



NATIONAL CONFERENCE
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2003-2009 Legislation regarding National Guard or Reservist Public Officials

November 10, 2009

Enactments are noted in italics

2009 Legislation

Arkansas

H.B. 1249

Signed by governor 4/3/09, Act 775

<http://www.arkleg.state.ar.us/assembly/2009/R/Acts/Act775.pdf>

Concerns elected officials who are called to active military duty; ensures that the elected official retains his or her office upon return from active military duty.

Georgia

H.B. 156

Signed by governor 4/30/09, Act 75

http://www.legis.ga.gov/legis/2009_10/fulltext/hb156.htm

Provides that elected magistrate judges who are performing ordered military duty may continue in office and be eligible for reelection during such duty; provides for qualifying for election by mail, messenger, or agent during such duty; amends Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, so as to provide that elected public officials who are performing ordered military duty may continue in office and be eligible for reelection during such duty; provides for qualifying for election by mail, messenger, or agent during such duty.

Michigan

S.J.R. D

<http://www.legislature.mi.gov/documents/2009-2010/jointresolutionintroduced/Senate/htm/2009-SIJR-D.htm>

Proposes an amendment to the State Constitution of 1963, by amending §8 of Article IV, to provide for temporary replacement members of the legislature if a member is called to active military service.

Minnesota

H.F. 2403

<https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=H2403.0.html&session=ls86>

S.F. 2162

<https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=S2162.0.html&session=ls86>

Proposes an amendment to the Minnesota Constitution, Article IV, §4; provides for temporary successors to members of the legislature called into active military service.

H.F. 2405

<https://www.revisor.mn.gov/bin/bldbill.php?bill=H2405.0.html&session=ls86>

Relates to the legislature; proposes an amendment to the Minnesota Constitution, Article IV, §4; provides for temporary successors to members of the legislature called into active military service.

Pennsylvania

H.B. 1202

<http://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2009&sessInd=0&billBody=H&billTyp=B&billNbr=1202&pn=1429>

Proposes an amendment to the Constitution of the Commonwealth of Pennsylvania, authorizing legislation to allow persons in the National Guard or in a reserve component of the armed forces of the United States, whether activated or not, to hold public office concurrently with their service.

South Carolina

H.B. 3545

http://www.scstatehouse.gov/sess118_2009-2010/bills/3545.htm

Amends §8-1-130, Code of Laws of South Carolina, 1976, relating to public officers not considered dual officeholders, so as to provide that an officer in the militia, notary public, delegate to a constitutional convention, law enforcement officer who holds a local office, and a corrections officer who holds a local office are not considered a dual officeholder for the purposes of the Constitution of South Carolina, 1895.

Texas

H.B. 3936

<http://www.legis.state.tx.us/tlodocs/81R/billtext/pdf/HB03936H.pdf>

Amends Government Code, ch. 431 by adding §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.

H.J.R. 127

Adopted 6/3/09

<http://www.legis.state.tx.us/tlodocs/81R/billtext/pdf/HJ00127E.pdf>

Proposes an amendment to the state constitution to add officers and enlisted members of the Texas State Guard and any other active militia or military force organized under Texas law to the list of civil offices of emolument exempt from the prohibition against dual office holding.

Wisconsin

A.J.R. 11

<http://www.legis.state.wi.us/2009/data/AJR-11.pdf>

Currently, a legislator does not vacate his or her office if he or she accepts a short period of active duty as a member of the reserve or serves in the armed forces during an emergency declared by the governor. This proposed constitutional amendment, proposed to the 2009 legislature on first consideration, provides that a legislator does not vacate his or her seat if he or she performs ordered military duty for any period during his or her term in office. The amendment specifies that “ordered

military duty” is military duty performed in the armed forces of the United States as a result of being called to duty, drafted, or activated, including attendance at any service school conducted by the armed forces of the United States as a voluntary member of the National Guard or of any reserve component of the armed forces of the United States pursuant to orders issued by competent state or federal authority. The amendment further provides that a legislator on ordered military duty may appoint a temporary acting legislator in his or her place, subject to approval by a vote of the majority of members elected to the house of the legislator in which the legislator serves. The temporary acting legislator serves in office until the legislator on ordered military duty returns or his or her term expires, whichever occurs first. A proposed constitutional amendment requires adoption by two successive legislatures, and ratification by the people, before it can become effective.



