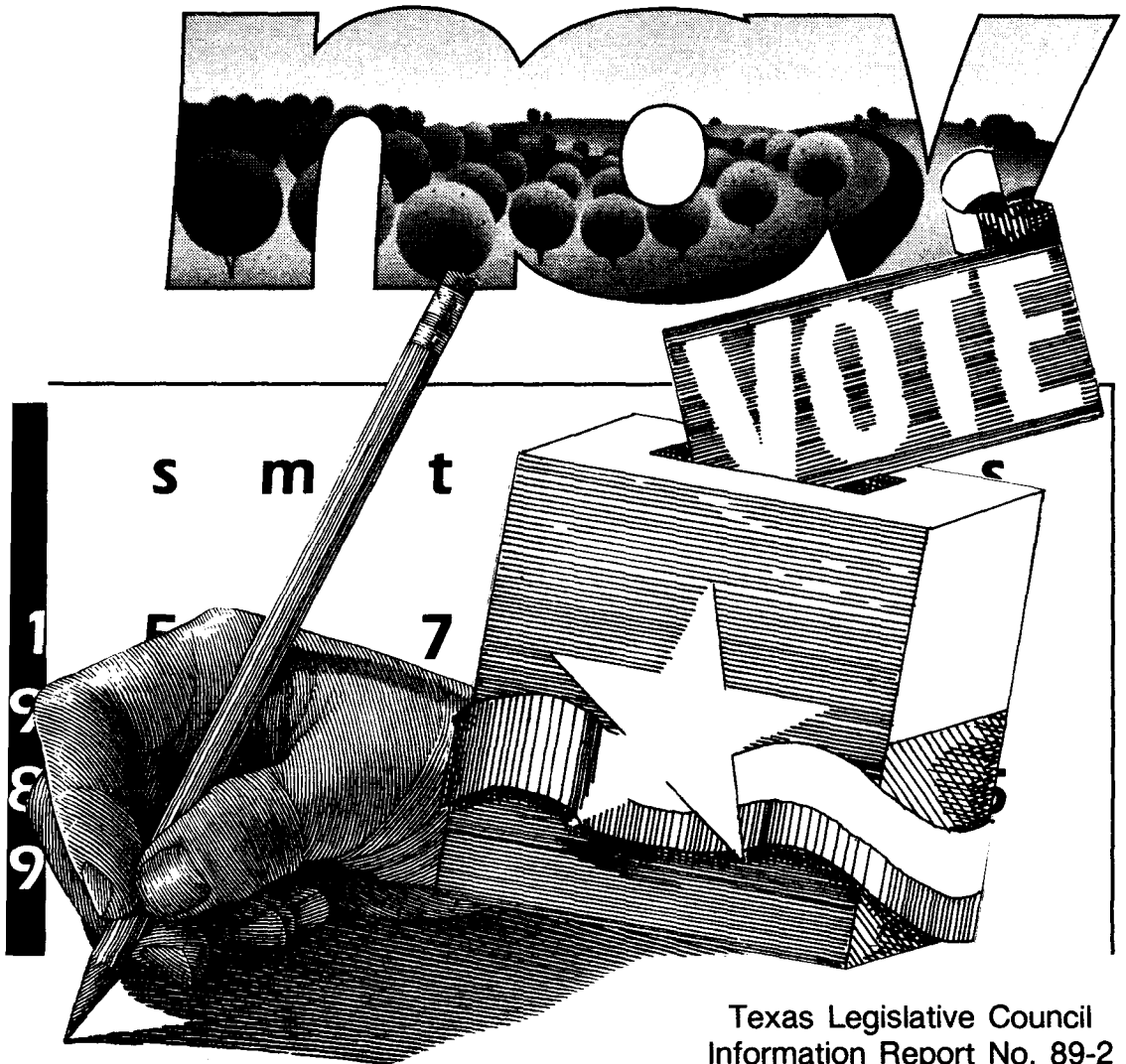


# Analyses of Proposed Constitutional Amendments

• November 7, 1989, Election •



Texas Legislative Council  
Information Report No. 89-2  
September, 1989

**Analyses of Proposed  
Constitutional Amendments**  
• November 7, 1989, Election •

Prepared by the Staff  
of the  
Texas Legislative Council

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## INTRODUCTION

## GENERAL INFORMATION

In the 1989 regular session, the 71st Texas Legislature passed 20 joint resolutions proposing 21 constitutional amendments. All 21 proposed amendments will be offered for voter ratification on the November 7, 1989, general election ballot.

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 1988, the state's constitution has been amended 307 times, from a total of 465 amendments submitted to the voters for their approval. The 21 amendments on the 1989 general election ballot bring the total number of amendments submitted to 486. 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. The year of the vote is not reflected in the table.

TABLE  
1876 CONSTITUTION  
AMENDMENTS PROPOSED AND ADOPTED

year proposed	number proposed	number adopted	year proposed	number proposed	number adopted
1879	1	1	1939	4	3
1881	2	0	1941	5	1
1883	5	5	1942	3**	3
1887	6	0	1945	8	7
1889	2	2	1947	9	9
1891	5	5	1949	10	2
1893	2	2	1951	7	3
1895	2	1	1953	11	11
1897	5	1	1955	9	9
1899	1	0	1957	12	10
1901	1	1	1959	4	4
1903	3	3	1961	14	10
1905	3	2	1963	7	4
1907	9	1	1965	27	20
1909	4	4	1967	20	13
1911	5	4	1969	16	9
1913	8*	0	1971	18	12
1915	7	0	1973	9	6
1917	3	3	1975	12††	3
1919	13	3	1977	15	11
1921	5**	1	1978	1	1
1923	2†	1	1979	12	9
1925	4	4	1981	10	8
1927	8**	4	1982	3	3
1929	7**	5	1983	19	16
1931	9	9	1985	17**	17
1933	12	4	1986	1	1
1935	13	10	1987	28**	20
1937	7	6	1989	21**	(a)
<u>TOTAL PROPOSED 486</u>			<u>TOTAL ADOPTED 307</u>		



## 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) All amendments approved by the 71st Legislature during the 1989 regular session will appear on the 1989 general election ballot.

## **WORDING OF BALLOT PROPOSITIONS**

The ballot wording of a proposal to amend the state constitution is prescribed in the joint resolution adopted by the legislature that authorizes the submission of the proposed amendment to the voters for ratification. The wording of the 21 ballot propositions offered at the 1989 general election is provided below.

### **AMENDMENT NO. 1**

The constitutional amendment to limit the salary of the lieutenant governor and the speaker of the house of representatives to not more than one-half of the governor's salary and to limit the salary of a member of the legislature to not more than one-fourth of the governor's salary.

### **AMENDMENT NO. 2**

The constitutional amendment to authorize the issuance of an additional \$500 million of Texas water development bonds for water supply, water quality, and flood control purposes.

### **AMENDMENT NO. 3**

The constitutional amendment authorizing the legislature to provide for the recovery and further development of the state's economy, with goals of increasing job opportunities and other benefits for Texas residents, through state financing of the development and production of Texas products and businesses.

### **AMENDMENT NO. 4**

The constitutional amendment to authorize the legislature to exempt property of nonprofit veterans organizations from ad valorem taxation.

### **AMENDMENT NO. 5**

The constitutional amendment promoting economic growth, job creation, and fair tax treatment for Texans who export goods to other states and nations by restoring and allowing, on a local option basis, an ad valorem tax exemption for certain personal property that is in Texas only temporarily for the purpose of assembling, storing, manufacturing, processing, or fabricating.

### **AMENDMENT NO. 6**

Authorizing the members of a hospital district governing board to serve four-year terms.

#### **AMENDMENT NO. 7**

The constitutional amendment to require that a member of the legislature, the secretary of state, and an elected or appointed officer, before assuming office, sign a written oath stating that the member, the secretary of state, or the officer did not engage in bribery to obtain the office.

#### **AMENDMENT NO. 8**

The constitutional amendment authorizing the issuance of general obligation bonds for projects relating to facilities of corrections institutions, youth corrections institutions, and mental health and mental retardation institutions and for the expansion of statewide law enforcement facilities.

#### **AMENDMENT NO. 9**

The constitutional amendment authorizing the legislature to organize and combine various state agencies that perform criminal justice functions.

#### **AMENDMENT NO. 10**

The constitutional amendment authorizing the legislature to require or permit courts to inform juries about the effect of good conduct time and eligibility for parole and mandatory supervision on the period of incarceration served by a defendant convicted of a criminal offense.

#### **AMENDMENT NO. 11**

The constitutional amendment to set the amount of per diem received by a member of the legislature at the amount allowed for federal income tax purposes as a deduction for living expenses incurred by a state legislator in connection with official business.

#### **AMENDMENT NO. 12**

The constitutional amendment to provide for using the permanent school fund and its income to guarantee bonds issued by the state for the purpose of aiding school districts.

#### **AMENDMENT NO. 13**

The constitutional amendment providing a bill of rights for crime victims.

#### **AMENDMENT NO. 14**

The constitutional amendment requiring a district attorney serving in Fort Bend County to be elected and serve a term in the manner provided by general law for criminal district attorneys.

#### **AMENDMENT NO. 15**

The constitutional amendment authorizing the legislature to permit and regulate raffles conducted by certain nonprofit organizations for charitable purposes.

#### **AMENDMENT NO. 16**

The constitutional amendment granting to the people the right to decide whether to create and maintain hospital districts to protect the public well-being in a manner independent of the legislature.

#### **AMENDMENT NO. 17**

The constitutional amendment authorizing the state to provide scholarships, grants, loans, and other financial assistance to local fire departments and other public fire-fighting organizations to purchase fire-fighting equipment, to aid in providing necessary equipment and facilities to comply with federal and state law, and to educate and train their members.

#### **AMENDMENT NO. 18**

The constitutional amendment to eliminate certain time limitations relating to the issuance of Texas agricultural water conservation bonds.

#### **AMENDMENT NO. 19**

The constitutional amendment to authorize local governments to invest their funds as provided by law.

#### **AMENDMENT NO. 20**

The constitutional amendment to abolish the office of county surveyor in Cass, Ector, Garza, Smith, Bexar, Harris, and Webb counties.

#### **AMENDMENT NO. 21**

The constitutional amendment providing for the issuance of general obligation bonds as college savings bonds to provide educational loans to students and to encourage the public to save for a college education.

**ANALYSIS  
OF  
PROPOSED AMENDMENTS**

## AMENDMENT NO. 1

House Joint Resolution 102 (first of two propositions), proposing a constitutional amendment relating to the salary of the lieutenant governor, speaker of the house of representatives, and members of the legislature. (HOUSE AUTHOR: David Hudson; SENATE SPONSOR: Gonzalo Barrientos)

The proposed amendment to Article III, Section 24, and Article IV, Section 17, of the Texas Constitution increases the salary of the speaker of the house of representatives and of the lieutenant governor to an amount equal to one-half of the governor's salary and increases the salary of members of the legislature to an amount equal to one-fourth of the governor's salary.

### BACKGROUND

Under Article III, Section 24, of the Texas Constitution a member of the legislature receives a salary of \$600 per month during the entire term to which the legislator is elected (\$7,200 annually) and a per diem of \$30 for each day during a legislative session. The per diem payment is an additional compensation granted during a legislative session to help offset the greater expenses incurred by a member when the legislature is meeting. Article IV, Section 17, of the Texas Constitution provides that the lieutenant governor, while serving as president of the senate, receives the same compensation as a member of the legislature, but while substituting for the governor, the lieutenant governor receives compensation equal to that of the governor. The constitution provides no special or additional pay for the speaker of the house of representatives. The speaker receives only the regular pay and per diem of a member of the legislature.

In response to changing dollar values and public sentiment concerning the payment of expenses of legislators, Article III, Section 24, has undergone several amendments since its original enactment in 1876. Amendments to that section were approved in 1930, 1954, 1960, and 1975. Generally, those amendments increased the legislators' compensation or per diem by modest amounts.

The proposed amendment would increase the salary of the speaker of the house of representatives and of the lieutenant governor to an amount equal to one-half of the governor's salary and the salary of other members of the legislature to an amount equal to one-fourth of the governor's salary. The governor's salary is set by the legislature, and, as of September 1, 1989, the governor's salary is \$93,432. Under the governor's current salary, the annual legislative salary would increase to \$23,358 and the salaries of the speaker and the lieutenant governor would increase to \$46,716. The amendment also provides that no law changing these salary amounts could take effect until a general election intervened. The first

salary increase for legislators, including the speaker, would not take effect until the convening of the regular session of the 72nd Legislature in January 1991 and the first salary increase for the lieutenant governor would not take effect until the first day of the new term for that office in January 1991.

### **ARGUMENTS**

#### **FOR:**

1. The current salary allowance granted under existing law is out of date and inadequate to support the activities of diligent legislators. The legislative salary, last set in 1975, has eroded considerably in value since then, and adjusted for current inflation, is now worth less than \$3,300. Legislators are forced to rely on other sources of income to support the performance of their official duties, and, even so, many perform those duties only with great financial hardship. Service in the legislature should not be limited to persons who are independently wealthy or who become dependent on outside sources of income. The proposed amendment would ease the financial burden of performing legislative duties on behalf of the state, and provide a mechanism to change legislative salaries without further constitutional amendment.

2. Only 14 states pay their legislators less than the amounts paid in Texas, and most other states compensate their legislative presiding officers for their additional leadership duties. Those states recognize that legislative duties demand the full attention of the legislators, even when the legislature is not in session, and this attention is optimal when the legislator is not distracted with nonlegislative work requirements. If the people of Texas want legislators to perform official duties at a level equivalent to legislators of other states, it makes sense to pay them at a rate on par with those states.

3. The inadequate salary allowances encourage the use by legislators of gifts and contributions provided by lobbyists and special interest groups. Recent publicity relating to questionable gifts and contributions by those groups to legislators indicates that this area is in need of reform in order to reduce the influence of lobbyists and special interest groups. By providing legislators with a reasonable income, they will no longer be tempted to use questionable contributions made by special interest groups to make ends meet.

#### **AGAINST:**

1. The proposed amendment would increase legislative pay over two times. Since the legislature meets in regular session only once every two years, most legislators have more than enough time between sessions to generate an adequate income through their chosen professions, and further subsidization would only burden taxpayers without any promise of improved performance. Legislators

receive benefits of office other than salary and per diem that represent other, often unrecognized compensation, such as retirement benefits in amounts equivalent to the substantial salaries paid to district judges and amounts of up to \$81 per day paid for legislative business when the legislature is not in session. These benefits offset the need for the substantial pay raise proposed by this amendment.

2. The proposed amendment would remove voter approval over future salary increases, and, instead, allow the legislature to set its own salary by increasing the amount of the governor's salary.

