



**TESTIMONY  
HB 3995  
House Judicial and Civil Jurisprudence Committee  
April 6, 2009**

The League of Women Voters of Texas (LWV-TX) thanks Rep. Todd Hunter for introducing **HB 3995** that would provide for a nonpartisan appointment/retention system to select appellate court judges and justices. The League of Women Voters is a nonpartisan organization celebrating its 90<sup>th</sup> year promoting good government. The League does not support or oppose candidates or political parties.

Support for a nonpartisan selection of Texas judges has a long history in the League. The League initiated a study of the Texas Constitution in 1959 that included the judiciary and how judges are selected in Texas. From that and subsequent studies as far back as 1965 to a recent restudy of the Texas Judicial System in 2001, League members have supported a nonpartisan appointment of judges and justices followed by periodic nonpartisan elections to retain or reject the judges or justices when their terms of office are up. LWV-TX believes that this system would be the most effective method to ensure an independent judiciary. It is often referred to as a merit system and allows judges to run on their record, not on their political affiliation.

The Texas Judicial System stems from the Texas Constitution of 1876 when the state was largely rural and at a time when Texas leaders were suspicious of placing too much power in the hands of a few. Times have changed. Our system of selecting Texas judges should move forward into the 21<sup>st</sup> century. Texas is one of six states that elect judges by party affiliation. Most other states have some form of appointment/retention system or election on a nonpartisan ballot. Some states use a nonpartisan diverse commission to recommend the appointments.

Among the enduring principles supported by the American Bar Association Standing Committee on Judicial Independence are that judges should uphold the law, be independent, be impartial, and justify public faith and confidence in the courts. Many believe public confidence has eroded in Texas because of the huge amounts of money needed by judicial candidates to run competitively for office on a party ticket. Former United States Supreme Court Justice Sandra Day O'Connor has stated that there is too much special interest money and influence in state court elections. She and others such as the American Bar Association and Justice at Stake believe our judicial system is in jeopardy. Justice at Stake, a nonpartisan nonprofit organization that works for fair and impartial courts, noted that special interests are spending

millions to influence decisions, that the cost of judicial campaigns is skyrocketing, and that there are misleading and partisan attacks on judges' decisions leading to the term "activist judges". Lawyers and law firms who donate to judicial candidates may be arguing cases before the very judges to whom they have donated money. This does not inspire public confidence in the court system.

H.B. 3395 would change the current system by providing for appointment of appellate court judges to fill vacancies, followed by nonpartisan judicial retention or rejection elections. A majority vote would retain the judge in the position to which (s)he was appointed. Write-in voting would not be permitted. This system would not only promote a fair and impartial judiciary, but also dramatically reduce the cost of running for office. It also combines appointment with an election so the public has an opportunity to vote to retain or reject judges based on the quality of their record of service.

The League of Women Voters of Texas urges the committee members to vote favorably for H.B. 3995. Thank you.