2008 Legislation

Georgia

S.B. 11

Signed by governor 5/12/08, Act 555

http://www.legis.ga.gov/legis/2007_08/fulltext/sb11.htm

Provides that judges of superior and state courts who are performing ordered military duty may continue in office and be eligible for reelection during such duty; provides for qualifying for election by mail, messenger, or agent during such duty; provides that performing ordered military duty shall be a basis for requesting assistance from other courts.

Illinois

S.B. 2679

Vetoed by governor 8/19/08

Veto overridden 9/23/08, Public Act 95-0968

<http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=095-0968>

Amends the Metropolitan Transit Authority Act. Provides that employees of the Chicago Transit Authority may hold federal, State, county, or municipal government positions if the compensation for the position is less than \$15,000 (instead of \$5,000) per year.

Louisiana

H.B. 164

Signed by governor 7/2/08, Act 702

<http://www.legis.state.la.us/billdata/streamdocument.asp?did=503836>

Provides for temporary successors for members of the legislature under certain circumstances; provides for the designation of temporary successors; provides for the qualifications, powers, functions, duties, and compensation of temporary successors; provides for certain requirements and prohibitions; provides for the compensation of a legislator for whom a temporary successor is serving in the legislature.

H.B. 183

Adopted 6/20/09, Act 931

<http://www.legis.state.la.us/billdata/streamdocument.asp?did=505419>

Proposes to add Article III, Section 4(F) of the Constitution of Louisiana, to require the legislature to provide by law for the succession to the powers and duties of a member of the legislature when the incumbent member becomes unavailable for certain reasons.

Maine

L.D. 1857

Signed by governor 5/18/08, Public Law 130

<http://www.mainelegislature.org/LawMakerWeb/billtextsearch.asp>

Exempts members of the Maine National Guard from the law prohibiting an unclassified employee of the executive branch from being a candidate for elective office in a partisan public election.

Virginia

H.B. 1575

Signed by governor 2/29/08, Chapter 57

<http://leg1.state.va.us/cgi-bin/legp504.exe?081+ful+CHAP0057>

S.B. 793

Signed by governor 3/27/08, Chapter 713

<http://leg1.state.va.us/cgi-bin/legp504.exe?081+ful+CHAP0713>

Allows a person elected or appointed to an office in the Commonwealth that requires an oath of office to make such oath before any notary public, if such person is a member of the United States armed forces and is on active duty, or if such person is a civilian deployed by the United States Department of Defense.

Wisconsin

A.J.R. 33

<http://www.legis.state.wi.us/2007/data/AJR-33.pdf>

Currently, a legislator does not vacate his or her office if he or she accepts a short period of active duty as a member of the reserve or serves in the armed forces during an emergency declared by the governor. This proposed constitutional amendment, proposed to the 2009 legislature on first consideration, provides that a legislator does not vacate his or her seat if he or she performs ordered military duty for any period during his or her term in office. The amendment specifies that "ordered military duty" is military duty performed in the armed forces of the United States as a result of being called to duty, drafted, or activated, including attendance at any service school conducted by the armed forces of the United States as a voluntary member of the National Guard or of any reserve component of the armed forces of the United States pursuant to orders issued by competent state or federal authority. The amendment further provides that a legislator on ordered military duty may appoint a temporary acting legislator in his or her place, subject to approval by a vote of the majority of members elected to the house of the legislator in which the legislator serves. The temporary acting legislator serves in office until the legislator on ordered military duty returns or his or her term expires, whichever occurs first. A proposed constitutional amendment requires adoption by two successive legislatures, and ratification by the people, before it can become effective.

