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THE SELECTION OF JUDGES IN TEXAS: ANALYSIS OF THE CURRENT SYSTEM AND OF THE PRINCIPAL REFORM OPTIONS

Mark P. Jones, Ph.D.
Fellow in Political Science

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Executive Summary

Texas is one of only two states that initially elects and then re-elects its judges in partisan elections where voters have the option of casting a straight-ticket vote. A consequence of this rare combination of partisan elections and straight-ticket voting is extremely limited variation in the share of the vote received by judicial candidates and a concomitant tendency for judicial election sweeps whereby one party wins all of the judicial races within a jurisdiction, be it at the statewide, appeals court district, or county level. At present, an overwhelming majority of Texas judges are elected based not on their legal qualifications and judicial philosophy, or even on their own campaign efforts, but rather on the performance of their party (in the straight-ticket vote) and of their party's top-tier candidates (e.g., presidential, gubernatorial) within the jurisdiction where their race is being contested.

Approximately one-half of the 50 U.S. states select their supreme court and intermediate court judges via the use of a judicial nominating commission which proposes a slate of candidates to the governor who appoints the judges, either with or without confirmation by the state senate. A little more than two-fifths of the states select their supreme court and intermediate court judges via popular elections, nonpartisan in two-thirds and partisan in one-third. Almost three-fifths of the states select their trial court judges in popular elections, two-thirds in nonpartisan elections and one-third in partisan elections.

In 1992, 20 states provided voters with a straight-ticket voting option. Two dozen years later, that number had dropped by half to 10 in 2016. During this same time period the proportion of Texans who cast a straight-ticket vote steadily increased, with more than three-fifths of the state's voters casting a straight-ticket vote in the last three elections (2012, 2014, 2016). In many counties such as Harris, Dallas, Tarrant, Fort Bend, and Montgomery, two out of every three voters now vote straight-ticket.

Analysis of judicial elections between 2008 and 2016 reveals that a party's judicial candidates running in the same jurisdiction tend to receive shares of the popular vote that are extremely similar. The median difference in the vote share received by the majority party's candidates was 0.58 percent in statewide judicial races, 0.52 percent in court of appeals races, and 0.96 percent in county-level races in the 20 most populous counties. This limited variance underscores the reality that an overwhelming majority of voters are indirectly voting for a party's judicial candidates via their straight-ticket vote, often not even looking at the judicial races on their ballot.

The principal consequence of this limited vote-share variance is the prevalence of partisan sweeps at the statewide, appeals court district, and county levels where a single party wins all of the judicial races on the ballot within a jurisdiction. Between 2008 and 2016 an average of 100 percent of statewide, 94 percent of appeals court district, and 88 percent of county-level jurisdictions experienced partisan sweeps. And the trend is toward an increasing prevalence of sweeps, with 100 percent of the appeals courts and between 90 and 95 percent of the counties experiencing partisan sweeps during the two most recent electoral cycles.

Harris County elects more judges at the county level (district and county court) than any other county. It also is arguably the most competitive of the state's five most populous counties, with Democrats winning the largest share of the vote in three of the past five elections and Republicans winning the largest share in two. There exists very little variance in the share of the popular vote won by a party's county-level judicial candidates in Harris County, with more than half of a party's candidates having a share of the vote that is within one percent of their fellow judicial candidates. As a result of this limited variance, when a party wins the straight-ticket vote by more than a fraction in the county, it wins either all (100 percent in 2010, 2014, 2016) or most (85 percent in 2008) of the judicial races.

The partisan sweeps in Harris County often result in the defeat of the judicial candidate who the members of the Houston Bar Association (HBA) consider to be the superior candidate. The data suggest that the attorneys base their preferences more on a candidate's skills, experience, and philosophy as a jurist than on his or her partisan affiliation. In some elections, approximately two-thirds of the candidates preferred by HBA members lose, victims of the partisan sweep caused almost exclusively by their party's overall sub-par performance.

Every legislative session, bills are introduced to reform the methods by which Texas judges are selected. Here, four prominent potential reforms are presented, along with a summary of their principal advantages and disadvantages. These reforms could be implemented for the selection of all judges or of only a subset (e.g., trial court judges), in the latter case following the model of the dozen states that utilize different methods to select their appellate court and trial court judges.

The reforms vary in the extent to which they would deviate from the status quo in Texas, with the first two requiring the amendment of the Texas Constitution and the latter two possible to implement via statute alone. The most extreme reform utilizes a judicial nominating commission to draft a slate of candidates from which the governor appoints a judge, with the governor endowed with the power of reappointment. The second reform employs an identical initial appointment method via a judicial nominating commission, but reappointment is determined by a retention election whereby voters are given the option to retain or remove a judge.

The third reform maintains the popular election of judges, but removes the partisan label for judicial candidates along with the direct role of the parties (i.e., party primaries) in the candidate-selection process. The fourth reform is identical to the current selection method employed in Texas, with the exception that the straight-ticket option does not apply to judicial elections and the ballot is redesigned to ameliorate the effect of this reform on ballot roll-off (i.e., undervoting).

The Selection of Judges in Texas: Analysis of the Current System and of the Principal Reform Options

Texas is an outlier among U.S. states in regard to the manner in which it selects its appellate and trial court judges. The state combines partisan elections with straight-ticket voting, the result of which is an unusually strong tendency for partisan sweeps in statewide, appeals court district, and county-level judicial elections.

This report is divided into ten main sections. Section I provides a broad overview of the different methods (and their popularity) employed to select judges across the United States. Section II examines the evolution of the use of straight-ticket voting in the United States. Section III highlights the rarity of Texas's combination of the partisan election of judges with straight-ticket voting. Section IV details the organization of the Texas court system and the rules governing the selection of judges in the state. Section V provides an empirical analysis of straight-ticket voting trends in Texas and in the state's 20 most populous counties. Section VI underscores the limited variance that exists in the popular vote won by judicial candidates via a statistical analysis of district- and election-specific pairwise comparisons of the share of the vote received by the majority party's judicial candidates at the statewide, court of appeals district, and county levels. Section VII contains empirical analysis of the prevalence of judicial sweeps in Texas at the statewide, court of appeals district, and county levels. Section VIII contains a case study of the consequences of the combination of partisan elections and straight-ticket voting in Harris County, the state's most populous county (and the third most populous county in the nation). Section IX presents four leading reform options for the selection of Texas judges along with a discussion of the reforms' respective principal advantages and disadvantages. Section X concludes.

I. Judicial Selection Across the 50 States

The 50 U.S. states employ a wide variety of methods to select their state judges, with the methods often varying depending on whether the court in question in the state is an appellate court (supreme or intermediate) or a trial court. These selection methods can, however, be placed into two general categories (appointment and election), which in turn each have a set of subcategories.

The Selection of Supreme Court Judges

The most common method of judicial selection for supreme and intermediate courts is appointment via a judicial nominating commission. Among the 50 states, 48 have a single supreme court, while Oklahoma and Texas have two supreme courts (in Texas, the Texas Supreme Court and the Texas Court of Criminal Appeals). The most common method of judicial selection for trial courts is via a nonpartisan election.

