

Ethics Panel Pulls Its Punches

One Missing Vote Proves Crucial

BY WALTER BORGES

When the Texas Ethics Commission approved its recommendations to the Legislature for judicial election and campaign finance reforms Jan. 6, the minority ruled.

A 4-3 majority of commissioners at the meeting favored recommending the creation of a pilot program of public financing for Texas Supreme Court elections, but it was thwarted by a procedural requirement that five votes are needed to approve a commission recommendation.

The five-vote rule was adopted at the beginning of the meeting. Commission General Counsel Andrew Martin said Jan. 7 that the five-vote requirement also is mandated by stat-

ute. A majority of the commission, not just a majority of a quorum, must approve commission action, he said.

The commission has eight members but lost one member last month when its former chairman, George Bayoud Jr., resigned to devote more time to personal matters. Gov. Ann Richards has not named a replacement.

The commission, which is recommending general campaign reforms covering all elections, adopted a series of more modest proposals designed to increase disclosure of potential judicial conflicts of interest and to limit the duration of fund raising in judicial campaigns.

But the approved measures would do little to curtail the solicitation of large contributions by judicial candi-

dates or to undermine those who claim the public believes justice is for sale in Texas. The failure of the more substantial reform proposals should leave intact the status quo power structure of judicial politics — the lawyers, political action committees and clients who make large contributions to judicial candidates, and the judges and candidates who solicit their money.

"There was no significant reform," said Tom Smith, director of Public Citizen of Texas, a consumer and government watchdog organization, after the vote. "There were no recommendations for expenditure limits, no public financing and no limits on the expenditures of PACs."

The proposal for public financing sparked the most debate. When it was taken up, the commission already had rejected mandatory campaign finance caps on a 3-4 vote, with the opponents arguing that limiting campaign con-



CHAIRMAN ISAIAS TORRES backed a proposal to elect judges by single-member districts, but it failed.

tributions, but not expenditures, would be ineffective and would give an unfair advantage to wealthy candidates and those with third-party PACs spending on their behalf.

"If you keep contribution limits, the money goes by another route, either by PAC or through the political parties," said Commissioner James Marston, who favors contribution caps in conjunction with public financing and expenditure limits.

Marston joined Chairman Isaias Torres and Commissioners Louis Muldrow and Norman Lyons to defeat the mandatory caps, but Marston lost on the public financing proposal he had drafted.

He won the votes of Torres, Lyons and commission Vice Chairman Fran Coppinger. Muldrow, however, deserted him to join Commissioners Richard Slack and James Cribbs in opposition.

"Public financing has lost its steam," Cribbs said prior to the vote, noting that federal tax check-offs for presidential campaign funding had dropped off in recent years. He also noted there is substantial opposition to the idea of funding the pilot program through a \$60-a-year addition to the state's \$200 occupation tax on lawyers.

"The idea of an occupation tax ain't popular among lawyers," Cribbs said at one point. "I've had to slip in and out of Tarrant County." Cribbs is a name partner in Cribbs & McFarland of Arlington.

That victory for the state's lawyers was followed by another when the commission did not recommend expanding an existing ban on corporate contributions to other business entities. Lawyers remain free to contribute through partnerships, professional corporations and limited liability partnerships.

The commission's approved proposals include:

- Increasing the terms of district judges and the judges of lower courts.