2007 Legislation

Georgia

S.B. 11

Passed Senate 1/25/07

http://www.legis.ga.gov/legis/2007_08/fulltext/sb11.htm

Relates to courts, so as to provide that judges of superior and state courts who are performing ordered military duty may continue in office and be eligible for reelection during such duty; provides for qualifying for election by mail, messenger, or agent during such duty; provides that performing ordered military duty shall be a basis for requesting assistance from other courts.

Illinois

S.B. 253

Signed by governor 8/13/07, Public Act 95-0061

<http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=095-0061>

Provides that, if a person (i) is a resident of a municipality immediately prior to the active duty military service of that person or that person's spouse, (ii) resides anywhere outside of the municipality during that active duty military service, and (iii) immediately upon completion of that active duty military service is again a resident of the municipality, then the time during which the person resides outside the municipality during the active duty military service is deemed to be time during which the person is a resident of the municipality for purposes of determining the one-year residency requirement for elective municipal office.

Maine

L.D. 1857

Signed by governor 5/18/07, Chapter 130

<http://janus.state.me.us/legis/LawMakerWeb/externalsiteframe.asp?ID=280025008&LD=1857&Type=1&SessionID=7>

Exempts members of the Maine National Guard from the law prohibiting an unclassified employee of the executive branch from being a candidate for elective office in a partisan public election.

Michigan

S.J.R. F

<http://www.legislature.mi.gov/documents/2007-2008/jointresolutionintroduced/Senate/htm/2007-SIJR-F.htm>

Provides for temporary replacement members of the legislature if a member is called to active military service.

North Carolina

H.B. 671

Signed by governor 8/23/07, Chapter 432

<http://www.ncleg.net/Sessions/2007/Bills/House/HTML/H671v5.html>

Changes the procedure by which a member of the General Assembly or any other state, county, or municipal official may obtain a leave of absence when the member or official is called to active duty in the armed forces or National Guard; and changes the procedures by which temporary officials are appointed to replace members of the General Assembly called to active duty in the armed forces or National Guard.

South Carolina

H.B. 3177

http://www.scstatehouse.net/sess117_2007-2008/bills/3177.htm

Amends rules of the House of Representatives by adding Rule 7.8 so as to provide that a member of the House of Representatives may give his proxy to vote to another member of the House of

Representatives if that member is activated by military orders for federal military duty or state National Guard duty for a period of more than 21 days during a legislative session.

H.B. 3297

http://www.scstatehouse.net/sess117_2007-2008/bills/3297.htm

Adds Rule 7.8 so as to provide a that member of the House of Representatives may give his proxy to vote to another member of the House of Representatives if that member is deployed by military orders for federal military duty or state National Guard duty to a combat zone for a period of more than 21 days during a legislative session; provides that in order for the member holding the proxy to cast a vote for the deployed member, the deployed member must have provided specific voting instructions on the issue to the member casting a vote for the deployed member, and provides that the proxy on a particular question may be used upon unanimous consent of the members of the House present and voting provided the proxy vote does not change the outcome of the question.

H.B. 3511

Passed House 4/25/07

http://www.scstatehouse.net/sess117_2007-2008/bills/3511.htm

Provides that an officer in the militia, a notary public, a delegate to a constitutional convention, a law enforcement officer who holds a local office and a corrections officer who holds a local office are not considered a dual officeholder for the purposes of the constitution of South Carolina.

