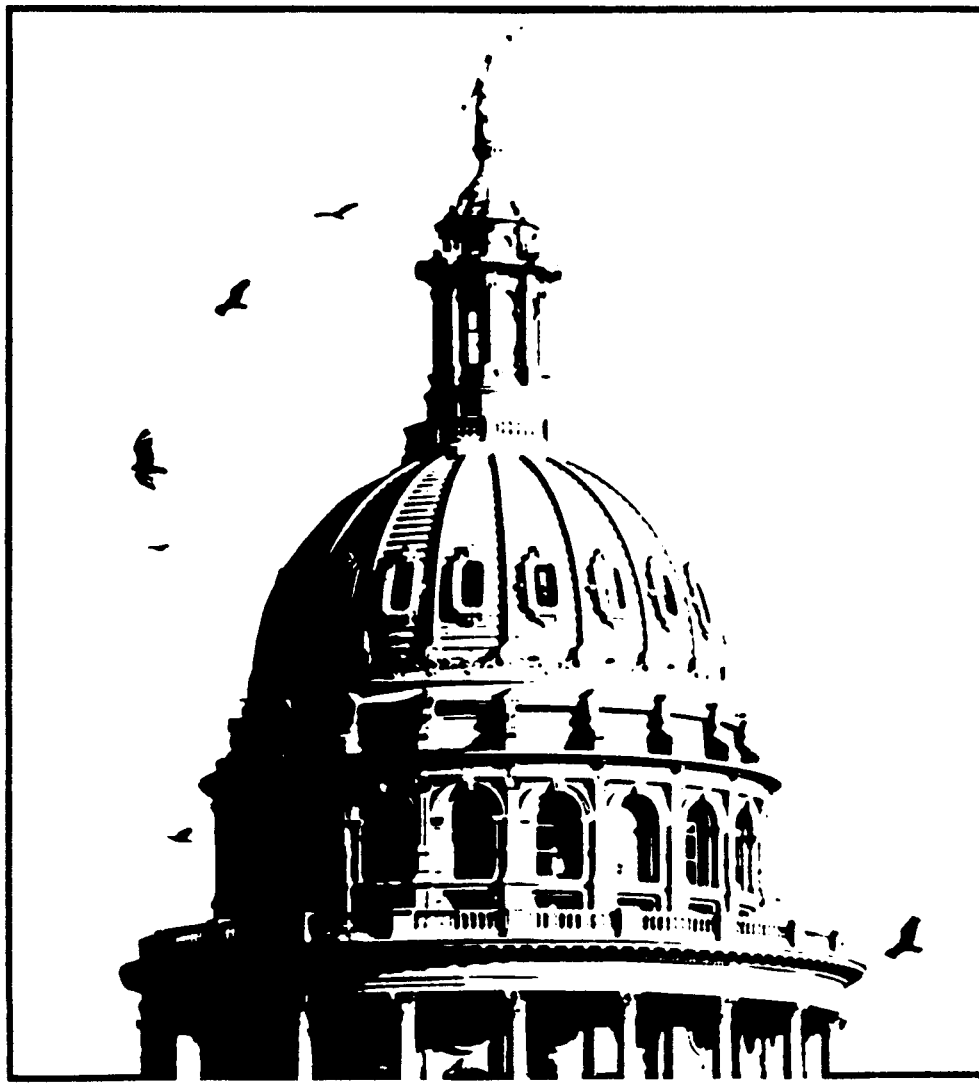
Analyses of Proposed Constitutional Amendments

Appearing on the November 4, 1986, Ballot

• Revised Edition •



Texas Legislative Council
Information Report No. 86-2
September, 1986

Analyses of Proposed Constitutional Amendments

Appearing on the
November 4, 1986, Ballot

• Revised Edition •

Prepared by the Staff

of the

Texas Legislative Council

— Information Report No. 86-2 • September 1986 —

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P.O. Box 12128, Capitol Station

Austin, Texas 78711

PREFACE

In July 1986, the legislative council staff published a booklet (Information Report No. 86-1) with analyses of three constitutional amendments proposed by the 69th Legislature in the 1985 regular session. During the 2nd called session in August 1986, the legislature proposed an additional amendment for submission on the November 4, 1986, general election ballot.