3. Retaining modest compensation for members of the legislature continues the tradition in Texas of discouraging the service of professional politicians in legislative offices. The people will be better represented in the legislature by persons from legislative districts who do not continue in office as a career. Career politicians tend to become alienated from their districts and to value reelection to office as more important than serving the needs of the people.



## AMENDMENT NO. 2

Senate Joint Resolution 5, proposing a constitutional amendment to authorize the issuance of an additional \$500 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, including specific funding for economically distressed areas, by adding Section 49-d-7 to Article III of the Texas Constitution, authorizing the issuance of an additional \$500 million of Texas water development bonds to provide funds for construction of water supply, water quality, and flood control projects.

### BACKGROUND

For the last 32 years, the state, through the issuance of Texas water development bonds, has funded numerous projects designed to address the water needs of the state. Voters approved \$980 million in water development bonds in 1985 and in November 1987 voters approved an additional \$400 million in Texas water development bonds to provide funds for construction of water supply, water quality, and flood control projects.

Despite this financial commitment, the state has a continuing need for more funds to resolve its water problems because of increases in population and the use of water, urbanization of many areas of the state, and the lack of expansion of available water supplies. The state's ability to meet the various water-related demands has also over the years been strained because of diminishing financial support from the federal government and the decreased ability of local governments to aid in those efforts.

As part of a continuing effort to assure that the state can meet its water-related needs, the legislature has proposed a constitutional amendment specifically directed at future state water needs. This proposed amendment would:

(1) authorize the Texas Water Development Board to issue an additional \$500 million in Texas water development bonds, and from the proceeds of the sale of those bonds, \$250 million would be used to fund water supply projects, \$200 million would be used to fund water quality projects, and \$50 million would be used to fund flood control projects;

(2) authorize the legislature to maintain control and oversight over the issuance and use of proceeds of the bonds and provide that the Texas Water Development Board issue the additional bonds in the manner and under the laws

governing other Texas water development bonds and as provided by this constitutional amendment and enabling legislation passed by the 71st Legislature, in the 1989 regular session (S.B. 61);

(3) authorize the Texas Water Development Board to use bond proceeds to provide financial assistance for the additional purpose of acquiring, improving, extending, and constructing water supply projects that involve the distribution of water for delivery to wholesale and retail customers; and

(4) authorize the legislature to provide by law for subsidized loans and grants from the proceeds of the bonds, in an amount not to exceed 20 percent of the total amount of bonds authorized by this amendment (\$100 million), to provide wholesale and retail water and wastewater facilities to economically distressed areas of the state as defined by enabling legislation (S.B. 2, 71st Legislature, Regular Session, 1989, which focuses on the problems of "colonias" along the Rio Grande).

## ARGUMENTS

### FOR:

1. 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. Creating a long-term mechanism for funding water and wastewater facilities for economically distressed areas of the state will greatly enhance the ability of the state and local governments to solve major health problems in those affected areas in the most economical and efficient manner.

3. By providing a varied water program that will adequately serve its citizens, the state will not only benefit the health and welfare of its citizens but will also 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.

### AGAINST:

1. Over the past 32 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 and \$400 million in bonds in 1987. Of the bonds authorized, more than \$1 billion in Texas water development bonds remain unissued. Proceeds from the unissued bonds should be sufficient to provide necessary water projects in the near future without authorization for more bonds.

2. Relying too heavily on bonded indebtedness to carry out the state's present fiscal responsibilities may lead to greater financial problems in the future. There are many varied bond programs already in effect, and another bond program will further strain the credit of the state.

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 the long-range water needs of the state and alternative methods of funding those water needs.

### AMENDMENT NO. 3

House Joint Resolution 51, proposing a constitutional amendment authorizing the legislature to provide for the issuance of bonds for development and production of Texas products and businesses. (HOUSE AUTHOR: Dudley Harrison; SENATE SPONSOR: Chet Edwards)

The proposed amendment to the Texas Constitution would add Section 49-i to Article III and Section 71 to Article XVI. The proposed amendment would authorize the legislature to issue \$75 million of general obligation bonds and to establish programs, which would be funded by the bonds, to assist in the development and production of new or improved products, the development of small businesses, and agricultural production in the state. A constitutional amendment is necessary to issue the general obligation bonds because of the prohibition on state debt contained in Article III, Section 49, of the Texas Constitution.

#### BACKGROUND

Texas has weathered tough economic times during the past few years. The state finds itself in economic difficulties that several years ago were encountered by a number of states. Some of those states were successful in improving the health of their economies through programs similar to those authorized by this constitutional amendment. The proposed amendment seeks to encourage economic development in the state in four ways.

The amendment authorizes the legislature to establish a program to provide financial assistance to businesses domiciled in the state to develop, improve, or expand the production, marketing, or export of agricultural crops or products grown or produced primarily in the state. The financial assistance offered could include insurance, coinsurance, loans, loan guarantees, and indirect loans or purchases or acceptances of assignments of loans or other obligations. The program would be funded by the issuance of general obligation bonds. The principal amount of bonds outstanding at one time under this program would not exceed \$25 million.

Second, the amendment authorizes the legislature to establish a program to foster and stimulate the creation and expansion of small businesses in rural areas. The financial assistance offered could include insurance, coinsurance, loans, loan guarantees, and indirect loans or purchases or acceptances of assignments of loans or other obligations. The program would be funded by the issuance of general obligation bonds. The principal amount of bonds outstanding at one time under this program would not exceed \$5 million.

A provision of H.B. 1111, passed in the 1989 regular session, would implement the above bond issues of the first and second ways if the amendment is approved by the voters.

Third, the amendment authorizes the legislature to establish a program to aid in the development and production of new or improved products in the state. The assistance could include loans, loan guarantees, and equity investments. The program would be initially funded by the issuance of no more than \$25 million of general obligation bonds.

The fourth way that the proposed amendment seeks to encourage economic development in the state is by authorizing the legislature to establish a program to foster and stimulate the development of small businesses. The financial assistance offered could include loans and grants of money. The program would be initially funded by the issuance of no more than \$20 million of general obligation bonds.

A proposed constitutional amendment similar to this amendment appeared on the ballot on November 3, 1987, as Amendment No. 6. The amendment proposed in 1987 provided for the issuance of up to \$125 million of general obligation bonds. The voters rejected the amendment by a vote of 986,500 (46.8 percent) to 1,121,792 (53.2 percent).

## ARGUMENTS

### FOR:

1. The state is currently facing economic difficulties. The economic development programs authorized by the proposed amendment will help 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 and improved products are not developed, because those enterprises are unable to obtain private financing in current state economic conditions. The proposed amendment would provide the necessary financing, and the products and businesses developed will provide future benefits to the state justifying the cost of the programs.

3. Agriculture has always been important to the state economy. The proposed amendment will help many farmers and ranchers and small businesses located in rural areas to overcome current temporary difficulties that economic forces beyond their control have inflicted and thus help preserve this important sector of the state economy.

**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 programs authorized by the proposed amendment are so uncertain and the potential risks are so great that a departure from these policies is not justified.

3. Although agriculture is an important part of the state economy, it is not in the best interest of the state as a whole to go into debt to provide financial assistance for farmers and ranchers and the small businesses that serve them.

## AMENDMENT NO. 4

House Joint Resolution 13, proposing a constitutional amendment to authorize the legislature to exempt from ad valorem taxation certain property of nonprofit veterans organizations. (HOUSE AUTHOR: John Willy; SENATE SPONSOR: J. E. "Buster" Brown)

The proposed amendment of Article VIII, Section 2, of the Texas Constitution would add a new Subsection (c) to that section authorizing the legislature by general law to exempt from ad valorem taxes the property of nonprofit organizations that are composed primarily of members or former members of the armed forces of the United States or its allies and that are chartered or incorporated by the United States Congress.

## BACKGROUND

Article VIII, Section 1, of the Texas Constitution provides that all real property and tangible personal property is subject to ad valorem, or property, taxation in proportion to the value of the property. Article VIII, Section 2(a), of the Texas Constitution states that all property tax exemptions not specifically provided for in Section 2 are void. The effect of these provisions is to prohibit any ad valorem tax exemption unless the exemption is mandated or permitted by the state constitution. There is no existing constitutional basis for an ad valorem tax exemption specifically for veterans organizations. Article VIII, Section 2(a), does permit the legislature to exempt the property of "institutions of purely public charity," but that authority has been construed very narrowly to the exclusion of veterans organizations as a class.

The legislature has in the past attempted by statute to exempt certain veterans organizations from ad valorem taxes without specific constitutional authority. However, in Opinion No. MW-436 (1982), the attorney general held Section 11.23(a), Tax Code, the veterans organization exemption currently on the statute books, to be invalid because it is not authorized by the "purely public charity" provision or any other provision of the Texas Constitution. Some veterans organizations do receive exemptions as charities under Section 11.18, Tax Code, but many do not qualify under the exacting standards of that law. A constitutional amendment to allow political subdivisions to grant property tax exemptions to veterans organizations and to fraternal organizations by local option was rejected by Texas voters in 1983. The inclusion of fraternal organizations may have led to the defeat of the proposition.

The constitutional amendment proposed by H.J.R. 13 limits the exemption that may be enacted to organizations that are chartered or incorporated by congress. Most of the established, nationally active organizations have been incorporated by acts of congress. The proposed amendment allows the membership of an exempt

organization to consist in part of veterans of allies of the United States because many of the existing groups extend membership to otherwise eligible veterans of U.S. allies who have become American citizens or residents.

The constitutional amendment proposed by H.J.R. 13 is not self-enacting. The exemption must be implemented by statute. Several bills were filed during the regular session of the 71st Legislature to enact an exemption contingent on the approval of the constitutional amendment by the voters. None of these bills was passed by the legislature. It is not clear whether the approval of the constitutional amendment by the voters will affect the apparent invalidity of the current statute, Section 11.23(a), Tax Code. Legal authorities seem to indicate that that statute, if invalid when adopted, would not be validated by the later constitutional amendment. Texas law is not entirely clear in this respect. The existing statute, moreover, might be invalid as a special law prohibited by Article III, Section 56, of the Texas Constitution, since it purports to grant a tax exemption only to certain named organizations. A "special law" is one that applies only to specifically identified persons or matters rather than to a generically defined group or class of persons or matters. Article III, Section 56, expressly prohibits the legislature from exempting property from taxation by special law, and the constitutional amendment proposed by H.J.R. 13 grants the legislature the authority to exempt veterans organizations "by general law." Accordingly, even if the proposed constitutional amendment is approved by the voters, a new general law probably must be enacted before veterans organizations actually begin to receive tax exemptions.

## ARGUMENTS

### FOR:

1. Veterans deserve property tax relief for their organizations in recognition of their service and sacrifice for the nation. Many veterans organizations are struggling to pay the ever-growing tax burden on their buildings, and those that are able to pay have diminished resources to conduct their ordinary activities. Veterans organizations have a high proportion of retired and disabled members with limited resources and are more severely affected by high taxes than most other types of organizations. Some veterans organizations' halls have already been foreclosed on for unpaid taxes, and many others appear to be headed for the same fate. Tax relief is necessary to save many organizations from giving up their halls or from greatly curtailing their activities.

2. The existing property tax exemption for charitable organizations is too restrictive and is not applied to veterans organizations consistently from county to county. The narrow, complex, and sometimes vague standards of the current exemption result in some veterans organizations being exempt and some not.



Veterans organizations perform many civic and patriotic activities in addition to providing valuable services to veterans themselves, and should all be entitled to the same tax treatment. The benefits to the community of a tax exemption for veterans groups will more than outweigh its minor effect on the tax base.

3. The proposed constitutional amendment is carefully limited in scope, and will allow the legislature to tailor the exemption as needed to prevent abuse and close loopholes that may develop. Only bona fide nonprofit organizations recognized by the United States Congress may be exempt, so the added tax burden on other taxpayers will be minimal.

#### AGAINST:

1. A new property tax exemption, such as that to be authorized by the proposed constitutional amendment, merely shifts the tax burden to other hard-pressed taxpayers. If exempted, veterans organizations will continue to receive the benefits and services provided by local governments but will not pay the costs of those services.

2. The current property tax exemption for charitable organizations is available to those veterans organizations that are wholly dedicated to performing truly worthwhile and beneficial activities. The exemption to be authorized by the proposed constitutional amendment could extend to some veterans organizations that devote only a part of their energies toward beneficent activities and engage in many other activities solely for the benefit of the members of the organization.

3. The proposed exemption is unfair because it is limited to a special-interest group. By allowing only veterans organizations that are chartered by congress to be exempt, the proposal would prevent new, small, or local veterans groups not affiliated with one of the established organizations from qualifying for tax relief. The proposed exemption completely overlooks the many other worthy nonprofit organizations that do not qualify as purely public charities under current law but that perform substantial amounts of charitable activity.

## AMENDMENT NO. 5

Senate Joint Resolution 11, proposing a constitutional amendment to authorize the exemption from ad valorem taxation certain personal property temporarily in the state for certain purposes. (SENATE AUTHOR: Bob McFarland; HOUSE SPONSOR: Hugo Berlanga)

The proposed amendment of Article VIII of the Texas Constitution would add a new Section 1-j to exempt from ad valorem taxation goods, wares, merchandise, and other tangible personal property (other than oil, natural gas, and other petroleum products) that are imported into or acquired in Texas for assembling, storing, manufacturing, processing, or fabrication and that are exported from Texas within 175 days after importation or acquisition. A county, school district, junior college district, or municipality may override the exemption and continue taxing the property by official action of its governing body taken before April 1, 1990. The exemption will be in effect for 1990 taxes unless the local governmental action is taken before January 1, 1990. A taxing jurisdiction may also apply the exemption retroactively to 1989 taxes. A special provision specifically states that the exemption applies to aircraft and aircraft parts in the state for not more than 175 days for aircraft maintenance and repair activities.

The proposed amendment would also amend Article VIII, Section 1, of the Texas Constitution to clarify that property is not required to be taxed if another provision of the constitution allows the exemption.

### BACKGROUND

To encourage manufacturing and similar commercial activities and to simplify tax assessments, most states exempt from ad valorem taxation all business inventories or at least inventories of raw materials, goods in progress, or finished goods destined for out-of-state shipment. Exemptions of this type aimed specifically at property temporarily in the state are commonly referred to as "freeport" exemptions.

The Texas Tax Code contains a freeport provision, Section 11.01(d), that purports to provide tax relief for goods, wares, and ores (other than oil or gas) that are shipped into the state for assembly, storage, manufacturing, processing, or fabrication and that are then shipped out of state within 175 days. However, Section 11.01(d), Tax Code, has been held to be unconstitutional. 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 stated that under Article VIII, Section 1, of the Texas Constitution property in Texas is taxable regardless of how long it is in the state, except for property otherwise exempt under the Texas Constitution or property actually in interstate commerce. Section

11.01(d), Tax Code, is not authorized by the Texas Constitution, and under federal case law property is not considered to be in interstate commerce if it is being stored, assembled, manufactured, processed, or fabricated. As a result of Brinkman, most property that was formerly considered not taxable under Section 11.01(d) is now fully subject to property taxes.

