of the subsequent vacancy for the office for

7 which a declaration of candidacy is not filed is covered by Section

8 22.303, Government Code, for an appellate justice or judge or

9 Chapter 24, Government Code, for the office of district judge.

10 Sec. 521.002. WITHDRAWAL, DEATH, OR INELIGIBILITY. (a)

11 With respect to withdrawal, death, or ineligibility of a candidate

12 in a nonpartisan judicial retention election, this section

13 supersedes Subchapter A, Chapter 145, to the extent of any

14 conflict.

15 (b) A candidate may not withdraw from the retention election

16 after the 74th day before election day.

17 (c) A withdrawal request must be filed with the authority

18 with whom the withdrawing candidate's declaration of candidacy is

19 required to be filed.

20 (d) A candidate's name shall be omitted from the retention

21 election ballot if the candidate withdraws, dies, or is declared

22 ineligible on or before the 74th day before election day.

23 (e) If a candidate who has made a declaration of candidacy

24 that complies with the applicable requirements dies or is declared

25 ineligible after the 74th day before election day, the candidate's

26 name shall be placed on the retention election ballot.

27 (f) The filling of the subsequent vacancy for the office

1 following implementation of Subsection (d) or (e) is covered by

2 Section 22.303, Government Code, for an appellate justice or judge

3 or Chapter 24, Government Code, for the office of district judge.

4   Sec. 521.003. CERTIFICATION OF NAMES FOR PLACEMENT ON

5 RETENTION ELECTION BALLOT. (a) Except as provided by Subsection

6 (c), the secretary of state shall certify in writing for placement

7 on the nonpartisan judicial retention election ballot the name of

8 each candidate who files with the secretary a declaration of

9 candidacy that complies with Section 521.001.

10   (b) Not later than the 68th day before election day, the

11 secretary of state shall deliver the certification to the authority

12 responsible for having the official ballot prepared in each county

13 in which the candidate's name is to appear on the ballot.

14   (c) A candidate's name may not be certified if, before

15 delivering the certification, the secretary of state learns that

16 the name is to be omitted from the ballot under Section 521.002.

17   Sec. 521.004. RETENTION ELECTION BALLOT. The name of the

18 person subject to retention or rejection shall be submitted to the

19 voters on the nonpartisan judicial retention election ballot

20 following the offices subject to election under the heading

21 "Retention of Nonpartisan Judicial Offices," in substantially the

22 following form:

23   "Shall (Justice or Judge)_____

24   _____

25   be retained in office as (justice or judge) of the

26   (name of court)_____?"

27   ____"Yes"

1   _____"No"

2   Sec. 521.005. GENERAL PROCEDURE FOR CONDUCT OF RETENTION

3 ELECTION. (a) Except as otherwise provided by this code, the

4 nonpartisan judicial retention election shall be conducted and the

5 results canvassed, tabulated, and reported in the manner applicable

6 to partisan offices in the general election for state and county

7 officers.

8   (b) A certificate of election shall be issued to a retained

9 officer in the same manner as provided for a candidate elected to an

10 office.

11   Sec. 521.006. WRITE-IN VOTING PROHIBITED. Write-in voting

12 is not permitted in a nonpartisan judicial retention election.

13   Sec. 521.007. POLITICAL CONTRIBUTIONS AND EXPENDITURES. A

14 candidate for retention of a judicial office is subject to Title 15

15 and shall comply with that title in the same manner as a candidate

16 for election to the office.

17   Sec. 521.008. APPLICABILITY OF OTHER PARTS OF CODE. The

18 other titles of this code apply to a nonpartisan judicial retention

19 election except provisions that are inconsistent with this title or

20 that cannot feasibly be applied in a retention election.

21   Sec. 521.009. ADDITIONAL PROCEDURES. The secretary of

22 state shall prescribe any additional procedures necessary for the

23 orderly and proper administration of elections held under this

24 chapter.

25   SECTION 4. Section 1.005, Election Code, is amended by

26 amending Subdivision (9) and adding Subdivisions (12-a) and (12-b)

27 to read as follows:

1   (9) "Independent candidate" means a candidate in a
2 nonpartisan election or a candidate in a partisan election who is
3 not the nominee of a political party. The term does not include a
4 nonpartisan judicial candidate.
5   (12-a) "Nonpartisan judicial candidate" means a
6 candidate in a nonpartisan judicial retention election.
7   (12-b) "Nonpartisan judicial retention election"
8 means an election held under Title 18.
9   SECTION 5. Section 41.002, Election Code, is amended to
10 read as follows:
11   Sec. 41.002. GENERAL ELECTION FOR STATE AND COUNTY
12 OFFICERS. The general election for state and county officers,
13 including the nonpartisan judicial retention election, shall be
14 held on the first Tuesday after the first Monday in November in
15 even-numbered years.
16   SECTION 6. Section 52.092, Election Code, is amended by
17 amending Subsection (a) and adding Subsections (f-1) and (f-2) to
18 read as follows:
19   (a) For an election at which offices regularly filled at the
20 general election for state and county officers, including the
21 nonpartisan judicial retention election, are to appear on the
22 ballot, the offices shall be listed in the following order:
23   (1) offices of the federal government;
24   (2) offices of the state government:
25   (A) statewide offices;
26   (B) district offices;
27   (3) offices of the county government:

8

1   (A) county offices;

2   (B) precinct offices.

