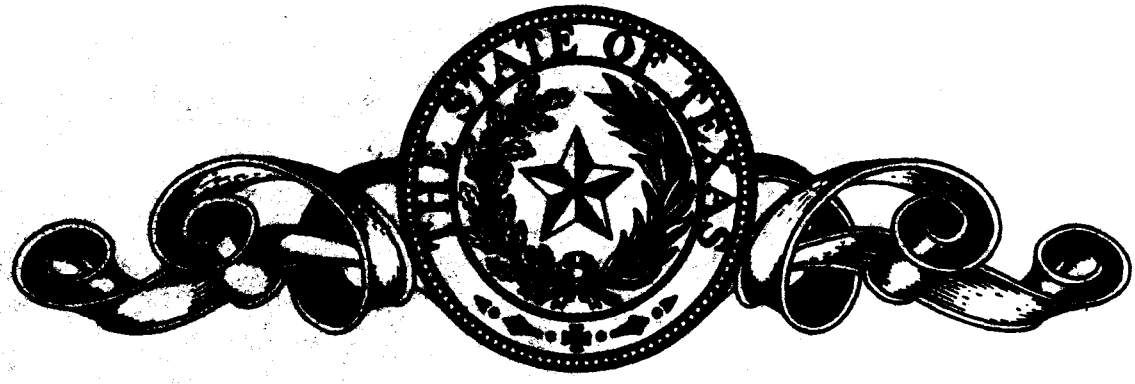
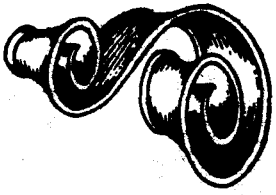


Analyses of Proposed Constitutional Amendments and Referenda

Appearing on the November 3, 1987, Ballot



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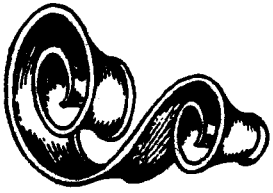

Analyses of Proposed Constitutional Amendments and Referenda

Appearing on the
November 3, 1987, Ballot

Prepared by the Staff
of the
Texas Legislative Council

— Information Report No. 87-2 • September 1987 —

TEXAS LEGISLATIVE COUNCIL
of the
70th LEGISLATURE OF TEXAS

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Austin, Texas 78711

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APPENDIX—Text of Resolutions Proposing Amendments

INTRODUCTION

In the 1987 regular session, the 70th Texas Legislature passed 23 joint resolutions proposing 24 constitutional amendments. Of those, 23 proposed amendments appear on the November 3, 1987, ballot, and one will be on the November 8, 1988, election ballot. In the second called session, the legislature passed four joint resolutions proposing four constitutional amendments. Two appear on the 1987 ballot and two will be on the 1988 ballot.

Along with the 25 proposed amendments on the 1987 ballot, there will be two statewide referenda: one regarding pari-mutuel wagering and another regarding continuation of an appointed State Board of Education. The referenda will follow the proposed amendments on the election ballot under the heading: "Referendum Proposition."

This booklet contains analyses of both referenda and proposed amendments on the 1987 ballot. A booklet providing analyses of the three proposed amendments on the 1988 ballot or any other that may be proposed at subsequent called sessions will be published by the Texas Legislative Council in 1988.

The proposed amendments that will be on the 1988 ballot are:

HOUSE JOINT RESOLUTION 2 (70th Leg., Regular Session, 1987)
House Author: Stan Schlueter
Senate Sponsor: John Leedom

The constitutional amendment establishing an economic stabilization fund in the state treasury to be used to offset unforeseen shortfalls in revenue.

(The election for this amendment was changed from 1987 to 1988 by SJR 8 and SJR 5, 70th Leg., 2nd C.S.)

HOUSE JOINT RESOLUTION 5 (70th Leg., 2nd Called Session, 1987)
House Author: Stan Schlueter
Senate Sponsor: Chet Edwards

The constitutional amendment to provide for the investment of the permanent university fund, the permanent school fund, and public employee retirement systems in the Texas growth fund created by the amendment, which will directly create, retain, and expand job opportunity and economic growth in Texas.

SENATE JOINT RESOLUTION 8 (70th Leg., 2nd Called Session, 1987)
Senate Author: John Montford
House Sponsor: Gibson D. (Gib) Lewis

The constitutional amendment and/or clarification providing that federal reimbursement of state highway dedicated funds are themselves dedicated for the purpose of acquiring rights-of-way and constructing, maintaining, and policing public roadways.

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 1986, the state's constitution has been amended 287 times, from a total of 437 amendments submitted to the voters for their approval. The 28 proposed amendments passed by the legislature for voter approval in 1987 and 1988 bring the total number of amendments submitted to 465. 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 of those adopted by the voters. The year of the vote is not indicated in the table.

The 25 proposed amendments on the 1987 ballot are the largest number submitted to Texas voters at one time since the adoption of the 1876 constitution. The amendments cover a wide variety of issues; however, five authorize additional state debt by permitting the issuance of general obligation bonds, and nine pertain in whole or part to the levy of property taxes. The amendments relating to state bonds are numbers 6, 7, 8, 19, and 23 on the ballot. The amendments relating to property taxation are numbers 2, 3, 5, 10, 11, 13, 18, 20, and 25 on the ballot.

TABLE

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**	17
1935	13	10	1986	1	1
			1987	28**	(a)
TOTAL PROPOSED 465			TOTAL ADOPTED 287		

NOTES

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

** Total reflects two amendments that 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 that would have provided for an entire new Texas Constitution and that were included in one joint resolution.

(a) Twenty-five of the 28 proposed amendments appear on the 1987 general election ballot, and the remaining three will be submitted to the voters on November 8, 1988.

ANALYSES
OF
PROPOSED AMENDMENTS

AMENDMENT NO. 1

House Joint Resolution 104, proposing a constitutional amendment relating to the establishment of a self-insurance pool for grain storage facilities and permitting the use of public funds as surety. (HOUSE AUTHOR: Dick Waterfield; SENATE SPONSOR: H. Tati Santiesteban)

The proposed amendment to Article III of the Texas Constitution would permit the legislature to use public money to establish or provide for the guarantee of a grain warehouse self-insurance fund, to be financed by the grain warehouse industry, for the protection of farmers and depositors of grain in public warehouse facilities. The guarantee provided by public money may not exceed $5 million. When the comptroller of public accounts certifies that the assets of the fund reach $5 million, the guarantee provided by public money will cease and the entire provision (Section 50-e) will expire.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment to provide for the surety of a grain warehouse fund to be established by the grain industry for the protection of farmers and depositors of grain in public warehouse facilities."

BACKGROUND

Public grain warehouses perform an important service for Texas agriculture. Privately operated for profit, they provide producers and other owners of grain a place to store harvested grain that has been accepted in the federal Commodity Credit Corporation's loan program or pending future transfers or sales of the grain or future use by the owners. A person is required under Section 14.004, Agriculture Code, to be licensed by the state before operating a public grain warehouse. Each operator of a public grain warehouse is required to maintain on file with the Department of Agriculture financial security in an amount, determined by storage capacity of the warehouse, of not less than $15,000 or more than $500,000. Until recently, that financial security was required to be in the form of a bond.

In approximately the last one and one-half years, the companies that issue grain warehouse bonds in Texas have experienced substantial financial losses as a result of these bonds (by one report, in excess of $1.5 million during the period, including more than $600,000 this year). As a result, few companies are continuing to issue or renew these bonds, and the premiums for issuance have increased dramatically.

The legislature has not enacted legislation to implement this constitutional amendment. If the amendment is adopted the legislature could create a self-insurance fund, and until the amount in the fund reaches $5 million (or a lesser figure the legislature provides), public money could be used to pay claims against the fund.

To provide the initial guarantee for the fund, a constitutional amendment is required because of the general prohibition in Article III, Section 50, of the Texas Constitution, against the giving or lending of state credit.

A bill enacted by the 70th Legislature during the regular session (House Bill 1721) might be seen as an alternative solution to the grain warehouse bonding crisis. That bill, which took effect April 30, 1987, authorizes cash, letters of credit, certificates of deposit, or negotiable securities to be filed in lieu of a bond and lowers the rate by which the amount of the required security is determined.

ARGUMENTS

FOR:

1. Warehouse users are entitled to protection against damage to or loss of their crops while stored in grain warehouse facilities. A legislative alternative to the increasingly unavailable and expensive bonding procedure is needed, and this amendment, contemplating a self-insurance fund similar to those provided in other states, is the most reasonable way to ensure financial security against loss and at the same time enable warehouse operators to continue in business. The state guarantee is needed to enable the fund to provide protection during its infancy, the amount of the guarantee is small and might never be used to pay claims, and the guarantee is only of temporary duration.

2. The problem of financial loss resulting from stored grain in warehouses will not solve itself, is likely to get worse because of the retreat of bonding companies from the business, and is a serious impediment to the financial health of a vital segment of Texas agriculture. The recent lowering of security requirements for warehouse operators makes a self-insurance fund even more necessary than before for the protection of grain depositors, and the authorization of forms of security other than bonds will not help to keep in business those warehouse operators whose financial conditions put their clients at the greatest risk of loss. The minimal state protection authorized by this amendment may prevent the massive and widespread kinds of losses that would call for a much greater state involvement later.

AGAINST:

1. This amendment would provide a bad precedent for the state in shoring up an industry that, for one reason or another, becomes a poor bonding or insurance risk. The continuing problems of the agricultural sector of the economy, including the instability of markets for agricultural commodities, create the distinct possibility of future grain warehouse bankruptcies. A self-insurance fund might be easily depleted, creating demands for more and more state money to be used in the program, and there is no assurance that the money could not be used to compensate for fraudulent or other illegal actions by a warehouse operator.

2. The legislature has already provided for an alternative to this program—one that does not involve public money. We should see whether the authorization of additional forms of warehouseman's security will solve the problem before authorizing state money to be used to guarantee a self-insurance fund, which has not shown itself to be a remedy in all the states that have tried it and the details of which are not available for consideration by the voters.

AMENDMENT NO. 2

House Joint Resolution 60, proposing a constitutional amendment to raise the maximum property tax rate that may be adopted by certain rural fire prevention districts after an election. (HOUSE AUTHOR: Bob Leonard, Jr.; SENATE SPONSOR: Bob Glasgow)

The proposed amendment would amend Article III, Section 48-d, of the Texas Constitution. The amendment would authorize a rural fire prevention district to levy a higher tax on ad valorem property if approved by the voters in the district.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment to raise the maximum property tax rate that may be adopted by certain rural fire prevention districts, but only if approved by the districts' residents."

BACKGROUND

Article III, Section 48-d, of the Texas Constitution authorizes the creation of a rural fire prevention district and the levy of an ad valorem tax to support the district. Rural fire prevention districts are separate governmental entities that are governed by a board of fire commissioners. The main duty of a rural fire prevention district is to provide fire prevention and fire-fighting services to areas not served by city fire departments. A district may cover all or part of one or more counties. As the name implies, most rural fire prevention districts cover only rural areas. However, a district may include land within the jurisdiction of a city if the city agrees to the inclusion or if the city refuses to serve the area.

Currently, the maximum tax rate a district may levy is three cents on each $100 valuation of all taxable property in the district. The constitutional amendment would authorize districts located wholly or partly in a county with a population of more than 400,000, according to the most recent federal census, to levy a tax at a rate not to exceed six cents on each $100 valuation, but only if the new rate is approved by the voters in the district.

ARGUMENTS

FOR:

1. The present three cent limit is inadequate for some rural fire prevention districts and those districts are not able to provide needed services.

2. Because voter approval is necessary, each rural fire prevention district will be able to decide if the higher tax rate is necessary.

AGAINST:

1. Adoption of a higher tax rate will increase the overall tax burden of district residents, many of whom also pay taxes to water districts that are authorized to provide fire-fighting services.

2. The amendment only applies to districts that are located partly or wholly in the six most populous counties in the state. Therefore, the amendment will not affect the districts located in truly rural areas. These districts may also need a higher tax rate to provide needed services.

AMENDMENT NO. 3

House Joint Resolution 48, proposing a constitutional amendment to limit school tax increases on the residence homestead of the surviving spouse of an elderly person. (HOUSE AUTHOR: Stan Schlueter; SENATE SPONSOR: Grant Jones)

The proposed amendment to Article VIII, Section 1-b, Subsection (d), of the Texas Constitution would, on the death of a person who is 65 or older, extend the freeze that had been placed on the person's school district taxes to that person's surviving spouse if the spouse is at least 55 years of age.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment to limit school tax increases on the residence homestead of the surviving spouse of an elderly person if the surviving spouse is at least 55 years of age."

BACKGROUND

Article VIII, Section 1, of the Texas Constitution requires that taxes on real property be proportionate to the property's value. Consequently, any exception to that general rule is prohibited unless required or permitted by another provision of the state constitution.

As part of the tax relief amendment proposed to voters in 1978, the state constitution was amended to allow the exemption by general law of a portion of the value of the homestead of a person who is 65 years of age or older from the taxes levied against the person's homestead for primary and secondary public school purposes and to prohibit any increase in the amount of those taxes as long as the property remains the person's homestead, except to tax the value of certain improvements to the homestead.

The constitutional amendment proposed by House Joint Resolution 48 provides that if an elderly person dies and the constitutional prohibition against increasing taxes for public school purposes applied to that person's homestead, those taxes may not be increased while the property remains the residence homestead of the person's surviving spouse, if the spouse is 55 years of age or older at the time of the person's death and subject to any exceptions provided by general law. (The legislature has not provided for exceptions at this time.)

ARGUMENTS

FOR:

The proposed constitutional amendment would prohibit a sudden increase in school taxes imposed upon the homestead of a widowed person under the age of 65 but of retirement age, for whom the increase in school taxes that occurs under current law after the death of a person's elderly spouse is unduly burdensome.

AGAINST:

Although the proposed amendment permits exemptions under general law, the legislature has not enacted legislation to exempt applicability of the amendment from persons who do not need the protection proposed by the amendment. Reasons why some persons do not need the protection include remarriage, sharing the homestead with other wage earners, or having significant independent financial resources. Considering the current financial strain that school districts face due to the limited availability of state financing for public schools, a tax break on local school taxes that is not based on ability to pay is untimely. The proposed constitutional amendment shifts the school tax burden to persons who may be under significantly greater financial strain than many of the persons to whom the amendment applies.

AMENDMENT NO. 4

House Joint Resolution 5, proposing a constitutional amendment authorizing the legislature to provide assistance to encourage economic development in the state. (HOUSE AUTHOR: Ashley Smith; SENATE SPONSOR: Bob Glasgow)

The proposed amendment to Article III of the Texas Constitution adds Section 52-a, authorizing the legislature to provide for programs and the making of loans and grants of public money to aid economic development in the state.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment authorizing the legislature to provide assistance to encourage economic development in the state."

BACKGROUND

The Texas Constitution has prohibited grants and loans of public money to individuals, associations of individuals, and municipal and other corporations since 1876. The prohibition was added as a response to abuses of public funds, principally by the legislature. Essentially, state money was being given away to railroads and other private businesses. The general prohibition on grants and loans of public money is contained in Article III, Section 51, of the Texas Constitution. Section 52(a) of that article, which applies only to local governments, repeats the prohibition.

Although Article III, Sections 51 and 52, appear to be outright prohibitions on any grant or loan of public money to a private entity, over the years they have come to be interpreted as prohibitions on grants or loans for other than public purposes. Bexar County v. Linden, 220 S.W. 761 (1920); Tex. Att'y Gen. Letter Advisory No. 9 (1973). However, it has also been held that a grant for the purpose of obtaining the general benefits resulting from the operation of a private industry is not for a public purpose. Op. Tex. Att'y Gen. No. H-357 (1974).

The Texas economy has recently been suffering hard times caused by, among other things, a drastic drop in the price of oil. Many businesses have failed and many people have lost their jobs. Proposals have been made to aid the state's economy and reduce unemployment by use of bond proceeds and other public funds to attract new businesses to the state and aid the development of existing businesses. Questions have arisen, however, concerning whether the proposed programs are prohibited by Article III, Sections 51 and 52. The proposed amendment would resolve those questions by making it clear that public funds could be used to make grants and loans to private businesses to aid economic development in the state, including development of agriculture.

ARGUMENTS

FOR:

1. Recent problems in the state's economy have damaged many private enterprises that are beneficial to the state, causing unemployment and other hardships for the state's citizens and loss of revenue to the state. The proposed amendment would stimulate the state's economy, and the resulting development would increase tax revenue, reduce unemployment, and provide other benefits to the state far outweighing the state's cost.

2. The state's economy is too dependent on the oil industry. The proposed amendment would provide for the diversification of the state's economy and prevent the state from being too dependent on the fortunes of a single industry.

3. Many other states have developed programs of state assistance to private economic development and have benefitted from those programs. The Texas constitutional prohibition on that type of program has put Texas at a competitive disadvantage with those other states in attracting new businesses and clients for existing businesses.

AGAINST:

1. The fostering of private business is inherently a private matter. Public funds should not be used to support an enterprise having the purpose of providing a profit for private individuals. Quality businesses of the type the state needs are not the type that need handouts from the state.

2. The state is currently suffering massive shortages of public funds. What money the state has should be used to fund more essential government functions. The proposed amendment contemplates programs that are not essential government functions and that are of questionable benefit to the state, and thus are luxuries that the state cannot afford.

3. Abusive public giveaways of state funds to private businesses are the specific reason that the constitutional prohibition on gifts and grants to those businesses was originally adopted. There is no reason to assume that those abuses are less likely to occur now than they were when the prohibition was adopted in 1876. The proposed amendment does not provide adequate safeguards against those abuses.

