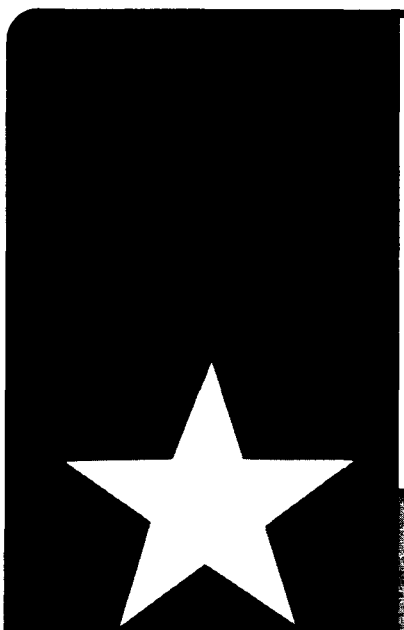
Analyses of Proposed Constitutional Amendments

Appearing on the
November 6, 1984, Ballot



Texas Legislative Council
Information Report No. 84-1
August, 1984

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Prepared by the Staff
of the
Texas Legislative Council

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68th LEGISLATURE OF TEXAS

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INTRODUCTION

In the 1983 regular and 1st called sessions, the 68th Texas Legislature proposed 19 constitutional amendments for voter consideration; 18 of the resolutions proposing amendments were passed during the regular session and one was passed during the 1st called session. Eleven amendments, including the one from the called session, were submitted to voters on November 8, 1983, and eight amendments will appear on the November 6, 1984, general election ballot.

Of the 11 amendments submitted in 1983, 10 were approved by the voters:

Amendment No. 1, authorizing fewer justice of the peace and constable precincts in counties with a population of less than 30,000 and providing for continuous service by justices of the peace, constables, and county commissioners when precinct boundaries are changed, was adopted by a vote of 500,347 in favor and 170,910 against.

Amendment No. 2, replacing the limitation on the value of an urban homestead with a limitation based on size, was adopted by a vote of 434,332 in favor and 281,819 against.

Amendment No. 3, providing for the advancement of food and fiber production and marketing in this state through research, education, and promotion financed by the producers of agricultural products, was adopted by a vote of 463,357 in favor and 255,468 against.

Amendment No. 4, authorizing statutory provisions for succession of public office during disasters caused by enemy attack and authorizing the suspension of certain constitutional rules relating to legislative procedure during those disasters or during immediate threat of enemy attack, was adopted by a vote of 449,631 in favor and 280,790 against.

Amendment No. 5, authorizing use of the permanent school fund to guarantee bonds issued by school districts, was adopted by a vote of 457,590 in favor and 269,037 against.

Amendment No. 6, allowing the legislature to provide for additional remedies to enforce court-ordered child support payments, was adopted by a vote of 607,219 in favor and 157,826 against.

Amendment No. 7, providing financial assistance to veterans and authorizing the issuance of $800 million in bonds of the state to finance the Veterans' Land Program and the Veterans' Housing Assistance Program, was adopted by a vote of 533,509 in favor and 219,342 against.

Amendment No. 8, authorizing taxing units to exempt from taxation property of certain veterans' and fraternal organizations, was rejected by a vote of 346,337 in favor and 388,197 against.

Amendment No. 9, providing for assignment of judges of statutory probate courts to other statutory county courts with probate jurisdiction and to county courts, was adopted by a vote of 485,540 in favor and 222,275 against.

Amendment No. 10, permitting a city or town to expend public funds and levy assessments for the relocation or replacement of sanitation sewer laterals on private property, was adopted by a vote of 380,448 in favor and 345,149 against.

Amendment No. 11, changing the Board of Pardons and Paroles from a constitutional agency to a statutory agency and giving the board the power to revoke paroles, was adopted by a vote of 498,998 in favor and 235,344 against.

The Texas Constitution provides that the legislature, by two-thirds vote of all members of each house, may propose amendments revising the constitution and that proposed amendments must then be voted on by the qualified voters of the state. Since adoption of the present Texas Constitution in 1876, the document has been amended 263 times. The 19 amendments approved by the legislature in 1983 for voter consideration bring the total number of amendments submitted to 419. The following table lists the years in which constitutional amendments have been proposed by the Texas Legislature, the number of amendments proposed, and the number adopted.

1876 CONSTITUTION
AMENDMENTS PROPOSED AND ADOPTED

year proposed	number proposed	number adopted
1879	1	1
1881	2	0
1883	5	5
1887	6	0
1889	2	2
1891	5	5
1893	2	2
1895	2	1
1897	5	1
1899	1	0
1901	1	1
1903	3	3
1905	3	2
1907	9	1
1909	4	4
1911	5	4
1913	8*	0
1915	7	0
1917	3	3
1919	13	3
1921	5**	1
1923	2†	1
1925	4	4
1927	8**	4
1929	7**	5
1931	9	9
1933	12	4
1935	13	10
1937	7	6
1939	4	3
1941	5	1
1943	3**	3
1945	8	7
1947	9	9
1949	10	2
1951	7	3
1953	11	11
1955	9	9
1957	12	10
1959	4	4
1961	14	10
1963	7	4
1965	27	20
1967	20	13
1969	16	9
1971	18	12
1973	9	6
1975	12††	3
1977	15	11
1978	1	1
1979	12	9
1981	10	8
1982	3	3
1983	19	(a)
TOTAL PROPOSED	419	
TOTAL ADOPTED		263

Notes:

* Eight resolutions were approved by the legislature, but only six were actually submitted on the ballot; one proposal which included two amendments was not submitted to the voters.

** Total reflects two amendments which were included in one joint resolution.

† Two resolutions were approved by the legislature, but only one was actually submitted on the ballot.

†† Total reflects eight amendments which would have provided for an entire new Texas Constitution and which were included in one joint resolution.

(a) Eleven of the 19 proposed amendments appeared on the 1983 general election ballot, and 10 were adopted. The remaining eight will be submitted to the voters on November 6, 1984.

AMENDMENT NO. 1

House Joint Resolution 29, proposing a constitutional amendment relating to the powers of state-chartered banks. (HOUSE AUTHOR: W. G. (Bill) Coody; SENATE SPONSOR: John Traeger)

The proposed amendment of Article XVI, Section 16, of the Texas Constitution adds Subsection (c), which provides state banks with all rights and privileges presently or subsequently granted to national banks located in Texas. These rights and privileges are authorized despite possible conflict with other provisions of Article XVI, most notably the branch banking prohibition.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment to provide state banks the same rights and privileges as national banks."

BACKGROUND

Since the Civil War, the United States has evolved a dual banking system, composed of both state and national banks. State banks are chartered and regulated by state supervisory authority, which varies widely according to jurisdiction. National banks are created under and governed by federal law and subject to the authority of the Office of the Comptroller of the Currency. If a state statutory provision conflicts with a federal provision relating to national banks, the federal law controls; however, national banks are subject to state laws that do not expressly conflict with the laws of the United States, frustrate the purpose for which the national bank was created, or impair or destroy the efficiency of the national bank as a federal agency. One of the greatest restrictions on national banks resulting from state law is the prohibition of state and national banks from participating in branch banking.

The issue of branch banking did not become significant in the dual system until the early 1900's. Prior to that time, national banks were forbidden from branch banking by an early interpretation of two clauses of the National Bank Act of 1864. Conversely, branch banking by state-chartered banks was a widely accepted practice in a number of states during much of the 1800's. This apparent discrepancy of branching authority eventually surfaced as a legislative issue in the 1927 McFadden Act which attempted to provide "competitive equality" by allowing national banks to branch only where state banks were expressly permitted branching powers. Intended by its author as an antibranching statute, the McFadden Act allowed this mild probranching provision to enable the then declining

national bank system to remain viable in states where competitive branching by local institutions would have threatened its survival. As amended in 1933, the McFadden Act remains the cornerstone of federal branch banking law although a nationwide trend toward state branching privileges has effectively reduced the Act's antibranch intent.

Texas lawmakers have historically opposed the idea of branch banking and, at times, the concept of banking itself. Despite a probank stance by Republic President Mirabeau B. Lamar, state-chartered banks were prohibited in Texas during most of the 19th century, and it was not until 1904 that the constitution was amended to allow the establishment of a state banking system. Since that time, branch banking by any bank located in Texas has been prohibited by Article XVI of the Texas Constitution as well as by Article 342-903, Vernon's Texas Civil Statutes.

Opponents of branch banking have traditionally held that it results in the loss of local financial control to distant banking conglomerates whose policies function without regard for community issues. Nevertheless, the rapid growth and flourishing economy of recent years has eased Texas closer to acceptance of some branch banking practices. The 1950's saw court approval of drive-in teller windows and separate tunnel-connected banking facilities. A 1975 attorney general opinion declared bank holding companies acceptable provided one bank did not attempt to control or direct the others. By 1980, when the use of electronic fund transfer machines was approved by constitutional amendment, 50 percent of all Texas deposits were controlled by 15 institutions.

Observers of federal banking regulations have noted increasing pressure to allow national banks to branch despite state prohibitions to the contrary. If such a change occurs, the proposed amendment effectively would legalize branch banking in Texas. At least 29 states have reacted to this uncertain legislative climate by enacting statutes, similar to the proposed constitutional provision, which seek to maintain state parity with the national bank system by granting automatic equivalent powers to state and national banks.

