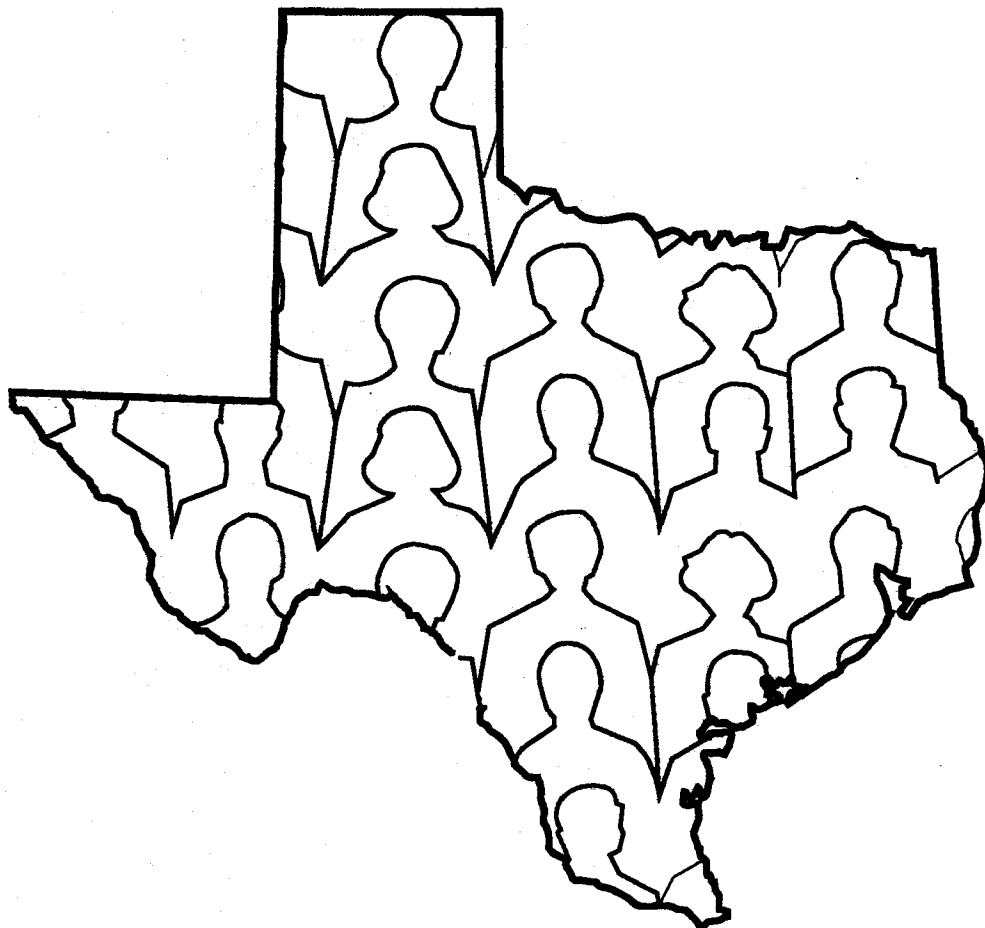


Analyses of Proposed Constitutional Amendments

August 10, 1991, Election



Texas Legislative Council
July 1991

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Constitutional Amendments**

*** August 10, 1991, Election ***

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of the
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INTRODUCTION

GENERAL INFORMATION

In the 1991 regular session, the 72nd Texas Legislature passed 11 joint resolutions proposing 11 constitutional amendments. Two of the proposed amendments will be offered for voter ratification on an August 10, 1991, 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. A proposed amendment becomes a part of the constitution if a majority of the votes cast in an election on the proposition 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 1990, the state's constitution has been amended 327 times, from a total of 487 amendments submitted to the voters for their approval. The two amendments on the August 10, 1991, election ballot bring the total number of amendments submitted to 489. 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	1941	5	1
1881	2	0	1943	3**	3
1883	5	5	1945	8	7
1887	6	0	1947	9	9
1889	2	2	1949	10	2
1891	5	5	1951	7	3
1893	2	2	1953	11	11
1895	2	1	1955	9	9
1897	5	1	1957	12	10
1899	1	0	1959	4	4
1901	1	1	1961	14	10
1903	3	3	1963	7	4
1905	3	2	1965	27	20
1907	9	1	1967	20	13
1909	4	4	1969	16	9
1911	5	4	1971	18	12
1913	8*	0	1973	9	6
1915	7	0	1975	12††	3
1917	3	3	1977	15	11
1919	13	3	1978	1	1
1921	5**	1	1979	12	9
1923	2†	1	1981	10	8
1925	4	4	1982	3	3
1927	8**	4	1983	19	16
1929	7**	5	1985	17**	17
1931	9	9	1986	1	1
1933	12	4	1987	28**	20
1935	13	10	1989	21**	19
1937	7	6	1990	1	1
1939	4	3	1991	2	(a)