AMENDMENT NO. 5

House Joint Resolution 65, proposing a constitutional amendment to allow the State Department of Highways and Public Transportation to construct joint projects with the Texas Turnpike Authority and to allow the state and certain local governments to contribute money, including receipts from local ad valorem taxes imposed for that purpose, to the Texas Turnpike Authority to pay costs of turnpikes, toll roads, or toll bridges of the authority. (HOUSE AUTHOR: David Cain; SENATE SPONSOR: John Montford)

The proposed amendment to Article III, Section 52-b, of the Texas Constitution would grant exceptions to that section's prohibition against the lending of state credit to any entity authorized to construct and maintain toll roads and turnpikes and to the general prohibition in Article III, Section 52, of the Texas Constitution against the lending of credit by political subdivisions. One exception would allow the state, acting through the State Department of Highways and Public Transportation, to construct joint projects with the Texas Turnpike Authority and to contribute money from any available source to the Texas Turnpike Authority to pay costs of the authority's turnpikes, toll roads, or toll bridges. Another exception would allow local governments in counties of more than 400,000 population or in counties adjoining counties of more than 400,000 population to impose, collect, and pledge, for the benefit of Texas Turnpike Authority projects located in the local unit, an ad valorem tax on all taxable property in the local unit of government. The rate of the tax would not be limited by the constitution, but the tax would have to be approved by a majority of qualified persons voting on the issue at an election held for that purpose.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment authorizing agreements between the State Department of Highways and Public Transportation and the Texas Turnpike Authority and the governing bodies of counties with a population of more than 400,000, adjoining counties, and cities and districts located in those counties to aid turnpikes, toll roads, and toll bridges by guaranteeing bonds issued by the Texas Turnpike Authority."

BACKGROUND

The Texas Turnpike Authority is a state agency that was created by Chapter 410, Acts of the 53rd Legislature, Regular Session, 1953 (Article 6674v, Vernon's Texas Civil Statutes), to build and operate turnpikes and other highway toll facilities. The authority is authorized to issue revenue bonds to pay construction costs and to impose tolls to repay the bonds and cover maintenance costs of the constructed

projects. The authority has been prohibited from using revenues received from one project to pay costs of another project. On repayment of the bonds issued for a project, tolls have ceased to be collected on that project, and the responsibility for maintaining the project has been transferred to the State Highway and Public Transportation Commission. As required by Article III, Section 52-b, of the Texas Constitution and Article 6674v, bonds issued by the turnpike authority have not been backed by the credit of the state.

House Bill 1364, as enacted by the 70th Legislature at its regular session, is not contingent on the adoption of this amendment but provides procedures for implementing the powers granted under the amendment. The bill authorizes agreements for joint projects that may not exceed 40 years in duration and provides that at the cessation of collection of tolls on a joint project, the project will become a part of the state highway system, to be maintained by the State Department of Highways and Public Transportation. The bill also limits local ad valorem taxes imposed for the projects to one-fourth of the assessed valuation of real property within the local governmental unit and makes municipal taxes imposed for this purpose subject to debt ceilings otherwise applicable under the constitution.

Local governments currently have limited authority, under Subsection (b) of Section 52, and Section 52d, of Article III of the Texas Constitution, to pledge their credit for the cost of local highway projects.

ARGUMENTS

FOR:

1. Highway projects can usually be built more quickly, and to the same standards, as turnpikes rather than as freeways using federal money. In addition, toll facilities are usually built only in high-traffic metropolitan areas where revenues can be expected to repay the facilities' costs, which means that the competition for approval of toll facilities is limited to fewer projects than the competition for approval of state highway projects generally. As a result, pooling of projects between the turnpike authority and the highway department will allow critical metropolitan transportation needs to be met more quickly and efficiently, while reducing competition for remaining state highway money.

2. Ratings of Texas Turnpike Authority bonds will improve if state and local credit is allowed to guarantee repayment. Better bond ratings will save money that would otherwise be required to pay higher interest rates. The projects, which will eventually become a part of the state highway system, can therefore be constructed for less money.

3. Passage of this amendment will ensure that Texas can use recently appropriated federal money for an experimental turnpike project. Although federal money ordinarily cannot be used to build turnpikes, Texas is to receive one of three exceptions in the new federal appropriation. This amendment will modify state law to remove any doubts about how the money can be spent under state law.

4. Traffic congestion in many cities is growing faster than available revenue sources for new freeways, and alleviation of that congestion is frequently cited as a paramount concern of city residents. This amendment permits, but does not require, voters in metropolitan areas to obtain new highway projects that would otherwise be unattainable or delayed for many years.

AGAINST:

1. Texas residents already pay motor fuel taxes to support a system of state highways. Toll roads place an additional financial burden on persons who use them while sparing those who do not. The average cost of a turnpike trip is much higher than a similar trip on a freeway. This discriminates against persons who live near toll facilities and penalizes persons whose budgets are already strained.

2. If the turnpike authority is unable to finance a project through the issuance of revenue bonds, it is because buyers of bonds do not believe the demand exists to repay the costs of the project through tolls. This acts as a welcome restraint to prevent the construction of poorly conceived projects. Allowing state and local credit to be used to guarantee these bonds may result in projects being built that are never needed or that are not needed at the time they are built.

3. Turnpikes in Texas have had to offer motorists extra conveniences, such as directness and convenience of routes, to generate the level of revenues necessary to repay their costs. As a result, they can be characterized as luxurious travel options available to those willing to pay a premium in user fees for their benefits. By authorizing state and local backing of bonds and joint projects, this amendment would permit the highway department and turnpike authority to construct primary routes of travel as turnpikes, creating a captive audience of users who must pay premium fees to get from one place to another.

4. Local property taxes are already high and face continuing pressures because of the state's economic problems. This amendment authorizes new local taxes for new purposes and, although a local election is required before imposition of a tax, there is no assurance that the tax would be supported by anything approaching a consensus of the community.

AMENDMENT NO. 6

House Joint Resolution 4, proposing a constitutional amendment authorizing the legislature to provide for the issuance of bonds and state financing of development and production of Texas products and businesses. (HOUSE AUTHOR: Paul Colbert; SENATE SPONSOR: Bob Glasgow)

The proposed amendment to Article XVI of the Texas Constitution adds Section 72, authorizing the legislature to issue up to $125 million in general obligation bonds and to establish programs, which would be funded by the bonds, to assist the development and production of new or improved products, the development of small businesses, and agricultural production by small agricultural businesses.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment authorizing the legislature to provide for state financing of the development and production of Texas products and businesses."

BACKGROUND

In recent years the state's economy has been declining. Many Texas businesses have failed, and many people have lost their jobs. Texas finds itself in economic difficulties that several years ago were encountered by a number of states. Some of those states were successful in alleviating their economic difficulties through programs of state support for development similar to those proposed by this constitutional amendment.

The proposed amendment would encourage economic development in the state in three ways. First, the amendment provides for the establishment of a program to finance the development of new or improved products in the state. The program would include loans, loan guarantees, and equity investments to assist private businesses in developing or improving products. The amendment authorizes, as one source of funds for the program, the issuance of $15 million of general obligation bonds.

The second way that the proposed amendment seeks to aid economic development is by providing for a program of assistance to small business incubators. A small business incubator is a facility within which small businesses share common space, equipment, and support personnel, and have access to professional consultants for advice related to the technical and management aspects of conducting a commercial enterprise. The amendment provides for an exemption from ad valorem taxation for small business incubators and for the issuance of $10 million of general obligation bonds to finance the small business incubator program.

The final economic development program proposed by the amendment is a program of financial assistance, including among other things, loan guarantees, insurance, coinsurance, direct and indirect loans, and purchases and acceptances of loans or other obligations for the purposes of fostering and stimulating production, processing, and marketing of agricultural crops and products grown or produced by small Texas agricultural businesses. To provide this assistance the proposed amendment authorizes $100 million of general obligation bonds.

A constitutional amendment is needed to authorize these programs because of two constitutional prohibitions on elements of the programs. One of these is the prohibition on state debt contained in Article III, Section 49, of the Texas Constitution. The other is the prohibition of grants and loans to private entities contained in Article III, Section 51, of the Texas Constitution.

Enabling legislation to implement the product development program and small business incubator program is contained in Articles 15 and 16, respectively, of the Texas Department of Commerce Act. That Act was enacted by House Bill 4 (70th Legislature, Regular Session), which created the department of commerce and consolidated under its administration the economic development functions of the state. Legislation enacted during the regular session to implement the agricultural development program (House Bill 1183, 70th Legislature, Regular Session) was vetoed by the governor, but subsequent implementing legislation enacted on that subject (House Bill 49, 70th Legislature, 2nd Called Session) received the governor's signature.

ARGUMENTS

FOR:

1. The state is facing economic difficulties and unemployment levels beyond anything experienced in the state in recent times. The proposed economic development programs will rebuild the state's economy and make it more diversified. Other states facing similar difficulties have had success with similar economic development programs.

2. Many potential new businesses are unable to develop, and potential new or improved products are not developed, because those enterprises are unable to obtain private financing in current state economic conditions. The proposed amendment would provide this financing, and the products and businesses developed will provide future benefits to the state easily justifying the cost of the programs.

3. Agriculture has always been important to the state economy, and small farms and ranches have been and continue to be an asset of the state. The proposed amendment will help many farmers and ranchers operating small

agricultural businesses to overcome current temporary difficulties that economic forces beyond their control have inflicted and thus preserve this asset for the state's future.

AGAINST:

1. The financing of private businesses should be a strictly private matter. The state cannot afford, nor is it appropriate for it to attempt, to finance with state money enterprises that private investors find too risky to finance with their own money.

2. The state has traditionally operated on a pay-as-you-go basis and has been wary of abuses that arise from making grants of public money to private persons. The potential benefits of the proposed programs are so uncertain and potential risks so great that a departure from these policies is not justified.

3. Although small farms and ranches have traditionally been a major part of agricultural production in the state, in modern agriculture large farms and ranches are more efficient. It is not in the best interest of the state to go into debt to support an outdated, inefficient means of agricultural production.

AMENDMENT NO. 7

Senate Joint Resolution 55, proposing a constitutional amendment to provide for the issuance of general obligation bonds to finance certain local public facilities. (SENATE AUTHOR: Hugh Parmer; HOUSE SPONSOR: Mark Stiles)

The proposed amendment would add Section 49-i to Article III of the Texas Constitution, to authorize the legislature to provide for the issuance of up to $400 million in general obligation bonds to establish a local project fund for public facilities.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment providing for the issuance of general obligation bonds to finance certain local public facilities."

BACKGROUND

The proposed constitutional amendment is designed to stimulate the state's economy and provide employment for the citizens of the state while also providing support for local public works such as airports, parks, libraries, convention centers, and jails. A local project fund would be established in the state treasury composed of proceeds of the bonds, income from investment of money in the fund, amounts received as repayments of financial assistance provided from money in the fund, and other money authorized by the legislature to be deposited in the fund. The local project fund is to be used for making loans to local governments to finance the cost of acquisition, construction, repair, renovation, and equipping of public facilities, and to make grants to local governments for those purposes. House Bill No. 4, Acts of the 70th Legislature, Regular Session, 1987, creates the Texas Department of Commerce, and in Article 17 of that Act authorizes the department to issue bonds for public facilities and administer the program. The legislature is authorized to require review and approval of the issuance of the bonds, of the use of the bond proceeds, or of rules adopted by an agency to govern use of the bond proceeds. Senate Bill No. 1027, Acts of the 70th Legislature, Regular Session, 1987, established the bond review board to approve bonds issued by the state.

ARGUMENTS

FOR:

1. The local project fund bond proceeds would bring badly needed jobs to the state and would serve the same purpose that the Works Progress Administration served during the Depression.

2. The program would stimulate the state's economy and help cover the cost of the bonds by increasing state and local tax revenues.

3. Local governments should not wait until they have the cash available. Long-term financing, rather than "pay-as-you-go" is the best approach at this time. The timing is right for building these projects. Interest rates are low, land prices are down, and the construction industry's prices are competitive.

AGAINST:

1. The program is contrary to the state's "pay-as-you-go" philosophy, adds to the state's bonded indebtedness, and could be the first step toward long-term deficit financing.

2. Local governments should issue bonds for their own projects rather than burden all the taxpayers in the state.

AMENDMENT NO. 8

Senate Joint Resolution 56, proposing a constitutional amendment providing for the issuance of general obligation bonds for certain construction projects. (SENATE AUTHOR: Bob McFarland; HOUSE SPONSOR: A. M. (Bob) Aikin III)

The proposed amendment to Article III of the Texas Constitution adds Section 49-h, authorizing the legislature to provide for the issuance of up to $500 million in general obligation bonds. The proceeds from the bond sale will be used for acquiring, constructing, or equipping new facilities, or for major repair or renovation of existing facilities, of corrections institutions, including youth corrections institutions, and of mental health and mental retardation institutions.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment authorizing the issuance of general obligation bonds for projects relating to corrections institutions and mental health and mental retardation facilities."

BACKGROUND

The current facilities of the Texas prison system, youth corrections institutions, and mental health and mental retardation institutions are far below most projections of future need. The Texas Department of Corrections and the Texas Department of Mental Health and Mental Retardation have been monitored by the federal courts since 1974 as the result of two federal court cases that challenged on a constitutional basis the adequacy of the services and facilities provided for inmates in the Texas prison system and for retarded patients in mental health and mental retardation institutions. The lack of facilities and unsuitable facilities have resulted in the state operating a prison system and mental health and mental retardation institutions that are arguably in contempt of federal court orders.

The amendment proposed by Senate Joint Resolution 56 authorizes the legislature to provide for the issuance of up to $500 million in general obligation bonds, the proceeds of which will be used to provide new facilities and rehabilitate existing facilities of corrections institutions and of mental health and mental retardation institutions. The legislature enacted enabling legislation in Senate Bill 1407, Acts of the 70th Legislature, Regular Session, 1987.

ARGUMENTS

FOR:

1. Authorizing the issuance of general obligation bonds and the use of bond proceeds for acquiring, constructing, or equipping new facilities and repairing existing facilities of corrections institutions and mental health and mental retardation institutions will make it possible for the state to comply with federal court orders and avoid costly penalties.

2. Since the state is experiencing serious financial difficulties and taxation problems, using bonds to finance these improvements of facilities would reduce the amount of general revenue spending for the current fiscal biennium.

3. In spite of the hard economic times and arguments that may be made countering the federal court orders, the state must meet its obligation to provide adequate facilities for inmates and mentally retarded patients for the general welfare of the state. The proceeds of the general obligation bonds would provide the necessary resources to help the state meet that obligation.

AGAINST:

1. Relying too heavily on bonded indebtedness to solve the state's fiscal responsibilities at the present may lead to financial problems in the future. There are many bond programs already in operation, and another bond program will further strain the credit of the state.

2. Interest that the State of Texas will have to pay on the general obligation bonds sold under the provisions of this proposed amendment will increase the revenue responsibilities of the state at a time when it is already experiencing serious financial difficulties.

3. Instead of spending more money to expand facilities for corrections institutions and getting the State of Texas further into debt, there should be more emphasis on reforming our corrections system so that the need for expanded facilities is reduced.

AMENDMENT NO. 9

Senate Joint Resolution 9, proposing a constitutional amendment relating to the eligibility of a member of the legislature for another office. (SENATE AUTHOR: J. E. (Buster) Brown; HOUSE SPONSOR: Ashley Smith)

The proposed amendment to Article III, Section 18, of the Texas Constitution would provide that a member of the legislature may be eligible to another civil office of profit even though the emoluments, or compensation, for that office were increased during the legislative term to which the member was elected. However, the person may not receive the increase in compensation as long as the increase authorized by the legislature to which the person was elected is in effect. The amendment would not prohibit a person who served in the legislature from receiving an increase in the emoluments of that civil office adopted by a subsequent legislature.

The proposed amendment would remove the provision making a member of the legislature ineligible to be appointed to another office by members of the legislature, which basically applies to offices filled by appointment subject to senate confirmation. The proposed amendment would also remove the provision prohibiting members of the legislature from voting for another member for any office filled by the legislature.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment to provide that a member of the legislature is eligible to be elected or appointed and to serve in a different state office but may not receive an increase in compensation granted to that office during the legislative term to which he was elected."

BACKGROUND

Article III, Section 18, of the Texas Constitution has been in the constitution since 1845 in basically the same form, except that the earliest version did not prohibit interests in state or county contracts. The provision is intended to prohibit members of the legislature from benefitting privately from performing public duties by removing opportunities for conflict of interest faced by members of the legislature.

In 1986, there was a challenge to the portion of the section prohibiting a member of the legislature from being elected to an office if the emoluments for that office were increased during his term. The challenge came about because the chair of the State Republican Executive Committee refused to accept the application of Senator J. E. (Buster) Brown as a candidate for attorney general in the Republican primary. The refusal was based on the fact that the 69th Legislature, of which Senator

Brown was a member, had increased by three percent the salary of all state employees, including the attorney general. Senator Brown contested the refusal all the way to the Texas Supreme Court, which held that Senator Brown was ineligible to run based on Article III, Section 18, of the Texas Constitution. (Strake v. Court of Appeals, 704 S.W.2d 746 (1986).) The court held that the three percent pay increase was an increase in emoluments covered by the prohibition. The court also determined that a rider to the General Appropriations Act to void the salary increase for any office to which a member of the legislature was elected was invalid. An earlier supreme court case had suggested that an insignificant salary increase would not invoke the prohibition found in Article III, Section 18 (Hall v. Baum, 452 S.W.2d 699 (1970)), and in Senator Brown's case, some felt that an across-the-board, cost-of-living salary increase should not trigger the constitutional prohibition.

The portion of the section that prohibits a member of the legislature from voting for another member for an office filled by vote of the legislature is now obsolete. The provision originally applied to the election of United States senators by state legislatures and prevented the election of a legislator to that office.

ARGUMENTS

FOR:

1. The current constitutional provision is intended to eliminate potential conflicts of interest faced by legislators, but it is too broad. It is hard to argue that a legislator who changes office will benefit from an across-the-board salary increase intended to offset inflation. The proposed constitutional amendment does protect the public by providing that a legislator who enters into another civil office of profit is not entitled to receive any increase in emoluments authorized by the legislature of which the person was a member. The proposed amendment addresses the potential conflict of interest without disqualifying persons who may otherwise be highly qualified and experienced.

