

2009 ASSEMBLY JOINT RESOLUTION 11

February 17, 2009 – Introduced by Representatives SCHNEIDER, KAUFERT and SUDER, cosponsored by Senators S. FITZGERALD and SCHULTZ. Referred to Committee on Elections and Campaign Reform.

1 ***To renumber and amend*** section 13 of article IV; and ***to create*** section 13 (1) and
2 (2) (b) to (g) of article IV of the constitution; **relating to:** status of seats of
3 legislators on ordered military duty and appointment of temporary acting
4 legislators for legislators performing ordered military duty (first
5 consideration).

Analysis by the Legislative Reference Bureau

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.

1 ***Resolved by the assembly, the senate concurring, That:***

2 **SECTION 1.** Section 13 of article IV of the constitution is renumbered section 13
3 (2) (a) of article IV and amended to read:

4 [Article IV] Section 13 (2) (a) No person being a member of congress, or holding
5 any military or civil office under the United States, shall be eligible to a seat in the
6 legislature; and if any person shall, after his election as a member of the legislature,
7 be elected to congress, or be appointed to any office, civil or military, under the
8 government of the United States, his or her acceptance thereof shall vacate his or her
9 seat. ~~This restriction shall not prohibit a legislator from accepting short periods of~~
10 ~~active duty as a member of the reserve or from serving in the armed forces during~~
11 ~~any emergency declared by the executive, except that a legislator performing ordered~~
12 ~~military duty does not vacate his or her seat.~~

13 **SECTION 2.** Section 13 (1) and (2) (b) to (g) of article IV of the constitution are
14 created to read:

15 [Article IV] Section 13 (1) In this section:

16 (a) “Armed forces of the United States” means the United States Army, the
17 United States Navy, the United States Air Force, the United States Marine Corps,
18 the United States Coast Guard, any reserve component of any of those services, or
19 the national guard.

20 (b) “Ordered military duty” means any military duty performed in the armed
21 forces of the United States as a result of being called to duty, drafted, or activated,
22 including attendance at any service school conducted by the armed forces of the
23 United States as a voluntary member of the national guard or of any reserve

1 component of the armed forces of the United States pursuant to orders issued by
2 competent state or federal authority.

3 (2) (b) A legislator who will begin performing ordered military duty for more
4 than 30 days may appoint an individual to act temporarily for him or her during his
5 or her absence while on the ordered military duty, subject to approval of the
6 appointment by a vote of a majority of the members elected to that house in which
7 the legislator serves.

8 (c) A temporary acting legislator must be all of the following:

9 1. If the legislator is a member of a political party, a member of the same
10 political party as the legislator for whom he or she is acting.

11 2. Qualified for office under paragraph (a), sections 6 and 12 of this article, and
12 section 3 of article XIII as if he or she were a legislator.

13 (d) A temporary acting legislator begins acting on the date specified in writing
14 by the legislator as the date the legislator will begin performing the ordered military
15 duty.

16 (e) A temporary acting legislator may act until the legislator is no longer on the
17 ordered military duty or until end of the term of office of the legislator for whom he
18 or she is acting or until the legislator revokes the appointment, whichever comes
19 first.

20 (f) A temporary acting legislator has all the powers and privileges, and may
21 carry out all the duties, regularly exercised by the legislator for whom he or she is
22 acting. A temporary acting legislator is entitled to the same amount of
23 compensation, payable in the same manner and from the same source, as the
24 legislator for whom he or she is acting.

