

SUBJECT: Adjutant general's four-year term running concurrently with governor's

COMMITTEE: State Affairs — committee substitute recommended

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

0 nays

1 absent — D. Jones

WITNESSES: None

BACKGROUND: The Adjutant General's Department gives military support to state civil authorities to provide for the safety and welfare of Texas and its citizens. In addition, it stays prepared to furnish trained and equipped forces to the nation in case of war or other national emergency. The Adjutant General's Office, located at the department headquarters at Camp Mabry in Austin, controls and administers the state's military forces composed of the Texas Army National Guard, the Texas Air National Guard, and the Texas State Guard.

Most of the funding for the national guard comes from the federal government. Non-federal funds appropriated to the adjutant general's department in the 1998-99 fiscal year totaled approximately \$20 million.

The governor serves as commander-in-chief of the state military forces and appoints the adjutant general, subject to Senate confirmation, for a two-year term ending February 1 of odd-numbered years. The adjutant general controls the military department of the state and is subordinate only to the governor in matters pertaining to the state's military department.

Under Art. 16, sec. 30 of the Texas Constitution, the duration of all offices not fixed by the Constitution cannot exceed two years.

DIGEST: CSHJR 95 would amend Art. 16, sec. 30 of the Constitution to provide that the adjutant general would have a four-year term that runs concurrently with the governor's term. The adjutant general's term would expire when the appointing governor left office. The proposed constitutional amendment

would only apply if the Legislature established an office of the adjutant general, or by another name, that was appointed by the governor and was the single governing office, subordinate only to the governor, for the state military forces.

CSHJR 95 would apply to the adjutant general holding office at the time the voters approved the amendment.

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 a four-year term for the adjutant general and to provide that the term runs concurrently with the term of the governor."

**SUPPORTERS
SAY:**

The adjutant general is responsible for the management of an important service to the state's citizens and is directly responsible to the governor, who is commander-in-chief of the state's military forces. Providing for the term of the adjutant general to run concurrently with the governor would allow for additional accountability over the office and a closer working relationship between the state's chief executive and the adjutant general. This would conform to the appointment of the secretary of state and the commissioner of education, who both are appointed for four-year terms running concurrently with the governor under specific constitutional authority.

A constitutional amendment is necessary to allow the adjutant general to serve a four-year term. The Constitution in Art. 16, sec. 30 fixes the maximum term of all state offices at no longer than two years, unless the Constitution provides otherwise. Members of boards or commissions may be appointed for up to six years under Art. 16, sec. 30a. The extended term of office for the commissioner of education is expressly authorized in Art. 7, sec. 16-a, which allows for terms of office of all officers of the public school system and higher education institutions to be six years.

The adjutant general's term would run concurrently with the governor's term, no matter when the governor's term began. If the governor left office and a new governor was sworn in, the adjutant general's term would expire, and the new governor would have the opportunity to fill this position.

OPPONENTS
SAY:

The term of the adjutant general, or any other appointed office, should not be set in the Texas Constitution. The Constitution already is bloated with other overly specific and constraining provisions. Placing this provision in the Constitution would limit the flexibility of the Legislature if it later wished to reorganize the state's military services.

The adjutant general's term can be adjusted statutorily to run concurrently with the term of office of the governor, so long as the maximum term is not more than two years. The governor already can reappoint the adjutant general every two years if the governor so desires. There is no need to place additional restrictive language in the Constitution to allow the appointment to last for four years.

Alternatively, the Legislature could propose deleting the two-year term of office limitation in Art. 16, sec. 30 to remedy this problem and others. That provision was appropriate when the term of office for statewide elected executive officials, including the governor, was set at two years, but now is obsolete.

NOTES:

The committee substitute added that the adjutant general's term would expire when the appointing governor left office.

A related proposal, HJR 74 by Gray, which would provide a four-year term for the Health and Human Services Commissioner to run concurrently with the governor, also is on today's calendar. Both HJR 95 and HJR 74 would add a new section (e) to Art. 16, sec. 30 of the Constitution.