2. If a legislator commits an act that constitutes a conflict of interest and thereby breaches the public trust, the voters have a remedy in refusing to reelect that legislator. If the public feels that the legislature has shown favoritism in voting to confirm the appointment of one of its members to another office, the election process provides a cure. Furthermore, the legislature is in a good position to know the qualifications for another office of one of its members, and should not be prevented from voting to confirm the member's appointment.

AGAINST:

1. Prohibiting situations that may provide a potential for conflict of interest is a fundamental aspect of good government. Allowing the legislature to vote to confirm the appointment of one of its members to another office may create situations in which politics and favoritism, rather than qualifications, constitute the main criteria for confirming appointments.

2. The proposed constitutional amendment is intended to address the ambitions of the few persons directly affected, i.e., members of the legislature. It is bad public policy to amend a provision of the constitution that is over a century old merely to counteract the ineligibility of a few persons seeking higher office.

AMENDMENT NO. 10

Senate Joint Resolution 12 (the first of two propositions), proposing a constitutional amendment relating to the exemption from ad valorem taxation of certain personal property not held or used for the production of income. (SENATE AUTHOR: Bob McFarland; HOUSE SPONSOR: Hugo Berlanga)

The proposed amendment to Article VIII, Section 1, of the Texas Constitution would allow the legislature to exempt from taxation any tangible personal property not held or used for the production of income, other than residential structures, such as mobile homes, that may be personal property. The amendment would also allow a political subdivision to override the exemption adopted by the legislature and choose to tax the property that would otherwise be exempt.

Amendment No. 11, relating to the exemption from ad valorem taxation of certain property temporarily located in the state, was also proposed by Senate Joint Resolution 12.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment to allow the legislature to exempt from ad valorem taxation certain personal property not held or used for the production of income."

BACKGROUND

Article VIII, Section 1, of the Texas Constitution provides that all tangible personal property in the state is subject to ad valorem taxation by local governments. Personal property means property other than real property. Any exemptions of tangible personal property from ad valorem taxation must be authorized or required by the constitution to be valid. Article VIII, Section 1, contains exemptions for household goods and personal effects, such as furniture, clothes, jewelry, tools, and sporting goods, that are not used to produce income. Other sections of Article VIII exempt or allow the exemption of personal property owned by schools, churches, and charities and of farm products and implements. Section 1 also allows the legislature to exempt "personal property homestead" items from ad valorem taxes, and on that basis the legislature has exempted nonbusiness automobiles owned by families and individuals. However, other nonbusiness items owned by individuals that are not strictly household goods or personal effects are subject to taxation. Boats, aircraft, and other vehicles that are not automobiles, such as camping trailers and recreational vehicles, are the primary forms of such taxable property.

Surveys have shown that the enforcement of property taxes on boats, aircraft, and recreational vehicles is very inconsistent. Many appraisal districts do not even attempt to place such an item on the tax rolls. Locating the property and identifying its ownership are difficult tasks, and appraising the property for taxation presents additional complications. Since property taxes must be imposed in proportion to value, and since such personal property is subject to relatively rapid depreciation, the taxes actually imposed are small compared to those on real property.

The proposed constitutional amendment would authorize the legislature to exempt all tangible personal property from ad valorem taxes, as long as the property is not held or used to produce income. The exemption authority is not limited to property of individuals, but would allow the exemption of nonbusiness property owned by a partnership or corporation. The 70th Legislature at its regular session did not enact any enabling legislation to implement the exemption provided by the proposed constitutional amendment. House Bill 1736, which would have done so, did not pass. The 70th Legislature did approve Senate Bill 367, which authorizes the exemption from taxation of boats not held or used to produce income as personal effects, but is not contingent on voter approval of any proposed constitutional amendment.

ARGUMENTS

FOR:

1. The tax revenues collected from items of nonbusiness personal property are minuscule compared to the costs of administration and collection. In many cases, the costs of collection exceed the tax revenue derived from the tax.

2. The administration of property taxes on boats, aircraft, and other noncommercial personal property is extremely inaccurate and results in much inequity. Since such property is movable and difficult to locate or to appraise accurately, the taxes are not uniformly enforced. Items that are registered or easily located may be taxed, while many other items go untaxed, especially if the tax officials do not make a serious attempt to locate all taxable property.

3. Since the proposed exemption requires legislative enactment, the legislature can provide appropriate restraints in implementing the exemption. In addition, the local option provision will allow those taxing jurisdictions that find the collection of the tax to be practicable or desirable to continue to tax the property. That provision will also alleviate any severe fiscal impact on local taxing jurisdictions that the enactment of the exemption would otherwise create.

AGAINST:

1. Exemptions from property taxes shift the tax burden to other taxpayers. If adopted, the exemption provided for by the proposed amendment will result in an increase in property taxes for homeowners and other property owners.

2. The proposed exemption represents a regressive tax policy. Boats, aircraft, and recreational vehicles are primarily luxuries owned by the wealthy and upper middle class who have the discretionary income to spend on such items and who are most able to pay the taxes on those items. Those with the most expensive planes, yachts, and other vehicles will benefit the most from the exemption. Current exemptions for automobiles, personal effects, and household goods are adequate to exempt most personal property from ad valorem taxes.

3. The provision to allow local taxing jurisdictions to override the exemption and continue to tax the property will result in the same lack of uniformity and inequity that exists under current practice. If the exemption is a good idea, it should be uniformly applied and not be subject to exceptions by taxing jurisdictions that want the additional tax revenue.

AMENDMENT NO. 11

Senate Joint Resolution 12 (second of two propositions), proposing a constitutional amendment relating to the exemption from ad valorem taxation of certain tangible personal property temporarily located in the state. (SENATE AUTHOR: Bob McFarland; HOUSE SPONSOR: Hugo Berlanga)

The proposed amendment to Article VIII, Section 1, of the Texas Constitution would add provisions to exempt from ad valorem taxation by political subdivisions tangible personal property, including goods, wares, merchandise, or ores, other than oil, gas, and other petroleum products, if the property is brought into the state for assembly, storage, manufacturing, processing, or fabrication purposes and is transported outside the state within 175 days of being brought into the state. The amendment would allow a city, county, or school district to tax the property at its appraised value or at a percentage of its appraised value by official action taken before April 1, 1988. If the action is taken before January 1, 1988, it applies to 1988 taxes. Otherwise, the action applies beginning with 1989 taxes. After the initial action to tax the property, a city, county, or school district may decrease the percentage of appraised value at which the property is taxed, but may not increase that percentage. A city, county, or school district may also rescind its action, in which event the property would become permanently exempt from ad valorem taxation by the city, county, or school district. The amendment also allows a city, county, or school district to exempt the property described from the 1987 taxes.

Amendment No. 10, relating to the exemption from ad valorem taxation of certain personal property not held or used for the production of income, was also proposed by Senate Joint Resolution 12.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment providing for the exemption from ad valorem taxation of certain property that is located in the state for only a temporary period of time."

BACKGROUND

In order to encourage manufacturing and related commercial activities, most states have enacted "free port" laws, exempting from ad valorem or other taxes raw materials, parts, finished goods, and other property that is destined for shipment out of state. In Texas, Section 11.01(d), Tax Code, currently provides that certain property that is imported for manufacturing, assembly, storage, and other purposes and that is then exported within 175 days is presumed to be in interstate commerce and not located in the state for more than a temporary period. Under Section 11.01(c), Tax Code, property located in the state for only a temporary period is not

subject to the state's jurisdiction to tax. In addition, the federal courts have long held that the commerce clause of the United States Constitution forbids the states from taxing property in interstate commerce. Section 11.01, Tax Code, in effect creates a presumption that the property is exempt from ad valorem taxation.

However, in Dallas County Appraisal District v. L. D. Brinkman and Company (Texas), Inc., 701 S.W.2d 20 (Tex. App.—Dallas 1985, writ ref'd n.r.e.), the Texas court of appeals held that the statute is ineffective to exempt property if the property is not actually in interstate commerce as defined by federal case law. That case had the effect of nullifying the presumption created by Section 11.01. Under Article VIII, Section 1, of the Texas Constitution, property in the state is subject to taxation, without regard to the length of time the property is in the state, subject only to the federal exemption for property in interstate commerce. As a result of the Brinkman case, most property that was not taxed under Section 11.01(d) is now subject to taxation. In fact, many appraisal districts had already taken the position that the presumption was not valid under the state constitution and placed the property on the tax rolls in spite of Section 11.01(d).

The proposed constitutional amendment would have the effect of restoring the "free port" exemption. It would allow the major local taxing jurisdictions—cities, counties, and school districts—to tax the property by local option. The local option provision would allow those jurisdictions that taxed the property in spite of the statutory presumption to continue taxing the property in whole or part, while allowing other jurisdictions to retain the exemption to preserve the status quo for affected businesses or to implement the exemption as desired.

ARGUMENTS

FOR:

1. The exemption authorized by the proposed amendment will encourage economic development by providing incentives for manufacturing and other business activities that import goods or materials for commercial purposes and export their products within 175 days. The jobs, capital improvements added to the tax rolls, and other economic benefits to be derived from the exemption will more than offset the lost tax revenues.

2. Since most other states have similar free port exemptions, Texas must restore its exemption in order to compete with other states in retaining or attracting industry.

3. The proposed tax exemption may be superseded by local governmental units, so it will not be adopted if local officials determine that the benefits will not exceed the costs in lost taxes. The provision allowing for partial taxation of the property covered by the exemption will allow local officials to achieve an appropriate level of tax relief without undermining local tax revenues.

AGAINST:

1. Exemptions from property taxes shift the tax burden to other taxpayers. If adopted, the free port exemption will result in an increase in property taxes for homeowners and other property owners. The impact on other taxpayers will be particularly hard because the tax base has already suffered a significant decline from the economic downturn in the state.

2. The exemption is not fair to businesses that do not ship their products out of the state, or to businesses that use materials from this state in their manufacturing activities. Those businesses will continue to pay taxes on their inventories of materials and goods, while those companies that qualify for the exemption will get the same benefits and services from local governments without paying their fair share of the costs.

3. The local rescission provision will result in inconsistent and unfair tax treatment of similar property from one jurisdiction to the next. In addition, the short period of time provided for local rescission of the exemption will encourage hasty action by the local governmental units. A taxing jurisdiction that initially chooses to allow the exemption to take effect or that fails to act in the time provided and that later determines the exemption is inappropriate cannot change its decision after April 1, 1988.

AMENDMENT NO. 12

Senate Joint Resolution 35, proposing a constitutional amendment permitting spouses to hold community property with right of survivorship. (SENATE AUTHOR: Kent Caperton; HOUSE SPONSOR: Nicolas Perez)

The proposed amendment would amend Article XVI, Section 15, of the Texas Constitution to allow spouses to agree in writing that all or part of their community property passes, on the death of a spouse, to the surviving spouse.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment permitting spouses to hold community property with right of survivorship."

BACKGROUND

A joint tenancy with right of survivorship is an ownership arrangement in which, on the death of a joint owner, that owner's interest automatically passes to the other joint owner. Under current court interpretations of Article XVI, Section 15, of the Texas Constitution, a joint tenancy with right of survivorship may not be created with community property. Spouses must first convert the community property into separate property by entering into a written partition agreement. Second, the spouses must establish a joint tenancy with right of survivorship by signing separate joint tenancy agreements covering their separate ownership interests in the property.

The execution of a simple signature agreement, provided by many financial institutions, that creates a joint tenancy with right of survivorship is not effective in relation to community property. On the death of a spouse, the community property does not automatically become the property of the surviving spouse; instead, it passes by will, or, if there is no will, by the statutory rules of intestacy. If the community property is not first converted into separate property, the property may not pass, on the death of a spouse, as the spouses had originally intended.

The proposed amendment to Article XVI, Section 15, of the Texas Constitution allows spouses to avoid the two-step process currently required by law and agree in writing that all or part of their community property becomes, on the death of a spouse, the property of the surviving spouse. The legislature enacted enabling legislation in Senate Bill 893 of the 70th Regular Session.

ARGUMENTS

FOR:

1. The proposed constitutional amendment to Article XVI, Section 15, of the Texas Constitution would eliminate a trap for the unwary married couple who execute a signature card provided by a financial institution and believe, mistakenly, that they have created an effective joint tenancy with right of survivorship in relation to their community property.

2. The proposed amendment makes a simple means available for estate planning by which spouses can provide that the survivor is entitled to all or a designated portion of the community property.

3. The proposed amendment allows financial institutions the increased flexibility of offering, with respect to community property, valid joint accounts with right of survivorship in a simple and straightforward manner.

AGAINST:

1. There is no need to amend the constitution to allow married couples to do what they are already permitted to do under current law. Spouses are currently allowed to partition their community property into separate property and create a joint tenancy with right of survivorship covering the separate property.

2. The proposed constitutional amendment, by making it easier for couples to create a joint tenancy with right of survivorship in relation to their community property, creates a trap for the unwary spouse in estate planning and drafting a will. A spouse may attempt to devise an interest in community property in a manner that is not consistent with a joint tenancy with right of survivorship that the spouse has created in relation to the community property. Expensive litigation may be necessary to resolve this type of conflict.

3. The proposed constitutional amendment will result in the further deterioration of the community property system in Texas.

AMENDMENT NO. 13

Senate Joint Resolution 27, proposing a constitutional amendment authorizing the creation of emergency medical services districts and authorizing those districts to levy an ad valorem tax on property located in the district. (SENATE AUTHOR: Roy Blake; HOUSE SPONSOR: Barry Connelly)

The proposed amendment adding Section 48-e to Article III of the Texas Constitution would authorize the legislature to provide for the establishment of special districts to provide emergency medical services, emergency ambulance services, rural fire prevention and control services, or other emergency services authorized by the legislature. It would also authorize the commissioners courts of participating counties to levy an ad valorem tax on property located in the district in an amount not to exceed 10 cents on the $100 valuation, subject to voter approval.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment to allow for the creation and establishment, by law, of special districts to provide emergency services."

BACKGROUND

The Texas Constitution in several instances specifically authorizes the legislature to create certain special districts that may levy ad valorem taxes. (See Article III, Section 48-d (rural fire prevention districts); Article III, Section 52 (water and road districts); Article VII, Section 3 (school districts); and Article IX, Sections 4, 5, 7, 8, 9, and 11 (various hospital districts).) A constitutional amendment to authorize the creation of special districts and the levy of ad valorem taxes may be unnecessary since the power to tax is a sovereign power and the constitution does not expressly limit the power of the legislature to authorize the levy of ad valorem taxes. However, the constitution does contain specific grants of taxing authority. Whether those specific grants constitute by implication an exclusive grant of taxing power is not clear. In the absence of any clear authority to the contrary, the power to authorize the levy of ad valorem taxes has traditionally been granted by constitutional amendment.

Currently, the Texas Constitution empowers the legislature to authorize the creation of rural fire prevention districts. Under that provision, the legislature in 1957 enacted Article 2351a-6, Vernon's Texas Civil Statutes, which authorizes rural fire prevention districts to provide an array of services necessary to operate the district. In 1975, the Texas attorney general was asked if it was constitutional for the legislature by statute to authorize rural fire prevention districts to provide emergency ambulance services. (Op. Tex. Att'y Gen. No. H-562 (1975).) The

attorney general concluded that the statute was constitutional since the operation of an emergency ambulance service was sufficiently related to the effective operation of the district. Rural fire prevention districts may levy ad valorem taxes in an amount not to exceed three cents per $100 valuation. They are not specifically authorized by statute to provide a full range of emergency medical services.

If the proposed constitutional amendment is adopted, the enabling legislation, Senate Bill 669, takes effect January 1, 1988. The bill authorizes emergency services districts to provide emergency medical services, ambulance services, fire prevention, and fire-fighting services, and also gives the districts any other authority necessary to carry out the objects of their creation. The bill provides that an emergency services district is created on petition, notice and hearing, and an election to confirm the organization and authorize the levy of an ad valorem tax in an amount not to exceed 10 cents on the $100 valuation. The bill also provides for the conversion of a rural fire prevention district into an emergency services district.

ARGUMENTS

FOR:

1. This proposed constitutional amendment would give all areas of the state the ability to provide emergency medical services. Those services may not otherwise be available in rural areas that are not close to cities that provide emergency assistance. The ability to raise revenue to support the provision of emergency services is a necessary aspect of the power, and the proposed amendment does authorize the levy of ad valorem taxes in an amount sufficient to provide the services.

2. Although rural fire prevention districts may provide some types of emergency medical services, such as ambulance services, the maximum tax rate authorized for rural fire prevention districts is only three cents per $100 valuation. That amount is insufficient to provide necessary emergency medical services. The proposed constitutional amendment would authorize a maximum tax rate of 10 cents per $100 valuation, which would allow the provision of an array of emergency services necessary to effectively protect the life and health of residents of the district.

AGAINST:

1. Rural fire prevention districts clearly have the authority to provide ambulance services. Under the reasoning of a previous attorney general opinion, the legislature could authorize rural fire prevention districts to provide any services necessary to effectively operate the rural fire prevention district. Since this may include emergency medical services, a new type of district is not necessary.

2. The state sales tax was recently increased. Numerous types of special districts currently have taxing authority. In addition, Texans are subject to numerous local taxes. Authority for yet another tax poses an unnecessary financial burden on the citizens of this state.

AMENDMENT NO. 14

Senate Joint Resolution 34, proposing a constitutional amendment to allow the legislature to provide by general law for the appeal by the state in certain criminal cases. (SENATE AUTHOR: John Montford; HOUSE SPONSOR: James Hury, Jr.)

The proposed amendment to Article V, Section 26, of the Texas Constitution would remove the prohibition against the appeal by the state of any issue in a criminal case, and provide that the circumstances under and manner in which the state may appeal in a criminal case be defined by general law.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment giving the state a limited right to appeal in criminal cases."

