

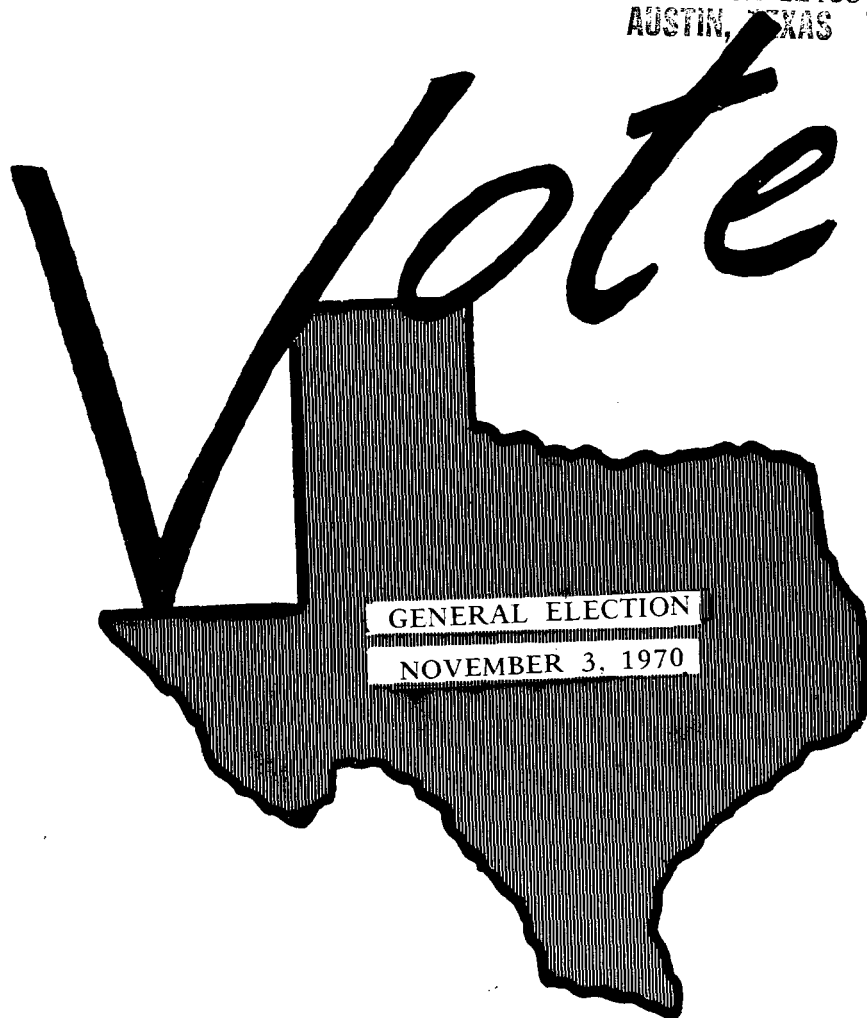
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JUN 1970

**7 PROPOSED**

**CONSTITUTIONAL AMENDMENTS ANALYZED**

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of the

61st Legislature of Texas

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## INTRODUCTION

The 61st Legislature, which convened in January, 1969, proposed a total of 16 amendments to the Texas Constitution, 9 of which were voted on August 5, 1969, with the remaining 7 to be considered by the Texas electorate on November 3, 1970. Only four of the proposals presented to the voters last year received approval: the so-called clean-up amendment, which removed obsolete, superfluous, and unnecessary sections of the constitution; the amendment giving the legislature authority to increase the ceiling on state assistance for the four classes of needy to a maximum of \$80 million; the amendment authorizing the legislature to provide for payment of assistance to surviving spouses and minor children of certain governmental officials and employees, including members of organized volunteer fire departments and certain organized police reserve or auxiliary units; and the amendment authorizing the legislature to provide for additional loans to students at institutions of higher education under the Texas Opportunity Plan.

Since it became effective in 1876, the present Texas Constitution has been amended 195 times. In every regular session except that in 1885, for amendments can be proposed only during regular sessions of the legislature, joint resolutions to amend the state's fundamental document have been introduced. The all-time record was reached in 1961, when 108 such resolutions were introduced in the 57th Legislature. However, only 14 of these were approved by both houses and thus appeared on the ballot. The record number to reach the ballot was achieved by the 59th Legislature, in 1965, which placed 27 proposals before the voters.

The following table, covering the years beginning with the first proposed amendment in 1879, and concluding with the proposed amendments to be submitted this year (1970), has been prepared to show the number of amendments proposed in each regular session and the number of those finally adopted by the Texas electorate.

# 1876 CONSTITUTION-AMENDMENTS PROPOSED AND ADOPTED

Year	Proposed	Adopted	Year	Proposed	Adopted
1879	1	1	1927	8 <sup>2</sup>	4
1881	2	0	1929	7 <sup>2</sup>	5
1883	5	5	1931	9	9
1887	6	0	1933	12	4
1889	2	2	1935	13	10
1891	5	5	1937	7	6
1893	2	2	1939	4	3
1895	2	1	1941	5	1
1897	5	1	1943	3 <sup>2</sup>	3
1899	1	0	1945	8	7
1901		1	1947	9	9
1903	3	3	1949	10	2
1905	3	2	1951	7	3
1907	9	1	1953	11	11
1909	4	4	1955	9	9
1911	5	4	1957	12	10
1913	8 <sup>1</sup>	0	1959	4	4
1915	7	0	1961	14	10
1917	3	3	1963	7	4
1919	13	3	1965	27	20
1921	5 <sup>2</sup>	1	1967	20	13
1923	2 <sup>3</sup>	1	1969	16	4 <sup>4</sup>
1925	4	4	TOTALS	320	195

1Eight proposals approved by legislature, with one including two proposed amendments, but only six were actually submitted on ballot.

