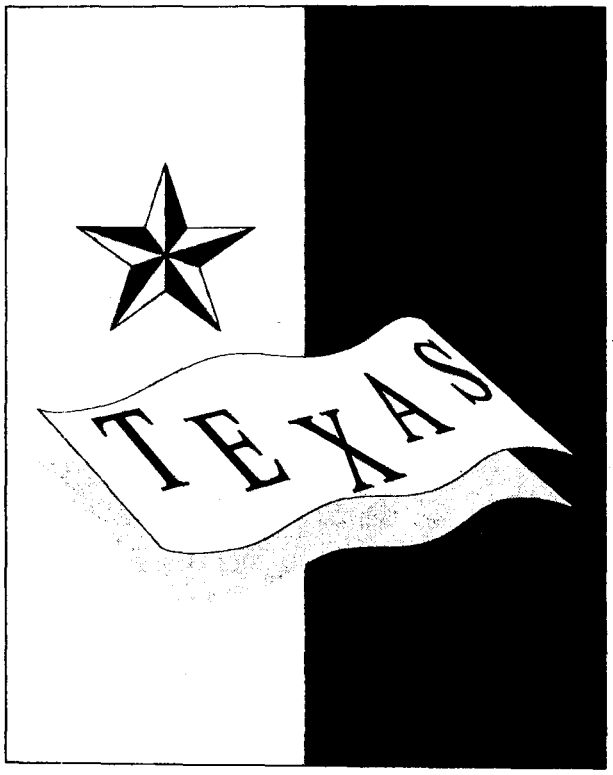
Analyses of Proposed Constitutional Amendments

November 2, 1999, Election



Texas Legislative Council
September 1999

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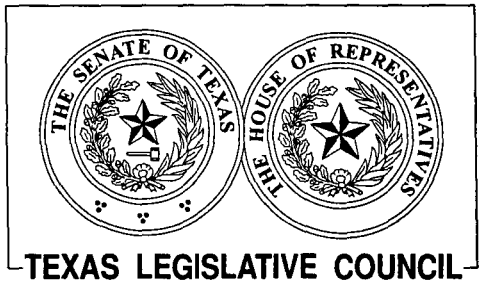

Prepared by the Staff
of the
Texas Legislative Council

Published by the
Texas Legislative Council
Austin, Texas

Lieutenant Governor Rick Perry, Chairman
Speaker James E. "Pete" Laney, Vice Chairman
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September 1999

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Introduction

General Information

In the 1999 regular session, the 76th Texas Legislature passed 17 joint resolutions proposing constitutional amendments. These proposed amendments will be offered for ratification on the November 2, 1999, 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 September 1999, the state's constitution has been amended 377 times, from a total of 550 amendments, 547 of which were submitted to the voters for their approval. The 17 amendments on the November 2, 1999, election ballot will bring the total number of amendments passed by the legislature to 567. 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.

The remaining section of this publication contains the ballot language, an analysis of the proposition, and the text of each joint resolution proposing constitutional amendments that will appear on the November 2, 1999, ballot. The analyses include background information and arguments for and against each proposed constitutional amendment. The propositions are presented in the order in which they will appear on the election ballot.

Table

1876 Constitution Amendments Proposed and Adopted

year proposed	number proposed	number adopted	year proposed	number proposed	number adopted
1879	1	1	1945	8	7
1881	2	0	1947	9	9
1883	5**	5	1949	10	2
1887	6	0	1951	7	3
1889	2	2	1953	11	11
1891	5	5	1955	9	9
1893	2	2	1957	12	10
1895	2	1	1959	4	4
1897	5	1	1961	14	10
1899	1	0	1963	7	4
1901	1	1	1965	27	20
1903	3	3	1967	20	13
1905	3	2	1969	16	9
1907	9	1	1971	18	12
1909	4	4	1973	9	6
1911	5	4	1975	12†	3
1913	8*	0	1977	15	11
1915	7	0	1978	1	1
1917	3	3	1979	12	9
1919	13	3	1981	10	8
1921	5**	1	1982	3	3
1923	2***	1	1983	19	16
1925	4	4	1985	17**	17
1927	8**	4	1986	1	1
1929	7**	5	1987	28**	20
1931	9	9	1989	21**	19
1933	12	4	1990	1	1
1935	13	10	1991	15	12
1937	7	6	1993	19**	14
1939	4	3	1995	14	11
1941	5	1	1997	15	13
1943	3**	3			

Total Proposed 550 — Total Adopted 377

Notes

* There were eight joint resolutions, but one of them was a U.S. constitutional amendment ratification. Seven joint resolutions proposing amendments were approved by the legislature, but only six proposals were actually submitted on the ballot. The unsubmitted proposal included two amendments.

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

*** Two joint resolutions were approved by the legislature, but only one proposal 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.

Proposed Amendments

Amendment No. 1 (H.J.R. No. 44)

Wording of Ballot Proposition:

The constitutional amendment to revise the provisions for the filling of a vacancy in the office of governor or lieutenant governor.

Analysis of Proposed Amendment:

The proposed amendment would amend Section 3a, Article IV, Texas Constitution, to provide that, if the governor-elect dies or is otherwise permanently unable to take office, the lieutenant governor-elect becomes governor and forfeits the office of lieutenant governor, with the resulting vacancy in that office filled by the senate under Section 9, Article III, Texas Constitution.

The proposed amendment would amend Section 16, Article IV, Texas Constitution, to provide that, in the event of a temporary inability, disqualification, or absence of the governor, or in the event an impeachment of the governor is in progress, the lieutenant governor acts as governor until the governor resumes serving. It also amends Section 16 to provide that, if the office of governor becomes permanently vacant, the lieutenant governor becomes governor for the remainder of the term and vacates the office of lieutenant governor, with the resulting vacancy to be filled by the senate under Section 9, Article III.

The proposed amendment would amend Sections 17 and 18, Article IV, and Section 9, Article III, to conform to the amendments to Sections 3a and 16, Article IV, and to make the terminology describing vacancies and succession more consistent throughout all the affected sections. The amendment to Section 17, Article IV, would limit the service of the president pro tempore of the senate as governor in the absence of the lieutenant governor to temporary absence or disability of the lieutenant governor, since in the event of a permanent vacancy in the office of governor the lieutenant governor would become governor.

Background

Section 16, Article IV, Texas Constitution, provides for the lieutenant governor to exercise the powers and authority of the governor in the event of a permanent vacancy in that office or in the event the governor is temporarily absent from the state, unable to serve, or under impeachment. That service as governor continues until the governor returns to service or the next regular gubernatorial election, as applicable. In accordance with Section 16, the lieutenant governor routinely acts as governor, while remaining lieutenant governor, when the governor is temporarily unable to serve or absent from the state. However, in each of the four instances in which the office of governor has become permanently vacant under the current constitution (1876, 1917, 1941, and 1949), the lieutenant governor has assumed the title of governor and abandoned the office of lieutenant governor. The duties of the lieutenant governor were performed by the president pro tempore of the senate as then provided by the constitution.

Section 3a, Article IV, Texas Constitution, provides that the lieutenant governor-elect would "act as Governor" until the next general election if the governor-elect dies or otherwise fails to take office.

Under current Section 16, Article IV, there is uncertainty as to whether the lieutenant governor, on assuming the powers and duties of the governor when a permanent vacancy occurs in that office, continues to be the lieutenant governor. Arguably, under Section 3a, Article IV, it is also unclear whether the lieutenant governor-elect who fills a vacancy in the office of governor would also assume the office of lieutenant governor. The language of the relevant sections suggests that the lieutenant governor *serves* as governor while remaining lieutenant governor. For example, Sections 16 and 17, Article IV, refer to the lieutenant governor when referring to the officer serving as governor following a gubernatorial vacancy. On the other hand, Section 18, Article IV, refers to the lieutenant governor "succeeding to the office of Governor." A 1914 opinion of the attorney general (B. F. Looney, *Biennial Report of Attorney General, Texas, 1914-1916*, Aug. 25, 1914, p. 533) stated that under Section 16, Article IV, the lieutenant governor succeeds to the powers and duties of the office of governor but does not become the governor, and instead remains in the office of lieutenant governor.

In 1972, Section 4, Article IV, Texas Constitution, was amended to provide for four-year terms for the offices of governor and lieutenant governor. The longer term of office makes the question of succession more important. When the governor and lieutenant governor served only two-year terms, a vacancy was of relatively short duration. By the next regular biennial legislative session, when the most important duties of the lieutenant governor and many of the most important duties of the governor are exercised, a new lieutenant governor and governor would have been elected by the voters. However, with four-year terms, a lieutenant governor may be called on to fill a gubernatorial vacancy for up to four years.

In 1984, Section 9, Article III, Texas Constitution, was amended to provide that, if the office of lieutenant governor becomes vacant, the senate is to convene as a committee and elect one of its members to act as lieutenant governor until the next general election. Previously, the president pro tempore of the senate served as lieutenant governor in the event of a vacancy.

The proposed amendment would clarify that in the event of a permanent vacancy in the office of governor, the lieutenant governor or lieutenant governor-elect would become governor and vacate or forfeit the office of lieutenant governor, with the resulting vacancy in that office filled by the senate under Section 9, Article III. A temporary gubernatorial absence or vacancy would continue to be treated under current practice, in which the lieutenant governor acts as but does not become governor.

The amendment would also eliminate another minor matter of constitutional uncertainty. Currently, Section 17(a), Article IV, states that the president pro tempore of the senate acts as governor in the event of a double vacancy in the offices of governor and lieutenant governor. However, it is not clear how that provision would work in conjunction with the later-adopted 1984 amendment to Section 9, Article III, under which the senate elects a senator to "perform the duties" of lieutenant governor in the event of a vacancy in that office. Which officer would act as governor in the event of a double vacancy, the president pro tempore or the senator acting as lieutenant governor? Under the proposed amendment, the authority of the president pro tempore to act as governor

is limited to cases in which the governor and lieutenant governor are temporarily absent or unable to serve. In addition, it is reasonably clear under the proposed amendment that the senator chosen to *act as* lieutenant governor would not succeed to the office of governor in event of a double vacancy because the senator would not actually *be* lieutenant governor. Succession would require the senator to "vacate" the office of lieutenant governor, which the senator does not hold. Presumably, the matter of succession to the office of governor in the event of a double vacancy would be resolved under the Emergency Interim Executive Succession Act (Subchapter B, Chapter 401, Government Code). Under Section 3a, Article IV, Texas Constitution, any succession to the governorship not covered by the constitution may be provided for by law. The succession statute currently places the president pro tempore in position to succeed the governor if there is no lieutenant governor, followed by the speaker of the house, the attorney general, and the chief justices of the courts of appeals.

Arguments For:

1. The proposed amendment would properly prevent a lieutenant governor succeeding to fill a gubernatorial vacancy from asserting any claim to the office of lieutenant governor. Holding both offices would place far too much power in one person and would undermine the checks and balances that the two offices are intended to exert on one another. The lieutenant governor's most important constitutional, statutory, and parliamentary powers—presiding over the senate, chairing legislative agencies such as the Legislative Budget Board, and serving on the Legislative Redistricting Board—are inconsistent with the executive powers of the governor.

2. By clarifying the succession to a vacancy in the office of governor, the proposed amendment will also clarify that the senate should convene under Section 9, Article III, Texas Constitution, to elect a senator to serve as lieutenant governor when the lieutenant governor becomes governor. Currently, it is not clear that such a succession by the lieutenant governor would create a lieutenant governor vacancy that the senate is authorized to fill, and the validity of actions taken by a senator chosen to act as

lieutenant governor after a gubernatorial vacancy could be called into question. Uncertainty as to who presides over the senate is very disruptive to the legislative process.

Arguments Against:

1. The proposed amendment, providing for the lieutenant governor to become governor in the event of a gubernatorial vacancy, leaves current law in place authorizing the senate to fill the resulting vacancy in the office of lieutenant governor for the remainder of the term. The office of lieutenant governor is too important to be filled by the senate, where personal relationships, partisanship, and seniority will determine who becomes lieutenant governor. A vacancy in the office of lieutenant governor should be filled by the voters at a statewide election if there are two or more years remaining in the term of office.

2. The proposed amendment, while clarifying some issues relating to succession, leaves other questions unanswered. It is unclear exactly when the absence or disability of the governor or lieutenant governor becomes sufficiently permanent to create a vacancy, so resort to the courts may be required even under the proposed amendment. Also, the proposed amendment does not state with certainty how a double vacancy in the offices of both governor and lieutenant governor should be filled. These matters should be clarified before the amendment is adopted.

Text of H.J.R. No. 44: **HOUSE AUTHOR:** Tom Ramsay et al.
SENATE SPONSOR: Carlos Truan

HOUSE JOINT RESOLUTION

proposing a constitutional amendment relating to the filling of a vacancy in the office of governor or lieutenant governor.

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

SECTION 1. Sections 3a, 16, 17, and 18, Article IV, Texas Constitution, are amended to read as follows:

Sec. 3a. If, at the time the Legislature shall canvass the election returns for the offices of Governor and Lieutenant Governor, the person receiving the highest number of votes for the office of Governor, as declared by the Speaker, has died, fails to qualify, or for any other reason is unable to assume the office of Governor, then the person having the highest number of votes for the office of Lieutenant Governor shall become [~~act as~~] Governor for the full term to which the person was elected as Governor [~~until after the next general election~~]. By becoming the Governor, the person forfeits the office of Lieutenant Governor, and the resulting vacancy in the office of Lieutenant Governor shall be filled as provided by Section 9, Article III, of this Constitution. If [~~It is further provided that in the event~~] the person with the highest number of votes for the office of Governor, as declared by the Speaker, becomes temporarily unable to take office [~~shall become disabled, or fail to qualify~~], then the Lieutenant Governor shall act as Governor until the person with the highest number of votes for the office of Governor becomes able to assume [~~a person has qualified for~~] the office of Governor[~~, or until after the next general election~~]. Any succession to the Governorship not otherwise provided for in this Constitution, may be provided for by law; provided, however, that any person succeeding to the office of Governor shall be qualified as otherwise provided in this Constitution, and shall, during the entire term to which he may succeed, be under all the restrictions and inhibitions imposed in this Constitution on the Governor.

Sec. 16. (a) There shall also be a Lieutenant Governor, who shall be chosen at every election for Governor by the same electors, in the same manner, continue in office for the same time, and possess the same qualifications. The electors shall distinguish for whom they vote as Governor and for whom as Lieutenant Governor.

(b) The Lieutenant Governor[~~,~~] shall by virtue of his office[~~,~~] be President of the Senate, and shall have, when in Committee of the Whole, a right to debate and vote on all questions; and when the Senate is equally divided to give the casting vote.

(c) In the case of the temporary [~~death, resignation, removal from office,~~] inability or temporary disqualification [~~refusal~~] of the Governor to serve, the [~~or of his~~] impeachment of the Governor, or the absence of the Governor from the State, the Lieutenant Governor shall exercise the powers and authority appertaining to the office of Governor [~~until another be chosen at the periodical election, and be duly qualified; or~~] until the Governor becomes able or qualified to resume serving, is [~~impeached, absent or disabled, shall be~~] acquitted, or returns to the State [~~return, or his disability be removed~~].

(d) If the Governor refuses to serve or becomes permanently unable to serve, or if the office of Governor becomes vacant, the Lieutenant Governor becomes Governor for the remainder of the term being served by the Governor who refused or became unable to serve or vacated the office. On becoming Governor, the person vacates the office of Lieutenant Governor, and the resulting vacancy in the office of Lieutenant Governor shall be filled in the manner provided by Section 9, Article III, of this Constitution.

Sec. 17. (a) If, while exercising the powers and authority appertaining to the office of Governor under Section 16(c) of this article [~~during the vacancy in the office of Governor~~], the Lieutenant Governor becomes temporarily [~~should die, resign, refuse to serve, or be removed from office, or be~~] unable or disqualified to serve, is [~~; or if he shall be~~] impeached, or is absent from the State, the President pro tempore of the Senate, for the time being, shall exercise the powers and authority appertaining to the office of Governor [~~, in like manner, administer the~~

~~Government~~] until the [~~he shall be superseded by a~~] Governor or Lieutenant Governor reassumes those powers and duties.

(b) The Lieutenant Governor shall, while acting [~~he acts~~] as President of the Senate, receive for his or her services the same compensation and mileage which shall be allowed to the members of the Senate, and no more unless the Texas Ethics Commission recommends and the voters approve a higher salary, in which case the salary is that amount; and during the time the Lieutenant Governor exercises the powers and authority appertaining to the office of Governor, the Lieutenant Governor [~~he administers the Government, as Governor, he~~] shall receive in like manner the same compensation which the Governor would have received had the Governor [~~he~~] been employed in the duties of that [~~his~~] office, and no more. An increase in the emoluments of the office of Lieutenant Governor does not make a member of the Legislature ineligible to serve in the office of Lieutenant Governor.

(c) The President pro tempore [~~, for the time being,~~] of the Senate[~~;~~] shall, during the time that officer exercises the powers and authority appertaining to the office of Governor [~~he administers the Government~~], receive in like manner the same compensation[~~;~~] which the Governor would have received had the Governor [~~he~~] been employed in the duties of that [~~his~~] office.

Sec. 18. The Lieutenant Governor or President pro tempore of the Senate [~~succeeding to the office of Governor,~~] shall, during the time the Lieutenant Governor or President pro tempore exercises the powers and authority appertaining to the office of Governor [~~entire term to which he may succeed~~], be under all the restrictions and inhibitions imposed in this Constitution on the Governor.

SECTION 2. Section 9(a), Article III, Texas Constitution, is amended to read as follows:

(a) The Senate shall, at the beginning and close of each session, and at such other times as may be necessary, elect one of its members President pro tempore, who shall perform the duties of the Lieutenant Governor in any case of absence or temporary disability of that officer. If the [~~said~~] office of Lieutenant Governor becomes vacant, the President pro tempore

of the Senate shall convene the Committee of the Whole Senate within 30 days after the vacancy occurs. The Committee of the Whole shall elect one of its members to perform the duties of the Lieutenant Governor in addition to the member's [~~his~~] duties as Senator until the next general election. If the Senator so elected ceases to be a Senator before the election of a new Lieutenant Governor, another Senator shall be elected in the same manner to perform the duties of the Lieutenant Governor until the next general election. Until the Committee of the Whole elects one of its members for this purpose, the President pro tempore shall perform the duties of the Lieutenant Governor as provided by this subsection.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1999. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to revise the provisions for the filling of a vacancy in the office of governor or lieutenant governor."

Amendment No. 2 (S.J.R. No. 12)

Wording of Ballot Proposition:

The constitutional amendment relating to the making of advances under a reverse mortgage and payment of a reverse mortgage.