BACKGROUND

The prohibition against all appeals by the state in criminal cases has been a part of the Texas Constitution since the adoption of the constitution of 1876. It is possible that the provision was adopted because, at that time, the defendant was very much over-matched by the power of the state. Defendants were not guaranteed a right to representation, and very few of the other rights now guaranteed by the federal and Texas constitutions were available to the defendant. It is suggested that a prohibition against appeals by the state was an attempt by the constitutional convention to better balance the positions of the state and the defendants in criminal cases.

The provision in the constitution against appeals by the state prohibits the state from appealing a decision by the trial court that dismisses an indictment, grants a new trial, suppresses evidence or a confession, or in any other way makes a ruling favorable to the defendant. Texas is currently the only state that completely prohibits appeals by the state in criminal cases.

The proposed constitutional amendment to Article V, Section 26, would remove the prohibition against appeals by the state in criminal cases, and authorize the legislature to determine which decisions made by the trial court that negatively affect the state's case against the defendant may be appealed by the state. The legislature enacted enabling legislation in S.B. 762 of the 70th Regular Session, which takes effect if the amendment is approved.

ARGUMENTS

FOR:

1. The proposed constitutional amendment and the enabling legislation protect the citizens' interest in the correct enforcement of the state's criminal laws by granting the state the right to appeal what the state considers to be a trial court's errors in making determinations of law while not permitting the state to appeal factual issues. Provisions of the United States and Texas constitutions ensure that the defendant's right not to be placed in double jeopardy is not violated.

2. Under current law, trial court judges are encouraged to rule in favor of the defendant, since they may do so without fear that their decisions will be scrutinized by appellate courts.

3. The unbridled discretion of trial judges has led to inconsistent rulings at the trial level. Appeals of rulings on the admissibility of evidence and confessions would lead to a more uniform application of justice throughout the state.

AGAINST:

1. While another provision of the Texas Constitution and a provision of the United States Constitution exist to guarantee a defendant's right not to be placed in double jeopardy, the prohibition against appeals by the state is itself a meaningful protection against being placed in double jeopardy.

2. Appeals by the state would pose an economic hardship to the defendant, and might be used as a tool of oppression.

3. Granting a right to appeal to the state would shift the balance of justice to the state, since the enabling legislation allows the state to make interlocutory appeals (appeals of orders and rulings that occur during the course of a trial); the defendant would be required to wait until an appeal on conviction before raising interlocutory issues.

AMENDMENT NO. 15

House Joint Resolution 35, proposing a constitutional amendment to abolish the office of county treasurer in certain counties. (HOUSE AUTHOR: Jerry Yost; SENATE SPONSOR: Richard Anderson)

The proposed amendment of Article XVI, Section 44, of the Texas Constitution would provide for the abolition of the office of county treasurer in Gregg, Fayette, and Nueces counties. In Gregg County, the functions of the abolished office would be transferred to an elected official or the county auditor, as designated by the commissioners court of the county. In Fayette County, the functions would be transferred to the county auditor. In Nueces County, the functions would be transferred to the county clerk.

The abolition of the county treasurer's office in Gregg County takes effect on January 1, 1988, if the proposed constitutional amendment is approved at the statewide election on the amendment. The abolition of the office in Fayette County takes effect on the day after the official canvass of returns from the statewide election on the proposed amendment if the canvass shows the amendment is approved statewide and in Fayette County. The abolition of the office in Nueces County takes effect January 1, 1988, if the official canvass of returns from the statewide election on the proposed amendment shows the amendment is approved statewide and in Nueces County.

The description of the proposed constitutional amendment that will appear on the ballot is as follows: "The constitutional amendment to provide for the abolition of the office of county treasurer in Gregg, Fayette, and Nueces counties."

BACKGROUND

Currently, Article XVI, Section 44, of the Texas Constitution requires the legislature to prescribe the duties and provide for the election of a county treasurer in each county. (The section also contains provisions regarding county surveyors, but those provisions are not affected by the proposed constitutional amendment.) However, three amendments to the section have resulted in the abolition of the office of county treasurer in Tarrant and Bee counties (covered by a 1982 amendment), Bexar and Collin counties (covered by a 1984 amendment), and Andrews and El Paso counties (covered by a 1985 amendment).

Events beginning several years ago have made it clear that any abolition of the office of county treasurer in a specific county may be accomplished only by amending the constitution. 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.

The duties of the county treasurer that would be transferred are defined by statute. The duties, which include the receipt, custody, and disbursement of county funds, are covered primarily by Chapter 113 of the Local Government Code, which took effect September 1, 1987.

ARGUMENTS

FOR:

1. By abolishing the office of county treasurer and transferring the duties to another existing office, more efficient management of county business will be accomplished and county revenue will be saved.

2. The transfer of duties to another officer will retain necessary safeguards against the misapplication of county funds. If the duties are transferred to the county clerk or another elected officer, the voters by electing the officer will act as a check on the actions of the officer. If the duties are transferred to the county auditor, who is an appointed official, the authority of the commissioners court to order independent audits of county finances acts as the check on the auditor.

AGAINST:

1. Although county government may need streamlining and reorganization, the piecemeal approach taken by the proposed amendment is not the answer. The election on the proposed amendment will make the fourth time in the last five years the voters have been asked to amend the constitution to abolish the county

treasurer's office in one or another county. A better approach is to propose a single constitutional amendment that establishes a procedure by which the office can be abolished in any county.

2. The transfer of the county treasurer's duties to the county clerk or the county auditor is inappropriate because the treasurer's functions are incompatible with the clerk's duties relating to the collection of fees for many of the clerk's services and with the auditor's duties relating to the audit of county finances.

AMENDMENT NO. 16

Senate Joint Resolution 6, 2nd Called Session, proposing a constitutional amendment providing that certain justice precincts may contain more than one justice of the peace court. (SENATE AUTHOR: Ted Lyon; HOUSE SPONSOR: Bill Blackwood)

The proposed amendment to Article V, Section 18(a), of the Texas Constitution, adopted by the 70th Legislature, 2nd Called Session, 1987, allows counties with a population of 150,000 or more to have more than one justice of the peace court in each precinct.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment providing that certain justice precincts may contain more than one justice of the peace court."

BACKGROUND

The Texas Constitution currently requires two justice of the peace courts in any precinct that contains a city with a population of 18,000 or more; in every other case, the constitution specifies one justice court for each precinct. The requirement of more than one justice court for certain precincts derives from the 1875 constitutional convention, was originally applied to precincts containing cities with populations of 8,000 or more, and obviously was an effort to provide greater convenience and efficiency by requiring additional justice courts in what in 1875 were the most densely populated areas of the state. Courts have had several occasions to interpret the requirement and have held that the additional court in a precinct does not spring into existence but must be created by the commissioners court, that the commissioners court is authorized to determine population as a fact question, and that, once created, an additional court cannot be abolished absent a finding that a precinct no longer meets the constitutional standard. Statements made by the court in one case (Grant v. Ammerman, 451 S.W.2d 777 (Tex. Civ. App.—Texarkana 1970), writ ref'd n.r.e.) that were not necessary to reach the decision provide that a precinct containing only part of a city with the requisite population, as is the case with cities located in more than one county, is entitled to only one justice court.

Judicial interpretations have helped to point out the problems of applying the provision to the modern process of drawing precinct lines under requirements of the federal Voting Rights Act, particularly in the most populous counties, where the likelihood is greatest that the boundaries of central cities and suburbs cross county lines and must necessarily also cross precinct lines to meet federal requirements. A case in point is Dallas County, which has at least four cities that cross county lines. Even though such a city may exceed 18,000 in population and would

otherwise qualify for two justice courts per precinct, the constitutional requirement that justice precincts be within a single county effectively prevents more than one justice per precinct in the city. The anomalous result is that some of the most densely populated counties could have as few as four justice courts while a county with a population of 60,000 that contains three cities of 18,000 population could have as many as 11 justice courts.

The amendment would limit the current requirement for two justices to precincts in cities that are located in counties with a population of less than 150,000. For counties with a population of 150,000 or more, the amendment would allow more than one justice court in any precinct in the county.

ARGUMENTS

FOR:

1. The primary purpose of the current constitutional requirement for two justice of the peace courts to serve a precinct containing a city of 18,000 or more population is to provide convenience to the residents of the more populous areas of the county. In light of the requirements of the federal Voting Rights Act and the increasing tendency in the more populous counties for cities to expand across county lines, this goal is better served by allowing the more populous counties to establish more than one justice of the peace court in a particular precinct based on the need and convenience of its residents rather than on the inflexible rule requiring a city of 18,000 or more population.

2. The proposed amendment is permissive and does not require the more populous counties to establish more than one justice of the peace court in a particular precinct. The decision to establish more than one court will be based on the judgment of the commissioners court which, composed of local elected officials, is in the best position to make that judgment and is directly answerable to the voters for that decision.

AGAINST:

1. The proposed amendment further complicates the unnecessarily detailed constitutional provision relating to the number of justice courts that may be established in a county. The constitutional provision should be amended to permit the legislature to determine the number of courts by statutory law, which can be more easily revised in response to local population growth and local judicial needs.

2. This amendment provides only half of the solution to the problem. Granted, the constitutional provision for providing more than one justice court in a precinct creates a standard that is crude and inflexible. Granted, the complexities of the federal Voting Rights Act requirements were never envisioned by the drafters of the

constitutional provision and necessitate a change in that provision. The problem, however, is not confined to counties of more than 150,000 population, and neither should its solution be so confined.

AMENDMENT NO. 17

Senate Joint Resolution 26, proposing a constitutional amendment authorizing the legislature to define for all purposes the governmental and proprietary functions of a municipality. (SENATE AUTHOR: John Montford; HOUSE SPONSOR: Mike Toomey)

The proposed amendment would add a new Section 13 to Article XI of the Texas Constitution to allow the legislature, and not the courts, to define those functions of a municipality that are governmental and those that are proprietary.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment authorizing the legislature to define for all purposes the governmental and proprietary functions of a municipality."

BACKGROUND

A proprietary function is performed by a municipality in its corporate capacity for the benefit of only its municipal citizens. A governmental function is performed by a municipality as an agent for the state for the benefit, direct or indirect, of all the state's citizens. A multitude of court decisions have found that proprietary functions include parks and recreational activities, swimming pools, golf courses, zoos, provision of water and electricity, street and sidewalk construction and maintenance, storm sewers, garages, civic centers, and public transportation. Governmental functions include police and fire protection, health services, hospitals, aviation, garbage collection, sanitary sewers, traffic regulation and control, building inspection, tax collection, and municipal courts.

It has been well settled by Texas courts since the turn of the century that a municipality performing a proprietary function is liable for damages arising out of negligence in the performance of the function to the same extent as a private corporation. There are no statutory limits. A municipality performing a governmental function, however, is liable only to the extent provided by the Texas Tort Claims Act (Chapter 101, Civil Practice and Remedies Code), which limits damages to $100,000 for each person, $300,000 for each single occurrence for bodily injury or death, and $100,000 for each single occurrence for injury to or destruction of property.

The proposed constitutional amendment to Article XI of the Texas Constitution authorizes the legislature to define which functions of a municipality are to be considered proprietary, subjecting the municipality to unlimited liability, and which functions are to be considered governmental, allowing the municipality the protection of the limits of liability in the Texas Tort Claims Act. The legislature may reclassify functions in a manner different from the way that courts have traditionally classified them.

Senate Bill No. 5, 70th Legislature, 1st Called Session, 1987, is the implementing statute of this proposed constitutional amendment. It reclassifies a large number of proprietary functions as governmental so that, for the first time, a municipality will not have unlimited liability for such functions as parks, zoos, storm sewers, public garages, public transportation, and the operation of civic centers. At the same time, Senate Bill No. 5 increases the liability of a municipality for its governmental functions to $250,000 for each person and $500,000 for each single occurrence for bodily injury or death. The limit for each single occurrence for injury to or destruction of property remains at $100,000. Proprietary functions, for which a municipality has unlimited liability, include only three areas: operation and maintenance of a public utility, amusements owned and operated by the municipality, and any activity that is abnormally dangerous or ultrahazardous.

Without the proposed constitutional amendment, Senate Bill No. 5 might be found unconstitutional by the Texas Supreme Court. Decisions of the supreme court interpreting Article I, Section 13, of the Texas Constitution, the "open courts" amendment, raise a substantial question as to whether the legislature may constitutionally reclassify the proprietary and governmental functions of a municipality. In Sax v. Votteler, 648 S.W.2d 661, 665-66 (Tex. 1983), the court held that under the open courts amendment "the right to bring a well-established common law cause of action cannot be effectively abrogated by the legislature absent a showing that the legislative basis for the statute outweighs the denial of the constitutionally-guaranteed right of redress." Senate Bill No. 5, by reclassifying many proprietary functions as governmental, establishes, for the first time, a limit on the liability of a municipality for damages caused by its own negligence in carrying out these functions. The supreme court may find that these new limits "effectively abrogate a well-established common law cause of action" and find the bill unconstitutional. Several lower courts have used similar reasoning to find limits on the recovery of damages in medical malpractice cases to be unconstitutional.

The proposed constitutional amendment makes it clear that Senate Bill No. 5 and subsequent legislation that defines or classifies the proprietary and governmental functions of a municipality is constitutional.

ARGUMENTS

FOR:

1. The distinction that the courts have created between the proprietary and governmental functions of a municipality is arbitrary. The test that the courts have used to distinguish the two types of functions—whether the function serves the people of the municipality or the people of the state—leads to results that are difficult to justify. There is no apparent reason why a municipality should have

unlimited liability for damages arising out of negligence in connection with a storm sewer but come under the statutory limits for damages arising out of negligence in connection with a sanitary sewer. Because the courts are unable to arrive at a reasonable formula, the decision as to which activities of a municipality are proprietary and which are governmental is best left to the legislature.

2. Predictability of liability is an important aspect controlling insurance rates paid by municipalities. There is little predictability in letting the courts decide, on a case-by-case basis, which functions of a municipality are proprietary and which are governmental. Many functions of a municipality have not yet been classified by the courts; a municipality cannot know if its liability is limited or not unless it litigates the question in court. The process is costly and the results not always consistent from court to court. It took years for the courts to decide that providing an airport and repairing an airport runway were both governmental functions. The legislature is far better equipped to classify a municipality's proprietary and governmental functions in a comprehensive manner that lends itself to predictability.

3. The current system of court-made law regarding the proprietary and governmental functions of a municipality lacks flexibility. Once the courts have decided that repairing streets is a proprietary function, chances of a reversal of position are minimal. Seventy-five years ago, street repair in a municipality may have benefitted only the citizens of the municipality. Today it is reasonable to argue that municipal street repair is important, directly and indirectly, to the people of the state who frequently visit the municipality both for business and pleasure. The legislature is much more able to adjust the classification of proprietary and governmental functions to reflect changing needs than the courts.

AGAINST:

1. The distinction that the courts have created between the proprietary and governmental functions of a municipality is a sound one. A municipality that conducts an activity that benefits only its own citizens should be liable in negligence for the conduct of that activity to the same extent that a private corporation is liable. The fact that this distinction may be difficult to apply to the hundreds of different types of activities that a city can undertake does not justify abandoning it in favor of a legislative classification that is based more on political give and take than reasoned decision making.

2. Predictability of liability is best assured by letting the courts decide, as they always have, which functions of a municipality are proprietary and which are governmental. Courts are much less likely to reverse themselves than the

legislature, which could, if the proposed amendment is adopted, shuffle the various functions of a municipality in and out of the proprietary and governmental classifications every two years, during its regular session.

3. Deciding which functions of a municipality are proprietary and which are governmental is fundamentally a question of balancing the need of a person injured by the negligence of a municipality to be fully compensated for those injuries and the need of a municipality to limit the amount of compensation because of the rising cost of liability insurance. The courts, and not the legislature, can best resolve this question on a case-by-case basis, taking into account the specific facts and circumstances of each negligent occurrence.

AMENDMENT NO. 18

House Joint Resolution 18, proposing a constitutional amendment to authorize the creation, operation, and financing of jail districts. (HOUSE AUTHOR: Richard Williamson; SENATE SPONSOR: Ray Farabee)

The proposed amendment to Article III of the Texas Constitution would authorize the legislature to provide by law for the creation and operation of jail districts and the financing of the districts through the levy of local ad valorem property taxes.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment relating to the creation, operation, and financing of jail districts."

BACKGROUND

In the 70th Regular Session, the legislature enacted House Bill 400 in an attempt to address the state problems of inadequate correctional facilities and insufficient state funds to finance the improvement of current facilities and the construction of additional facilities. The statute permits the creation, operation, and financing of jail districts to construct and improve correctional facilities on a local basis. To finance those activities, the jail districts are authorized to issue bonds backed by money collected from property owners in the district as additional ad valorem taxes.

The power to tax is a sovereign power limited by constitutional constraints. While the Texas Constitution does not contain an express limitation on the power of the legislature to authorize the levy of ad valorem property taxes, the constitution does enumerate instances in which the legislature is empowered to create a district and authorize the district to levy an ad valorem tax. (See, e.g.: Article III, Section 48-d (rural fire districts); Article III, Section 52 (water and road districts); Article VII, Section 3 (school districts); and Article IX, Sections 4, 5, 7, 8, 9, and 11 (various hospital districts).)

Whether those specific grants constitute by implication an exclusive list of powers is a point of controversy. Although there is a supreme court case holding that a junior college district, not mentioned per se in the constitution, may impose ad valorem taxes, the opinion was rendered by a sharply divided court and has been the subject of scholarly criticism. Shepherd v. San Jacinto Junior College District, 363 S.W.2d 742 (Tex. 1962). In any event, the legislature has been unwilling to assume the risk of creating a taxing district without specific constitutional authority. This amendment would avert challenges based on the implied limitation theory and serve to reinforce the constitutionality of the tax.

ARGUMENTS

FOR:

1. The state's ability to house and maintain prisoners seriously lags behind the rising number of criminals that must be imprisoned. Correctional facilities built, improved, and turned over for county operation by jail districts would provide additional housing to meet the increased demand and would permit counties to keep more prisoners at the local level rather than transferring them to overburdened state facilities.