Although seven other states prohibit branch banking, Texas is the only state to do so by both statute and constitutional amendment. If the proposed amendment is approved, Article 342-903, Vernon's Texas Civil Statutes, will continue to enjoin branch banking in this state unless national banks are given unchecked branching powers by federal law subsequent to the passage of the proposed amendment. Finally, the proposed constitutional amendment provides a blanket grant of rights to state-chartered banks. The impact that such a grant might have on areas of state-chartered banking other than branch banking is unclear.

ARGUMENTS

FOR:

1. The adoption of the proposed amendment will ensure continued parity between state-chartered and nationally chartered banks. If passed, the amendment will remove the necessity for frequent state legislation merely to maintain equivalence under future modifications of federal banking law.

2. If federal law is changed to permit branch banking, state-chartered banks would be prevented from competing effectively with the greater convenience offered by national bank branches until a similar change in state law. Passage of the proposed amendment simply ensures equality of state and national banks and the possible survival of state-chartered banks if national banks are granted sovereign branching powers.

3. Texas law currently permits a variety of banking practices formerly considered to be against public policy. The acceptance of drive-in teller windows, electronic fund transfer machines, and bank holding companies clearly indicates both judicial and popular support for the loosening of certain long-standing banking prohibitions. The proposed amendment is consistent with this trend toward greater consumer convenience and its passage represents the logical next step in the state's financial development.

AGAINST:

1. The possible introduction of branch banking to Texas, as contained in this amendment, will enable large financial institutions to open branches in unfair competition with smaller, local banks. The convenient locations and increased services available from the large banks will inevitably pull accounts away from small unit banks. Unable to compete due to comparatively meager resources, many small banks will be forced to merge with major banking institutions, producing an unhealthy degree of financial concentration and wiping out a tradition of small independent banks.

2. The passage of this amendment and the possible subsequent establishment of branch banks in Texas will serve to deprive rural communities of financial self-determination. As major banking institutions inexorably overtake small local banks, many rural communities will find themselves under the financial control of distant corporate banks whose policies are set without regard for the problems and concerns of the local community. As a result, projects of local importance may be denied financing if they do not conform with standards of a bank removed in both distance and understanding.

3. The broad wording of the proposed amendment leaves the scope of its powers dangerously undefined. If branch banking is to be made legal in Texas, it should be authorized specifically and responsibly. A vague blanket grant of rights, such as the one proposed by this amendment, may easily produce unforeseen results, the consequences of which may be vastly undesirable.

AMENDMENT NO. 2

House Joint Resolution 19, proposing a constitutional amendment to provide funds for the support of higher education and to restructure the permanent university fund. (HOUSE AUTHOR: Wilhelmina Delco, et al.; SENATE SPONSOR: Carl Parker)

The proposed amendment would add Section 17 to, and amend Sections 14 and 18 of, Article VII of the Texas Constitution. Section 17 would dedicate $100 million a year of the state's general revenue, beginning September 1, 1985, for the purposes of constructing and equipping buildings or other permanent improvements, major repair or rehabilitation of buildings or other permanent improvements, and acquisition of capital equipment, library books, or library materials at the following institutions of higher education:

(1) East Texas State University, including East Texas State University at Texarkana;

(2) Lamar University, including Lamar University at Port Arthur and Lamar University at Orange;

(3) Midwestern State University;

(4) North Texas State University;

(5) Pan American University, including Pan American University at Brownsville;

(6) Stephen F. Austin State University;

(7) Texas College of Osteopathic Medicine;

(8) Texas State University System Administration and the following component institutions:

(A) Angelo State University;

(B) Sam Houston State University;

(C) Southwest Texas State University; and

(D) Sul Ross State University, including the Uvalde Study Center;

(9) Texas Southern University;

(10) Texas Tech University;

(11) Texas Tech University Health Sciences Center;

(12) Texas Woman's University;

(13) University of Houston System Administration and the following component institutions:

(A) University of Houston - University Park;

(B) University of Houston - Victoria;

(C) University of Houston - Clear Lake; and

(D) University of Houston - Downtown;

(14) University System of South Texas Administration and the following component institutions:

(A) Corpus Christi State University;

(B) Laredo State University; and

(C) Texas A&I University; and

(15) West Texas State University.

The legislature may add to the list of institutions by a two-thirds vote of the membership, except that institutions within The University of Texas System or The Texas A&M System may not be added.

The funds would be allocated according to a statutory formula in 10-year cycles, and each institution would be authorized to issue bonds and pledge its share to the payment of those bonds unless the legislature creates a single bonding agency for that purpose. The funds may not be used for student housing, athletics, or auxiliary enterprises.

If the legislature chooses to create a separate dedicated fund for the purposes for which general revenue is dedicated under this section, the fund would cap at $2 billion and the general revenue dedication would cease. The principal of the fund would not be appropriated, but the income of the fund would be allocated in the same manner as the general revenue dedicated.

The amendment to Section 14 would recognize Prairie View A&M University as an institution of the first class under the governance of the board of regents of Texas A&M University.

The amendment to Section 18 would restructure the permanent university fund (PUF) by including all current University of Texas and Texas A&M system institutions among those eligible to benefit from bonding against the fund. The total bonding capacity would be increased from the current 20 percent of the cost value of the fund to 30 percent, with one-third of that capacity going to The Texas A&M System and two-thirds going to The University of Texas System. The purposes for

which the bond proceeds may be expended would be expanded from acquisition and construction of real property and improvements to the same purposes for which the Section 17 allocations may be expended.

The legislature would be authorized to add to the list of eligible institutions by a two-thirds vote of the membership of each house, except that institutions benefitting under Section 17 bonds would not be eligible.

The amendment would define the available fund constitutionally (for the first time) as the income of the PUF. The income, currently about $180 million a year, would be dedicated to the payment of principal and interest on the bonds, with The Texas A&M System receiving one-third and The University of Texas System receiving two-thirds of the remainder. That remainder would be used for support of the respective system administrations and main campuses, and Prairie View A&M. Prairie View would be entitled to an "equitable portion" of that allocated to The Texas A&M System, plus $6 million a year for 10 years from that allocated to The University of Texas System.

The institutions benefitting from Section 17 or 18 would not be eligible for other appropriations of state money for construction or repair purposes, except money appropriated to cover the uninsured loss of a building to fire or natural disaster and except money appropriated by a two-thirds vote of each house. Also, under both sections, the legislature may require prior approval of new construction projects, except that Section 18 exempts The University of Texas at Austin, Texas A&M University at College Station, and Prairie View A&M University from any approval requirement.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment to create from general revenue a special higher education assistance fund for construction and related activities, to restructure the permanent university fund, and to increase the number of institutions eligible to benefit from the permanent university fund."

BACKGROUND

Texas has provided constitutionally dedicated construction funding for state universities since 1947, when the voters adopted Sections 17 and 18 of Article VII of the Texas Constitution. Prior to that time, there was no authority to issue construction bonds payable from the income of the PUF, which was established by the 1876 constitution, and there was no permanent endowment of any kind or bonding authority for schools outside The University of Texas System or The Texas A&M University System. Section 18 authorized the University of Texas and Texas A&M University systems to pledge PUF income to the payment of $15 million in bonds for new construction at component institutions, and Section 17 established

a state property tax of five cents per $100 valuation to provide funds for new construction at 15 universities outside the systems and authorized those universities to pledge the tax income to the payment of the bonds. Both provisions were amended in 1956—the Section 18 limit on PUF bonds was increased to 20 percent of the value of the PUF (exclusive of real estate), and the property tax was increased to 10 cents while the number of eligible schools was increased to 17. As of that time, all state-supported senior colleges were included in one or the other of the dedicated construction funds, and those institutions were prohibited from receiving general revenue appropriations for new construction except in case of natural disaster.

In 1978, Representative Wayne Peveto and two other citizens of Orange County filed suit in state district court challenging the constitutionality of the state property tax levied under Section 17, alleging that assessment practices resulted in a tax that violated the requirement of the Texas Constitution that taxes be equal and uniform. The pendency of the suit resulted in no bonds being issued for the 10-year allocation cycle that was then beginning. The suit was dropped as moot when the legislature enacted Section 26.03, Tax Code, which took effect January 1, 1980, and set the assessment ratio for calculating the tax at .0001 percent. That ratio effectively eliminated the tax, and the voters repealed Section 17 by constitutional amendment in November, 1982. As a result, no school outside the Texas A&M University and University of Texas systems benefits from dedicated construction funding, including 12 four-year colleges and two-year upper level institutions created since 1956. Those institutions that do not benefit from dedicated construction funding, including several institutions in the two systems but not named in Section 18, must seek funds from the legislature in the biennial appropriations process. There is no authority for the issuance of bonds for construction at those institutions other than a limited statutory authority to issue revenue bonds.

ARGUMENTS

FOR:

1. Dedicated funds and the related bonding authority provide the most rational, cost-effective method of providing construction funds for state universities. Construction requires an orderly, planned process and is most efficiently achieved through the issuance of bonds to provide money to fully carry out the plans. Constitutionally dedicated funds, allocated according to an equitable formula, provide for orderly, planned growth based on anticipated and actual need. The universities are not typical state agencies and are ill-suited to lobby for

appropriations in competition with other state agencies. The few universities that have political "muscle" will receive a disproportionate share of the funds allocated through the appropriations process.

2. Dedicated funding for education is a Texas tradition. Beginning in 1845, each Texas Constitution has provided some form of dedicated funding for elementary and secondary or higher education. Only the peculiar anomalies and unfairness of a state property tax resulted in the voters repealing the previous Section 17. If education is to retain its status as a top priority, all forms of dedicated funding for that purpose should be preserved. The repeal of the previous Section 17, without replacing it, resulted in an inequitable situation in which only a few preferred institutions in the Texas A&M University and University of Texas systems have dedicated construction funds. The ability of the legislature to add new institutions to either fund by extraordinary vote avoids the unfair restrictiveness of the previous Section 17 and the current Section 18 in which new institutions are not entitled to dedicated funding.