2Two amendments included in one proposal.

3Two proposals approved by legislature, but only one actually on ballot.

4Sixteen amendments proposed by legislature, and four adopted in election held in 1969, with nine proposals submitted; remaining seven proposals to be voted on November 3, 1970.

The seven proposed constitutional amendments for consideration this year are:

To Be Voted on November 3, 1970

- |                |  |
|----------------|--|
| Amendment No.1 | Amending Article V, Section I-a, of the Texas Constitution, relating to removal, retirement, or censure of justices, judges, and justices of the peace under prescribed circumstances.   |
| Amendment No.2 | Amending Article XVI, Section 20, Subsection (a), to authorize the legislature to enact a mixed law regulating the sale of mixed alcoholic beverages on a local option basis.  |
| Amendment No.3 | Authorizing the legislature to provide by law for the establishment of a uniform method of assessment of ranch, farm, and forest lands based upon the capability of the lands to support the raising of livestock or to produce farm and forest crops. |
| Amendment No.4 | Amending Article III, Section 51-b, Subsection (a), to reconstitute the State Building Commission as a three-member appointed commission.  |
| Amendment No.5 | Authorizing any county to issue road bonds in an amount not to exceed one-fourth of the assessed valuation of the real property in the county under certain conditions.  |
| Amendment No.6 | Amending Article XVI, Section 51, to increase the value of the homestead exempt from forced sale from \$5,000 to \$10,000.   |
| Amendment No.7 | Authorizing the legislature to provide for consolidating offices and functions of government and for performance of governmental functions by contract between political subdivisions in any county.   |

Each of these proposals is analyzed in this report. The Texas Legislative Council takes no position FOR or AGAINST with respect to the merits of the proposed amendments. In listing the arguments, the Council staff is merely presenting arguments most commonly offered by proponents and opponents of each proposal.



## AMENDMENT NO. 1-H.J.R. No. 30

[Amending Article V, Section 1-a, of the Texas Constitution,  
relating to removal, retirement, or censure of  
justices, judges, and justices of the peace  
under prescribed circumstances.]

The proposed amendment to Article V, Section 1-a, of the Texas Constitution, alters Subsections (5), (6), (7), (9), (11), (12), and (13). The present section covers the retirement and compensation of justices and judges. The proposed amendment was drawn to enlarge the jurisdiction of the State Judicial Qualifications Commission and to enlarge its powers on censure and removal from office of all state and local justices, judges, and justices of the peace whose conduct is deemed inconsistent with the proper performance of the duties of the court. Examined by subsection, the proposed changes would:

(5) Add censure to the powers of the commission and extend the scope of the subsection to include "any person holding an office named in Paragraph A of Subsection (6)."

(6) Expand the authority of the commiSSion to cover county judges, county court at law judges, domestic relations court judges, juvenile court judges, probate court judges, corporation or municipal court judges, justices of the peace, and any judge or presiding officer of any special court created by the legislature. Currently, Article V, Section 1-a, covers only justices and judges of the appellate courts and district and criminal district courts. The amendment would also provide for censure in lieu of removal from office under this subsection. Under Paragraph B involuntary retirement for disability may be extended to the expanded group of officials eligible for retirement benefits. If not eligible for retirement benefits, these officials may be removed from office for disability seriously interfering with the performance of duties if the disability is or is likely to become permanent in nature.

(7) Authorize the commission to keep itself informed as fully as possible concerning the misconduct or disability of the officeholders named in Subsection (6).

(8) Expand commission authority so that it may issue a private reprimand without a \_\_\_\_\_ or issue public censure after a hearing to an officeholder named in Subsection (6). \_\_\_\_\_.

(9) Add censure to the powers of the Texas Supreme Court under the review provisions of the article.

(11) Provide for due process of law for **all** officeholders named in Subsection (6).

(12) Provide that no person holding an office named in Subsection (6) shall sit as a member of the commission or supreme court in a proceeding involving his own retirement or removal.

(13) Make Article V, Section i-a, alternative to and cumulative of the methods provided elsewhere in the constitution for removal of persons holding an office named in Subsection (6).

'[For full text of the Resolution \_proposing Amendment No.1, see appendix.]

Background                      The Texas electorate in 1965 adopted the current Article V, Section i-a. The section greatly expanded the article. in regard to the retirement and removal from office of justices and judges of the appellate courts and district and criminal district court judges. However, no provision was made for censure or private reprimand of judges nor did the section include the judges of the other state and local courts. The proposed amendment to Article V, Section i-a, was designed to change the provision to include these features.

## ARGUMENTS

For:

1.                      Every judge is charged with the equitable enforcement of law. The responsibilities of the judges of lower courts are no less sacred than those of the justices of the appellate courts; therefore, they should be answerable

to the same rules dealing with retirement, removal from office, and public censure or private reprimand.