This revised edition of the July 1986 booklet contains analyses of all four amendments that will appear on the 1986 ballot.

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INTRODUCTION

In the 1985 regular session, the 69th Texas Legislature passed 16 joint resolutions proposing 17 constitutional amendments. Fourteen proposed amendments appeared on the November 5, 1985, election ballot, and all were adopted by the voters (see Table 1). The remaining three proposed amendments will appear on the November 4, 1986, ballot along with one amendment proposed during the 1986 2nd called session.

The Texas Constitution provides that the legislature, by a two-thirds vote of all members of each house, may propose amendments revising the constitution and that proposed amendments must then be submitted for approval to the qualified voters of the state. An amendment becomes a part of the constitution if a majority of the votes cast for it in an election are cast in its favor. An amendment approved by voters is effective on the date of the official canvass of returns showing adoption. The date of canvass, by law, is not earlier than the 15th or later than the 30th day after election day. An amendment may provide for a later effective date.

Since adoption in 1876 and through 1985, the state's constitution has been amended 283 times, from a total of 433 amendments submitted to the voters for their approval. The four amendments on the 1986 general election ballot bring the total number of amendments submitted to 437. Table 2 lists the years in which constitutional amendments have been proposed by the Texas Legislature, the number of amendments proposed, and the number of those adopted. The year of the vote is not reflected in the table.

TABLE 1

RESULTS OF 1985 ELECTION

Amendment No. 1
Subject: State and Local Water Bonds
For: 705,878
Against: 251,031

Amendment No. 2
Subject: Agricultural Water Conservation Bonds
For: 651,699
Against: 284,552

Amendment No. 3
Subject: Public Spending on Private Water Lines
For: 498,902
Against: 425,698

Amendment No. 4
Subject: Permanent School Fund Land Sale Proceeds
For: 628,246
Against: 299,020

Amendment No. 5
Subject: State Regulation of Hospital District Services
For: 524,151
Against: 396,943

Amendment No. 6
Subject: Interstate Transfer of Inmates
For: 663,478
Against: 274,527

Amendment No. 7
Subject: Chambers County Justices of the Peace
For: 544,991
Against: 302,288

Amendment No. 8
Subject: Veterans' Financial Assistance
For: 600,117
Against: 328,834

Amendment No. 9
Subject: Budgetary Supervision of State Appropriations
For: 518,021
Against: 384,987

Amendment No. 10
Subject: Bond Program to Help Purchase Agricultural Land
For: 461,483
Against: 442,407

Amendment No. 11
Subject: Wording and Defects in Criminal Charges
For: 606,333
Against: 278,595

Amendment No. 12
Subject: State Law Issues in Federal Cases
For: 647,276
Against: 238,802

Amendment No. 13
Subject: Reapportionment of Judicial Districts
For: 496,189
Against: 360,555

Amendment No. 14
Subject: Abolition of Certain County Offices
For: 584,641
Against: 251,483

TABLE 2

1876 CONSTITUTION

AMENDMENTS PROPOSED AND ADOPTED

year proposed	number proposed	number adopted	year proposed	number proposed	number adopted
1879	1	1	1937	7	6
1881	2	0	1939	4	3
1883	5	5	1941	5	1
1887	6	0	1943	3**	3
1889	2	2	1945	8	7
1891	5	5	1947	9	9
1893	2	2	1949	10	2
1895	2	1	1951	7	3
1897	5	1	1953	11	11
1899	1	0	1955	9	9
1901	1	1	1957	12	10
1903	3	3	1959	4	4
1905	3	2	1961	14	10
1907	9	1	1963	7	4
1909	4	4	1965	27	20
1911	5	4	1967	20	13
1913	8*	0	1969	16	9
1915	7	0	1971	18	12
1917	3	3	1973	9	6
1919	13	3	1975	12††	3
1921	5**	1	1977	15	11
1923	2†	1	1978	1	1
1925	4	4	1979	12	9
1927	8**	4	1981	10	8
1929	7**	5	1982	3	3
1931	9	9	1983	19	16
1933	12	4	1985	17**	14(a)
1935	13	10	1986	1	(b)