3. Restructuring of the permanent university fund lessens the effect of the general revenue dedication because many institutions with the Texas A&M University and University of Texas systems that are now funded by general revenue would have construction and other activities funded through PUF bonds. In addition, the expansion of the purposes for which PUF bond proceeds may be expended—repair, rehabilitation, and acquisition of capital equipment, library books, and library materials—puts the enormous permanent university fund to greater use than ever before. There is no need to continue the restriction to new construction, and the amendment's expansion of purposes will not endanger the integrity of the fund or the systems it supports.

4. Adoption of the amendment would for the first time give Prairie View A&M University the support and status it deserves. Many argue that the institution has long been the subject of discrimination, particularly on the part of past state officials who used suspect reasoning and analysis to deny Prairie View a fair share of income from the permanent university fund. The portions of the amendment that address Prairie View would therefore right an historical wrong.

AGAINST:

1. The need for dedicated construction funding for all universities is past. The original Section 17 was adopted by the voters to handle the enrollment increases following World War II that resulted from returning veterans taking advantage of GI Bill benefits. Enrollment for the decade of the 1980's is predicted to be stable or declining. The voters only recently repealed the previous dedicated funding, and the sole issue was not the property tax.

2. Constitutionally dedicated funding unnecessarily limits the legislative discretion to appropriate funds where the most need is shown; the dedication restricts the use of funds to specified purposes even though the need may not exist in the future. The current system, in which most colleges and universities receive funding for these purposes through the appropriations process (during which the legislature can judge their needs in comparison to the other needs of the state), apparently works; at least 12 institutions have been funded on that basis since 1956. Even if one were to accept the principle of and need for dedicated funding, the amount dedicated is far in excess of the amount needed. Some estimate that the amendment dedicates almost twice as much as is needed.

3. The restructuring of the permanent university fund may be agreeable in concept, but the execution in this particular amendment is faulty. The expansion of the purposes to include acquisition of capital equipment, library books, and library materials means that long-term debt may be used to buy short-term assets. This amendment for the first time authorizes the legislature to expand the institutions eligible to benefit from the permanent university fund bonds; that open door may eventually jeopardize the fund's ability to support the two leading institutions, Texas A&M University and The University of Texas, as genuine, nationally recognized institutions of the first class.

4. The recognition of Prairie View A&M University as an institution of the first class is primarily symbolic, and may be useful as part of eliminating any past discriminations against the institution; however, by constitutionally prescribing that the school be governed by the Texas A&M University board of regents, the amendment unnecessarily limits legislative authority to structure the overall system of higher education. The legislature would be prohibited from authorizing a separate governing board for the university or from reassigning the university to another system. The amendment could have accomplished its goal of fair treatment for the institution without this restriction.

AMENDMENT NO. 3

House Joint Resolution 65, proposing a constitutional amendment relating to the payment of assistance to the surviving dependent parents, brothers, and sisters of certain public servants killed while on duty. (HOUSE AUTHOR: W. N. (Billy) Hall; SENATE SPONSOR: John Traeger)

The proposed amendment of Article III, Section 51-d, of the Texas Constitution authorizes the legislature to provide for payment of assistance to surviving dependent parents, brothers, and sisters of certain public servants who, because of the hazardous nature of their official duties, suffer death while performing those duties.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment authorizing the legislature to provide for payment of assistance to the surviving dependent parents, brothers, and sisters of certain public servants killed while on duty."

BACKGROUND

The Texas Constitution prohibits grants of public money for private purposes. Therefore, a constitutional amendment is usually necessary to permit public funds to be given to private individuals. Article III, Section 51-d, of the Texas Constitution was adopted in 1966 to allow assistance payments to the surviving spouse and minor children of law enforcement officers, custodial personnel of the Texas Department of Corrections, or full-paid firemen who suffer violent death. The provision was amended in 1969, and the current version authorizes financial assistance to the surviving spouse and minor children of "officers, employees, and agents, including members of organized volunteer fire departments and members of organized police reserve or auxiliary units with authority to make an arrest, of the state or of any city, county, district, or other political subdivision," who hold hazardous jobs and who die as a result of performing their official duties.

Under that authority, the legislature by statute has provided for payment to the surviving spouse and minor children of paid law enforcement officers, paid probation officers, paid parole officers, paid jailers, campus security personnel, members of organized police reserve or auxiliary units, custodial personnel of the Texas Department of Corrections, supervisory personnel in a county jail, juvenile correctional employees of the Texas Youth Commission, employees of the Rusk State Hospital for the Criminally Insane, paid firemen, members of organized volunteer fire departments, and park and recreational patrolmen and security

officers who suffer violent death in the course of duty. (Article 6228f, Vernon's Texas Civil Statutes.) The surviving spouse is entitled to the sum of $20,000. In addition, the state is required to pay $200 per month if the deceased has one surviving minor child, $300 per month for two surviving minor children, and $400 per month for three or more surviving minor children. When a child becomes 18 years old, payments are adjusted to conform to that payment schedule.

The system of financial assistance is administered by the state board of trustees of the Employees Retirement System of Texas. The 68th Legislature appropriated $1,390,000 to the Employees Retirement System for the payment of death benefits during the 1984-1985 fiscal biennium. The source of that money is the general revenue fund. After the board of trustees approves a claim for payment of death benefits, the board notifies the comptroller of public accounts to issue warrants of payment to the claimant. If a claim is denied, the law provides appeal procedures.

The proposed amendment would expand the current provision to allow payment of financial assistance to the surviving dependent parents, brothers, and sisters of certain public servants who suffer violent death in the course of performing official duties. The proposed amendment would require legislation to implement its provisions because the amendment itself is silent as to the amount of payment and other details of administration. The author of the proposed amendment introduced H.B. 1136 during the 68th Regular Session to implement H.J.R. 65, and although the bill was reported favorably from committee and placed on the house calendar, it was never enacted. The bill provided for payment to surviving dependent parents, brothers, and sisters only if the public servant did not have a surviving spouse or surviving minor children. The amount of payment was similar to the amounts provided for surviving spouses and minor children in the current law. The fiscal note prepared for the bill by the Legislative Budget Board stated that the bill could provide the legal basis for an appropriation but that there was insufficient data to determine the fiscal implication to the state.

ARGUMENTS

FOR:

1. One purpose of the current provision of Article III, Section 51-d, of the Texas Constitution is to provide financial security to those who are dependent for support on a public servant who performs hazardous duties in which the risk of death is higher than that found in other types of employment. Expanding the constitutional amendment to cover surviving dependent parents, brothers, and sisters of those public servants serves the same purpose as the current version covering the surviving spouse and minor children.

2. Certain occupations are hazardous by nature but "someone has to do it." Providing for financial assistance to surviving dependent parents, brothers, and sisters acts as an incentive to accept or continue hazardous employment since the public servant knows his dependents will be taken care of if he should die. This is not a frivolous use of state money.

AGAINST:

1. There are other ways of compensating survivors of public servants who die as a result of performing hazardous duties. Workers compensation, local pension plans, social security, and private life insurance are all available and will be paid in addition to the assistance allowed by the proposed amendment. If the public servant is concerned about the financial security of dependent parents, brothers, and sisters, the public servant has many options available other than relying on state assistance.

2. At a time when the state budget is tight, the proposed amendment could cost the state a great deal of money. Since the legislature did not pass implementing legislation, it is unclear exactly how broad the scope of this amendment will become if the amendment is adopted.

AMENDMENT NO. 4

Senate Joint Resolution 20 proposing a constitutional amendment to abolish the office of county treasurer in Bexar and Collin counties. (SENATE AUTHOR: R. L. (Bob) Vale; HOUSE SPONSOR: Frank Tejeda)

The proposed amendment of Article XVI, Section 44, of the Texas Constitution, approved by the 68th Legislature, Regular Session, 1983, abolishes the office of county treasurer in Bexar and Collin counties and transfers the powers, duties, and functions of the office to the county clerk. Abolition of the office must be approved by the voters of each affected county in a local election separate from the election on adoption of the proposed constitutional amendment.

The description of the proposed amendment that will appear on the November general election ballot is as follows: "The constitutional amendment to abolish the office of county treasurer in Bexar and Collin counties."

BACKGROUND

Currently, Article XVI, Section 44, of the Texas Constitution provides for the office of county treasurer as follows:

> Sec. 44. (a) Except as provided by Subsection (b) of this section, the Legislature shall prescribe the duties and provide for the election by the qualified voters of each county in this State, of a County Treasurer and a County Surveyor,* who shall have an office at the county seat, and hold their office for four years, and until their successors are qualified; and shall have such compensation as may be provided by law.
>
> (b) The office of County Treasurer in the counties of Tarrant and Bee is abolished and all the powers, duties, and functions of the office in each of these counties are transferred to the County Auditor or to the officer who succeeds to the auditor's functions.
>
> (c) Provided however, that the office of County Treasurer shall be abolished in the above counties only after a local election has been held in each county and the proposition "to abolish the elective office of county treasurer" has passed by a majority of those persons voting in said election.

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*The office of county surveyor is not affected by the proposed amendment.

