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H.J.R. No. 84

A JOINT RESOLUTION

1 proposing a constitutional amendment providing for the filling of a
2 temporary vacancy in a public office created by the activation for
3 military service of a public officer.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article XVI, Texas Constitution, is amended by
6 adding Section 72 to read as follows:

7 Sec. 72. (a) An elected or appointed officer of the state
8 or of any political subdivision who enters active duty in the armed
9 forces of the United States as a result of being called to duty,
10 drafted, or activated does not vacate the office held, but the
11 appropriate authority may appoint a replacement to serve as
12 temporary acting officer as provided by this section if the elected
13 or appointed officer will be on active duty for longer than 30 days.

14 (b) For an officer other than a member of the legislature,
15 the authority who has the power to appoint a person to fill a
16 vacancy in that office may appoint a temporary acting officer. If a
17 vacancy would normally be filled by special election, the governor
18 may appoint the temporary acting officer for a state or district
19 office, and the governing body of a political subdivision may
20 appoint the temporary acting officer for an office of that
21 political subdivision.

22 (c) For an officer who is a member of the legislature, the
23 committee that is established by law to fill, under certain other
24 circumstances, a vacancy in a nomination for that office and that

1 represents the same political party as that member of the
2 legislature shall appoint a temporary acting representative or
3 senator who is:

4 (1) a member of the same political party as the member
5 being temporarily replaced; and

6 (2) qualified for office under Section 6, Article III,
7 of this constitution for a senator, or Section 7, Article III, of
8 this constitution for a representative.

9 (d) The officer who is temporarily replaced under this
10 section may recommend to the appropriate appointing authority the
11 name of a person to temporarily fill the office.

12 (e) The appropriate authority shall appoint the temporary
13 acting officer to begin service on:

14 (1) the date specified in writing by the officer being
15 temporarily replaced as the date the officer will enter active
16 military service; or

17 (2) if the officer being temporarily replaced does not
18 specify a date in writing, a date not later than the 30th day after
19 the officer's entry into active military service.

20 (f) A temporary acting officer has all the powers,
21 privileges, and duties of the office and is entitled to the same
22 compensation, payable in the same manner and from the same source,
23 as the officer who is temporarily replaced.

24 (g) A temporary acting officer appointed under this section
25 shall perform the duties of office for the shorter period of:

26 (1) the term of the active military service of the
27 officer who is temporarily replaced; or

1 (2) the term of office of the officer who is
2 temporarily replaced.

3 (h) In this section, "armed forces of the United States"
4 means the United States Army, the United States Navy, the United
5 States Air Force, the United States Marine Corps, the United States
6 Coast Guard, any reserve or auxiliary component of any of those
7 services, or the National Guard.

8 SECTION 2. This proposed constitutional amendment shall be
9 submitted to the voters at an election to be held November 4, 2003.
10 The ballot shall be printed to permit voting for or against the
11 proposition: "The constitutional amendment authorizing the
12 appointment of a temporary replacement officer to fill a vacancy
13 created when a public officer enters active duty in the United
14 States armed forces."