Analysis of Proposed Amendment:

The proposed constitutional amendment amends Section 50, Article XVI, Texas Constitution, by expanding the conditions under which a lender in a reverse mortgage secured by a homestead may require repayment of the reverse mortgage, requiring the lender to notify the borrower before a reverse mortgage is foreclosed for certain grounds, allowing the borrower to cure certain grounds for foreclosure, and requiring that certain foreclosures be made only by a court order. The amendment also raises the age of eligibility for a reverse mortgage from 55 to 62 years of age and provides greater flexibility in the manner in which money provided under a reverse mortgage may be delivered to the borrower or used to pay expenses relating to the homestead property securing the reverse mortgage. In addition, the amendment allows a governmental agency or instrumentality to take assignment of a reverse mortgage in order to cure a default.

Background

In 1997 the voters of the state adopted a constitutional amendment allowing reverse mortgages secured by homestead property. A reverse mortgage is a credit agreement under which a lender provides money to a borrower in exchange for a lien on the borrower's home and the borrower is generally not required to repay the money or interest on the money until the borrower dies or moves out of the home. The money is provided to the borrower in a lump sum or as periodic payments. Reverse mortgages are usually used by senior citizens to convert the equity they have accumulated in their homes into money that may be used for current expenses.

Although reverse mortgages are now authorized by state law, lenders are not making reverse mortgages in this state. Because of language in the law restricting when lenders may require repayment of a reverse mortgage and language inconsistent with federal law relating to reverse mortgages, Fannie Mae will not purchase the reverse mortgages on the secondary market and the United States Department of Housing and Urban Development will not insure the reverse mortgages. Selling reverse mortgages on the secondary market is the primary means by which lenders obtain money to make additional reverse mortgages. Fannie Mae purchases the overwhelming majority of reverse mortgages on the secondary market. Without the participation of Fannie Mae and the protection of federal loan insurance, lenders are refusing to offer reverse mortgages in this state.

The proposed constitutional amendment is intended to address the concerns of Fannie Mae and the department of housing and urban development. It clarifies when death or absence of the borrowers from the home is grounds for the lender to require repayment of the reverse mortgage. The amendment adds grounds, in addition to the traditional grounds of death of the borrower or sale of the home, for which the lender may require repayment. These additional grounds relate to actions by the borrower that endanger the lender's lien in the home. The amendment also requires the lender to give the borrower notice of a possible foreclosure of the reverse mortgage because of one of these additional grounds, allows the borrower to avoid foreclosure by remedying the problem, and provides that a reverse mortgage may not be foreclosed for one of these additional grounds unless the foreclosure is ordered by a court.

The proposed amendment expands the methods by which the money provided under the reverse mortgage may be delivered to the borrower or otherwise used. In addition to delivery in a lump sum or in regular periodic equal amounts, the amendment allows delivery at regular intervals, but in amounts reduced at the borrower's request, and allows the lender to use proceeds of the reverse mortgage to pay amounts that the borrower is obligated to pay for taxes, insurance, or repairs or maintenance related

to the home. Fannie Mae requested that payment under a line of credit also be permitted, but this method was not included in the proposed amendment.

To conform to federal law and the practices of the department of housing and urban development, the amendment also raises the minimum age of eligibility for a reverse mortgage from 55 to 62 years of age and allows a governmental agency or instrumentality to take assignment of a reverse mortgage to cure certain defaults under the reverse mortgage agreement.

Arguments For:

1. Many senior citizens have accumulated a large amount of equity in their homes through years of mortgage payments and the appreciation of the homes' values. Reverse mortgages would allow these senior citizens to use the value of their homes as income for retirement expenses or for other purposes. The voters in 1997 expressed their intent that reverse mortgages be made available to senior citizens of this state, but technical problems with the law have thwarted the will of the voters. This amendment will correct those problems and finally make reverse mortgages available in this state.

2. Conforming state law on reverse mortgages to federal law and practices in other states and providing means to more fully protect lender's liens, as accomplished by this amendment, will create more certainty and efficiency for reverse mortgage lenders, resulting in more easily obtained and possibly less expensive reverse mortgages in this state. State law continues to contain stringent restrictions on the making and collecting of reverse mortgages that adequately protect borrowers from unscrupulous lending practices.

Arguments Against:

1. When the voters authorized reverse mortgages they conditioned that authorization on strict limitations on the practices of lenders in order to protect the senior citizens of this state from unscrupulous lending practices. The fact that lenders have chosen not to participate in reverse

mortgage lending in this state because of those strict limitations is not grounds to remove those protections. The practices of the federal government or of lenders in other states should not be allowed to determine the level of protection that this state provides its senior citizens.

2. The limitations in state law, even as modified by this amendment, are still too restrictive because they continue to prohibit cash advances under a reverse mortgage to be made in the form of a line of credit. This form of reverse mortgage is the most flexible and advantageous to reverse mortgage borrowers and is one of the most popular forms of reverse mortgage lending being used in other states. Borrowers should not be forced to take advances on their reverse mortgage and to begin accumulating interest on those advances before the borrower needs the money.

Text of S.J.R. No. 12: **SENATE AUTHOR:** John Carona et al.
HOUSE SPONSOR: Scott Hochberg et al.

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the making of advances under and payment of a reverse mortgage.

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

SECTION 1. Subsections (k), (p), and (r), Section 50, Article XVI, Texas Constitution, are amended to read as follows:

(k) "Reverse mortgage" means an extension of credit:

(1) that is secured by a voluntary lien on homestead property created by a written agreement with the consent of each owner and each owner's spouse;

(2) that is made to a person who is or whose spouse is 62 [~~55~~] years or older;

(3) that is made without recourse for personal liability against each owner and the spouse of each owner;

(4) under which advances are provided to a borrower based on the equity in a borrower's homestead;

(5) that does not permit the lender to reduce the amount or number of advances because of an adjustment in the interest rate if periodic advances are to be made;

(6) that requires no payment of principal or interest until:

(A) all borrowers have died;

(B) the homestead property securing the loan is sold or otherwise transferred; [~~or~~]

(C) all borrowers cease occupying the homestead property for a period of longer than 12 consecutive months without prior written approval from the lender; or

(D) the borrower:

(i) defaults on an obligation specified in the loan documents to repair and maintain, pay taxes and assessments on, or insure the homestead property;

(ii) commits actual fraud in connection with the loan; or

(iii) fails to maintain the priority of the lender's lien on the homestead property, after the lender gives notice to the borrower, by promptly discharging any lien that has priority or may obtain priority over the lender's lien within 10 days after the date the borrower receives the notice, unless the borrower:

(a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to the lender;

(b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings so as to prevent the enforcement of the lien or forfeiture of any part of the homestead property; or

(c) secures from the holder of the lien an agreement satisfactory to the lender subordinating the lien to all amounts secured by the lender's lien on the homestead property [~~(B) all borrowers cease occupying the homestead property as a principal residence for more than 180 consecutive days and the location of the homestead property owner is unknown to the lender~~];

(7) that provides that if the lender fails to make loan advances as required in the loan documents and if the lender fails to cure the default as required in the loan documents after notice from the borrower, the lender forfeits all principal and interest of the reverse mortgage, provided, however, that this subdivision does not apply when a governmental agency or instrumentality takes an assignment of the loan in order to cure the default; [~~and~~]

(8) that is not made unless the owner of the homestead attests in writing that the owner received counseling regarding the advisability and availability of reverse mortgages and other financial alternatives;

(9) that requires the lender, at the time the loan is made, to disclose to the borrower by written notice the specific provisions contained in Subdivision (6) of this subsection under which the borrower is required to repay the loan;

(10) that does not permit the lender to commence foreclosure until the lender gives notice to the borrower, in the manner provided for a notice by mail related to the foreclosure of liens under Subsection (a)(6) of this section, that a ground for foreclosure exists and gives the borrower at least 30 days, or at least 20 days in the event of a default under Subdivision (6)(D)(iii) of this subsection, to:

(A) remedy the condition creating the ground for foreclosure;

(B) pay the debt secured by the homestead property from proceeds of the sale of the homestead property by the borrower or from any other sources; or

(C) convey the homestead property to the lender by a deed in lieu of foreclosure; and

(11) that is secured by a lien that may be foreclosed upon only by a court order, if the foreclosure is for a ground other than a ground stated by Subdivision (6)(A) or (B) of this subsection.

(p) The advances made on a reverse mortgage loan under which more than one advance is made must be made [~~at regular intervals~~] according to the terms [~~a plan~~] established by the [~~original~~] loan documents by one or more of the following methods:

(1) at regular intervals;

(2) at regular intervals in which the amounts advanced may be reduced, for one or more advances, at the request of the borrower; or

(3) at any time by the lender, on behalf of the borrower, if the borrower fails to timely pay any of the following that the borrower is obligated to pay under the loan documents to the extent necessary to protect the lender's interest in or the value of the homestead property:

(A) taxes;

(B) insurance;

(C) costs of repairs or maintenance performed by a person or company that is not an employee of the lender or a person or company that directly or indirectly controls, is controlled by, or is under common control with the lender;

(D) assessments levied against the homestead property; and

(E) any lien that has, or may obtain, priority over the lender's lien as it is established in the loan documents [~~agreement~~].

(r) The supreme court shall promulgate rules of civil procedure for expedited foreclosure proceedings related to the foreclosure of liens under Subsection (a)(6) of this section and to foreclosure of a reverse mortgage lien that requires a court order.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1999. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment relating to the making of advances under a reverse mortgage and payment of a reverse mortgage."

Amendment No. 3 (H.J.R. No. 62)

Wording of Ballot Proposition:

The constitutional amendment to eliminate duplicative, executed, obsolete, archaic, and ineffective provisions of the Texas Constitution.

Analysis of Proposed Amendment:

The proposed amendment would amend 64 provisions of the constitution, and repeal 17 provisions, that are duplicative, executed, obsolete, archaic, or ineffective. The proposed amendment would also provide necessary transition and savings provisions preserving any vested rights under the amended and repealed provisions. The proposed amendment also makes numerous minor changes of form to the affected provisions for convenience and clarity, such as dividing a lengthy section into appropriate subsections.

Background

It has been a quarter century since the constitutional revision efforts of the 1970s, which included a constitutional revision commission that recommended a proposed general revision to the legislature in 1973, a 1974 constitutional convention that failed to adopt a proposed revision, and the rejection by the voters in 1975 of eight propositions for an article-by-article revision. In the 76th Legislature, a proposed complete revision was introduced in both houses of the legislature, but the proposal was not reported from committee in either house. The House of Representatives of the 76th Legislature created a select committee on constitutional revision, and this proposed amendment was the only proposal to emerge from that committee.

The current Texas Constitution, adopted in 1876, has been amended 377 times, from a total of 547 proposed amendments submitted to the voters for approval. As the result of amendments, the constitution has grown from 289 sections to 376 sections. The current document consists of approximately 90,000 words.

None of the changes proposed by House Joint Resolution No. 62 significantly alter the powers of government or the rights of individuals. Each of the constitutional provisions proposed for amendment or repeal falls into at least one, and often more than one, of several general categories (which are not necessarily distinct): a provision is *obsolete* if the circumstances the provision addresses no longer exist; a provision is *archaic* if it uses terms no longer commonly used in modern American English or if the requirements of the provision have been rendered meaningless in long-standing practice; a provision is *duplicative* if it substantively duplicates the requirements of another provision, such as a provision specific to a particular office duplicating a general rule applicable to all offices; a provision is *ineffective* if the rule established by the provision violates the federal constitution or other federal law or has been superseded by a later enactment; a provision is *executed* if its legal effect is fully complete upon adoption and that effect is not changed by its repeal.

Seventeen sections of the resolution merely change the archaic word "elector" to "voter" in order to employ a more modern term with the same meaning (Article III, Sections 3, 4, 6, 7, 48-e, 48-f, 52, 52d, and 52g; Article IV, Section 16; Article VI, Sections 2 , 2a, 3, and 3a; Article IX, Sections 1 and 2; Article XVII, Section 1). Several sections, including some in which "elector" is changed, eliminate a recurring provision that only property taxpayers are qualified to vote in certain elections, a restriction that is unenforced and has been held unconstitutional in most contexts. See *Kramer v. Union Free School District*, 395 U.S. 621 (1969); *City of Phoenix, Arizona v. Kolodziejski*, 399 U.S. 204 (1970); *Hill v. Stone*, 421 U.S. 289 (1975); *Ex Parte Progreso I.S.D.*, 650 S.W.2d 158 (Tex. App.—Corpus Christi 1983, writ ref'd, n.r.e.). (Article III, Sections 52 and 52d; Article VI, Section 3a; Article VII, Section 3; Article VIII, Sections 9 and 16a; Article IX, Sections 4, 5, 8, 11, and 12; Article XVI, Section 59.)

Six sections, which account for the greatest reduction in the number of words in the constitution, eliminate executed and duplicative verbiage relating to the issuance of various general obligation bonds, including bonds issued by the Veterans' Land Board, the Texas Water Development Board, and the Texas Higher Education Coordinating Board. No change is made in the extent of bonding authority, and the transition and savings provisions expressly preserve any vested rights under issued bonds.

In addition to the provisions generally described above, the following provisions are amended for the purposes described (listed by article and section number):

Art. III, Sec. 2:	[Membership of Senate and House] The clauses prohibiting an increase in the number of senators and representatives are eliminated; those clauses are ineffective to prohibit increase by constitutional amendment, and the number cannot be increased by statute. The clause providing for increases in the size of the house, based on the ratio of house members to population, is eliminated as obsolete.
Art. III, Secs. 3, 4:	[Election and Term of Office of Senators and Representatives] The specific holdover provisions, requiring a member to serve until a successor is elected, are deleted because the provisions unnecessarily duplicate the general holdover requirement for all public officers provided by Article XVI, Section 17.
Art. III, Sec. 5:	[Legislative Meetings and Order of Business] In the provision governing the order of business for a regular session, the reference to the 60 days following the first 60 days is changed to refer to the "remainder of the session" in recognition of the current 140-day limit established by a 1960 amendment to Article III, Section 24. The 120-day total in current Section 5 is obsolete.

Art. III, Sec. 14:	[Legislative Privilege from Arrest] The 20 miles per day limit of the last clause, limiting the duration for which the legislative privilege from civil arrest applies, is eliminated as obsolete.
Art. III, Sec. 33:	[Revenue Bills] The last clause, providing that the senate may amend or reject revenue bills, is deleted as duplicative of Article III, Section 31, which provides that the second house may amend or reject any bill.
Art. III, Sec. 32:	[Three Reading Rule] The requirement that the legislature describe an "imperative public necessity" in the text of a bill in order to suspend the three-reading rule is deleted as an archaic and unnecessary fiction. (The requirement for a 4/5 vote is retained.)
Art. III, Sec. 39:	[Effective Date of Bills] The requirement that the legislature express an "emergency" in the text of a bill in order to provide for the bill to take effect earlier than the 90th day after adjournment is deleted as an archaic and unnecessary fiction. (The requirement for a 2/3 vote in each house is retained.)
Art. III, Sec. 49a:	[Certification of Appropriations] References to specific effective dates in 1945 are deleted as executed. A reference to bonds that matured in 1963 is deleted as an executed transitional provision.
Art. III, Sec. 51:	[Grants of Public Money] An obsolete confederate pensions provision is deleted.
Art. III, Sec. 51-a:	[Welfare Grants] An executed 1982-1983 welfare limit is deleted.

Art. III, Sec. 52g:	[Dallas County Bond Issues for Roads] A purpose statement that duplicates provisions of Section 52(b)(3) is deleted.
Art. IV, Sec. 7:	[Governor as Commander-in-Chief] An archaic reference to the governor's duty to "protect the frontier from hostile incursions by Indians or other predatory bands" is deleted.
Art. IV, Sec. 22:	[Attorney General] An executed reference to the 1974 general election is deleted. A specific holdover provision is deleted because it duplicates the general holdover provision of Article XVI, Section 17. Provisions related to the term of office and salary and residence requirements are moved to Section 23 to avoid unnecessary duplication.
Art. IV, Sec. 23:	[Terms, Salaries, and Residences of Statewide Elected Officers] A reference to the attorney general is added to avoid duplication of the same requirements formerly placed in Section 22. An executed reference to the 1974 election is deleted. A specific holdover provision that duplicates the general holdover provision of Article XVI, Section 17, is deleted.
Art.V, Sec. 9:	[Clerk of District Court] An unnecessary reference to voters who are qualified to vote for "state and county officers" is deleted.
Art. VI, Sec. 2:	[Qualified Electors] A reference to the minimum voting age (18) that duplicates Article VI, Section 1, is deleted.
Art. VI, Sec. 3a:	[Bond Elections] An unnecessary reference to voting in the precinct of residence is deleted.

Art. VII, Sec. 3:	[Public Schools] Obsolete references to a poll tax (unenforced), a state property tax (now prohibited by Article VIII, Section 1-e), and a limit on school district taxes (not applicable to independent school districts) are deleted.
Art. VIII, Sec. 1-a:	[State Ad Valorem Tax; County Taxes] Obsolete references to the general state property tax (prohibited by Article VIII, Section 1-e) and executed provisions for phasing out that tax by the former Automatic Tax Board are deleted.
Art. VIII, Sec. 1-b(b):	[Residence Homestead Exemption] An obsolete reference to county education districts is deleted. County education districts were created by law in 1991 to address equity in public school finance, but the taxes imposed by the districts were held to be unconstitutional in *Carrollton-Farmers Branch I.S.D. v. Edgewood I.S.D.*, 826 S.W.2d 489 (Tex. 1992) ("Edgewood III"). An executed provision to preserve the value of certain homestead exemptions in 1979 in conjunction with the implementation of a related amendment is deleted.
Art. VIII, Sec. 1-j:	[Tax Exemption for Tangible Personal Property for Export] Executed provisions governing option to tax certain tangible personal property by certain political subdivisions are deleted.
Art. VIII, Sec. 6:	[Appropriations] Executed appropriation authority for transition between the 15th and 16th legislatures is deleted.
Art. VIII, Sec. 9:	[Limits on Property Taxes] An obsolete reference to the state property tax is deleted.

Art. VIII, Sec. 20:	[Appraisal of Property for Ad Valorem Taxes; Discounts] The executed effective date of a 1939 amendment is deleted.
Art. IX, Sec. 1:	[Creation of Counties] A reference to creating counties from territory not already included in a county is deleted as obsolete because there is no longer any territory outside a county.
Art. IX, Secs. 4, 5, and 11:	[Hospital Districts] Executed provisions related to enabling laws, confirmation elections, and election costs are deleted.
Art. XI, Sec. 2:	[Jails, Poor Houses, etc.] An archaic reference to county poor farms is deleted.
Art. XVI, Sec. 30:	[Duration of Offices] An executed transition provision for the first Railroad Commission is deleted.
Art. XVI, Sec. 44:	[County Treasurer and County Surveyor] Executed provisions on abolition of county treasurer and surveyor in certain counties are deleted.
Art. XVI, Sec. 61:	[Compensation of Local Officers] Executed effective date references to 1973 and 1949 are deleted.
Art. XVI, Sec. 65:	[Transition to Four-Year Terms of Office] Executed provisions for transition from two-year to four-year terms of office for specified county and district officers are deleted.