The text of Section 44 is similar to the text of this section as it appeared in the original version of the current, 1876 constitution. The only differences are that the section originally did not provide for the abolition of the office of county treasurer in Tarrant and Bee counties and originally called for a two-year term. A 1982 amendment provided for the abolition of the office in Tarrant and Bee counties, and a 1954 amendment, applicable to all elected county and district officers, extended the term to four years. Constitutions prior to 1876 did not provide for the office of county treasurer although the elective office of treasurer had previously been created by statute.

While the office of county treasurer is required by Section 44, the duties of the office are defined by statute—chiefly Articles 1703-1714 of the Revised Statutes. As the name of the position implies, these duties include receipt, custody, and disbursement of county funds.

The office of county clerk is created by Article V, Section 20, of the Texas Constitution and the clerk's functions are prescribed by various statutes. The county clerk is the clerk of the county court and of the commissioners court and is the official recorder for the county. In the capacity of recorder, the county clerk is responsible for keeping all documents required or permitted to be filed with the county. The county clerk charges and collects fees for many of the recording services performed.

In 1979, the 66th Legislature by statute attempted to abolish the office of county treasurer in Tarrant County. Relying on Article III, Section 64(a), of the Texas Constitution, which authorizes the legislature by special law to "provide for consolidation of governmental offices and functions of government of any one or more political subdivisions comprising or located within any county," the legislature enacted H.B. 396, which, subject to the approval of the voters of Tarrant County, would have merged the office of county treasurer with the office of county auditor in that county. The duties of both offices would then have been performed by the county auditor. The attorney general, in Opinion No. MW-59 (September 27, 1979), said that Article III, Section 64(a), did not apply to county offices and that H.B. 396 was unconstitutional because it attempted to abolish by statute an office created by the constitution.

An election under H.B. 396 was nevertheless held in Tarrant County on November 6, 1979, at which the voters approved the proposed abolition of the treasurer's office. On December 4, 1980, the Fort Worth Court of Civil Appeals, affirming a decision by a Tarrant County district court, ruled that H.B. 396 was unconstitutional, following the same reasoning as the opinion of the attorney

general. Moncrief v. Gurley, 609 S.W.2d 863 (Tex. Civ. App.—Fort Worth, 1980, writ ref'd n.r.e.). The Texas Supreme Court declined to review the case, finding no reversible error in the court of civil appeals' decision.

Against this background, the 67th Legislature in 1981 proposed an amendment to provide for the abolition of the office of county treasurer in Tarrant and Bee counties if the abolition was approved by the voters in the counties. The amendment was adopted in 1982 and the voters of the two counties have approved the abolition.

If the currently proposed amendment is adopted, the office of county treasurer would be abolished in Bexar and Collin counties if the abolition is approved by the voters in the counties. A separate election will be required in each of the affected counties at which the local voters will be permitted to make a final decision on the matter.

ARGUMENTS

FOR:

1. Allowing the voters of Bexar and Collin counties to decide for themselves whether the separate elective office of county treasurer serves their needs is in the best tradition of local self-government.

2. By transferring the county treasurer's functions to the county clerk, more efficient management of county funds will be accomplished and county revenue will be saved.

3. The transfer of functions to the county clerk will retain necessary safeguards against the misapplication of county funds. The voters, by electing the county clerk, and the county auditor, by auditing county funds and approving disbursements of the funds, will continue to act as checks on the actions of the county clerk.

AGAINST:

1. The transfer of functions to the county clerk will concentrate too much authority in a single office.

2. Although county government may need streamlining and reorganization, the piecemeal approach taken by the proposed amendment is not the answer. This approach will lead to a rash of attempted constitutional amendments as even more counties seek to carve out individual exceptions for themselves. Already, within a period of just two years, two amendments to create such exceptions will have been submitted to the voters. A thorough, statewide study should precede any attempt to alter the constitutional framework of local government.

3. The financial duties of the county treasurer and the duties of the county clerk relating to the collection of fees for many of the clerk's services are incompatible and should not be vested in a single officer.

AMENDMENT NO. 5

Senate Joint Resolution 22, proposing a constitutional amendment relating to the manner in which a vacancy in the office of lieutenant governor is to be filled. (SENATE AUTHOR: Grant Jones, et al.; HOUSE SPONSOR: Bill Messer)

The proposed amendment of Article III, Section 9, of the Texas Constitution requires the president pro tempore of the senate to convene the senate as a committee of the whole if the office of lieutenant governor becomes vacant. The amendment instructs the senate then to elect one of its members to act as lieutenant governor in addition to his duties as senator until the vacancy is filled at the next general election.

The proposed amendment also provides that the president pro tempore of the senate is to serve as lieutenant governor until the permanent replacement is selected. The senator selected as acting lieutenant governor is to be replaced in the same manner if that person ceases to be a senator during the vacancy in the lieutenant governorship.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment authorizing the state senate to fill a vacancy in the office of lieutenant governor."

BACKGROUND

The Texas Constitution currently does not provide for the permanent filling of a vacancy in the office of lieutenant governor. Instead, the president pro tempore of the senate performs the duties of lieutenant governor in the event of a vacancy. The constitution authorizes the senate to select a new president pro tempore every time it convenes or adjourns, or at any other time it is necessary to do so.

Under the proposed constitutional amendment, the senate would designate one of its members to act as lieutenant governor until the next general election. The selection of an interim lieutenant governor would be separated from the selection of the president pro tempore, who would continue to be chosen each time the senate convenes or adjourns.

ARGUMENTS

FOR:

1. The selection of an interim lieutenant governor should be made at the time a vacancy occurs so that the decision is made giving due consideration to the importance of the office. The selection should be separate from that of the president

pro tempore of the senate. That office is largely honorary, so it is not appropriate for the person who happens to hold it at the time a vacancy occurs in the office of lieutenant governor to succeed to an office as important as the lieutenant governorship.

2. The permanent selection of an interim lieutenant governor will provide for continuity in that office in the event of a vacancy. The senator selected to act as lieutenant governor under this proposal would be assured of serving in that position until the next general election.

3. The proposed amendment would remove the senator selected as interim lieutenant governor from continuing political pressure to please his fellow senators in order to maintain that position. A state senator should be free to act in his role as senator in the interests of his constituency without other undue political constraints.

AGAINST:

1. The existing mechanism for filling a vacancy in the office of lieutenant governor is satisfactory. There is no reason to assume that a state senator selected as president pro tempore of the senate would not be competent to serve as lieutenant governor. The senate takes into consideration when choosing a president pro tempore that that person may be required to serve as lieutenant governor if a vacancy occurs.

2. By making the designated replacement of the lieutenant governor permanent, the proposed constitutional amendment would prevent the senate from changing its selection of acting lieutenant governor. The senate should not give up its existing prerogative to change its mind as to who should serve as lieutenant governor by designating a different president pro tempore on convening or adjournment.

3. Convening the senate when a vacancy in the office of lieutenant governor occurs would be expensive. This cost is not incurred under present law. The president pro tempore of the senate automatically assumes the duties of lieutenant governor under present law.

AMENDMENT NO. 6

House Joint Resolution 73, proposing a constitutional amendment to permit use of public funds and credit for payment of premiums on certain insurance contracts of mutual insurance companies. (HOUSE AUTHOR: Ashley Smith; SENATE SPONSOR: Bob McFarland)

The proposed amendment to Article III, Section 52(a), would authorize political subdivisions to purchase life, health, and accident insurance from mutual insurance companies if under the contract the subdivision is not liable for assessments.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment to permit use of public funds and credit for payment of premiums on certain insurance contracts of mutual insurance companies authorized to do business in Texas."

BACKGROUND

Article III, Section 52, prohibits the legislature from authorizing political subdivisions to lend credit or loan money or valuables to individuals, associations, or corporations, or to become stockholders in a corporation or association. Although other provisions have been added to the section since its adoption, this prohibition has remained unchanged since 1876.

The policy behind the prohibition may be obscure to modern readers, but the framers of the constitution were addressing a serious problem of their day. In frontier Texas, capital for investment was scarce, and the state routinely loaned money and credit to private enterprises, particularly to the developing railroads. After the Civil War, the railroads were unable to pay a considerable debt to the state, and that led to the constitutional prohibitions in Article III, Sections 50 and 51, against state grants and loans to individuals and private enterprises.

At the same time the state was supporting the railroads, individual localities were also trying to attract the railroads and sought legislative authority to sell bonds for the purpose of financing the railroads. An 1871 law gave them the necessary authority, and the railroads made effective use of it by threatening to bypass localities that refused aid. The law was repealed by the post-reconstruction Democrats, who incorporated the current prohibition into the 1876 constitution.

In 1926, the Texas Supreme Court adopted a judgment of the commission of appeals that, because of Article III, Section 52, a political subdivision could not belong to a mutual insurance association. The insurance agreement required

policyholders to become members of the association, and the members of the association were required to pay potential assessments to cover losses of the association. The court determined that the liability for assessments was a lending of the subdivision's credit. City of Tyler v. Texas Employers' Insurance Ass'n, 288 S.W. 409, 412 (Tex. Comm'n App. 1926, judgmt adopted), motion for rehearing overruled, 294 S.W. 195 (Tex. Comm'n App. 1927).

In 1942, the Texas Supreme Court followed that decision and held that a school district could not purchase a policy of mutual insurance, and that a statute purporting to authorize political subdivisions to purchase the insurance was unconstitutional. Lewis v. Independent School District of City of Austin, 161 S.W.2d 450 (Tex. 1942). The court found that, while it might be wise public policy to authorize the contracts, the policy could not be contrary to the clear language of the constitution.