Against:

1. Except in rare instances, the judges named in Subsection (6) are elected by the people and therefore answerable to the people at the polls. Therefore, the expansion of the article is unwarranted. Increasing the power and scope of the commission might also lead to "witch hunts," and such action could subsequently discourage qualified persons from seeking election to the bench.

## AMENDMENT NO. 2-S.J.R. No. 10

[Amending Article XVI, Section 20, Subsection (a), to authorize the legislature to enact a mixed beverage law regulating the sale of mixed alcoholic beverages on a local option basis.]

The proposed amendment repeals that part of Article XVI, Section 20, Subsection (a), of the Texas Constitution, which prohibits the open saloon and which empowers the legislature to define that term and enact legislation against it. The proposed amendment substitutes a new provision empowering the legislature to enact a mixed beverage law regulating the sale of mixed alcoholic beverages on a local option basis. The amendment leaves unaffected the part of Subsection (a) which empowers the legislature to "regulate the manufacture, sale, possession and transportation of intoxicating liquors, including the power to establish a state monopoly on the sale of distilled liquor."

[For full text of the Resolution proposing Amendment No.2, see appendix.]

Background                      During the early days of the Republic, Texas had no restrictions against the operation of an open saloon other than the requirement that the proprietor pay a tax and that he be bonded to guarantee that an orderly and reputable house would be maintained. As the frontier atmosphere faded and civilization sank its roots deeper into community life, temperance groups were militant but only mildly successful in attempts to bring about prohibition in the state. In 1887 the voters of the state defeated an amendment dealing with prohibition by a vote of 220,000 to 129,000. Temperance groups found little support during the next 20 years, but in 1911 a similar proposed amendment on prohibition was lost by only 6,000 votes. World War I again brought prohibition into prominence, and when the federal government submitted the national prohibition amendment in 1918, it was adopted by the legislature. However, prohibition lacked the public support necessary for enforcement, and when Congress modified the Volstead Act to permit the sale of beer in 1933, Texas adopted an amendment to the state constitution legalizing the sale of beer. The 21st Amendment to the federal constitution, which repealed the 18th Amendment, became effective in December, 1933. The 44th Legislature of the State of Texas then submitted an amendment to repeal state prohibition, and it was ratified in August, 1935. The

1935 amendment authorized the sale of hard liquor on a local option basis but prohibited the open saloon. Many attempts have been made over the years to achieve liquor by the drink, but the issue did not become a major one until it was endorsed by Governor John Connally in 1967. Connally's proposal for a "minibottle" plan of liquor by the drink failed to receive a majority vote during the 1st Called Session of the 60th Legislature in June, 1968. Many lawmakers contended that the constitution would have to be amended to repeal the provision banning open saloons. Such a resolution was offered and passed for submission to the Texas electorate during the Regular Session of the 61st Legislature.

## ARGUMENTS

For:

1. The proposed amendment is not a wet-and-dry issue because the sale of alcohol has already been sanctioned by a majority of the residents of the state; also, a non-binding referendum during the 1968 primary elections resulted in a 40,000-vote margin for mixed beverages out of a total vote of 1.4 million.
2. The proposed amendment would not force mixed drinks on any locality since it requires that any mixed-drink law be on a local option election basis.
3. Adoption of the proposed amendment and passage of subsequent enabling legislation would lead to stricter control of liquor sales to minors, an end to the subterfuge of private clubs, a decrease in alcohol consumption, a reduced crime rate, and fewer accidents.

Against:

1. The proposed amendment would make alcoholic beverages more readily available.

2. The proposed amendment would lead to an increase in crime and in traffic deaths.
3. Although enabling legislation for the proposed amendment could be designed to raise needed new revenue through the taxation of mixed beverages, this revenue would be negligible in comparison with resulting problems such as broken homes, juvenile delinquency, drunk-driving, criminal assaults, and other crimes.

## AMENDMENT NO. 3--S.J.R. No. 15

[Authorizing the legislature to provide by law for the establishment of a uniform method of assessment of ranch, farm, and forest lands based on the capability of the lands to support the raising of livestock or to produce farm and forest crops.]

The proposed amendment to Article VIII, Section 1-d, of the Texas Constitution authorizes the legislature to provide by statute for the establishment of a uniform method of assessing ranch, farm, and forest lands based on the capability of the lands to support the raising of livestock and/or to produce farm and forest crops rather than on the value of such lands and the crops growing on them. The present provision of the Constitution requires no enabling legislation since it prescribes in detail the procedures for designating land for agricultural use and the assessment of such land for tax purposes on the basis only of factors relative to such use.