TOTAL PROPOSED 437

TOTAL ADOPTED 283

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) Fourteen of the 17 proposed amendments appeared on the 1985 general election ballot, and all were adopted. The remaining three will be on the 1986 general election ballot.

(b) The amendment approved by the 69th Legislature in the 2nd called session will be on the 1986 general election ballot.

AMENDMENT NO. 1

Senate Joint Resolution 15, proposing a constitutional amendment to allow the legislature to provide by general law for the apportionment of the value of railroad rolling stock among counties for property tax purposes. (SENATE AUTHOR: Chet Edwards; HOUSE SPONSOR: Sam Johnson.)

The proposed amendment to Article VIII, Section 8, of the Texas Constitution would remove the requirement that the comptroller of public accounts apportion the taxable value of railroad rolling stock among the counties where it is taxed and provide that this responsibility be delegated by general law.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment to allow the legislature to provide by general law for the apportionment of the value of railroad rolling stock among counties for purposes of property taxation."

BACKGROUND

A railroad's rolling stock (engines, boxcars, etc.) used in Texas is subject to property taxation by each county in which the railroad operates. The taxable value of the rolling stock is apportioned among the counties in which the railroad operates in proportion to the mileage of railroad line owned by the railroad in each county. Under former Article 7169, Revised Statutes, the comptroller of public accounts made the apportionment among the counties. However, since the creation of the State Property Tax Board and the abolition of state property taxes in recent years, the comptroller no longer has a significant role in the ad valorem tax process. Accordingly, Article 7169 was repealed effective January 1, 1980, and replaced by Section 24.37, Tax Code, which requires the State Property Tax Board to perform the apportionment of rolling stock values among the affected counties.

The transfer of the apportionment function from the comptroller to the State Property Tax Board by statute did not entirely remove the comptroller from the picture, however. Article VIII, Section 8, of the Texas Constitution, an original part of the constitution dating from 1876, also requires the comptroller of public accounts to make the apportionment. (It is not entirely clear whether Article VIII, Section 8, provides for the apportionment of the tax collected by the county of the railroad's principal office, or of the value of the rolling stock as determined in that county. The courts, however, have generally read that section as providing for an apportionment of the value of the rolling stock. See, e.g., State v. Texas & P. Ry. Co., 62 S.W.2d 81 (Tex. Comm'n App. 1933, judgmt adopted).) Under current

practice, the State Property Tax Board makes the apportionment in conjunction with the comptroller's office in order to comply with both the statutory and constitutional provisions.

The proposed constitutional amendment of Article VIII, Section 8, would have the effect of removing the comptroller from the apportionment altogether. Section 24.37, Tax Code, would continue to provide for the State Property Tax Board to make the apportionment. Section 24.37 would constitute the "general law" governing the apportionment referred to by the amended Article VIII, Section 8.

ARGUMENTS

FOR:

1. The proposed constitutional amendment would allow the legislature to designate the entity to apportion the value of railroad rolling stock among the counties for ad valorem tax purposes. This flexibility would allow the legislature to change the designation as needed to meet changing conditions. Preserving the current constitutional requirement that the comptroller perform the apportionment serves no apparent purpose.

2. The comptroller was originally included in the apportionment of railroad rolling stock values because those values affected state property tax revenues as well as county taxes. Since the abolition of state property taxes, the state treasury is no longer affected by the ad valorem taxation of railroads. Requiring the comptroller to perform this single property tax function when all other state-level property tax matters are handled by the State Property Tax Board is an anachronism. The comptroller's participation in making the allocation is a waste of the resources of the comptroller's office, since the State Property Tax Board is capable of making the allocations properly on its own.