Under the terms of its contracts, mutual insurance companies assume the same obligations as stock insurers, but by reason of making the contract the insured becomes a member of the mutual organization. The members own and control the mutual, are entitled to share its surplus, and are responsible, within limits, for its obligations. Mutual company rates are competitive with the rates of stock companies, and mutual companies are regulated by state law in a manner similar to stock companies. Most mutual companies qualify under law to issue nonassessable policies and avoid the necessity of assessments by charging advance premiums and developing surpluses sufficient to enable them to meet their obligations.

ARGUMENTS

FOR:

Since the amendment continues the prohibition on the purchase of mutual insurance with a liability for assessments, the original constitutional policy continues to be served. The amendment simply widens the marketplace in which political subdivisions can shop for insurance, with the resulting benefits that competition brings both for the political subdivision and the mutual insurers. The amendment may be of significant benefit and poses no risk.

AGAINST:

This is another example of constitutional tinkering. Although the current provision may exclude a certain class of insurers from competing for the business of political subdivisions, there is no compelling reason to amend the constitution with yet another example of an exception to a general rule for a particular interest group. Amendments of this type are often the reason for the criticism that the Texas

Constitution is too highly detailed and too often amended. If this provision of the constitution has remained unchanged since 1876, the problem it purportedly presents must be small indeed.

AMENDMENT NO. 7

House Joint Resolution 4, proposing a constitutional amendment relating to the State Commission on Judicial Conduct and the authority and procedure to discipline active judges, certain retired and former judges, and certain masters and magistrates of the courts. (HOUSE AUTHOR: Bob Bush; SENATE SPONSOR: Kent Caperton)

The proposed amendment of Article V, Section 1-a, changes the membership of the State Commission on Judicial Conduct, adds to the list of judicial officials subject to the commission's disciplinary authority, and expands the types of conduct that may be the basis of a complaint to the commission.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment relating to the membership of the State Commission on Judicial Conduct and the authority and procedure to discipline active judges, certain retired and former judges, and certain masters and magistrates of the courts."

BACKGROUND

The State Commission on Judicial Conduct (originally the State Judicial Qualifications Commission) was created by constitutional amendment in 1965. The commission considers complaints against certain judicial officials and either takes action itself or recommends action to the supreme court. The proposed amendment makes the following changes in the commission and in its powers:

(1) eliminates one of the two positions on the commission for courts of appeals justices and one of the two positions on the commission for district judges and assigns those positions to one municipal court judge and one county court at law judge;

(2) deletes the requirement that the commission member representing the justices of the peace be selected from a list submitted by the Justice of the Peace and Constables Association;

(3) expands the reasons for which a judge may be disciplined to include incompetence or wilful violation of supreme court rules or the Code of Judicial Conduct;

(4) provides for immediate suspension without pay for a judge charged with a misdemeanor involving official misconduct;

(5) includes masters, magistrates, and retired or former judges subject to current assignment in the group of judicial officials subject to disciplinary action by the commission;

(6) allows the commission to issue private or public admonitions, warnings, and reprimands, or to require that the person obtain additional training or education;

(7) establishes a review tribunal of seven justices of the courts of appeals to review the commission's decisions with the review tribunal decision appealable to the supreme court under the substantial evidence rule; and

(8) allows the judicial officer the right to discovery after formal proceedings are filed.

ARGUMENTS

FOR:

1. Changing the membership on the commission would make the commission more representative of the judicial officials it disciplines.

2. Including masters, magistrates, and retired or former judges subject to assignment makes those persons subject to the same sanctions as other judges in the state.

AGAINST:

1. With an increased list of possible complaints, the disciplinary system will be easier to abuse with frivolous complaints.

2. The additional complaints will require more staff and commission work which increases the costs to the state.

AMENDMENT NO. 8

House Joint Resolution 22, proposing a constitutional amendment relating to the per diem for members of the legislature. (HOUSE AUTHOR: Ed Watson, et al.; SENATE SPONSOR: Grant Jones)

The proposed constitutional amendment of Article III, Section 24, of the Texas Constitution replaces the existing per diem payment of $30 for members of the legislature when the legislature is in session with a provision tying the amount of the per diem payment to the maximum daily federal income tax deduction allowed for a state legislator's expenses. The proposed amendment authorizes the per diem to be paid to every member of the legislature, even a member who is not entitled to the federal deduction because he resides near the State Capitol.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment to provide a per diem for members of the legislature equal to the maximum daily amount allowed by federal law as a deduction for ordinary and necessary business expenses incurred by a state legislator."

BACKGROUND

Under Article III, Section 24, of the Texas Constitution a member of the legislature receives a salary of $600 a month during the entire term to which he is elected. When the legislature is meeting, a member's responsibilities and expenses may reasonably be expected to be much greater than at other times during his or her term. The per diem payment is an additional compensation granted during a legislative session to help offset those additional demands and expenses. The per diem compensation is paid to every member of the legislature during a legislative session, regardless of the actual expenses incurred and regardless of the member's actual attendance at the legislature. The payment provided under Article III, Section 24, of the Texas Constitution has been set at $30 a day since April 22, 1975. From 1960 until that date it had been set at $12 a day.

The amount of the per diem under the proposed constitutional amendment would not be permanently fixed. The amount would be determined every year on January 1 according to the maximum deduction allowed under federal income tax law for a state legislator's ordinary and necessary business expenses for each day the legislature meets. Every legislator would continue to receive the same per diem as every other legislator. Whether a particular member claimed or qualified for the federal deduction would not affect the per diem paid to the member by the state.

On January 1, 1984, the maximum federal income tax deduction permitted for a state legislator's daily business expenses was the greater of the following: (1) the amount generally paid to employees of the executive branch of the federal government for per diem expenses while traveling in the United States, or (2) the amount generally paid to state employees of the legislator's own state for per diem expenses while away from home but not to exceed 110 percent of the amount determined under (1). See 26 U.S.C.A. Sections 162(h) and (i). Accordingly, under 1984 federal law, the per diem to be paid to a state legislator under the proposed constitutional amendment depends on which is greater, the state employee per diem or the per diem of employees of the executive branch of the federal government. On January 1, 1984, the state employee per diem for travel was a flat $40 unless lodging were not available for less than $25, in which case the per diem would be increased according to the actual expenses incurred, but not to exceed $70. See Article V, Section 14, of the General Appropriations Act (Chapter 1095, Acts of the 68th Legislature, Regular Session, 1983). Under federal law, the maximum per diem for employees of the executive branch traveling in the United States was $75. See 5 U.S.C.A. Section 5702(c). If the applicable federal and state law is not amended, the per diem to be paid to a member of the legislature under the proposed amendment would be $75, the greater of the two amounts specified under federal income tax law. Again, it should be noted that the amount of the per diem would depend entirely on the amount of the federal income tax allowance as it exists on January 1 of any year.

ARGUMENTS

FOR:

1. The per diem allowance of $30 adopted in 1975 is out of date. Significant inflation has occurred since 1975, and the cost of living in Austin has increased dramatically as well. The existing per diem allowance of $30 does not begin to adequately reimburse a member of the legislature for the costs incurred in maintaining two residences during a legislative session.

2. Tying the amount of the per diem to the federal income tax deduction allowed for a state legislator ensures that the amount will always be reasonable. The per diem will be increased or decreased in accordance with changes in the federal allowance, reflecting higher or lower costs generally incurred by a legislator because of changes in the economy. In addition, the proposed provision would eliminate the need to keep adjusting the amount of the per diem through the costly constitutional amendment process.

AGAINST:

1. The per diem allowance granted under existing law is satisfactory to offset ordinary living expenses during a legislative session. At $30 a day, a member of the legislature receives approximately $900 a month in addition to his regular legislative salary. The proposed constitutional amendment would, under current federal law, increase this amount to approximately $2,250 a month.

2. Tying the amount of the per diem to federal law is too indefinite. The state has no control over the amount of the federal allowance. The federal allowance, since it is designed to apply to the expenses incurred by state legislators all over the country, is likely to be excessive when applied to Texas, where the cost of living may be lower than the national average.

AMENDMENT NO. 1

HOUSE AUTHOR: W. G. (Bill) Coody H.J.R. No. 29
SENATE SPONSOR: John Traeger

A JOINT RESOLUTION proposing a constitutional amendment relating to the powers of state-chartered banks.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article XVI, Section 16, of the Texas Constitution be amended by adding Subsection (c) to read as follows:

(c) A corporate body created by virtue of the power granted by this section, notwithstanding any other provision of this section, has the same rights and privileges that are or may be granted to national banks of the United States domiciled in this State.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 6, 1984. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to provide state banks the same rights and privileges as national banks."

AMENDMENT NO. 2

HOUSE AUTHOR: Wilhelmina Delco, et al. H.J.R. No. 19
SENATE SPONSOR: Carl Parker

A JOINT RESOLUTION proposing a constitutional amendment to provide funds for the support of higher education and to restructure the permanent university fund.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article VII of the Texas Constitution be amended by adding Section 17 to read as follows:

Sec. 17. (a) In the fiscal year beginning September 1, 1985, and each fiscal year thereafter, there is hereby appropriated out of the first money coming into the state treasury not otherwise appropriated by the constitution $100 million to be used by eligible agencies and institutions of higher education for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair or rehabilitation of buildings or other permanent improvements, and acquisition of capital equipment, library books and library materials. During the regular session of the legislature that is nearest, but preceding, the beginning of each fifth fiscal year dating from September 1, 1985, the legislature may by two-thirds vote of the membership of each house adjust the amount of the constitutional appropriation for the ensuing five years but may not adjust the appropriation in such a way as to impair any obligation created by the issuance of bonds or notes in accordance with this section.