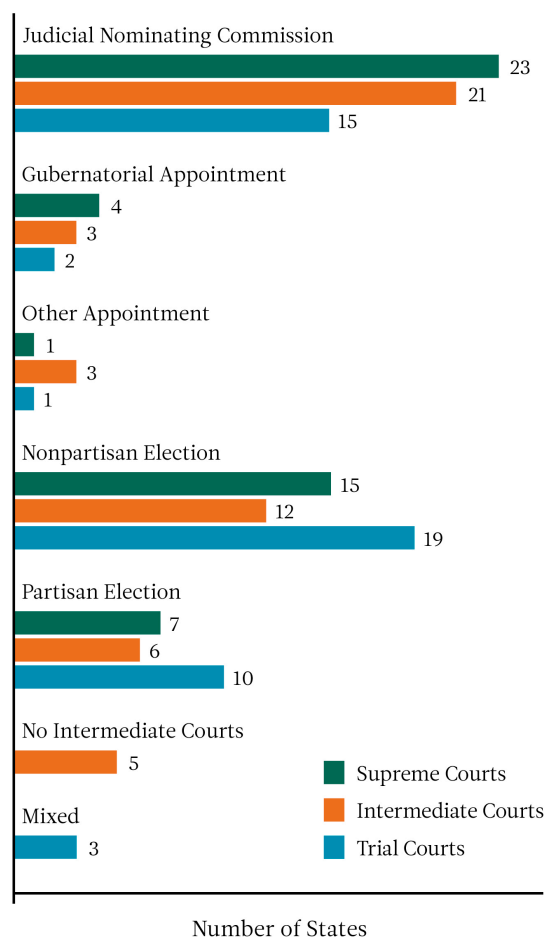
As Figure 1 details, 23 states employ a judicial nominating commission for the selection of their supreme courts, while another five employ some other type of appointment method (gubernatorial or legislative), resulting in a majority of states (28) that select their supreme court judges via appointment. It should be noted that in the 23 states where a judicial nominating commission is employed, the commission provides a list of candidates from which the governor (or legislature, in South Carolina) makes the final appointment, in some states with the consent of the state senate. While the initial selection of judges in these states is done via appointment, in a majority of these states (16) retention elections are held to determine whether or not a judge should continue in office. In these retention elections, incumbent judges appear alone on the ballot and voters cast a yes or no vote on whether or not to retain them.

Supreme court judges are selected via contested popular elections in 22 states, nonpartisan elections in 15 states, and partisan elections in seven states. In an overwhelming majority of these states, judges run for reelection by the same method of nonpartisan or partisan election, but in three cases judges originally elected in a nonpartisan (one state) or partisan (two states) election are retained via retention elections.

The Selection of Intermediate Court Judges

Five states do not have intermediate (appellate) courts. Among the remaining 45 states, appointment via either a judicial nominating commission (21) or some other form of appointment (six) is the most common method of judicial selection. As was the case for the supreme courts where judicial nominating commissions are used, the governor appoints a justice from a list provided by the nominating commission, sometimes with and sometimes without the confirmation of the state senate. Among the five states where appointment without a nominating commission is used to name intermediate judges, in two the appointment is made by the governor while in the others the appointment is made by the legislature, the chief justice of the supreme court, or the supreme court. Sixteen of these 26 states utilize retention elections for the reelection of intermediate court judges.

Figure 1. Judicial Selection Methods in the 50 States



Eighteen states directly elect their intermediate judges via contested popular elections, with two-thirds of these elections nonpartisan and one-third partisan. In 15 of these states, judges run for reelection in the same type of election (nonpartisan or partisan) by which they were first elected, while in three (one with initial nonpartisan elections and two with initial partisan elections), they compete in retention elections.

The Selection of Trial Court Judges

Nonpartisan elections are the most common method utilized to select trial court judges, with 19 of the 50 states choosing their trial court judges via this method. An additional 10 states elect their trial court judges in partisan elections, for a total of 29 states that utilize contested popular elections to initially choose their trial court judges.

Judicial nominating commissions are used in 15 states to select trial court judges, while three other states employ another form of appointment (gubernatorial or legislative). As was the case with the supreme court and intermediate court judges selected via the former methodology, governors appoint trial court judges from a list of names provided by a judicial nominating commission, with this appointment often needing confirmation from the state senate. In all but a handful of these states, once initially selected, these appointed judges retain their position via retention elections.

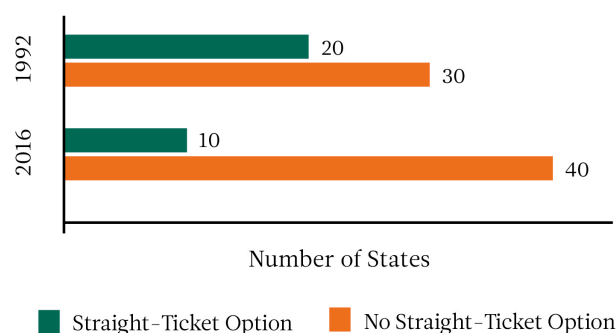
Finally, in three states the methods employed to select trial court judges vary depending on either the specific type of trial judge being selected or the jurisdiction in which the election is being held. For instance, in some cases the more populous counties use one selection method while the less populous counties utilize another.

II. Straight-Ticket Voting Across the 50 States

In states with straight-ticket voting (also referred to as straight-party voting), voters are provided with an option by which they can cast a vote for all of a party's candidates on their ballot through a single action. In states where this straight-ticket option is not provided, voters must cast their votes race by race.

In the 1992 presidential election, voters in 20 states had the option of casting a straight-ticket ballot. Two dozen years later in the 2016 presidential election, voters in half as many states (10) had that option (see Figure 2), with straight-ticket voting retained in one state (Michigan) only because of an injunction that prevented a 2016 state law that abolished straight-ticket voting from being enforced.

Figure 2. Straight-Ticket Voting in the 50 States (1992 & 2016)



Other than Michigan, nine states continue to use straight-ticket voting: Alabama, Indiana, Iowa, Kentucky, Oklahoma, Pennsylvania, South Carolina, Texas, and Utah. Indiana, however, no longer utilizes straight-ticket voting in at-large races where more than one officeholder is being elected. The states that abolished straight-ticket voting between 1992 and 2016 are Georgia, Illinois, Missouri, New Hampshire, New Mexico, North Carolina, Rhode Island, South Dakota, West Virginia, and Wisconsin.

III. Partisan Election of Judges and Straight-Ticket Voting: A Rare Combination

As detailed above, only a few states employ partisan elections to select their Supreme Court, intermediate, and trial court judges—seven, six, and 10, respectively. Of these states, only four also employ straight-ticket voting: Alabama, Indiana, Pennsylvania, and Texas. Indiana selects its Supreme Court and intermediate court judges via a judicial nominating commission but elects its trial court judges in partisan elections. Pennsylvania initially elects all of its judges in partisan elections, but once in office these judges are retained via retention elections.

Only Alabama and Texas simultaneously combine the initial partisan election and any subsequent reelection of supreme court, intermediate court, and trial court judges with straight-ticket voting. In sum, Texas is an outlier among U.S. states in its use of straight-ticket voting, its use of partisan elections to select its judges, and especially in its extremely rare combination of partisan election (and reelection) of judges with straight-ticket voting.