TOTAL PROPOSED 489

TOTAL ADOPTED 327

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) Two amendments approved by the 72nd Legislature during the 1991 regular session will appear on the August 10, 1991, 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 ballot propositions offered at the August 10, 1991, election is provided below.

AMENDMENT NO. 1

The constitutional amendment to allow the voters of a county education district to adopt certain exemptions from the district's ad valorem taxation for residence homesteads and to provide for the taxation of certain tangible personal property.

AMENDMENT NO. 2

The constitutional amendment providing for the issuance of general obligation bonds to provide educational loans to students.

**ANALYSES
OF
PROPOSED AMENDMENTS**

AMENDMENT NO. 1

Senate Joint Resolution 42, proposing a constitutional amendment authorizing a county education district to adopt certain residence homestead exemptions and to provide for the taxation of certain tangible personal property. (SENATE AUTHOR: Gene Green; HOUSE SPONSOR: Paul Colbert)

The proposed amendment amends Article VIII of the Texas Constitution by: (1) amending Section 1-b(e) to permit the voters of a county education district to exempt a portion of residence homesteads from ad valorem taxes levied by the county education district; (2) amending Section 1-b(b) to permit the voters of a county education district to exempt a portion of residence homesteads of disabled and elderly persons from ad valorem taxes levied by the county education district; and (3) amending Section 1(e) to permit the voters of a county education district to tax tangible personal property not held or used to produce income.

BACKGROUND

Article VIII, Section 1, of the Texas Constitution provides that all real property and tangible personal property, unless exempt as required or permitted by the constitution, shall be taxed in proportion to its value. Exemptions not authorized by the Texas Constitution are void.

The new Texas school finance law, Senate Bill 351, effective August 26, 1991, overhauls the state's public school funding system. Senate Bill 351 creates 188 county education districts. A county education district is classified as a "school district" for the purposes of Section 11.13, Tax Code. Each county education district will impose ad valorem taxes on property in the district.

Under current law, property owners in county education districts will receive the same constitutionally required total and partial exemptions from their county education districts, including the \$5,000 general homestead exemption and the \$10,000 exemption for the disabled or elderly.

Under current law, the governing body of a county education district will be authorized to grant additional partial exemptions on residence homesteads and residence homesteads of disabled and elderly persons. In addition, the governing body may decide to tax personal property not used to produce income.

If the constitutional amendments proposed by S.J.R. 42 are approved, the governing bodies of county education districts will not have the authority to grant these partial exemptions or to decide whether to tax personal property not used to produce income. Instead, the voters of each county education district will directly determine, at an election held for that purpose, whether to grant the partial

exemptions on property in the district and whether the county education district may tax that personal property.

ARGUMENTS

FOR:

1. The trustees of county education districts are not elected from the districts at large and are not directly accountable to all residents in the districts. County education district trustees may believe that granting partial tax exemptions, or deciding to tax tangible personal property, will adversely affect the school districts from which they are elected or cause the taxes of the school districts' residences to increase. Allowing the voters of county education districts to vote on these important issues is an equitable way for these matters to be decided.

2. County education districts are designed to equalize the funding of education within certain geographical areas and are not designed to be governmental entities that exercise significant discretion or policy-making powers. The determination of tax exemptions would be made for the entire area covered by the education district and should be determined by the voters rather than by a board designed to perform primarily ministerial functions.

3. The proliferation of local, limited-purpose governmental entities is generally not recommended by political scientists and other experts on government. The creation of county education districts, however, was determined to be necessary to equalize education spending and balance tax burdens within the districts. The retention of the power to provide tax exemptions applicable to the county education districts in the hands of the voters minimizes any harmful effects of the new layer of local government.