(b) The funds appropriated under Subsection (a) of this section shall be for the use of the following eligible agencies and institutions of higher education (even though their names may be changed):

(1) East Texas State University including East Texas State University at Texarkana;

(2) Lamar University including Lamar University at Orange and Lamar University at Port Arthur;

(3) Midwestern State University;

(4) North Texas State University;

(5) Pan American University including Pan American University at Brownsville;

(6) Stephen F. Austin State University;

(7) Texas College of Osteopathic Medicine;

(8) Texas State University System Administration and the following component institutions:

(9) Angelo State University;

(10) Sam Houston State University;

(11) Southwest Texas State University;

(12) Sul Ross State University including Uvalde Study Center;

(13) Texas Southern University;

(14) Texas Tech University;

(15) Texas Tech University Health Sciences Center;

(16) Texas Woman's University;

(17) University of Houston System Administration and the following component institutions:

(18) University of Houston - University Park;

(19) University of Houston - Victoria;

(20) University of Houston - Clear Lake;

(21) University of Houston - Downtown;

(22) University System of South Texas System Administration and the following component institutions:

(23) Corpus Christi State University;

(24) Laredo State University;

(25) Texas A&I University; and

(26) West Texas State University.

(c) Pursuant to a two-thirds vote of the membership of each house of the legislature, institutions of higher education may be created at a later date by general law, and, when created, such an institution shall be entitled to participate in the funding provided by this section if it is not created as a part of The University of Texas System or The Texas A&M University System. An institution that is entitled to participate in dedicated funding provided by Article VII, Section 18, of this constitution may not be entitled to participate in the funding provided by this section.

(d) In the year 1985 and every 10 years thereafter, the legislature or an agency designated by the legislature no later than August 31 of such year shall allocate by equitable formula the annual appropriations made under Subsection (a) of this section to the governing boards of eligible agencies and institutions of higher education. The legislature shall review, or provide for a review, of the allocation formula at the end of the fifth year of each 10-year allocation period. At that time

adjustments may be made in the allocation formula, but no adjustment that will prevent the payment of outstanding bonds and notes, both principal and interest, may be made.

(e) Each governing board authorized to participate in the distribution of money under this section is authorized to expend all money distributed to it for any of the purposes enumerated in Subsection (a). In addition, unless a single bonding agency is designated as hereinafter provided, such governing board may issue bonds and notes for the purposes of refunding bonds or notes issued under this section or prior law, acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, and for major repair and rehabilitation of buildings or other permanent improvements, and may pledge up to 50 percent of the money allocated to such governing board pursuant to this section to secure the payment of the principal and interest of such bonds or notes. Proceeds from the issuance of bonds or notes under this subsection shall be maintained in a local depository selected by the governing board issuing the bonds or notes. The bonds and notes issued under this subsection shall be payable solely out of the money appropriated by this section and shall mature serially or otherwise in not more than 10 years from their respective dates. All bonds issued under this section shall be sold only through competitive bidding and are subject to approval by the attorney general. Bonds approved by the attorney general shall be incontestable. The permanent university fund may be invested in the bonds and notes issued under this section. In lieu of the authority granted to each governing board herein, the legislature by general law may designate a single agency to issue bonds and notes authorized under this section and transfer to that agency the authority to collect and pledge money to the payment of such bonds and notes for the purposes, to the extent, and subject to the restrictions of this section. Provided, that such agency shall be authorized to issue such bonds and notes for the benefit of an eligible institution and pledge money collected hereunder only as directed by the governing board of each eligible institution.

(f) The funds appropriated by this section may not be used for the purpose of constructing, equipping, repairing, or rehabilitating buildings or other permanent improvements that are to be used for student housing, intercollegiate athletics, or auxiliary enterprises.

(g) Except for that portion of the allocated funds that may be required to be transferred to a single bonding agency, if one is created, the comptroller of public accounts shall make annual transfers of the funds allocated pursuant to Subsection (d) directly to the governing boards of the eligible institutions.

(h) To assure efficient use of construction funds and the orderly development of physical plants to accommodate the state's real need, the legislature may provide for the approval or disapproval of all new construction projects at the eligible agencies and institutions entitled to participate in the funding provided by this section.

(i) The legislature by general law may dedicate portions of the state's revenues to the creation of a dedicated fund ("the higher education fund") for the purposes expressed in Subsection (a) of this section. The legislature shall provide for administration of the fund, which shall be invested in the manner provided for investment of the permanent university fund. The income from the investment of the higher education fund shall be credited to the higher education fund until such time as the fund totals $2 billion. The principal of the higher education fund shall never be expended. At the beginning of the fiscal year after the fund reaches $2 billion, as certified by the comptroller of public accounts, the dedication of general revenue funds provided for in Subsection (a) of this section shall cease. At the beginning of the fiscal year after the fund reaches $2 billion, and each year thereafter, 10 percent of the interest, dividends, and other income accruing from the investments of the higher education fund during the previous fiscal year shall be deposited and become part of the principal of the fund, and out of the remainder of the annual income from the investment of the principal of the fund there shall be appropriated an annual sum sufficient to pay the principal and interest due on the bonds and notes issued under this section and the balance of the income shall be allocated, distributed, and expended as provided for the appropriations made under Subsection (a).

(j) The state systems and institutions of higher education designated in this section may not receive any additional funds from the general revenue of the state for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements except that:

(1) in the case of fire or natural disaster the legislature may appropriate from the general revenue an amount sufficient to replace the uninsured loss of any building or other permanent improvement; and

(2) the legislature, by two-thirds vote of each house, may, in cases of demonstrated need, which need must be clearly expressed in the body of the act, appropriate additional general revenue funds for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements.

This subsection does not apply to legislative appropriations made prior to the adoption of this amendment.

(k) Without the prior approval of the legislature, appropriations under this section may not be expended for acquiring land with or without permanent improvements, or for constructing and equipping buildings or other permanent improvements, for a branch campus or educational center that is not a separate degree-granting institution created by general law.

(l) This section is self-enacting upon the issuance of the governor's proclamation declaring the adoption of the amendment, and the state comptroller of public accounts and the state treasurer shall do all things necessary to effectuate this section. This section does not impair any obligation created by the issuance of any bonds and notes in accordance with prior law, and all outstanding bonds and notes shall be paid in full, both principal and interest, in accordance with their terms. If the provisions of this section conflict with any other provisions of this constitution, then the provisions of this section shall prevail, notwithstanding all such conflicting provisions.

SECTION 2. That Article VII, Section 14, of the Texas Constitution be revised to read as follows:

Sec. 14. Prairie View A&M University in Waller County is an institution of the first class under the direction of the same governing board as Texas A&M University referred to in Article VII, Section 13, of this constitution as the Agricultural and Mechanical College of Texas.

SECTION 3. That Article VII, Section 18, of the Texas Constitution be revised to read as follows:

Sec. 18. (a) The Board of Regents of The Texas A&M University System may issue bonds and notes not to exceed a total amount of 10 percent of the cost value of the investments and other assets of the permanent university fund (exclusive of real estate) at the time of the issuance thereof, and may pledge all or any part of its one-third interest in the available university fund to secure the payment of the principal and interest of those bonds and notes, for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair and rehabilitation of buildings and other permanent improvements, acquiring capital equipment and library books and library materials, and refunding bonds or notes issued under this Section or prior law, at or for The Texas A&M University System administration and the following component institutions of the system:

(1) Texas A&M University, including its medical college which the legislature may authorize as a separate medical institution;

(2) Prairie View A&M University, including its nursing school in Houston;

(3) Tarleton State University;

(4) Texas A&M University at Galveston;

(5) Texas Forest Service;

(6) Texas Agricultural Experiment Stations;

(7) Texas Agricultural Extension Service;

(8) Texas Engineering Experiment Stations;

(9) Texas Transportation Institute; and

(10) Texas Engineering Extension Service.

(b) The Board of Regents of The University of Texas System may issue bonds and notes not to exceed a total amount of 20 percent of the cost value of investments and other assets of the permanent university fund (exclusive of real estate) at the time of issuance thereof, and may pledge all or any part of its two-thirds interest in the available university fund to secure the payment of the principal and interest of those bonds and notes, for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair and rehabilitation of buildings and other permanent improvements, acquiring capital equipment and library books and library materials, and refunding bonds or notes issued under this section or prior law, at or for The University of Texas System administration and the following component institutions of the system:

(1) The University of Texas at Arlington;

(2) The University of Texas at Austin;

(3) The University of Texas at Dallas;

(4) The University of Texas at El Paso;

(5) The University of Texas of the Permian Basin;

(6) The University of Texas at San Antonio;

(7) The University of Texas at Tyler;

(8) The University of Texas Health Science Center at Dallas;

(9) The University of Texas Medical Branch at Galveston;

(10) The University of Texas Health Science Center at Houston;

(11) The University of Texas Health Science Center at San Antonio;

(12) The University of Texas System Cancer Center;

(13) The University of Texas Health Center at Tyler; and

(14) The University of Texas Institute of Texan Cultures at San Antonio.

(c) Pursuant to a two-thirds vote of the membership of each house of the legislature, institutions of higher education may be created at a later date as a part of The University of Texas System or The Texas A&M University System by general law, and, when created, such an institution shall be entitled to participate in the funding provided by this section for the system in which it is created. An institution that is entitled to participate in dedicated funding provided by Article VII, Section 17, of this constitution may not be entitled to participate in the funding provided by this section.

(d) The proceeds of the bonds or notes issued under Subsection (a) or (b) of this section may not be used for the purpose of constructing, equipping, repairing, or rehabilitating buildings or other permanent improvements that are to be used for student housing, intercollegiate athletics, or auxiliary enterprises.

