

SUBJECT: Allowing an enlisted member of the military to hold other civil offices

COMMITTEE: Defense and Veterans' Affairs — favorable, without amendment

VOTE: 6 ayes — Corte, Vaught, Chavez, Farias, Pickett, C. Turner
0 nays
3 absent — Edwards, Maldonado, Ortiz

WITNESSES: None

BACKGROUND: Texas Constitution, Art. 16, sec. 40 prohibits a civil official from holding more than one civil office of emolument unless that other office is:

- justice of the peace;
- county commissioner;
- notary public and postmaster;
- officer of the National Guard, National Guard Reserve, and Officers Reserve Corps of the United States;
- enlisted men of the National Guard, the National Guard Reserve, the Organized Reserves of the United States;
- retired officers of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard;
- retired warrant officers;
- retired enlisted men of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard; and
- officers and directors of soil and water conservation districts.

DIGEST: HB 3936 would amend Government Code, ch. 431 by adding sec. 431.0055, which would provide that a position or membership in the state military forces would not be considered a civil office of emolument.

“State military forces” would be defined as the Texas National Guard, the Texas State Guard, and any other active militia or military force organized under state law.

The bill would take effect January 1, 2010, only if a proposed constitutional amendment authorizing an officer or enlisted member of the Texas State Guard or other state militia to hold other office was approved by the Legislature and the voters.

**SUPPORTERS
SAY:**

By adding officers and enlisted members of the Texas State Guard and other Texas military forces to the list of offices civil officials could hold, HB 3936 would correct an oversight in the Texas Constitution and the law. Current exceptions to the dual-office-holding prohibition allow an official to also hold office in most branches of the military, including the National Guard. The Texas State Guard and other Texas military forces were overlooked during earlier amendments to this section exempting other members of the armed forces.

The State Guard has been very active in recent years and provides vital services to Texas in times of disaster. Many civil officials are active or would like to become active in the Texas State Guard or other Texas military forces. HB 3936 and its accompanying constitutional amendment HJR 127 would allow them to do so while still holding another civil office.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

HJR 127 by P. King, proposing a constitutional amendment to add officers and enlisted members of the Texas State Guard and any other active militia or military force organized under state law to the exceptions from the dual-office-holding prohibition, was approved by the House by 145-0 on May 11 and has been referred to the Senate State Affairs Committee.