In addition to the provisions described generally or listed above as amended, the following provisions are repealed:

Art. III, Sec. 26a:	[Counties with More Than Seven Representatives] An ineffective and unenforced limit on number of representative districts per county is repealed because it conflicts with the federal constitutional requirement of one-person, one-vote.
Art. III, Secs. 50b, 50b-1, 50b-2, and 50b-3:	[Student Loan Bonds] Executed student loan bond authority, the substance of which is combined into revised Article III, Section 50b-4, is repealed.
Art. III, Sec. 54:	[Railroad Liens] A restriction on release of railroad liens is repealed because the legislature has no general power to release liens. In addition, the type of indebtedness addressed by this 1876 provision has been paid or discharged.
Art. VIII, Sec. 1-b-1:	[References to County Education Districts] A provision designed to ensure that the constitutional references to county education districts did not validate or invalidate those districts is repealed as obsolete. (See discussion of amendment to Article VIII, Section 1-b(b), above.)
Art. VIII, Sec. 1-c:	[Effective Date of 1948 Amendment] An executed effective date of a 1948 amendment is repealed.
Art. VIII, Sec. 5:	[Railroad Property] A provision that subjects railroad property to municipal taxation as other property is repealed as unnecessary because the constitution does not otherwise exempt railroad property and the legislature has no general power to exempt property from taxation.

Art. IX, Sec. 6:	[Abolition of Lamar County Hospital District] An executed transition provision relating to the abolition of a hospital district is repealed.
Art. XI, Sec. 6:	[Taxes for Certain Bonds] An executed transition provision on the interest and sinking fund for pre-1876 municipal and county bonds is repealed.
Art. XVI, Sec. 18:	[Existing Rights] An executed provision on preserving pre-1876 rights is repealed.
Art. XVI, Sec. 47:	[Conscientious Objectors] A provision exempting conscientious objectors from bearing arms, but requiring a payment for equivalent personal service, is repealed as obsolete.
Art. XVI, Sec. 53:	[Process and Writs Not Executed] An executed provision preserving the effect of pre-1876 writs is repealed.
Art. XVI, Sec. 66:	[Texas Rangers Retirement] An obsolete grandfather provision authorizing pensions for certain Texas Rangers and their survivors is repealed. Texas Rangers are now covered by the state Employees Retirement System.
Art. XVI, Sec. 70(r):	[Investment of Growth Fund] A restriction on investment of the growth fund requiring companies to disclose their investments in South Africa and Namibia is repealed as obsolete with the abolition of apartheid in 1994.
Art. XVII, Sec. 2:	[Constitutional Convention] The executed authority for the 1974 Constitutional Convention is repealed.

In addition to the principal operative provisions, the proposed constitutional amendment contains a lengthy savings and transition provision that preserves all existing rights and the effectiveness of prior actions taken under the provisions being deleted.

The joint resolution proposing the constitutional amendment passed the house of representatives unanimously and passed the senate on a vote of 29 yeas and only one nay.

Argument For:

History shows the difficulty in undertaking a complete revision of the constitution, with the 1974 constitutional convention failing to adopt a proposal, the voters rejecting a legislative proposal in 1975, and a 1999 legislative proposal not being reported from committee. The Texas Constitution is a basically sound document but has some "deadwood." In addition to making the document more readable and usable, this constitutional amendment eliminates those provisions that no longer serve their original purpose—or, in some cases, any purpose—without making any significant change to the basic substance of governmental powers and individual rights.

Argument Against:

This amendment is an example of constitutional tinkering when constitutional revision is called for. The sheer volume of provisions being amended or repealed in the name of eliminating unnecessary and ineffective provisions points to the need for a more complete and studied revision. In addition, for an amendment of this size with its numerous changes, more time for complete study and review by the citizens and constitutional scholars should be made before the amendment is submitted to the voters.

Text of H.J.R. No. 62: **HOUSE AUTHOR:** Anna Mowery et al.
SENATE SPONSOR: Florence Shapiro

HOUSE JOINT RESOLUTION

proposing a constitutional amendment to eliminate duplicative, executed, obsolete, archaic, and ineffective constitutional provisions.

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

SECTION 1. Section 2, Article III, Texas Constitution, is amended to read as follows:

Sec. 2. The Senate shall consist of thirty-one members[~~, and shall never be increased above this number~~]. The House of Representatives shall consist of 150 [~~ninety-three~~] members [~~until the first apportionment after the adoption of this Constitution, when or at any apportionment thereafter, the number of Representatives may be increased by the Legislature, upon the ratio of not more than one Representative for every fifteen thousand inhabitants; provided, the number of Representatives shall never exceed one hundred and fifty~~].

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

Sec. 3. The Senators shall be chosen by the qualified voters [~~electors~~] for the term of four years; but a new Senate shall be chosen after every apportionment, and the Senators elected after each apportionment shall be divided by lot into two classes. The seats of the Senators of the first class shall be vacated at the expiration of the first two years, and those of the second class at the expiration of four years, so that one half of the Senators shall be chosen biennially thereafter. Senators shall take office following their election, on the day set by law for the convening of the Regular Session of the Legislature, and shall serve thereafter for the full term of years to which elected [~~and until their successors shall have been elected and qualified~~].

SECTION 3. Section 4, Article III, Texas Constitution, is amended to read as follows:

Sec. 4. The Members of the House of Representatives shall be chosen by the qualified voters [~~electors~~] for the term of two years. Representatives shall take office following their election, on the day set by law for the convening of the Regular Session of the Legislature, and shall serve thereafter for the full term of years to which elected [~~and until their successors shall have been elected and qualified~~].

SECTION 4. Section 5, Article III, Texas Constitution, is amended to read as follows:

Sec. 5. (a) The Legislature shall meet every two years at such time as may be provided by law and at other times when convened by the Governor.

(b) When convened in regular Session, the first thirty days thereof shall be devoted to the introduction of bills and resolutions, acting upon emergency appropriations, passing upon the confirmation of the recess appointees of the Governor and such emergency matters as may be submitted by the Governor in special messages to the Legislature. During[~~; provided that during~~] the succeeding thirty days of the regular session of the Legislature the various committees of each House shall hold hearings to consider all bills and resolutions and other matters then pending; and such emergency matters as may be submitted by the Governor. During[~~; provided further that during~~] the remainder of the session [~~following sixty days~~] the Legislature shall act upon such bills and resolutions as may be then pending and upon such emergency matters as may be submitted by the Governor in special messages to the Legislature.

(c) Notwithstanding Subsection (b), either[~~; provided, however, either~~] House may [~~otherwise~~] determine its order of business by an affirmative vote of four-fifths of its membership.

SECTION 5. Section 6, Article III, Texas Constitution, is amended to read as follows:

Sec. 6. No person shall be a Senator, unless he be a citizen of the United States, and, at the time of his election a qualified voter [~~elector~~] of this State, and shall have been a resident of this State five years next preceding his election, and the last year thereof a resident of the district for which he shall be chosen, and shall have attained the age of twenty-six years.

SECTION 6. Section 7, Article III, Texas Constitution, is amended to read as follows:

Sec. 7. No person shall be a Representative, unless he be a citizen of the United States, and, at the time of his election, a qualified voter [~~elector~~] of this State, and shall have been a resident of this State two years next preceding his election, the last year thereof a resident of the district for which he shall be chosen, and shall have attained the age of twenty-one years.

SECTION 7. Section 14, Article III, Texas Constitution, is amended to read as follows:

Sec. 14. Senators and Representatives shall, except in cases of treason, felony, or breach of the peace, be privileged from arrest during the session of the Legislature, and in going to and returning from the same[~~; allowing one day for every twenty miles such member may reside from the place at which the Legislature is convened~~].

SECTION 8. Section 33, Article III, Texas Constitution, is amended to read as follows:

Sec. 33. All bills for raising revenue shall originate in the House of Representatives[~~, but the Senate may amend or reject them as other bills~~].

SECTION 9. Section 32, Article III, Texas Constitution, is amended to read as follows:

Sec. 32. No bill shall have the force of a law, until it has been read on three several days in each House, and free discussion allowed thereon; but [~~in cases of imperative public necessity (which necessity shall be stated in a preamble or in the body of the bill)~~] four-fifths of the House, in which the bill may be pending, may suspend this rule, the yeas and nays being taken on the question of suspension, and entered upon the journals.

SECTION 10. Section 39, Article III, Texas Constitution, is amended to read as follows:

Sec. 39. No law passed by the Legislature, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless [~~in case of an emergency, which emergency must be expressed in a preamble or in the body of the act,~~] the Legislature shall, by a vote of two-thirds of all the members elected to each House, otherwise direct; said vote to be taken by yeas and nays, and entered upon the journals.

SECTION 11. Section 48-e, Article III, Texas Constitution, is amended to read as follows:

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

SECTION 12. Section 48-f, Article III, Texas Constitution, is amended to read as follows:

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

SECTION 13. Section 49a, Article III, Texas Constitution, is amended to read as follows:

Sec. 49a. (a) It shall be the duty of the Comptroller of Public Accounts in advance of each Regular Session of the Legislature to prepare

and submit to the Governor and to the Legislature upon its convening a statement under oath showing fully the financial condition of the State Treasury at the close of the last fiscal period and an estimate of the probable receipts and disbursements for the then current fiscal year. There shall also be contained in said statement an itemized estimate of the anticipated revenue based on the laws then in effect that will be received by and for the State from all sources showing the fund accounts to be credited during the succeeding biennium and said statement shall contain such other information as may be required by law. Supplemental statements shall be submitted at any Special Session of the Legislature and at such other times as may be necessary to show probable changes.

(b) Except [~~From and after January 1, 1945, save~~] in the case of emergency and imperative public necessity and with a four-fifths vote of the total membership of each House, no appropriation in excess of the cash and anticipated revenue of the funds from which such appropriation is to be made shall be valid. No [~~From and after January 1, 1945, no~~] bill containing an appropriation shall be considered as passed or be sent to the Governor for consideration until and unless the Comptroller of Public Accounts endorses his certificate thereon showing that the amount appropriated is within the amount estimated to be available in the affected funds. When the Comptroller finds an appropriation bill exceeds the estimated revenue he shall endorse such finding thereon and return to the House in which same originated. Such information shall be immediately made known to both the House of Representatives and the Senate and the necessary steps shall be taken to bring such appropriation to within the revenue, either by providing additional revenue or reducing the appropriation.

[~~For the purpose of financing the outstanding obligations of the General Revenue Fund of the State and placing its current accounts on a cash basis the Legislature of the State of Texas is hereby authorized to provide for the issuance, sale, and retirement of serial bonds, equal in principal to the total outstanding, valid, and approved obligations owing by said fund on September 1, 1943, provided such bonds shall not draw interest in~~

~~excess of two (2) per cent per annum and shall mature within twenty (20) years from date.~~]

SECTION 14. Sections 49-b, 49-b-1, 49-b-2, and 49-b-3, Article III, Texas Constitution, are combined, reenacted as Section 49-b, and amended to read as follows:

Sec. 49-b. (a) The [~~By virtue of prior Amendments to this Constitution, there has been created a governmental agency of the State of Texas performing governmental duties which has been designated the~~] Veterans' Land Board[~~. Said Board shall continue to function for the purposes specified in all of the prior Constitutional Amendments except as modified herein. Said Board~~] shall be composed of the Commissioner of the General Land Office and two (2) citizens of the State of Texas, one (1) of whom shall be well versed in veterans' affairs and one (1) of whom shall be well versed in finances. One (1) such citizen member shall, with the advice and consent of the Senate, be appointed biennially by the Governor to serve for a term of four (4) years. In the event of the resignation or death of any such citizen member, the Governor shall appoint a replacement to serve for the unexpired portion of the term to which the deceased or resigning member had been appointed. The compensation for said citizen members shall be as is now or may hereafter be fixed by the Legislature; and each shall make bond in such amount as is now or may hereafter be prescribed by the Legislature.

(b) The Commissioner of the General Land Office shall act as Chairman of said Board and shall be the administrator of the Veterans' Land Program under such terms and restrictions as are now or may hereafter be provided by law. In the absence or illness of said Commissioner, the Chief Clerk of the General Land Office shall be the Acting Chairman of said Board with the same duties and powers that said Commissioner would have if present.

(c) The Veterans' Land Board may provide for, issue and sell [~~not to exceed Nine Hundred Fifty Million Dollars ($950,000,000) in~~] bonds or obligations of the State of Texas as authorized by constitutional amendment or by a debt proposition under Section 49 of this article for the purpose of creating [~~a fund to be known as~~] the Veterans' Land Fund, the Veterans'

Housing Assistance Fund, and the Veterans' Housing Assistance Fund II[~~, Seven Hundred Million Dollars ($700,000,000) of which have heretofore been authorized. Such bonds or obligations shall be sold for not less than par value and accrued interest; shall be issued in such forms, denominations, and upon such terms as are now or may hereafter be provided by law; shall be issued and sold at such times, at such places, and in such installments as may be determined by said Board; and shall bear a rate or rates of interest as may be fixed by said Board but the weighted average annual interest rate, as that phrase is commonly and ordinarily used and understood in the municipal bond market, of all the bonds issued and sold in any installment of any bonds may not exceed the rate specified in Section 65 of this Article. All bonds or obligations issued and sold hereunder shall, after execution by the Board, approval by the Attorney General of Texas, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchaser or purchasers, be incontestable and shall constitute general obligations of the State of Texas under the Constitution of Texas; and all bonds heretofore issued and sold by said Board are hereby in all respects validated and declared to be general obligations of the State of Texas. In order to prevent default in the payment of principal or interest on any such bonds, the Legislature shall appropriate a sufficient amount to pay the same~~].

[~~In the sale of any such bonds or obligations, a preferential right of purchase shall be given to the administrators of the various Teacher Retirement Funds, the Permanent University Funds, and the Permanent School Funds.~~

[~~Said Veterans' Land Fund shall consist of any lands heretofore or hereafter purchased by said Board, until the sale price therefor, together with any interest and penalties due, have been received by said Board (although nothing herein shall be construed to prevent said Board from accepting full payment for a portion of any tract), and of the moneys attributable to any bonds heretofore or hereafter issued and sold by said Board which moneys so attributable shall include but shall not be limited to the proceeds from the issuance and sale of such bonds; the moneys received from the sale or resale of any lands, or rights therein, purchased with such proceeds; the moneys received from the sale or resale of any~~

~~lands, or rights therein, purchased with other moneys attributable to such bonds; the interest and penalties received from the sale or resale of such lands, or rights therein; the bonuses, income, rents, royalties, and any other pecuniary benefit received by said Board from any such lands; sums received by way of indemnity or forfeiture for the failure of any bidder for the purchase of any such bonds to comply with his bid and accept and pay for such bonds or for the failure of any bidder for the purchase of any lands comprising a part of said Fund to comply with his bid and accept and pay for any such lands; and interest received from investments of any such moneys. The principal and interest on the bonds heretofore and hereafter issued by said Board shall be paid out of the moneys of said Fund in conformance with the Constitutional provisions authorizing such bonds; but the moneys of said Fund which are not immediately committed to the payment of principal and interest on such bonds, the purchase of lands as herein provided, or the payment of expenses as herein provided may be invested as authorized by law until such moneys are needed for such purposes.~~

~~[All moneys comprising a part of said Fund and not expended for the purposes herein provided shall be a part of said Fund until there are sufficient moneys therein to retire fully all of the bonds heretofore or hereafter issued and sold by said Board, at which time all such moneys remaining in said Fund, except such portion thereof as may be necessary to retire all such bonds which portion shall be set aside and retained in said Fund for the purpose of retiring all such bonds, shall be deposited to the credit of the General Revenue Fund to be appropriated to such purposes as may be prescribed by law. All moneys becoming a part of said Fund thereafter shall likewise be deposited to the credit of the General Revenue Fund.~~

~~[When a Division of said Fund (each Division consisting of the moneys attributable to the bonds issued and sold pursuant to a single Constitutional authorization and the lands purchased therewith) contains sufficient moneys to retire all of the bonds secured by such Division, the moneys thereof, except such portion as may be needed to retire all of the bonds secured by such Division which portion shall be set aside and remain a part of such Division for the purpose of retiring all such bonds,~~

~~may be used for the purpose of paying the principal and the interest thereon, together with the expenses herein authorized, of any other bonds heretofore or hereafter issued and sold by said Board. Such use shall be a matter for the discretion and direction of said Board; but there may be no such use of any such moneys contrary to the rights of any holder of any of the bonds issued and sold by said Board or violative of any contract to which said Board is a party.~~

[~~The Veterans' Land Fund shall be used by said Board for the purpose of purchasing lands situated in the State of Texas owned by the United States or any governmental agency thereof, owned by the Texas Prison System or any other governmental agency of the State of Texas, or owned by any person, firm, or corporation. All lands thus purchased shall be acquired at the lowest price obtainable, to be paid for in cash, and shall be a part of said Fund. Such lands heretofore or hereafter purchased and comprising a part of said Fund are hereby declared to be held for a governmental purpose, although the individual purchasers thereof shall be subject to taxation to the same extent and in the same manner as are purchasers of lands dedicated to the Permanent Free Public School Fund.~~

[~~The lands of the Veterans' Land Fund shall be sold by said Board in such quantities, on such terms, at such prices, at such rates of interest and under such rules and regulations as are now or may hereafter be provided by law to veterans, as they are now or may hereafter be defined by the laws of the State of Texas. The foregoing notwithstanding, any lands in the Veterans' Land Fund which have been first offered for sale to veterans and which have not been sold may be sold or resold to such purchasers, in such quantities, and on such terms, and at such prices and rates of interest, and under such rules and regulations as are now or may hereafter be provided by law.~~]

(d) Said Veterans' Land Fund, to the extent of the moneys attributable to any bonds hereafter issued and sold by said Board may be used by said Board, as is now or may hereafter be provided by law, for the purpose of paying the expenses of surveying, monumenting, road construction, legal fees, recordation fees, advertising and other like costs necessary or incidental to the purchase and sale, or resale, of any lands purchased with any of the moneys attributable to such additional bonds, such expenses to

be added to the price of such lands when sold, or resold, by said Board; for the purpose of paying the expenses of issuing, selling, and delivering any such additional bonds; and for the purpose of meeting the expenses of paying the interest or principal due or to become due on any such additional bonds.