(e) The available university fund consists of the dividends, interest and other income from the permanent university fund (less administrative expenses) including the net income attributable to the surface of permanent university fund land. Out of one-third of the available university fund, there shall be appropriated an annual sum sufficient to pay the principal and interest due on the bonds and notes issued by the Board of Regents of The Texas A&M University System under this section and prior law, and the remainder of that one-third of the available university fund shall be appropriated to the Board of Regents of The Texas A&M University System which shall have the authority and duty in turn to appropriate an equitable portion of the same for the support and maintenance of The Texas A&M University System administration, Texas A&M University, and Prairie View A&M University. The Board of Regents of The Texas A&M University System, in making just and equitable appropriations to Texas A&M University and Prairie View A&M University, shall exercise its discretion with due regard to such criteria as the board may deem appropriate from year to year, taking into account all amounts appropriated from Subsection (f) of this section. Out of the other two-thirds of the available university fund there shall be appropriated an annual sum sufficient to pay the principal and interest due on the bonds and notes issued by the Board of Regents of The University of Texas System under this section and prior law, and the remainder of such two-thirds of the available university fund, shall be appropriated for the support and maintenance of The University of Texas at Austin and The University of Texas System administration.

(f) It is provided, however, that, for 10 years beginning upon the adoption of this amendment, before any other allocation is made of The University of Texas System's two-thirds share of the available university fund, remaining after payment of principal and interest on its bonds and notes issued under this section and prior

law, $6 million per year shall be appropriated out of that share to the Board of Regents of The Texas A&M University System for said board's use in making appropriations to Prairie View A&M University. This subsection expires and is deleted from this constitution 10 years from the adoption of this amendment.

(g) The bonds and notes issued under this section shall be payable solely out of the available university fund, mature serially or otherwise in not more than 30 years from their respective dates, and, except for refunding bonds, be sold only through competitive bidding. All of these bonds and notes are subject to approval by the attorney general and when so approved are incontestable. The permanent university fund may be invested in these bonds and notes.

(h) To assure efficient use of construction funds and the orderly development of physical plants to accommodate the state's real need, the legislature may provide for the approval or disapproval of all new construction projects at the eligible agencies and institutions entitled to participate in the funding provided by this section except The University of Texas at Austin, Texas A&M University in College Station, and Prairie View A&M University.

(i) The state systems and institutions of higher education designated in this section may not receive any funds from the general revenue of the state for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements except that:

(1) in the case of fire or natural disaster the legislature may appropriate from the general revenue an amount sufficient to replace the uninsured loss of any building or other permanent improvement; and

(2) the legislature, by two-thirds vote of each house, may, in cases of demonstrated need, which need must be clearly expressed in the body of the act, appropriate general revenue funds for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements.

This subsection does not apply to legislative appropriations made prior to the adoption of this amendment.

(j) This section is self-enacting on the issuance of the governor's proclamation declaring the adoption of this amendment, and the state comptroller of public accounts and the state treasurer shall do all things necessary to effectuate this section. This section does not impair any obligation created by the issuance of bonds or notes in accordance with prior law, and all outstanding bonds and notes shall be paid in full, both principal and interest, in accordance with their terms, and

the changes herein made in the allocation of the available university fund shall not affect the pledges thereof made in connection with such bonds or notes heretofore issued. If the provisions of this section conflict with any other provision of this constitution, then the provisions of this section shall prevail, notwithstanding any such conflicting provisions.

SECTION 4. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 6, 1984. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to create from general revenue a special higher education assistance fund for construction and related activities, to restructure the permanent university fund, and to increase the number of institutions eligible to benefit from the permanent university fund."

AMENDMENT NO. 3

HOUSE AUTHOR: W. N. (Billy) Hall H.J.R. No. 65
SENATE SPONSOR: John Traeger

A JOINT RESOLUTION proposing a constitutional amendment relating to the payment of assistance to the surviving dependent parents, brothers, and sisters of certain public servants killed while on duty.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article III, Section 51-d, of the Texas Constitution be amended to read as follows:

Sec. 51-d. The Legislature shall have the power, by general law, to provide for the payment of assistance by the State of Texas to the surviving spouse, ~~[and]~~ minor children, and surviving dependent parents, brothers, and sisters of officers, employees, and agents, including members of organized volunteer fire departments and members of organized police reserve or auxiliary units with authority to make an arrest, of the state or of any city, county, district, or other political subdivision who, because of the hazardous nature of their duties, suffer death in the course of the performance of those official duties. Should the Legislature enact any enabling laws in anticipation of this amendment, no such law shall be void by reason of its anticipatory nature.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 6, 1984. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the legislature to provide for payment of assistance to the surviving dependent parents, brothers, and sisters of certain public servants killed while on duty."

AMENDMENT NO. 4

SENATE AUTHOR: R. L. (Bob) Vale S.J.R. No. 20
HOUSE SPONSOR: Frank Tejeda

SENATE JOINT RESOLUTION proposing a constitutional amendment to abolish the office of county treasurer in Bexar and Collin counties.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article XVI, Section 44, of the Texas Constitution be amended to read as follows:

"Section 44. (a) Except as provided by Subsection (b) and Subsection (b)(1) of this section, the Legislature shall prescribe the duties and provide for the election by the qualified voters of each county in this State, of a County Treasurer and a County Surveyor, who shall have an office at the county seat, and hold their office for four years, and until their successors are qualified; and shall have such compensation as may be provided by law.

"(b) The office of County Treasurer in the counties of Tarrant and Bee is abolished and all the powers, duties, and functions of the office in each of these counties are transferred to the County Auditor or to the officer who succeeds to the auditor's functions.

"(b)(1) The office of County Treasurer in the counties of Bexar and Collin are abolished and all the powers, duties, and functions of the office in each of these counties are transferred to the County Clerk.

"(c) Provided however, that the office of County Treasurer shall be abolished in the above counties only after a local election has been held in each county and the proposition 'to abolish the elective office of county treasurer' has passed by a majority of those persons voting in said election."

SECTION 2. That the following provision be added to the Texas Constitution:

"TEMPORARY PROVISION. The constitutional amendment proposed by the 68th Legislature, Regular Session, abolishing the office of county treasurer in Bexar and Collin counties takes effect on January 1, 1985. This provision expires when executed."

SECTION 3. This proposed amendment shall be submitted to the voters at an election to be held on November 6, 1984. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to abolish the office of county treasurer in Bexar and Collin counties."

AMENDMENT NO. 5

SENATE AUTHOR: Grant Jones, et al. S.J.R. No. 22
HOUSE SPONSOR: Bill Messer

SENATE JOINT RESOLUTION proposing a constitutional amendment relating to the manner in which a vacancy in the office of lieutenant governor is to be filled.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article III, Section 9, of the Texas Constitution be amended to read as follows:

"Section 9. (a) The Senate shall, at the beginning and close of each session, and at such other times as may be necessary, elect one of its members President pro tempore, who shall perform the duties of the Lieutenant Governor in any case of absence or disability of that officer. If[~~, and whenever~~] the said office of Lieutenant Governor becomes [~~shall be~~] vacant, the President pro tempore of the Senate shall convene the Committee of the Whole Senate within 30 days after the vacancy occurs. The Committee of the Whole shall elect one of its members to perform the duties of the Lieutenant Governor in addition to his duties as Senator until the next general election. If the Senator so elected ceases to be a Senator before the election of a new Lieutenant Governor, another Senator shall be elected in the same manner to perform the duties of the Lieutenant Governor until the next general election. Until the Committee of the Whole elects one of its members for this purpose, the President pro tempore shall perform the duties of the Lieutenant Governor as provided by this subsection.

"(b) The House of Representatives shall, when it first assembles, organize temporarily, and thereupon proceed to the election of a Speaker from its own members.

"(c) Each[~~; and each~~] House shall choose its other officers."

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 6, 1984. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the state senate to fill a vacancy in the office of lieutenant governor."

AMENDMENT NO. 6

HOUSE AUTHOR: Ashley Smith H.J.R. No. 73
SENATE SPONSOR: Bob McFarland

A JOINT RESOLUTION proposing a constitutional amendment to permit use of public funds and credit for payment of premiums on certain insurance policies and annuity contracts of mutual insurance companies.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article III, Section 52(a), of the Texas Constitution be amended to read as follows:

(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. However, this section does not prohibit the use of public funds or credit for the payment of premiums on nonassessable life, health, or accident insurance policies and annuity contracts issued by a mutual insurance company authorized to do business in this State.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 6, 1984. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to permit use of public funds and credit for payment of premiums on certain insurance contracts of mutual insurance companies authorized to do business in Texas."