The proposed section differs from the present section in several respects. The present section is limited to land owned by natural persons while the proposed section contains no such limitation. Also, the present section is applicable to land designated for agricultural use, and agricultural use is defined as "the raising of livestock or growing of crops, fruit, flowers, and other products of the soil under natural conditions as a business venture for profit, which business is the primary occupation and source of income of the owner." The proposed section is applicable to farm, ranch, and forest land, and no reference is made to the primary occupation of the owner. The present section provides that the specified land shall be assessed for tax purposes on the consideration of only those factors relative to agricultural use as defined above. The same basic idea is contained in the new section which provides that the specified land shall be assessed upon the basis of its capability to support the raising of livestock and/or to produce farm and forest crops rather than upon the value of such land and the crops growing on them. The present section contains provisions directing a landowner who wishes a special valuation to file a statement with the local tax assessor designating the land and its use and directing the assessor to determine whether the land qualifies and to assess it accordingly. It also provides that no land will qualify unless it has been exclusively used or continuously developed for agricultural use for at least three successive years immediately preceding the assessment date. In addition, it provides for an additional tax in the event the designated land is subsequently sold or diverted to a purpose other than that of agricultural use. Finally, the

present section contains a provision stating that the valuation and assessment of any minerals or subsurface rights to minerals shall not come within the provisions of the section. These items have no counterparts in the proposed section, details being left to future enabling legislation.

## ARGUMENTS

For:

1. Farm real estate taxes per acre have increased by more than 22 percent, according to data compiled by the Economic Research Service of the United States Department of Agriculture, and there is a need for the tax relief for owners of such property which the proposed amendment would authorize.
2. The constitutional amendment approved by the voters in 1966 has not provided tax relief urgently needed by farmers and ranchers who use for agricultural purposes land which has greatly increased in value due to its potential use for other purposes, such as urban development. The proposed amendment would enable the legislature to provide such relief.
3. The present system of assessing forest lands for ad valorem tax purposes is inequitable and unrealistic. Timber is not recognized as a "farm product" exempt from taxation as are other growing crops. Timber is accordingly taxed with, and in addition to, the land. The result is that tree farmers pay an ad valorem tax each year on their land on the current year's "crop" (represented by the growth of the trees), and on the crop product in each prior year since the stand of timber was planted. The tree farmer does not recover any portion of these tax payments until the trees are harvested some 20 to 50 years after they are planted. The proposed amendment would authorize the legislature to provide a fairer system of property valuation for taxation of forest lands.



Against:

1. Enabling legislation for the proposed amendment has not been passed; therefore, the voter has no idea how far the legislature may go in providing property tax considerations to' the owners of farm, ranch, and timber lands.
2. The proposed amendment could result in a tax ceiling for rural lands while urban Texans would be in a different category.
3. Lower property valuations resulting from implementation of the proposed constitutional amendment might reduce tax revenues of county, school, and other taxing districts. This could possibly handicap these political subdivisions in performing essential governmental functions and services unless other sources of income are found.

## AMENDMENT NO. 4-H.J.R. No. 15

[Amending Article III, Section 51-b, Subsection (a), to reconstitute the State Building Commission as a three-member appointive commission.]

The proposed amendment establishes the State Building Commission as a three-member commission to be appointed by the governor with the advice and consent of the Senate. Members would serve six-year terms on a staggered basis, and the governor would designate biennially a member as chairman.

[For full text of the Resolution proposing Amendment No.4, see appendix.]

Background                      In November, 1954, the Texas electorate adopted the present Section 51-b of Article III. This section created a State Building Commission, composed of the present membership, with a provision that the legislature may designate some state official other than the chairman of the Board of Control to the commission. It also created a State Buildin'g Fund into which is paid'the revenue which remains from a 2 cents on the \$100 valuation state ad valorem tax after payment of Confederate pensions. This tax may not be levied after December 31, 1976, by virtue of a constitutional amendment adopted in November of 1968. The first structure erected under this section was the State Supreme Court Building. Since then the Capitol Complex has- continued to expand. At the time the original amendment was adopted, a person desiring to visit most of the state agencies in Austin had to go to almost 200 locations scattered about the city. The cramped quarters provided by the Capitol also deprived members of the House of Representatives of office space. The amendment was designed to eliminate such situations by the creation of the Capitol Complex.

### ARGUMENTS

For:

1.                      The governor, attorney general, and chairman of the Board of Control do not have the time to consider all of the details of the additional duties imposed upon them as ex officio members of the State Building Commission.

2. The governor has recommended the creation of the three-man appointive commission as proposed by the amendment in the belief that a commission so constituted could function more efficiently.

Against:

1. Since the State Building Commission makes recommendations concerning the expenditure of large sums of public money, it would seem inadvisable to change its present membership of elected officials responsible directly to the people to an appointive membership which is answerable to the voters only through the governor.
2. After terms of the initial appointees under the proposed amendment have been terminated, succeeding members of the State Building Commission would serve full six-year terms. The long tenure which would be provided for members of the State Building Commission, in contrast to the two-year elective terms of two of the ex officio members (the governor and the attorney general) as the commission now exists, could possibly open the way for abuse in the spending of state funds before the natural expiration of terms would permit new appointments.

## AMENDMENT NO. 5-H.J.R. No. 28

[Authorizing any county to issue road bonds in an amount not to exceed one-fourth of the assessed valuation of the real property in the county under certain conditions.]

The proposed amendment revises Article III, Section 52, to authorize any county to issue bonds, in an amount not to exceed one-fourth of the assessed valuation of real property in the county, for "the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof, upon a vote of a majority of the resident property taxpayers voting thereon who are qualified electors of the county, ..."

[For full text of the Resolution proposing Amendment No.5, see appendix.]

Background                      Article III, Section 52, often described as the cornerstone of constitutional provisions relating to the authority of counties, cities, towns, and other political corporations and subdivisions to lend credit, authorizes these entities to issue bonds for three purposes:

(1) The improvement of rivers, creeks, and streams to prevent overflows, and to permit of navigation or irrigation, or in aid of such purposes.