IV. The Texas Court System

The Texas court system can be divided into four general levels. At the apex are the state's dual superior appellate courts: the Texas Supreme Court, which has final appellate jurisdiction in civil and juvenile cases, and the Texas Court of Criminal Appeals, which has final jurisdiction in criminal cases. Each court has nine justices who are chosen in partisan elections for staggered terms of six years, with one-third renewed every three years except in the event of a vacancy, in which case an election is held to elect a justice to complete the unexpired term. In the interim, judicial vacancies are filled by gubernatorial appointment with the advice and consent of the Texas Senate.

In Texas, the intermediate position in the judicial structure is occupied by the state's courts of appeals. The state has 14 appeals court districts, which have a number of justices ranging from three to 13. Every county is located in a single court of appeals district, with three exceptions. A 10-county region in the Houston metropolitan area (Harris, Fort Bend, Montgomery, Brazoria, Galveston, Chambers, Waller, Grimes, Washington, and Colorado Counties) constitutes the geographic base for both the 1st and 14th Courts of Appeals. The boundaries of the 5th and 6th Courts of Appeals overlap in Hunt County, and the boundaries of the 6th and 12th Courts of Appeals overlap in Gregg, Rusk, Upshur, and

Wood Counties. Appeals court justices are elected for six-year terms with an unbalanced staggering of terms.

The trial courts in Texas fall into four categories: district courts, statutory county courts, statutory probate courts, and constitutional county courts. According to the Texas Judicial Branch's Office of Court Administration, as of September 2016 there are 465 district courts (367 containing one county and 98 containing multiple counties), 243 statutory county courts (in 89 counties plus 1 multi-county court), 18 statutory probate courts (in 10 counties), and 254 constitutional county courts (1 in each county). All of these judges are chosen in partisan elections from a single district/place for four-year terms..

Every county has a constitutional county court presided over by a constitutional county judge. Because the county judge also has administrative responsibilities as the presiding officer of the county's commissioners court (the governing body for Texas counties), in the more populous counties the constitutional county judge's responsibilities for trials are assumed by the statutory county courts of law. Even in counties lacking a county court of law, the county judge's role as the county's chief executive is generally more prominent than his or her judicial role. As a result, the election of county judges is not examined in this report.

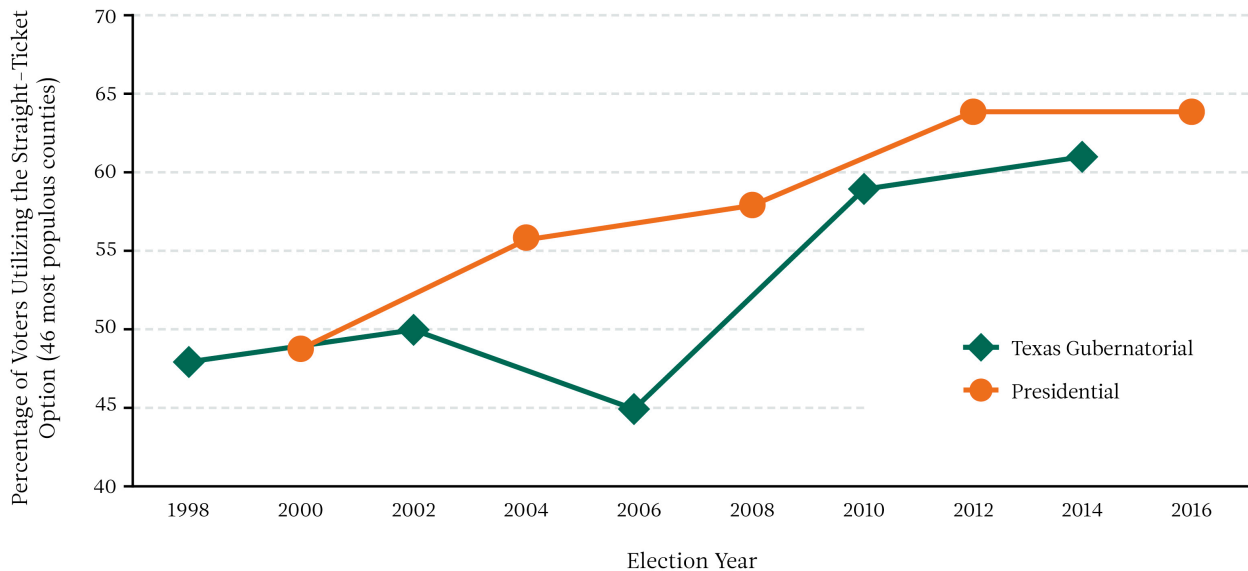
Finally, the state of Texas has 806 justice courts, with 806 judges (ranging from one to eight per county) chosen for four-year terms at the precinct level in partisan elections. The state's justice courts are responsible for minor civil matters, criminal misdemeanors punishable by fine only, evictions, and magistrate functions. In addition, throughout the state of Texas there are 933 municipal courts with 1,294 judges. These municipal judges can be either elected or appointed (the most common method) depending on the city charter, for terms that vary from two to four years. Municipal judges are the only judges in Texas who are not selected exclusively via partisan elections and are responsible for criminal misdemeanors punishable by fine only, municipal ordinance cases (primarily traffic violations), and magistrate functions. Neither the selection of justice court or municipal judges is examined in this report.

At present, when partisan elections for judicial positions are held, the judges are listed in the following order on the ballot (with state and county executive and legislative offices interspersed depending on the specific office): chief justice, supreme court; justice, supreme court; presiding judge, court of criminal appeals; judge, court of criminal appeals; chief justice, court of appeals; justice, court of appeals; district judge; criminal district judge; family district judge; judge, county court at law; judge, county criminal court; judge, county probate court; and justice of the peace.

V. Straight-Ticket Voting in Texas

Over the past twenty years, there has been a clear and relatively constant positive trend in the proportion of Texas voters casting a straight-ticket vote.¹ Data from the Austin Community College’s Center for Public Policy and Political Studies displayed in Figure 3 underscore that with one exception (2006), the proportion of voters using the straight-ticket option has increased (or remained constant) compared to the preceding presidential (for the quadrennial presidential election cycle) and gubernatorial (for the quadrennial gubernatorial election cycle) election. The proportion of straight-ticket voters in gubernatorial elections has increased from 48 percent in 1998 to 61 percent in 2014. By the same token, the proportion of straight-ticket voters in presidential elections increased from 49 percent in 2000 to 64 percent in 2016. The one exception to this rising trend in straight-ticket voting was the 2006 gubernatorial election, where the presence of two high-profile independent gubernatorial candidates, Carole Keeton Strayhorn (at the time a Republican serving as the state’s comptroller) and Kinky Friedman (who would in 2014 make a bid to be the Democratic Party’s nominee for agriculture commissioner), who together won 31 percent of the gubernatorial vote, reduced the proportion of voters casting a straight ticket.

Figure 3. Straight-Ticket Voting in Texas Gubernatorial & Presidential Elections (1998-2016)



Within this context of rising straight-ticket voting over time, there nevertheless remains a considerable amount of inter-county variance in the popularity of straight-ticket voting. Table 1 lists the 20 most populous counties based on their mean proportion of voters

¹ Under Texas law a voter casting a straight-ticket vote for a specific political party is casting a vote for all of that party’s candidates on the remainder of the ballot. Voters who initially cast a straight-ticket vote do, however, have the option of subsequently going through the ballot race by race and changing their vote to support a candidate from a different party.

casting a straight-ticket ballot during the 2008-2016 period.² In some counties (Fort Bend, Montgomery, Harris, and Dallas), on average more than two-thirds of those participating cast a straight-ticket vote, while in others the mean is either less than half (Nueces and Lubbock) or only slightly above half (Travis, Williamson, and Cameron).