AMENDMENT NO. 7

HOUSE AUTHOR: Bob Bush H.J.R. No. 4
SENATE SPONSOR: Kent Caperton

A JOINT RESOLUTION proposing a constitutional amendment relating to the State Commission on Judicial Conduct and the authority and procedure to discipline active judges, certain retired and former judges, and certain masters and magistrates of the courts.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article V, Section 1-a, Subsection (2), of the Texas Constitution be amended to read as follows:

(2) The name of the State Judicial Qualifications Commission is changed to the State Commission on Judicial Conduct. The Commission consists of eleven (11) members, to wit: (i) one (1) Justice [~~two (2) Justices~~] of a Court [~~Courts~~] of [~~Civil~~] Appeals; (ii) one (1) District Judge; [~~two (2) District Judges;~~] (iii) two (2) members of the State Bar, who have respectively practiced as such for over ten (10) consecutive years next preceding their selection; (iiii) four (4) citizens, at least thirty (30) years of age, not licensed to practice law nor holding any salaried public office or employment; [~~and~~] (v) one (1) Justice of the Peace; (vi) one (1) Judge of a Municipal Court; and, (vii) one (1) Judge of a County Court at Law; provided that no person shall be or remain a member of the Commission, who does not maintain physical residence within this State, or who resides in, or holds a judgeship within or for, the same Supreme Judicial District as another member of the Commission, or who shall have ceased to retain the qualifications above specified for his respective class of membership, except that the Justice of the Peace and the Judges of a Municipal Court and or a County Court at Law shall be selected at large without regard to whether they reside or hold [~~he resides or holds~~] a judgeship in the same Supreme Judicial District as another member of the Commission. Commissioners of classes (i), [~~and~~] (ii), and (vii) above shall be chosen by the Supreme Court with advice and consent of the Senate, those of class (iii) by the Board of Directors of the State Bar under regulations to be prescribed by the Supreme Court with advice and consent of the Senate, those of class (iiii) by appointment of the Governor with advice and consent of the Senate, and the commissioners [~~commissioner~~] of classes [~~class~~] (v) and (vi) by appointment of the Supreme Court as provided by law, with the advice and consent of the Senate. [~~from a list of five (5) names submitted by the executive committee of the Justice of the Peace and Constables Association of Texas, with the advice and consent of the Senate. The initial term of the commissioner of class (v) and the fourth~~

~~commissioner of class (iiii) added by this amendment terminates on November 19, 1979. Each person holding office as a member of the Commission on the effective date of this amendment continues to hold the office for the term for which he was appointed.~~]

SECTION 2. That Article V, Section 1-a, Subsection (6), of the Texas Constitution be amended by amending Paragraph A and adding Paragraph C to read as follows:

A. Any Justice or Judge of the courts established by this Constitution or [~~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 violation of rules promulgated by the Supreme Court of Texas, incompetence in performing the duties of the office, willful violation of the Code of Judicial Conduct, or willful or persistent conduct that[~~, 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 [~~any~~] person holding such office may be disciplined or censured, in lieu of removal from office, as [~~under procedures~~] provided [~~for~~] by this section [~~the Legislature~~]. Any person holding an office specified [~~named~~] in this subsection may be suspended from office with or without pay by the Commission immediately on being indicted by a State or Federal grand jury for a felony offense[~~; or,~~] or charged with a misdemeanor involving official misconduct. On [~~on~~] the filing of a sworn complaint charging a person holding such office with willful or persistent violation of rules promulgated by the Supreme Court of Texas, incompetence in performing the duties of the office, willful violation of the Code of Judicial Conduct, or willful and persistent conduct that [~~which~~] is clearly inconsistent with the proper performance of his duties or [~~which~~] casts public discredit on the judiciary or on the administration of justice, the Commission, after giving the person notice and an opportunity to appear and be heard before the Commission, may recommend to the Supreme Court the suspension of such person from office. The Supreme Court, after considering the record of such appearance and the recommendation of the Commission, may suspend the person from office with or without pay, pending final disposition of the charge.

C. The law relating to the removal, discipline, suspension, or censure of a Justice or Judge of the courts established by this Constitution or created by the Legislature as provided in this Constitution applies to a master or magistrate appointed as provided by law to serve a trial court of this State and to a retired or

former Judge who continues as a judicial officer subject to an assignment to sit on a court of this State. Under the law relating to the removal of an active Justice or Judge, the Commission and the review tribunal may prohibit a retired or former Judge from holding judicial office in the future or from sitting on a court of this State by assignment.

SECTION 3. That Article V, Section 1-a, Subsections (8) through (12), of the Texas Constitution be amended to read as follows:

(8) After such investigation as it deems necessary, the Commission may in its discretion issue a private or public admonition, warning, reprimand, or requirement that the person obtain additional training or education, or if the Commission determines that the situation merits such action, it may institute formal proceedings and order a formal hearing to be held before it concerning the public censure, removal, or retirement of a person holding an office or position specified [~~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, or retired Judge or Justice of the Court of Criminal Appeals or the Supreme Court, as a Master to hear and take evidence in any such matter, and to report thereon to the Commission. The Master shall have all the power of a District Judge in the enforcement of orders pertaining to witnesses, evidence, and procedure. If, after formal 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 a review tribunal [~~the Supreme Court~~] the removal[~~,~~] or retirement, as the case may be, of the person in question holding an office or position specified [~~named~~] in [~~Paragraph A of~~] Subsection (6) of this Section and shall thereupon file with the tribunal [~~Clerk of the Supreme Court~~] the entire record before the Commission.

(9) A tribunal to review the Commission's recommendation for the removal or retirement of a person holding an office or position specified in Subsection (6) of this Section is composed of seven (7) Justices or Judges of the Courts of Appeals who are selected by lot by the Chief Justice of the Supreme Court. Each Court of Appeals shall designate one of its members for inclusion in the list from which the selection is made. Service on the tribunal shall be considered part of the official duties of a judge, and no additional compensation may be paid for such service. The review tribunal [~~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. Within 90 days after the date on which the record is filed with the review tribunal, it [~~and~~] shall order public censure, retirement or removal, as it finds just and proper, or wholly reject the recommendation. A Justice, Judge, Master, or Magistrate may appeal a decision of the review tribunal

to the Supreme Court under the substantial evidence rule. Upon an order for involuntary retirement for disability or an order for removal, the office in question shall become vacant. The review tribunal [~~Supreme Court~~], in an order for involuntary retirement for disability or an order for removal, may prohibit such person from holding judicial office in the future. The rights of an incumbent so retired to retirement benefits shall be the same as if his retirement had been voluntary.

(10) All papers filed with and proceedings before the Commission or a Master shall be confidential, unless otherwise provided by law, and the filing of papers with, and the giving of testimony before[~~,~~] the Commission or a[~~,~~] Master [~~or the Supreme Court~~] shall be privileged, unless otherwise provided by law[~~, provided that upon being filed in the Supreme Court the record loses its confidential character~~]. However, the Commission may issue a public statement through its executive director or its Chairman at any time during any of its proceedings under this Section when sources other than the Commission cause notoriety concerning a Judge or the Commission itself and the Commission determines that the best interests of a Judge or of the public will be served by issuing the statement.

(11) The Supreme Court shall by rule provide for the procedure before the Commission, Masters, review tribunal, and the Supreme Court. Such rule shall provide the right of discovery of evidence to a Justice, Judge, Master, or Magistrate after formal proceedings are instituted and shall afford to any person holding an office or position specified [~~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, review tribunal, 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 or position specified [~~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 specified [~~named~~] in [~~Paragraph A of~~] Subsection (6) of this Section shall sit as a member of the Commission in any proceeding involving his own suspension, discipline, censure, retirement or removal. [~~A recommendation of the Commission for the suspension, censure, retirement, or removal of a Justice of the Supreme Court shall be determined by a tribunal of seven (7) Court of Civil Appeals Justices selected by lot to serve in place of the Supreme Court.~~]

SECTION 4. That Article V, Section 1-a, of the Texas Constitution be amended by adding Subsection (14) to read as follows:

(14) The Legislature may promulgate laws in furtherance of this Section that are not inconsistent with its provisions.

SECTION 5. That the following temporary provision be added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by H.J.R. No. 4, 68th Legislature, Regular Session, 1983, and expires January 1, 1988.

(b) The constitutional amendment takes effect January 1, 1985.

(c) The initial term of the commissioner of class (v) added by amendment in 1977 expired on November 19, 1979. The initial term of the commissioner of class (vi) and (vii) expires on November 19, 1985.

(d) Each person holding office as a member of the Commission on Judicial Conduct on January 1, 1985, continues to hold the office for the term for which he was appointed.

(e) The offices of the first commissioner of class (i) and the first commissioner of class (ii) whose terms expire after January 1, 1985, are abolished on the expiration of the terms.

(f) Changes made in the constitution by this amendment do not apply to investigations and formal proceedings where the investigation of judicial conduct by the commission began before January 1, 1985.

SECTION 6. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 6, 1984. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment relating to the membership of the State Commission on Judicial Conduct and the authority and procedure to discipline active judges, certain retired and former judges, and certain masters and magistrates of the courts."

AMENDMENT NO. 8

HOUSE AUTHOR: Ed Watson, et al. H.J.R. No. 22
SENATE SPONSOR: Grant Jones

A JOINT RESOLUTION proposing a constitutional amendment relating to the per diem for members of the legislature.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article III, Section 24, of the Texas Constitution be amended to read as follows:

Sec. 24. (a) Members of the Legislature shall receive from the Public Treasury a salary of Six Hundred Dollars ($600) per month. Each member shall also receive a per diem [~~of Thirty Dollars ($30)~~] for each day during each Regular and Special Session of the Legislature. The per diem allowed during a calendar year is in an amount equal to the maximum daily amount allowed as of January 1 of that year for federal income tax purposes as a deduction for ordinary and necessary business expenses incurred by a state legislator, disregarding any exception in federal law for legislators residing near the capitol.

(b) No Regular Session shall be of longer duration than one hundred and forty (140) days.

(c) In addition to the per diem the Members of each House shall be entitled to mileage at the same rate as prescribed by law for employees of the State of Texas. This amendment takes effect on January 8, 1985. [~~This amendment takes effect on April 22, 1975.~~]

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 6, 1984. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to provide a per diem for members of the legislature equal to the maximum daily amount allowed by federal law as a deduction for ordinary and necessary business expenses incurred by a state legislator."