AGAINST:

1. The existing constitutional provision relating to the apportionment of rolling stock values among the counties assigns that duty to the comptroller of public accounts, an elected state official with extensive expertise available to perform the task accurately and fairly. The proposed amendment would allow the legislature to transfer that duty to some other entity that may not be as accountable, as competent, or as neutral as the comptroller.

2. The practice now in use under the existing constitutional provision works well. The State Property Tax Board works together with the comptroller's office in making the apportionments. This process is no real burden on the comptroller, since State Property Tax Board personnel do most of the technical work, and the

comptroller merely has to review the apportionment and approve it. Having two entities involved may actually serve to enhance the accuracy and fairness of the apportionment.

AMENDMENT NO. 2

Senate Joint Resolution 33, proposing a constitutional amendment relating to statutory revision and to the requirement that each bill have a title expressing the subject of the bill. (SENATE AUTHOR: Bob Glasgow; HOUSE SPONSOR: Bill Haley.)

The proposed amendment to Article III, Section 35, of the Texas Constitution converts the constitutional requirement that the subject of a bill be expressed in the title of the bill from a constitutional rule to a constitutionally required rule of procedure. The amendment provides that the legislature is solely responsible for enforcing the rule and prohibits the invalidation of past and future enactments on the basis of a defective title.

The amendment to Article III, Section 43, of the Texas Constitution provides for topical statutory revision instead of bulk revision every 10 years.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment requiring each house to include in its rules of procedure a rule that each bill contain a title expressing the bill's subject, and providing for the continuing revision of state laws."

BACKGROUND

Article III, Section 35, of the Texas Constitution provides two rules: first, that no bill may contain more than one subject; second, that the subject of the bill must be expressed in its title (commonly known as the caption). Both rules first appeared in the statehood constitution and have been included in each subsequent constitution. The one-subject rule is not affected by the proposed amendment.

The caption rule is the primary focus of the amendment. The rule first appeared in a state constitution in Georgia in 1798, following a scandal known as the Yazoo land frauds. An act known as the Yazoo Act passed the Georgia legislature under a caption indicating an intent to pay off Georgia soldiers fighting in the Revolution; in fact, the act gave away millions of acres of state land. As a result, the Georgia Constitution was amended and most state constitutions now have a caption requirement.

As indicated by its history and by reported opinions of the Texas Supreme Court and the Texas Court of Criminal Appeals, the purpose of the caption requirement is to give notice to the public and the legislature of the subject of the bill. The rule was particularly important when bills were handwritten and copies were not readily available; a deceptive caption was difficult to detect in a legislative process short on information. However, even as the modern legislative process has greatly

expanded information resources, courts have continued to invalidate laws on the basis of defective captions. In fact, no constitutional provision relating to the legislative process has been considered in more reported court cases.

A recent example is Ex Parte Crisp, 661 S.W.2d 944 (Tex. Crim. App. 1983), rehearing denied, 661 S.W.2d 956. In a 5-4 decision, the court of criminal appeals voided a cornerstone bill of Governor Clements's "War on Drugs." Among other things, the bill created a new offense for aggravated possession of marihuana, which carried enhanced penalties for possession of more than 50 pounds of marihuana. The court found that the caption, "relating to offenses and penalties under the Texas Controlled Substances Act," did not give sufficient notice of the new offense. As a result, defendants were able to escape the enhanced penalty until the legislature reenacted the same act with a different caption.

Other states have repealed the constitutional caption rule. In 1974, the voters of Indiana adopted such a constitutional amendment following a supreme court decision that voided a recodification of the Indiana Codes based on the caption rule of their constitution. Both houses of the Indiana legislature retain a caption rule in their rules of procedure even though the constitution does not require them to do so.