Wisconsin

A.J.R. 33

<http://www.legis.state.wi.us/2007/data/AJR-33.pdf>

Currently, a legislator does not vacate his or her office if he or she accepts a short period of active duty as a member of the reserve or serves in the armed forces during an emergency declared by the governor. This proposed constitutional amendment, proposed to the 2007 legislature on first consideration, provides that a legislator does not vacate his or her seat if he or she performs ordered military duty for any period during his or her term in office. The amendment specifies that "ordered military duty" is military duty performed in the armed forces of the United States as a result of being called to duty, drafted, or activated, including attendance at any service school conducted by the armed forces of the United States as a voluntary member of the National Guard or of any reserve component of the armed forces of the United States pursuant to orders issued by competent state or federal authority. The amendment further provides that a legislator on ordered military duty may appoint a temporary acting legislator in his or her place, subject to approval by a vote of the majority of members elected to the house of the legislator in which the legislator serves. The temporary acting legislator serves in office until the legislator on ordered military duty returns or his or her term expires, whichever occurs first.

2006 Legislation

Michigan

S.J.R. J

Establishes a policy for the replacement of legislators called to active duty.

Virginia

H.B. 884

Signed by governor 3/23/06, Chapter 120

<http://leg1.state.va.us/cgi-bin/legp504.exe?061+ful+CHAP0120>

Provides that the absence from the county or city of a constitutional officer because of service in the armed forces does not create a vacancy in the office unless the officer provides written notice of his resignation. The bill further provides that the power to relieve the officer of his duties or powers during an absence remains the sole prerogative of the officer unless waived by him in writing.

Wisconsin

A.J.R. 7

Failed to adopt pursuant to Senate Joint Resolution 1 5/11/06

<http://www.legis.state.wi.us/2005/data/AJR-7.pdf>

This proposed constitutional amendment permits the appointment of temporary acting senators and representatives to the assembly for legislators performing ordered military duty.

2005 Legislation

Montana

S.B. 118

Signed by governor 4/25/05, Chapter 381

<http://data.opi.mt.gov/bills/2005/billhtml/SB0118.htm>

Establishes the Montana Military Service Employment Rights Act; provides definitions; prohibits employment discrimination based on membership in the state's organized militia; clarifies and updates provisions authorizing leaves of absence for organized militia members and the right of members to return to employment without loss of specified benefits; clarifies and updates military leave provisions for elected officials; provides for enforcement by specifying complaint procedures, informal resolution, and court remedies; specifies the duties and powers of the Montana Department of Labor and Industry and the state attorney general with respect to complaints; provides rulemaking authority; revises provisions related to paid military leave for public employees; updates military leave provisions related to disqualification for unemployment insurance benefits.

Ohio

H.B. 168

<http://www.legislature.state.oh.us/bills.cfm?ID=126> HB 168

Permits members of public bodies who are called to active duty, under specified circumstances, to vote from their active duty locations within 24 hours after a vote of the public body, alters who may apply to extend payment of certain taxes on behalf of armed forces personnel and who shall receive notice of such extensions.

Texas

H.B. 3162

Signed by governor 6/17/06, Chapter 654

<http://www.capitol.state.tx.us/cgi-bin/tlo/textframe.cmd?LEG=79&SESS=R&CHAMBER=H&BILLTYPE=B&BILLSUFFIX=03162&VERSION=5&TYPE=B>

Gives the county executive committee member called for active duty the opportunity to appoint a replacement. If the member chooses not to appoint a replacement, the current law comes into effect and a majority vote will be taken to select the replacement.

Wisconsin

A.J.R. 7

<http://www.legis.state.wi.us/2005/data/AJR-7.pdf>

This proposed constitutional amendment permits the appointment of temporary acting senators and representatives to the assembly for legislators performing ordered military duty.

2004 Legislation

California

A.B. 3015

Chaptered by secretary of state 9/16/04, Chapter 558

http://www.leginfo.ca.gov/pub/bill/asm/ab_3001-3050/ab_3015_bill_20040916_chaptered.html

Existing law prohibits a member of the governing board of a school district from being absent from the state for more than 60 days, unless certain conditions apply, including, but not limited to, his or her absence for a federal military deployment not to exceed six months. If that absence exceeds a six-month period, this bill permits the governing board of a school district to approve an additional six month-absence, with certain requirements, and to appoint an interim member. If two or more members are absent, resulting in the inability to establish a quorum, the bill permits the appointment of one or more interim members.