2. The State of Texas is under federal court order to improve and expand the state's correctional facilities, yet this order comes at a time when the state is suffering a severe economic downturn and finds itself hard-pressed to pay for the required improvements. Construction and improvement of facilities by jail districts financed on a local level would assist the state in meeting the federal requirements without adding to the state budget problem.

3. The formation of jail districts would allow counties to cooperate in the financing and construction of local jail and juvenile detention facilities to serve the counties involved. In this way, counties of differing population, size, economic status, and criminal conviction rates could team up to meet their various jail facility needs.

AGAINST:

1. Taxpayers are already burdened by numerous ad valorem taxes assessed by various specialty districts. With the additional sales and other taxes recently enacted by the 70th Legislature, the new tax would strain the pocketbook of the average property owner who may already be suffering in Texas' depressed economic climate.

2. Because there is no limit on the maximum amount of tax, this amendment would permit the levy of an ad valorem tax in any amount approved by the voters. Although voter approval is some constraint, it is conceivable that a high ad valorem tax could be passed in a county with a large number of voters who are not property owners. Such a tax could inequitably place the burden of construction and improvement of local jail facilities on the shoulders of the property owners of that county.

3. It is doubtful that creating and financing jail districts will appreciably assist the state in relieving the current problem of overcrowding in the Texas Department of Corrections because facilities built and improved by jail districts will ultimately pass to the counties making up the district and will not house felony prisoners committed to TDC.

AMENDMENT NO. 19

House Joint Resolution 88, proposing a constitutional amendment allowing the issuance of general obligation bonds for undertakings related to a superconducting super collider research facility. (HOUSE AUTHOR: Al Luna; SENATE SPONSOR: Chet Edwards)

The proposed amendment to Article III of the Texas Constitution adds Section 49-g, authorizing the legislature to provide for the issuance of up to $500 million in general obligation bonds for a special fund, which would be used to finance activities relating to a superconducting super collider research facility located in Texas by the federal government. The amendment also authorizes the legislature to require review and approval of the issuance of the bonds, of the use of the bond proceeds, or of agency rules governing the use of bond proceeds. An entity created or directed to conduct the review and approval may include members, or appointees of members, of the executive, legislative, and judicial departments of state government.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment authorizing the issuance of general obligation bonds to fund undertakings related to a superconducting super collider research facility sponsored or authorized by the United States government, and to make appropriate grants for such undertakings."

BACKGROUND

The United States government is sponsoring the construction of a superconducting super collider research facility, which will be the world's largest and most advanced atom smasher. The estimated cost for construction of the facility is $6 billion. The federal government is currently making a determination of the site of the super collider, and a large number of states are avidly competing for the facility. The Texas effort to have the super collider located in this state is being organized and carried out by the Texas National Research Laboratory Commission. That commission has chosen two sites to be officially considered for location of the super collider. One site is near Dallas and the other is near Amarillo. The United States Department of Commerce is expected to make a final decision on the location of the facility in July 1988.

Construction of the super collider would create over 3,000 jobs, and operation of the facility following construction would require approximately 2,500 employees. The facility is expected to be a large benefit to the economy of the area of the state where it is located.

The proposed amendment would allow the state to issue up to $500 million of general obligation bonds to finance eligible undertakings related to the superconducting super collider research facility. Eligible undertakings, as defined by law (H.B. 1909, Acts of the 70th Legislature, Regular Session, 1987), include providing land, buildings, and other facilities, equipment, and relevant services made necessary by the location of the facility in the state.

ARGUMENTS

FOR:

1. Location and operation in this state of the superconducting super collider facility would provide a major benefit to the state's economy. It would provide needed jobs and diversification and would help the state recover from recent economic hard times.

2. The superconducting super collider facility would make the state more attractive to academicians and research businesses. These persons and businesses would strengthen the state's economy in a future in which advanced technology businesses will be preeminent.

AGAINST:

1. State government is currently finding it extremely difficult to come up with the funds to provide minimum state services. The benefits that may come to the state from location of the superconducting super collider facility in the state do not justify such a great expense in state funds at a time when the state cannot afford it.

2. Some scientists feel that recent breakthroughs in related scientific areas will mean that by the time the superconducting super collider facility is completed it may be obsolete and that its potential benefits are highly questionable.

AMENDMENT NO. 20

House Joint Resolution 96, proposing a constitutional amendment to authorize the legislature to provide ad valorem tax relief for certain offshore drilling equipment that is not in use. (HOUSE AUTHOR: Mark Stiles; SENATE SPONSOR: Carl Parker)

The proposed amendment to Article VIII of the Texas Constitution adds Section 1-i, which authorizes the legislature to enact ad valorem tax relief for mobile marine oil and gas well drilling equipment that is being stored while not in use.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment to authorize the legislature to provide ad valorem tax relief for certain offshore drilling equipment that is not in use."

BACKGROUND

When offshore oil and gas drilling activity is low, many offshore drilling rigs are idle. The rigs are generally stored at port facilities where they can be properly maintained and protected. Since these rigs are usually worth from one-half million to several million dollars each, local property taxes imposed on them when stored in Texas ports are substantial. The taxes and fees imposed on idle drilling equipment in other jurisdictions bordering on the Gulf of Mexico are significantly lower than the local taxes imposed in Texas. As a result, the owners of drilling rigs have begun to prefer out-of-state storage locations, depriving Texas storage facilities of business.

Under Article VIII, Section 1, of the Texas Constitution, all tangible personal property is subject to property taxation by the local governments in which it is located according to the market value of the property. Article VIII, Section 2, of the Texas Constitution provides that all exemptions from property taxes not specifically provided for in that section are null and void. The constitution does not currently exempt or permit the legislature to exempt property such as oil and gas drilling equipment from property taxes. Accordingly, the proposed constitutional amendment would authorize the legislature to exempt idle offshore drilling equipment that is being stored on or near the Gulf Coast.

House Bill 2082, also approved by the 70th Legislature, Regular Session, 1987, and contingent on the adoption of the constitutional amendment proposed by House Joint Resolution 96, provides for the exemption authorized by the proposed constitutional amendment.

ARGUMENTS

FOR:

1. Property tax relief for idle drilling rigs will encourage the storage of those rigs in Texas, providing jobs and business for the locations in which the rigs are stored. Without the exemption, many idle rigs will be moved to other jurisdictions, eliminating income from storage charges and taking the rigs off the tax rolls anyway.

2. A tax exemption strictly limited to idle drilling rigs will provide needed relief to the oil industry when prices and drilling activity are low, while having no effect when the industry is healthy and most drilling rigs are in use. In addition, the exemption will signal to the oil and gas industry that the State of Texas is sensitive to the problems the industry has suffered in recent times and is willing to help the industry with tax relief for idle equipment that is not producing income.

3. The constitutional amendment allows the legislature to control the application of the exemption, so that it could be amended or repealed according to future needs and circumstances. At the same time, the constitutional amendment provides strict limitations so that the exemption cannot be used to authorize other tax breaks for the petroleum industry.

AGAINST:

1. As with any tax exemption, the drilling rig exemption will shift the property tax burden to other taxpayers. As property is taken off the tax rolls through selective exemptions, the tax burden on homeowners and nonexempt businesses goes up.

2. Even in hard economic times, the oil and gas industry should make the same sacrifices as other ailing businesses in continuing to support the operations of local government, from which the oil industry benefits as much as other taxpayers. There is no compelling reason to exempt idle drilling equipment while still taxing other industrial property that is not in use or is unprofitable.

3. The benefits of tax relief for idle drilling rigs will be insignificant. Compared to the taxes imposed on other oil and gas industry property, such as refineries, pipelines, and fuel storage facilities, the tax burden on drilling equipment is small, and the exemption will not provide any meaningful financial relief to the industry as a whole.

AMENDMENT NO. 21

Senate Joint Resolution 17, proposing a constitutional amendment permitting the legislature to include members of more than one department of state government in the membership of an agency or committee. (SENATE AUTHOR: Ray Farabee; HOUSE SPONSOR: Bruce Gibson)

The proposed amendment to Article III of the Texas Constitution would permit the legislature to include the speaker of the house of representatives in the membership of an agency or committee that includes officers of the executive department.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment permitting the legislature to include the speaker of the house of representatives or the speaker's appointee in the membership of an executive agency or committee."

BACKGROUND

Article II, Section 1, of the Texas Constitution, establishes the principle of separate departments of state government and prohibits a person exercising power in one of the three established departments, executive, legislative, and judicial, from exercising power in another department of state government, except as expressly permitted by the constitution.

The separation of powers statement has been present in every Texas constitution. The separation of powers statement in the 1836 Constitution of the Republic of Texas stated:

> The powers of the government shall be divided into three departments, viz.: legislative, executive, and judicial, which shall remain for ever separate and distinct. (Art. I, Sec. 1)

In the 1845 constitution, the provision was moved to Article II, Section 1, and was changed to its present form to include language providing that members of one department may not exercise powers belonging to another department except as expressly permitted by the constitution.

Although Article II, Section 1, of the current Texas Constitution divides the powers of government into three departments, it does not specify which powers are associated with each department. To determine which powers belong to which department, Article II, Section 1, must be read in conjunction with other constitutional provisions. Article III contains the provisions for the legislative department, Article IV the provisions of the executive department, and Article V the

provisions of the judicial department. Also, some powers belonging to each of these departments are not set out in the constitution but are inherently within or inferred from the powers granted by the constitution.

Without an expressly stated exception, Article II, Section 1, may prohibit the speaker of the house of representatives, a member of the legislative department, from serving as a member of an executive agency or committee. Even though the powers of the lieutenant governor are primarily legislative in nature through his service as president of the senate, the lieutenant governor is not similarly restricted because he is an executive officer listed in Article IV, Section 1.

Although the ballot proposition would indicate that a designee of the speaker may serve on an executive agency, the text of the proposed amendment limits eligibility to the speaker himself. The ballot proposition reflects the text of an earlier version of the resolution and through oversight was not changed to reflect the final text.

ARGUMENTS

FOR:

1. Appointing the speaker to an executive agency or committee allows the legislature to closely supervise the actions of an executive agency or committee in the implementation of legislative policy. A constitutional provision clearly allowing the speaker to serve on an executive agency or committee would allow for more coordination and cooperation in state government. The legislative department would be more informed about the policies and actions of the executive department through the presence of the speaker on an executive agency or committee.

2. It is a constitutional anomaly that allows the senate to be represented on executive agencies and committees through the lieutenant governor and yet forbids the house of representatives similar representation. This amendment would allow the equal houses of the legislature equal representation in these matters.

AGAINST:

1. The separation of powers provision in Article II, Section 1, was included in all Texas constitutions to prevent the concentration of powers, legislative, executive, and judicial, in any one department. The proposed constitutional amendment chips away at this principle and weakens constitutional checks and balances by allowing an officer of the legislative department to exercise powers constitutionally granted to the executive department.

2. The service of the lieutenant governor on executive agencies and committees does not unfairly discriminate against the house of representatives or the speaker. As a member of the house, the speaker is purely a legislative officer

elected from but one of 150 house districts. The lieutenant governor, on the other hand, is a statewide officer elected by all the voters of Texas; the lieutenant governor is not a member of the senate and has limited power to vote on legislation. The limited role of the lieutenant governor in legislative matters would be more than offset by the speaker's participation in executive matters.

AMENDMENT NO. 22

Senate Joint Resolution 53, proposing a constitutional amendment to allow the legislature to limit the authority of a governor to fill vacancies in state and district offices if the governor is not reelected. (SENATE AUTHOR: Chet Edwards; HOUSE SPONSOR: Ernestine Glossbrenner)

The proposed amendment to Article IV, Section 12, of the Texas Constitution authorizes the legislature to limit the term of a gubernatorial appointee to a vacancy in a state or district office to a partial, temporary term if the appointment is made on or after November 1 of the last year of the governor's term and the governor is not reelected.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment to allow the legislature to limit the authority of a governor to fill vacancies in state and district offices during the end of the governor's term if the governor is not reelected."

BACKGROUND

Under the Texas Constitution, a gubernatorial appointment to a vacant state or district office made when the legislature is not in session is subject to confirmation by the senate when the legislature next convenes. The senate may confirm or reject the appointment, or may take no action on the appointment, allowing the appointee to remain in office until the next legislative session. Since the interim between regular legislative sessions in Texas is more than 1-1/2 years, there are dozens, and perhaps hundreds, of interim gubernatorial appointments to be submitted to the senate when a regular session of the legislature convenes. Since a governor who does not run or who is defeated for reelection is not replaced by the incoming governor until after the beginning of the legislative session in January, the outgoing governor is allowed to submit his many interim appointments to the senate for confirmation.

In Texas, as in many other jurisdictions, appointments made by an outgoing governor have often resulted in controversy. On numerous occasions, the newly elected governor, on taking office, has requested the senate to refuse to confirm the appointments of the outgoing governor so that the new governor could nominate individuals of his own choosing. The senate may consent to that request and return an appointment to the new governor or may proceed to confirm the appointee of the governor's predecessor.

In 1983, in response to the controversy that arose when newly elected governor Mark White requested the senate to allow him to replace most of outgoing governor Bill Clements' interim appointees, the legislature enacted Article 19a, Vernon's

Texas Civil Statutes, which provides that appointments made on or after November 1 at the end of a lame-duck governor's term are effective only until the following February 1. Article 19a also provides that a lame-duck governor may not fill a vacancy at all that occurred before that November 1 if the governor does not make the appointment by November 1. This statute was intended to prevent "midnight" appointments by a lame-duck governor from extending into the term of the succeeding governor. The bill that enacted Article 19a also changed the terms of most boards and offices whose terms routinely ended during the lame-duck period so that those terms now expire after the new governor takes office, reducing the number of lame-duck vacancies to be filled.

Because the Texas Constitution provides for vacancies to be filled by the governor, it is not clear that the legislature has the authority to limit or restrict the governor's appointment power other than by giving the appointment power to an officer or entity other than the governor. The constitutional amendment proposed by S.J.R. 53 would clarify the legislature's authority to limit the duration of an appointment made by a lame-duck governor as provided by Article 19a. The proposed amendment does not address the provision of Article 19a that prohibits a lame-duck governor from filling a vacancy that occurred before November 1. The proposed amendment would also clarify, for purposes of limiting lame-duck appointments, that in addition to circumstances that clearly constitute a vacancy, such as the death, resignation, or removal of an officeholder, the creation of a new office or the end of a term of office constitutes a vacancy.

ARGUMENTS

FOR:

1. A retiring or defeated governor should not be allowed to extend his influence beyond his term by making last-minute appointments that may last many years after the lame-duck governor leaves office. The newly elected governor should be able to implement his policies and carry out the voters' mandates as soon as possible after taking office by filling those vacancies himself.

2. Restricting appointments made by a lame-duck governor will decrease the political turmoil that has resulted in the past when an incoming governor has requested the senate to refuse to confirm the appointments of the outgoing lame-duck governor, particularly when the incoming governor and the outgoing governor are from different political parties. Excessive time and energy spent dealing with the political complications created by lame-duck appointments interfere unnecessarily with the other business of the legislature.

3. The constitutional amendment is needed to clarify the validity of the existing statute limiting appointments by a lame-duck governor. Without the amendment, the existing statute is subject to challenge, casting additional confusion on an already controversial and troublesome situation.

AGAINST:

1. A governor should be allowed to carry out his policies until his term is finally over. The right of a governor to make appointments that last into the next governor's term was intended to prevent sudden extreme shifts in policy whenever a new governor takes office. Limiting the power of a lame-duck governor to make such appointments undermines this important check on the power of the new governor and prematurely disenfranchises the voters that elected the lame-duck governor.

2. Limitations on lame-duck appointments will not eliminate the political conflicts that occur when a new governor takes office, because most of the appointments of the previous governor that are sent to the senate for confirmation are made long before the lame-duck period of the previous governor's term. The proposed amendment and the statute limiting lame-duck appointments have no effect on those appointments. There is no compelling reason to treat the few lame-duck appointments differently from the others.

3. Under the current constitutional provision, the senate may refuse to confirm any appointment, lame-duck or not, that it considers unwise or better made by the new governor. Considering each appointment on its own merits, while slow and subject to political considerations, is preferable to arbitrarily cutting off all lame-duck appointments when the new governor takes office, no matter how qualified and desirable the person appointed by the previous governor is.

AMENDMENT NO. 23

Senate Joint Resolution 54, proposing a constitutional amendment to authorize the issuance of an additional $400 million of Texas Water Development Bonds for water supply, water quality, and flood control purposes. (SENATE AUTHOR: John Montford; HOUSE SPONSOR: Terral Smith)

This constitutional amendment would provide additional funding for various water projects throughout the state by adding Section 49-d-6 to Article III of the Texas Constitution, authorizing the issuance of an additional $400 million of Texas Water Development Bonds to provide funds for construction of water supply, water quality, and flood control projects.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment to authorize the issuance of an additional $400 million of Texas Water Development Bonds for water supply, water quality, and flood control purposes."

BACKGROUND

Since 1957, the state has funded numerous projects designed to meet the various water needs of the state through the issuance of Texas Water Development Bonds.

Since the beginning of the 30-year period when voters first authorized the issuance of Texas Water Development Bonds, increases in population and the use of water, the urbanization of many areas of the state, and the lack of expansion of available water supplies have placed a considerable and ever-increasing burden on the state to resolve its water problems. The diminishing participation of the federal government in funding water programs, coupled with the state's declining revenues necessary to fund fully all of its programs and the growing population and business community, have created a severe strain on the state's ability to meet the various water-related demands. In addition, through taxes and the issuance of bonded indebtedness, local governments also are under severe financial strain in meeting water problems.

In 1985, the voters made a commitment to state funding of water projects through the adoption of two constitutional amendments that not only authorized the issuance of additional water bonds but also expanded the purposes for which those bond proceeds would be used to include flood control projects.