Table 1. Percentage of Voters Casting a Straight-Ticket Ballot (2008-2016)

Texas County	2008	2010	2012	2014	2016	2008-16
Fort Bend	67	66	75	74	77	72
Montgomery	66	62	73	70	71	68
Harris	63	68	69	69	68	67
Dallas	65	68	69	65	68	67
Tarrant	63	67	66	66	67	66
Hidalgo	63	62	69	63	69	65
Jefferson	63	62	66	61	67	64
Collin	58	62	65	65	65	63
Denton	55	61	65	63	65	62
Galveston	54	58	66	61	62	60
Webb	59	55	59	60	64	59
Bell	51	56	63	62	61	58
Brazoria	52	55	60	58	63	58
El Paso	55	53	52	56	63	56
Bexar	53	50	64	50	58	55
Cameron	57	51	59	47	56	53
Williamson	50	50	51	56	58	53
Travis	49	50	55	47	54	51
Lubbock	41	42	52	51	56	48
Nueces	47	43	47	44	56	47
20 County Mean	57	57	62	59	63	60
20 County Median	56	57	65	61	64	61

VI. Limited Variance in the Judicial Vote: Pairwise Comparisons

This section analyzes the extent to which judicial candidates running in the same jurisdiction in the same year—be it statewide, appeals court district, or county (the same 20 most populous counties examined in the preceding section)—win a similar share of the vote within an identical partisan electoral context. An identical partisan electoral context is defined as a situation where both the Democratic and Republican parties presented

² The 20 most populous counties (as of 2016) are, in descending order: Harris, Dallas, Tarrant, Bexar, Travis, Collin, Hidalgo, El Paso, Denton, Fort Bend, Montgomery, Williamson, Cameron, Nueces, Brazoria, Bell, Galveston, Lubbock, Webb, and Jefferson. Together, these 20 counties contain almost three-fourths (73 percent) of the state’s population.

candidates, and if minor parties (i.e., the Libertarian Party and the Green Party) ran candidates (which is quite rare outside of statewide contests), these minor parties also ran candidates in the elections being compared.

For every one of these judicial elections, the absolute value of the difference in the share of the vote won by every majority party candidate compared to the share won by every other majority party candidate was calculated.³ The majority party is defined as the party that won the majority of the judicial races within the respective jurisdiction (i.e., statewide, appeals court district, or county [this includes district judges elected in a single county as well as county court elections, but excludes the constitutional county courts]). In the handful of cases where an equal number of Democratic and Republican judges were elected in a jurisdiction, the majority party was defined as the party whose candidate won the largest share of the two-party vote.⁴

The 2008 to 2016 period provides 29 pairwise comparisons for statewide judicial races, ranging from highs of 10 pairs in 2008 and 2016 to a low of zero pairs in 2012, when the Democratic Party only fielded candidates for two of the six statewide judicial races, and one of those races also had a Green Party candidate and a Libertarian Party candidate while the other only had a Libertarian Party candidate. On average, the majority party statewide candidates varied very little in the share of the vote they received, with the median pair of candidates differing in their vote share by only 0.58 percent (see Table 2). Table 2 also provides the 25 percent (i.e., lower) and 75 percent (i.e., upper) quartile values for the pairwise differences in statewide races, which were 0.33 percent and 0.96 percent respectively, indicating that three out of every four statewide candidates won a percentage of the vote that differed by less than one percent from that of their fellow candidate(s).

³ The use of the share of the vote won by the minority (second-place) party's candidates leads to similar findings.

⁴ Election data are drawn from the Texas Secretary of State's Elections Division and the respective elections offices of the 20 most populous counties either directly from their websites (or via e-mail in response to a data request) or indirectly from *Texas Election Source* publisher Jeff Blaylock.

Table 2. Pairwise Differences Among Judicial Candidates in the Same Jurisdiction

Year	Category	Statewide Courts	Appeals Courts	County-Level Courts
2008	Median	1.01%	0.81%	0.78%
	25-75%	0.65-1.47%	0.41-1.23%	0.38-1.31%
	# of Pairs	10	18	174
2010	Median	0.40%	0.30%	0.98%
	25-75%	0.14-0.47%	0.12-0.95%	0.46-1.66%
	# of Pairs	6	16	1143
2012	Median	—	0.48%	0.77%
	25-75%	—	0.26-1.59%	0.38-1.33%
	# of Pairs	—	41	187
2014	Median	0.47%	0.60%	1.04%
	25-75%	0.16-0.63%	0.51-1.11%	0.51-1.83%
	# of Pairs	3	3	636
2016	Median	0.56%	1.04%	1.00%
	25-75%	0.13-0.96%	0.34-1.26%	0.48-1.62%
	# of Pairs	10	7	180
2008-16	Median	0.58%	0.52%	0.96%
	25-75%	0.33-0.96%	0.26-1.26%	0.46-1.65%
	# of Pairs	29	85	1820

The 2008 to 2016 period provides 85 pairwise comparisons for appeals court district races, ranging from a high of 41 in 2012 to a low of 7 in 2016. Similar to the case for statewide candidates, the median difference in the percentage of the vote won among the majority party appeals court candidates in the same district was 0.52 percent during this period. The 25 percent to 75 percent quartile range for the appeals court pairwise differences was 0.26 percent to 1.26 percent.

The 2008 to 2016 period provides 1,820 pairwise comparisons for county-level courts in the state’s 20 most populous counties. The median pair of majority party candidates in the same county won a share of the vote that differed by slightly less than one percent (0.96 percent). The 25 percent to 75 percent range for the county-level courts was 0.46 percent to 1.65 percent. Overall, these numbers reveal a slightly greater level of variance in the share of the vote won by county-level candidates, which was in part the result of a couple of counties (Bexar County in particular) that featured notably higher pairwise differences than was the norm elsewhere in the state.

In all, these numbers underscore the very limited variance in the vote share won by judicial candidates from the same party, with median differences of approximately 0.5 percent in statewide and appeals court races and one percent in county-level contests. Even at the 75 percent (i.e., upper) quartile mark of the distributions, the candidates differed in the share of the vote won by less than two percent. The results of this limited variance in partisan performance are the near-universal sweeps analyzed in the next section (except in