Hawaii

H.B. 1936

http://www.capitol.hawaii.gov/session2004/bills/hb1936_.htm

S.B. 2361

http://www.capitol.hawaii.gov/session2004/bills/sb2361_.htm

Allows active-duty reservists and National Guardsmen who desire to run for office to file nomination papers and take their oaths by mail.

Indiana

H.B. 1345

Signed by governor 3/19/04, Public Law 79

<http://www.state.in.us/legislative/bills/2004/HE/HE1345.1.html>

Establishes a procedure for a person holding a state, legislative, local, or school board office to take a leave of absence when called into active military service and for the appointment of a person to temporarily perform the officeholder's duties during the leave.

Iowa

H.F. 2340

Signed by governor 4/14/04

<http://www.legis.state.ia.us/Archives.html>

Relates to the temporary absence of an elected local government official on active military duty and the appointment of a temporary replacement.

S.F. 2281

Withdrawn from further consideration 3/16/04

<http://www.legis.state.ia.us/Archives.html>

Provides for the temporary appointment of an otherwise elected official of a local governmental body when the current officeholder is called to active military duty for a period longer than 60 consecutive days. A temporary vacancy on an elective board, council, or other multimember body

shall be filled by appointment by a majority of the remaining members. A temporary vacancy in any other elective office of a political subdivision community college, or hospital board of trustees is filled by the governing body of that political subdivision, community college, or hospital board. A temporary vacancy expires immediately upon the return of the person initially filling that office.

Michigan

S.J.R. B

<http://michiganlegislature.org/documents/2003-2004/jointresolutionintroduced/senate/htm/2003-SIJR-B.htm>

Amends §8 of Article IV, to provide for temporary replacement members of the legislature if a member is called to active military service.

Ohio

H.B. 475

http://www.legislature.state.oh.us/bills.cfm?ID=125_HB_475

Provides for the temporary replacement of certain elected officials called to active duty in the armed forces.

Pennsylvania

H.B. 2699

<http://www.legis.state.pa.us/WU01/LI/BI/BI/2003/0/HB2699P4043.HTM>

Authorizes legislation to allow persons in the National Guard or in a reserve component of the armed forces of the United States, whether activated or not, to hold public office concurrently with their service.

Rhode Island

S.B. 2823

Became effective without governor's signature 7/5/04, Chapter 414

<http://www.rilin.state.ri.us/Billtext/BillText04/SenateText04/S2823.pdf>

Allows active duty military personnel to hold civil appointments, positions or commissions in Rhode Island.

Tennessee

H.B. 2109

<http://www.legislature.state.tn.us/bills/currentga/BILL/HB2109.pdf>

Permits a member of the General Assembly who is called to active military duty to vote from the member's active duty location within 24 hours after a vote is taken by a committee or at session of the General Assembly.

H.B. 3073

<http://www.legislature.state.tn.us/bills/currentga/BILL/HB3073.pdf>

S.B. 2853

Signed by governor 4/22/04, Public Law Chapter 546

<http://www.legislature.state.tn.us/bills/currentga/BILL/SB2853.pdf>

Allows attorney general and reporter, upon consent of district attorney general, to designate any full-time salaried attorney general investigator to act with same authority as district attorney criminal investigator when on active duty in connection with criminal matters where attorney general and reporter has jurisdiction.

2003 Legislation

Florida

S.B. 1098

Signed by governor 6/2/03, Chapter 2003-72

http://www.flsenate.gov/cgi-bin/view_page.pl?Tab=session&Submenu=1&FT=D&File=sb1098er.html&Directory=session/2003/Senate/bills/billtext/html/

Prohibits landlord from discriminating against member in offering dwelling unit or in any terms of rental agreement; requires granting of leave of absence for state, county, and municipal officials who are members of National Guard or reserve component of armed forces; provides conditions under which member may terminate his or her retail installment contract for leasing motor vehicle.