In 1987 the legislature proposed a constitutional amendment to incorporate a tax exemption similar to Section 11.01(d) into the Texas Constitution. That provision was generally similar to the constitutional amendment proposed by S.J.R. 11 in 1989, but differed in several major respects. It would have also applied to oil, gas, and petroleum products, but it would not have applied to property acquired within Texas as would the 1989 proposal. However, the voters rejected the proposed amendment (Amendment No. 11) at the November 1987 election.

The new proposed constitutional amendment would have the effect of restoring the tax relief previously granted by Section 11.01(d), Tax Code, with two major differences: (1) it would allow local taxing jurisdictions to elect to continue taxing freeport goods within their boundaries, and (2) it would apply to property acquired within Texas and shipped out of state as well as property imported into Texas and later shipped out of state. The provisions extending tax relief to aircraft, aircraft parts, and other items in the state temporarily for use in the repair or maintenance of aircraft is also new.

H.B. 2959, passed in the 1989 regular session, contains several provisions intended to assist in the administration of the proposed freeport exemption. Those provisions will take effect January 1, 1990, but only if the proposed constitutional amendment is approved by the voters. H.B. 2959 would add Section 11.251 to the Tax Code, further defining and limiting the scope of the freeport exemption and providing formulas to be used by appraisal districts in determining the portion of an inventory that represents goods eligible for the exemption. H.B. 2959 would also repeal Section 11.01(d), Tax Code, the former freeport exemption held to be invalid. In addition, H.B. 2959 would amend Section 26.012, Tax Code, and Section 11.86(a), Education Code, to protect school districts and other taxing jurisdictions from effects of the freeport exemption on tax rate calculations and the distribution of state education funds.

## ARGUMENTS

### FOR:

1. The exemption of inventories temporarily in the state will encourage economic development by providing incentives for manufacturers and other industries that do business out of state. Tax incentives have been an important part of Texas' successful effort to attract several major industrial, technological, and

transportation facilities in recent years. The proposed freeport exemption would be a valuable addition to Texas' arsenal in the battle to diversify the state's economy and continue the state's recovery from recent economic troubles, and its adoption at this time will send a strong signal that Texas remains committed to maintaining a favorable business climate.

2. Since almost every other state exempts business inventories or freeport goods from property taxes, Texas should adopt this exemption to compete with those other states in retaining or attracting industry. The proposed exemption will place the state on a level playing field with other states in this regard.

3. The proposed tax exemption may be superseded by local taxing jurisdictions, allowing local elected officials to determine for themselves whether the benefits of the tax relief will exceed the lost tax revenues. The provision allowing a taxing jurisdiction to begin granting the exemption at a later date will allow local officials to make use of the available tax incentive in the future even if it is not adopted initially. The tax base of hard-pressed school districts and other local governments will thus remain subject to local control.

4. The exemption is narrowly drawn and does not affect the manufacturer's inventory that remains in the state or its land, buildings, fixtures, equipment, vehicles, or other property. Accordingly, fear of massive tax increases for other taxpayers is unwarranted. In many cases, because of the freeport exemption capital improvements will be added to the tax base and will offset the tax revenues lost as a result of the exemption. The exclusion of petroleum products from the proposed exemption protects those taxing jurisdictions that are heavily reliant on the oil and gas industry from losing large portions of their tax base.

#### AGAINST:

1. Exemptions from property taxes shift the burden to other taxpayers. If adopted, the proposed exemption will result in an increase in property taxes for homeowners, intrastate Texas businesses, and other property owners. Moreover, the proposed tax relief is not necessary to attract industry. The overall tax burden on manufacturing and similar activities is not excessive. While Texas may be unique in subjecting all business inventories to ad valorem taxes, Texas' overall tax structure, being free of income taxes, is also unique, so the comparison with other states with respect to property taxes alone is misleading. Those taxing jurisdictions in Texas that wish to grant property tax relief to attract new industry can do so under the liberal tax abatement laws in Texas.

2. Although property tax exemptions must be constitutionally authorized, this exemption is too detailed and restrictive for a constitutional provision. The proposed constitutional amendment contains very explicit provisions that would be more

appropriately contained in a statute. To make even the smallest change in the exemption or the local option provision would require a subsequent constitutional amendment with the substantial costs of placing the issue on the statewide ballot. This is exactly the sort of unnecessary provision for which the Texas Constitution has long been criticized. A more appropriate amendment would simply authorize or require the legislature to implement the exemption by statute.

3. The local option provision of the proposed exemption will result in inconsistent and unfair tax treatment from one taxing jurisdiction to the next. In addition, the short period of time provided for local governments to act in order to continue taxing property to be covered by the exemption will result in some taxing jurisdictions missing the deadlines to act altogether, and will encourage others to act in haste. Taxing jurisdictions will be under continuous pressure to grant the exemption from businesses threatening to relocate or forego proposed expansions if the exemption is not granted, and, once granted, the exemption may not be rescinded after April 1990, so the so-called local option in many cases will be scarcely an option at all.

4. The provisions granting tax relief to aircraft and property used in maintaining or repairing aircraft are unfairly aimed at a special-interest group. There is no justification for singling out the airline industry for this tax break. It should be extended to the repair and maintenance of all similar property, such as ships, motor vehicles, and railroad rolling stock, or not be included at all.

## **AMENDMENT NO. 6**

House Joint Resolution 4, proposing a constitutional amendment authorizing the members of a hospital district board to serve four-year terms. (HOUSE AUTHOR: Sam Russell; SENATE SPONSOR: Bill Ratliff)

The proposed amendment would add Subsection (d) to Section 30 of Article XVI of the Texas Constitution, which would allow the legislature to set the terms of hospital district board members at not more than four years.

### **BACKGROUND**

A hospital district is a separate governmental entity that is governed by a board that is usually elected by the qualified voters in the area the hospital district serves. Currently, the board members serve two-year terms under the requirements of Article XVI, Section 30, of the Texas Constitution, which is a general provision that sets the duration of all offices at two years unless a specific constitutional exception is made. This proposed amendment provides a specific exception by authorizing the legislature to set the terms of hospital board members at not more than four years.

### **ARGUMENTS**

#### **FOR:**

1. Members of the governing bodies of counties and water districts and of most municipalities serve four-year terms. Changing to four-year terms would enable a hospital district to hold its elections at the same time elections of other governmental entities with territory in common with the district are held, therefore saving money.
2. Because most hospital district board members currently serve staggered terms, a hospital district must hold elections every year and approximately half of the members are elected in each election. The disruption of changing half the members every year limits the efficiency of the board.

#### **AGAINST:**

1. Increasing board members' terms to four years would decrease the public's control over a hospital district and decrease the members' accountability to the public.
2. The constitutional two-year limit on terms of office should be completely removed rather than adding to the extended list of exceptions to that provision.

## AMENDMENT NO. 7

House Joint Resolution 40, proposing a constitutional amendment relating to the oath of office prescribed for members of the legislature, the secretary of state, and other elected and appointed officers. (HOUSE AUTHOR: Debra Danburg; SENATE SPONSOR: O. H. "Ike" Harris)

The proposed amendment removes a provision concerning bribery from the oral oath required of elected and appointed officers and places that provision in a written oath that prospective officers must sign and file with the secretary of state before taking office.

## BACKGROUND

Article XVI, Section 1, of the Texas Constitution provides that members of the legislature, the secretary of state, and all other elected and appointed state and local officers must, before taking office, take an oath exacting their promise to faithfully perform their official duties and their support of the state and federal constitutions. It also provides that these officials swear that they abstained from bribery in securing their appointment, confirmation, or votes at their election. The clause requiring the denial of bribery first appeared in the constitution adopted in 1876 and was the direct outcome of the official corruption that had reached alarming proportions during the reconstruction period.

The proposed amendment removes the denial of bribery provision from the oral oath required of elected and appointed officers and places that provision in a written oath that prospective officers must sign and file with the secretary of state before taking office.

## ARGUMENTS

### FOR:

1. The denial of bribery provision is outdated and inappropriate for the spoken oath taken in settings such as opening-day ceremonies in both chambers of the legislature and the official convening of presidential electors to cast Texas' votes for president and vice-president. The proposed amendment would enhance the dignity of swearing-in ceremonies for Texas officials while preserving in a written statement the substance of the bribery denial.

2. The proposed oath would be half as long as the current oath and similar to the 35-word oath taken by the president of the United States and the oaths taken by officials in most other states.

**AGAINST:**

1. The denial of bribery has been a part of the official oath for over a hundred years, and there is no cogent reason to change a traditional oath that has served the public well for that length of time.

2. In times of increasing concern about the integrity of public officials, retaining an oral oath that denies bribery serves to reassure the public and to remind elected and appointed officials of their duty to preserve the integrity of their offices.



## **AMENDMENT NO. 8**

Senate Joint Resolution 24, proposing a constitutional amendment providing for the issuance of general obligation bonds for certain construction projects. (SENATE AUTHOR: Bob McFarland; HOUSE SPONSOR: Allen Hightower)

The proposed amendment to Article III of the Texas Constitution adds Subsection (c) to Section 49-h, authorizing the legislature to provide for the issuance of up to \$400 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, mental health and mental retardation institutions, and statewide law enforcement facilities.

### **BACKGROUND**

The current facilities of the Texas prison system, youth corrections institutions, mental health and mental retardation institutions, and statewide law enforcement facilities are far below most projections of future need. Statewide law enforcement agencies, most notably the Department of Public Safety, have recently been required by statute to perform an increasing number of duties relating to improving information, coordination, and accountability in the criminal justice system. Additional facilities are necessary to assist those agencies in carrying out those new duties. 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. In addition, the lack of prison facilities has created a backlog of convicted felons in county jails, causing an overcrowding crisis in many of those jails.

A previous amendment, adopted in 1987, authorized the legislature to provide for the issuance of up to \$500 million in general obligation bonds for similar purposes. The legislature enacted enabling legislation for the additional \$400 million in bonds in S.B. 558, 71st Legislature, Regular Session, 1989.

## 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, mental health and mental retardation institutions, and statewide law enforcement facilities will make it possible for the state to comply with federal court orders and avoid costly penalties and perform duties necessary to provide an efficient and coordinated statewide law enforcement program.

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 and must provide its residents with an efficient law enforcement program. 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. Reforms enacted during the 71st Legislature, Regular Session, may reduce the need for expanded facilities. Instead of spending more money to expand facilities for corrections institutions and getting the State of Texas further into debt, the state should wait to determine the effect of the reforms.

## AMENDMENT NO. 9

House Joint Resolution 101, proposing a constitutional amendment authorizing the legislature to organize and combine various state agencies that perform criminal justice functions. (HOUSE AUTHOR: Allen Hightower; SENATE SPONSOR: Bob McFarland)

The proposed amendment to Article IV of the Texas Constitution adds Section 11B, authorizing the legislature to organize and combine into one or more agencies all agencies of the state that confine or supervise criminals, set standards for or distribute funds to political subdivisions performing those tasks, or gather information about the administration of criminal justice. Section 11B also authorizes the legislature to provide for the appointment of members of more than one department of government to serve on the governing body of a combined criminal justice agency.

### BACKGROUND

The three primary components of the state's criminal justice system are the Texas Department of Corrections, the Board of Pardons and Paroles, and the Texas Adult Probation Commission. Each of these entities has its own governing body, with the governor appointing the members of the Texas Board of Corrections and the Board of Pardons and Paroles, and the chief justice of the Texas Supreme Court and the presiding judge of the Texas Court of Criminal Appeals appointing members of the Texas Adult Probation Commission. The criminal justice system, burdened by a rapidly increasing number of persons either confined in criminal justice facilities or supervised by criminal justice personnel, is often perceived as being unable to operate a system that protects the public. To improve coordination of criminal justice services and provide a more effective system, the 71st Legislature enacted H.B. 2335 during the regular session, which combines the Texas Department of Corrections, Board of Pardons and Paroles, and the Texas Adult Probation Commission into the Texas Department of Criminal Justice. H.B. 2335 is the enabling legislation for this proposed amendment. Because the Texas Constitution establishes parole as an executive function (Art. IV, Sec. 11) and probation as a judicial function (Art. IV, Sec. 11A), this amendment is necessary to validate the newly created Texas Department of Criminal Justice.

### ARGUMENTS

#### FOR:

1. The current system, with separate entities setting policies for imprisonment, probation, and parole, is in a crisis. Each of these functions obviously affects the other two, and a consolidation of all functions under one policy-setting entity would improve coordination, planning, and accountability in the criminal justice system.

2. Currently, three bureaucracies exist in the criminal justice system. Replacing those bureaucracies with one central criminal justice authority will reduce the percentage of state resources used to maintain the bureaucracies, and increase the percentage of state resources used to provide actual criminal justice services.

3. A new entity will be more capable of implementing new sentencing laws and programs that have recently been enacted into law. The existing bureaucracies would be resistant to change, thereby perpetuating the existing crisis in the criminal justice system.

**AGAINST:**

1. In the criminal justice area, a system of constitutional checks and balances has served to protect the rights of persons convicted of criminal offenses. Combining the three primary state agencies dealing with criminal justice affairs into one agency will weaken the constitutional safeguards.

2. The funding for new corrections facilities and increased criminal justice personnel is already in place. This funding may significantly impact the overcrowding that currently affects the system, reducing the need for consolidation of state agencies.

3. Replacing three bureaucracies with one bureaucracy does not guarantee a more efficient system. Without attacking the root causes of crime, consolidation of criminal justice agencies will have little impact on the problems affecting the system.

## AMENDMENT NO. 10

Senate Joint Resolution 4, proposing a constitutional amendment relating to allowing the legislature to enact laws permitting courts to give jury instructions on good conduct time and eligibility for parole and mandatory supervision. (SENATE AUTHOR: J. E. "Buster" Brown; HOUSE SPONSOR: Dan Morales)

The proposed amendment to Article IV, Section 11, of the Texas Constitution would allow the legislature to enact laws that require or permit courts to inform juries about the effect of good conduct time and eligibility for parole or mandatory supervision on the period of incarceration served by a defendant convicted of a criminal offense.

### BACKGROUND

In 1985, S.B. 37 of the 69th Legislature, Regular Session, amended Article 37.07(a), Code of Criminal Procedure, to allow judges to give juries instructions during the penalty phase of a trial regarding state law on parole and good conduct time. This provision was declared unconstitutional by the Texas Court of Criminal Appeals in Rose v. Texas, 752 S.W.2d 529 (1987). The court held that the jury charge was a violation of separation of powers (Article II, Section 1) and due course of law (Article I, Sections 13 and 19) as provided in the Texas Constitution.