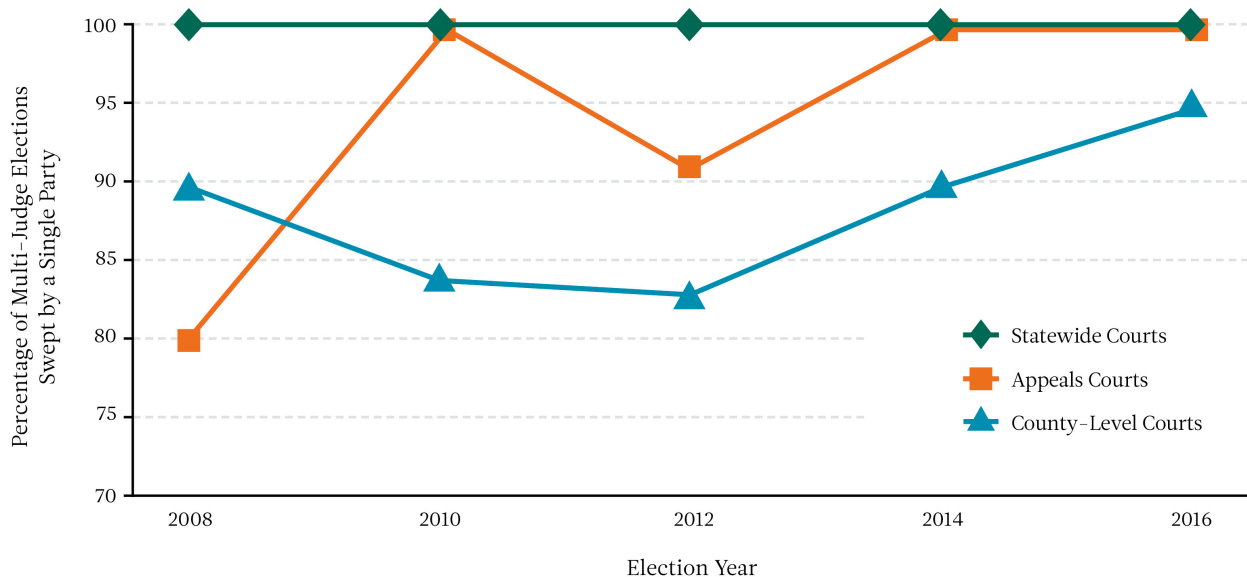
instances such as Harris County in 2012, where the majority party’s average share of the two-party vote in the jurisdiction was extremely close to 50 percent).

VII. Sweeps and Splits: Statewide, Court of Appeals District, and County-Level Elections

In this section, elections from 2008, 2010, 2012, 2014, and 2016 are examined to assess the extent to which judicial positions in a set of defined jurisdictions were all won by candidates from the same party (a partisan sweep) and the extent to which the positions were won by candidates from different parties (a partisan split). The analysis population consists of all statewide elections, all court of appeals district elections where more than one position was on the ballot, and all county-level judicial elections (district courts, statutory county courts, and statutory probate courts, but not constitutional county courts) in the state’s 20 most populous counties where more than one judge was being elected.

Figure 4 provides information on the evolution of partisan sweeps over the past five elections for the statewide courts, appeals courts, and county level courts. All five elections featured statewide partisan sweeps. The proportion of appeals court district sweeps has largely trended upward over the past five elections, from 80 percent in 2008 to 100 percent in three of the past four elections (2010, 2014, and 2016) and 91 percent in the fourth (2012). A similar pattern is seen in the countywide judicial elections during the same time frame, with sweep rates of 90 percent in 2008, 84 and 83 percent in 2010 and 2012, and 90 and 95 percent during the two most recent election cycles. Figure 4 underscores the prevalence of judicial sweeps in Texas elections, where one party’s candidates win all of the seats in play in the jurisdiction, be it Republicans statewide in 2014 and 2016 or Democrats countywide in Bexar County and Harris County in 2016.

Figure 4. Partisan Sweeps in Texas Judicial Elections (2008–2016)



VIII. Straight-Ticket Voting and Judicial Elections: A Harris County Case Study

Year in and year out, no Texas county elects more judges at the county level (i.e., district and county judges) than Harris County. And among the state's five major urban counties (Bexar, Dallas, Harris, Tarrant, and Travis), Harris County is arguably the most competitive, with Democrats winning the largest share of the vote in three of the past five elections (2008, 2012, 2016) and Republicans winning the largest share of the vote in two of the past five elections (2010, 2014). Harris County's purple tint results in few uncontested judicial races (as are common in other counties), with both parties regularly able to field a full slate of candidates (the Democratic slate in 2014 is the partial exception).

In three of the past five elections (2010, 2014, and 2016), one party has won every single judicial election that took place in Harris County (see Table 3). And in 2008, one party won 85 percent of the judicial elections in play. In these four elections the respective party's success at the top of the ticket in the straight-ticket vote and in the contest for the highest profile office (president or governor) drove voter behavior, with judicial candidates winning or losing based almost exclusively on the strength of the party and presidential/gubernatorial coattails. The only election year that did not see a near or complete sweep was 2012, which resulted from the Democratic and Republican parties being so evenly matched at the top of the ticket, with the Democratic share of the two-party straight ticket vote only barely surpassing the Republican share (50.17 percent vs. 49.83 percent) in the county. This effective partisan deadlock left most judicial races on a knife's edge, with the outcome of half of the judicial races decided by less than one percent of the vote.

Table 3. County-Level Judicial Elections in Harris County (2008-2016)

Category	2008	2010	2012	2014	2016
Majority Party	Democratic	Republican	Democratic	Republican	Democratic
Share of Races Won By Majority Party	85%	100%	56%	100%	100%
Median Majority Judicial Vote Share	51.10%	55.95%	50.18%	54.73%	52.19%
25 Percent Quartile Majority Judicial Vote Share	50.16%	55.18%	49.79%	54.03%	51.40%
75 Percent Quartile Majority Judicial Vote Share	51.31%	56.87%	50.78%	55.34%	52.92%
Highest Majority Judicial Vote Share	52.48%	57.41%	51.38%	56.36%	54.11%
Lowest Majority Judicial Vote Share	48.58%	53.87%	49.09%	52.84%	50.93%
Majority Party Share of Two-Party Straight-Ticket Vote	53.23%	54.70%	50.17%	54.74%	54.10%
Percentage of Voters Using Straight-Ticket Option	62%	67%	68%	68%	66%
Number of Contested Two-Party Judicial Races	27	59	25	42	26

The data in Table 3 underscore the very limited variance in the share of the vote won by the judicial candidates in these elections; in all five election years, more than half of the majority party’s judicial candidates did not differ in their share of the popular vote by more than one percent from that of their fellow judicial candidates on the ballot that year. Even the gap between the majority party candidate who won the lowest share of the vote and the majority candidate who won the highest share of the vote was never more than four percent across 179 contests spread over five election years. In 2012, the largest pairwise gap between the best- and worst-performing candidates was 2.29 percent (51.38 percent vs. 49.09 percent), while in 2008 the largest gap was 3.90 percent (52.48 percent vs. 48.58 percent). During this time period, between three-fifths (62 percent) and two-thirds (68 percent) of Harris County voters cast a straight-ticket vote.⁵

Table 3 highlights the prevalence of judicial sweeps in Harris County, as the straight-ticket vote combined with the coattails of the candidates at the top of the ticket either carried judicial candidates into office or ensured their defeat. As a result, while many outstanding jurists were elected each cycle, it is also true that many judges, including those with considerable experience on the bench, were defeated not due to their judicial talents, but rather to the sub-par general popular support for their party and its marquee candidates.