New York

A.B. 1950

Enacts the Absence From Public Office For Military Duty Act to allow legislative officials called for emergency military service, either short or long term, to designate an acting successor for the duration of the emergency or the end of their term of office.

Ohio

H.B. 111

http://www.legislature.state.oh.us/bills.cfm?ID=125_HB_111

Permits members of public bodies who are called to active duty, under specified circumstances, to vote from their active duty locations within 24 hours after a vote of the public body, amends §5 of Sub. H.B. 390 of the 124th General Assembly to extend the time within which members of the National Guard and reserve components of the Armed Forces of the United States who have been called to active duty must pay real property and manufactured home taxes, and declares an emergency.

Pennsylvania

H.R. 218

<http://www.legis.state.pa.us/WU01/LI/BI/BT/2003/0/HR0218P1434.HTM>

Urges the Department of Defense to allow elected state officials who are members of the National Guard or Reserve Forces to be candidates for and hold elective office while on active duty.

South Carolina

H.B. 3822

Signed by governor 4/21/03, Act 105

http://www.scstatehouse.net/sess115_2003-2004/bills/3822.htm

Provides that if a designee of a public official to serve on the Education Oversight Committee is a member of the National Guard or Reserves and has been called to active duty in connection with the conflict with Iraq or the war on terrorism for a period of not more than one year, the public official may designate another person to serve in his stead in an interim capacity until the original designee returns from active duty, and provides that absences of the original designee on the committee because of military activation are considered excused absences.

S.B. 406

http://www.scstatehouse.net/sess115_2003-2004/bills/406.htm

Provides that a member of the General Assembly or a constitutional officer who is a member of a military reserve unit that is called to active duty shall relinquish the duties of his office if he does not accompany his unit into active duty.

S.B. 574

http://www.scstatehouse.net/sess115_2003-2004/bills/574.htm

Relates to definitions concerning absences in the military, so as to add a definition of sheriff; relates to an appointment of a person to fill a temporary vacancy, so as to authorize a sheriff to temporarily fill his office if the sheriff is absent due to military service; relates to vacancies in the office of sheriff, so as to authorize a sheriff to temporarily fill his office if the sheriff is absent due to military service; relates to a coroner acting as sheriff during a vacancy, so as to include a reference to the sheriff's ability to temporarily fill his office if the sheriff is absent due to military service.

South Dakota

S.B. 57

Signed by governor 3/20/03

<http://legis.state.sd.us/sessions/2003/bills/SB57enr.htm>

Provides for the temporary replacement of certain elected officials called for active duty in the armed forces and to declare an emergency.

S.B. 100

<http://legis.state.sd.us/sessions/2003/bills/SB100p.htm>

Establishes emergency interim legislative succession policies.

Texas

H.J.R. 84

Filed with secretary of state 6/2/03

<http://www.capitol.state.tx.us/cgi-bin/tlo/textframe.cmd?LEG=78&SESS=R&CHAMBER=H&BILLTYPE=JR&BILLSUFFIX=00084&VERSION=5&TYPE=B>

Proposition 22

<http://www.capitol.state.tx.us/hrofr/focus/prop78-22.pdf>

Proposes a constitutional amendment providing for the filling of a temporary vacancy in a public office created by the activation for military service of a public officer.

2001 Legislation

Alabama

S.B. 10, Fourth Special Session

Signed by governor 12/28/01, Act 1095

<http://alisdb.legislature.state.al.us/acas/ACASLogin.asp?SESSION=1023>

Provides for the appointment of temporary acting officers to fill temporary vacancies under certain conditions in offices as the result of active military service of the United States.