

BILL ANALYSIS

Senate Research Center

H.J.R. 127
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Article XVI (General Provisions), Section 40 (Holding More Than One Office; Exceptions; Right to Vote), Texas Constitution, prohibits a person from holding more than one civil office of emolument at one time. Section 40 also provides for certain exemptions from the prohibition, mainly when that official is also serving as an officer in a branch of the military, including the National Guard. At the time these provisions were added to the Constitution, the Texas State Guard and other branches of the Texas military forces were not very active and therefore were not included in the exemption. Over the past several years the Texas State Guard and other branches of the Texas military forces have become much more active and are providing vital services to the state of Texas in times of disaster. At the same time, many civil officials are active or would like to become active in the Texas military forces.

This bill proposes an amendment to the Texas Constitution that would add officers and enlisted members of the Texas State Guard and any other active militia or military force organized under Texas law to the list of civil offices of emolument exempt from the prohibition against holding or exercising more than one civil office of emolument at the same time.

H.J.R. 127 proposes a constitutional amendment to allow an officer or enlisted member of the Texas State Guard or other state militia or military force to hold other civil offices.

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 40(a), Article XVI, Texas Constitution, as follows:

(a) Requires that no person shall hold or exercise at the same time, more than one civil office of emolument, except that of Justice of the Peace, County Commissioner, Notary Public and Postmaster, Officer of the National Guard, the National Guard Reserve, and the Officers Reserve Corps of the United States and enlisted men of the National Guard, the National Guard Reserve, and the Organized Reserves of the United States, and retired officers of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and retired warrant officers, and retired enlisted men of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and officers and enlisted members of the Texas State Guard and any other active militia or military force organized under state law, and the officers and directors of soil and water conservation districts, unless otherwise specially provided herein. Requires that nothing in this Constitution shall be construed to prohibit an officer or enlisted man of the National Guard, the National Guard Reserve, the Texas State Guard, and any other active militia or military force organized under state law, or an officer in the Officers Reserve Corps of the United States, or an enlisted man in the Organized Reserves of the United States, or retired officers of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and retired warrant officers, and retired enlisted men of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and officers of the State soil and water conservation districts, from holding at the same time any other office or position of honor, trust or profit, under this State or the United States, or from voting at any election, general, special or primary in this State when otherwise qualified.

SECTION 2. Requires the proposed constitutional amendment to be submitted to the voters at an election to be held November 3, 2009. Sets forth the required language of the ballot.