The court ruled that the executive branch, through the Board of Pardons and Paroles, has exclusive authority over parole. The amendment to the Code of Criminal Procedure enacted by the legislature allowed jurors to consider the existence of parole in determining sentence length. The court held that this was an unconstitutional attempt by the legislature to direct the judiciary to interfere with the executive power.

The court also ruled that due course of law requires that a decision regarding punishment be based on relevant evidence entered into the record. Allowing a jury to consider parole and good conduct time permits a decision regarding punishment to be based on the expectation or anticipation that clemency powers would be exercised. The court held the statutory instruction to be an unconstitutional violation of due course of law.

The proposed constitutional amendment would establish the constitutional basis for legislative efforts to provide courts with a jury charge regarding good conduct time and parole. The legislature enacted enabling legislation in S.B. 54, 71st Legislature, Regular Session, 1989, which takes effect if the amendment is approved.

## ARGUMENTS

### FOR:

1. Jurors are often influenced by their perceptions or understanding about parole and good conduct time laws and, based on misconceptions, impose prison terms that are too long or too short. This proposed amendment and the enabling legislation will lead to more rational sentences because jurors will be given precise information about the effect of parole and good conduct time laws.

2. This proposed amendment and the enabling legislation will deter jury misconduct. Although jurors are not permitted to consider the effects of parole and good conduct time when they impose a sentence, they do anyway, often erroneously. The instructions to the jury would provide jurors with factual information on the parole and good conduct time laws.

3. Contrary to the suggestions of opponents of this amendment, the instructions will not lengthen the penalty phase of a trial. No evidence on the operation of the parole and good conduct time would be admissible. Defense attorneys would not be able to introduce voluminous evidence on the determination of sentence length. There is no evidence that the 1985 jury instruction law lengthened the penalty phase before its invalidation by the court of criminal appeals.

4. The overall effect on the institutional division of the Texas Department of Criminal Justice would not be significant because the judge rather than the jury sets punishment in most cases.

### AGAINST:

1. The instructions authorized by this amendment will do nothing but confuse juries, leading to more hung juries or to efforts to impose longer sentences and contribute to prison overcrowding. It is difficult to adequately explain the complicated system of parole and good conduct time within the confines of a statutory jury instruction. It is also difficult to predict how the instructions will affect a defendant's prison term; this depends on the defendant's future actions and how the Texas Department of Criminal Justice and Board of Pardons and Paroles regard those actions.

2. Instructing the jury about parole and good conduct time will lead to jury misconduct. Under Texas law, a conviction can be reversed on appeal if jurors discuss the possibility of parole when they determine the length of the sentence. The enabling legislation for this amendment, S.B. 54, 71st Legislature, Regular Session, 1989, asks jurors to consider the existence of parole and good conduct time, but not to consider the extent to which they affect the particular defendant. This internal contradiction will only invite jury error and likely result in many more cases being overturned on appeal.

3. This proposed amendment will encourage defense attorneys to attempt to introduce evidence explaining how the parole and good conduct time laws are applied. The punishment phase in criminal trials will be lengthier and more expensive for the state.

4. This law is another tool for lengthening prison terms. Fear of early releases due to parole or good conduct time will cause jurors to give longer sentences. If the legislature is concerned that prison sentences are too short, it should change the sentences rather than work backwards through jury instructions.

## AMENDMENT NO. 11

House Joint Resolution 102 (second of two propositions), proposing a constitutional amendment relating to the payment of per diem expenses of the members of the legislature. (HOUSE AUTHOR: David Hudson; SENATE SPONSOR: Gonzalo Barrientos)

The proposed amendment to Article III, Section 24, of the Texas Constitution replaces the existing per diem payment of \$30 for members of the legislature when the legislature is in session with a provision tying the amount of the per diem payment to an amount equal to the maximum allowed a legislator as a deduction for living expenses during a legislative day for federal income tax purposes.

### BACKGROUND

Under Article III, Section 24, of the Texas Constitution a member of the legislature receives a per diem of \$30 for each day that the legislature is in session, in addition to a salary of \$600 per month during the entire term to which the legislator is elected. The per diem payment is an additional compensation granted only during a legislative session to help offset the greater expenses incurred by a member when the legislature is meeting. The per diem compensation is paid to every member of the legislature during a legislative session, regardless of the actual expenses incurred and regardless of the member's actual attendance at the legislature. The payment provided under Article III, Section 24, of the Texas Constitution has been set at \$30 a day since April 22, 1975. From 1960 until that date it had been set at \$12 a day.

This proposed amendment resubmits to the voters the 1984 proposition to tie the amount of the allowable per diem payment to legislators to the maximum daily federal income tax deduction allowed for a state legislator's expenses. If that proposition is approved by the voters, the per diem payment would immediately change to reflect the current federal income tax deduction amount and would vary with changes made in federal tax law.

### ARGUMENTS

FOR:

1. Significant inflation has occurred since 1975, and the cost of living in Austin has increased dramatically as well. Legislators residing in other parts of the state find it impossible to pay living expenses while in Austin during legislative sessions on the current daily allowance of \$30. By tying the per diem amount to the federal tax deduction allowance for legislators' living expenses, the per diem should reflect a more realistic accommodation to actual living costs incurred by out-of-town



legislators when the legislature is meeting. In addition, the proposed provision would eliminate the need to keep adjusting the amount of the per diem through the costly constitutional amendment process.

2. Only 14 states pay their legislators less than the amounts paid in Texas. Those states recognize that legislative duties demand the full attention of the legislators when the legislature is in session. In addition, the inadequate salary and per diem allowances encourage the use by legislators of gifts and contributions provided by lobbyists and special interest groups. Recent publicity relating to questionable gifts and contributions by those groups to legislators indicates that this area is in need of reform in order to reduce the influence of lobbyists and special interest groups. By providing legislators with a reasonable income, they will be less tempted to accept questionable contributions from special interest groups to make ends meet.

#### AGAINST:

1. The per diem allowance granted under existing law is satisfactory to offset ordinary living expenses during a legislative session. At \$30 a day, a member of the legislature receives approximately \$900 a month in addition to the legislator's regular legislative salary. The proposed constitutional amendment would, under current federal law, increase this amount to approximately \$2,430 a month.

2. The proposed amendment would remove voter approval over future increases, and, instead, allow the per diem amount to be set by federal law, without any state approval. This mechanism is too indefinite because the state has no control over the amount of the federal allowance. The federal allowance, since it is designed to apply to expenses incurred by state legislators all over the country is likely to be excessive when applied to Texas, where the cost of living may be lower than the national average.

## **AMENDMENT NO. 12**

**Senate Joint Resolution 53, proposing a constitutional amendment relating to the guarantee by the permanent school fund of bonds issued by the state to aid school districts. (SENATE AUTHOR: Bill Haley; HOUSE SPONSOR: Paul Colbert)**

The proposed amendment to Article VII, Section 5(b), of the Texas Constitution would authorize the legislature to use the principal and income of the permanent school fund to guarantee bonds that are issued by the state for the purpose of assisting school districts in the acquisition, construction, or improvement of instructional facilities. The assistance may be either in the form of making loans to school districts or in the form of purchasing school district bonds. The limit on the amount of bonds that may be guaranteed at one time is \$750 million, or a higher amount set by a two-thirds vote of the legislature. The amount of any payment made by the permanent school fund would be a general obligation of the state to be paid to the fund from the state treasury. If a district is delinquent on payments from a loan made from the bond proceeds, the amount of the delinquent payments will be offset against the district's foundation school fund payments. The administration of the bond proceeds would be governed by S.B. 951, 71st Legislature, Regular Session, 1989, the enabling legislation for S.J.R. 53, which creates the school facilities aid fund.

### **BACKGROUND**

The permanent school fund is a constitutional fund created in 1854, managed by the State Board of Education, and dedicated to the support of the public schools. The current value of the fund is approximately \$7 billion. The income from investment of the fund constitutes the available school fund, part of which is used for the purchase of textbooks and the remainder of which is distributed annually to school districts based on the number of students in each district. During the next two fiscal years, it is estimated that \$1.3 billion in permanent school fund income will be credited to the available school fund. Under Article VII, Section 5(b), of the Texas Constitution, adopted in 1983, the principal and income of the fund may currently be used to guarantee bonds issued by school districts; the principal of the fund may not be used for any other purpose. The purpose of the existing bond guarantee program is to reduce the interest costs to school districts for their long-term construction debt financing by reducing the risk to persons who invest in school bonds.

In the time since adoption of Section 5(b), the bond guarantee program has not been able to assist as many districts as intended because of conflicts with the federal government's interpretation and application of federal arbitrage regulations.

The federal government had taken the position that the high yielding assets of the fund could not be used to guarantee the lower yielding bonds. Therefore, only the fund's low yielding assets, which include approximately one-eighth of the fund's assets, were available for the program. However, the federal government has recently altered its position on the arbitrage question and currently all assets of the permanent school fund may be used for the bond guarantee program.

### ARGUMENTS

#### FOR:

1. The adoption of the amendment will save school districts a significant amount of money by lowering the districts' costs of borrowing money. The issuance costs and interest rates of the bonds issued by the state would be lower than that of bonds issued by school districts because the state could issue a larger amount of bonds than a school district and because the bonds would be guaranteed by the permanent school fund. The proceeds of the bonds issued by the state and guaranteed by the permanent school fund could be used to refinance existing local bonds that pay high interest rates. Additionally, the state could use the bond proceeds to buy school district bonds or to make loans to districts at low interest rates to finance the acquisition, construction, or improvement of instructional facilities.

2. Although federal arbitrage regulations are not restricting the implementation of the existing bond guarantee program at this time, the issuance of state bonds guaranteed by the permanent school fund will assist school districts that are too poor or too small to benefit from the school district bond guarantee program in that they must pay high interest rates because their bond issues are small.

3. The amendment does not put the permanent school fund at risk since the state treasury will reimburse the fund in the event of a default by a school district. School districts will be deterred from defaulting because the amount owed by a district in default will be offset against the district's payments of state aid from the foundation school fund.

#### AGAINST:

1. Fewer school districts will be interested in the new program now that the existing bond guarantee program is fully available following the recent change in the application of federal arbitrage regulations. The state bonds will not necessarily have a significantly lower interest rate than many school district bonds, and any reduced costs may not be great enough to entice districts to go through the bureaucratic procedures under S.B. 951 for the new facilities assistance program instead of applying to have their own bonds guaranteed by the permanent school fund.

2. This amendment could create a pool of state bond proceeds with no users as the TEXCAP program did. The current bond guarantee program is sufficient to meet school district needs without having the state add to its growing debt burden.

3. The new facilities assistance program does not equalize access to educational facilities. The districts with the greatest needs are in need of direct state aid, not a loan or guarantee program. The current school finance system should be expanded to include facility costs in addition to operation costs.

## AMENDMENT NO. 13

House Joint Resolution 19, proposing a constitutional amendment relating to the rights of crime victims. (HOUSE AUTHOR: Bob Richardson; SENATE SPONSOR: J. E. "Buster" Brown)

The proposed amendment adds Section 30 to Article I of the Texas Constitution listing the rights of victims of crimes. The proposal would guarantee that crime victims have the right to be treated fairly, to be treated with respect for the victim's dignity and privacy, and to be protected from the accused. A crime victim on request would have the right to be notified of court proceedings, to be present at all public proceedings, to confer with a representative of the prosecutor's office, to receive restitution, and to receive information regarding the accused's conviction, sentence, imprisonment, and release.

The proposed constitutional amendment would also give the state, through the prosecuting attorney, the right to enforce the rights of crime victims. Judges, state attorneys, peace officers, or law enforcement agencies would not be liable for the failure or inability to provide one of the enumerated rights. A defendant or victim could not appeal or contest a conviction because of the failure or inability of any person to provide one of those rights.

### BACKGROUND

The criminal justice system of this country is founded on two major principles. One principle is that the accused is innocent until proven guilty. The second principle is that when a crime is committed it is committed against society as a whole and not simply against an individual victim or group of victims. This principle makes the state, representing the public at large, responsible for bringing legal action against the accused. Because the state is so powerful and has so many resources in comparison to an individual defendant, it is the defendant who has traditionally been protected from abuse by the criminal justice system and whose rights and due process of law have been constitutionally guarded.

In recent years there has been a national movement demanding that the focus of concern be switched from defendants to crime victims. In 1985, in response to this growing concern, the 69th Legislature added a chapter to the Code of Criminal Procedure providing a bill of rights for crime victims. Although pleased that there are statutory laws relating to rights of victims, crime victims' rights groups believe the constitution should be amended to include a list of the rights of crime victims. This amendment was modeled after a similar one from the State of Michigan.

## ARGUMENTS

### FOR:

1. The focus of concern should be on the innocent crime victim. Crime victims should have rights similar to those given to defendants. Criminals need to be given the message that victims and their rights are of importance in the criminal justice system.

2. Although a statutory bill of rights for crime victims exists, an amendment will constitutionally guarantee and guard these rights. This amendment allows the state, through the prosecuting attorney, to enforce the rights of crime victims. The constitutional guarantee carries with it a greater assurance of protection and allows the enforcement of those rights through assertion of constitutional law principles.

3. A crime victim should not be relegated to the role of a mere witness in the prosecution of the alleged offender. A crime victim deserves an active role, one that allows the crime victim to become more involved in the criminal justice process. This amendment gives the crime victim the right to confer with the prosecutor's office, the right to restitution, and the right to information about the conviction, sentence, imprisonment, and release of the accused.

### AGAINST:

1. Because the rights of crime victims are currently protected by statutory law, a constitutional amendment is unnecessary and does not provide crime victims with any greater protection. The constitutional amendment is an empty gesture that unnecessarily adds to an already lengthy and cluttered constitution.

2. This amendment gives the state the right to enforce the rights of crime victims through the prosecuting attorney and gives a crime victim the right to confer with the prosecuting attorney. These additional responsibilities imposed on overburdened prosecuting attorneys and the criminal justice system, as well as the expense of valuable time and money, may further delay and encumber the prosecution of alleged offenders.

3. Allowing a crime victim to step outside the victim's role as a witness and to become more involved in a prosecuting role undermines one of the basic principles of our criminal justice system, which is that crimes are considered to be committed against society and not against the individual. This new role for victims will serve to further slow down an already slow criminal justice system.

## AMENDMENT NO. 14

Senate Joint Resolution 71, proposing a constitutional amendment relating to the election of a district attorney in Fort Bend County.  
(SENATE AUTHOR: J. E. "Buster" Brown; HOUSE SPONSOR: Jim Tallas)

The proposed amendment to Article XVI of the Texas Constitution would add Section 65A, which would provide that the election and term of office of a district attorney serving a judicial district composed entirely of Fort Bend County be governed by the general law for criminal district attorneys.