~~[All of the moneys attributable to any series of bonds hereafter issued and sold by said Board (a "series of bonds" being all of the bonds issued and sold in a single transaction as a single installment of bonds) may be used for the purchase of lands as herein provided, to be sold as herein provided, for a period ending eight (8) years after the date of sale of such series of bonds; provided, however, that so much of such moneys as may be necessary to pay interest on bonds hereafter issued and sold shall be set aside for that purpose in accordance with the resolution adopted by said Board authorizing the issuance and sale of such series of bonds. After such eight (8) year period, all of such moneys shall be set aside for the retirement of any bonds hereafter issued and sold and to pay interest thereon, together with any expenses as provided herein, in accordance with the resolution or resolutions authorizing the issuance and sale of such additional bonds, until there are sufficient moneys to retire all of the bonds hereafter issued and sold, at which time all such moneys then remaining a part of said Veterans' Land Fund and thereafter becoming a part of said Fund shall be governed as elsewhere provided herein.~~

~~[This Amendment being intended only to establish a basic framework and not to be a comprehensive treatment of the Veterans' Land Program, there is hereby reposed in the Legislature full power to implement and effectuate the design and objects of this Amendment, including the power to delegate such duties, responsibilities, functions, and authority to the Veterans' Land Board as it believes necessary.~~

~~[Should the Legislature enact any enabling laws in anticipation of this Amendment, no such law shall be void by reason of its anticipatory nature.~~

~~[Sec. 49-b-1. (a) In addition to the general obligation bonds authorized to be issued and to be sold by the Veterans' Land Board by Section 49-b of this article, the Veterans' Land Board may provide for, issue, and sell not to exceed $1.3 billion in bonds of the State of Texas, $800 million of~~

~~which have heretofore been authorized to provide financing to veterans of the state in recognition of their service to their state and country.~~]

(e) [~~(b)~~] For purposes of this section, "veteran" means a person who satisfies the definition of "veteran" as [~~is now or may hereafter be~~] set forth by the laws of the State of Texas.

[~~(c) The bonds shall be sold for not less than par value and accrued interest; shall be issued in such forms and denominations, upon such terms, at such times and places, and in such installments as may be determined by the board; and, notwithstanding the rate of interest specified by any other provision of this constitution, shall bear a rate or rates of interest fixed by the board. All bonds issued and sold pursuant to Subsections (a) through (f) of this section shall, after execution by the board, approval by the Attorney General of Texas, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchaser or purchasers, be incontestable and shall constitute general obligations of the state under the Constitution of Texas.~~

[~~(d) Three hundred million dollars of the state bonds authorized by this section shall be used to augment the Veterans' Land Fund. The Veterans' Land Fund shall be used by the board for the purpose of purchasing lands situated in the State of Texas owned by the United States government or any agency thereof, the State of Texas or any subdivision or agency thereof, or any person, firm, or corporation. The lands shall be sold to veterans in such quantities, on such terms, at such prices, at such rates of interest, and under such rules and regulations as may be authorized by law. The expenses of the board in connection with the issuance of the bonds and the purchase and sale of the lands may be paid from money in the fund. The Veterans' Land Fund shall continue to consist of any lands purchased by the board until the sale price therefor, together with any interest and penalties due, have been received by the board (although nothing herein shall prevent the board from accepting full payment for a portion of any tract) and of the money attributable to any bonds issued and sold by the board for the Veterans' Land Fund, which money so attributable shall include but shall not be limited to the proceeds from the issuance and sale of such bonds; the money received~~

~~from the sale or resale of any lands, or rights therein, purchased from such proceeds; the money received from the sale or resale of any lands, or rights therein, purchased with other money attributable to such bonds; the interest and penalties received from the sale or resale of such lands, or rights therein; the bonuses, income, rents, royalties, and any other pecuniary benefit received by the board from any such lands; sums received by way of indemnity or forfeiture for the failure of any bidder for the purchase of any such bonds to comply with his bid and accept and pay for such bonds or for the failure of any bidder for the purchase of any lands comprising a part of the fund to comply with his bid and accept and pay for any such lands; and interest received from investments of any such money. The principal of and interest on the general obligation bonds previously authorized by Section 49-b of this constitution shall be paid out of the money of the fund in conformance with the constitutional provisions authorizing such bonds. The principal of and interest on the general obligation bonds authorized by this section for the benefit of the Veterans' Land Fund shall be paid out of the money of the fund, but the money of the fund which is not immediately committed to the payment of principal and interest on such bonds, the purchase of lands as herein provided, or the payment of expenses as herein provided may be invested as authorized by law until the money is needed for such purposes.~~]

(f) [~~(e)~~] The Veterans' Housing Assistance Fund [~~is created, and $1 billion of the state bonds authorized by this section shall be used for the Veterans' Housing Assistance Fund, $500 million of which have heretofore been authorized. Money in the Veterans' Housing Assistance Fund~~] shall be administered by the Veterans' Land Board and shall be used for the purpose of making home mortgage loans to veterans for housing within the State of Texas in such quantities, on such terms, at such rates of interest, and under such rules and regulations as may be authorized by law. The expenses of the board in connection with the issuance of the bonds for the benefit of the Veterans' Housing Assistance Fund and the making of the loans may be paid from money in the fund. [~~The Veterans' Housing Assistance Fund shall consist of any interest of the board in all home mortgage loans made to veterans by the board pursuant to a Veterans'~~

~~Housing Assistance Program which the legislature may establish by appropriate legislation until, with respect to any such home mortgage loan, the principal amount, together with any interest and penalties due, have been received by the board; the money attributable to any bonds issued and sold by the board to provide money for the fund, which money so attributable shall include but shall not be limited to the proceeds from the issuance and sale of such bonds; income, rents, and any other pecuniary benefit received by the board as a result of making such loans; sums received by way of indemnity or forfeiture for the failure of any bidder for the purchase of any such bonds to comply with his bid and accept and pay for such bonds; and interest received from investments of any such money.~~] The principal of and interest on the general obligation bonds authorized by this section for the benefit of the Veterans' Housing Assistance Fund shall be paid out of the money of the fund, but the money of the fund which is not immediately committed to the payment of principal and interest on such bonds, the making of home mortgage loans as herein provided, or the payment of expenses as herein provided may be invested as authorized by law until the money is needed for such purposes.

[~~(f) To the extent there is not money in either the Veterans' Land Fund or the Veterans' Housing Assistance Fund as the case may be, available for payment of principal of and interest on the general obligation bonds authorized by this section to provide money for either of the funds, there is hereby appropriated out of the first money coming into the treasury in each fiscal year, not otherwise appropriated by this constitution, an amount which is sufficient to pay the principal of and interest on such general obligation bonds that mature or become due during that fiscal year.~~

[~~(g) Receipt of all kinds of the funds determined by the board not to be required for the payment of principal of and interest on the general obligation bonds herein authorized, heretofore authorized, or hereafter authorized by this constitution to be issued by the board to provide money for either of the funds may be used by the board, to the extent not inconsistent with the proceedings authorizing such bonds, to pay the~~

~~principal of and interest on general obligation bonds issued to provide money for the other fund, or to pay the principal of and interest on revenue bonds of the board issued for the purposes of providing funds for the purchasing of lands and making the sale thereof to veterans or making home mortgage loans to veterans as provided by this section. The revenue bonds shall be special obligations and payable only from the receipt of the funds and shall not constitute indebtedness of the state or the Veterans' Land Board. The board is authorized to issue such revenue bonds from time to time which shall not exceed an aggregate principal amount that can be fully retired from the receipts of the funds and other revenues pledged to the retirement of the revenue bonds. The revenue bonds shall be issued in such forms and denominations, upon such terms, at such times and places, and in such installments as may be determined by the board; and, notwithstanding the rate of interest specified by any other provision of the constitution, shall bear a rate or rates of interest fixed by the board.~~

[~~(h) This Amendment being intended only to establish a basic framework and not to be a comprehensive treatment of the Veterans' Housing Assistance Program and the Veterans' Land Program, there is hereby reposed in the Legislature full power to implement and effectuate the design and objects of this Amendment, including the power to delegate such duties, responsibilities, functions, and authority to the Veterans' Land Board as it believes necessary.~~

[~~Sec. 49-b-2. (a) In addition to the general obligation bonds authorized to be issued and to be sold by the Veterans' Land Board by Sections 49-b and 49-b-1 of this article, the Veterans' Land Board may provide for, issue, and sell general obligation bonds of the state in an amount not to exceed $750 million, to provide financing to veterans of the state in recognition of their service to their state and the United States of America.~~]

(g) The [~~(b) Two hundred fifty million dollars of the general obligation bonds authorized by this section shall be used to augment the Veterans' Land Fund. Notwithstanding any provision of Section 49-b or 49-b-1 of this article to the contrary, the~~] Veterans' Land Fund shall be used by the Veterans' Land Board to purchase lands situated in the state

owned by the United States government, an agency of the United States government, this state, a political subdivision or agency of this state, or a person, firm, or corporation.

(h) Lands purchased and comprising a part of the Veterans' Land Fund are declared to be held for a governmental purpose, but the individual purchasers of those lands shall be subject to taxation to the same extent and in the same manner as are purchasers of lands dedicated to the Permanent Free Public School Fund. The lands shall be sold to veterans in quantities, on terms, at prices, and at fixed, variable, floating, or other rates of interest, determined by the Board and in accordance with rules of the Board. Notwithstanding any provisions of this section to the contrary, lands in the Veterans' Land Fund that are offered for sale to veterans and that are not sold may be sold or resold to the purchasers in quantities, on terms, at prices, and at rates of interest determined by the Board and in accordance with rules of the Board.

(i) The expenses of the Board in connection with the issuance of the bonds for the benefit of the Veterans' Land Fund and the purchase and sale of the lands may be paid from money in the Veterans' Land Fund.

(j) [~~(c)~~] The Veterans' Land Fund shall consist of:

(1) lands heretofore or hereafter purchased by the Board;

(2) money attributable to bonds heretofore or hereafter issued and sold by the Board for the fund, including proceeds from the issuance and sale of the bonds;

(3) money received from the sale or resale of lands or rights in lands purchased from those proceeds;

(4) money received from the sale or resale of lands or rights in lands purchased with other money attributable to the bonds;

(5) proceeds derived from the sale or other disposition of the Board's interest in contracts for the sale or resale of lands or rights in lands;

(6) interest and penalties received from the sale or resale of lands or rights in lands;

(7) bonuses, income, rents, royalties, and other pecuniary benefits received by the Board from lands;

(8) money received by way of indemnity or forfeiture for the failure of a bidder for the purchase of bonds to comply with the bid and accept and pay for the bonds or for the failure of a bidder for the purchase of lands comprising a part of the Veterans' Land Fund to comply with the bid and accept and pay for the lands;

(9) payments received by the Board under a bond enhancement agreement with respect to the bonds; and

(10) interest received from investments of money in the fund.

(k) [~~(d)~~] The principal of and interest on the general obligation bonds [~~authorized by this section~~] for the benefit of the Veterans' Land Fund, including payments by the Board under a bond enhancement agreement with respect to principal of or interest on the bonds, shall be paid out of the money of the Veterans' Land Fund, but the money in the fund that is not immediately committed to the payment of principal and interest on the bonds, the purchase of lands, or the payment of expenses may be invested as authorized by law until the money is needed for those purposes.

(l) [~~(e)~~] The Veterans' Housing Assistance Fund II [~~is created, and $500 million of the general obligation bonds authorized by this section shall be used for the Veterans' Housing Assistance Fund II. The Veterans' Housing Assistance Fund II~~] is a separate and distinct fund from the Veterans' Housing Assistance Fund [~~established under Section 49-b-1 of this article~~]. Money in the Veterans' Housing Assistance Fund II shall be administered by the Veterans' Land Board and shall be used to make home mortgage loans to veterans for housing within this state in quantities, on terms, and at fixed, variable, floating, or other rates of interest, determined by the Board and in accordance with rules of the Board. The expenses of the Board in connection with the issuance of the bonds for the benefit of the Veterans' Housing Assistance Fund II and the making of the loans may be paid from money in the Veterans' Housing Assistance Fund II.

(m) [~~(f)~~] The Veterans' Housing Assistance Fund II shall consist of:

(1) the Board's interest in home mortgage loans the Board makes to veterans from money in the fund under the Veterans' Housing Assistance Program established by law;

(2) proceeds derived from the sale or other disposition of the Board's interest in home mortgage loans;

(3) money attributable to bonds issued and sold by the Board to provide money for the fund, including the proceeds from the issuance and sale of bonds;

(4) income, rents, and other pecuniary benefits received by the Board as a result of making loans;

(5) money received by way of indemnity or forfeiture for the failure of a bidder for the purchase of bonds to comply with the bid and accept and pay for the bonds;

(6) payments received by the Board under a bond enhancement agreement with respect to the bonds; and

(7) interest received from investments of money.

(n) [~~(g)~~] The principal of and interest on the general obligation bonds [~~authorized by this section~~] for the benefit of the Veterans' Housing Assistance Fund II, including payments by the Board under a bond enhancement agreement with respect to principal of or interest on the bonds, shall be paid out of the money of the Veterans' Housing Assistance Fund II, but the money in the fund that is not immediately committed to the payment of principal and interest on the bonds, the making of home mortgage loans, or the payment of expenses may be invested as authorized by law until the money is needed for those purposes.

(o) The [~~(h) Notwithstanding the provisions of Section 49-b-1 of this article to the contrary, the~~] Veterans' Housing Assistance Fund shall consist of:

(1) the Board's interest in home mortgage loans the Board makes to veterans from money in the fund under the Veterans' Housing Assistance Program established by law;

(2) proceeds derived from the sale or other disposition of the Board's interest in home mortgage loans;

(3) money attributable to bonds issued and sold by the Board to provide money for the fund, including proceeds from the issuance and sale of bonds;

(4) income, rents, and other pecuniary benefits received by the Board as a result of making loans;

(5) money received by way of indemnity or forfeiture for the failure of a bidder for the purchase of bonds to comply with the bid and accept and pay for the bonds;

(6) payments received by the Board under a bond enhancement agreement with respect to the bonds; and

(7) interest received from investments of money.

(p) [~~(i)~~] The principal of and interest on the general obligation bonds [~~authorized by Section 49-b-1 of this article~~] for the benefit of the Veterans' Housing Assistance Fund, including payments by the Board under a bond enhancement agreement with respect to principal of or interest on the bonds, shall be paid out of money in the Veterans' Housing Assistance Fund.

(q) [~~(j)~~] If there is not enough money in the Veterans' Land Fund, the Veterans' Housing Assistance Fund, or the Veterans' Housing Assistance Fund II, as the case may be, available to pay the principal of and interest on the general obligation bonds benefiting those funds [~~authorized by this section or by Section 49-b or 49-b-1 of this article~~], including money to make payments by the Board under a bond enhancement agreement with respect to principal of or interest on the bonds, there is appropriated out of the first money coming into the treasury in each fiscal year, not otherwise appropriated by this constitution, an amount that is sufficient to pay the principal of and interest on the general obligation bonds that mature or become due during that fiscal year or to make bond enhancement payments with respect to those bonds.

(r) Receipts [~~(k) Notwithstanding any provisions of Section 49-b or 49-b-1 of this article to the contrary, receipts~~] of all kinds of the Veterans'

Land Fund, the Veterans' Housing Assistance Fund, or the Veterans' Housing Assistance Fund II that the Board determines are not required for the payment of principal of and interest on the general obligation bonds benefiting those funds, including payments by the Board under a bond enhancement agreement with respect to principal of or interest on the bonds, [~~authorized by this section or by Section 49-b or 49-b-1 of this article or otherwise authorized by this constitution to be issued by the Board to provide money for the fund;~~] may be used by the Board, to the extent not inconsistent with the proceedings authorizing the bonds to:

(1) make temporary transfers to another of those funds to avoid a temporary cash deficiency in that fund or make a transfer to another of those funds for the purposes of that fund;

(2) pay the principal of and interest on general obligation bonds issued to provide money for another of those funds or make bond enhancement payments with respect to the bonds; or

(3) pay the principal of and interest on revenue bonds of the Board or make bond enhancement payments with respect to the bonds if the bonds are issued to provide funds to purchase lands and sell lands to veterans or make home mortgage loans to veterans.

(s) [~~(l)~~] If the Board determines that assets from the Veterans' Land Fund, the Veterans' Housing Assistance Fund, or the Veterans' Housing Assistance Fund II are not required for the purposes of the fund, the Board may transfer the assets to another of those funds or use the assets to secure revenue bonds issued by the Board under this section.

(t) [~~(m)~~] The revenue bonds shall be special obligations of the Board and payable only from and secured only by receipts of the funds, assets transferred from the funds, and other revenues and assets as determined by the Board and shall not constitute indebtedness of the state or the Veterans' Land Board. The Board may issue revenue bonds from time to time, which bonds may not exceed an aggregate principal amount that the Board determines can be fully retired from the receipts of the funds, the assets transferred from the funds, and the other revenues and assets pledged to the retirement of the revenue bonds. [~~The revenue bonds shall be issued and sold in forms and denominations, in the manner, on terms,~~

~~at times and places, and in installments the Board determines.~~] Notwithstanding the rate of interest specified by any other provision of this constitution, [~~the~~] revenue bonds shall bear a rate or rates of interest the Board determines. A determination made by the Board under this subsection shall be binding and conclusive as to the matter determined.

(u) The [~~(n) Notwithstanding any provisions of Section 49-b or 49-b-1 of this article to the contrary, the~~] bonds authorized to be issued and sold by the Veterans' Land Board [~~by this section or by Sections 49-b and 49-b-1 of this article~~] shall be issued and sold in forms and denominations, on terms, at times, in the manner, at places, and in installments the Board determines. The bonds shall bear a rate or rates of interest the Board determines. The bonds shall be incontestable after execution by the Board, approval by the Attorney General of Texas, and delivery to the purchaser or purchasers of the bonds.

(v) [~~(o)~~] This Amendment being intended only to establish a basic framework and not to be a comprehensive treatment of the Veterans' Housing Assistance Program and the Veterans' Land Program, there is hereby reposed in the Legislature full power to implement and effectuate the design and objects of this Amendment, including the power to delegate such duties, responsibilities, functions, and authority to the Veterans' Land Board as it believes necessary.