(2) The construction and maintenance of pools, lakes, reservoirs, dams, canals, and waterways for the purposes of irrigation, drainage or navigation, or in aid thereof.

(3) The construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof.

Under this existing provision total bonded indebtedness may never exceed one-fourth the assessed valuation of the real property of the district or territory issuing the bonds. Also bonds may be issued only on a vote of a two-thirds majority of resident property taxpayers voting thereon who are qualified electors of the district or territory to be affected.

In November, 1968, the Texas electorate approved Article III, Section 52e, to permit Dallas County to issue road bonds without having to include the amount

of bonds issued under (1) and (2), above, in determining the debt limit. The two-thirds majority required for approval of a bond issue under the existing Article III, Section 52, was reduced to a simple majority with respect to the issuance of road bonds for Dallas County only under Article III, Section 52e. The proposed Amendment No. 5 would revise Article III, Section 52, to grant any county the same authority to issue road bonds as that granted to Dallas County under Article III, Section 52e, and would give to counties, but not other political subdivisions, the same debt limitation and simple majority vote for the issuance of road bonds.

## ARGUMENTS

For:

1. Construction and maintenance of sufficient roads and turnpikes to meet the traffic needs of rapidly growing Texas have been hampered by the constitutional debt limit and the requirement of a two-thirds vote of the qualified electors. The proposed Amendment No. 5 would alleviate this situation.
2. The proposed amendment's requirement that bonds may be issued only on approval of a majority vote provides adequate assurance that tax burdens cannot be increased without full knowledge and majority consent of the individuals to be affected. At the same time, the amendment modifies present requirements enabling a minority of only one-third of the voters to override wishes of the majority.

Against:

1. The majority vote requirement of the proposed amendment would make it too easy for a bond election to pass. When bond elections are called with the timing selected to assure turnout of only those in favor of an issue, a majority of the voters could, in fact, be disenfranchised.

2. The liberalized debt limit in the proposed amendment is much broader than it appears, and the reduction in the number of voters required for approval of the extended indebtedness could open the door to the squandering of taxpayers' money.

## AMENDMENT NO. 6-S.J.R. No. 32

[Amending Article XVI, Section 51, to increase the value  
of the homestead exempt from forced sale from  
\$5,000 to \$10,000.]

The proposed amendment to Article XVI, Section 51, increases the exemption from forced sale of a homestead located in a city, town, or village from \$5,000 to \$10,000.

[For full text of the Resolution proposing Amendment No.6, see appendix.]

**Background**                      The precedent for exemption of the homestead from forced sale was established by statute enacted by the Third Congress of the Republic of Texas in 1839. The Texas Constitution of 1845 continued the exemption, establishing it at 200 acres of land (not included in town or city) or any town or city lot or lots, in value not to exceed \$2,000.

Behind the exemption was the theory that the welfare of the state was dependent on protecting the family home and earning capacity and preventing the debtor and his family from becoming a charge on the public. Also, as originally established, the exemption stabilized colonization at a time when families were needed in the frontier society. Directly, the reason for enacting the first exemption statute in 1839 was the United States Panic of 1837 and the ensuing depression during which Texas was in economic peril, with many families losing homes and farms by foreclosure.

The Fourth and Fifth Congresses of the Republic in 1840 first annulled and then reinstated the homestead exemption law, and it was in direct consequence that the convention which drew up the Constitution of 1845 determined to safeguard the homestead by incorporating the exemption in the constitution and thus putting it beyond the reach of legislators as well as creditors. In 1851 the Texas Supreme Court construed the maximum value provision to include the value of improvements on the lots and held that any excess value was subject to debt. A statute was enacted in 1860 which met the difficulties in the Supreme Court opinion by providing that the subsequent increase in value of the homestead by reason of improvements or otherwise did not subject the homestead to forced sale

and that the value not to exceed \$2,000 at the time of the designation as a homestead controlled. Constitutions of 1861 and 1866 carried forward the same provisions. Then the Constitution of 1869 raised the amount of exemption for urban lots from \$2,000 to \$5,000 and incorporated the statutory provisions clarifying the maximum value.

The present constitution, adopted in 1876, enlarged the urban exemption to include a business homestead, but the maximum value of urban lots exempt from forced sale was continued at \$5,000, as in the Constitution of 1869. The Constitution of 1876 included the actual exemption of the homestead from forced sale in Article XVI, Section 50, but the amounts to be exempted in both acres of land and value of the urban homestead were included in Article XVI, Section 51, which is the subject of the proposed Amendment No.6.

## ARGUMENTS

For:

1. Under present property values, a 200-acre exemption on rural land is a more favorable exemption than the \$5,000 now permitted by the constitution for an urban homestead or a business homestead. Also, since the exemption depends on value at the time of designation as a homestead, the rapid increase in values in recent years has created great inequities for comparable property of the same current value which would be alleviated by the adoption of the proposed amendment.
2. It has been 100 years since the homestead exemption was set at \$5,000, and conditions and economic demands have changed so greatly since that time that the intent of the constitution to protect the home and earning capacity of the citizen is no longer effected through this small exemption.