As part of a program to assure that the state can meet its needs in many areas in the future, the legislature has proposed a constitutional amendment specifically directed at future state water needs. This constitutional amendment would do the following:

(1) Under Subsection (a) of proposed Section 49-d-6 of Article III of the Texas Constitution, the Texas Water Development Board would be authorized to issue an additional $400 million in Texas Water Development Bonds. From the proceeds of the sale of those bonds, $200 million would be used to fund water supply projects, $150 million would be used to fund water quality projects, and $50 million would be used to fund flood control projects.

(2) Under Subsection (b) of proposed Section 49-d-6 of Article III of the Texas Constitution, the legislature would maintain control and oversight over the issuance and use of proceeds of the bonds through the creation of a special committee designated by the legislature to review and approve bond activities.

(3) The Texas Water Development Board is directed to issue the additional bonds in the manner and under the laws governing other Texas Water Development Bonds pursuant to Subsection (c) of proposed Section 49-d-6 of Article III of the Texas Constitution.

(4) Other conditions and limitations provided by the constitution for Texas Water Development Bonds also apply to bonds under the proposed constitutional amendment.

ARGUMENTS

FOR:

1. An adequate, clean, and controlled water supply has been a key ingredient in making Texas a good place to live and work and in providing a growing and varied economy. The authorization of additional funding for water supply, water quality, and flood control projects is urgently needed to assure that the state and local governments will be able to continue to provide an adequate, clean, and controlled water supply to benefit the state's people and economy.

2. With the state's economy currently in a slump and the competition from other states to attract new and varied businesses and commercial enterprises, it is imperative that the state be able to continue to provide a varied water program that will adequately serve its citizens while at the same time provide an attractive economic climate that will encourage economic development and will act as an incentive to businesses and other commercial enterprises to choose Texas as a base of operations.

3. Time to experiment and to consider alternative approaches and proposals to meet the state's water needs has passed, and the voters have chosen to embark on a program of funding needed state water projects through the use of Texas Water Development Bonds. To assure that the state can maintain an adequate level of funding, it is necessary to adopt this amendment.

AGAINST:

1. Over the past 30 years, the state's voters have been asked to approve numerous bond issues to fund water projects, and the voters have approved substantial amounts of bonded debt, including $980 million in bonds in 1985. With more than a billion dollars in Texas Water Development Bonds already authorized, the state should have sufficient funds to provide necessary water projects without authorizing even more bonds.

2. At a time when the state is facing increasing needs for services in all areas and state revenues are being strained to meet all of these needs, the approval of an additional amount of bonds for financing water projects does not appear to be practical or necessary.

3. Although this proposal seeks to meet the state's continuing water needs, it does not assure that an adequate program or adequate funding will be available for the future and should be defeated so that the legislature can have time to evaluate and determine more carefully the long-range water needs of the state.

AMENDMENT NO. 24

House Joint Resolution 83, proposing a constitutional amendment to permit a county to perform work, without compensation, for another governmental entity. (HOUSE AUTHOR: Mark Stiles; SENATE SPONSOR: Bill Sims)

The proposed amendment would add Section 52g to Article III of the Texas Constitution. The new section authorizes a county to perform work, without charge, for other governmental entities in the county if the commissioners court of the county at an open meeting approves the performance of the work. At the meeting, the commissioners court must have determined that the performance of the work will not interfere with any work scheduled to be performed or reasonably expected to be performed by the county and must have determined the costs the county will incur in performing the work.

The description of the proposed constitutional amendment that will appear on the ballot is as follows: "The constitutional amendment to permit a county to perform work, without compensation, for another governmental entity."

BACKGROUND

Article III, Section 52, of the Texas Constitution provides in relevant part: ". . . 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 . . . ." This provision has been interpreted by the courts and the attorney general to prevent a political subdivision from gratuitously granting money or anything of value to another political subdivision.

If a county were to perform work, without charge, for another political subdivision located in the county, the county would violate Article III, Section 52. Thus, a constitutional amendment authorizing a county to engage in this kind of work is necessary.

ARGUMENTS

FOR:

1. If a county has employees and equipment that are not needed at a particular moment by the county, such as employees and equipment used in road construction and maintenance, the public interest is best served by allowing the county to use the employees and equipment to help other governmental entities in their projects. Efficient use of manpower is promoted, projects are completed

sooner, and financial burdens on governmental entities are kept at a minimum. Without this amendment, those temporarily unneeded county employees and equipment would simply remain idle.

2. The decision of the county regarding whether to provide the assistance to other governmental entities must be made in an open meeting. The opportunity of the public to scrutinize the actions taken in open meeting is sufficient to protect against the county abusing the authority that would be granted by the proposed amendment.

AGAINST:

1. In these difficult financial times, county government is not in a position to become the charitable benefactor of other governmental entities. If the county performs work for other entities, the county should expect to be paid fair compensation for the work.

2. The proposed amendment should impose more safeguards to ensure that the free help provided by the county is not abused. For example, the governmental entity requesting the help should be required to show that it is financially incapable of paying for the help.

AMENDMENT NO. 25

Senate Joint Resolution 5, 2nd Called Session, proposing a constitutional amendment authorizing the legislature to expand the services provided by the Amarillo Hospital District to include certain residents of Randall County, authorizing Randall County to provide financial assistance to the district, and authorizing certain hospital districts to change their boundaries or jurisdiction with voter approval. (SENATE AUTHOR: Bill Sarpalius; HOUSE SPONSOR: John Smithee)

The proposed amendment would amend Article IX, Section 5, of the Texas Constitution. The amendment would authorize the legislature to permit Randall County to render financial assistance to the Amarillo Hospital District and to permit the Amarillo Hospital District to serve Randall County residents who are not served by another district. The amendment also authorizes hospital districts whose boundaries or jurisdiction are described in the constitution to change the boundaries or jurisdiction without the necessity of a constitutional amendment.

The description of the proposed amendment that will appear on the ballot is as follows: "The constitutional amendment authorizing the legislature to permit the Amarillo Hospital District to serve certain residents of Randall County, to authorize Randall County to provide financial assistance to the district, and to authorize certain hospital districts to change their boundaries or jurisdiction with voter approval."

BACKGROUND

Article IX, Section 5, of the Texas Constitution authorized the creation of the Amarillo Hospital District. The district's boundaries are coextensive with the boundaries of the city of Amarillo and therefore cover part of both Potter and Randall counties. The constitutional provision also authorizes Potter County to render financial assistance to the district, and with the voters' approval, to levy an ad valorem tax for that purpose in an amount not to exceed 10 cents on the $100 valuation on all property in Potter County that is not within the boundaries of the city of Amarillo. In return, the Amarillo Hospital District provides services to the residents of Potter County.

Parts of Randall County currently receive services from the Amarillo and South Randall County hospital districts. However, part of Randall County is not included in a hospital district. The constitutional amendment would allow that part of Randall County that is not within the boundaries of a district to receive services from the Amarillo Hospital District. Randall County would be authorized to render financial assistance to the district and to levy a tax for that purpose of not more than 75 cents

on the $100 valuation on all property in Randall County that is not within the boundaries of the Amarillo or South Randall County hospital districts. In return, the Amarillo Hospital District will assume the responsibilities, obligations, and liabilities of Randall County to provide medical and hospital care to the needy residents of Randall County who are not served by another district.

The amendment also requires Randall County to deposit in the state treasury $45,000 to reimburse the state for the cost of publishing the resolution required by the amendment. Finally, the amendment provides that if a hospital district was created or authorized under a constitutional amendment that includes a description of the district's boundaries or jurisdiction, the legislature, with the approval of the district's voters, may change a district's boundaries or jurisdiction without the necessity of another constitutional amendment.

ARGUMENTS

FOR:

1. Currently, three governmental entities (Randall County, the Amarillo Hospital District, and the South Randall County Hospital District) are responsible for serving different residents of Randall County. By permitting the Amarillo Hospital District to assume responsibility for serving the residents not served by the South Randall County district, responsibility will be consolidated and this may result in a savings to the county.

2. The provision allowing the legislature to change the boundaries or jurisdiction of certain hospital districts without the necessity of a constitutional amendment will permit various local hospital districts to change and meet local needs more easily.

AGAINST:

1. Randall County may be able to accomplish the same goals without a constitutional amendment by contracting with the Amarillo Hospital District to provide services to residents.

2. Under the Indigent Health Care and Treatment Act, Randall County is required to provide certain prescribed services to eligible county residents who are not served by the Amarillo or South Randall County hospital districts. The Indigent Health Care and Treatment Act does not govern hospital districts, and if the Amarillo Hospital District assumes responsibility for those Randall County residents there is no guarantee that the residents will receive the same services the county is required to provide.

ANALYSES OF REFERENDA

REFERENDUM PROPOSITION NO. 1

To determine whether members of the State Board of Education will continue to be appointed by the governor or will be elected by the voters, the 70th Legislature, 2nd Called Session, 1987, enacted Senate Bill 86 (SENATE AUTHOR: Carl Parker; HOUSE SPONSOR: Bill Hammond). The Act provides for this determination by statewide referendum. Approval of the referendum proposition will result in the appointment from districts instead of election of members of the State Board of Education.

The referendum proposition that will appear on the ballot is as follows: "The State Board of Education shall be composed of members who are appointed from districts instead of elected, with equal representation from throughout the State of Texas."

BACKGROUND

The State Board of Education is composed of one member from each of 15 districts. The boundaries of the districts are drawn to provide equal representation on the board throughout the state. Members serve for terms of four years. Before 1984, members of the board were elected from congressional districts. House Bill 72, the education reform legislation enacted in 1984, abolished the State Board of Education as it existed in 1984, provided for the appointment of a transitional board to serve until January 1, 1989, with appointments to the board made by the governor from among persons recommended by the Legislative Education Board, and required the return to an elected board beginning with the general election in November 1988.

If the referendum proposition in Senate Bill 86 is adopted, provisions of Senate Bill 86 will take effect that provide for the appointment, rather than election, of the State Board of Education after the expiration of the terms of the current appointed board members. The governor with the consent of the senate will appoint persons nominated by the Legislative Education Board. The Legislative Education Board, which is composed of 10 members, including the lieutenant governor, the speaker of the house of representatives, the chairmen of the committees of House Public Education, Senate Education, House Appropriations, and Senate Finance, two state representatives appointed by the speaker, and two senators appointed by the lieutenant governor, will nominate three persons for each appointment to be made.

ARGUMENTS

FOR:

1. Many of the persons in the state who are best qualified to serve on the State Board of Education, including current board members, are not willing to engage in politics to the extent necessary to wage a successful campaign. Our schools will

be better served if the members are allowed to concentrate on the best course for public education in our state rather than tangential political matters, such as the influence of special interest groups, that will affect the next campaign in their district.

2. An appointed board would provide greater continuity in the administration of state legislation and policy concerning public education, especially the reforms initiated in 1984. Additionally, continuity on the board is needed to deal with the revision of the state's system of public education finance made necessary by an order entered by a state district judge this year in a case in which the judge found the current finance system to be unconstitutional.

AGAINST:

1. The members of the State Board of Education should be elected to allow voters to decide who will represent them at the state level in the decisions that are made that affect their school districts and their children. In 1984, voters were promised a return to an elected board in 1988 and that promise should be kept.

2. Enough time has passed since the enactment of the 1984 reforms for the voters to now judge when a change in board membership is in order. Additionally, continuity is neither ensured by the appointment of the board's members nor necessarily prevented by their election. While electoral politics has its negative aspects, the appointment process suffers from similar problems of partisanship and patronage.

3. Assuming that the need for continuity on the board is a short-term need rather than a long-term need, legislation that extended the time period during which the board is to be appointed before resumption of elections would have been preferable to a permanent change to an appointed board.

REFERENDUM PROPOSITION NO. 2

The Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) was enacted by the 69th Legislature, 2nd Called Session, 1986, in S.B. 15 (SENATE AUTHOR: O. H. (Ike) Harris; HOUSE SPONSOR: Hugo Berlanga). The Act authorizes greyhound racing and horse racing in this state on a county-by-county local option basis and creates the Texas Racing Commission to supervise racing in this state. Before pari-mutuel wagering may be conducted in conjunction with greyhound or horse racing, Article 17 of the Texas Racing Act requires a statewide referendum on the legalization of pari-mutuel wagering. The majority of the votes cast at the referendum must favor pari-mutuel wagering before racing with pari-mutuel wagering may be conducted in this state.

The referendum proposition that will appear on the ballot is as follows: "The legalization of pari-mutuel wagering under the Texas Racing Act on a county-by-county local option basis."

BACKGROUND

The adoption of the Texas Racing Act is the latest installment in the history of racing in this state. Before 1903, betting on horse racing was legal in Texas. The 28th Legislature prohibited wagering on races in that year. In 1905, the 29th Legislature legalized racing with wagering, but that law was repealed by the 31st Legislature in 1909 because of concerns relating to gambling.

During the Depression, the 43rd Legislature legalized horse racing with wagering once again and created a racing commission to encourage the development of Texas agriculture and the horse-breeding industry. The 45th Legislature repealed that law in 1937, and also prohibited wagering on dog races.

Because of the controversial nature of the legislation, the 69th Legislature has required the question of the legalization of pari-mutuel wagering to be submitted to the voters at a statewide referendum before racing with pari-mutuel wagering may take effect. If the voters favor the legalization of pari-mutuel wagering through the statewide referendum, horse racing with pari-mutuel wagering will be authorized under the jurisdiction of the Texas Racing Commission in each county that has approved pari-mutuel wagering at a local option election conducted in the county. Greyhound racing also requires a local option election and is further limited to certain coastal counties.

ARGUMENTS

FOR:

1. The authorization of pari-mutuel wagering on horse racing and greyhound racing will create a new industry in this state, will encourage agriculture through the expansion of the horse-breeding and dog-breeding industries, and will result in increased diversification of the Texas economy. Racing with pari-mutuel wagering should also have a positive impact on the tourism industry in this state. Jobs will be created both by the new industries and by the expansion of existing industries.

2. Fees and other receipts collected by the state and by local governments will constitute a new, nontax source of revenue available to finance the services provided to the citizens of this state by the state and by local governments.

AGAINST:

1. Pari-mutuel wagering has been authorized by the legislature of this state before. Each time the legislature has adopted legislation to authorize racing with pari-mutuel wagering it has repealed that legislation because of the adverse impacts to the state caused by increased crime and the harm imposed on certain citizens of the state by gambling. The state should not sanction an activity that may cause more harm than benefit to its citizens.

2. The racing industry has been touted as a source of additional revenue to the state. However, the legalization of racing with pari-mutuel wagering has inherent costs that will undercut the amount of revenue realized by the state. The creation of a new state agency to regulate racing and the probable need for increased law enforcement programs to control the potential for criminal activities related to the racing industry will require the expenditure of state funds and will increase the state bureaucracy.

APPENDIX

Text of Resolutions Proposing Amendments

AMENDMENT NO. 1

HOUSE AUTHOR: Dick Waterfield H.J.R. No. 104
SENATE SPONSOR: H. Tati Santiesteban

A JOINT RESOLUTION

proposing a constitutional amendment relating to the establishment of a self-insurance pool for grain storage facilities and permitting the use of public funds as surety.

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

SECTION 1. Article III of the Texas Constitution is amended by adding Section 50-e to read as follows:

Sec. 50-e. (a) For the purposes of providing surety for the Texas grain warehouse self-insurance fund, the legislature by general law may establish or provide for a guarantee of the fund not to exceed $5 million.

(b) At the beginning of the fiscal year after the fund reaches $5 million, as certified by the comptroller of public accounts, the guarantee of the fund shall cease and this provision shall expire.

(c) Should the legislature enact any enabling laws in anticipation of this amendment, no such law shall be void by reason of its anticipating nature.

(d) If the provisions of this section conflict with any other provisions of this constitution, the provisions of this section shall prevail.

SECTION 2. This proposed amendment shall be submitted to the voters at an election to be held November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to provide for the surety of a grain warehouse fund to be established by the grain industry for the protection of farmers and depositors of grain in public warehouse facilities."

AMENDMENT NO. 2

HOUSE AUTHOR: Bob Leonard, Jr. H.J.R. No. 60
SENATE SPONSOR: Bob Glasgow

A JOINT RESOLUTION

proposing a constitutional amendment to raise the maximum property tax rate that may be adopted by certain rural fire prevention districts after an election.

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

SECTION 1. Article III, Section 48-d, of the Texas Constitution is amended to read as follows:

Sec. 48-d. (a) The Legislature shall have the power to provide for the establishment and creation of rural fire prevention districts and to authorize a tax on the ad valorem property situated in said districts not to exceed Three (3¢) Cents on the One Hundred ($100.00) Dollars valuation for the support thereof; provided that no tax shall be levied in support of said districts until approved by vote of the people residing therein.

(b) Notwithstanding Subsection (a) of this section, a rural fire prevention district located wholly or partly in a county with a population of more than 400,000, according to the most recent federal census, may, if approved by vote of the people residing therein, levy a tax on the ad valorem property located in the district at a rate not to exceed Six (6¢) Cents on the One Hundred ($100.00) Dollars valuation.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to raise the maximum property tax rate that may be adopted by certain rural fire prevention districts, but only if approved by the districts' residents."

AMENDMENT NO. 3

HOUSE AUTHOR: Stan Schlueter H.J.R. No. 48
SENATE SPONSOR: Grant Jones

A JOINT RESOLUTION

proposing a constitutional amendment to limit school tax increases on the residence homestead of the surviving spouse of an elderly person.

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

SECTION 1. Article VIII, Section 1-b, Subsection (d), of the Texas Constitution is amended to read as follows:

(d) Except as otherwise provided by this subsection, if a person receives the residence homestead exemption prescribed by Subsection (c) of this section for homesteads of persons sixty-five (65) years of age or older, the total amount of ad valorem taxes imposed on that homestead for general elementary and secondary public school purposes may not be increased while it remains the residence homestead of that person or that person's spouse who receives the exemption. If a person sixty-five (65) years of age or older dies in a year in which the person received the exemption, the total amount of ad valorem taxes imposed on the homestead for general elementary and secondary public school purposes may not be increased while it remains the residence homestead of that person's surviving spouse if the spouse is fifty-five (55) years of age or older at the time of the person's death, subject to any exceptions provided by general law. However, [~~those~~] taxes otherwise limited by this subsection may be increased to the extent the value of the homestead is increased by improvements other than repairs or improvements made to comply with governmental requirements.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to limit school tax increases on the residence homestead of the surviving spouse of an elderly person if the surviving spouse is at least 55 years of age."