AGAINST:

1. The voters are already overburdened with being required to vote on myriad candidates, propositions amending the constitution, and other issues. This amendment further complicates the ballots and dilutes the total effectiveness of elections.

2. The creation of county education districts was merely a financing scheme to get money from local wealthy school districts. The tax money generated from the county education districts is transferred to the independent school districts that are located within the county education district. The money is actually spent under the direction of the boards of trustees of the local independent school districts. The trustees of these local districts by agreement should decide the issues of tax exemptions.

3. Asking the voters to decide whether to give themselves property tax exemptions is simply unnecessary. The chances of the voters deciding to deny residence homestead exemptions for themselves or for the elderly or the disabled or to tax their personal property are small. The constitutional amendment should simply mandate the exemptions.

AMENDMENT NO. 2

Senate Joint Resolution 5, proposing a constitutional amendment providing for the issuance of general obligation bonds by the Texas Higher Education Coordinating Board to provide educational loans to students. (SENATE AUTHOR: Gonzalo Barrientos; HOUSE SPONSOR: Eddie Cavazos)

The proposed amendment adds Section 50b-3 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 \$300 million in addition to those bonds issued under Sections 50b, 50b-1, and 50b-2 of Article III of the Texas Constitution. The proposed amendment provides that the bonds issued under Section 50b-3 be issued as provided by that section and the enabling legislation passed by the 72nd Legislature, Regular Session, 1991.

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 under the loan program now known as the Hinson-Hazelwood College Student Loan Program. 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 and an additional \$75 million in general obligation bonds was authorized for the student loan program in 1989 by Section 50b-2 of Article III of the Texas Constitution.

Between 1986 and 1990, the annual volume of loans under the Hinson-Hazelwood College Student Loan Program increased from \$12 million in 1986 to almost \$80 million in 1990. Additional money will be necessary to finance the growth of the loan program. 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 \$300 million in addition to those bonds issued under Sections 50b, 50b-1, and 50b-2 of the Texas Constitution. Proceeds from the sale of the bonds would be credited to the student loan auxiliary fund to be used for student loans under the Hinson-Hazelwood College Student Loan Program.

Under the enabling legislation passed by the 72nd Legislature, Regular Session, 1991 (Senate Bill 104), the Texas Higher Education Coordinating Board may not issue more than \$100 million of general obligation bonds in a state fiscal year. The bonds would be issued under the terms and name provided by the coordinating board. The bonds may have a different face value from other bonds issued by the coordinating board.

ARGUMENTS

FOR:

1. Because the costs of a college education continue to increase 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.

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 general obligation bonds will likely promote college attendance and ultimately contribute positively to the state's economy.

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. Other private, state, and federal financial assistance programs are available to pay for 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.

APPENDIX
Text of Resolutions Proposing Amendments

AMENDMENT NO. 1

SENATE AUTHOR: Gene Green

S.J.R. 42

HOUSE SPONSOR: Paul Colbert

SENATE JOINT RESOLUTION

proposing a constitutional amendment authorizing a county education district by election to adopt certain residence homestead exemptions and to provide for the taxation of certain tangible personal property.

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

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

(e) The governing body of a political subdivision, other than a county education district, may exempt from ad valorem taxation a percentage of the market value of the residence homestead of a married or unmarried adult, including one living alone. In the manner provided by law, the voters of a county education district at an election held for that purpose may exempt from ad valorem taxation a percentage of the market value of the residence homestead of a married or unmarried adult, including one living alone. The percentage may not exceed [forty percent (40%) for the years 1982 through 1984, thirty percent (30%) for the years 1985 through 1987, and] twenty percent [(20%) in 1988 and each subsequent year]. However, the amount of an exemption authorized pursuant to this subsection may not be less than Five Thousand Dollars (\$5,000) unless the legislature by general law prescribes other monetary restrictions on the amount of the exemption. An eligible adult is entitled to receive other applicable exemptions provided by law. Where ad valorem tax has previously been pledged for the payment of debt, the governing body of a political subdivision may continue to levy and collect the tax against the value of the homesteads exempted under this subsection until the debt is discharged if the cessation of the levy would impair the obligation of the contract by which the debt was created. The legislature by general law may prescribe procedures for the administration of residence homestead exemptions.