[~~(p) In this section, "veteran" has the meaning assigned by Section 49-b-1 of this article.~~

[~~Sec. 49-b-3. (a) In addition to the general obligation bonds authorized to be issued and to be sold by the Veterans' Land Board by Sections 49-b, 49-b-1, and 49-b-2 of this article, the Veterans' Land Board may provide for, issue, and sell general obligation bonds of the state in an amount not to exceed $500 million to provide housing financing to veterans of the state in recognition of their service to this state and the United States. The Veterans' Land Board may enter into bond enhancement agreements with respect to the bonds. The proceeds from the issuance and sale of the bonds authorized by this section shall be used to augment the Veterans' Housing Assistance Fund II to be administered and invested as provided by law.~~

[~~(b) The principal of and interest on the general obligation bonds authorized by this section, including payments under bond enhancement agreements with respect to principal of or interest on the bonds, shall be payable from the sources and in the manner provided by Section 49-b-2 of this article for general obligation bonds issued under that section to augment the Veterans' Housing Assistance Fund II.~~

[~~(c) The general obligation bonds authorized by this section shall be issued and sold in forms and denominations, on terms, at times, in the manner, at places, and in installments the Veterans' Land Board determines. The bonds shall bear a rate or rates of interest the Veterans' Land Board determines. The bonds authorized by this section shall be incontestable after execution by the Veterans' Land Board, approval by the attorney general, and delivery to the purchaser or purchasers of the bonds.~~]

SECTION 15. Sections 49-c, 49-d, 49-d-1, 49-d-2, 49-d-5, 49-d-6, 49-d-7, and 49-d-8, Article III, Texas Constitution, are amended to read as follows:

Sec. 49-c. (a) The Texas Water Development Board, [~~There is hereby created as~~] an agency of the State of Texas, shall [~~the Texas Water Development Board to~~] exercise such powers as necessary under this provision together with such other duties and restrictions as may be prescribed by law. The qualifications, compensation, and number of members of said Board shall be determined by law. They shall be appointed by the Governor with the advice and consent of the Senate in the manner and for such terms as may be prescribed by law.

(b) The Texas Water Development Board shall have the authority to provide for, issue and sell general obligation bonds of the State of Texas as authorized by constitutional amendment or by a debt proposition under Section 49 of this article [~~in an amount not to exceed One Hundred Million Dollars ($100,000,000)~~]. [~~The Legislature of Texas, upon two-thirds (2/3) vote of the elected Members of each House, may authorize the Board to issue additional bonds in an amount not exceeding One Hundred Million Dollars ($100,000,000).~~] The bonds [~~authorized herein or permitted to be authorized by the Legislature~~] shall be called "Texas Water Development Bonds," shall be executed in such form, denominations

and upon such terms as may be prescribed by law, and [~~provided, however, that the bonds shall not bear more than four per cent (4%) interest per annum; they~~] may be issued in such installments as the Board finds feasible and practical in accomplishing the purpose set forth herein.

(c) All moneys received from the sale of the [~~State~~] bonds shall be deposited in a fund hereby created in the State Treasury to be known as the Texas Water Development Fund to be administered (without further appropriation) by the Texas Water Development Board in such manner as prescribed by law.

(d) Such fund shall be used only for the purpose of aiding or making funds available upon such terms and conditions as the Legislature may prescribe, to the various political subdivisions or bodies politic and corporate of the State of Texas including river authorities, conservation and reclamation districts and districts created or organized or authorized to be created or organized under Article XVI, Section 59 or Article III, Section 52, of this Constitution, interstate compact commissions to which the State of Texas is a party and municipal corporations, in the conservation and development of the water resources of this State, including the control, storing and preservation of its storm and flood waters and the waters of its rivers and streams, for all useful and lawful purposes by the acquisition, improvement, extension, or construction of dams, reservoirs and other water storage projects, including any system necessary for the transportation of water from storage to points of treatment and/or distribution, including facilities for transporting water therefrom to wholesale purchasers, or for any one or more of such purposes or methods.

(e) Any or all financial assistance as provided herein shall be repaid with interest upon such terms, conditions and manner of repayment as may be provided by law.

(f) While any of the Texas Water Development Bonds [~~bonds authorized by this provision or while any of the bonds that may be authorized by the Legislature under this provision~~], or any interest on any of such bonds, is outstanding and unpaid, there is hereby appropriated out of the first moneys coming into the Treasury in each fiscal year, not otherwise appropriated by this Constitution, an amount which is sufficient

to pay the principal and interest on such bonds that mature or become due during such fiscal year, less the amount in the sinking fund at the close of the prior fiscal year.

(g) The Legislature may provide for the investment of moneys available in the Texas Water Development Fund, and the interest and sinking funds established for the payment of bonds issued by the Texas Water Development Board. Income from such investment shall be used for the purposes prescribed by the Legislature. The Legislature may also make appropriations from the General Revenue Fund for paying administrative expenses of the Board.

(h) From the moneys received by the Texas Water Development Board as repayment of principal for financial assistance or as interest thereon, there shall be deposited in the interest and sinking fund for the bonds [~~authorized by this Section~~] sufficient moneys to pay the interest and principal to become due during the ensuing year and sufficient to establish and maintain a reserve in said fund equal to the average annual principal and interest requirements on all outstanding bonds [~~issued under this Section~~]. If any year [~~prior to December 31, 1982~~] moneys are received in excess of the foregoing requirements then such excess shall be deposited to the Texas Water Development Fund, and may be used for administrative expenses of the Board and for the same purposes and upon the same terms and conditions prescribed for the proceeds derived from the sale of such State bonds. [~~No grant of financial assistance shall be made under the provisions of this Section after December 31, 1982, and all moneys thereafter received as repayment of principal for financial assistance or as interest thereon shall be deposited in the interest and sinking fund for the State bonds; except that such amount as may be required to meet the administrative expenses of the Board may be annually set aside; and provided, that after all State bonds have been fully paid with interest, or after there are on deposit in the interest and sinking fund sufficient moneys to pay all future maturities of principal and interest, additional moneys so received shall be deposited to the General Revenue Fund.~~]

(i) All Texas Water Development Bonds [~~bonds issued hereunder~~] shall after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the

purchasers, be incontestable and shall constitute general obligations of the State of Texas under the Constitution of Texas.

[~~Should the Legislature enact enabling laws in anticipation of the adoption of this amendment, such acts shall not be void by reason of their anticipatory nature.~~]

Sec. 49-d. (a) It is hereby declared to be the policy of the State of Texas to encourage the optimum development of the limited number of feasible sites available for the construction or enlargement of dams and reservoirs for conservation of the public waters of the state, which waters are held in trust for the use and benefit of the public, and to encourage the optimum regional development of systems built for the filtration, treatment, and transmission of water and wastewater. The proceeds from the sale of [~~the additional~~] bonds [~~authorized hereunder~~] deposited in the Texas Water Development Fund [~~and the proceeds of bonds previously authorized by Article III, Section 49-c of this Constitution,~~] may be used by the Texas Water Development Board, under such provisions as the Legislature may prescribe by General Law, including the requirement of a permit for storage or beneficial use, for the additional purposes of acquiring and developing storage facilities, and any system or works necessary for the filtration, treatment and transportation of water or wastewater, or for any one or more of such purposes or methods, whether or not such a system or works is connected with a reservoir in which the state has a financial interest; provided, however, the Texas Water Development Fund or any other state fund provided for water development, transmission, transfer or filtration shall not be used to finance any project which contemplates or results in the removal from the basin of origin of any surface water necessary to supply the reasonably foreseeable future water requirements for the next ensuing fifty-year period within the river basin of origin, except on a temporary, interim basis.

(b) Under such provisions as the Legislature may prescribe by General Law the Texas Water Development Fund may be used for the conservation and development of water for useful purposes by construction or reconstruction or enlargement of reservoirs constructed or to be constructed or enlarged within the State of Texas or on any stream constituting a boundary of the State of Texas, together with any system or works

necessary for the filtration, treatment and/or transportation of water, by any one or more of the following governmental agencies: by the United States of America or any agency, department or instrumentality thereof; by the State of Texas or any agency, department or instrumentality thereof; by political subdivisions or bodies politic and corporate of the state; by interstate compact commissions to which the State of Texas is a party; and by municipal corporations. The Legislature shall provide terms and conditions under which the Texas Water Development Board may sell, transfer or lease, in whole or in part, any reservoir and associated system or works which the Texas Water Development Board has financed in whole or in part.

(c) Under such provisions as the Legislature may prescribe by General Law, the Texas Water Development Board may also execute long-term contracts with the United States or any of its agencies for the acquisition and development of storage facilities in reservoirs constructed or to be constructed by the Federal Government. Such contracts when executed shall constitute general obligations of the State of Texas in the same manner and with the same effect as state bonds issued under the authority of [~~the preceding~~] Section 49-c of this article [~~Constitution~~], and the provisions of [~~in said~~] Section 49-c of this article with respect to payment of principal and interest on state bonds issued shall likewise apply with respect to payment of principal and interest required to be paid by such contracts. If storage facilities are required for a term of years, such contracts shall contain provisions for renewal that will protect the state's investment.

[~~The aggregate of the bonds authorized hereunder shall not exceed $200,000,000 and shall be in addition to the aggregate of the bonds previously authorized by said Section 49-c of Article III of this Constitution. The Legislature upon two-thirds (2/3) vote of the elected members of each House, may authorize the Board to issue all or any portion of such $200,000,000 in additional bonds herein authorized.~~]

(d) The Legislature shall provide terms and conditions for the Texas Water Development Board to sell, transfer or lease, in whole or in part, any acquired facilities or the right to use such facilities at a price not less

than the direct cost of the Board in acquiring same; and the Legislature may provide terms and conditions for the Board to sell any unappropriated public waters of the state that might be stored in such facilities. As a prerequisite to the purchase of such storage or water, the applicant therefor shall have secured a valid permit from the state [~~Texas Water Commission or its successor~~] authorizing the acquisition of such storage facilities or the water impounded therein. The money received from any sale, transfer or lease of facilities shall be used to pay principal and interest on state bonds issued or contractual obligations incurred by the Texas Water Development Board, provided that when moneys are sufficient to pay the full amount of indebtedness then outstanding and the full amount of interest to accrue thereon, any further sums received from the sale, transfer or lease of such facilities shall be deposited and used as provided by law. Money received from the sale of water, which shall include standby service, may be used for the operation and maintenance of acquired facilities, and for the payment of principal and interest on debt incurred.

[~~Should the Legislature enact enabling laws in anticipation of the adoption of this Amendment, such Acts shall not be void by reason of their anticipatory character.~~]

Sec. 49-d-1. (a) The Texas Water Development Board may [~~shall upon direction of the Texas Water Quality Board, or any successor agency designated by the Legislature,~~] issue [~~additional~~] Texas Water Development Bonds as authorized by constitutional amendment or by a debt proposition under Section 49 of this article [~~up to an additional aggregate principal amount of $200,000,000~~] to provide grants, loans, or any combination of grants and loans for water quality enhancement purposes as established by the Legislature[~~. The Texas Water Quality Board or any successor agency designated by the Legislature may make such grants and loans~~] to political subdivisions or bodies politic and corporate of the State of Texas, including municipal corporations, river authorities, conservation and reclamation districts, and districts created or organized or authorized to be created or organized under Article XVI, Section 59, or Article III, Section 52, of this Constitution, State agencies, and interstate agencies and compact commissions to which the State of Texas is a party, and

upon such terms and conditions as the Legislature may authorize by general law. The bonds shall be issued for such terms, in such denominations, form and installments, and upon such conditions as the Legislature may authorize.

[~~(b) The proceeds from the sale of such bonds shall be deposited in the Texas Water Development Fund to be invested and administered as prescribed by law.~~

[~~(c) The bonds authorized in this Section 49-d-1 and all bonds authorized by Sections 49-c and 49-d of Article III shall bear interest at not more than 6% per annum and mature as the Texas Water Development Board shall prescribe, subject to the limitations as may be imposed by the Legislature.~~]

(b) [~~(d)~~] The Texas Water Development Fund shall be used for the purposes heretofore permitted by, and subject to the limitations in this Section and Sections 49-c and[~~,~~] 49-d [~~and 49-d-1~~]; provided, however, that the financial assistance may be made [~~pursuant to the provisions of Sections 49-c, 49-d and 49-d-1~~] subject only to the availability of funds [~~and without regard to the provisions in Section 49-c that such financial assistance shall terminate after December 31, 1982~~].

[~~(e) Texas Water Development Bonds are secured by the general credit of the State and shall after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas under the Constitution of Texas.~~

[~~(f) Should the Legislature enact enabling laws in anticipation of the adoption of this amendment, such Acts shall not be void by reason of their anticipatory character.~~]

Sec. 49-d-2. [~~(a)~~] The Texas Water Development Board may issue [~~additional~~] Texas Water Development Bonds [~~up to an additional aggregate principal amount of $980 million. Of the additional bonds authorized to be issued, $590 million of those bonds are dedicated for use for the purposes provided by Sections 49-c and 49-d of this article with $400 million of those bonds to be used for state participation in the~~

~~acquisition and development of facilities for the storage, transmission, transportation, and treatment of water and wastewater as authorized by Section 49-d of this article. The legislature may set limits on the extent of state participation in projects in each fiscal year through the General Appropriations Act or other law, and state participation is limited to 50 percent of the funding for any single project. Of the additional bonds authorized, $190 million are dedicated for use for the purposes provided by Section 49-d-1 of this article and $200 million are dedicated exclusively~~] for flood control projects and [~~may be made available~~] for any acquisition or construction necessary to achieve structural and nonstructural flood control purposes.

[~~(b) 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, 49-d, and 49-d-1 of this article and by laws adopted by the legislature implementing those sections.~~

[~~(c) Proceeds from the sale of the bonds authorized by this section shall be deposited in the Texas water development fund to be administered and invested as provided by law.~~

[~~(d) Financial assistance made available for the purposes provided by this section is subject only to availability of funds. The requirement of Section 49-c of this article that financial assistance terminate on December 31, 1982, does not apply to financial assistance made available under this section.~~

[~~(e) Bonds issued under this section shall bear interest as provided by Section 65 of this article.~~]

Sec. 49-d-5. For the purpose of any program established or authorized by [~~Section 49-c, 49-d, 49-d-1, 49-d-2, or 49-d-4 of~~] this article and administered by the Texas Water Development Board, the legislature by law may extend any benefits to nonprofit water supply corporations that it may extend to a district created or organized under Article XVI, Section 59, of this constitution.

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

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

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

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

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 (c) 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.~~]

(b) [~~(c)~~] The legislature may provide by law for subsidized loans and grants from the proceeds of Texas water development 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 $250 million [~~50 percent of the total amount of bonds authorized by this section~~]. Separate accounts shall be established in the water development fund for administering the proceedings 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 the 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, an 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.~~]

Sec. 49-d-8. (a) The Texas Water Development Fund II is [~~created~~] in the state treasury as a fund separate and distinct from the Texas Water Development Fund established under Section 49-c of this article. Money in the Texas Water Development Fund II shall be administered without further appropriation by the Texas Water Development Board and shall be used for any one or more of the purposes currently or formerly authorized by Sections 49-c, 49-d, 49-d-1, 49-d-2, 49-d-5, 49-d-6, and 49-d-7 of this article, as determined by the Texas Water Development Board. Separate accounts shall be established in the Texas Water Development Fund II for administering proceedings related to the purposes described in Section 49-d of this article, the purposes described in Subsection (b) [~~(c)~~] of Section 49-d-7 of this article, and all other authorized purposes. The Texas Water Development Board is hereby authorized, at its determination, to issue general obligation bonds for one or more accounts of the Texas Water Development Fund II in an aggregate principal amount equal to the amount of bonds previously authorized pursuant to former Section 49-d-6 and Sections 49-d-2[~~, 49-d-6,~~] and 49-d-7 of this article less the amount of bonds issued pursuant to those sections to augment the Texas Water Development Fund and the amount of bonds issued to augment the Texas Water Development Fund II. Nothing in this section, however, shall grant to the Texas Water Development Board the authority to issue bonds [~~under this section and under Sections 49-d-2, 49-d-6, and 49-d-7 of this article~~] in excess of the total amount of those previously authorized bonds [~~described in Sections 49-d-2, 49-d-6, and 49-d-7 of this article~~] or to issue bonds for purposes described in Subsection (b) [~~(c)~~] of Section 49-d-7 of this article in excess of $250 million. The expenses of the Texas Water Development Board in connection with the issuance of bonds for an account of the Texas Water Development Fund II and administration of such account may be paid from money in such account.

(b) The Texas Water Development Board is hereby authorized, at its determination, to issue general obligation bonds for one or more accounts

of the Texas Water Development Fund II in order to refund outstanding bonds previously issued to augment the Texas Water Development Fund, as long as the principal amount of the refunding bonds does not exceed the outstanding principal amount of the refunded bonds, and to refund the general obligation of the State of Texas under long-term contracts entered into by the Texas Water Development Board with the United States or any of its agencies under authority granted by Section 49-d of this article, as long as the principal amount of the refunding bonds does not exceed the principal amount of the contractual obligation of the Texas Water Development Board. Money and assets in the Texas Water Development Fund attributable to such refunding bonds shall be transferred to the appropriate account of the Texas Water Development Fund II, as determined by the Texas Water Development Board, to the extent not inconsistent with the proceedings authorizing any outstanding bonds issued to augment the Texas Water Development Fund and the terms of any long-term contracts entered into by the Texas Water Development Board with the United States or any of its agencies. In addition, the Texas Water Development Board may transfer other moneys and assets in the Texas Water Development Fund to the appropriate account of the Texas Water Development Fund II, as determined by the Texas Water Development Board, without the necessity of issuing refunding bonds to effect the transfer, to the extent not inconsistent with the proceedings authorizing any outstanding bonds issued to augment the Texas Water Development Fund. Further, at such time as all bonds issued to augment the Texas Water Development Fund and all such contractual obligations have been paid or otherwise discharged, all money and assets in the Texas Water Development Fund shall be transferred to the credit of the Texas Water Development Fund II and deposited to the accounts therein, as determined by the Texas Water Development Board.

(c) Subject to the limitations set forth in Section 49-d of this article, the legislature shall provide terms and conditions under which the Texas Water Development Board may sell, transfer, or lease, in whole or in part, facilities held for the account established within the Texas Water Development Fund II for administering proceedings related to the purposes described in Section 49-d of this article, and the legislature may provide

terms and conditions under which the Texas Water Development Board may sell any unappropriated public waters of the state that may be stored in such facilities. Money received from any sale, transfer, or lease of such facilities or water shall be credited to the account established within the Texas Water Development Fund II for the purpose of administering proceedings related to the purposes described in Section 49-d of this article.

(d) Each account of the Texas Water Development Fund II shall consist of:

(1) the Texas Water Development Board's rights to receive repayment of financial assistance provided from such account, together with any evidence of such rights;

(2) money received from the sale or other disposition of the Texas Water Development Board's rights to receive repayment of such financial assistance;

(3) money received as repayment of such financial assistance;

(4) money and assets attributable to bonds issued and sold by the Texas Water Development Board for such account, including money and assets transferred from the Texas Water Development Fund pursuant to this section;

(5) money deposited in such account pursuant to Subsection (c) of this section;

(6) payments received by the Texas Water Development Board under a bond enhancement agreement as authorized by law with respect to bonds issued for such account; and

(7) interest and other income received from investment of money in such account.