Against:

1. Since homestead exemptions are often abused by violating the intent of the constitution and permitting the hoarding of extensive assets beyond the reach of creditors with just debts, a larger exemption of \$10,000 as proposed by Amendment No. 6 could increase the opportunity for abuse.
2. The social security and welfare programs of today have lessened the need for protection of the family home.

## AMENDMENT NO. 7-H.J.R. No. 22-

[Authorizing the legislature to provide for consolidating  
offices and functions of government and for  
performance of governmental functions  
by contract between political  
subdivisions in any county.]

The proposed amendment to Article III, Section 64, Subsection (a), of the Texas Constitution, authorizes the legislature, by special statute, to, provide for consolidation of governmental offices and functions of political subdivisions within any county in the state, provided such consolidation is approved by the voters in the political subdivisions involved. It also authorizes such political subdivisions involved to contract with each other to perform governmental functions under terms and conditions as may be prescribed by the legislature.

[For full text of the Resolution proposing Amendment No.7, see appendix.]

**Background** During the past 50 years the population increase and industrial growth of Texas have resulted in more and more demands for governmental services. Because of constitutional limitations that often barred existing political subdivisions from providing assistance, a legislative program of creating "special districts" was established. As the creation of special districts increased, and it became evident that many of them had overlapping jurisdictions and tax assessments, the legislature sought to provide densely populated areas with a means of consolidating many of the services and functions. In 1933 the County Home-Rule Amendment was adopted by the voters. It allowed counties to provide additional services on a countywide basis. The amendment was extremely long and detailed, and at present no county has adopted a home-rule charter. In 1966 the voters adopted an amendment which would permit Harris County to facilitate consolidation of governmental services. In 1968 the voters approved a similar amendment for Tarrant and El Paso counties.

The 1933 Home-Rule Amendment called for a charter and possible consolidation of all governmental functions and all political subdivisions. The amendments adopted by the voters in 1966 and 1968 permit the consolidation of offices and functions but do not permit the abolition of any local government.

## ARGUMENTS

### For:

1. Adoption of the proposed amendment would permit counties to do away with costly duplication of services by consolidation, under which one governmental unit could be authorized to make assessments for all political subdivisions through an equal and fair assessment ratio, thereby providing more equitable apportionment of ad valorem taxes. Such consolidation would also result in coordinated planning to meet the demands of growing metropolitan areas.
2. Under the proposed amendment enabling legislation would be permissive and subject to approval of voters in the political subdivisions involved.

### Against:

1. Adoption of the proposed amendment would be the first step toward overcentralization of government at the county level. It could result in too much authority resting in the hands of a few.
2. The countywide area could assume expensive responsibilities in providing various services primarily or exclusively to the cities, thus increasing unfairly the countywide tax burden.

## Amendment No.1

By: McDonald

H.J.R. No. 30

### HOUSE JOINT RESOLUTION

Proposing an amendment to Section I-a, Article V, Constitution of the State of Texas, relating to the removal, retirement or censure of Justices, Judges, and Justices of the Peace under prescribed circumstances.

*Be it resolved by the Legislature of the State of Texas:*

Section 1. That Subsections (5), (6), (7), (8), (9), (11), (12), and (13), Section I-a, Article V, Constitution of the State of Texas, be amended to read as follows:

"(5) The Commission may hold its meetings, hearings and other proceedings at such times and places as it shall determine but shall meet at Austin at least once each year. It shall annually select one of its members as Chairman. A quorum shall consist of five (5) members. Proceedings shall be by majority vote of those present, except that recommendations for retirement, censure, or removal of any person holding an office named in Paragraph A of Subsection (6) of this Section shall be by affirmative vote of at least five (5) members.

"(6) A. Any Justice or Judge of the Appellate Courts and District and Criminal District Courts, and any County Judge, and any Judge of a County Court at Law, a Court of Domestic Relations, a Juvenile Court, a Probate Court, or a Corporation or Municipal Court, and any Justice of the Peace, and any Judge or presiding officer of any special court created by the Legislature as provided in Section 1, Article V, of this Constitution, may, subject to the other provisions hereof, be removed from office for willful or persistent conduct, which is clearly inconsistent with the proper performance of his said duties or casts public discredit upon the judiciary or administration of justice; or any person holding such office may be censured, in lieu of removal from office, under procedures provided for by the Legislature.

"B. Any person holding an office named in Paragraph A of this subsection who is eligible for retirement benefits under the laws of this state providing for judicial retirement may be involuntarily retired, and any person

holding an office named in that paragraph who is not eligible for retirement benefits under such laws may be removed from office, for disability seriously interfering with the performance of his duties, which is, or is likely to become, permanent in nature.

"(7) The Commission shall keep itself informed as fully as may be of circumstances relating to the misconduct or disability of particular persons holding an office named in Paragraph A of Subsection (6) of this Section, receive complaints or reports, formal or informal, from any source in this behalf and make such preliminary investigations as it may determine. Its orders for the attendance or testimony of witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings in the District Court.