### BACKGROUND

A 1954 amendment to the Texas Constitution extended from two to four years the terms of office of certain district and county officials, including the terms of county, district, and criminal district attorneys. Article XVI, Section 65, a transitional provision added at the same time, staggers the terms of district and county officials so that despite the extension of terms, some district and county officials would be elected every two years. As a result, criminal district attorneys in the state were elected for four-year terms in 1986, and the next election of those officials will be in 1990. District and county attorneys were elected for four-year terms in 1988, and the next election of those officials will be in 1992. A 1958 proviso to Section 65, not affected by the proposed amendment, automatically forfeits the office of a district or county official who runs for another office when more than one year of his term remains.

Article V, Section 21, of the Texas Constitution, requires the election of a county attorney for counties in which there is no resident criminal district attorney. The courts have held, conversely, that no county attorney may be elected in a county in which there is a resident criminal district attorney. Therefore, if the legislature wishes to create the new offices of county attorney and district attorney in a county served by a criminal district attorney, the office of criminal district attorney must first be abolished.

Fort Bend County is currently served by a criminal district attorney who represents the state and county in all criminal and civil cases and has all the powers, duties, and privileges conferred by law on county and district attorneys.

Effective only if the proposed amendment is adopted by the voters, S.B. 1033, 71st Legislature, Regular Session, 1989, abolishes the office of criminal district attorney in Fort Bend County when the current term expires in January 1991, and creates the office of district attorney for the 268th Judicial District (composed entirely of Fort Bend County) and the office of county attorney for Fort Bend County. The commissioners court of Fort Bend County, as provided by Article V,

Section 21, of the Texas Constitution, would appoint a person to fill the initial vacancy in the office of county attorney until the 1992 election. Section 41.010, Government Code, requires the governor to fill the vacancy in a newly created district attorney's office until the next general election, but S.B. 1033 avoids the existence of the vacancy by creating the new district attorney's office for purposes of the primary and general elections in 1990.

In short, the primary effect and purpose of the constitutional amendment is to permit the election of the new district attorney in Fort Bend County to a full four-year term at the general election in 1990. If the office were to be created in 1991 without this constitutional amendment, the office would be filled at the 1992 general election.

### ARGUMENTS

#### FOR:

1. The proposed amendment and its enabling legislation would allow the voters of Fort Bend County to decide who the new district attorney would be without the necessity of making the same decision again in only two years.

2. Selecting a person to a new office for an initial term of only two years would serve no good purpose and would unduly burden an incumbent with the expense of campaigning for a four-year term only two years after initially taking office.

#### AGAINST:

1. Carving out an exception for the election of a single district attorney defeats the statewide uniformity achieved by electing all district attorneys for full terms of office at the same general election.

2. Instead of creating a single exception for the Fort Bend County attorney, the artificial staggering of local office terms in Article XVI, Section 65, should be repealed entirely. The original staggering, done in 1954 when the terms of local officials were extended from two to four years, was arbitrary and merely transitional. Adding an exception simply increases the clutter in the constitution.



## AMENDMENT NO. 15

House Joint Resolution 32, proposing a constitutional amendment authorizing the legislature to permit and regulate raffles conducted by certain nonprofit organizations for charitable purposes. (HOUSE AUTHOR: Terral Smith; SENATE SPONSOR: Bill Ratliff)

The proposed amendment to Article III, Section 47, of the Texas Constitution would allow the legislature by general law to authorize charitable raffles conducted by qualified religious societies, volunteer fire departments and emergency medical services, and other nonprofit organizations.

### BACKGROUND

Article III, Section 47, of the Texas Constitution, included in the original version of the Constitution of 1876, required the legislature to pass laws prohibiting the establishment of lotteries and gift enterprises, and the sale of tickets in lotteries, gift enterprises, or other activities involving the lottery principle. In 1980, Section 47 was amended by adding Subsection (b) to provide an exception to the prohibition on lotteries and gift establishments by allowing the legislature to authorize and regulate bingo games by certain nonprofit organizations. Subsection (b) requires that all proceeds from bingo games be spent in Texas for charitable purposes and requires that local voters be allowed to decide whether bingo games may be held in their county, justice precinct, city, or town.

The proposed amendment will allow the legislature to enact laws permitting charitable raffles to be conducted by qualified nonprofit organizations. Any law enacted by the legislature must require that all proceeds from the sale of tickets for the raffle be spent for the charitable purpose of the organization. The law must also require that the raffle be conducted, promoted, and administered by members of the qualified nonprofit organization. Many nonprofit organizations already sponsor raffles to raise money for charitable purposes without realizing that the sponsorship may be a third-degree felony with a maximum penalty of 10 years in prison and a \$5,000 fine.

The Charitable Raffle Enabling Act (H.B. 240) was passed by the legislature in the 1989 regular session. The act will become effective on January 1, 1990, if this amendment is approved by the voters.

### ARGUMENTS

#### FOR:

1. District attorneys generally do not prosecute the sponsors of illegal raffles because the charities do not intend to violate the law. This type of unenforced law undermines the public respect for all laws.

2. The proposed amendment allows limited and well-controlled raffles for charitable purposes and permits community groups to raise funds for worthy causes.

**AGAINST:**

1. Allowing raffles for charitable purposes may lead to increased public acceptance of legalized gambling.

2. The current bingo law is complicated, difficult to enforce, and often abused. As a result of these problems, commercial operators of the bingo games often profit from the games more than the charitable organizations. Allowing charitable raffles would also require that extensive regulations be set up, and it is possible these laws will be subject to similar abuses as the bingo regulations.

## AMENDMENT NO. 16

Senate Joint Resolution 34, relating to the creation and administration of hospital districts. (SENATE AUTHOR: Ken Armbrister; HOUSE SPONSOR: Mike McKinney)

The proposed amendment would amend Section 9 of Article IX of the Texas Constitution and add Section 9B to Article IX. The amendment would allow the legislature to authorize the creation of hospital districts by general or special law and also authorize in counties with a population of 75,000 or less the creation of hospital districts that would operate in cooperation with the county in which the district is located instead of operating as independent political subdivisions as do regular hospital districts.

### BACKGROUND

Article IX, Section 9, of the Texas Constitution, which was added to the constitution in 1962, authorizes the legislature to provide for the establishment of hospital districts in areas throughout the state. Between 1954 and 1962 the constitution was amended several times to permit the creation of hospital districts in particular areas of the state.

A hospital district is a separate governmental entity that is governed by a board that is usually elected by the qualified voters in the area the hospital district serves. With the voters' approval, a hospital district may levy a property tax to finance its operation. Once a hospital district is created, it assumes "full responsibility for providing medical and hospital care" for the district's "needy inhabitants."

Traditionally, a hospital district is created by a two-step process. First, the state legislature must authorize the creation of the district. Second, the registered voters living in the area the proposed district will serve must vote to approve creation of the district. The proposed change to Article IX, Section 9, of the Texas Constitution would eliminate the requirement of legislative approval. The legislature enacted enabling legislation during the 1989 regular session (S.B. 907) that establishes a procedure for creating and operating hospital districts at the local level.

The proposed amendment would also add Section 9B to Article IX of the Texas Constitution. The new section would allow the legislature to authorize the creation of hospital districts in counties with a population of 75,000 or less. The commissioners court of the county in which the district was created would levy a property tax for the district and perform other services for the district. The legislature would set the maximum tax rate for the district.

## ARGUMENTS

### FOR:

1. Creating a hospital district is a local matter and the legislature should not have to be involved every time a locality wants to adopt, change, or abolish a hospital district.

2. The current procedure requiring specific legislative approval does not allow a locality to address problems that may arise while the legislature is not in session. With the rise in hospital closings and other problems, local residents may not be able to wait for the legislature to address a local problem.

3. Proposed Section 9B is needed to permit districts in smaller counties, many of which are encountering hospital closing crises and lack of medical care in rural areas, greater flexibility in establishing districts and raising more funds through taxes.

### AGAINST:

1. The provision of health care services and indigent health care is a statewide issue that requires statewide coordination. Removing legislative control over the creation of hospital districts could result in a worsening of the problem of unequal access to health care in this state or in a proliferation of unnecessary and inefficient hospital districts.

2. A member of the legislature usually requires indications of local consensus on the need for a hospital district such as petitions or approval by the governing body of the city or county before the member will sponsor the legislation. Removing the requirement may result in unnecessary local controversy and expense.

3. Under the proposed Section 9B the legislature would be able to set a maximum tax rate for districts in counties with populations of 75,000 or less higher than the maximum rate allowed by the constitution for other districts. The constitution should set the maximum limit for all in order to restrain excessive local taxes.

## AMENDMENT NO. 17

House Joint Resolution 33, proposing a constitutional amendment to authorize the state to provide scholarships, grants, loans, and other financial assistance to local fire departments and other public fire-fighting organizations. (HOUSE AUTHOR: Rick Perry; SENATE SPONSOR: Gonzalo Barrientos)

The proposed amendment to Article III of the Texas Constitution would add Section 51-a-1, which would allow the legislature to authorize by general law the use of public money to provide certain assistance to local fire departments and other public fire-fighting organizations and allow the use of public money for the administrative costs of the assistance program. The assistance could take the form of scholarships and grants for education and training and loans or other financial assistance for the purchase of fire-fighting equipment and facilities or equipment required by law. The legislature by law would provide for the conditions of the assistance.

### BACKGROUND

Many areas and communities in Texas have little or no fire protection. Fire departments and other public fire-fighting organizations may face difficulty in obtaining funds for necessary equipment and training.

Article III, Sections 51 and 52, of the Texas Constitution, prohibits the state from granting its credit or public money to individuals, associations, corporations, or even its own political subdivisions. Through the years, these provisions have come to be interpreted to allow grants of public money or credit for public purposes of the state, if the state can be assured that the public purpose will be performed and that an adequate benefit is received in return. However, it is not certain that the provision of assistance to any particular local public fire-fighting entity would be held to be a state public purpose, as opposed to a strictly local public purpose. The proposed amendment will clearly authorize the state to assist local fire departments and other public fire-fighting organizations to obtain needed equipment and training.

H.B. 708 will take effect if this amendment is approved by the voters. H.B. 708 creates the Fire Department Emergency Board as an adjunct to the state fire marshal's office. The board will administer the fire department emergency program and make the loans, grants, scholarships, and other financial assistance available to applying local fire departments and other public fire-fighting organizations. The assistance must be allocated according to the degree of need. An applicant may receive a loan or other financial assistance for the purchase of equipment or the financing of equipment or facilities only if the equipment purchase is necessary to meet the applicant's fire-fighting responsibilities or the equipment or facilities are

required by state or federal law and if the applicant demonstrates that it could not make the purchase without the program's assistance. In order to receive a scholarship or grant for training purposes, an applicant must demonstrate to the board that the applicant would otherwise be unable adequately to train and educate its members. Money loaned or awarded to any one applicant during a fiscal year may not exceed five percent of the emergency program's appropriations for that fiscal year. The legislature has appropriated \$1 million for this biennium for these purposes.

## ARGUMENTS

### FOR:

1. Adequate fire protection is a public necessity that should not be denied to areas with inadequate resources to acquire expensive but necessary equipment and to provide the training that adequate fire protection requires. The state can provide significant benefits to these areas at small proportionate costs, with some of those costs being recoverable in the form of loans.

2. The entire state stands to gain from improved fire protection in places where protection is presently inadequate due to a lack of resources. Adequate fire protection will provide a better climate for economic development in those places through better public safety and a probable lowering effect on local fire insurance rates. This in turn should lead to a healthier tax base for the state. In addition, part of the formula for setting fire insurance rates throughout the state is determined on statewide losses. Providing better fire protection in areas that presently have little or no protection would have a potential to keep fire insurance rates lower throughout the state.

3. The state requires certain minimum standards in training and equipment that involve costs locally, particularly for local fire departments with fire fighters who are fully paid employees. When state-mandated standards help create a situation where the cost of providing fire protection becomes prohibitive for a locality, the state should help defray some of that cost.

### AGAINST:

1. Providing fire protection is traditionally a local responsibility. Counties, municipalities, rural fire prevention districts, and districts such as municipal utility districts created under Article XVI, Section 59, of the Texas Constitution, all may provide fire protection in their area of responsibility with money derived from that area. These local governmental units should raise the money for fire protection locally.

2. If the state provides assistance to areas with inadequate fire protection, some persons who live in areas with adequate protection will pay for that protection locally while at the same time a portion of their state taxes will support an upgrade of protection in other areas of the state.

3. The effect of the provision of better fire protection in areas that now have inadequate protection on the state's tax base due to increased development in those areas is speculative. Adequate fire protection is only one of many factors that affect development. The effect on statewide fire insurance rates will probably be negligible since most of the state assistance will probably go to places where a small percentage of fire insurance policies are written. Reducing fire losses in those areas would therefore have a small effect on the percentage of insurance claims statewide. In addition, local experience is generally more important than statewide experience in setting the rate for a fire insurance policy.

## **AMENDMENT NO. 18**

**Senate Joint Resolution 44, proposing a constitutional amendment to eliminate certain time limitations relating to the issuance of Texas agricultural water conservation bonds. (SENATE AUTHOR: John Montford; HOUSE SPONSOR: Terral Smith)**

**The proposed constitutional amendment repeals Article III, Section 50-d, Subsection (e), of the Texas Constitution. Section 50-d, which became a part of the constitution in 1985, prohibits the legislature from authorizing the issuance of, or the Texas Water Development Board from issuing, Texas agricultural water conservation bonds on or after November 5, 1989. The proposed constitutional amendment has the effect of authorizing the legislature to authorize the issuance**



## ARGUMENTS

### FOR:

1. The problem that prompted the passage of Article III, Section 50-d, of the Texas Constitution in 1985 remains today. Water is a critical and limited resource and every means must be used to promote its conservation. Advances in agricultural irrigation technology make it possible to irrigate more efficiently with less water. Therefore, agricultural water conservation should remain a part of the state's long-term water financing plan.

2. The proposed amendment, by deleting the time limitation contained in Section 50-d, would allow the agricultural water conservation loan program established by S.B. 1117 to be implemented in an efficient and timely manner.

### AGAINST:

1. The state and federal governments already have a multitude of agricultural assistance programs and water conservation assistance programs in place that are available to provide adequate and substantial financial assistance to the agricultural community in this state.

2. The pilot program failed to prove the need for the level of bonding anticipated and authorized for this purpose. With the many demands being made on the state's bond capacity and with the many varied needs for water project financing outside agriculture, the bond program proposed by this amendment is unnecessary and will only operate to limit the state in providing financing for other needed state projects.

## AMENDMENT NO. 19

Senate Joint Resolution 59, proposing a constitutional amendment relating to the authority of local governments to invest funds as authorized by law. (SENATE AUTHOR: John Leedom; HOUSE SPONSOR: Nolan "Buzz" Robnett)

The proposed amendment to Article III, Section 52, of the Texas Constitution would add Subsection (e), which grants the legislature authority to enact laws allowing counties, cities, towns, or other political corporations or subdivisions of the state to make certain investments. The proposed amendment to Article XI, Section 3, of the Texas Constitution allows the legislature to authorize a county, city, or other municipal corporation to subscribe to the capital of a private corporation or association, or to make an appropriation or donation to a private corporation or loan its credit to a private corporation.

