

SUBJECT: Allowing state employees to be paid for service on local government boards

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 12 ayes — Wolens, Alvarado, Bailey, Brimer, Counts, Craddick, Hilbert, Hunter, Longoria, Marchant, McCall, Merritt

1 nay — Danburg

1 present, not voting — S. Turner

1 absent — D. Jones

SENATE VOTE: On final passage, April 22 — 29-0

WITNESSES: No public hearing

BACKGROUND: The Texas Constitution, Art. 16, sec. 40, prohibits a person from holding more than one civil office for compensation. There are numerous exceptions for certain offices such as justice of the peace, county commissioner, or notary public, as well as for members of the military, the reserves, and military retirees. The Constitution specifically provides that state employees or others who receive all or part of their compensation, directly or indirectly, from state funds may serve as members of the governing body of school districts, cities, towns, or other local government districts, provided that the employees receive no salary for such service.

DIGEST: SJR 26 would allow state employees or other persons who receive part of their compensation from the state also to receive salaries for service as members of the governing bodies of local government entities.

The proposal would be presented to the voters at an election on November 2, 1999. The ballot proposal would read: “The constitutional amendment allowing state employees to receive compensation for serving as a member of a governing body of a school district, city, town or other local government district.”

**SUPPORTERS
SAY:**

SJR 26 would remove an antiquated prohibition that makes it very difficult for state employees, employees of public higher education institutions, and public school employees to offer their services as members of the governing boards of local governmental bodies. Those who wish to serve must give up any salary or other compensation normally provided for hours of public service. Many individuals who have run for these offices have been unaware of this prohibition and later have been forced to repay salaries.

This prohibition should be repealed in order to increase the pool of qualified candidates for local government offices and to allow more state employees, university professors, and school district employees to serve their local communities. There is no reason to prohibit these people from receiving two paychecks for doing two jobs.

Serving in a regular state government job, plus serving on a local government board, are complementary activities, just as serving in a private sector job and serving on a government board are complementary. There are numerous cases in which state employees already are serving voluntarily on local governing boards. There is no reason to believe that they would not work as hard once they would be able to receive compensation for their service on a local government board.

SJR 26 would properly keep state employees under Art. 16, sec. 40, prohibiting them from holding a state office, but would allow them to receive compensation for service as members of a local governing body. This would ensure that they are not singled out or treated differently from other individuals wishing to serve their local communities.

**OPPONENTS
SAY:**

Good reasons exist for the constitutional prohibition against a person being paid for holding two government offices. When the taxpayers are paying an individual's salary, they expect total commitment from that individual to the job. When a person accepts two offices, at some point those two offices will come into conflict on the amount of time required to do each well. Some city councils and school boards in major population centers offices are, in reality, full-time positions.

Small, local governing boards may not always require a full-time effort, but even these offices require a significant investment in time. Retaining the prohibition against state employees receiving compensation for such service

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would ensure that only those who are truly volunteering to serve the community would be allowed to hold two offices at taxpayer expense.

OTHER
OPPONENTS
SAY:

This proposal should eliminate all restrictions on state employees who wish to hold government office. The current provision only allows them to serve as members of the governing bodies of school districts, cities, towns, and other local governmental districts, but not in state offices such as the Legislature. State employees hold a position, not an office requiring election or appointment, so the dual officeholding restrictions should not apply to them at all.

NOTES:

A related measure, SJR 41 by Madla, which would permit a public school teacher or a faculty member of a public higher education institution to serve as a member of the Legislature, was adopted by the Senate on April 26 by 30-0 and is pending in the House State Affairs Committee.