"(8) After such investigation as it deems necessary, the Commission may in its discretion issue a private reprimand, or if the Commission determines that the situation merits such action, it may order a hearing to be held before it concerning the removal, or retirement of a person holding an office named in Paragraph A of Subsection (6) of this Section, or it may in its discretion request the Supreme Court to appoint an active or retired District Judge or Justice of a Court of Civil Appeals as a Master to hear and take evidence in any such matter, and to report thereon to the Commission. If, after hearing, or after considering the record and report of a Master, the Commission finds good cause therefor, it shall issue an order of public censure or it shall recommend to the Supreme Court the removal, or retirement, as the case may be, of the person in question holding an office named in Paragraph A of Subsection (6) of this Section and shall thereupon file with the Clerk of the Supreme Court the entire record before the Commission.

"(9) The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may, for good cause shown, permit the introduction of additional evidence and shall order public censure, retirement or removal, as it finds just and proper, or wholly reject the recommendation. Upon an order for involuntary retirement for disability or an order for removal, the office in question shall become vacant. The rights of an incumbent so retired to retirement benefits shall be the same as if his retirement had been voluntary."

"(11) The Supreme Court shall by rule provide for the procedure before the Commission, Masters and the Supreme Court. Such rule shall afford to any person holding an office named in Paragraph A of Subsection (6) of this Section, against whom a proceeding is instituted to cause his retirement or removal, due process of law for the procedure before the Commission, Masters and the

Supreme Court in the same manner that any person whose property rights are in jeopardy in an adjudicatory proceeding is entitled to due process of law, regardless of whether or not the interest of the person holding an office named in Paragraph A of Subsection (6) of this Section in remaining in active status is considered to be a right or a privilege. Due process shall include the right to notice, counsel, hearing, confrontation of his accusers, and all such other incidents of due process as are ordinarily available in proceedings whether or not misfeasance is charged, upon proof of which a penalty may be imposed.

"(12) No person holding an office named in Paragraph A of Subsection (6) of this Section shall sit as a member of the Commission or Supreme Court in any proceeding involving his own retirement or removal.

"(13) This Section 1-a is alternative to and cumulative of, the methods of removal of persons holding an office named in Paragraph A of Subsection (6) of this Section provided elsewhere in this Constitution."

Sec. 2. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of this state at an election to be held on the first Tuesday after the first Monday in November, 1970, at which election the ballots shall be printed to provide for voting for or against the proposition: "The constitutional amendment relating to the removal, retirement, or censure of Justices, Judges, and Justices of Peace under prescribed circumstances."

## Amendment No.2

By: Christie

S.J.R. No. 10

### SENATE JOINT RESOLUTION

Proposing an amendment to Subsection (a), Section 20, Article XVI,  
Constitution of the State of Texas, to authorize the Legislature to  
enact a Mixed Beverage Law regulating the sale of mixed  
alcoholic beverages on a local option election basis.

*Be it resolved by the Legislature of the State of Texas:*

Section 1. That Subsection (a), Section 20, Article XVI, Constitution of the State of Texas, be amended to read as follows:

"(a) The Legislature shall have the power to enact a Mixed Beverage Law regulating the sale of mixed alcoholic beverages on a local option election basis. The Legislature shall also have the power to regulate the manufacture, sale, possession and transportation of intoxicating liquors, including the power to establish a State Monopoly on the sale of distilled liquors.

"Should the Legislature enact any enabling laws in anticipation of this amendment, no such law shall be void by reason of its anticipatory nature."

Sec. 2. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of this state at an election to be held on November 3, 1970, at which election the ballots shall be printed to provide for voting for or against the proposition:

"Repeal of the prohibition against open saloons found in Section 20, Article XVI of the Constitution of the State of Texas."

## Amendment No.3

By: Christie, Connally

S.J.R. No. 15

### SENATE JOINT RESOLUTION

Proposing an amendment to Section i-d, Article VIII, Constitution of the State of Texas, to provide for the establishment of a uniform method of assessment of ranch, farm, and forest lands.

*Be it resolved by the Legislature of the State of Texas:*

Section 1. That Section I-d, Article VIII, Constitution of the State of Texas, be amended to read as follows:

"Section I-d. The Legislature shall the power to provide by law for the establishment of a uniform method of assessment of ranch, farm and forest lands, which shall be based upon the capability of such lands to support the raising of livestock and/or to produce farm and forest crops rather than upon the value of such lands and the crop growing thereon."

Sec. 2. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of this state at an election to be held on the first Tuesday after the first Monday in November, 1970, at which election the ballots shall be printed to provide for voting for or against the proposition:

"The constitutional amendment to authorize the Legislature to provide by law for the establishment of a uniform method of assessment of ranch, farm and forest lands, which shall be based upon the capability of such lands to support the raising of livestock and/or to produce farm and forest crops."

Sec. 3. The publication of this amendment shall be limited to Sections 1 and 2 of this Resolution.



## Amendment No.4

By: Cavness

H.J.R. No. 15

### HOUSE JOINT RESOLUTION

Proposing a constitutional amendment reconstituting the State Building Commission as a three-member appointive commission.

*Be it resolved by the Legislature of the State of Texas:*

Section 1. That Article III, Section 51-b, Subsection (a), Constitution of the State of Texas, be amended to read as follows:

"(a) The State Building Commission is created and succeeds to the powers and duties heretofore vested in the agency of the same name by this Constitution and to the powers and duties the Legislature has vested or may vest in the Commission. Its membership shall consist of three Texas citizens appointed by the Governor with the advice and consent of the Senate. The term of each member shall be six years except in the first appointments to the Commission the Governor shall appoint one member for two years, one for four years, one for six years, and thereafter one member biennially. The Governor shall biennially designate one member as Chairman. Vacancies in the Commission shall be filled by appointment by the Governor for the unexpired term. The provisions of this paragraph shall be self-enacting."