(e) Notwithstanding the other provisions of [~~Sections 49-d-2, 49-d-6, and 49-d-7 of~~] this article, the principal of and interest on the general obligation bonds issued for an account of the Texas Water Development Fund II, including payments by the Texas Water Development Board under a bond enhancement agreement as authorized by law with respect to principal of or interest on such bonds, shall be paid out of such

account, but the money in such account that is not immediately committed to the purposes of such account or the payment of expenses may be invested as authorized by law until the money is needed for those purposes. If there is not enough money in any account available to pay the principal of and interest on the general obligation bonds issued for such account, including money to make payments by the Texas Water Development Board under a bond enhancement agreement as authorized by law with respect to principal of or interest on such bonds, there is appropriated out of the first money coming into the state treasury in each fiscal year not otherwise appropriated by this constitution an amount that is sufficient to pay the principal of and interest on such general obligation bonds that mature or become due during that fiscal year or to make bond enhancement payments with respect to those bonds.

(f) The general obligation bonds authorized by this section may be issued as bonds, notes, or other obligations as permitted by law and shall be sold in forms and denominations, on terms, at times, in the manner, at places, and in installments, all as determined by the Texas Water Development Board. The bonds shall bear a rate or rates of interest the Texas Water Development Board determines. The bonds authorized by this section shall be incontestable after execution by the Texas Water Development Board, approval by the attorney general, and delivery to the purchaser or purchasers of the bonds.

(g) This section being intended only to establish a basic framework and not to be a comprehensive treatment of the Texas Water Development Fund II, there is hereby reposed in the legislature full power to implement and effectuate the design and objects of this section, including the power to delegate such duties, responsibilities, functions, and authority to the Texas Water Development Board as it believes necessary.

(h) The Texas Water Development Fund II, including any account in that fund, may not be used to finance or aid any project that contemplates or results in the removal from the basin of origin of any surface water necessary to supply the reasonably foreseeable future water requirements for the next ensuing 50-year period within the river basin of origin, except on a temporary, interim basis.

SECTION 16. Section 49-e, Article III, Texas Constitution, is amended to read as follows:

Sec. 49-e. (a) The Parks and Wildlife Department, or its successor vested with the powers, duties, and authority which deals with the operation, maintenance, and improvement of State Parks, shall have the authority to provide for, issue and sell general obligation bonds of the State of Texas in an amount authorized by constitutional amendment or by a debt proposition under Section 49 of this article [~~not to exceed Seventy-Five Million Dollars ($75,000,000)~~]. The bonds [~~authorized herein~~] shall be called "Texas Park Development Bonds," shall be executed in such form, denominations, and upon such terms as may be prescribed by law, [~~provided, however, that the bonds~~] shall bear a rate or rates of interest as may be fixed by the Parks and Wildlife Department or its successor, not to exceed the maximum prescribed by Section 65 of this article, and [~~but the weighted average annual interest rate, as that phrase is commonly and ordinarily used and understood in the municipal bond market, of all the bonds issued and sold in any installment of any bonds, shall not exceed four and one-half percent (4 1/2%) interest per annum; they~~] may be issued in such installments as said Parks and Wildlife Department, or its said successor, finds feasible and practical in accomplishing the purpose set forth herein.

(b) All moneys received from the sale of said bonds shall be deposited in a fund hereby created with the Comptroller of Public Accounts of the State of Texas to be known as the Texas Park Development Fund to be administered (without further appropriation) by the said Parks and Wildlife Department, or its said successor, in such manner as prescribed by law.

(c) Such fund shall be used by said Parks and Wildlife Department, or its said successor, under such provisions as the Legislature may prescribe by general law, for the purposes of acquiring lands from the United States, or any governmental agency thereof, from any governmental agency of the State of Texas, or from any person, firm, or corporation, for State Park Sites and for developing said sites as State Parks.

(d) While any of the bonds [~~authorized by this provision~~], or any interest on any such bonds, is outstanding and unpaid, there is hereby

appropriated out of the first moneys coming into the Treasury in each fiscal year, not otherwise appropriated by this Constitution, an amount which is sufficient to pay the principal and interest on such bonds that mature or become due during such fiscal year, less the amount in the interest and sinking fund at the close of the prior fiscal year, which includes any receipts derived during the prior fiscal year by said Parks and Wildlife Department, or its said successor, from admission charges to State Parks, as the Legislature may prescribe by general law.

(e) The Legislature may provide for the investment of moneys available in the Texas Park Development Fund and the interest and sinking fund established for the payment of bonds issued by said Parks and Wildlife Department, or its said successor. Income from such investment shall be used for the purposes prescribed by the Legislature.

(f) From the moneys received by said Parks and Wildlife Department, or its said successor, from the sale of the bonds issued hereunder, there shall be deposited in the interest and sinking fund for the bonds authorized by this section sufficient moneys to pay the interest to become due during the State fiscal year in which the bonds were issued. After all bonds have been fully paid with interest, or after there are on deposit in the interest and sinking fund sufficient moneys to pay all future maturities of principal and interest, additional moneys received from admission charges to State Parks shall be deposited to the State Parks Fund, or any successor fund which may be established by the Legislature as a depository for Park revenue earned by said Parks and Wildlife Department, or its said successor.

(g) All bonds issued hereunder shall after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas under the Constitution of Texas.

[~~Should the Legislature enact enabling laws in anticipation of the adoption of this amendment, such Acts shall not be void by reason of their anticipatory nature.~~]

SECTION 17. Section 49-h, Article III, Texas Constitution, is amended to read as follows:

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

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

(c) In addition to the purposes authorized under Subsection (a), the [~~(1) The~~] legislature may authorize the issuance of the [~~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:

(1) 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; and [~~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.~~

[~~(d)(1) The legislature may authorize the issuance of up to $1.1 billion in general obligation bonds, in addition to the amount authorized by Subsections (a) and (c) of this section, and may use the proceeds of the bonds for acquiring, constructing, or equipping~~]

(2) new prisons and substance abuse felony punishment facilities to confine criminals[~~, mental health and mental retardation institutions,~~] and [~~youth corrections institutions, for~~] major repair or renovation of existing facilities of those institutions, and for the acquisition of, major repair to, or renovation of other facilities for use as state prisons or substance abuse felony punishment facilities. [~~Proceeds of general obligation bonds issued under this subdivision may not be appropriated by any session of the legislature other than the 2nd Called Session of the 72nd Legislature or any subsequent session of the legislature.~~

[~~(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.~~

[~~(e)(1) The legislature may authorize the issuance of up to $1 billion in general obligation bonds, in addition to the amounts authorized by Subsections (a), (c), and (d) of this section, and use the proceeds of the bonds for acquiring, constructing, or equipping new corrections institutions, including youth corrections institutions, and mental health and mental retardation institutions and for major repair or renovation of existing facilities of those corrections and mental health and mental retardation 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 18. Subsection (a), Section 50b-4, Article III, Texas Constitution, is amended to read as follows:

(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 authorized by constitutional amendment or by a debt proposition under Section 49 of this article [~~not to exceed $300 million~~] to finance educational loans to students who have been admitted to attend an institution of higher education within the State of Texas, public or private, which is recognized or accredited under terms and conditions prescribed by the Legislature. [~~The bonds are in addition to those bonds issued under Sections 50b, 50b-1, 50b-2, and 50b-3, Article III, Texas Constitution.~~]

SECTION 19. Section 51, Article III, Texas Constitution, is amended to read as follows:

Sec. 51. The Legislature shall have no power to make any grant or authorize the making of any grant of public moneys to any individual, association of individuals, municipal or other corporations whatsoever; [~~provided, however, the Legislature may grant aid to indigent and disabled Confederate soldiers and sailors under such regulations and limitations as may be deemed by the Legislature as expedient, and to their widows in indigent circumstances under such regulations and limitations as may be deemed by the Legislature as expedient;~~] provided that the provisions of this Section shall not be construed so as to prevent the grant of aid in cases of public calamity.

SECTION 20. Section 51-a, Article III, Texas Constitution, is amended to read as follows:

Sec. 51-a. (a) The Legislature shall have the power, by General Laws, to provide, subject to limitations herein contained, and such other limitations, restrictions and regulations as may by the Legislature be deemed expedient, for assistance grants to needy dependent children and the caretakers of such children, needy persons who are totally and permanently disabled because of a mental or physical handicap, needy aged persons and needy blind persons.

(b) The Legislature may provide by General Law for medical care, rehabilitation and other similar services for needy persons. The Legislature may prescribe such other eligibility requirements for participation in these programs as it deems appropriate and may make appropriations out of state funds for such purposes. The maximum amount paid out of state funds for assistance grants, to or on behalf of needy dependent children and their caretakers shall not exceed [~~the amount of Eighty Million Dollars ($80,000,000) during any fiscal year, except that the limit shall be One Hundred Sixty Million Dollars ($160,000,000) for the two years of the 1982-1983 biennium. For the two years of each subsequent biennium, the maximum amount shall not exceed~~] one percent of the state budget. The Legislature by general statute shall provide for the means for determining the state budget amounts, including state and other funds appropriated by the Legislature, to be used in establishing the biennial limit.

(c) Provided further, that if the limitations and restrictions herein contained are found to be in conflict with the provisions of appropriate federal statutes, as they now are or as they may be amended to the extent that federal matching money is not available to the state for these purposes, then and in that event the Legislature is specifically authorized and empowered to prescribe such limitations and restrictions and enact such laws as may be necessary in order that such federal matching money will be available for assistance and/or medical care for or on behalf of needy persons.

(d) Nothing in this Section shall be construed to amend, modify or repeal Section 31 of Article XVI of this Constitution; provided further, however, that such medical care, services or assistance shall also include the employment of objective or subjective means, without the use of drugs, for the purpose of ascertaining and measuring the powers of vision of the human eye, and fitting lenses or prisms to correct or remedy any defect or abnormal condition of vision. Nothing herein shall be construed to permit optometrists to treat the eyes for any defect whatsoever in any manner nor to administer nor to prescribe any drug or physical treatment whatsoever, unless such optometrist is a regularly licensed physician or surgeon under the laws of this state.

SECTION 21. Subsections (b) and (c), Section 52, Article III, Texas Constitution, are amended to read as follows:

(b) Under Legislative provision, any county, [~~any~~] political subdivision of a county, [~~any~~] number of adjoining counties, [~~or any~~] political subdivision of the State, or [~~any~~] defined district now or hereafter to be described and defined within the State of Texas, and which may or may not include, towns, villages or municipal corporations, upon a vote of two-thirds majority of the [~~resident property taxpayers~~] voting [~~thereon who are~~] qualified voters [~~electors~~] of such district or territory to be affected thereby, [~~in addition to all other debts,~~] may issue bonds or otherwise lend its credit in any amount not to exceed one-fourth of the assessed valuation of the real property of such district or territory, except that the total bonded indebtedness of any city or town shall never exceed the limits imposed by other provisions of this Constitution, and levy and collect taxes to pay the interest thereon and provide a sinking fund for the redemption thereof, as the Legislature may authorize, and in such manner as it may authorize the same, for the following purposes to wit:

(1) The improvement of rivers, creeks, and streams to prevent overflows, and to permit of navigation thereof, or irrigation thereof, or in aid of such purposes.

(2) The construction and maintenance of pools, lakes, reservoirs, dams, canals and waterways for the purposes of irrigation, drainage or navigation, or in aid thereof.

(3) The construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof.

(c) Notwithstanding the provisions of Subsection (b) of this Section, bonds may be issued by any county in an amount not to exceed one-fourth of the assessed valuation of the real property in the county, for the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof, upon a vote of a majority of the [~~resident property taxpayers~~] voting [~~thereon who are~~] qualified voters [~~electors~~] of the county, and without the necessity of further or amendatory legislation. The county may levy and collect taxes to pay the interest on

the bonds as it becomes due and to provide a sinking fund for redemption of the bonds.

SECTION 22. Section 52d, Article III, Texas Constitution, is amended to read as follows:

Sec. 52d. (a) Upon the vote of a majority of the [~~resident~~] qualified voters [~~electors owning rendered taxable property therein~~] so authorizing, a county or road district may collect an annual tax for a period not exceeding five (5) years to create a fund for constructing lasting and permanent roads and bridges or both. No contract involving the expenditure of any of such fund shall be valid unless, when it is made, money shall be on hand in such fund.

(b) At such election, the Commissioners' Court shall submit for adoption a road plan and designate the amount of special tax to be levied; the number of years said tax is to be levied; the location, description, and character of the roads and bridges; and the estimated cost thereof. The funds raised by such taxes shall not be used for purposes other than those specified in the plan submitted to the voters. Elections may be held from time to time to extend or discontinue said plan or to increase or diminish said tax. The Legislature shall enact laws prescribing the procedure hereunder.

(c) The provisions of this section shall apply only to Harris County and road districts therein.

SECTION 23. Section 52g, Article III, Texas Constitution, is amended to read as follows:

Sec. 52g. Bonds to be issued by Dallas County under Section 52(b)(3) [~~52~~] of Article III of this Constitution [~~for the construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof;~~] may, without the necessity of further or amendatory legislation, be issued upon a vote of a majority of the [~~residents~~] voting [~~thereon who are~~] qualified voters [~~electors~~] of said county, and bonds heretofore or hereafter issued under Subsections (a) and (b) of said Section 52 shall not be included in determining the debt limit prescribed in said Section.

SECTION 24. Section 7, Article IV, Texas Constitution, is amended to read as follows:

Sec. 7. He shall be Commander-in-Chief of the military forces of the State, except when they are called into actual service of the United States. He shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and to repel invasions[~~, and protect the frontier from hostile incursions by Indians or other predatory bands~~].

SECTION 25. Section 16, Article IV, Texas Constitution, is amended to read as follows:

Sec. 16. There shall also be a Lieutenant Governor, who shall be chosen at every election for Governor by the same voters [~~electors~~], in the same manner, continue in office for the same time, and possess the same qualifications. The voters [~~electors~~] shall distinguish for whom they vote as Governor and for whom as Lieutenant Governor. The Lieutenant Governor, shall by virtue of his office, be President of the Senate, and shall have, when in Committee of the Whole, a right to debate and vote on all questions; and when the Senate is equally divided to give the casting vote. In case of the death, resignation, removal from office, inability or refusal of the Governor to serve, or of his impeachment or absence from the State, the Lieutenant Governor shall exercise the powers and authority appertaining to the office of Governor until another be chosen at the periodical election, and be duly qualified; or until the Governor impeached, absent or disabled, shall be acquitted, return, or his disability be removed.

SECTION 26. Section 22, Article IV, Texas Constitution, is amended to read as follows:

Sec. 22. The Attorney General [~~elected at the general election in 1974, and thereafter, shall hold office for four years and until his successor is duly qualified. He~~] shall represent the State in all suits and pleas in the Supreme Court of the State in which the State may be a party, and shall especially inquire into the charter rights of all private corporations, and from time to time, in the name of the State, take such action in the courts as may be proper and necessary to prevent any private corporation from exercising any power or demanding or collecting any species of taxes,

tolls, freight or wharfage not authorized by law. He shall, whenever sufficient cause exists, seek a judicial forfeiture of such charters, unless otherwise expressly directed by law, and give legal advice in writing to the Governor and other executive officers, when requested by them, and perform such other duties as may be required by law. [~~He shall reside at the seat of government during his continuance in office. He shall receive for his services an annual salary in an amount to be fixed by the Legislature.~~]

SECTION 27. Section 23, Article IV, Texas Constitution, is amended to read as follows:

Sec. 23. The Comptroller of Public Accounts, the Commissioner of the General Land Office, the Attorney General, and any statutory State officer who is elected by the electorate of Texas at large, unless a term of office is otherwise specifically provided in this Constitution, shall each hold office for the term of four years [~~and until his successor is qualified. The four-year term applies to these officers who are elected at the general election in 1974 or thereafter~~]. Each shall receive an annual salary in an amount to be fixed by the Legislature; reside at the Capital of the State during his continuance in office, and perform such duties as are or may be required by law. They and the Secretary of State shall not receive to their own use any fees, costs or perquisites of office. All fees that may be payable by law for any service performed by any officer specified in this section or in his office, shall be paid, when received, into the State Treasury.

SECTION 28. Section 9, Article V, Texas Constitution, is amended to read as follows:

Sec. 9. There shall be a Clerk for the District Court of each county, who shall be elected by the qualified voters [~~for State and county officers,~~] and who shall hold his office for four years, subject to removal by information, or by indictment of a grand jury, and conviction of a petit jury. In case of vacancy, the Judge of the District Court shall have the power to appoint a Clerk, who shall hold until the office can be filled by election.

SECTION 29. Section 2, Article VI, Texas Constitution, is amended to read as follows:

Sec. 2. Every person subject to none of the foregoing disqualifications [~~who shall have attained the age of 18 years and~~] who shall be a citizen of the United States and who is a resident of this state shall be deemed a qualified voter [~~elector~~]; provided, however, that before offering to vote at an election a voter shall have registered, but such requirement for registration shall not be considered a qualification of a voter [~~an elector~~] within the meaning of the term "qualified voter [~~elector~~]" as used in any other Article of this Constitution in respect to any matter except qualification and eligibility to vote at an election. The Legislature may authorize absentee voting.

SECTION 30. Subsections (a) and (b), Section 2a, Article VI, Texas Constitution, are amended to read as follows:

(a) Notwithstanding any other provision of this Constitution, the Legislature may enact laws and provide a method of registration, including the time of such registration, permitting any person who is qualified to vote in this State except for the residence requirements within a county or district, as set forth in Section 2 of this Article, to vote for (1) electors for President and Vice President of the United States and (2) all offices, questions or propositions to be voted on by all voters [~~electors~~] throughout this State.

(b) Notwithstanding any other provision of this Constitution, the Legislature may enact laws and provide for a method of registration, including the time for such registration, permitting any person (1) who is qualified to vote in this State except for the residence requirements of Section 2 of this Article, and (2) who shall have resided anywhere within this State at least thirty (30) days next preceding a General Election in a presidential election year, and (3) who shall have been a qualified voter [~~elector~~] in another state immediately prior to his removal to this State or would have been eligible to vote in such other state had he remained there until such election, to vote for electors for President and Vice President of the United States in that election.

SECTION 31. Section 3, Article VI, Texas Constitution, is amended to read as follows:

Sec. 3. All qualified voters [~~electors~~] of the State, as herein described, who reside within the limits of any city or corporate town, shall have the right to vote for Mayor and all other elective officers.

SECTION 32. Section 3a, Article VI, Texas Constitution, is amended to read as follows:

Sec. 3a. When an election is held by any county, or any number of counties, or any political sub-division of the State, or any political sub-division of a county, or any defined district now or hereafter to be described and defined within the State and which may or may not include towns, villages or municipal corporations, or any city, town or village, for the purpose of issuing bonds or otherwise lending credit, or expending money or assuming any debt, only qualified voters of [~~electors who own taxable property in~~] the State, county, political sub-division, district, city, town or village where such election is held[~~, and who have duly rendered the same for taxation,~~] shall be qualified to vote [~~and all electors shall vote in the election precinct of their residence~~].

SECTION 33. Section 3, Article VII, Texas Constitution, is amended to read as follows:

Sec. 3. (a) One-fourth of the revenue derived from the State occupation taxes [~~and poll tax of one dollar on every inhabitant of the State, between the ages of twenty-one and sixty years,~~] shall be set apart annually for the benefit of the public free schools.

