



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBs0133/1
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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2005 ASSEMBLY JOINT RESOLUTION 7**

June 7, 2005 – Offered by Representative GUNDRUM.

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:** appointment of
3 temporary acting senators and representatives to the assembly for legislators
4 performing ordered military duty (first consideration).

Analysis by the Legislative Reference Bureau

This proposed constitutional amendment, proposed to the 2005 legislature on first consideration, permits the appointment of temporary acting senators and representatives to the assembly for legislators performing ordered military duty.

A proposed constitutional amendment requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective.

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

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

8 [Article IV] Section 13 (2) (a) No person being a member of congress, or holding
9 any military or civil office under the United States, shall be eligible to a seat in the

1 legislature; and if any person shall, after his election as a member of the legislature,
2 be elected to congress, or be appointed to any office, civil or military, under the
3 government of the United States, his or her acceptance thereof shall vacate his or her
4 seat. However, a legislator performing ordered military duty does not vacate his or
5 her seat. This restriction shall not prohibit a legislator from accepting ~~short~~ periods
6 of active duty as a member of the reserve or national guard or from serving in the
7 armed forces during any emergency declared by the executive for 30 days or less.

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

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

11 (a) "Armed forces of the United States" means the United States Army, the
12 United States Navy, the United States Air Force, the United States Marine Corps,
13 the United States Coast Guard, any reserve component of any of those services, or
14 the national guard.

15 (b) "Ordered military duty" means any military duty performed in the armed
16 forces of the United States as a result of being called to duty, drafted, or activated,
17 including attendance at any service school conducted by the armed forces of the
18 United States as a member of the national guard or of any reserve component of the
19 armed forces of the United States pursuant to orders issued by competent state or
20 federal authority.

21 (2) (b) A legislator who will begin performing ordered military duty for more
22 than 30 days may appoint an individual to act temporarily for him or her during his
23 or her absence while on the ordered military duty.

1 (c) A temporary acting legislator must be qualified for office under paragraph
2 (a), sections 6 and 12 of this article, and section 3 of article XIII as if he or she were
3 a legislator.

4 (d) A temporary acting legislator begins acting on the date specified in writing
5 by the legislator as the date the legislator will begin performing the ordered military
6 duty.

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

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

16 (g) A temporary acting legislator is ineligible to be nominated for or elected to
17 the office of legislator of the district in which he or she serves as temporary acting
18 legislator, but is ineligible only at the first election for that office held after being so
19 appointed. However, a temporary acting legislator is eligible to be nominated for or
20 elected to the office of legislator of the district in which he or she serves as temporary
21 acting legislator if the legislator:

22 1. Is killed in action, missing in action, or otherwise incapacitated, as
23 determined by law; or

24 2. Files with the secretary of state a written declination to be a candidate for
25 reelection and does not file to be a candidate for reelection.

1 **SECTION 3. Numbering of new provision.** The new subsection (2) of section
2 13 of article IV of the constitution created in this joint resolution shall be designated
3 by the next higher open whole subsection number in that section in that article if,
4 before the ratification by the people of the amendment proposed in this joint
5 resolution, any other ratified amendment has created a subsection (2) of section 13
6 of article IV of the constitution of this state. If one or more joint resolutions create
7 a subsection (2) of section 13 of article IV simultaneously with the ratification by the
8 people of the amendment proposed in this joint resolution, the subsections created
9 shall be numbered and placed in a sequence so that the subsections created by the
10 joint resolution having the lowest enrolled joint resolution number have the numbers
11 designated in that joint resolution and the subsections created by the other joint
12 resolutions have numbers that are in the same ascending order as are the numbers
13 of the enrolled joint resolutions creating the subsections.

14 ***Be it further resolved, That*** this proposed amendment be referred to the
15 legislature to be chosen at the next general election and that it be published for 3
16 months previous to the time of holding such election.

17 **(END)**