Article III, Section 43, of the Texas Constitution directed the first legislature to revise, digest, and publish the Texas Statutes and authorizes subsequent legislatures to do likewise every 10 years. From the very beginning in 1876, the suggestion of a complete revision every 10 years has been impractical. Complete revisions were adopted in 1879, 1895, 1911, and 1925. Since 1925, the bulk revision of Texas statutes has been so impractical none has been attempted. Recognizing the need for continuing revision as well as the impractical nature of the constitutional suggestion, the legislature in 1963 adopted the continuing statutory revision program (Chapter 323, Government Code), under which the general and permanent laws are codified on a topical basis. That program has produced codes such as the Agriculture Code and the Business & Commerce Code. The constitutional amendment would eliminate the suggested bulk decennial revisions and specifically recognize topical revisions.

ARGUMENTS

FOR:

1. In modern practice, the caption rule is little more than a legal technicality exploited by lawyers for civil litigants and criminal defendants. The original purpose of the rule—to provide notice of the subject of a bill—is now better served by the abundance of information available about each bill, including multiple printings, bill analyses, and fiscal notes, as well as computerized text display and tracking

information. The fact that both houses by rule provide for changing the caption to conform to the body of the bill after the legislative process is essentially finished shows that the original use of the rule is no longer a necessary use. To the extent that the rule continues to serve its original purpose or now serves other purposes, those purposes are served by retaining the rule as a rule of procedure.

2. The caption of each bill is a permanent, continuing threat to the enforcement and application of the law. A bill may be successfully challenged on the basis of its caption years after becoming law. This shows the incongruity between the purpose of the rule and its enforcement: even though the purpose is to give notice of the subject of a bill during the legislative process, the rule in its present form is enforced by third parties who are unconnected with that process and are interested in challenging the substance of the law. As a result, the court opinions that purport to guide legislative conformity with the rule are inconsistent, making the rule that much more difficult for the legislature to comply with. The inconsistency of the court opinions encourages future errors, which encourage future lawsuits, which encourage additional distinctions and inconsistencies.

3. The constitutional provision relating to statutory revision needs to be modernized. The authors of the constitution could not foresee how quickly the volume of Texas legislative enactments would make decennial bulk revisions an impossibility. The authors of the constitution did, however, foresee the need for continuing statutory revision, and the constitution should be amended to recognize the modern method of satisfying that need.

AGAINST:

1. The caption rule serves not only the legislature but the public. As with other so-called "legal technicalities," the rule serves to protect the rights of citizens, in this case the right to fair notice of the subject of a bill. As with other such rights, the method of protecting the right is through the courts; only by declaring laws with defective captions invalid can the courts encourage compliance with the rule by future legislatures. Even though the rule would remain as a rule of procedure, the amendment deprives citizens of any method of enforcement.

2. The rule serves as an important check on legislative power. Since the legislature has the plenary power to act except as prohibited by the constitution, any check on legislative power should be retained. That those who challenge laws under the rule are interested in the substance of the law rather than the procedure by which the law was adopted is an argument in favor of retaining the rule unchanged, for there are precious few ways for the individual to challenge the policies adopted by the legislature.

3. The amendment relating to statutory revision is unnecessary. The legislature has had a formal statutory revision program for 20 years and has adopted a number of topical revisions independent of that program both before and after the program's establishment. The 10-year cycle the constitution suggests is not a requirement but a grant of authority that does not limit the power of the legislature to revise the statutes in another manner.

AMENDMENT NO. 3

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: John Montford.)

The proposed amendment to Article III, Section 52(a), of the Texas Constitution 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 allowing political subdivisions the opportunity to engage in and transact business with authorized mutual insurance companies in the same manner as with other insurance companies."

BACKGROUND

Article III, Section 52, of the Texas Constitution 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.

An identical amendment, proposed with a different ballot proposition, was defeated by the voters on November 6, 1984.

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. 4

Senate Joint Resolution 4, proposing a constitutional amendment to permit branch banking under certain circumstances. (SENATE AUTHOR: O. H. (Ike) Harris; HOUSE SPONSOR: Bruce Gibson.)