AMENDMENT NO. 4

HOUSE AUTHOR: Ashley Smith H.J.R. No. 5
SENATE SPONSOR: Bob Glasgow

A JOINT RESOLUTION

proposing a constitutional amendment authorizing the legislature to provide assistance to encourage economic development in the state.

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

SECTION 1. Article III of the Texas Constitution is amended by adding Section 52-a to read as follows:

Sec. 52-a. Notwithstanding any other provision of this constitution, the legislature may provide for the creation of programs and the making of loans and grants of public money, other than money otherwise dedicated by this constitution to use for a different purpose, for the public purposes of development and diversification of the economy of the state, the elimination of unemployment or underemployment in the state, the stimulation of agricultural innovation, the fostering of the growth of enterprises based on agriculture, or the development or expansion of transportation or commerce in the state. Any bonds or other obligations of a county, municipality, or other political subdivision of the state that are issued for the purpose of making loans or grants in connection with a program authorized by the legislature under this section and that are payable from ad valorem taxes must be approved by a vote of the majority of the registered voters of the county, municipality, or political subdivision voting on the issue. An enabling law enacted by the legislature in anticipation of the adoption of this amendment is not void because of its anticipatory character.

SECTION 2. This proposed amendment shall be submitted to the voters at an election to be held November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the legislature to provide assistance to encourage economic development in the state."

AMENDMENT NO. 5

HOUSE AUTHOR: David Cain H.J.R. No. 65
SENATE SPONSOR: John Montford

A JOINT RESOLUTION

proposing a constitutional amendment in aid of turnpikes, toll roads, and toll bridges.

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

SECTION 1. Article III, Section 52-b, of the Texas Constitution is amended to read as follows:

Sec. 52-b. (a) The Legislature shall have no power or authority to in any manner lend the credit of the State or grant any public money to, or assume any indebtedness, present or future, bonded or otherwise, of any individual, person, firm, partnership, association, corporation, public corporation, public agency, or political subdivision of the State, or anyone else, which is now or hereafter authorized to construct, maintain or operate toll roads and turnpikes within this State; provided, however, in addition to the existing powers of the State Department of Highways and Public Transportation (the "Department") and the Texas Turnpike Authority (the "Authority") to contract with respect to joint highway projects, the Department may enter into agreements with the Authority whereby the Department or the State of Texas may contribute money, from any source available, to the costs of turnpikes, toll roads, or toll bridges of the Authority.

(b) Notwithstanding the provisions of this or any other section of this constitution (including particularly, but not by way of limitation, Article III, Section 52) or other provision of law, and as additional powers and authority, the commissioners court of each county with a population of more than 400,000 according to the most recent federal census, or of any counties adjoining any such county, or the governing body of a city or defined district located wholly or partially in any of those counties, may, on approval of a majority of the qualified voters of the county, city, or district voting at an election called for that purpose by the commissioners court or the governing body, cause to be assessed and collected and may levy and pledge for the purposes of this subsection a separate and special annual ad valorem tax on all taxable property in the county, city, or district. The tax may be levied in addition and without regard to other taxes and without limit as to rate or amount, or within any designated limits, so that sufficient revenue is produced to pay all or any part of the principal of and interest on the bonds issued by the Texas Turnpike Authority or all or any part of the maintenance and operation expenses of projects located wholly or partially in the county, city, or district, to the

extent that the net operating revenues of the Authority pledged to the payment of the bonds and/or maintenance and operation expenses are not adequate to pay when due all or any part of the principal and interest or maintenance and operation expenses. An election under this subsection shall be conducted in the same manner as bond elections of the county, city, or district and may designate any limits in the rate or amount of taxes. The commissioners court or governing body may make and enter into agreements with the Authority or each other and may make and enter into any other covenants and agreements with a trustee or otherwise as it determines advisable to exercise the foregoing powers. Because all other matters relating to the issuance of bonds and the levy and collection of taxes authorized by this subsection are subject to Chapter 410, Acts of the 53rd Legislature, Regular Session, 1953 (Article 6674v, Vernon's Texas Civil Statutes), and to other laws, this subsection is self-executing and requires no enabling legislation. Should the Legislature, however, enact enabling laws in anticipation of the adoption of this amendment, such Acts shall not be void by reason of their anticipatory nature.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing agreements between the State Department of Highways and Public Transportation and the Texas Turnpike Authority and the governing bodies of counties with a population of more than 400,000, adjoining counties, and cities and districts located in those counties to aid turnpikes, toll roads, and toll bridges by guaranteeing bonds issued by the Texas Turnpike Authority."

AMENDMENT NO. 6

HOUSE AUTHOR: Paul Colbert H.J.R. No. 4
SENATE SPONSOR: Bob Glasgow

A JOINT RESOLUTION

proposing a constitutional amendment authorizing the legislature to provide for the issuance of bonds and state financing of development and production of Texas products and businesses.

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

SECTION 1. Article XVI of the Texas Constitution is amended by adding Section 72 to read as follows:

Sec. 72. (a) The legislature by law may establish a Texas product development fund to be used without further appropriation solely in furtherance of a program established by the legislature to aid in the development and production of new or improved products in this state. The fund shall contain a program account, an interest and sinking account, and other accounts authorized by the legislature. To carry out the program authorized by this subsection, the legislature may authorize loans, loan guarantees, and equity investments using money in the Texas product development fund and the issuance of up to $15 million of general obligation bonds to provide initial funding of the Texas product development fund. The Texas product development fund is composed of the proceeds of the bonds authorized by this subsection, loan repayments, guarantee fees, royalty receipts, dividend income, and other amounts received by the state from loans, loan guarantees, and equity investments made under this subsection and any other amounts required to be deposited in the Texas product development fund by the legislature.

(b) The legislature by law may establish a Texas small business incubator fund to be used without further appropriation solely in furtherance of a program established by the legislature to foster and stimulate the development of small businesses in the state. The fund shall contain a project account, an interest and sinking account, and other accounts authorized by the legislature. A small business incubator operating under the program is exempt from ad valorem taxation in the same manner as an institution of purely public charity under Article VIII, Section 2, of this constitution. To carry out the program authorized by this subsection, the legislature may authorize loans and grants of money in the Texas small business incubator fund and the issuance of up to $10 million of general obligation bonds to provide initial funding of the Texas small business incubator fund. The Texas small business incubator fund is composed of the proceeds of the bonds authorized by

this subsection, loan repayments, and other amounts received by the state for loans or grants made under this subsection and any other amounts required to be deposited in the Texas small business incubator fund by the legislature.

(c) The legislature by law may establish a Texas agricultural fund to be used without further appropriation solely in furtherance of a program established by the legislature to foster and stimulate the production, processing, and marketing of agricultural crops and products grown or produced primarily in Texas by small agricultural businesses domiciled in Texas. The fund shall contain a program account, an interest and sinking account, and other accounts authorized by the legislature. To carry out the program authorized by this subsection, the legislature may authorize issuance of general obligation bonds in the amount of $100 million outstanding at one time, and financial assistance including, among other things, loan guarantees, insurance, coinsurance, direct or indirect loans, or purchases or acceptances of loans or other obligations. The Texas agricultural fund is composed of the proceeds of the bonds authorized by this subsection, loan repayments, and other amounts received by the state for loans made under this subsection, and any other amounts deposited in the Texas agricultural fund by the legislature or other parties.

(d) The legislature may require review and approval of the issuance of bonds under this section, of the use of the bond proceeds, or of the rules adopted by an agency to govern use of the bond proceeds. Notwithstanding any other provision of this constitution, any entity created or directed to conduct this review and approval may include members, or appointees of members, of the executive, legislative, and judicial departments of state government.

(e) Bonds authorized under this section constitute a general obligation of the state. While any of the bonds or interest on the bonds is outstanding and unpaid, there is appropriated out of the first money coming into the treasury in each fiscal year, not otherwise appropriated by this constitution, the amount sufficient to pay the principal of and interest on the bonds that mature or become due during the fiscal year, less any amount in any interest and sinking account at the end of the preceding fiscal year that is pledged to payment of the bonds or interest.

SECTION 2. This proposed amendment shall be submitted to the voters at an election to be held November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the legislature to provide for state financing of the development and production of Texas products and businesses."

AMENDMENT NO. 7

SENATE AUTHOR: Hugh Parmer S.J.R. No. 55
HOUSE SPONSOR: Mark Stiles

SENATE JOINT RESOLUTION

proposing a constitutional amendment providing for the issuance of general obligation bonds to finance certain local public facilities.

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

SECTION 1. Article III of the Texas Constitution is amended by adding Section 49-i to read as follows:

Sec. 49-i. (a) The legislature by general law may provide for the issuance of up to $400 million in general obligation bonds and the use of the bond proceeds to establish a local project fund in the State Treasury to be used without further appropriation for:

(1) making loans to local governments to finance the cost of acquisition, construction, repair, renovation, and equipping of public facilities; and

(2) making grants to local governments for use in planning and design of public facilities under Subdivision (1) of this subsection.

(b) Proceeds of the bonds may also be used to pay the expenses of issuance of the bonds and, together with any other available money in the local project fund, to pay the principal of and interest on or to discharge or redeem in whole or part any outstanding general obligation bonds issued under this section. The local project fund is composed of proceeds of the bonds authorized by this section, income from investment of money in the fund, amounts received as repayments of financial assistance provided from money in the fund, and other money authorized by the legislature to be deposited in the fund.

(c) The local project fund must contain program accounts, an interest and sinking account, a reserve account, and other accounts authorized by the legislature. The principal of and interest on the bonds shall be paid out of the money in the interest and sinking account. The money in the fund that is not immediately committed to the payment of the principal of and interest on bonds, the provision of financial assistance, or the payment of expenses as provided by this section may be invested and reinvested as provided by law until the money is needed for those purposes.

(d) The legislature may require review and approval of the issuance of the bonds, of the use of the bond proceeds, or of rules adopted by an agency to govern use of the bond proceeds. Notwithstanding any other provision of this constitution,

any entity created or directed to conduct this review and approval may include members or appointees of members of the executive, legislative, and judicial departments of state government.

(e) Money deposited in the local project fund from repayments of financial assistance, determined as provided by law not to be required for the payment of the principal of and interest on the bonds under this section, may be used, to the extent not inconsistent with the proceedings authorizing the bonds, to pay the principal of and interest on revenue bonds issued for the purposes of providing money for financial assistance in accordance with the public purposes stated by this section. The revenue bonds are special obligations payable only from those fund receipts and other revenues pledged to the retirement of the revenue bonds and do not constitute indebtedness of the state. The amount of revenue bonds issued may not exceed an aggregate principal amount that can be fully retired from those fund receipts and other pledged revenues. The revenue bonds shall be issued in the form and denominations, on the terms, at the times and places, and in installments as provided by law.

(f) While any of the bonds or interest on the general obligation bonds is outstanding and unpaid, there is appropriated out of the first money coming into the treasury in each fiscal year, not otherwise appropriated by this constitution, the amount sufficient to pay the principal of and interest on the bonds that mature or become due during the fiscal year, less any amount in the interest and sinking account at the end of the preceding fiscal year that is pledged to payment of the bonds or interest.

SECTION 2. This proposed amendment shall be submitted to the voters at an election to be held November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment providing for the issuance of general obligation bonds to finance certain local public facilities."

AMENDMENT NO. 8

SENATE AUTHOR: Bob McFarland S.J.R. No. 56
HOUSE SPONSOR: A. M. (Bob) Aikin III

SENATE JOINT RESOLUTION

proposing a constitutional amendment providing for the issuance of general obligation bonds for certain construction projects.

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

SECTION 1. Article III of the Texas Constitution is amended by adding Section 49-h to read as follows:

Sec. 49-h. (a) The legislature may authorize the issuance of up to $500 million in general obligation bonds and the use of the bond proceeds for acquiring, constructing, or equipping new facilities or for major repair or renovation of existing facilities of corrections institutions, including youth corrections institutions, and mental health and mental retardation institutions. The legislature may require the review and approval of the issuance of the bonds and the projects to be financed by the bond proceeds. Notwithstanding any other provision of this constitution, the issuer of the bonds or any entity created or directed to review and approve projects may include members or appointees of members of the executive, legislative, and judicial departments of state government.

(b) Bonds issued under this section constitute a general obligation of the state. While any of the bonds or interest on the bonds is outstanding and unpaid, there is appropriated out of the first money coming into the treasury in each fiscal year, not otherwise appropriated by this constitution, the amount sufficient to pay the principal of and interest on the bonds that mature or become due during the fiscal year, less any amount in any sinking fund at the end of the preceding fiscal year that is pledged to payment of the bonds or interest.

SECTION 2. This proposed amendment shall be submitted to the voters at an election to be held November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the issuance of general obligation bonds for projects relating to corrections institutions and mental health and mental retardation facilities."

AMENDMENT NO. 9

SENATE AUTHOR: J. E. (Buster) Brown S.J.R. No. 9
HOUSE SPONSOR: Ashley Smith

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the eligibility of a member of the legislature for another office.

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

SECTION 1. Article III, Section 18, of the Texas Constitution is amended to read as follows:

Sec. 18. (a) No Senator or Representative shall, during the term for which he was elected, be eligible to [~~(1)~~] any civil office of profit under this State which shall have been created[~~, or the emoluments of which may have been increased,~~] during such term[~~, or (2) any office or place, the appointment to which may be made, in whole or in part, by either branch of the Legislature~~]; provided, however, the fact that the term of office of Senators and Representatives does not end precisely on the last day of December but extends a few days into January of the succeeding year shall be considered as de minimis, and the ineligibility herein created shall terminate on the last day in December of the last full calendar year of the term for which he was elected.

(b) If a person who served in the Legislature enters into a civil office of profit the emoluments of which are increased by the Legislature during the legislative term to which the person was elected, the person is not entitled to receive the increase in emoluments of the civil office as long as the increase authorized by the Legislature to which the person was elected is in effect. This subsection does not prohibit a person who served in the Legislature from receiving an increase in the emoluments of the civil office adopted by a subsequent Legislature.

(c) No member of [~~either House shall vote for any other member for any office whatever, which may be filled by a vote of the Legislature, except in such cases as are in this Constitution provided, nor shall any member of~~] the Legislature shall be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the term for which he was elected.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment

to provide that a member of the legislature is eligible to be elected or appointed and to serve in a different state office but may not receive an increase in compensation granted to that office during the legislative term to which he was elected."

AMENDMENTS NO. 10 AND NO. 11

SENATE AUTHOR: Bob McFarland S.J.R. No. 12
HOUSE SPONSOR: Hugo Berlanga

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the exemption from ad valorem taxation of certain tangible personal property located in the state.

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

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

Sec. 1. (a) Taxation shall be equal and uniform.

(b) All real property and tangible personal property in this State, unless exempt as required or permitted by this Constitution, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law.

(c) The Legislature may provide for the taxation of intangible property and may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. It may also tax incomes of both natural persons and corporations other than municipal, except that persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax.

(d) The Legislature by general law shall exempt from ad valorem taxation household goods not held or used for the production of income and personal effects not held or used for the production of income. The [~~, and the~~] Legislature by general law may exempt from ad valorem taxation:

(1) all or part of the personal property homestead of a family or single adult, "personal property homestead" meaning that personal property exempt by law from forced sale for debt; and

(2) subject to Subsection (e) of this section, all other tangible personal property, except structures which are personal property and are used or occupied as residential dwellings and except property held or used for the production of income.

(e) The governing body of a political subdivision may provide for the taxation of all property exempt under a law adopted under Subdivision (2) of Subsection (d) of this section and not exempt from ad valorem taxation by any other law.

(f) To promote economic development in the State, tangible personal property consisting of goods, wares, merchandise, or ores, other than oil, gas, and other petroleum products, is exempt from ad valorem taxation if:

(1) the property is transported from outside this State into this State to be forwarded outside this State, whether or not the intention to forward the property outside this State was formed, or the destination outside this State to which the property is forwarded was specified when the transportation of the property into this State began;

(2) the property is detained in this State for assembling, storing, manufacturing, processing, or fabrication purposes; and

(3) the property is not located or retained in this State for more than 175 days.

(g) Tangible personal property exempted from taxation in Subsection (f) of this section is subject to the following:

(1) A county, school district, or municipality, including a home-rule city, may tax such property, located in such political subdivision, if the governing body of such named political subdivision takes official action to provide for the taxation of all or a stated percentage of the appraised value of such property.

(2) The above official action to tax all or a percentage of the appraised value of such property must be taken by the governing body of such above named political subdivisions either before January 1, 1988, or before April 1, 1988. If such official action is taken before January 1, 1988, it shall be effective for the tax year 1988. However, if such official action is taken prior to April 1, 1988, but after January 1, 1988, the official action shall not become effective until January 1, 1989.

(3) If official action is taken to tax a stated percentage of the appraised value of such property, subject to this subsection, such property shall not thereafter be taxed by any above named political subdivisions at a higher percentage of the appraised value than was set in such official action. However, any such named political subdivisions may reduce such stated percentage of appraised value thereafter by official action.

(4) Any of the above named political subdivisions shall have the authority to exempt from the payment of taxation on such property located in such above named political subdivisions for the taxing year 1987.

(5) Any official action to tax such property may be rescinded by official action of any of such above named political subdivisions. In that event, such property located in such rescinding county, school district, or municipality shall be exempt from taxation in such above named political subdivision in each tax year beginning thereafter and, if the governing body of such above named political subdivision so provides, in the tax year of such action[~~, from ad valorem taxation~~].

(h) The occupation tax levied by any county, city or town for any year on persons or corporations pursuing any profession or business, shall not exceed one half of the tax levied by the State for the same period on such profession or business.

