

The Quorum Report

Editor: Harvey Kronberg
P.O. Box 8 Austin, Texas 78767
Voice: 512-292-8191
Fax: 512-292-0099
Email: kronberg@quorumreport.com

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JUDGES AND LEGISLATORS ARGUE JUDICIAL SELECTION

TPPF Forum highlights divisions over issue

While hardly on the state's political front burner, the question of whether to scrap the current system of electing judges in Texas continues to be posed. That's largely due to the efforts of state Sen. **Robert Duncan (R-Lubbock)** who continues to introduce legislation on the issue with each legislative session.

To illustrate his point Wednesday, he asked a crowd gathered for a panel discussion on the topic at the *Texas Public Policy Foundation* a few simple, pointed questions. How many justices sit on the *Court of Criminal Appeals*? Who presides over the *Court of Criminal Appeals*? Can you name who you voted for in the last statewide judicial election? The answers (or lack thereof) could have given a civics teacher fits.

The point is, according to **Duncan**, is that the general public simply doesn't know enough about statewide judicial candidates to intelligently elect the most qualified justices. The selection of judges thus becomes the province of party politics and big pocket donors. And at the local level, the problem is even worse, he said. Judges in small towns by and large won't draw an opponent because "who wants to run against a sitting judge and lose and have to argue in front of him the rest of your career," he said.

The senator, who practices civil law with the Lubbock firm of *Crenshaw, Dupree & Milam*, said he's had to argue cases in enough "judicial hellholes" to argue the system needs fundamental reform. For the past several sessions, he's introduced legislation that would allow for the appointment of judges who would then have to win elections to stay in office every six years.

His bills have sometimes made it out of the Senate, but haven't made it out of the House.

State Rep. **Dan Gattis (R-Georgetown)** agreed that the voters often times don't know enough about the judges for whom they are voting, but he argued that isn't a good enough reason for canceling judicial elections. The folks who appear on Jay Leno's "Jaywalking" segment don't know who the President is and "a lot of people in Williamson County don't know who I am," he said. But no one would suggest canceling presidential or legislative elections because of that.

Moreover, a state district judge "can separate you from your money, your children and your life," he said. "Do we really want to remove accountability from that?" He said that efforts to prevent voters from choosing their judges smacked of paternalism and elitism.

Justice **Jan Patterson** of the *Third Court of Appeals* was the only Democrat on the panel. She said that running for election has put her in positions that might be considered beneath the dignity of a judge, such as judging a goat beauty contest. She's not regretful, though, about standing for election. She said that hustling for votes has made her a better judge.

However, she disagreed with the partisan nature of judicial elections in the state. She said she favors making judicial elections non-partisan and making the seats on the higher courts appointed.

Gattis agreed that the system of electing judges could be reformed in favor of non-partisan contests. Supreme Court Justice **Scott Brister** said that the state would benefit from a smaller number of courts of appeal. He noted that Texas has 14 courts of appeal – one more than the total number of federal circuit courts.

The result, **Brister** argued, were courts ideologically stacked one way or the other because they did not cover a diverse enough region. One way to fix that would be to make each appeals court cover more territory.

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