

BILL ANALYSIS

Senate Research Center
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S.J.R. 40
By: Hegar
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A significant power a governor has to build and accomplish the governor's political goals is the power of appointment. About 200 commissions, boards, and agencies oversee the daily operation of the state government, and the governor makes several hundred appointments to these various entities.

These appointments allow the governor to place allies in strategic locations in state government—a critical asset in the governor's efforts to establish and carry out desired policies and to establish a political tone signaling an intention to pursue a particular political or policy strategy. The appointment power can also be used to reward the governor's political supporters, a practice known as patronage.

The appointment power is limited by the requirement that two-thirds of the senate confirm an appointee. But the governor can circumvent this requirement by making an interim appointment while the legislature is not in session. This can be done even if a current officer's term expires during a legislative session, due to the provision in the constitution requiring all officers of the state, including appointed officers, to serve in their official positions until a successor takes over or is appointed to the officer's position. Although the appointee must still be confirmed by the senate in the next legislative session, the interim appointment gives the appointee an opportunity to convince senators that the senate should confirm the appointee.

S.J.R. 40 proposes a constitutional amendment to remove the holdover provision for an appointed member of a governing body of a state agency whose term has expired, thereby creating a vacancy in the position until the officer or a replacement is appointed to the position in accordance with applicable law. In addition, the joint resolution authorizes the governor to remove an appointee of that particular governor with the advice and consent of a majority of all senate members, rather than two-thirds of senate members present, and authorizes the senate to remove an appointee who was previously confirmed by the senate by a two-thirds vote of all senate members during a regular or special session.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 9(a), Article XV, Texas Constitution, to authorize the governor to remove a public officer appointed by the governor with the advice and consent of a majority of senate members, rather than two-thirds of senate members present.

SECTION 2. Amends Article XV, Texas Constitution, by adding Section 10, as follows:

Sec. 10. Authorizes the senate to remove a person appointed by the governor and confirmed by the senate to a multimember state board, commission, or other governing body of a state institution or agency (appointed officer) during a regular or special legislative session with a two-thirds vote of the senate members, in addition to other procedures provided by law for the removal of public officers.

SECTION 3. Amends Section 17, Article XVI, Texas Constitution, as follows:

Sec. 17. (a) Creates this subsection from existing text. Requires all officers of the state, except an appointed officer whose term has expired, to perform the duties of their offices until their successors are duly qualified.

(b) Prohibits an appointed officer whose term has expired from continuing to perform the officer's duties in the appointed position and provides that a vacancy is created in the position unless the officer is reappointed in accordance with applicable law.

SECTION 4 Requires this proposed constitutional amendment to be submitted to the voters at an election to be held on November 6, 2007. Sets forth the required language for the ballot.