



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

November 23, 1960

Honorable Wesley Roberts, Chairman
House Committee on Saving Taxes
Lamesa, Texas

Opinion No. WW-963

Re: Term of office of members
of the House Committee on
Saving Taxes.

Dear Mr. Roberts:

Your request for an opinion reads as follows:

"I am chairman of the House Committee on Saving Taxes, an interim committee, created by HSR 152 of the 1st Called Session of the 56th Legislature.

"All of the members of my committee were candidates for re-nomination and all were successful. I would appreciate knowing when the term of office of each of the members of my committee expires, and whether or not each member of the legislature continues to serve until his successor qualifies by taking the Constitutional Oath of Office."

House Simple Resolution 152, referred to in your request, creates a committee of five members of the House of Representatives to be known as the Committee on Saving Taxes and provides that such committee shall continue until the convening of the 57th Legislature and, therefore, constitutes an interim committee of the 56th Legislature. Attorney General's Opinion WW-811 (1960).

Section 4 of Article III of the Constitution of Texas provides:

"The members of the House of Representatives shall be chosen by the qualified electors, and their term of office shall be two years from the day of their election."

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Section 17 of Article XVI of the Constitution of Texas provides:

"All officers within this State shall continue to perform the duties of their offices until their successors shall be duly qualified."

It was held in Attorney General's Opinions V-788 (1949), V-760 (1949) and 1298 (1914, found in "Reports and Opinions of the Attorney General," 1914-16, page 505), that the provisions of Section 4 of Article III and Section 17 of Article XVI, above quoted, are to be construed together and the term of office as a member of the Legislature only expires after the successor has duly qualified by taking the oath of office.

Under the provisions of Section 4 of Article III of the Constitution of Texas, the successor may qualify on the day of his election. Thus, assuming that the members of your committee are reelected, they will serve during the term of office as members of the Legislature until the convening of the 57th Legislature.

Article 5429e, Vernon's Civil Statutes, provides:

"The membership of any duly appointed Senator or Representative on the Legislative Budget Board or on the Legislative Council, or on any other interim Committee, shall, on the following contingencies, terminate, and the vacancy created thereby shall be immediately filled by appointment for the unexpired term in the same manner as other appointments to the Legislative Budget Board and the Legislative Council are made:

- "(a) Resignation of such membership;
- (b) Cessation of membership in the Legislature for death or any reason;
- (c) Failure of such member to secure nomination or election to membership in the Legislature for the next succeeding term."

It is noted that the provisions of Article 5429e govern the term of office of the membership on interim committees of the Legislature, such as your committee,

and in addition to the provisions of Subdivision b, providing for the termination of membership on a committee on the cessation of membership in the Legislature, Subdivision c also provides that failure of such member to secure election to membership in the Legislature for the next succeeding term will result in termination of the membership on the committee. Therefore, you are advised that if any member of your committee is not re-elected, his membership will cease when the canvass of the returns of the General Election reveals that he has not secured election to membership in the 57th Legislature.

You are therefore advised that each member of your committee continues to serve until his successor qualifies by taking the constitutional oath of office or until convening of the 57th Legislature.

SUMMARY

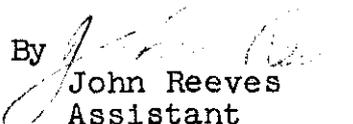
Each member of the House Committee on Saving Taxes created by House Simple Resolution 152 of the First Called Session of the 56th Legislature, 1959, continues to serve until his successor qualifies by taking the constitutional oath of office or until convening of the 57th Legislature. Section 4 of Article III and Section 17 of Article XVI, Constitution of Texas.

Yours very truly,

WILL WILSON
Attorney General of Texas

JR:ms:zt

APPROVED:
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