SECTION 2. (a) The proposed constitutional amendments to Article VIII, Section 1, Subsections (d) and (e), shall be submitted to the voters in a separate ballot at an election to be held on November 3, 1987. This ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to allow the legislature to exempt from ad valorem taxation certain personal property not held or used for the production of income."

(b) The proposed constitutional amendment contained in Article VIII, Section 1, Subsections (a), (b), (c), (f), (g), and (h), shall be submitted to the voters in a separate ballot at an election to be held on November 3, 1987. This ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment providing for the exemption from ad valorem taxation of certain property that is located in the state for only a temporary period of time."

AMENDMENT NO. 12

SENATE AUTHOR: Kent Caperton S.J.R. No. 35
HOUSE SPONSOR: Nicolas Perez

SENATE JOINT RESOLUTION

proposing a constitutional amendment to permit spouses to hold community property with right of survivorship.

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

SECTION 1. Article XVI, Section 15, of the Texas Constitution is amended to read as follows:

Sec. 15. All property, both real and personal, of a spouse owned or claimed before marriage, and that acquired afterward by gift, devise or descent, shall be the separate property of that spouse; and laws shall be passed more clearly defining the rights of the spouses, in relation to separate and community property; provided that persons about to marry and spouses, without the intention to defraud pre-existing creditors, may by written instrument from time to time partition between themselves all or part of their property, then existing or to be acquired, or exchange between themselves the community interest of one spouse or future spouse in any property for the community interest of the other spouse or future spouse in other community property then existing or to be acquired, whereupon the portion or interest set aside to each spouse shall be and constitute a part of the separate property and estate of such spouse or future spouse; [~~and the~~] spouses also may from time to time, by written instrument, agree between themselves that the income or property from all or part of the separate property then owned [~~by one of them,~~] or which thereafter might be acquired by only one of them, shall be the separate property of that spouse; [~~and~~] if one spouse makes a gift of property to the other that gift is presumed to include all the income or property which might arise from that gift of property; and spouses may agree in writing that all or part of their community property becomes the property of the surviving spouse on the death of a spouse.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment permitting spouses to hold community property with right of survivorship."

AMENDMENT NO. 13

SENATE AUTHOR: Roy Blake S.J.R. No. 27
HOUSE SPONSOR: Barry Connelly

SENATE JOINT RESOLUTION

proposing a constitutional amendment authorizing the creation of emergency medical services districts and authorizing those districts to levy an ad valorem tax on property located in the district.

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

SECTION 1. Article III of the Texas Constitution is amended by adding Section 48-e to read as follows:

Sec. 48-e. Laws may be enacted to provide for the establishment and creation of special districts to provide emergency services and to authorize the commissioners courts of participating counties to levy a tax on the ad valorem property situated in said districts not to exceed Ten Cents (10¢) on the One Hundred Dollars ($100.00) valuation for the support thereof; provided that no tax shall be levied in support of said districts until approved by a vote of the qualified electors residing therein. Such a district may provide emergency medical services, emergency ambulance services, rural fire prevention and control services, or other emergency services authorized by the Legislature.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to allow for the creation and establishment, by law, of special districts to provide emergency services."

AMENDMENT NO. 14

SENATE AUTHOR: John Montford S.J.R. No. 34
HOUSE SPONSOR: James Hury, Jr.

SENATE JOINT RESOLUTION

proposing a constitutional amendment giving the state a limited right to appeal in criminal cases.

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

SECTION 1. Article V, Section 26, of the Texas Constitution is amended to read as follows:

Sec. 26. The State is entitled to [~~shall have no right of~~] appeal in criminal cases, as authorized by general law.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment giving the state a limited right to appeal in criminal cases."

(g) The office of County Treasurer in Nueces County is abolished and all powers, duties, and functions of this office are transferred to the County Clerk. However, the office of County Treasurer in Nueces County is abolished under this subsection only if, at the statewide election at which this amendment is submitted to the voters, a majority of the voters of Nueces County voting on the question at that election favor the amendment. The office of County Treasurer of Nueces County is abolished on January 1, 1988, if the conditions of this subsection are met. If that office in Nueces County is not abolished, this subsection expires on January 1, 1988.

SECTION 2. This proposed amendment shall be submitted to the voters at an election to be held on November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to provide for the abolition of the office of county treasurer in Gregg, Fayette, and Nueces counties."

AMENDMENT NO. 16

SENATE AUTHOR: Ted Lyon — S.J.R. No. 6
HOUSE SPONSOR: Bill Blackwood — (2nd C.S.)

SENATE JOINT RESOLUTION

proposing a constitutional amendment providing that certain justice precincts may contain more than one justice of the peace court.

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

SECTION 1. Article V, Section 18(a), of the Texas Constitution is amended to read as follows:

(a) Each county in the State with a population of 30,000 or more, according to the most recent federal census, from time to time, for the convenience of the people, shall be divided into not less than four and not more than eight precincts. Each county in the State with a population of 18,000 or more but less than 30,000, according to the most recent federal census, from time to time, for the convenience of the people, shall be divided into not less than two and not more than five precincts. Each county in the State with a population of less than 18,000, according to the most recent federal census, from time to time, for the convenience of the people, shall be designated as a single precinct or, if the Commissioners Court determines that the county needs more than one precinct, shall be divided into not more than four precincts. Notwithstanding the population requirements of this subsection, Chambers County, from time to time, for the convenience of the people, shall be divided into not less than two and not more than six precincts. A division or designation under this subsection shall be made by the Commissioners Court provided for by this Constitution. In each such precinct there shall be elected one Justice of the Peace and one Constable, each of whom shall hold his office for four years and until his successor shall be elected and qualified; provided that in a county with a population of less than 150,000, according to the most recent federal census, in any precinct in which there may be a city of 18,000 or more inhabitants, there shall be elected two Justices of the Peace, and in a county with a population of 150,000 or more, according to the most recent federal census, each precinct may contain more than one Justice of the Peace Court.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment providing that certain justice precincts may contain more than one justice of the peace court."

AMENDMENT NO. 17

SENATE AUTHOR: John Montford S.J.R. No. 26
HOUSE SPONSOR: Mike Toomey

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the immunity of a city or town from liability for damages arising from its proprietary functions.

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

SECTION 1. Article XI of the Texas Constitution is amended by adding Section 13 to read as follows:

Sec. 13. (a) Notwithstanding any other provision of this constitution, the legislature may by law define for all purposes those functions of a municipality that are to be considered governmental and those that are proprietary, including reclassifying a function's classification assigned under prior statute or common law.

(b) This section applies to laws enacted by the 70th Legislature, Regular Session, 1987, and to all subsequent regular or special sessions of the legislature.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the legislature to define for all purposes the governmental and proprietary functions of a municipality."

AMENDMENT NO. 18

HOUSE AUTHOR: Richard Williamson H.J.R. No. 18
SENATE SPONSOR: Ray Farabee

A JOINT RESOLUTION

proposing a constitutional amendment relating to the creation, operation, and financing of jail districts.

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

SECTION 1. Article III of the Texas Constitution is amended by adding Section 48-e to read as follows:

Sec. 48-e. The legislature, by law, may provide for the creation, operation, and financing of jail districts and may authorize each district to issue bonds and other obligations and to levy an ad valorem tax on property located in the district to pay principal of and interest on the bonds and to pay for operation of the district. An ad valorem tax may not be levied and bonds secured by a property tax may not be issued until approved by the qualified electors of the district voting at an election called and held for that purpose.

SECTION 2. This proposed constitutional amendment shall be submitted to the qualified voters of the state at an election to be held on November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment relating to the creation, operation, and financing of jail districts."

AMENDMENT NO. 19

HOUSE AUTHOR: Al Luna H.J.R. No. 88
SENATE SPONSOR: Chet Edwards

A JOINT RESOLUTION

proposing a constitutional amendment allowing the issuance of general obligation bonds for undertakings related to a superconducting super collider research facility.

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

SECTION 1. Article III of the Texas Constitution is amended by adding Section 49-g to read as follows:

Sec. 49-g. (a) The legislature may authorize (1) the appropriate agency to issue up to $500 million in general obligation bonds and to use the proceeds of the bonds (without further appropriation) to establish a superconducting super collider fund to be used in any manner appropriate to fund undertakings related to a superconducting super collider research facility sponsored or authorized by the United States government, and (2) the appropriate agency to grant land or property, whether or not acquired from proceeds of the bonds, to the United States government for undertakings related to a superconducting super collider research facility. The superconducting super collider fund shall contain a project account, an interest and sinking account and such other accounts as may be authorized by the legislature. The fund shall be composed of the proceeds of the bonds authorized by this section, together with any income from investment of money in the fund, amounts received pursuant to Subsection (b) hereof, and any other amounts authorized to be deposited in the fund by the legislature.

(b) Bonds issued under this section constitute a general obligation of the state. While any of the bonds or interest on the bonds is outstanding and unpaid, there is appropriated out of the first money coming into the treasury in each fiscal year, not otherwise appropriated by this constitution, the amount sufficient to pay the principal of and interest on the bonds that mature or become due during the fiscal year, less any amount in the interest and sinking account at the end of the preceding fiscal year that is pledged to payment of the bonds or interest.

(c) The legislature may require review and approval of the issuance of the bonds, of the use of the bond proceeds, or of the rules adopted by an agency to govern use of the bond proceeds. Notwithstanding any other provision of this constitution, any entity created or directed to conduct this review and approval may include members, or appointees of members, of the executive, legislative, and judicial departments of state government.

(d) Should the legislature enact enabling laws in anticipation of the adoption of this section, such acts shall not be void by reason of their anticipatory character.

SECTION 2. This proposed amendment shall be submitted to the voters at an election to be held November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the issuance of general obligation bonds to fund undertakings related to a superconducting super collider research facility sponsored or authorized by the United States government, and to make appropriate grants for such undertakings."

AMENDMENT NO. 20

HOUSE AUTHOR: Mark Stiles H.J.R. No. 96
SENATE SPONSOR: Carl Parker

A JOINT RESOLUTION

proposing a constitutional amendment to authorize the legislature to provide ad valorem tax relief for certain offshore drilling equipment that is not in use.

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

SECTION 1. Article VIII of the Texas Constitution is amended by adding Section 1-i to read as follows:

Sec. 1-i. The legislature by general law may provide ad valorem tax relief for mobile marine drilling equipment designed for offshore drilling of oil or gas wells that is being stored while not in use in a county bordering on the Gulf of Mexico or on a bay or other body of water immediately adjacent to the Gulf of Mexico.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to authorize the legislature to provide ad valorem tax relief for certain offshore drilling equipment that is not in use."

AMENDMENT NO. 21

SENATE AUTHOR: Ray Farabee S.J.R. No. 17
HOUSE SPONSOR: Bruce Gibson

SENATE JOINT RESOLUTION

proposing a constitutional amendment permitting the legislature to include members of more than one department of state government in the membership of an agency or committee.

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

SECTION 1. Article III of the Texas Constitution is amended by adding Section 66 to read as follows:

Sec. 66. The legislature may include the speaker of the house of representatives in the membership of an agency or committee that includes officers of the executive department of state government and performs executive functions.

SECTION 2. This constitutional amendment shall be submitted to the voters at an election to be held November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment permitting the legislature to include the speaker of the house of representatives or the speaker's appointee in the membership of an executive agency or committee."

AMENDMENT NO. 22

SENATE AUTHOR: Chet Edwards S.J.R. No. 53
HOUSE SPONSOR: Ernestine Glossbrenner

SENATE JOINT RESOLUTION

proposing a constitutional amendment to allow the legislature to limit the authority of a governor to fill vacancies in state and district offices if the governor is not reelected.

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

SECTION 1. Article IV, Section 12, of the Texas Constitution is amended to read as follows:

Sec. 12. (a) All vacancies in State or district offices, except members of the Legislature, shall be filled unless otherwise provided by law[~~,~~] by appointment of the Governor, which appointment, if made during its session, shall be with the advice and consent of two-thirds of the Senate present. If made during the recess of the Senate, the said appointee, or some other person to fill such vacancy, shall be nominated to the Senate during the first ten days of its session. If rejected, said office shall immediately become vacant, and the Governor shall, without delay, make further nominations, until a confirmation takes place. But should there be no confirmation during the session of the Senate, the Governor shall not thereafter appoint any person to fill such vacancy who has been rejected by the Senate; but may appoint some other person to fill the vacancy until the next session of the Senate or until the regular election to said office, should it sooner occur. Appointments to vacancies in offices elective by the people shall only continue until the next [~~first~~] general election [~~thereafter~~].

(b) The Legislature by general law may limit the term to be served by a person appointed by the Governor to fill a vacancy in a state or district office to a period that ends before the vacant term otherwise expires or, for an elective office, before the next election at which the vacancy is to be filled, if the appointment is made on or after November 1 preceding the general election for the succeeding term of the office of Governor and the Governor is not elected at that election to the succeeding term. For purposes of this subsection, the expiration of a term of office or the creation of a new office constitutes a vacancy.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment

to allow the legislature to limit the authority of a governor to fill vacancies in state and district offices during the end of the governor's term if the governor is not reelected."

AMENDMENT NO. 23

SENATE AUTHOR: John Montford S.J.R. No. 54
HOUSE SPONSOR: Terral Smith

SENATE JOINT RESOLUTION

proposing a constitutional amendment to authorize the issuance of an additional $400 million of Texas Water Development Bonds for water supply, water quality, and flood control purposes.

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

SECTION 1. Article III of the Texas Constitution is amended by adding Section 49-d-6 to read as follows:

Sec. 49-d-6. (a) The Texas Water Development Board may issue additional Texas Water Development Bonds up to an additional aggregate principal amount of $400 million. Of the additional bonds authorized to be issued, $200 million of those bonds shall be used for purposes provided by Section 49-c of this article, $150 million of those bonds shall be used for purposes provided by Section 49-d-1 of this article, and $50 million of those bonds shall be used for flood control as provided by law.

(b) The legislature may require review and approval of the issuance of the bonds, of the use of the bond proceeds, or of the rules adopted by an agency to govern use of the bond proceeds. Notwithstanding any other provision of this constitution, any entity created or directed to conduct this review and approval may include members or appointees of members of the executive, legislative, and judicial departments of state government.

(c) The Texas Water Development Board shall issue the additional bonds authorized by this section for the terms, in the denominations, form, and installments, on the conditions, and subject to the limitations provided by Sections 49-c and 49-d-1 of this article and by laws adopted by the legislature implementing this section.

(d) Subsections (c) through (e) of Section 49-d-2 of this article apply to the bonds authorized by this section.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to authorize the issuance of an additional $400 million of Texas Water Development Bonds for water supply, water quality, and flood control purposes."

AMENDMENT NO. 24

HOUSE AUTHOR: Mark Stiles H.J.R. No. 83
SENATE SPONSOR: Bill Sims

A JOINT RESOLUTION

proposing a constitutional amendment to permit a county to perform work, without compensation, for another governmental entity.

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

SECTION 1. Article III of the Texas Constitution is amended by adding Section 52g to read as follows:

Sec. 52g. A county may use county equipment and personnel to perform work, without compensation, for another governmental entity if:

(1) the governmental entity is located wholly or partly within the county;

(2) the governing body of the governmental entity files with the commissioners court of the county a written request to have the work performed; and

(3) the commissioners court of the county, at an open meeting held after receiving the request, by order:

(A) finds that the performance of the work would not interfere with the work scheduled to be performed or reasonably expected to be performed for the county;

(B) determines, and by written finding states, the reasonable costs to the county of performing the service; and

(C) approves or disapproves the performance of the work.

SECTION 2. This proposed amendment shall be submitted to the voters at an election to be held on November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to permit a county to perform work, without compensation, for another governmental entity."

AMENDMENT NO. 25

SENATE AUTHOR: Bill Sarpalius — S.J.R. No. 5
HOUSE SPONSOR: John Smithee — (2nd C.S.)

SENATE JOINT RESOLUTION

proposing a constitutional amendment authorizing the legislature to expand the services provided by the Amarillo Hospital District to include certain residents of Randall County and authorizing Randall County to provide financial assistance to the district and amending Section 2, H.J.R. 2, 70th Legislature, Regular Session, 1987, relating to change in election date.

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

SECTION 1. Article IX, Section 5, of the Texas Constitution is amended by adding Subsections (e) and (f) to read as follows:

(e) The legislature by law may authorize Randall County to render financial assistance to the Amarillo Hospital District by paying part of the district's operating and maintenance expenses and the debts assumed or created by the district and to levy a tax for that purpose in an amount not to exceed seventy-five cents (75¢) on the One Hundred Dollars ($100.00) valuation on all property in Randall County that is not within the boundaries of the City of Amarillo or the South Randall County Hospital District. This tax is in addition to any other tax authorized by this constitution. If the tax is authorized by the legislature and approved by the voters of the area to be taxed, the Amarillo Hospital District shall, by resolution, assume the responsibilities, obligations, and liabilities of Randall County in accordance with Subsection (a) of this section and, except as provided by this subsection, Randall County may not levy taxes or issue bonds for hospital purposes or for providing hospital care for needy inhabitants of the county. Not later than the end of the first tax year during which taxes are levied under this subsection, Randall County shall deposit in the State Treasury to the credit of the state General Revenue Fund $45,000 to reimburse the state for the cost of publishing the resolution required by this subsection.

(f) Notwithstanding the provisions of Article IX of this constitution, if a hospital district was created or authorized under a constitutional provision that includes a description of the district's boundaries or jurisdiction, the legislature by law may authorize the district to change its boundaries or jurisdiction. The change must be approved by a majority of the qualified voters of the district voting at an election called and held for that purpose.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the legislature to permit the Amarillo Hospital District to serve certain residents of Randall County, to authorize Randall County to provide financial assistance to the district, and to authorize certain hospital districts to change their boundaries or jurisdiction with voter approval."

SECTION 3. Section 2 of H.J.R. No. 2, 70th Legislature, Regular Session, 1987, is amended to read as follows:

Sec. 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 8, 1988 [~~3, 1987~~]. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment establishing an economic stabilization fund in the state treasury to be used to offset unforeseen shortfalls in revenue."