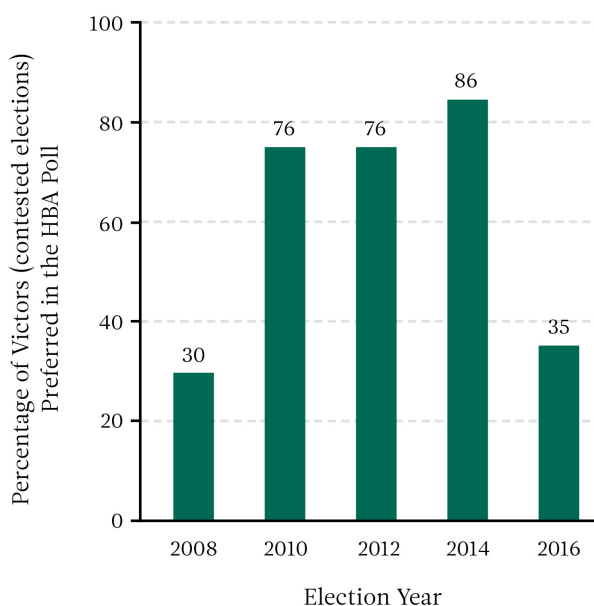
⁵ The values for straight-ticket voting in Table 3 vary slightly from those in Table 1 as a result of minor differences in the denominator employed by the two sources.

If you asked 1,000 Harris County voters to name a candidate running for a district or county judicial post (other than that of the county judge) in a given election year, you would be lucky to find 100 who could name more than one, 10 who could name more than a dozen, and one who could name more than half. In fact, outside of a few diehard party activists, the only group of individuals who have a reasonably good handle on who is running for judge across the board in a given election year are a subset of attorneys belonging to the Houston Bar Association.

Every election year, these attorneys are polled by the Houston Bar Association on their preferences in the judicial races taking place in the county. While partisanship undoubtedly drives some of these preferences, the bipartisan nature of the Houston Bar Association's Judicial Preference Poll's results suggests that on average, the lawyers base their preferences more on the candidate's skills, experience, and philosophy as a jurist rather than on their partisan affiliation; a contrast to the general public whose vote is almost exclusively based on the candidate's partisan affiliation, with in a large majority of the cases even this support indirect via the straight-ticket vote rather than a race by race evaluation by the voter. For example, in 2016, a majority of the lawyers who participated in the Houston Bar Association's Judicial Preferences Poll preferred the Republican candidate in 17 races and the Democratic candidate in nine races. Similarly, in 2012, the participating members of the Houston Bar Association favored Republicans in 15 races and Democrats in 10.

Figure 5 provides the proportion of Harris County judicial races (district and county) where the judicial candidate preferred by the attorneys participating in the Houston Bar Association's Judicial Preferences Poll was victorious in the November election. The proportions range from lows of 30 percent and 35 percent in 2008 and 2016 respectively to highs of 76 percent, 76 percent, and 86 percent in 2010, 2012, and 2014 respectively. The years of 2008 and 2016 in particular reveal a high level of disconnect between the opinions of the members of the Houston Bar Association and the choices made by the voting public (primarily through their straight-ticket votes).

Figure 5. Proportion of Victors in Harris County Judicial Elections Preferred in the Harris County Bar Association's Judicial Preference Poll



IX. Four Options for Reforming the Selection of Judges in Texas

The review of judicial selection procedures and use of straight-ticket voting across the 50 states contained in Sections I and II reveals that Texas is an outlier in the country in regard to its combination of the use of partisan elections for judicial offices and the employment of straight-ticket voting. At the same time, Sections I and II provide the most prominent examples of reform options for Texas, should there be a desire to modify the current method by which judges in the state are chosen. These reform alternatives in turn can be roughly grouped into those that would require a constitutional reform and those that could be implemented via a statutory change. Some states utilize the same method to choose judges, from the supreme court down to the trial courts, while others use different selection methods depending on the specific office in question.

Four leading reform options are reviewed below with a description and a discussion of their principal advantages and disadvantages based on the extant literature. The first two would require the amendment of the Texas Constitution, while the latter two could be implemented without a constitutional reform via the passage of a statutory reform. The four reforms are presented in descending order with regard to their deviation from the current status quo in Texas. At the end of the section, a similar analysis of the advantages and disadvantages of the state's current judicial selection method is provided. It should be noted that these reforms could be implemented for the selection of all judges, or only for the selection of subsets of judges, for instance retaining the current selection method for the Texas Supreme Court and Texas Court of Criminal Appeals judges, but changing the way appeals court, district court, and county court judges (excluding the county judge) are selected.

The Texas Constitution prescribes that judges be elected for terms of four or six years, depending on the office. Any reform that would remove the popular election of judges would therefore require an amendment to the Texas Constitution, which in turn would need to be supported by at least two-thirds of the members of the Texas House of Representatives and of the Texas Senate as well as receive the support of a majority of voters in a subsequent constitutional amendment vote. Reform options that retain the popular election of judges can be changed by a reform of the relevant portions of the Texas legal code. These reforms require only a majority vote in the Texas House of Representatives and in the Texas Senate, along with the governor's affirmation (explicit or implicit).

Reform Option 1. Judicial Nominating Commission

Under this general system, a judicial nominating commission provides the governor with a short list (i.e., a slate) of potential candidates for a judicial post. The governor then appoints a specific candidate either alone or (more commonly) with the advice and consent of the state senate. When the judge's initial term is up the governor has the option to re-nominate the justice either pending or not pending legislative ratification.

The principal advantages attributed to this selection method are:

- The selection of judges via a commission bolsters judicial independence by removing partisan politics, political patronage, and money from the equation to a greater degree than under the electoral alternatives;
- Political elites are better able to identify and evaluate the credentials and abilities of potential judicial candidates than are voters;
- Appointed judges may be less likely to be swayed by public opinion than judges who are either chosen or retained via popular elections.

The principal disadvantages attributed to this selection method are:

- It does not provide voters with any voice in the selection or retention of judges and is therefore undemocratic;
- It utilizes a process that is often opaque and deficient in terms of transparency;
- The process is not entirely divorced from partisan politics and patronage since the members of the commission are normally chosen by individuals with partisan and/or policy agendas;
- It may result in judges who are less willing to block or overturn executive orders or legislation;
- Judges within pure appointment systems are more likely to be perceived by the public as political cronies.

Reform Option 2. Judicial Nominating Commission with Retention Elections

Under this system, a judicial nominating commission provides the governor with a short list (i.e., a slate) of potential candidates for a judicial post. The governor then appoints a specific candidate either alone or (more commonly) with the advice and consent of the state senate. When a judge's initial term is up, he or she competes in a popular retention election, with voters given the option to retain or remove the judge. This methodology is often referred to as the "Missouri Plan," reflecting the Show Me State's status as the first state to adopt this particular methodology more than 75 years ago.

The principal advantages attributed to this selection method are:

- The selection of judges via a commission bolsters judicial independence by removing partisan politics, political patronage, and money from the equation to a greater degree than under the electoral alternatives;
- Political elites are better able to identify and evaluate the credentials and abilities of potential judicial candidates than are voters;
- Appointed judges may be less likely to be swayed by public opinion than judges who are initially selected in competitive nonpartisan or partisan elections;
- Compared to the prior option, where reappointment is not done via retention elections, it:
 - Allows voters to play a role in determining whether a judge should be retained or removed and is therefore more democratic and increases the popular accountability of judges;

- Bolsters the independence of judges vis-à-vis the governor and legislature (compared to systems where reappointment is not done via retention elections).