The proposed amendment to Article XVI, Section 16, of the Texas Constitution would authorize a state bank or national bank located in the state to operate a branch bank facility at the location in the state of any failed bank that the state or national bank acquires and at other locations within the city or county where the state or national bank is located, subject to limitations the legislature imposes.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment to provide that a bank may offer full service banking at more than one location within the city or county where its principal facility is located, subject to limitations and restrictions provided by law."

BACKGROUND

Texas has prohibited the operation of branches by banks since state-chartered banks were originally authorized in 1904. Texas is the only state that prohibits branch banking in its constitution. Traditionally, Texans have feared that branch banking would concentrate financial power in a few large banks, and that as a result financial decisions affecting local communities would no longer be made within the communities, but would be made by distant anonymous institutions having no regard for local concerns.

Over the years, however, the legislature and changes in banking practices have gradually chipped away at the edges of the branch banking prohibition. Bank holding companies have taken over a large number of local banks and now control a major portion of the bank deposits in the state. Electronic funds transfer systems allow a bank customer to engage in banking transactions at great distances from the customer's bank. The major legislative contribution to this trend has been by the authorization of remote "drive-in" and "drive-in/walk-up" facilities.

Article 3, Chapter IX, The Texas Banking Code of 1943 (Article 342-903, Vernon's Texas Civil Statutes), is the state statutory provision relating to branch banking. When that article was originally enacted in 1943 it contained only the simple provision that a bank could engage in business only at its own "banking house." In 1957 the legislature defined "banking house" to include, in addition to the bank's central building, one office facility within 500 feet of the central building and one drive-in facility within 1,850 feet of the central building. Both facilities had to be connected to the central building by a tunnel, passageway, hallway, or pneumatic

tube. In 1975 the maximum distance for the drive-in facility was extended to 2,000 feet and closed-circuit television was permitted as a means of connection to the central building.

In this decade each legislature has significantly extended the maximum distance that a drive-in facility is permitted from the central building. In 1981 the distance was extended to 3,500 feet, but the facility was required to be in the same county as the central building. With this change the legislature also permitted the facility to serve, in a secured teller lobby, customers on foot as well as those in vehicles. In 1983 banks were permitted a second drive-in/walk-up facility within 3,500 feet of the central building and an additional facility within 10,500 feet. In 1985 the legislature permitted, in addition to the facilities already permitted, a facility within 20,000 feet of the central building, but in the same county or municipality as the central building. The legislature prohibited these most remote facilities within the boundaries of a municipality with a population of 5,000 or less, but significantly expanded the definition of the facilities permitted to include a building having a secured teller lobby rather than merely a secured teller lobby. This permitted a bank to take over another independent bank and operate the acquired bank as a drive-in/walk-up facility.

On June 6, 1986, the attorney general issued Opinion JM-498 declaring that the most recent changes in Article 342-903 were unconstitutional because the facilities permitted were branches prohibited by Article XVI, Section 16, of the Texas Constitution. This proposed constitutional amendment is to a large extent a reaction to this attorney general opinion, which places in jeopardy a number of facilities opened before the opinion was issued.

The proposed amendment is also in anticipation of expected changes in federal banking law. The federal law known as the McFadden Act prohibits nationally chartered banks, with some minor exceptions, from operating branches in a state in which state-chartered banks are not permitted to operate branches. Many persons in the banking industry expect, however, that this prohibition on nationally chartered bank branches will soon be lifted. If this occurs, state-chartered banks, which would still be prohibited by state law from branching, would be seriously disadvantaged in competition with nationally chartered banks, which would be permitted to operate branches.

Finally, the proposed amendment reflects changes in the nature of institutions providing financial services. When branch banking was first prohibited, banks were the only type of institution providing banking services. But in recent years changes in the number of and range of services offered by savings and loan associations and

credit unions, which may operate branches, have made these institutions serious competitors with banks. Bankers feel that banks should be permitted to operate branches to keep this competition fair.

