

SENATE AMENDMENTS

2nd Printing

By: King of Parker, Chavez

H.J.R. No. 127

A JOINT RESOLUTION

1 proposing a constitutional amendment to allow an officer or
2 enlisted member of the Texas State Guard or other state militia or
3 military force to hold other civil offices.

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

5 SECTION 1. Section 40(a), Article XVI, Texas Constitution,
6 is amended to read as follows:

7 (a) No person shall hold or exercise at the same time, more
8 than one civil office of emolument, except that of Justice of the
9 Peace, County Commissioner, Notary Public and Postmaster, Officer
10 of the National Guard, the National Guard Reserve, and the Officers
11 Reserve Corps of the United States and enlisted men of the National
12 Guard, the National Guard Reserve, and the Organized Reserves of
13 the United States, and retired officers of the United States Army,
14 Air Force, Navy, Marine Corps, and Coast Guard, and retired warrant
15 officers, and retired enlisted men of the United States Army, Air
16 Force, Navy, Marine Corps, and Coast Guard, and officers and
17 enlisted members of the Texas State Guard and any other active
18 militia or military force organized under state law, and the
19 officers and directors of soil and water conservation districts,
20 unless otherwise specially provided herein. Provided, that nothing
21 in this Constitution shall be construed to prohibit an officer or
22 enlisted man of the National Guard, [~~and~~] the National Guard
23 Reserve, the Texas State Guard, and any other active militia or
24 military force organized under state law, or an officer in the

1 Officers Reserve Corps of the United States, or an enlisted man in
2 the Organized Reserves of the United States, or retired officers of
3 the United States Army, Air Force, Navy, Marine Corps, and Coast
4 Guard, and retired warrant officers, and retired enlisted men of
5 the United States Army, Air Force, Navy, Marine Corps, and Coast
6 Guard, and officers of the State soil and water conservation
7 districts, from holding at the same time any other office or
8 position of honor, trust or profit, under this State or the United
9 States, or from voting at any election, general, special or primary
10 in this State when otherwise qualified.

11 SECTION 2. This proposed constitutional amendment shall be
12 submitted to the voters at an election to be held November 3, 2009.
13 The ballot shall be printed to permit voting for or against the
14 proposition: "The constitutional amendment to allow an officer or
15 enlisted member of the Texas State Guard or other state militia or
16 military force to hold other civil offices."

ADOPTED

MAY 25 2009

FLOOR AMENDMENT NO. 1

Atty Gen
Secretary of the Senate

BY *Robley Ellis*

1 Amend H.J.R. No. 127 (senate committee printing) as
2 follows:

3 (1) Add the following appropriately numbered SECTION to the
4 joint resolution and renumber subsequent SECTIONS of the joint
5 resolution as appropriate:

6 SECTION ____ . Article III, Texas Constitution, is amended
7 by adding Section 49-b-1 to read as follows:

8 Sec. 49-b-1. BENEFITS FOR SURVIVORS OF TEXAS NATIONAL
9 GUARD MEMBERS. (a) In this section:

10 (1) "Heirs" means those persons, including the
11 surviving spouse, who are entitled under the statutes of descent
12 and distribution to the estate of a decedent who dies intestate.

13 (2) "Eligible survivor" means a person designated as a
14 beneficiary on the deceased individual's group life insurance
15 program under 38 U.S.C. Section 1965 et seq.

16 (b) This section applies only to a member of the Texas
17 National Guard who died after September 11, 2001, while:

18 (1) on federal active duty under Title 10, United
19 States Code; or

20 (2) serving in a named military operation on active
21 duty under state authority in accordance with Title 32, United
22 States Code.

23 (c) The adjutant general's department or another agency
24 designated by the legislature may pay \$250,000 to:

25 (1) the eligible survivor of an individual described
26 by Subsection (b) or the appropriate pro rata portion of that
27 amount to the eligible survivors of the individual; or

28 (2) the heirs of an individual described by Subsection
29 (b) if there are no eligible survivors of that individual.