SECTION 2. Article VIII, Section 1-b(b), of the Texas Constitution is amended to read as follows:

(b) The [From and after January 1, 1973, the] governing body of any county, city, town, school district, or other political subdivision of the State, other than a county education district, may exempt by its own action not less than Three Thousand Dollars (\$3,000) of the market value of residence homesteads of persons, married or unmarried, including those living alone, who are under a

disability for purposes of payment of disability insurance benefits under Federal Old-Age, Survivors, and Disability Insurance or its successor or of married or unmarried persons sixty-five (65) years of age or older, including those living alone, from all ad valorem taxes thereafter levied by the political subdivision. As an alternative, upon receipt of a petition signed by twenty percent (20%) of the voters who voted in the last preceding election held by the political subdivision, the governing body of the subdivision shall call an election to determine by majority vote whether an amount not less than Three Thousand Dollars (\$3,000) as provided in the petition, of the market value of residence homesteads of disabled persons or of persons sixty-five (65) years of age or over shall be exempt from ad valorem taxes thereafter levied by the political subdivision. In the manner provided by law, the voters of a county education district at an election held for that purpose may exempt an amount not less than Three Thousand Dollars (\$3,000), as provided in the petition, of the market value of residence homesteads of disabled persons or of persons sixty-five (65) years of age or over from ad valorem taxes thereafter levied by the county education district. An eligible disabled person who is sixty-five (65) years of age or older may not receive both exemptions from the same political subdivision in the same year but may choose either if the subdivision has adopted both. Where any ad valorem tax has theretofore been pledged for the payment of any debt, the taxing officers of the political subdivision shall have authority to continue to levy and collect the tax against the homestead property at the same rate as the tax so pledged until the debt is discharged, if the cessation of the levy would impair the obligation of the contract by which the debt was created. An exemption adopted under this subsection based on assessed value is increased, effective January 1, 1979, to an amount that, when converted to market value, provides the same reduction in taxes, except that the market value exemption shall be rounded to the nearest \$100.

SECTION 3. Article VIII, Section 1(e), of the Texas Constitution is amended to read as follows:

(e) The governing body of a political subdivision, other than a county education district, 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. In the manner provided by law, the voters of a county education district at an election held for that purpose 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.

SECTION 4. Article VIII of the Texas Constitution is amended by adding Section 1-b-1 to read as follows:

Sec. 1-b-1. The references to a county education district in Sections 1 and 1-b of this article neither validate nor invalidate county education districts.

SECTION 5. This proposed constitutional amendment shall be submitted to the voters at an election to be held August 10, 1991. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to allow the voters of a county education district to adopt certain exemptions from the district's ad valorem taxation for residence homesteads and to provide for the taxation of certain tangible personal property."

AMENDMENT NO. 2

SENATE AUTHOR: Gonzalo Barrientos

S.J.R. 5

HOUSE SPONSOR: Eddie Cavazos

SENATE JOINT RESOLUTION

proposing a constitutional amendment providing for the issuance of general obligation bonds by the Texas Higher Education Coordinating Board.

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-3 to read as follows:

Sec. 50b-3. ADDITIONAL STUDENT LOANS. (a) The legislature by general law may authorize the Texas Higher Education Coordinating Board or its successor or successors to issue and sell general obligation bonds of the State of Texas in an amount not to exceed \$300 million to finance educational loans to students. The bonds are in addition to those bonds issued under Sections 50b, 50b-1, and 50b-2 of Article III of this constitution.

(b) The bonds shall be executed in the form, on the terms, and in the denominations, 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 legislature may provide for the investment of bond proceeds and may establish and provide for the investment of an interest and sinking fund to pay the bonds. Income from the investment shall be used for the purposes prescribed by the legislature.

(e) While any of the bonds issued under this section 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 an interest and sinking fund established under this section at the end of the preceding fiscal year that is pledged to the payment of the bonds or interest.

(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.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on the earlier of the first date on which another election on a constitutional amendment proposed by the 72nd Legislature, Regular Session, 1991, is held or November 5, 1991. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment providing for the issuance of general obligation bonds to provide educational loans to students."