The legislature, in Senate Bill 10 (69th Legislature, 2nd C.S., 1986), has amended Article 342-903 to carry out the authority granted the legislature by the proposed amendment to authorize and place limitations on branch banking. Senate Bill 10 takes effect only if the proposed amendment is adopted by the voters. That bill would limit the branch facilities that may be operated to any facility in operation, under construction, or applied for on or before July 15, 1986; any facilities within 5,000 feet of the nearest wall of the bank's principal banking building, but in the same county or city; not more than three branch office facilities more than 5,000 feet from the nearest wall of the bank's principal banking building, but in the same county or city; any branch created by converting a bank owned by a bank holding company into a branch of another bank owned by the bank holding company; any branch created by the acquisition and conversion to a branch of a bank in the same county or city as the bank to which it will be a branch if the acquired bank was an independent bank on July 15, 1986; and any branch in any part of the state created by the acquisition and conversion to a branch of a failed bank.

ARGUMENTS

FOR:

1. The attitudes that originally led to the prohibition on branch banking are no longer prevalent in modern Texas. The broad acceptance of electronic banking, the move to bank ownership by bank holding companies, the continual expansion and use of remote "drive-in/walk-up" facilities, and the growth of savings and loan associations and credit unions offering banking services at branches indicate that Texans' traditional distrust of banks in general and branch banks in particular no longer exists to a significant degree.

2. Expected changes in federal banking law threaten to nullify the state's prohibition on branch banking as it applies to nationally chartered banks and upset the competitive balance between state-chartered and nationally chartered banks by permitting nationally chartered banks to operate branches while state-chartered banks may not.

3. Removing the ban on branch banking would provide banks an additional way of serving the convenience of their customers. This would result in increased competition among financial institutions to the benefit of the customers of those institutions.

AGAINST:

1. The operation of branch banks by large banks will drive many smaller independent banks out of business. Branches are more economical to operate than independent banks and for this reason may offer lower customer service charges and higher returns on deposits. Large banks operating branches in competition with small independent banks could offer greatly lower charges and higher returns and absorb any losses caused by these practices until the independent bank is driven from business.

2. Banking services provided to small communities will be provided to a large extent through branches of banks located in other larger cities. Decisions affecting the local community will be made by distant institutions having no regard for local concerns.

3. Centralization of the state's banking system, while perhaps temporarily offering increased competition among financial institutions, will ultimately result in reduced competition which will lead to reduced customer services, higher service charges, and lower returns on deposits.

APPENDIX

AMENDMENT NO. 1

SENATE AUTHOR: Chet Edwards S.J.R. No. 15
HOUSE SPONSOR: Sam Johnson

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the apportionment of the value of railroad rolling stock among counties for purposes of property taxation.

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

SECTION 1. Article VIII, Section 8, of the Texas Constitution is amended to read as follows:

"Section 8. All property of railroad companies shall be assessed, and the taxes collected in the several counties in which said property is situated, including so much of the roadbed and fixtures as shall be in each county. The rolling stock may be assessed in gross in the county where the principal office of the company is located, and the county tax paid upon it[~~,~~] shall be apportioned as provided by general law [~~by the Comptroller,~~] in proportion to the distance such road may run through any such county, among the several counties through which the road passes, as a part of their tax assets."

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 4, 1986. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to allow the legislature to provide by general law for the apportionment of the value of railroad rolling stock among counties for purposes of property taxation."

AMENDMENT NO. 2

SENATE AUTHOR: Bob Glasgow S.J.R. No. 33
HOUSE SPONSOR: Bill Haley

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to statutory revision and to the requirement that each bill have a title expressing the subject of the bill.

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

SECTION 1. Article III, Section 35, of the Texas Constitution is amended to read as follows:

"Section 35. (a) No bill, (except general appropriation bills, which may embrace the various subjects and accounts, for and on account of which moneys are appropriated) shall contain more than one subject[~~, which shall be expressed in its title. But if any subject shall be embraced in an act, which shall not be expressed in the title, such act shall be void only as to so much thereof, as shall not be so expressed~~].

