

By: Homer

H.J.R. No. 118

A JOINT RESOLUTION

1 proposing a constitutional amendment providing that a member of the
2 legislature or other person who holds elective office, other than a
3 municipal office with a term of two years or less, automatically
4 vacates the office held on announcing a candidacy or becoming a
5 candidate for another elective office when the unexpired portion of
6 the person's term of office exceeds one year and providing that a
7 person who holds another office is not eligible to serve in the
8 legislature during the term of the office held unless the person
9 resigned that office on announcing a candidacy or becoming a
10 candidate for the legislature.

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

12 SECTION 1. Sections 18 and 19, Article III, Texas
13 Constitution, are amended to read as follows:

14 Sec. 18. (a) A ~~[No]~~ Senator or Representative is not
15 ~~[shall]~~, during the term for which the Senator or Representative
16 ~~[he]~~ was elected, ~~[be]~~ eligible to:

17 (1) any appointed civil office of profit under this
18 State which shall have been created, or the emoluments of which may
19 have been increased, during such term; ~~[r]~~ or

20 (2) any office or place, the appointment to which may
21 be made, in whole or in part, by either branch of the Legislature.

22 (b) For purposes of Subsection (a)(1) of this section, ~~[r~~
23 ~~provided, however,~~] the fact that the term of office of Senators and
24 Representatives does not end precisely on the last day of December

1 but extends a few days into January of the succeeding year is [~~shall~~
2 ~~be~~] considered as de minimis, and the ineligibility [~~herein~~]
3 created by that subsection ends [~~shall terminate~~] on the last day in
4 December of the last full calendar year of the term for which the
5 Senator or Representative [~~he~~] was elected.

6 (c) If a member of the Legislature announces the member's
7 candidacy, or in fact becomes a candidate, in any general, special,
8 or primary election for any office of profit or trust under the laws
9 of this State or the United States other than the office then held,
10 at any time when the unexpired term of the office then held exceeds
11 one year, that announcement or candidacy constitutes an automatic
12 resignation of the office then held. The vacancy created by the
13 automatic resignation shall be filled as provided by Section 13 of
14 this article.

15 (d) No member of either House shall vote for any other
16 member for any office whatever, which may be filled by a vote of the
17 Legislature, except in such cases as are in this Constitution
18 provided.

19 (e) A [~~, nor shall any~~] member of the Legislature may not be
20 interested, either directly or indirectly, in any contract with the
21 State, or any county thereof, authorized by any law passed during
22 the term for which the member [~~he~~] was elected.

23 Sec. 19. A [~~No~~] judge of any court, Secretary of State,
24 Attorney General, clerk of any court of record, or other [~~any~~]
25 person holding a lucrative office under the United States, [~~or~~]
26 this State, or any foreign government is not, [~~shall~~] during the
27 term for which the person [~~he~~] is elected or appointed, [~~be~~]

1 eligible to serve in the Legislature unless, at the time the person
2 announced the person's candidacy, or in fact became a candidate, in
3 any general, special, or primary election for the Legislature, the
4 person resigned the office then held.

5 SECTION 2. Section 11(a), Article XI, Texas Constitution,
6 is amended to read as follows:

7 (a) A Home Rule City may provide by charter or charter
8 amendment, and a city, town or village operating under the general
9 laws may provide by majority vote of the qualified voters voting at
10 an election called for that purpose, for a longer term of office
11 than two [~~(2)~~] years for its officers, either elective or
12 appointive, or both, but not to exceed four [~~(4)~~] years. This
13 subsection does not affect [~~; provided, however, that~~] tenure under
14 Civil Service. City [~~shall not be affected hereby; provided,~~
15 ~~however, that such~~] officers, elective or appointive, whose terms
16 exceed two years are subject to Section 65 [~~65(b)~~], Article XVI, of
17 this Constitution, providing for automatic resignation in certain
18 circumstances [~~, in the same manner as a county or district officer~~
19 ~~to which that section applies~~].

20 SECTION 3. Section 65, Article XVI, Texas Constitution, is
21 amended to read as follows:

22 Sec. 65. (a) [~~This section applies to the following~~
23 ~~offices: District Clerks, County Clerks, County Judges, Judges of~~
24 ~~the County Courts at Law, County Criminal Courts, County Probate~~
25 ~~Courts and County Domestic Relations Courts, County Treasurers,~~
26 ~~Criminal District Attorneys, County Surveyors, County~~
27 ~~Commissioners, Justices of the Peace, Sheriffs, Assessors and~~

1 ~~Collectors of Taxes, District Attorneys, County Attorneys, Public~~
2 ~~Weighers, and Constables.~~

3 ~~[(b)]~~ If a person holding an elective public office created
4 under this Constitution or other law of this State announces the
5 person's ~~[any of the officers named herein shall announce their]~~
6 candidacy, or ~~[shall]~~ in fact becomes ~~[become]~~ a candidate, in any
7 General, Special or Primary Election, for any office of profit or
8 trust under the laws of this State or the United States other than
9 the office then held, at any time when the unexpired term of the
10 office then held exceeds ~~[shall exceed]~~ one ~~[(1)]~~ year, such
11 announcement or such candidacy constitutes ~~[shall constitute]~~ an
12 automatic resignation of the office then held. The ~~[, and the]~~
13 vacancy ~~[thereby]~~ created by the automatic resignation shall be
14 filled pursuant to law in the same manner as other vacancies for
15 such office are filled.

16 (b) Subsection (a) of this section does not apply to a
17 person who holds a municipal office with a term of two years or
18 less.

19 SECTION 4. This proposed constitutional amendment shall be
20 submitted to the voters at an election to be held November 3, 2009.
21 The ballot shall be printed to permit voting for or against the
22 proposition: "The constitutional amendment providing that a member
23 of the legislature or other person who holds elective office, other
24 than a municipal office with a term of two years or less,
25 automatically vacates the office held on announcing a candidacy or
26 becoming a candidate for another elective office when the unexpired
27 portion of the person's term of office exceeds one year and

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1 providing that a person who holds another office is not eligible to
2 serve in the legislature during the term of the office held unless
3 the person resigned that office on announcing a candidacy or
4 becoming a candidate for the legislature."