

SUBJECT: Prohibiting railroad commissioners from running for office during terms

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 14 ayes — Wolens, S. Turner, Alvarado, Bailey, Brimer, Counts, Craddick,
Danburg, Hilbert, Hunter, D. Jones, Longoria, McCall, Merritt

0 nays

1 absent — Marchant

WITNESSES: None

BACKGROUND: The Railroad Commission has four regulatory divisions that oversee the oil and gas industry, gas utilities, pipeline and rail safety, safety in the liquified petroleum gas industry, and the surface mining of coal, uranium, and iron ore gravel.

As provided in Art. 16, sec. 30(b) of the Texas Constitution, the commission is composed of three members, elected by the voters for overlapping six-year terms. The terms are full-time, salaried positions, with the commissioners electing the chair. If a vacancy occurs, the governor appoints a replacement, with the advice and consent of the Senate, to serve until the next general election.

DIGEST: HJR 85 would amend Art. 16, sec. 30(b) of the Texas Constitution to make railroad commissioners ineligible to be candidates for a general, special, or primary election for any public office during their elected or appointed term as commissioners.

The proposal would be presented to the voters at an election on November 2, 1999. The ballot proposal would read: “The constitutional amendment to provide that a railroad commissioner is ineligible to become a candidate for another public office during the term for which the railroad commissioner is elected or appointed.

**SUPPORTERS
SAY:**

Prohibiting railroad commissioners from seeking other office in the middle of their terms would help ensure stability in this important statewide regulatory body. The importance of the oil and gas industry to Texas and the complexity of the commissioners' jobs make it appropriate to impose special conditions on this statewide office. Railroad commissioners are the only statewide elected regulatory officials. The regulated industries have a right to the undivided attention of the commissioners.

HJR 85 would help prevent politically ambitious persons from using the commission merely as a launching pad to other statewide offices without first meeting their commitment to voters and the industries regulated by the commission. HJR 85 also would help protect against potential conflicts of interest that can occur when a commissioner must rule on regulations and disputes that affect past or likely campaign contributors.

The high turnover rate of commissioners illustrates the problems in keeping experienced commissioners. Since 1940 there have been 29 railroad commissioners, but only 10 have served a full term. Since 1980, only three of the 16 commissioners have served a full term. Of the three incumbents on the commission last year, only one commissioner remains. In 1999 the commission went from over 13 years of experience to 5 years and three months of experience.

It is not unprecedented to establish a constitutional restriction on officials seeking another office during their term. Under Art. 16, sec. 65 of the Constitution if certain county officials announce a candidacy or become a candidate for public office with an unexpired term of office of more than one year, they automatically resign their office. Also, members of the Legislature, under Art. 3, sec. 18, cannot be appointed to another state office requiring Senate confirmation during their entire elected term.

**OPPONENTS
SAY:**

It would be unfair and unwise to impose such an inflexible limitation on one statewide office. Railroad commissioners should not be treated differently than other statewide officeholders. All political offices have been used as launching pads to other office, and all are subject to potential conflicts of interest. If banning railroad commissioners from running for office in mid-term is a good idea, the requirement should be uniformly applied to all elected offices. For example, state senators, with four-year terms, can run for

Congress or even statewide office under some circumstances in the middle of their terms.

Statistics citing high turnover at the railroad commission can be misleading. Some commissioners have not served full terms because they were appointed to fill partially expired terms. Only a handful of commissioners have run for other offices in the middle of their elected term as railroad commissioner.

The voters – not the Legislature – should retain the authority to make decisions on a case-by-case basis about the appropriateness of elected officials running for other offices. If candidates who have not served their entire terms run for another office, the candidates' opponent and the news media are free to let voters know.

HJR 85 could result in voters having less of a choice for railroad commissioners. Highly qualified candidates might steer clear of this office knowing they would be barred from seeking another office for six years. If HJR 85 had been in effect earlier, Texas could well have lost the skills and leadership provided by former railroad commissioners Carole Keeton Rylander and John Sharp, who ran for comptroller during their terms on the commission.

HJR 85 would not necessarily result in more expertise on the Railroad Commission. Time spent on a commission does not necessarily equate to expertise and knowledge.

OTHER
OPPONENTS
SAY:

HJR 85 at least should exempt current railroad commissioners who ran for office while there was no restriction on seeking other office.

NOTES:

The enabling legislation, HB 3104 by Merritt, also is on today's calendar.

The original version would have established that a commissioner who announced a candidacy or became a candidate for a public office during an elected or appointed term on the commission would be considered to have resigned the office of railroad commissioner.