The principal disadvantages attributed to this selection method are that it:

- Does not provide voters with a voice in the initial selection of judges and is therefore still in many ways undemocratic;
- Utilizes an initial appointment process that is often opaque and deficient in terms of transparency;
- Is not entirely divorced from partisan politics and patronage, since the members of the commission are normally chosen by individuals with partisan and/or policy agendas;
- May result in judges who are more easily swayed by public opinion than in an appointment system without retention elections;
- Results in a level of roll-off in retention elections that is higher than that which occurs in either nonpartisan or, especially, partisan elections (discussed below).⁶

Reform Option 3. Nonpartisan Judicial Elections

Under this system, judicial candidates compete in nonpartisan elections similar to those employed at the municipal level in Texas. No partisan label is included next to their names, and often they first compete in a nonpartisan primary from which the top two candidates advance to the general election.

The principal advantages attributed to this selection method are that it:

- Provides voters with a voice in the selection of their judges and is therefore more democratic and accountable than the appointment systems;
- Weakens the influence of the governor and legislature over the judiciary;
- Diminishes the role of partisan considerations in the judicial selection process;
- Requires (compared to the current method) voters to consider the judicial contests race by race instead of simply checking a partisan box at the top of the ballot.

The principal disadvantages attributed to this selection method are that it:

- Places the responsibility for selecting judges in the hands of a public that by and large is unfamiliar with the candidates competing and knows even less about their qualifications and judicial philosophy;
- Increases the public (i.e., visible) role of special interest groups in the selection of judges and can therefore erode public confidence in the independence and impartiality of the judiciary;
- Politicizes the judicial branch to a greater degree than when judges are appointed;
- Inserts campaign contributions and money openly into the judicial selection process;

⁶ Roll-off (or undervoting) occurs when a voter who has cast a ballot in one or more other races on the ballot does not cast a vote in a specific race.

- The principal disadvantages of this method's removal of partisanship from the ballot for judicial elections are that it:
 - Deprives voters of an important voting cue and source of information about the candidates;
 - Can lead to campaigns that tend to revolve around hot-button social issues;
 - Increases the amount of money spent in judicial elections and therefore the importance of campaign contributions;
 - Can require voters to choose between de facto partisan candidates without the benefit of party labels, since parties often still play a role in the recruitment of judicial candidates in nonpartisan elections;
 - Results in the highest level of ballot roll-off (i.e., under-voting) among the three principal forms of direct judicial election (nonpartisan elections, partisan elections with no straight-ticket option for judicial elections, partisan elections with straight-ticket voting).

Reform Option 4. Partisan Elections without a Straight-Ticket Option for Judicial Elections

Under this system, judicial candidates compete in the general election in partisan elections, but unlike the case for other offices (e.g., president, state representative, county commissioner), the straight-ticket option does not apply to judicial elections.

The principal advantages attributed to this selection method are that it:

- Provides voters with a voice in the selection of their judges and is therefore more democratic and accountable than the appointment systems;
- Weakens the influence of the governor and legislature over the judiciary;
- Provides voters with the valuable informational voting cue represented by the candidates' partisan affiliation;
- Reduces (compared to the current method) the impact of high-profile races and pure party-line voting driving the election of judges (which concomitantly results in widespread partisan sweeps);
- Requires (compared to the current method) voters to consider the judicial contests race by race instead of checking a partisan box at the top of the ballot and never looking at the judicial contests on the ballot;
- Reduces (compared to nonpartisan elections) the role of money in the judicial election process.

The principal disadvantages of this selection method are that it:

- Places the responsibility for selecting judges in the hands of a public that by and large is unfamiliar with the candidates competing and knows even less about their qualifications and judicial philosophy;
- Politicizes the judicial branch to a greater degree than when judges are appointed;
- Inserts campaign contributions and money openly into the judicial selection process;
- Results in a greater amount of roll-off (i.e., the prevalence of undervotes) compared to the case when straight-ticket voting is employed for judicial elections.

- Note: the increase in the extent of roll-off occasioned by a switch from partisan elections with a straight ticket to partisan elections without a straight-ticket option for judicial elections can be mitigated via a combination of optimal ballot design and voter education.

Current Method: Partisan Elections with a Straight-Ticket Option for Judicial Elections

All judges, from the Texas Supreme Court to county level courts, are selected in partisan elections where voters are provided with a straight-ticket option.

The principal advantages attributed to this selection method are that it:

- Provides voters with a voice in the selection of their judges and is therefore more democratic and accountable than the appointment systems;
- Weakens the influence of the governor and legislature over the judiciary (compared to the appointment systems);
- Provides voters with the valuable informational voting cue represented by the candidates' partisan affiliation;
- Limits the level of drop-off in judicial contests to a greater extent than any other method;
- Reduces the role of money in the judicial election process (compared to nonpartisan elections);
- Results in the least amount of ballot roll-off of any of the methods of popular election.

The principal disadvantages of this selection method are that it:

- Places the responsibility for selecting judges in the hands of a public that by and large is unfamiliar with the candidates competing and knows even less about their qualifications and judicial philosophy;
 - Exacerbates this disadvantage (compared to the method of partisan election without a straight-ticket option for judicial contests) by increasing the proportion of voters casting ballots in judicial races who are unfamiliar with the candidates and who do not review the judicial races they are voting in due to their use of the automatic straight-ticket option;
- Politicizes the judicial branch to a greater degree than when judges are appointed;
- Inserts campaign contributions and money openly into the judicial selection process;
- Decreases (compared to the method of partisan election without a straight-ticket option for judicial contests) the incentives for judges to campaign as individuals and for voters to research the judicial candidates.

Overall, Reform Options 1 and 2 represent the most dramatic departure from the current judicial selection process status quo. Both would require an amendment of the Texas Constitution to be implemented.

Reform Options 3 and 4 would represent less profound changes to the status quo of judicial selection in the Lone Star State, especially in the case of Option 4, where partisan elections

would be retained with the reform centered on removing the election of some (e.g., appeals court district, district, and county level) or all judges from the straight-ticket mechanism. Compared to the status quo, both Reform Option 3 and Reform Option 4 would result in a significant amount of voter roll off in judicial races (especially Reform Option 3), but the extent of this roll off could be limited through ballot design and voter education efforts. Voters could for instance be alerted at the beginning of the ballot that the straight-ticket option does not apply to judicial elections as well as be reminded (where some form of electronic voting is employed) if they have not voted in some or all of the judicial elections when they first attempt to submit their ballot.

X. Conclusion

Texas is one of only two states that elects and reelects its judges in partisan elections in combination with a straight-ticket voting option. The result is a powerful tendency for party-line voting and high-profile executive races to drive vote choices in down-ballot judicial races, resulting in limited variance in the vote shares received by judicial candidates and partisan sweeps at the state, appeals court district, and county levels.

Every recent biennial regular legislative session in Texas has featured multiple proposals to significantly modify the methods by which judges are selected in Texas. However, none of these bills ever reached the governor's desk, with most never even making it out of committee. Some of these proposals involved constitutional amendment, while others required only the passage of a statutory reform. This report provides an overview of four leading reform options, discussing both their advantages and disadvantages. These reforms range from dramatic changes to the status quo (e.g., the creation of a judicial nominating commission and retention elections) to relatively modest changes to the status quo (e.g., the elimination of the straight-ticket option for judicial races). During the 85th Legislative Session, Texas legislators once again have the opportunity to enact reforms to the process by which the state selects its judges, with the power, for instance, to adopt any of the four above-mentioned methods, either for all judicial contests or for only a select few (e.g., trial court judges).