"(b) The rules of procedure of each house shall require that the subject of each bill be expressed in its title in a manner that gives the legislature and the public reasonable notice of that subject. The legislature is solely responsible for determining compliance with the rule.

"(c) A law, including a law enacted before the effective date of this subsection, may not be held void on the basis of an insufficient title."

SECTION 2. Article III, Section 43, of the Texas Constitution is amended to read as follows:

"Section 43. (a) The [~~first session of the~~] Legislature [~~under this Constitution~~] shall provide for revising, digesting and publishing the laws, civil and criminal; [~~and a like revision, digest and publication may be made every ten years thereafter;~~] provided, that in the adoption of and giving effect to any such digest or revision, the Legislature shall not be limited by sections 35 and 36 of this Article.

"(b) In this section, 'revision' includes a revision of the statutes on a particular subject and any enactment having the purpose, declared in the enactment, of codifying without substantive change statutes that individually relate to different subjects."

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 4, 1986. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment

requiring each house to include in its rules of procedure a rule that each bill contain a title expressing the bill's subject, and providing for the continuing revision of state laws."

AMENDMENT NO. 3

HOUSE AUTHOR: Ashley Smith H.J.R. No. 73
SENATE SPONSOR: John Montford

A JOINT RESOLUTION

proposing a constitutional amendment to allow political subdivisions to purchase certain mutual insurance.

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

SECTION 1. Article III, Section 52(a), of the Texas Constitution is 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 4, 1986. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment allowing political subdivisions the opportunity to engage in and transact business with authorized mutual insurance companies in the same manner as with other insurance companies."

AMENDMENT NO. 4

SENATE AUTHOR: O. H. (Ike) Harris S.J.R. No. 4
HOUSE SPONSOR: Bruce Gibson

SENATE JOINT RESOLUTION

proposing a constitutional amendment to permit branch banking under certain circumstances.

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

SECTION 1. Article XVI, Section 16, Subsections (a) and (c), of the Texas Constitution are amended to read as follows:

"(a) The Legislature shall by general laws, authorize the incorporation of state banks and savings and loan associations [~~corporate bodies with banking and discounting privileges,~~] and shall provide for a system of State supervision, regulation and control of such bodies which will adequately protect and secure the depositors and creditors thereof.

"No state bank [~~such corporate body~~] shall be chartered until all of the authorized capital stock has been subscribed and paid in full in cash. Except as may be permitted by the Legislature pursuant to Subsections [~~Subsection~~] (b), (d), and (e) of this Section 16, a state bank [~~such body corporate~~] shall not be authorized to engage in business at more than one place which shall be designated in its charter; however, this restriction shall not apply to any other type of financial institution chartered under the laws of this state.

"No foreign corporation, other than the national banks of the United States domiciled in this State, shall be permitted to exercise banking or discounting privileges in this State."

"(c) A state bank [~~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. Article XVI, Section 16, of the Texas Constitution is amended by adding Subsections (d), (e), and (f) to read as follows:

"(d) The Legislature may authorize a state bank or national bank of the United States domiciled in this State to engage in business at more than one place if it does so through the purchase and assumption of certain assets and liabilities of a failed state bank or a failed national bank of the United States domiciled in this State.

"(e) The Legislature shall authorize a state bank or national bank of the United States domiciled in this State to establish and operate banking facilities at locations within the county or city of its domicile, subject to limitations the Legislature

imposes. The Legislature may permit a bank domiciled within a city located in two or more counties to establish and operate branches within both the city and the county of its domicile, subject to limitations the Legislature imposes.

"(f) A bank may not be considered a branch or facility of another bank solely because it is owned or controlled by the same stockholders as the other bank, has common accounting and administrative systems with the other bank, or has a name similar to the other bank's or because of a combination of those factors."

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 4, 1986. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to provide that a bank may offer full service banking at more than one location within the city or county where its principal facility is located, subject to limitations and restrictions provided by law."