

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Be Adopted
Vote:	9 - 0 - 0
Yeas:	Barnhart, Berger, Dembrow, Hicks, Holvey, Hoyle, Jenson, Kennemer, Garrett
Nays:	0
Exc.:	0
Prepared By:	Erin Seiler, Administrator
Meeting Dates:	6/26

WHAT THE MEASURE DOES: Proposes amendment to Oregon Constitution to permit serving judge to be employed by Oregon National Guard for purpose of performing military service or by State Board of Higher Education for purpose of teaching, without violating section 1, Article III (separation of powers) or section 10, Article II of the Oregon Constitution (prohibition against holding two lucrative offices at same time). Refers proposed constitutional amendment to people for approval or rejection at next regular general election.

ISSUES DISCUSSED:

- Separation of powers
- Ability of judge to receive compensation as teacher in public university
- Parity between private and public law schools
- Ability of Judge Advocate General (JAG) in Oregon National Guard to be employed in public university
- History of measure

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Section 8, Article XV of the Constitution of the State of Oregon allows persons employed by the State Board of Higher Education or a member of a school board or an employee of a school board to serve in the Legislature without violating either: (1) section 1, Article III, which prohibits persons from exercising any duties or functions of more than one branch of government; or (2) section 10, Article II, which prohibits a person from holding more than one lucrative office. There is no similar reference, however, to allow those holding judicial office to be employed as a teacher in the public education system. A 1979 Oregon Supreme Court decision, *In the Matter of Sawyer*, found that a judge regularly employed as a part-time teacher by a state-funded school violated the separation of powers section of the Oregon Constitution.

Senate Joint Resolution 34-A, if enacted by voters, would allow judges to teach in a public university or serve in the Oregon National Guard while concurrently serving as a judge.