

BILL ANALYSIS

C.S.H.J.R. 84
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Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, when an elected or appointed officer of the state or of any political subdivision enters active duty in the armed forces of the United States as a result of being called to duty, drafted, or activated, he or she vacates the office held and the appropriate authority issues writs of election to fill such vacancies. CSHJR 84 allows public officers called for active duty to retain their office while in the military.

RULEMAKING AUTHORITY

It is the committee's opinion that this resolution does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

CSHJR 84 amends the Texas Constitution by providing that an elected official or appointed officer of the state or of any political subdivision who enters active duty in the armed forces of the United States as a result of being called to duty, drafted, or activated does not vacate the office held. The resolution authorizes the appropriate authority to appoint a replacement to serve as temporary acting officer if the elected or appointed official will be on active duty for longer than 30 days.

For an officer other than a member of the legislature, the resolution authorizes the authority who has the power to appoint a person to fill a vacancy in that office to appoint a temporary acting officer. If a vacancy would normally be filled by special election, the resolution authorizes the governor to appoint the temporary acting officer for a state district office and authorizes the governing body of a political subdivision to appoint the temporary acting officer for an office of that political subdivision.

For an officer who is a member of the legislature, the resolution requires the committee that is established by law to fill, under certain other circumstances, a vacancy in a nomination for that office and that represents the same political party as the member to appoint a temporary acting representative or senator. The resolution provides that the person appointed must be a member of the same political party as the member being temporarily replaced and must be qualified for the office.

The resolution authorizes the officer who is temporarily replaced to recommend to the appropriate appointing authority the name of a person to temporarily fill the office. The resolution sets forth provisions relating to the beginning of service and length of term for the temporary acting officer. The resolution provides that the temporary acting officer has all powers, privileges, and duties of the office and is entitled to the same compensation, payable in the same manner and from the same source, as the acting officer who is temporarily replaced.

FOR ELECTION

November 4, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

CSHB 84 modifies the original by authorizing the appropriate authority to appoint a replacement if an elected or appointed officer will be on active duty for longer than 30 days, rather than if the officer enters active duty for an unspecified amount of time.

The substitute modifies the original by authorizing, rather than requiring, the appropriate authority to appoint a temporary acting officer.

The substitute adds the requirement that the person appointed temporarily to the legislature be of the same political party as the representative or senator being temporarily replaced. The substitute also requires the person temporarily appointed to be qualified for the office.