### BACKGROUND

Article III, Section 52, of the Texas Constitution was adopted by the voters in 1876. At that time the section was essentially the same as the current Subsection (a). Subsection (a) states that the legislature may not authorize a county, city, town, or political corporation or subdivision to lend its credit or grant public money or anything of value to an individual, association, or corporation, or to become a stockholder in a corporation, association, or company. Article XI, Section 3, of the Texas Constitution was also adopted by the voters in 1876. Section 3 states that a county, city, or other municipal corporation may not become a subscriber to the capital of any private corporation or association or make an appropriation or donation or loan its credit to a private corporation or association. Although the wording of Article III, Section 52, and Article XI, Section 3, differs, the sections essentially accomplish the same goal, which is to prohibit the described political subdivisions from assisting private entities with public funds.

During the regular session of the 70th Legislature the Public Funds Investment Act of 1987 was enacted, authorizing an incorporated city or town, county, public school district, publicly supported institution of higher education, or a nonprofit corporation acting on behalf of one of these entities to purchase, sell, and invest bond proceeds in various funds and securities, including common trust funds or comparable investment devices owned or administered by banks domiciled in the state. In Attorney General Opinion JM-975 (1988), the attorney general considered whether the legislature is authorized to allow political subdivisions to invest in a money market mutual fund offered by a bank. The attorney general reasoned that participation in this type of fund is similar to participation as a stockholder in a

private corporation and opined that the legislature's attempt to permit investment of public funds in a bank money market mutual fund or securities of a private entity violates Article III, Section 52, of the Texas Constitution.

If the proposed constitutional amendment is adopted, the legislature will be able to determine, without constitutional limitation, the instruments or obligations in which political subdivisions may invest their funds.

The legislature enacted enabling legislation in S.B. 1342, 71st Legislature, Regular Session, 1989, which makes several amendments to the Public Funds Investment Act of 1987, including the addition of a provision that permits a political subdivision to which the act applies to invest up to 20 percent of its average fund balance, excluding bond proceeds, in money market mutual funds. The fund must have a maximum dollar-weighted average portfolio maturity of 120 days with assets consisting exclusively of investments previously permitted under the act and investment objectives that include seeking to maintain a stable net value of \$1 per share.

## ARGUMENTS

### FOR:

1. The proposed amendment permits the legislature to allow political subdivisions new options for investing their funds in a manner that meets their cash flow requirements and investment needs and that increases the return on local investments.

2. The federal Tax Reform Act of 1986 requires political subdivisions to rebate to the federal government the profits made on certain investments. The proposed amendment allows the legislature to authorize a political subdivision to invest in money market mutual funds exempt from that requirement or in money market mutual funds that will provide to the political subdivision information necessary to avoid the expensive and complex arbitrage rebate recordkeeping and reporting requirements of that Act.

3. The proposed amendment and enabling legislation would allow political subdivisions to invest their bond proceeds in money market mutual funds that are liquid and nearly risk free.

### AGAINST:

1. The proposed amendment allows for the possibility of the investment of political subdivision funds in investments that are too risky for public funds. In some instances, investment decisions may be made by officials who do not have the sophistication to properly evaluate the risks of the investments.

2. Political subdivisions have done well in the past by investing in safe investments as required by the current constitutional provisions and should be limited to those types of investments.

3. The proposed amendment allows political subdivisions to take funds out of local banks and savings and loans and invest the funds in money market mutual funds. The withdrawal of those funds from those institutions will reduce loan capital in an industry that is already suffering in Texas' depressed economic climate.

## AMENDMENT NO. 20

Senate Joint Resolution 16, proposing a constitutional amendment relating to the abolition of the office of county surveyor in certain counties. (SENATE AUTHOR: Don Henderson; HOUSE SPONSOR: Debra Danburg)

The proposed amendment to Article XVI, Section 44, of the Texas Constitution would add Subsection (f), which would abolish the office of county surveyor in Cass, Ector, Garza, Smith, Bexar, Harris, and Webb counties. The duties of the county surveyor would be transferred to a county officer or a county employee designated by the commissioners court of the county in which the office is abolished. The abolition of the county surveyor's office takes effect January 1, 1990, if the official canvass of returns from the statewide election on the amendment shows that voters statewide and in the county approve.

### 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 surveyor in each county. A 1985 amendment to the section resulted in the abolition of the office of county surveyor in Denton, Randall, Collin, Dallas, El Paso, and Henderson counties, the transfer of records in the surveyor's custody to the county clerk, and the transfer of the surveyor's duties to a person employed or contracted with by the commissioners court. The section also contains provisions regarding county treasurers that are not affected by the proposed amendment, although four earlier amendments have resulted in the abolition of the office of county treasurer in Tarrant and Bee counties (in 1982), in Bexar and Collin counties (in 1984), in Andrews and El Paso counties (in 1985), and in Nueces County (in 1987).

The 1982, 1984, 1985, and 1987 amendments to Article XVI, Section 44, of the Texas Constitution were the result of events that began several years earlier. 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.

Although the office of county surveyor is required by the constitution, the surveyor's duties are defined primarily by Chapter 23 of the Natural Resources Code and consist mainly of keeping a record of surveys made in the county.

#### ARGUMENTS

##### FOR:

1. Allowing the voters of the counties affected by the proposed amendment to decide for themselves whether the separate elective office of county surveyor serves their needs is in the best tradition of local self-government.
2. By abolishing the office of county surveyor and transferring the functions of the office to other persons, more efficient management of county business will be accomplished and county revenue will be saved.

##### AGAINST:

1. Although county government may need streamlining and reorganization, the piecemeal approach taken by the proposed amendment is not the answer. This approach has led to, and will continue to lead to, a rash of attempted constitutional amendments as even more counties seek to carve out individual exceptions for themselves. This proposed amendment is the fifth of its kind to be submitted to the voters in the last seven years. Seven exceptions to the county treasurer requirement and six exceptions to the county surveyor requirement have been created already, and now seven more counties would be excepted from the county surveyor requirement. A thorough statewide study should precede any further attempt to alter these county offices.
2. The office of the county surveyor is an elective office. By permitting the abolition of this office, the voters of a county will lose a measure of their control over certain affairs of county government.

## AMENDMENT NO. 21

Senate Joint Resolution 74, proposing a constitutional amendment providing for the issuance of general obligation bonds as college savings bonds by the Texas Higher Education Coordinating Board to provide educational loans to students and to encourage the public to save for a college education. (SENATE AUTHOR: Chet Edwards; HOUSE SPONSOR: Wilhelmina Delco)

The proposed amendment adds Section 50b-2 to Article III of the Texas Constitution, and permits the legislature to authorize the Texas Higher Education Coordinating Board or its successor or successors to provide for, issue, and sell general obligation bonds of the State of Texas in an amount not to exceed \$75 million in addition to those bonds issued under Sections 50b and 50b-1 of Article III of the Texas Constitution. The proposed amendment provides that the bonds issued under Section 50b-2 be issued as college savings bonds as provided by that section and the enabling legislation passed by the 71st Legislature, Regular Session, 1989.

### BACKGROUND

In 1965, Section 50b of Article III of the Texas Constitution was adopted, authorizing the Coordinating Board, Texas College and University System, or its successor or successors, to provide for, issue, and sell general obligation bonds in an amount not to exceed \$85 million and authorizing the establishment of the Texas Opportunity Plan Fund. All proceeds from the sale of the bonds were to be deposited in the Texas Opportunity Plan Fund and used to make loans to Texas students attending public or private institutions of higher education in the state. An additional \$200 million in general obligation bonds was authorized for the student loan program in 1969 by Section 50b-1 of Article III of the Texas Constitution.

In July 1989, the Texas Higher Education Coordinating Board issued the remaining amount of bonds available for issuance. The proposed constitutional amendment authorizes the coordinating board to provide for, issue, and sell general obligation bonds of the State of Texas in an amount not to exceed \$75 million in addition to those bonds issued under Sections 50b and 50b-1 of the Texas Constitution. The additional bonds are authorized to be issued as college savings bonds, and proceeds from the sale of the bonds would be credited to the Texas Opportunity Plan Fund to be used for student loans under the loan program now known as the Hinson-Hazelwood College Student Loan Program.

Under the enabling legislation passed by the 71st Legislature, Regular Session, 1989 (Section 2.08 of S.B. 457), the college savings bonds would be zero coupon bonds or a similar type of bond that will encourage the purchaser to hold the bond

until maturity. The bonds would be issued in small denominations and at a price that makes the bonds attractive for the purpose of using the bonds as savings to finance the costs of a college education.

## **ARGUMENTS**

### **FOR:**

1. Because the costs of a college education are expected to increase dramatically and federal financial aid to students is likely to decrease, it is imperative that the state establish and support programs designed to assist students in paying for a college education and to encourage the public to save for a college education.

2. The economic development of the state is enhanced by a well-educated citizenry. The state's issuance of general obligation bonds to provide loans that are more financially attractive than other loans available to students to pay for a college education and the issuance of the bonds as college savings bonds will likely promote college attendance and ultimately contribute positively to the state's economy.

3. By authorizing the issuance of the general obligation bonds as college savings bonds, the public's awareness of the need to save for a college education will be increased and the state will provide an alternative investment opportunity to finance a college education.

### **AGAINST:**

1. Although the state does need to address the issue of the projected increased costs of a college education, authorizing the issuance of more general obligation bonds for college student loans will only further strain the credit of the state and is not the best alternative for assisting the public in financing a college education.

2. The system of providing loan financing to students has changed so much since the Texas Opportunity Plan Fund was established to provide student loans that it is no longer cost effective for the state to use its limited resources by authorizing the issuance of more general obligation bonds to support the Hinson-Hazelwood College Student Loan Program.

3. Although the issuance of the general obligation bonds as college savings bonds may increase public awareness of the need to save for a college education and offer an investment alternative to pay for a college education, the college savings bonds may provide no real incentive for prudent investors who already have various investment alternatives that may be financially more appealing, including other state-issued tax-free bonds.



**APPENDIX**  
**Text of Resolutions Proposing Amendments**

AMENDMENT NO. 1 and NO. 11

HOUSE AUTHOR: David Hudson  
SENATE SPONSOR: Gonzalo Barrientos

H.J.R. No. 102

A JOINT RESOLUTION

proposing a constitutional amendment relating to the compensation of the lieutenant governor and members of the legislature.

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

SECTION 1. If the voters of this state approve the ballot proposition required by Section 5(a) of this resolution and disapprove the ballot proposition required by Section 5(b) of this resolution, Article III, Section 24, of the Texas Constitution is amended to read as follows:

Sec. 24. (a) Members of the Legislature shall receive from the Public Treasury a salary equal to one-fourth of the salary provided by law for the Governor ~~[of Six Hundred Dollars (\$600) per month]. The Speaker of the House of Representatives shall receive an additional salary in the same amount for serving as Speaker.~~ Each member shall also receive a per diem of Thirty Dollars (\$30) for each day during each Regular and Special Session of the Legislature.

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

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

(d) No law varying the salary of Members of the Legislature shall take effect until a general election shall have intervened.

(e) Until the convening of the Regular Session of the 72nd Legislature in 1991, the Members of the Legislature and the Speaker of the House of Representatives shall receive compensation in the amounts prescribed by law on January 1, 1989. This subsection expires January 1, 1992.

SECTION 2. If the voters of this state approve the ballot proposition required by Section 5(b) of this resolution and disapprove the ballot proposition required by Section 5(a) of this resolution, Article III, Section 24, of the Texas Constitution is amended to read as follows:

Sec. 24. (a) Members of the Legislature shall receive from the Public Treasury a salary of Six Hundred Dollars (\$600) per month. Each member shall also receive a per diem ~~[of Thirty Dollars (\$30)]~~ for each day during each Regular and Special Session of the Legislature. The per diem allowed during a calendar year is in an amount equal to the maximum amount allowed as of January 1 of that year for federal income tax purposes as a deduction for living expenses incurred in a

legislative day by a state legislator in connection with the legislator's business as a legislator, disregarding any exception in federal law for legislators residing near the capitol.

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

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

(d) Until the convening of the Regular Session of the 72nd Legislature in 1991, the Members of the Legislature shall receive per diem in the amounts prescribed by law on January 1, 1989. This subsection expires January 1, 1992.

SECTION 3. If the voters of this state approve the ballot propositions required by Sections 5(a) and 5(b) of this resolution, Article III, Section 24, of the Texas Constitution is amended to read as follows:

Sec. 24. (a) Members of the Legislature shall receive from the Public Treasury a salary equal to one-fourth of the salary provided by law for the Governor [of Six Hundred Dollars (\$600) per month]. The Speaker of the House of Representatives shall receive an additional salary in the same amount for serving as Speaker. Each member shall also receive a per diem [of Thirty Dollars (\$30)] for each day during each Regular and Special Session of the Legislature. The per diem allowed during a calendar year is in an amount equal to the maximum amount allowed as of January 1 of that year for federal income tax purposes as a deduction for living expenses incurred in a legislative day by a state legislator in connection with the legislator's business as a legislator, disregarding any exception in federal law for legislators residing near the capitol.

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

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

(d) No law varying the salary of Members of the Legislature shall take effect until a general election shall have intervened.

(e) Until the convening of the Regular Session of the 72nd Legislature in 1991, the Members of the Legislature and the Speaker of the House of Representatives shall receive compensation and per diem in the amounts prescribed by law on January 1, 1989. This subsection expires January 1, 1992.

SECTION 4. If the voters of this state approve the ballot proposition required by Section 5(a) of this resolution, Article IV, Section 17, of the Texas Constitution is amended to read as follows:

Sec. 17. (a) If, during the vacancy in the office of Governor, the Lieutenant Governor should die, resign, refuse to serve, or be removed from office, or be unable to serve; or if he shall be impeached or absent from the State, the President of the Senate, for the time being, shall, in like manner, administer the Government until he shall be superseded by a Governor or Lieutenant Governor.

(b) The Lieutenant Governor shall receive a salary equal to one-half of the salary provided by law for the Governor and, while he acts as President of the Senate, shall receive for his services the same [compensation and] mileage which shall be allowed to the members of the Senate, and no more[- and during the time he administers the Government, as Governor, he shall receive in like manner the same compensation which the Governor would have received had he been employed in the duties of his office, and no more]. An increase in the emoluments of the Lieutenant Governor does not make a member of the Legislature ineligible for the office under Article III, Section 18, of this constitution.

(c) The President, for the time being, of the Senate, shall, during the time he administers the Government, receive in like manner the same compensation, which the Governor would have received had he been employed in the duties of his office.