3   (f-1) Nonpartisan statewide judicial retention election

4 offices shall be listed in the following order:

5   (1) chief justice, supreme court;

6   (2) justice, supreme court;

7   (3) presiding judge, court of criminal appeals;

8   (4) judge, court of criminal appeals;

9   (5) chief justice, court of appeals;

10   (6) justice, court of appeals.

11   (f-2) Nonpartisan district judicial retention election

12 offices shall be listed in the following order:

13   (1) district judge;

14   (2) criminal district judge;

15   (3) family district judge.

16   SECTION 7. Section 145.003(b), Election Code, is amended to

17 read as follows:

18   (b) A candidate in the general election for state and county

19 officers, including the nonpartisan judicial retention election,

20 may be declared ineligible before the 30th day preceding election

21 day by:

22   (1) the party officer responsible for certifying the

23 candidate's name for placement on the general election ballot, in

24 the case of a candidate who is a political party's nominee; or

25   (2) the authority with whom the candidate's

26 application for a place on the ballot or declaration of candidacy is

27 required to be filed, in the case of an independent candidate or a

1 nonpartisan judicial candidate, as applicable.

2   SECTION 8. Section 145.005(a), Election Code, is amended to

3 read as follows:

4   (a) If the name of a deceased, withdrawn, or ineligible

5 candidate appears on the ballot [under this chapter], the votes

6 cast for the candidate shall be counted and entered on the official

7 election returns in the same manner as for the other candidates.

8   SECTION 9. Section 202.001, Election Code, is amended to

9 read as follows:

10   Sec. 202.001. APPLICABILITY OF CHAPTER. This chapter

11 applies to elective offices of the state and county governments

12 except the offices of:

13   (1) state senator and state representative; and

14   (2) justice or judge of an appellate or district

15 court.

16   SECTION 10. Section 253.153(a), Election Code, is amended

17 to read as follows:

18   (a) A judicial candidate or officeholder, a

19 specific-purpose committee for supporting or opposing a judicial

20 candidate, or a specific-purpose committee for assisting a judicial

21 officeholder may not knowingly accept a political contribution

22 except during the period:

23   (1) beginning on:

24   (A) if the office is subject to a nonpartisan

25 judicial retention election, the 210th day before the date a

26 declaration of candidacy is required to be filed; or

27   (B) if the office is not subject to a nonpartisan

1 judicial retention election:

2   (i) the 210th day before the date an

3 application for a place on the ballot or for nomination by

4 convention for the office is required to be filed, if the election

5 is for a full term; or

6   (ii) [(B)] the later of the 210th day

7 before the date an application for a place on the ballot or for

8 nomination by convention for the office is required to be filed or

9 the date a vacancy in the office occurs, if the election is for an

10 unexpired term; and

11   (2) ending on the 120th day after the date of the

12 election in which the candidate or officeholder last appeared on

13 the ballot, regardless of whether the candidate or officeholder has

14 an opponent in that election.

15   SECTION 11. (a) Each appellate justice or judge in office

16 January 1, 2014, unless otherwise removed as provided by law,

17 continues in office subject to this section.

18   (b) Each appellate justice or judge who is in office January

19 1, 2014, is subject to retention or rejection, in the manner

20 provided by law for a justice or judge appointed to the office after

21 the effective date of this Act, at the last general election

22 preceding the expiration of the regular or unexpired term for which

23 each was elected or appointed.

24   SECTION 12. (a) Each district judge in office January 1,

25 2014, unless otherwise removed as provided by law, continues in

26 office subject to this section.

27   (b) Each district judge in office January 1, 2014, is

1 subject to retention or rejection, in the manner provided by law, at

2 the general election preceding the expiration of the regular or

3 unexpired term for which each was elected or appointed. A vacancy

4 does not exist in those offices until the expiration of the term of

5 the person who held the office January 1, 2014, or until that person

6 does not hold the office, whichever occurs first.

7   SECTION 13. This Act takes effect January 1, 2014, but only

8 if the constitutional amendment proposed by the 83rd Legislature,

9 Regular Session, 2013, providing for appointment to fill vacancies

10 in the offices of the justices and judges of the appellate courts,

11 for partisan elections for all judicial offices, and for subsequent

12 nonpartisan retention elections for all judicial offices is

13 approved by the voters. If that amendment is not approved by the

14 voters, this Act has no effect.