Sec. 2. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of this state at an election to be held on the first Tuesday after the first Monday in November, 1970, at which election the ballots shall be printed to provide for voting for or against the proposition: "The constitutional amendment reconstituting the State Building Commission as a three-member appointive commission."

## Amendment No. 5

By: Wieting

H.J.R. No. 28

### HOUSE JOINT RESOLUTION

Proposing an amendment to Section 52, Article III, Constitution of the State of Texas, to authorize any county, on the vote of a majority of qualified property taxpaying electors, to issue road bonds in an amount- not to exceed one-fourth of the assessed valuation of the real property in the county.

*Be it resolved by the Legislature of the State of Texas:*

Section 1. That Section 52, Article III, Constitution of the State of Texas, be amended to read as follows:

"Section 52. (a) Except as otherwise provided by this section, the Legislature shall have no power to authorize any county, city, town or other political corporation or subdivision of the State to lend its credit or to grant public money or thing of value in aid of, or to any 'individual, association or corporation whatsoever, or to become a stockholder in such corporation, association or company.

"(b) Under Legislative provision, any county, any political subdivision of a county, any number of adjoining counties, or any political subdivision of the State, or any defined district now or hereafter to be described and defined within the State of Texas, and which may or may not include, towns, villages or municipal corporations, upon a vote of two-thirds majority of the resident property taxpayers voting thereon who are qualified electors of such district or territory to be affected thereby, in addition to all other debts, may issue bonds or otherwise lend its credit in any amount not to exceed one-fourth of the assessed valuation of the real property of such district or territory, except that the total bonded indebtedness of any city or town shall never exceed the limits imposed by other provisions of this Constitution, and levy and collect taxes to pay the interest thereon and provide a sinking fund for the redemption thereof, as the Legislature may authorize, and in such manner as it may authorize the same, for the following purposes to wit:

"(1) The improvement of rivers, creeks, and streams to prevent

overflows, and to permit of navigation thereof, or irrigation thereof, or in aid of such purposes.

"(2) The construction and maintenance of pools, lakes, reservoirs, dams, canals and waterways for the purposes of irrigation, drainage or navigation, or in aid thereof.

"(3) The construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof.

"(c) Notwithstanding the provisions of Subsection (b) of this Section, bonds may be issued by any county in an amount not to exceed one-fourth of the assessed valuation of the real property in the county, for the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof, upon a vote of a majority of the resident property taxpayers voting thereon who are qualified electors of the county, and without the necessity of further or amendatory legislation. The county may levy and collect taxes to pay the interest on the bonds as it becomes due and to provide a sinking fund for redemption of the bonds."

Sec. 2. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of this state at an election to be held on the first Tuesday after the first Monday in November, 1970, at which election the ballots shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing any county, on the vote of a majority of its qualified property taxpaying electors, to issue road bonds in an amount not to exceed one-fourth of the assessed valuation of the real property in the county."

## Amendment No.6

By: McKool

S.J.R. No. 32

### SENATE JOINT RESOLUTION

Proposing an amendment to Section 51, Article XVI, Constitution of the State of Texas increasing the value of the homestead which is exempt from forced sale.

*Be it resolved by the Legislature of the State of Texas:*

Section 1. That Section 51, Article XVI, Constitution of the State of Texas be amended to read as follows:

"Section 51. The homestead, not in a town or city, shall consist of not more than two hundred acres of land, which may be in one or more parcels, with the improvements thereon; the homestead in a city, town or village, shall consist of lot, or lots, not to exceed in value Ten Thousand Dollars, at the time of their designation as the homestead, without reference to the value of any improvements thereon; provided, that the same shall be used for the purposes of a home, or as a place to exercise the calling or business of the head of a family: provided also, that any temporary renting of the homestead shall not change the character of the same, when no other homestead has been acquired."

Sec. 2. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of this state at an election to be held on the first Tuesday after the first Monday in November, 1970, at which election the ballots shall be printed to provide for voting for or against the proposition: "The constitutional amendment increasing the value of the homestead which is exempt from forced sale."

## Amendment No.7

By: Floyd

H.J.R. No. 22

### HOUSE JOINT RESOLUTION

Proposing an amendment to Subsection (a), Section 64, Article III, of the Texas Constitution, to provide for consolidating offices and functions of government by Act of the Legislature and for performance of governmental functions by contract between political subdivisions in any county.

*Be it resolved by the Legislature of the State of Texas:*

Section 1. That Subsection (a), Section 64, Article III, of the Texas Constitution, be amended to read as follows:

"Section 64. (a) The Legislature may by special statute provide for consolidation of governmental offices and functions of government of anyone or more political subdivisions comprising or located within any county. Any such statute shall require an election to be held within the political subdivisions affected thereby with approval by a majority of the voters in each of these subdivisions, under such terms and conditions as the Legislature may require."

Sec. 2. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of this state at an election to be held on the first Tuesday after the first Monday in November, 1970, at which election the ballots shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the Legislature to provide for consolidating governmental offices and functions and allowing political subdivisions to contract for performance of governmental functions in any county."