(d) Until the first day of the term of office of Lieutenant Governor that begins in 1991, the Lieutenant Governor shall receive compensation in the amount prescribed by law on January 1, 1989. This subsection expires on January 1, 1992.

SECTION 5. (a) The constitutional amendment proposed by this resolution relating to the salaries of members of the legislature, the speaker of the house of representatives, and the lieutenant governor shall be submitted to the voters at an election to be held November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to limit the salary of the lieutenant governor and the speaker of the house of representatives to not more than one-half of the governor's salary and to limit the salary of a member of the legislature to not more than one-fourth of the governor's salary."

(b) The constitutional amendment proposed by this resolution relating to the per diem of members of the legislature shall be submitted to the voters at an election to be held on the same date as provided by Subsection (a) of this section for the election required by that subsection. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to set the amount of per diem received by a member of the legislature at the amount allowed for federal income tax purposes as a deduction for living expenses incurred by a state legislator in connection with official business."

## AMENDMENT NO. 2

SENATE AUTHOR: John Montford

S.J.R. No. 5

HOUSE SPONSOR: Terral Smith

### SENATE JOINT RESOLUTION

proposing a constitutional amendment to authorize the issuance of an additional \$500 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-7 to read as follows:

Sec. 49-d-7. (a) The Texas Water Development Board may issue additional Texas water development bonds up to an additional aggregate principal amount of \$500 million. Of the additional bonds authorized to be issued, \$250 million of those bonds shall be used for purposes provided by Section 49-c of this article, \$200 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 Texas Water Development Board may use the proceeds of Texas water development bonds issued for the purposes provided by Section 49-c of this article for the additional purpose of providing financial assistance, on terms and conditions provided by law, to various political subdivisions and bodies politic and corporate of the state and to nonprofit water supply corporations to provide for acquisition, improvement, extension, or construction of water supply projects that involve the distribution of water to points of delivery to wholesale or retail customers.

(c) The legislature may require review and approval of the issuance of the bonds, the use of the bond proceeds, or 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) Except as specifically provided by Subsection (e) of this section, 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.

(e) The legislature may provide by law for subsidized loans and grants from the proceeds of bonds authorized by this section to provide wholesale and retail water and wastewater facilities to economically distressed areas of the state as

defined by law, provided, the principal amount of bonds that may be issued for the purposes under this subsection may not exceed 20 percent of the total amount of bonds authorized by this section. Separate accounts shall be established in the water development fund for administering the proceeds of bonds issued for purposes under this subsection, and an interest and sinking fund separate from and not subject to the limitations of the interest and sinking fund created pursuant to Section 49-c for other Texas water development bonds is established in the State Treasury to be used for paying the principal of and interest on bonds for the purposes of this subsection. While any of the bonds authorized for the purposes of this subsection or any of the interest on those bonds is outstanding and unpaid, there is appropriated out of the first money coming into the State Treasury in each fiscal year, not otherwise appropriated by this constitution, and amount that is sufficient to pay the principal of and interest on those bonds issued for the purposes under this subsection that mature or become due during that fiscal year.

(f) 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 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to authorize the issuance of an additional \$500 million of Texas water development bonds for water supply, water quality, and flood control purposes."

### AMENDMENT NO. 3

HOUSE AUTHOR: Dudley Harrison  
SENATE SPONSOR: Chet Edwards

H.J.R. No. 51

#### 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 III of the Texas Constitution is amended by adding Section 49-i to read as follows:

Sec. 49-i. (a) The legislature by law may provide for the issuance of general obligation bonds of the state for the purpose of providing money to establish a Texas agricultural fund in the state treasury to be used without further appropriation in the manner provided by law and for the purpose of providing money to establish a rural microenterprise development fund in the state treasury to be used without further appropriation in the manner provided by law. The Texas agricultural fund shall be used only to provide financial assistance to develop, increase, improve, or expand the production, processing, marketing, or export of crops or products grown or produced primarily in this state by agricultural businesses domiciled in the state. The rural microenterprise development fund shall be used only in furtherance of a program established by the legislature to foster and stimulate the creation and expansion of small businesses in rural areas. The financial assistance offered by both funds may include loan guarantees, insurance, coinsurance, loans, and indirect loans or purchases or acceptances of assignments of loans or other obligations.

(b) The principal amount of bonds outstanding at one time may not exceed \$25 million for the Texas agricultural fund and \$5 million for the rural microenterprise development fund.

(c) The legislature may establish an interest and sinking account and other accounts within the Texas agricultural fund and within the rural microenterprise development fund. The legislature may provide for the investment of bond proceeds and of the interest and sinking accounts. Income from the investment of money in the funds that is not immediately committed to the payment of the principal of and interest on the bonds or the provision of financial assistance shall be used to create new employment and business opportunities in the state through the diversification and expansion of agricultural or rural small businesses, as provided by the legislature.

(d) 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 amounts in the interest and sinking accounts at the close of the preceding fiscal year that are pledged to payment of the bonds or interest.

SECTION 2. Article XVI of the Texas Constitution is amended by adding Section 71 to read as follows:

Sec. 71. (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 \$25 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 \$20 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 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.

(d) 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 3. This proposed amendment shall be submitted to the voters at an election to be held November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the legislature to provide for the recovery and further development of the state's economy, with goals of increasing job opportunities and other benefits for Texas residents, through state financing of the development and production of Texas products and businesses."

**AMENDMENT NO. 4**

**HOUSE AUTHOR: John Willy**

**H.J.R. No. 13**

**SENATE SPONSOR: J. E. "Buster" Brown**

**A JOINT RESOLUTION**

proposing a constitutional amendment to authorize the legislature to exempt from ad valorem taxation certain property of nonprofit veterans organizations.

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

**SECTION 1.** Article VIII, Section 2, of the Texas Constitution is amended by adding Subsection (c) to read as follows:

(c) The Legislature by general law may exempt from ad valorem taxation property that is owned by a nonprofit organization composed primarily of members or former members of the armed forces of the United States or its allies and chartered or incorporated by the United States Congress.

**SECTION 2.** This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to authorize the legislature to exempt property of nonprofit veterans organizations from ad valorem taxation."

AMENDMENT NO. 5

SENATE AUTHOR: Bob McFarland

S.J.R. No. 11

HOUSE SPONSOR: Hugo Berlanga

SENATE JOINT RESOLUTION

proposing a constitutional amendment to authorize the exemption from ad valorem taxation certain personal property temporarily in the state for certain purposes.

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 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) ~~[(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. Article VIII of the Texas Constitution is amended by adding Section 1-j to read as follows:

Sec. 1-j. (a) To promote economic development in the State, goods, wares, merchandise, other tangible personal property, and ores, other than oil, natural gas, and other petroleum products, are exempt from ad valorem taxation if:

(1) the property is acquired in or imported into this State to be forwarded outside this State, whether or not the intention to forward the property outside this State is formed or the destination to which the property is forwarded is specified when the property is acquired in or imported into this State;

(2) the property is detained in this State for assembling, storing, manufacturing, processing, or fabricating purposes by the person who acquired or imported the property; and

(3) the property is transported outside of this State not later than 175 days after the date the person acquired or imported the property in this State.

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

(1) A county, common, or independent school district, junior college district, or municipality, including a home-rule city, may tax such property otherwise exempt, if the governing body of the county, common, or independent school district, junior college district, or municipality takes official action as provided in this section and in the manner provided by law to provide for the taxation of such property.

(2) Any official action to tax such exempt property must be taken before April 1, 1990. If official action is taken to tax such exempt property before January 1, 1990, such property is taxable effective for the tax year 1990. However, if such official action to tax such exempt property is taken prior to April 1, 1990, but after January 1, 1990, the official action shall not become effective to tax such property until the 1991 tax year.

(3) Any of the above-named political subdivisions shall have the authority to exempt from payment of taxation such property located in such above-named political subdivisions for the taxing year 1989. If a governing body exempts the property from 1989 taxes, the governing body shall waive 1989 taxes already imposed and refund 1989 taxes already paid on such property for that year.

(4) The governing body of a county, common, or independent school district, junior college district, or municipality that acts under Subdivision (2) of Subsection (b) of this section to tax the property otherwise exempt by Subsection (a) of this section may subsequently exempt the property from taxation by rescinding its action to tax the property. The exemption applies to each tax year that begins after the date the action is taken and applies to the tax year in which

the action is taken if the governing body so provides. A governing body that rescinds its action to tax the property may not take action to tax such property after the rescission.

(c) For purposes of this section:

(1) tangible personal property shall include aircraft and aircraft parts;

(2) property imported into this State shall include property brought into this State;

(3) property forwarded outside this State shall include property transported outside this State or to be affixed to an aircraft to be transported outside this State; and

(4) property detained in this State for assembling, storing, manufacturing, processing, or fabricating purposes shall include property, aircraft, or aircraft parts brought into this State or acquired in this State and used by the person who acquired the property, aircraft, or aircraft parts in or who brought the property, aircraft, or aircraft parts into this State for the purpose of repair or maintenance of aircraft operated by a certificated air carrier.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment promoting economic growth, job creation, and fair tax treatment for Texans who export goods to other states and nations by restoring and allowing, on a local option basis, an ad valorem tax exemption for certain personal property that is in Texas only temporarily for the purpose of assembling, storing, manufacturing, processing, or fabricating."

**AMENDMENT NO. 6**

**HOUSE AUTHOR: Sam Russell**  
**SENATE SPONSOR: Bill Ratliff**

**H.J.R. No. 4**

**A JOINT RESOLUTION**

proposing a constitutional amendment authorizing the members of a hospital district board to serve four-year terms.

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

**SECTION 1.** Article XVI, Section 30, of the Texas Constitution is amended by adding Subsection (d) to read as follows:

(d) The Legislature by general or special law may provide that members of the governing board of a hospital district serve terms not to exceed four years.

**SECTION 2.** This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "Authorizing the members of a hospital district governing board to serve four-year terms."

## AMENDMENT NO. 7

HOUSE AUTHOR: Debra Danburg  
SENATE SPONSOR: O. H. "Ike" Harris

H.J.R. No. 40

### A JOINT RESOLUTION

proposing a constitutional amendment relating to the oath of office prescribed for members of the legislature, the secretary of state, and other elected and appointed officers.

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

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

Sec. 1. (a) Members of the Legislature, and all other elected officers, before they enter upon the duties of their offices, shall take the following Oath or Affirmation:

"I, \_\_\_\_\_, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of \_\_\_\_\_ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God."

(b) Each member of the Legislature and all other elected officers, before taking the Oath or Affirmation of office prescribed by this section and entering upon the duties of office, shall subscribe to the following statement:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected so help me God."

["I, \_\_\_\_\_, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of \_\_\_\_\_ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State; and I furthermore solemnly swear (or affirm), that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward for the giving or withholding a vote at the election at which I was elected. So help me God:"]

(c) The Secretary of State, and all other appointed officers, before entering [they enter] upon the duties of their offices, shall take the following Oath or Affirmation:

"I, \_\_\_\_\_, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of \_\_\_\_\_ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws

of the United States and of this State, so[; and I furthermore solemnly swear (or affirm), that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward to secure my appointment or the confirmation thereof. So] help me God."

(d) The Secretary of State, and all other appointed officers, before taking the Oath or Affirmation of office prescribed by this section and entering upon the duties of office, shall subscribe to the following statement:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, or promised to pay, contributed, or promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward to secure my appointment or confirmation thereof, so help me God."

(e) Members of the Legislature and all other elected officers shall file the signed statement required by Subsection (b) of this section with the Secretary of State before taking the Oath or Affirmation of office prescribed by Subsection (a) of this section.

(f) The Secretary of State and all other appointed officers shall file the signed statement required by Subsection (d) of this section with the Secretary of State before taking the Oath or Affirmation of office prescribed by Subsection (c) of this section.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to require that a member of the legislature, the secretary of state, and an elected or appointed officer, before assuming office, sign a written oath stating that the member, the secretary of state, or the officer did not engage in bribery to obtain the office."



## AMENDMENT NO. 8

SENATE AUTHOR: Bob McFarland  
HOUSE SPONSOR: Allen Hightower

S.J.R. No. 24

### SENATE JOINT RESOLUTION

proposing a constitutional amendment providing for the issuance of general obligation bonds for acquiring, constructing, or equipping corrections institutions, youth corrections institutions, statewide law enforcement facilities, and mental health and mental retardation institutions.

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

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

(c)(1) The legislature may authorize the issuance of up to \$400 million in general obligation bonds, in addition to the amount authorized by Subsection (a) of this section, and use the proceeds of the bonds for acquiring, constructing, or equipping new corrections institutions, mental health and mental retardation institutions, youth corrections institutions, and statewide law enforcement facilities and for major repair or renovation of existing facilities of those institutions.

(2) The provisions of Subsection (a) of this section relating to the review and approval of bonds and the provisions of Subsection (b) of this section relating to the status of the bonds as a general obligation of the state and to the manner in which the principal and interest on the bonds are paid apply to bonds authorized under this subsection.

SECTION 2. This proposed amendment shall be submitted to the voters at an election to be held November 7, 1989. 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 facilities of corrections institutions, youth corrections institutions, and mental health and mental retardation institutions and for the expansion of statewide law enforcement facilities."

AMENDMENT NO. 9

HOUSE AUTHOR: Allen Hightower  
SENATE SPONSOR: Bob McFarland

H.J.R. No. 101

A JOINT RESOLUTION

proposing a constitutional amendment authorizing the legislature to organize and combine various state agencies that perform criminal justice functions.

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

SECTION 1. Article IV of the Texas Constitution is amended by adding Section 11B to read as follows:

Sec. 11B. (a) The legislature by law may organize and combine into one or more agencies all agencies of the state that:

(1) have authority over the confinement or supervision of persons convicted of criminal offenses;

(2) set standards or distribute state funds to political subdivisions that have authority over the confinement or supervision of persons convicted of criminal offenses; or

(3) gather information about the administration of criminal justice.

(b) The legislature by law may authorize the appointment of members of more than one department of government to serve on the governing body.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the legislature to organize and combine various state agencies that perform criminal justice functions."

AMENDMENT NO. 10

SENATE AUTHOR: J. E. "Buster" Brown  
HOUSE SPONSOR: Dan Morales

S.J.R. No. 4

SENATE JOINT RESOLUTION

proposing a constitutional amendment authorizing jury instructions on good time and eligibility for parole and mandatory supervision.

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

SECTION 1. Article IV, Section 11, of the Texas Constitution is amended to read as follows:

Sec. 11. (a) The Legislature shall by law establish a Board of Pardons and Paroles and shall require it to keep record of its actions and the reasons for its actions. The Legislature shall have authority to enact parole laws and laws that require or permit courts to inform juries about the effect of good conduct time and eligibility for parole or mandatory supervision on the period of incarceration served by a defendant convicted of a criminal offense.