XI. References

- Ansolabehere, Stephen, and Charles S. Stewart III. 2005. "Residual Votes Attributable to Technology." *The Journal of Politics* 67: 365-89.
- Ballotpedia. 2016. "Judicial Selection in the States." http://www.ballotpedia.org/judicial_selection_in_the_states.
- Baum, Lawrence. 2003. "Judicial Elections and Judicial Independence: The Voter's Perspective." *Ohio State Law Journal* 64(1): 13-41.
- Becker, Daniel, and Malia Reddick. 2003. *Judicial Selection Reform: Examples From Six States*. Des Moines, IA: American Judicature Society.
- Blaylock, Jeff. 2016. *Texas Election Source*. <http://www.txelects.com>.
- Bonneau, Chris W., and Melinda Gann Hall. 2009. *In Defense of Judicial Elections*. New York: Routledge.
- Bonneau, Chris W., and Eric Loepp. 2014. "Getting Things Straight: The Effect of Ballot Design and Electoral Structure on Voter Participation." *Electoral Studies* 34(2): 119-30.
- Burden, Barry C., and David C. Kimball. 2002. *Why Americans Split Their Tickets: Campaigns, Competition, and Divided Government*. Ann Arbor, MI: University of Michigan Press.
- Canes-Wrone, Brandice, and Tom S. Clark. 2009. "Judicial Independence and Nonpartisan Elections." *Wisconsin Law Review* 2009(1): 21-65.
- Canes-Wrone, Brandice, Tom S. Clark, and Jee-Kwang Park. 2012. "Judicial Independence and Retention Elections." *Journal of Law, Economics, and Organization* 28(2): 211-34.
- Champagne, Anthony. 2008. "Judicial Reform in Texas: A Look Back After Two Decades." *Court Review* 43(2): 68-79.
- Cheek, Kyle, and Anthony Champagne. 2004. *Judicial Politics in Texas: Partisanship, Money, and Politics in State Courts*. New York: Peter Lang.
- Council of State Governments, The. 2003. *Judicial Democracy*. Lexington, KY: The Council of State Governments.
- Failinger, Marie A. 2005. "Can a Good Judge Be a Good Politician? Judicial Elections from a Virtue Ethics Approach." *Missouri Law Review* 70: 433-518.
- Fortson, Ryan, and Kristin S. Knudsen. 2015. "A Survey of Studies of Judicial Selection." *Alaska Justice Forum* 32(2-3): 1-12.

- Geyh, Charles Gardner. 2008. "The Endless Judicial Selection Debate and Why It Matters for Judicial Independence." *Georgetown Journal of Legal Ethics* 21: 1259-81.
- Gilbert, Michael D. 2014. "Judicial Independence and Social Welfare." *Michigan Law Review* 112: 575-625.
- Golezhauser, Greg, and Damon M. Cann. 2014. "Judicial Independence and Opinion Clarity on State Supreme Courts." *State Politics & Policy Quarterly* 14(2): 123-41.
- Haag, Stefan. 2014. "Report #9: Straight-ticket Voting in Texas 1998-2014." Austin, Texas: Center for Public Policy and Political Studies, Austin Community College District.
- Haag, Stefan. 2016. "Report #11: Straight-ticket Voting in Texas 1998-2016." Austin, Texas: Center for Public Policy and Political Studies, Austin Community College District.
- Hall, Melinda Gann. 2001. "State Supreme Courts in American Democracy: Probing the Myths of Judicial Reform." *American Political Science Review* 95: 315-30.
- Hernson, Paul S., Richard G. Niemi, Michael J. Hanmer, Benjamin B. Bederson, Frederick G. Conrad, and Michael W. Traugott. 2007. *Voting Technology: The Not-So-Simple Act of Casting a Ballot*. Washington, D.C.: Brookings Institution Press.
- Hojnacki, Marie, and Lawrence Baum. 1992. "'New Style' Judicial Campaigns and the Voters: Economic Issues and Union Members in Ohio." *The Western Political Quarterly* 45: 921-48.
- Houston Bar Association. 2016. Judicial Preference Polls, 2008, 2010, 2012, 2014, 2016. <http://www.hba.org/judicial-poll-results>.
- Iaryczower, Matías, Garrett Lewis, and Matthew Shum. 2013. "To Elect or Appoint? Bias, Information, and Responsiveness of Bureaucrats and Politicians." *Journal of Public Economics* 97: 230-44.
- Jefferson, Wallace B. 2016. "Choosing Judges: My View from the Inside." In *Texas Politics Today 2017-2018 Edition*, Mark P. Jones, William Earl Maxwell, Ernest Crain, Morhea Lynn Davis, Christopher Wlezien, and Elizabeth N. Flores, 256-57. Boston: Cengage Learning.
- Jones, Mark P., William Earl Maxwell, Ernest Crain, Morhea Lynn Davis, Christopher Wlezien, and Elizabeth N. Flores. 2016. *Texas Politics Today 2017-2018 Edition*. Boston: Cengage Learning.
- Kimball, David C., and Martha Kropf. 2005. "Ballot Design and Unrecorded Votes on Paper-Based Ballots." *Public Opinion Quarterly* 69: 508-29.

- Klein, David, and Lawrence Baum. 2001. "Ballot Information and Voting Decisions in Judicial Elections." *Political Research Quarterly* 54: 161-80.
- Kritzer, Herbert M. 2016. "Impact of Judicial Elections on Judicial Decisions." *Annual Review of Law and Social Science* 12: 353-71.
- Kritzer, Herbert M. 2007. "Law is the Mere Continuation of Politics by Different Means: American Judicial Selection in the Twenty-First Century." *DePaul Law Review* 56: 423-67.
- Miller, Michael G., Michelle D. Tuma, and Logan Woods. 2015. "Revisiting Roll-Off in Alerted Optical Scan Precincts: Evidence from Illinois General Elections." *Election Law Journal* 14: 382-91.
- National Center for State Courts. 2016. "Judicial Selection in the States."
<http://www.judicialselection.com>.
- National Conference of State Legislatures. 2016. "Straight Ticket Voting States."
<http://www.ncsl.org/research/elections-and-campaigns/straight-ticket-voting.aspx>.
- Schotland, Roy A. 2007. "New Challenges to States' Judicial Selection." *Georgetown Law Journal* 95: 1077-1105.
- Stein, Robert M., Greg Vonnahme, Michael Byrne, and Daniel Wallach. 2008. "Voting Technology, Election Administration, and Voter Performance." *Election Law Journal* 7(2): 123-35.
- Streb, Matthew J., ed. 2009. *Running for Judge: The Rising Political, Financial, and Legal Stakes of Judicial Elections*. New York: New York University Press.
- Texas Judicial Branch. 2016. "2016 Annual Statistical Report." Austin, Texas: Office of Court Administration.
- Texas Secretary of State. 2016. "Election Results." Austin, Texas: Elections Division.
- Tomz, Michael, and Robert P. Van Houweling. 2003. "How Does Voting Equipment Affect the Racial Gap in Voided Ballots?" *American Journal of Political Science* 47: 46-60.
- United States Census Bureau. 2016. "Population Estimates, July 1, 2016." Washington, D.C.: United States Department of Commerce.
- Willoughby, Larry. 2012. "Report #8: Straight Ticket Voting in Texas 1998-2012." Austin, Texas: Center for Public Policy and Political Studies, Austin Community College District.