(b) It[~~; and in addition thereto, there shall be levied and collected an annual ad valorem State tax of such an amount not to exceed thirty-five cents on the one hundred ($100.00) dollars valuation, as with the available school fund arising from all other sources, will be sufficient to maintain and support the public schools of this State for a period of not less than six months in each year, and it~~] shall be the duty of the State Board of Education to set aside a sufficient amount of available funds [~~out of the said tax~~] to provide free text books for the use of children attending the public free schools of this State.

(c) Should[~~; provided, however, that should~~] the [~~limit of~~] taxation herein named be insufficient the deficit may be met by appropriation from the general funds of the State. [~~and the~~]

(d) The Legislature may [~~also~~] provide for the formation of school districts [~~district~~] by general laws,[~~;~~] and all such school districts may embrace parts of two or more counties.

(e) The[~~, and the~~] Legislature shall be authorized to pass laws for the assessment and collection of taxes in all school [~~said~~] districts and for the management and control of the public school or schools of such districts, whether such districts are composed of territory wholly within a county or in parts of two or more counties, and the Legislature may authorize an additional ad valorem tax to be levied and collected within all school districts [~~heretofore formed or hereafter formed,~~] for the further maintenance of public free schools, and for the erection and equipment of school buildings therein; provided that a majority of the qualified [~~property taxpaying~~] voters of the district voting at an election to be held for that purpose, shall approve the [~~vote such~~] tax [~~not to exceed in any one year one ($1.00) dollar on the one hundred dollars valuation of the property subject to taxation in such district, but the limitation upon the amount of school district tax herein authorized shall not apply to incorporated cities or towns constituting separate and independent school districts, nor to independent or common school districts created by general or special law~~].

SECTION 34. Section 1-a, Article VIII, Texas Constitution, is amended to read as follows:

Sec. 1-a. No [~~From and after January 1, 1951, no~~] State ad valorem tax shall be levied upon any property within this State [~~for general revenue purposes~~]. The [~~From and after January 1, 1951, the~~] several counties of the State are authorized to levy ad valorem taxes upon all property within their respective boundaries for county purposes, except the first Three Thousand Dollars ($3,000) value of residential homesteads of married or unmarried adults, male or female, including those living alone, not to exceed thirty cents (30¢) on each One Hundred Dollars ($100) valuation, in addition to all other ad valorem taxes authorized by

the Constitution of this State, provided the revenue derived therefrom shall be used for construction and maintenance of Farm to Market Roads or for Flood Control, except as herein otherwise provided.

[~~Provided that in those counties or political subdivisions or areas of the State from which tax donations have heretofore been granted, the State Automatic Tax Board shall continue to levy the full amount of the State ad valorem tax for the duration of such donation, or until all legal obligations heretofore authorized by the law granting such donation or donations shall have been fully discharged, whichever shall first occur; provided that if such donation to any such county or political subdivision is for less than the full amount of State ad valorem taxes so levied, the portion of such taxes remaining over and above such donation shall be retained by said county or subdivision.~~]

SECTION 35. Subsection (b), Section 1-b, Article VIII, Texas Constitution, is amended to read as follows:

(b) 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 36. Subsection (b), Section 1-j, Article VIII, Texas Constitution, is amended to read as follows:

(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, acting under previous constitutional authority, taxes [~~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.

SECTION 37. Section 6, Article VIII, Texas Constitution, is amended to read as follows:

Sec. 6. No money shall be drawn from the Treasury but in pursuance of specific appropriations made by law; nor shall any appropriation of money be made for a longer term than two years[~~, except by the first Legislature to assemble under this Constitution, which may make the necessary appropriations to carry on the government until the assemblage of the sixteenth Legislature~~].

SECTION 38. Section 9, Article VIII, Texas Constitution, is amended to read as follows:

Sec. 9. (a) No [~~The State tax on property, exclusive of the tax necessary to pay the public debt, and of the taxes provided for the benefit of the public free schools, shall never exceed Thirty-five Cents (35¢) on the One Hundred Dollars ($100) valuation; and no~~] county, city or town shall levy a tax rate in excess of Eighty Cents (80¢) on the One Hundred Dollars ($100) valuation in any one (1) year for general fund, permanent improvement fund, road and bridge fund and jury fund purposes.

(b) At[~~; provided further that at~~] the time the Commissioners Court meets to levy the annual tax rate for each county it shall levy whatever tax rate may be needed for the four (4) constitutional purposes; namely, general fund, permanent improvement fund, road and bridge fund and jury fund so long as the Court does not impair any outstanding bonds or other obligations and so long as the total of the foregoing tax levies does not exceed Eighty Cents (80¢) on the One Hundred Dollars ($100) valuation in any one (1) year. Once the Court has levied the annual tax rate, the same shall remain in force and effect during that taxable year.

(c) The[~~; and the~~] Legislature may [~~also~~] authorize an additional annual ad valorem tax to be levied and collected for the further maintenance of the public roads; provided, that a majority of the qualified [~~property taxpaying~~] voters of the county voting at an election to be held for that purpose shall approve the [~~vote such~~] tax, not to exceed Fifteen Cents (15¢) on the One Hundred Dollars ($100) valuation of the property subject to taxation in such county.

(d) Any county may put all tax money collected by the county into one general fund, without regard to the purpose or source of each tax.

(e) The [~~And the~~] Legislature may pass local laws for the maintenance of the public roads and highways, without the local notice required for special or local laws.

(f) This Section shall not be construed as a limitation of powers delegated to counties, cities or towns by any other Section or Sections of this Constitution.

SECTION 39. Section 16a, Article VIII, Texas Constitution, is amended to read as follows:

Sec. 16a. In any county having a population of less than ten thousand (10,000) inhabitants, as determined by the last preceding census of the United States, the Commissioners Court may submit to the qualified [~~property taxpaying~~] voters of such county at an election the question of adding an Assessor-Collector of Taxes to the list of authorized county officials. If a majority of such voters voting in such election shall approve of adding an Assessor-Collector of Taxes to such list, then such

official shall be elected at the next General Election for such Constitutional term of office as is provided for other Tax Assessor-Collectors in this State.

SECTION 40. Section 20, Article VIII, Texas Constitution, is amended to read as follows:

Sec. 20. No property of any kind in this State shall ever be assessed for ad valorem taxes at a greater value than its fair cash market value nor shall any Board of Equalization of any governmental or political subdivision or taxing district within this State fix the value of any property for tax purposes at more than its fair cash market value; provided that in order to encourage the prompt payment of taxes, the Legislature shall have the power to provide that the taxpayer shall be allowed by the State and all governmental and political subdivisions and taxing districts of the State a three per cent (3%) discount on ad valorem taxes due the State or due any governmental or political subdivision or taxing district of the State if such taxes are paid ninety (90) days before the date when they would otherwise become delinquent; and the taxpayer shall be allowed a two per cent (2%) discount on said taxes if paid sixty (60) days before said taxes would become delinquent; and the taxpayer shall be allowed a one per cent (1%) discount if said taxes are paid thirty (30) days before they would otherwise become delinquent. [~~This amendment shall be effective January 1, 1939.~~] The Legislature shall pass necessary laws for the proper administration of this Section.

SECTION 41. Section 1, Article IX, Texas Constitution, is amended to read as follows:

Sec. 1. The Legislature shall have power to create counties for the convenience of the people subject to the following provisions:

[~~First. In the territory of the State exterior to all counties now existing, no new counties shall be created with a less area than nine hundred square miles, in a square form, unless prevented by pre-existing boundary lines. Should the State lines render this impracticable in border counties, the area may be less. The territory referred to may, at any time, in whole or in part, be divided into counties in advance of population and~~

~~attached, for judicial and land surveying purposes, to the most convenient organized county or counties.~~]

(1) [~~Second.~~] Within the territory of any county or counties [~~now existing~~], no new county shall be created with a less area than seven hundred square miles, nor shall any such county now existing be reduced to a less area than seven hundred square miles. No new counties shall be created so as to approach nearer than twelve miles of the county seat of any county from which it may in whole or in part be taken. Counties of a less area than nine hundred, but of seven hundred or more square miles, within counties now existing, may be created by a two-thirds vote of each House of the Legislature, taken by yeas and nays and entered on the journals. Any county now existing may be reduced to an area of not less than seven hundred square miles by a like two-thirds vote. When any part of a county is stricken off and attached to, or created into another county, the part stricken off shall be holden for and obliged to pay its proportion of all the liabilities then existing, of the county from which it was taken, in such manner as may be prescribed by law.

(2) [~~Third.~~] No part of any existing county shall be detached from it and attached to another existing county until the proposition for such change shall have been submitted, in such manner as may be provided by law, to a vote of the voters [~~electors~~] of both counties, and shall have received a majority of those voting on the question in each.

SECTION 42. Section 2, Article IX, Texas Constitution, is amended to read as follows:

Sec. 2. The Legislature shall pass laws regulating the manner of removing county seats, but no county seat situated within five miles of the geographical centre of the county shall be removed, except by a vote of two-thirds of all the voters [~~electors~~] voting on the subject. A majority of such voters [~~electors~~], however, voting at such election, may remove a county seat from a point more than five miles from the geographical centre of the county to a point within five miles of such centre, in either case the centre to be determined by a certificate from the Commissioner of the General Land Office.

SECTION 43. Section 4, Article IX, Texas Constitution, is amended to read as follows:

Sec. 4. The Legislature may by law authorize the creation of county-wide Hospital Districts in counties having a population in excess of 190,000 and in Galveston County, with power to issue bonds for the purchase, acquisition, construction, maintenance and operation of any county owned hospital, or where the hospital system is jointly operated by a county and city within the county, and to provide for the transfer to the county-wide Hospital District of the title to any land, buildings or equipment, jointly or separately owned, and for the assumption by the district of any outstanding bonded indebtedness theretofore issued by any county or city for the establishment of hospitals or hospital facilities; to levy a tax not to exceed seventy-five ($.75) cents on the One Hundred ($100.00) Dollars valuation of all taxable property within such district, provided, however, that such district shall be approved at an election held for that purpose, and that only qualified [~~, property taxpaying~~] voters in such county shall vote therein; provided further, that such Hospital District shall assume full responsibility for providing medical and hospital care to needy inhabitants of the county, and thereafter such county and cities therein shall not levy any other tax for hospital purposes; and provided further that should such Hospital District construct, maintain and support a hospital or hospital system, that the same shall never become a charge against the State of Texas, nor shall any direct appropriation ever be made by the Legislature for the construction, maintenance or improvement of the said hospital or hospitals. [~~Should the Legislature enact enabling laws in anticipation of the adoption of this amendment, such Acts shall not be invalid because of their anticipatory character.~~]

SECTION 44. Subsections (a), (c), and (e), Section 5, Article IX, Texas Constitution, are amended to read as follows:

(a) The Legislature may by law authorize the creation of two hospital districts, one to be coextensive with and have the same boundaries as the incorporated City of Amarillo, as such boundaries now exist or as they may hereafter be lawfully extended, and the other to be coextensive with Wichita County.

If such district or districts are created, they may be authorized to levy a tax not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars ($100.00) valuation of taxable property within the district; provided, however, no tax may be levied until approved by a majority vote of the participating resident qualified [~~property-taxpaying~~] voters [~~who have duly rendered their property for taxation~~]. The maximum rate of tax may be changed at subsequent elections so long as obligations are not impaired, and not to exceed the maximum limit of Seventy-five Cents (75¢) per One Hundred Dollars ($100.00) valuation, and no election shall be required by subsequent changes in the boundaries of the City of Amarillo.

If such tax is authorized, no political subdivision or municipality within or having the same boundaries as the district may levy a tax for medical or hospital care for needy individuals, nor shall they maintain or erect hospital facilities, but the district shall by resolution assume all such responsibilities and shall assume all of the liabilities and obligations (including bonds and warrants) of such subdivisions or municipalities or both. The maximum tax rate submitted shall be sufficient to discharge such obligations, liabilities, and responsibilities, and to maintain and operate the hospital system, and the Legislature may authorize the district to issue tax bonds for the purpose of the purchase, construction, acquisition, repair or renovation of improvements and initially equipping the same, and such bonds shall be payable from said Seventy-five Cents (75¢) tax. The Legislature shall provide for transfer of title to properties to the district.

(c) The Legislature may by law authorize the creation of a hospital district within Jefferson County, the boundaries of which shall include only the area comprising the Jefferson County Drainage District No. 7 and the Port Arthur Independent School District, as such boundaries existed on the first day of January, 1957, with the power to issue bonds for the sole purpose of purchasing a site for, and the construction and initial equipping of, a hospital system, and with the power to levy a tax of not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars ($100.00) valuation of property therein for the purpose of paying the principal and interest on such bonds.

The [~~creation of such hospital district shall not be final until approved at an election by a majority of the resident property taxpaying voters voting at said election who have duly rendered their property for taxation upon the tax rolls of either said Drainage or said School District, nor shall such~~] bonds may not be issued or such tax be levied until [~~so~~] approved by such voters.

The district shall not have the power to levy any tax for maintenance or operation of the hospital or facilities, but shall contract with other political subdivisions of the state or private individuals, associations, or corporations for such purposes.

If the district hereinabove authorized is finally created, no other hospital district may be created embracing any part of the territory within its boundaries, but the Legislature by law may authorize the creation of a hospital district incorporating therein the remainder of Jefferson County, having the powers and duties and with the limitations presently provided by Article IX, Section 4, of the Constitution of Texas[~~, except that such district shall be confirmed at an election wherein the resident qualified property taxpaying voters who have duly rendered their property within such proposed district for taxation on the county rolls, shall be authorized to vote~~]. A majority of those participating in the election voting in favor of the district shall be necessary for [~~its confirmation and for~~] bonds to be issued.

(e) The legislature by law may authorize Randall County to render financial assistance to the Amarillo Hospital District by paying part of the district's operating and maintenance expenses and the debts assumed or created by the district and to levy a tax for that purpose in an amount not to exceed seventy-five cents (75¢) on the One Hundred Dollars ($100.00) valuation on all property in Randall County that is not within the boundaries of the City of Amarillo or the South Randall County Hospital District. This tax is in addition to any other tax authorized by this constitution. If the tax is authorized by the legislature and approved by the voters of the area to be taxed, the Amarillo Hospital District shall, by resolution, assume the responsibilities, obligations, and liabilities of Randall County in accordance with Subsection (a) of this section and, except as provided by this subsection, Randall County may not levy

taxes or issue bonds for hospital purposes or for providing hospital care for needy inhabitants of the county. [~~Not later than the end of the first tax year during which taxes are levied under this subsection, Randall County shall deposit in the State Treasury to the credit of the state General Revenue Fund $45,000 to reimburse the state for the cost of publishing the resolution required by this subsection.~~]

SECTION 45. Subsection (a), Section 8, Article IX, Texas Constitution, is amended to read as follows:

(a) The Legislature may by law authorize the creation of a Hospital District to be co-extensive with the limits of County Commissioners Precinct No. 4 of Comanche County, Texas.

If such District is created, it may be authorized to levy a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar ($100) valuation of taxable property within the District; provided, however, no tax may be levied until approved by a majority vote of the participating resident qualified [~~property taxpaying~~] voters [~~who have duly rendered their property for taxation~~]. The maximum rate of tax may be changed at subsequent elections so long as obligations are not impaired, and not to exceed the maximum limit of seventy-five cents (75¢) per One Hundred Dollar ($100) valuation, and no election shall be required by subsequent changes in the boundaries of the Commissioners Precinct No. 4 of Comanche County.

If such tax is authorized, no political subdivision or municipality within or having the same boundaries as the District may levy a tax for medical or hospital care for needy individuals, nor shall they maintain or erect hospital facilities, but the District shall by resolution assume all such responsibilities and shall assume all of the liabilities and obligations (including bonds and warrants) of such subdivisions or municipalities or both. The maximum tax rate submitted shall be sufficient to discharge such obligations, liabilities, and responsibilities, and to maintain and operate the hospital system, and the Legislature may authorize the District to issue tax bonds for the purpose of the purchase, construction, acquisition, repair or renovation of improvements and initially equipping the same, and such bonds shall be payable from said seventy-five cent

(75¢) tax. The Legislature shall provide for transfer of title to properties to the District.

SECTION 46. Section 11, Article IX, Texas Constitution, is amended to read as follows:

Sec. 11. (a) The Legislature may by law authorize the creation of hospital districts in Ochiltree, Castro, Hansford and Hopkins Counties, each district to be coextensive with the limits of such county.

(b) If any such district is created, it may be authorized to levy a tax not to exceed Seventy-five Cents (75¢) on the One Hundred Dollar ($100) valuation of taxable property within the district; provided, however, no tax may be levied until approved by a majority vote of the participating resident qualified [~~property-taxpaying~~] voters [~~who have duly rendered their property for taxation~~]. The maximum rate of tax may be changed at subsequent elections so long as obligations are not impaired, and not to exceed the maximum limit of Seventy-five Cents (75¢) per One Hundred Dollar ($100) valuation.

(c) If such tax is authorized, no political subdivision or municipality within or having the same boundaries as the district may levy a tax for medical or hospital care for needy individuals, nor shall they maintain or erect hospital facilities, but the district shall by resolution assume all such responsibilities and shall assume all of the liabilities and obligations (including bonds and warrants) of such subdivisions or municipalities or both. The maximum tax rate submitted shall be sufficient to discharge obligations, liabilities, and responsibilities, and to maintain and operate the hospital system, and the Legislature may authorize the district to issue tax bonds for the purpose of the purchase, construction, acquisition, repair or renovation of improvements and initially equipping the same, and such bonds shall be payable from said Seventy-five Cent (75¢) tax. The Legislature shall provide for transfer of title to properties to the district.

[~~Should the Legislature enact enabling laws in anticipation of the adoption of the amendment, such Acts shall not be invalid because of their anticipatory character.~~]

SECTION 47. Section 12, Article IX, Texas Constitution, is amended to read as follows:

Sec. 12. (a) The Legislature may by law provide for the creation, establishment, maintenance and operation of Airport Authorities composed of one or more counties, with power to issue general obligation bonds, revenue bonds, either or both of them, for the purchase, acquisition by the exercise of the power of eminent domain or otherwise, construction, reconstruction, repair or renovation of any airport or airports, landing fields and runways, airport buildings, hangars, facilities, equipment, fixtures, and any and all property, real or personal, necessary to operate, equip and maintain an airport.