(b) In all criminal cases, except treason and impeachment, the Governor shall have power, after conviction, on the written signed recommendation and advice of the Board of Pardons and Paroles, or a majority thereof, to grant reprieves and commutations of punishment and pardons; and under such rules as the Legislature may prescribe, and upon the written recommendation and advice of a majority of the Board of Pardons and Paroles, he shall have the power to remit fines and forfeitures. The Governor shall have the power to grant one reprieve in any capital case for a period not to exceed thirty (30) days; and he shall have power to revoke conditional pardons. With the advice and consent of the Legislature, he may grant reprieves, commutations of punishment and pardons in cases of treason.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the legislature to require or permit courts to inform juries about the effect of good conduct time and eligibility for parole or mandatory supervision on the period of incarceration served by a defendant convicted of a criminal offense."

## AMENDMENT NO. 12

SENATE AUTHOR: Bill Haley  
HOUSE SPONSOR: Paul Colbert

S.J.R. No. 53

### SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the guarantee by the permanent school fund of bonds issued by the state to fund local schools.

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

SECTION 1. That Article VII, Section 5(b), of the Texas Constitution be amended to read as follows:

(b) The legislature by law may provide for using the permanent school fund and the income from the permanent school fund to guarantee bonds issued by school districts or by the state for the purpose of making loans to or purchasing the bonds of school districts for the purpose of acquisition, construction, or improvement of instructional facilities including all furnishings thereto. If any payment is required to be made by the permanent school fund as a result of its guarantee of bonds issued by the state, an amount equal to this payment shall be immediately paid by the state from the treasury to the permanent school fund. An amount owed by the state to the permanent school fund under this section shall be a general obligation of the state until paid. The amount of bonds authorized hereunder shall not exceed \$750 million or a higher amount authorized by a two-thirds record vote of both houses of the legislature. If the proceeds of bonds issued by the state are used to provide a loan to a school district and the district becomes delinquent on the loan payments, the amount of the delinquent payments shall be offset against state aid to which the district is otherwise entitled.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to provide for using the permanent school fund and its income to guarantee bonds issued by the state for the purpose of aiding school districts."

## AMENDMENT NO. 13

HOUSE AUTHOR: Bob Richardson

H.J.R. No. 19

SENATE SPONSOR: J. E. "Buster" Brown

### A JOINT RESOLUTION

proposing a constitutional amendment relating to the rights of crime victims.

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

SECTION 1. Article I of the Texas Constitution is amended by adding Section 30 to read as follows:

Sec. 30. RIGHTS OF CRIME VICTIMS. (a) A crime victim has the following rights:

(1) the right to be treated with fairness and with respect for the victim's dignity and privacy throughout the criminal justice process; and

(2) the right to be reasonably protected from the accused throughout the criminal justice process.

(b) On the request of a crime victim, the crime victim has the following rights:

(1) the right to notification of court proceedings;

(2) the right to be present at all public court proceedings related to the offense, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial;

(3) the right to confer with a representative of the prosecutor's office;

(4) the right to restitution; and

(5) the right to information about the conviction, sentence, imprisonment, and release of the accused.

(c) The legislature may enact laws to define the term "victim" and to enforce these and other rights of crime victims.

(d) The state, through its prosecuting attorney, has the right to enforce the rights of crime victims.

(e) The legislature may enact laws to provide that a judge, attorney for the state, peace officer, or law enforcement agency is not liable for a failure or inability to provide a right enumerated in this section. The failure or inability of any person to provide a right or service enumerated in this section may not be used by a defendant in a criminal case as a ground for appeal or post-conviction writ of habeas corpus. A victim or guardian or legal representative of a victim has standing to enforce the rights enumerated in this section but does not have standing to participate as a party in a criminal proceeding or to contest the disposition of any charge.

**SECTION 2.** This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment providing a bill of rights for crime victims."

AMENDMENT NO. 14

SENATE AUTHOR: J. E. "Buster" Brown

S.J.R. No. 71

HOUSE SPONSOR: Jim Tallas

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the election of a district attorney in Fort Bend County.

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

SECTION 1. Article XVI of the Texas Constitution is amended by adding Section 65A to read as follows:

Sec. 65A. Notwithstanding Section 65 of this article, the election and term of office of a district attorney serving a judicial district composed entirely of Fort Bend County are governed by the law relating to criminal district attorneys.

SECTION 2. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 71st Legislature, Regular Session, 1989, requiring a district attorney serving in a judicial district composed entirely of Fort Bend County to be elected and serve a term in the manner provided by general law for criminal district attorneys.

(b) The constitutional amendment takes effect January 1, 1990.

(c) This temporary provision takes effect on the adoption of the amendment by the voters and expires January 2, 1990.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment requiring a district attorney serving in Fort Bend County to be elected and serve a term in the manner provided by general law for criminal district attorneys."

AMENDMENT NO. 15

HOUSE AUTHOR: Terral Smith  
SENATE SPONSOR: Bill Ratliff

H.J.R. No. 32

A JOINT RESOLUTION

proposing a constitutional amendment authorizing the legislature to permit and regulate raffles conducted by certain nonprofit organizations for charitable purposes.

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

SECTION 1. Article III, Section 47, of the Texas Constitution is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The Legislature shall pass laws prohibiting lotteries and gift enterprises in this State other than those authorized by Subsections (b) and (d) of this section.

(d) The Legislature by general law may permit charitable raffles conducted by a qualified religious society, qualified volunteer fire department, qualified volunteer emergency medical service, or qualified nonprofit organizations under the terms and conditions imposed by general law.

The law must also require that:

(1) all proceeds from the sale of tickets for the raffle must be spent for the charitable purposes of the organizations; and

(2) the charitable raffle is conducted, promoted, and administered exclusively by members of the qualified religious society, qualified volunteer fire department, qualified volunteer emergency medical service, or qualified nonprofit organization.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the legislature to permit and regulate raffles conducted by certain nonprofit organizations for charitable purposes."



AMENDMENT NO. 16

SENATE AUTHOR: Kenneth Armbrister

S.J.R. No. 34

HOUSE SPONSOR: Mike McKinney

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the authority of the legislature to provide by general or special law for the creation, establishment, maintenance, and operation of a hospital district.

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

SECTION 1. Article IX, Section 9, of the Texas Constitution is amended to read as follows:

Sec. 9. The Legislature may by general or special law provide for the creation, establishment, maintenance and operation of hospital districts composed of one or more counties or all or any part of one or more counties with power to issue bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping same, for hospital purposes; providing for the transfer to the hospital district of the title to any land, buildings, improvements and equipment located wholly within the district which may be jointly or separately owned by any city, town or county, providing that any district so created shall assume full responsibility for providing medical and hospital care for its needy inhabitants and assume the outstanding indebtedness incurred by cities, towns and counties for hospital purposes prior to the creation of the district, if same are located wholly within its boundaries, and a pro rata portion of such indebtedness based upon the then last approved tax assessment rolls of the included cities, towns and counties if less than all the territory thereof is included within the district boundaries; providing that after its creation no other municipality or political subdivision shall have the power to levy taxes or issue bonds or other obligations for hospital purposes or for providing medical care within the boundaries of the district; providing for the levy of annual taxes at a rate not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation of all taxable property within such district for the purpose of meeting the requirements of the district's bonds, the indebtedness assumed by it and its maintenance and operating expenses, providing that such district shall not be created or such tax authorized unless approved by a majority of the qualified voters [~~property-taxpaying electors~~] thereof voting at an election called for the purpose; and providing further that the support and maintenance of the district's hospital system shall never become a charge against or obligation of the State of Texas nor shall any direct appropriation be made by the Legislature for the construction, maintenance or improvement of any of the facilities of such district.

Provided, however, that no district shall be created by special law except [~~by act of the Legislature and then only~~] after thirty (30) days' public notice to the district affected, and in no event may the Legislature provide for a district to be created without the affirmative vote of a majority of the qualified [~~taxpaying~~] voters in the district concerned.

The Legislature may also provide for the dissolution of hospital districts provided that a process is afforded by statute for:

(1) determining the desire of a majority of the qualified voters within the district to dissolve it;

(2) disposing of or transferring the assets, if any, of the district; and

(3) satisfying the debts and bond obligations, if any, of the district, in such manner as to protect the interests of the citizens within the district, including their collective property rights in the assets and property of the district, provided, however, that any grant from federal funds, however dispensed, shall be considered an obligation to be repaid in satisfaction and provided that no election to dissolve shall be held more often than once each year. In such connection, the statute shall provide against disposal or transfer of the assets of the district except for due compensation unless such assets are transferred to another governmental agency, such as a county, embracing such district and using such transferred assets in such a way as to benefit citizens formerly within the district.

SECTION 2. Article IX of the Texas Constitution is amended by adding Section 9B to read as follows:

Sec. 9B. The legislature by general or special law may provide for the creation, establishment, maintenance, and operation of hospital districts located wholly in a county with a population of 75,000 or less, according to the most recent federal decennial census, and may authorize the commissioners court to levy a tax on the ad valorem property located in the district for the support and maintenance of the district. A district may not be created or a tax levied unless the creation and tax are approved by a majority of the registered voters who reside in the district. The legislature shall set the maximum tax rate a district may levy. The legislature may provide that the county in which the district is located may issue general obligation bonds for the district and provide other services to the district. The district may provide hospital care, medical care, and other services authorized by the legislature.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment granting to the people the right to decide whether to create and maintain hospital districts to protect the public well-being in a manner independent of the legislature."

AMENDMENT NO. 17

HOUSE AUTHOR: Rick Perry  
SENATE SPONSOR: Gonzalo Barrientos

H.J.R. No. 33

A JOINT RESOLUTION

proposing a constitutional amendment to authorize the state to provide scholarships, grants, loans, and other financial assistance to local fire departments and other public fire-fighting organizations.

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

SECTION 1. Article III of the Texas Constitution is amended by adding Section 51-a-1 to read as follows:

Sec. 51-a-1. (a) The legislature by general law may authorize the use of public money to provide to local fire departments and other public fire-fighting organizations:

(1) loans or other financial assistance to purchase fire-fighting equipment and to aid in providing necessary equipment and facilities to comply with federal and state law; and

(2) scholarships and grants to educate and train the members of local fire departments and other public fire-fighting organizations.

(b) A portion of the money used under this section may be used for the administrative costs of the program. The legislature shall provide for the terms and conditions of scholarships, grants, loans, and other financial assistance to be provided under this section.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the state to provide scholarships, grants, loans, and other financial assistance to local fire departments and other public fire-fighting organizations to purchase fire-fighting equipment, to aid in providing necessary equipment and facilities to comply with federal and state law, and to educate and train their members."

**AMENDMENT NO. 18**

**SENATE AUTHOR: John Montford**

**S.J.R. No. 44**

**HOUSE SPONSOR: Terral Smith**

**SENATE JOINT RESOLUTION**

proposing a constitutional amendment to eliminate certain time limitations relating to the issuance of Texas agricultural water conservation bonds.

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

**SECTION 1.** Article III, Section 50-d(e), of the Texas Constitution is repealed.

**SECTION 2.** This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to eliminate certain time limitations relating to the issuance of Texas agricultural water conservation bonds."

AMENDMENT NO. 19

SENATE AUTHOR: John Leedom  
HOUSE SPONSOR: Nolan "Buzz" Robnett

S.J.R. No. 59

SENATE JOINT RESOLUTION

proposing a constitutional amendment to authorize local governments to invest their funds as authorized by law.

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

SECTION 1. Article III, Section 52, of the Texas Constitution is amended by adding Subsection (e) to read as follows:

(e) A county, city, town, or other political corporation or subdivision of the state may invest its funds as authorized by law.

SECTION 2. Article XI, Section 3, of the Texas Constitution is amended to read as follows:

Sec. 3. No county, city, or other municipal corporation shall hereafter become a subscriber to the capital of any private corporation or association, or make any appropriation or donation to the same, or in anywise loan its credit; but this shall not be construed to in any way affect any obligation heretofore undertaken pursuant to law or to prevent a county, city, or other municipal corporation from investing its funds as authorized by law.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to authorize local governments to invest their funds as provided by law."

## AMENDMENT NO. 20

SENATE AUTHOR: Don Henderson

S.J.R. No. 16

HOUSE SPONSOR: Debra Danburg

### SENATE JOINT RESOLUTION

proposing a constitutional amendment to abolish the office of county surveyor in certain counties.

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

SECTION 1. Article XVI, Section 44, of the Texas Constitution is amended by adding Subsection (f) to read as follows:

(f) This subsection applies only to the counties of Cass, Ector, Garza, Smith, Bexar, Harris, and Webb. The office of County Surveyor in the county is abolished on January 1, 1990, if at the statewide election at which the addition to the Constitution of this subsection is submitted to the voters, a majority of the voters of that county voting on the question at that election favor the addition of this subsection. If the office of County Surveyor is abolished in a county under this subsection, the powers, duties, and functions of the office are transferred to the county officer or employee designated by the Commissioners Court of the county in which the office is abolished, and the Commissioners Court may from time to time change its designation as it considers appropriate.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to abolish the office of county surveyor in Cass, Ector, Garza, Smith, Bexar, Harris, and Webb counties."

## AMENDMENT NO. 21

SENATE AUTHOR: Chet Edwards  
HOUSE SPONSOR: Wilhelmina Delco

S.J.R. No. 74

### SENATE JOINT RESOLUTION

proposing a constitutional amendment providing for the issuance of general obligation bonds as college savings bonds by the Texas Higher Education Coordinating Board to provide educational loans to students and to encourage the public to save for a college education.

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

SECTION 1. Article III of the Texas Constitution is amended by adding Section 50b-2 to read as follows:

Sec. 50b-2. ADDITIONAL STUDENT LOANS. (a) The legislature by general law may authorize the Texas Higher Education Coordinating Board or its successor or successors to provide for, issue, and sell general obligation bonds of the State of Texas in an amount not to exceed \$75 million in addition to those bonds issued under Sections 50b and 50b-1 of this constitution. Bonds issued under this section shall be issued as college savings bonds as provided by law.

(b) The bonds shall:

(1) be executed in the form, on the terms, and in the denominations as prescribed by law; and

(2) bear interest and be issued in installments as prescribed by the Texas Higher Education Coordinating Board or its successor or successors.

(c) The maximum net effective interest rate to be borne by bonds issued under this section must be set by law.

(d) The proceeds from the sale of bonds issued under this section shall be credited to the Texas opportunity plan fund created by Section 50b of this constitution and shall be administered as provided by Section 50b of this constitution and the law enacted under that constitutional provision.

(e) Bonds issued under this section are payable in the same manner and from the same sources as bonds authorized under Section 50b of this constitution.

(f) Bonds issued under this section, after approval by the attorney general, registration by the comptroller of public accounts, and delivery to the purchasers, are incontestable and are general obligations of the State of Texas under this constitution.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 7, 1989. 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 as college savings bonds to provide educational loans to students and to encourage the public to save for a college education.”