

SUBJECT: Declination of compensation by a candidate for a county or precinct office

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 5 ayes — W. Smith, Harless, Heflin, Leibowitz, T. Smith

0 nays

4 absent — Naishtat, Bolton, Coleman, Farabee

WITNESSES: For — (*Registered, but did not testify*: Jim Allison, County Judges & Commissioners Association of Texas; John Thompson, Polk County, County Judges and Commissioners Association of Texas)

Against — None

BACKGROUND: Local Government Code, sec. 152.052 allows an elected county or precinct official to reduce or decline compensation by filing an affidavit with the county payroll officer after taking office.

DIGEST: HB 694 would allow a candidate for a county or precinct office to decline compensation by filing an affidavit with the county clerk before taking office. Once filed, the declination would take place on the date the person took office and could not be revoked during the person's term of office.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

SUPPORTERS SAY: HB 694 would implement important voter protection measures. Often, county and precinct candidates run on the popular but impractical platform of not taking a salary. Upon winning, some candidates have taken salaries despite campaign promises to the contrary. While the law currently provides a candidate the opportunity to decline a salary by affidavit after taking office, this bill would permit a candidate for public office to file an affidavit *before* the election, allowing members of the public to vote secure in the knowledge that such a campaign promise would be kept.

The fact that the affidavit could not be revoked after it was filed would force candidates to think long and hard before making rash promises to constituents. The decision to publicly decline compensation for elected service should not be taken lightly, and elected officials should be held to account for this just as they are for other important decisions.

When a county or precinct official declines compensation, as allowed under current law, it does not present additional liability to the county or the elected official. As a county employee, the elected official still is eligible for workers' compensation and liability coverage. This bill would protect the public interest — holding elected officials to their word, and the private interest — covering officials for any injuries sustained on the job.

The affidavit declining salary would expire at the end of the official's term. The official could choose not to renew the affidavit and could receive a salary if reelected, allowing the voters the opportunity to decide the issue.

**OPPONENTS
SAY:**

The option of filing an affidavit declining salary could provide campaign fodder to a political rival who could demand the affidavit be filed in advance of an election. If candidates regularly declined salaries for public office, only those who could afford to work without compensation would run for office, creating a system in which only the independently wealthy could participate in elected government.

HB 694 would create an immutable public contract, which would discourage a candidate from signing. Once an affidavit was filed with the county clerk, the public official could not contest the contract and would assume significant risk. A public official initially may decline a salary because the demands of the office are very low or the official is wealthy enough to do without compensation. If conditions change, due to a family crisis or a sudden change in the county such as a disaster, the public official would have no way to get out of the contract and start drawing a salary. Only the foolhardy or exceptionally wealthy could take such a public risk with no legal recourse.

This bill defines “compensation” as including paid benefits and salary. If an elected official declines compensation, it is unclear if that person would be considered a public employee. This could have ramifications for health

and accident insurance for the public official and liability protections for the county.

**OTHER
OPPONENTS
SAY:**

HB 694 should include a provision allowing an affidavit to be overturned by a vote of the county commissioners' court. This would enable a candidate to sign an affidavit and, if conditions changed, have a means of revoking the affidavit, if the county's elected leaders consented.

NOTES:

The companion bill, SB 527 by Seliger, has been referred to the Senate Intergovernmental Relations Committee.