1 (d) An eligible survivor or heir must apply for benefits
2 in accordance with rules adopted under this section.

3 (e) The benefit provided under this section is in addition
4 to any other benefit provided under state or federal law.

5 (f) The state agency administering the benefits provided by
6 this section shall adopt rules to administer this section,
7 including rules and procedures for making and proving a claim,
8 appealing decisions, and receiving benefits under this section.

9 (2) Strike Section 2 of the joint resolution (page 1, lines
10 42-47), and substitute the following:

11 SECTION 2. This proposed constitutional amendment shall be
12 submitted to the voters at an election to be held November 3,
13 2009. The ballot shall be printed to permit voting for or
14 against the proposition: "The constitutional amendment to allow
15 an officer or enlisted member of the Texas State Guard or other
16 state militia or military force to hold other civil offices and
17 to provide a death benefit to the survivors or heirs of certain
18 members of the Texas National Guard."

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HJR127 by King, Phil (Proposing 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.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HJR127, As Passed 2nd House: a negative impact of (\$3,090,882) through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	(\$2,340,882)
2011	(\$750,000)
2012	(\$750,000)
2013	(\$750,000)
2014	(\$750,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from GENERAL REVENUE FUND 1
2010	(\$2,340,882)
2011	(\$750,000)
2012	(\$750,000)
2013	(\$750,000)
2014	(\$750,000)

Fiscal Analysis

The proposed resolution would amend the Texas Constitution by allowing an officer or enlisted member of the Texas State Guard or other state military force to hold other civil offices. Additionally, the bill would amend the Government Code by allowing that an eligible survivor of a member of the Texas National Guard who has died after September 11, 2001, while serving on federal active duty or serving in a named military operation on active duty under state authority could be paid death benefits. The bill would allow that \$250,000 be paid to the eligible survivor of an individual or the appropriate pro rata portion of that amount to the eligible survivors of the individual. According to the Adjutant General's Department (AGD), members on federal active duty include those members who are deployed to a hostile fire zone/combat zone and those members performing weekend drills. The bill would allow the AGD to certify to the Comptroller of Public Accounts the name of the eligible survivor who could be paid the benefit as specified in the bill and also the amount of the benefit being paid.

Methodology

According to the AGD, since September 11, 2001, nine Texas National Guard members have died on duty in a hostile fire zone/combat zone and therefore the estimated cost would be \$2.25 million (9 members multiplied by \$250,000) for fiscal year 2010. At this time, the number of members who have died in places other than in a hostile fire zone/combat zone is unknown. The AGD estimates that the number could be three to five members per year. The estimated cost for each of the subsequent years is \$750,000 (3 members multiplied by \$250,000).

The cost to the state for publication of the resolution is \$90,882 in fiscal year 2010.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 401 Adjutant General's Department

LBB Staff: JOB, KJG, GG, SDO, KK

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HJR127 by King, Phil (Proposing 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.), **As Engrossed**

No fiscal implication to the State is anticipated, other than the cost of publication.

The cost to the state for publication of the resolution is \$90,882.

The house joint resolution would amend the Texas Constitution by allowing an officer or enlisted member of the Texas State Guard or other state military force to hold other civil offices.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 401 Adjutant General's Department

LBB Staff: JOB, KJG, KK, GG, SDO

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 20, 2009

TO: Honorable Frank Corte Jr., Chair, House Committee on Defense & Veterans' Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HJR127 by King, Phil (Proposing 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.), **As Introduced**

No fiscal implication to the State is anticipated, other than the cost of publication.

The cost to the state for publication of the resolution is \$90,882.

The house joint resolution would amend the Texas Constitution by allowing an officer or enlisted member of the Texas State Guard or other state military force to hold other civil offices.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 401 Adjutant General's Department

LBB Staff: JOB, KK, GG, SDO