(b) The Legislature[;] shall provide for the option by the governing body of the city or cities whose airport facilities are served by certificated airlines and whose facility or some interest therein, is proposed to be or has been acquired by the Authority, to either appoint or elect a Board of Directors of said Authority. If[; if] the Directors are appointed such appointment shall be made by the County Commissioners Court after consultation with and consent of the governing body or bodies of such city or cities. If[, and if] the Board of Directors is elected they shall be elected by the qualified [taxpaying] voters of the county which chooses to elect the Directors to represent that county.[; such] Directors shall serve without compensation for a term fixed by the Legislature not to exceed six (6) years, [and] shall be selected on the basis of the proportionate population of each county based upon the last preceding Federal Census, and shall be [a resident or] residents of such county. No[; provide that no] county shall have less than one (1) member on the Board of Directors.

(c) The Legislature shall[;] provide for the holding of an election in each county proposing the creation of an Authority to be called by the Commissioners Court or Commissioners Courts, as the case may be, upon petition of five per cent (5%) of the qualified [taxpaying] voters within the county or counties. The[, said] elections must [to] be held on the same day if more than one county is included. No[, provided that no] more than one (1) such election may be called in a county until after the

expiration of one (1) year[;] in the event such an election has failed, and thereafter only upon a petition of ten per cent (10%) of the qualified [~~taxpaying~~] voters being presented to the Commissioners Court or Commissioners Courts of the county or counties in which such an election has failed. In[~~, and in~~] the event that two or more counties vote on the proposition of the creation of an Authority therein, the proposition shall not be deemed to carry unless the majority of the qualified [~~taxpaying~~] voters in each county voting thereon vote in favor thereof. An[~~; provided, however, that an~~] Airport Authority may be created and be composed of the county or counties that vote in favor of its creation if separate propositions are submitted to the voters of each county so that they may vote for a two or more county Authority or a single county Authority.

(d) The Legislature shall[;] provide for the appointment by the Board of Directors of an Assessor and Collector of Taxes in the Authority, whether constituted of one or more counties, whose duty it shall be to assess all taxable property, both real and personal, and collect the taxes thereon, based upon the tax rolls approved by the Board of Directors, the tax to be levied not to exceed Seventy-Five Cents (75¢) per One Hundred Dollars ($100) assessed valuation of the property. The[~~; provided, however, that the~~] property of state regulated common carriers required by law to pay a tax upon intangible assets shall not be subject to taxation by the Authority. The[~~; said~~] taxable property shall be assessed on a valuation not to exceed the market value and shall be equal and uniform throughout the Authority as is otherwise provided by the Constitution.

(e) The[~~; the~~] Legislature shall authorize the purchase or acquisition by the Authority of any existing airport facility publicly owned and financed and served by certificated airlines, in fee or of any interest therein, or to enter into any lease agreement therefor, upon such terms and conditions as may be mutually agreeable to the Authority and the owner of such facilities, or authorize the acquisition of same through the exercise of the power of eminent domain. In[~~, and in~~] the event of such acquisition, if there are any general obligation bonds that the owner of the publicly owned airport facility has outstanding, the same shall be fully assumed by the Authority and sufficient taxes levied by the Authority

to discharge said outstanding indebtedness. If[~~; and likewise~~] any city or owner [~~that~~] has outstanding revenue bonds where the revenues of the airport have been pledged or said bonds constitute a lien against the airport facilities, the Authority shall assume and discharge all the obligations of the city under the ordinances and bond indentures under which said revenue bonds have been issued and sold.

(f) Any city which owns airport facilities not serving certificated airlines which are not purchased or acquired or taken over as herein provided by such Authority[~~;~~] shall have the power to operate the same under the existing laws or as the same may hereafter be amended.

(g) Any such Authority when created may be granted the power and authority to promulgate, adopt and enforce appropriate zoning regulations to protect the airport from hazards and obstructions which would interfere with the use of the airport and its facilities for landing and take-off.

(h) An[~~; an~~] additional county or counties may be added to an existing Authority if a petition of five per cent (5%) of the qualified [~~taxpaying~~] voters is filed with and an election is called by the Commissioners Court of the county or counties seeking admission to an Authority. If [~~and~~] the vote is favorable, then admission may be granted to such county or counties by the Board of Directors of the then existing Authority upon such terms and conditions as they may agree upon and evidenced by a resolution approved by two-thirds (2/3rds) of the then existing Board of Directors. The[~~; provided, however, the~~] county or counties that may be so added to the then existing Authority shall be given representation on the Board of Directors by adding additional directors in proportion to their population according to the last preceding Federal census.

SECTION 48. Section 2, Article XI, Texas Constitution, is amended to read as follows:

Sec. 2. The construction of jails, court-houses and bridges [~~and the establishment of county poor houses and farms,~~] and the laying out, construction and repairing of county roads shall be provided for by general laws.

SECTION 49. Subsection (b), Section 30, Article XVI, Texas Constitution, is amended to read as follows:

(b) When a Railroad Commission is created by law it shall be composed of three Commissioners who shall be elected by the people at a general election for State officers, and their terms of office shall be six years. [~~Railroad Commissioners first elected after this amendment goes into effect shall hold office as follows: One shall serve two years, and one four years, and one six years; their terms to be decided by lot immediately after they shall have qualified.~~] And one Railroad Commissioner shall be elected every two years [~~thereafter~~]. In case of vacancy in said office the Governor of the State shall fill said vacancy by appointment until the next general election.

SECTION 50. Section 44, Article XVI, Texas Constitution, is amended to read as follows:

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

(b) The office of County Treasurer or County Surveyor does not exist in those counties in which the office has been abolished pursuant to constitutional amendment or pursuant to the authority of Subsection (c) of this section [~~in the counties of Tarrant and Bee is abolished and all the powers, duties, and functions of the office in each of these counties are transferred to the County Auditor or to the officer who succeeds to the auditor's functions. The office of County Treasurer in the counties of Bexar and Collin are abolished and all the powers, duties, and functions of the office in each of these counties are transferred to the County Clerk. However, the office of County Treasurer shall be abolished in the counties covered by this subsection only after a local election has been held in each county and the proposition "to abolish the elective office of county treasurer" has passed by a majority of those persons voting in said election~~].

[~~(c) The office of County Treasurer in the counties of Andrews and Gregg is abolished. In Andrews County, the powers, duties, and functions of the office are transferred to the County Auditor of the county or to the officer who succeeds to the auditor's functions. In Gregg County, the functions of the office are transferred to an elected official or the County Auditor as designated by the Commissioners Court, and the Commissioners Court may from time to time change its designation as it considers appropriate.~~

[~~(d) The office of County Treasurer in the counties of El Paso and Fayette is abolished. In El Paso County, the Commissioners Court may employ or contract with a qualified person or may designate another county officer to perform any of the functions that would have been performed by the County Treasurer if the office had not been abolished. In Fayette County, the functions of the abolished office are transferred to the County Auditor or to the officer who succeeds to the auditor's functions. However, the office of County Treasurer in El Paso or Fayette County is abolished under this subsection only if, at the statewide election at which the constitutional amendment providing for the abolition of the office in that county is submitted to the voters, a majority of the voters of that county voting on the question at that election favor the amendment.~~

[~~(e) The office of County Surveyor in the counties of Denton, Randall, Collin, Dallas, El Paso, McLennan, and Henderson is abolished upon the approval of the abolition by a majority of the qualified voters of the respective county voting on the question at an election that the Commissioners Court of the county may call. If the election is called, the Commissioners Court shall order the ballot at the election to be printed to provide for voting for or against the proposition: "Abolishing the office of county surveyor." Each qualified voter of the county is entitled to vote in the election. If the office of County Surveyor is abolished under this subsection, the maps, field notes, and other records in the custody of the County Surveyor are transferred to the County Clerk of the county. After abolition, the Commissioners Court may employ or contract with a qualified person to perform any of the functions that would have been performed by the County Surveyor if the office had not been abolished.~~

[~~(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.~~

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

(c) [~~(h)~~] The Commissioners Court of a county may call an election to abolish the office of County Surveyor in the county. The office of County Surveyor in the county is abolished if a majority of the voters of the county voting on the question at that election approve the abolition. If an election is called under this subsection, the Commissioners Court shall order the ballot for the election to be printed to provide for voting for or against the proposition: "Abolishing the office of county surveyor of this county." If the office of County Surveyor is abolished under this subsection, the maps, field notes, and other records in the custody of the County Surveyor 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 51. Subsection (c), Section 59, Article XVI, Texas Constitution, is amended to read as follows:

(c) The Legislature shall authorize all such indebtedness as may be necessary to provide all improvements and the maintenance thereof requisite to the achievement of the purposes of this amendment. All[~~; and all~~] such indebtedness may be evidenced by bonds of such conservation and reclamation districts, to be issued under such regulations as may [~~any~~] be prescribed by law. The Legislature [~~and~~] shall also[~~;~~] authorize the levy and collection within such districts of all such taxes, equitably distributed, as may be necessary for the payment of the interest and the creation of a sinking fund for the payment of such bonds[~~;~~] and [~~also~~] for the maintenance of such districts and improvements. Such[~~; and such~~] indebtedness shall be a lien upon the property assessed for the payment thereof. The[~~; provided the~~] Legislature shall not authorize the issuance of any bonds or provide for any indebtedness against any reclamation district unless such proposition shall first be submitted to the qualified [~~property tax-paying~~] voters of such district and the proposition adopted.

SECTION 52. Section 61, Article XVI, Texas Constitution, is amended to read as follows:

Sec. 61. (a) All district officers in the State of Texas and all county officers in counties having a population of twenty thousand (20,000) or more, according to the then last preceding Federal Census, shall be compensated on a salary basis.

(b) In all counties in this State, the Commissioners Courts shall be authorized to determine whether precinct officers shall be compensated on a fee basis or on a salary basis, with the exception that it shall be mandatory upon the Commissioners Courts, to compensate all justices of the peace, constables, deputy constables and precinct law enforcement officers on a salary basis.

(c) In [~~beginning January 1, 1973; and in~~] counties having a population of less than twenty thousand (20,000), according to the then last preceding Federal Census, the Commissioners Courts [~~shall also~~] have the authority to determine whether county officers shall be compensated on a fee basis

or on a salary basis, with the exception that it shall be mandatory upon the Commissioners Courts to compensate all sheriffs, deputy sheriffs, county law enforcement officers including sheriffs who also perform the duties of assessor and collector of taxes, and their deputies, on a salary basis [~~beginning January 1, 1949~~].

(d) All fees earned by district, county and precinct officers shall be paid into the county treasury where earned for the account of the proper fund, provided that fees incurred by the State, county and any municipality, or in case where a pauper's oath is filed, shall be paid into the county treasury when collected and provided that where any officer is compensated wholly on a fee basis such fees may be retained by such officer or paid into the treasury of the county as the Commissioners Court may direct.

(e) All Notaries Public, county surveyors and public weighers shall continue to be compensated on a fee basis.

SECTION 53. Section 65, Article XVI, Texas Constitution, is amended to read as follows:

Sec. 65. (a) This section applies to the following offices [~~Staggering Terms of Office--The following officers elected at the General Election in November, 1954, and thereafter, shall serve for the full terms provided in this Constitution~~]:

[~~(a)~~] District Clerks; [~~(b)~~] County Clerks; [~~(c)~~] County Judges; [~~(d)~~] Judges of the County Courts at Law, County Criminal Courts, County Probate Courts and County Domestic Relations Courts; [~~(e)~~] County Treasurers; [~~(f)~~] Criminal District Attorneys; [~~(g)~~] County Surveyors; [~~(h)~~] Inspectors of Hides and Animals; [~~(i)~~] County Commissioners [~~for Precincts Two and Four~~]; [~~(j)~~] Justices of the Peace;[~~:~~

[~~Notwithstanding other provisions of this Constitution, the following officers elected at the General Election in November, 1954, shall serve only for terms of two (2) years: (a)~~] Sheriffs; [~~(b)~~] Assessors and Collectors of Taxes; [~~(c)~~] District Attorneys; [~~(d)~~] County Attorneys; [~~(e)~~] Public Weighers; and [~~(f) County Commissioners for Precincts One~~

~~and Three; (g)~~] Constables. [~~At subsequent elections, such officers shall be elected for the full terms provided in this Constitution.~~

[~~In any district, county or precinct where any of the aforementioned offices is of such nature that two (2) or more persons hold such office, with the result that candidates file for "Place No. 1," "Place No. 2," etc., the officers elected at the General Election in November, 1954, shall serve for a term of two (2) years if the designation of their office is an uneven number, and for a term of four (4) years if the designation of their office is an even number. Thereafter, all such officers shall be elected for the terms provided in this Constitution.~~]

(b) If [~~Provided, however, if~~] any of the officers named herein shall announce their candidacy, or shall in fact become a candidate, in any General, Special or Primary Election, for any office of profit or trust under the laws of this State or the United States other than the office then held, at any time when the unexpired term of the office then held shall exceed one (1) year, such announcement or such candidacy shall constitute an automatic resignation of the office then held, and the vacancy thereby created shall be filled pursuant to law in the same manner as other vacancies for such office are filled.

SECTION 54. Section 1, Article XVII, Texas Constitution, is amended to read as follows:

Sec. 1. (a) The Legislature, at any regular session, or at any special session when the matter is included within the purposes for which the session is convened, may propose amendments revising the Constitution, to be voted upon by the qualified voters [~~electors~~] for statewide offices and propositions, as defined in the Constitution and statutes of this State. The date of the elections shall be specified by the Legislature. The proposal for submission must be approved by a vote of two-thirds of all the members elected to each House, entered by yeas and nays on the journals.

(b) A brief explanatory statement of the nature of a proposed amendment, together with the date of the election and the wording of the proposition as it is to appear on the ballot, shall be published twice in each newspaper in the State which meets requirements set by the

Legislature for the publication of official notices of officers and departments of the state government. The explanatory statement shall be prepared by the Secretary of State and shall be approved by the Attorney General. The Secretary of State shall send a full and complete copy of the proposed amendment or amendments to each county clerk who shall post the same in a public place in the courthouse at least 30 days prior to the election on said amendment. The first notice shall be published not more than 60 days nor less than 50 days before the date of the election, and the second notice shall be published on the same day in the succeeding week. The Legislature shall fix the standards for the rate of charge for the publication, which may not be higher than the newspaper's published national rate for advertising per column inch.

(c) The election shall be held in accordance with procedures prescribed by the Legislature, and the returning officer in each county shall make returns to the Secretary of State of the number of legal votes cast at the election for and against each amendment. If it appears from the returns that a majority of the votes cast have been cast in favor of an amendment, it shall become a part of this Constitution, and proclamation thereof shall be made by the Governor.

SECTION 55. The following provisions of the Texas Constitution are repealed:

(1) Article III, Sections 26a, 50b, 50b-1, 50b-2, 50b-3, and 54;

(2) Article VIII, Sections 1-b-1, 1-c, and 5;

(3) Article IX, Section 6;

(4) Article XI, Section 6;

(5) Article XVI, Sections 18, 47, 53, 66, and 70(r); and

(6) Article XVII, Section 2.

SECTION 56. The following temporary provision is added to the Texas Constitution:

TEMPORARY TRANSITION PROVISIONS. (a) This section applies to amendments proposed by H.J.R. No. 62, 76th Legislature, Regular Session, 1999.

(b) The amendments do not impair any obligation created by the issuance of bonds or other evidences of indebtedness in accordance with prior law, and all bonds or other evidences of indebtedness validly issued under provisions amended or repealed remain valid, enforceable, and binding according to their terms and shall be paid from the sources pledged. Bonds or other evidences of indebtedness authorized but unissued on the effective date of the amendments may be issued in compliance with and subject to the provisions of the prior law. The amendments do not reduce or expand the authority to provide for, issue, or sell bonds or other evidences of indebtedness previously authorized.

(c) As of the date of adoption of H.J.R. No. 62 by the 76th Legislature, Regular Session, 1999, the Veterans' Land Board has authorized but unissued bonds in the aggregate principal amount of $190,002,225 for the purpose of providing funds for the Veterans' Land Fund, $1,309,997,775 having previously been issued for that purpose, and $615,000,000 for the purpose of providing funds for the Veterans' Housing Assistance Fund II, $385,000,000 having previously been issued for that purpose. The amendments do not in any manner impair the authority of the Veterans' Land Board hereafter to issue bonds or incur other evidences of indebtedness, provided that any bonds or other evidences of indebtedness issued or incurred by the Veterans' Land Board prior to adoption of the amendments shall cause the amount of authorized but unissued bonds described in this subsection to be reduced by the amount of the bonds so issued or other evidences of indebtedness so incurred.

(d) As of the date of adoption of H.J.R. No. 62 by the 76th Legislature, Regular Session, 1999, the Texas Water Development Board has authorized but unissued bonds in the aggregate principal amount of $945,765,000, and as of that date that board has issued $113,300,000 in bonds for the purpose of providing wholesale and retail water and wastewater facilities to economically distressed areas of the state, as defined by law. The amendments do not in any manner impair the authority of the Texas

Water Development Board hereafter to issue bonds or incur other evidences of indebtedness, provided that any bonds or other evidences of indebtedness issued or incurred by the Texas Water Development Board prior to adoption of the amendments shall cause the amount of authorized but unissued bonds described in this subsection to be reduced by the amount of the bonds so issued or other evidences of indebtedness so incurred.

(e) As of the date of adoption of H.J.R. No. 62 by the 76th Legislature, Regular Session, 1999, the Texas Higher Education Coordinating Board has authorized but unissued bonds in the aggregate principal amount of $150,000,000, and as of that date the board has issued $810,000,000 in bonds for the purpose of educational loans to students. The amendments do not in any manner impair the authority of the Texas Higher Education Coordinating Board hereafter to issue bonds or incur other evidences of indebtedness, provided that any bonds or other evidences of indebtedness issued or incurred by the Texas Higher Education Coordinating Board prior to adoption of the amendments shall cause the amount of authorized but unissued bonds described in this subsection to be reduced by the amount of the bonds so issued or other evidences of indebtedness so incurred.

(f) The amendment of Subsection (b), Section 1-b, Article VIII, does not affect the increase in the amount of an exemption effective January 1, 1979, under that subsection, and that increase is preserved and given effect in accordance with the prior law.

(g) The amendment of Subsection (b), Section 1-j, Article VIII, does not affect the taxation of personal property in accordance with action taken under that section before April 1, 1990, and that authority to tax personal property is preserved and given effect in accordance with the prior law.

(h) The amendment of Subsection (c), Section 5, Article IX, does not affect the validity of a confirmation election held in accordance with that section.

(i) The repeal of Section 5, Article VIII, does not affect the power of a municipality to impose and collect taxes on the property of railroad

companies in accordance with the general authority of municipalities under this constitution to impose and collect those taxes.

(j) The repeal of Section 6, Article IX, does not affect the disposition of assets of the Lamar County Hospital District in accordance with that section.

(k) The amendment of Section 44, Article XVI, does not affect the power of a county to abolish the office of county treasurer or county surveyor in accordance with previously adopted amendments of that section, and the power is preserved in accordance with the prior law.

(l) The repeal of Section 66, Article XVI, does not affect the pensions payable under that section and those pensions shall be paid in accordance with the prior law.

(m) The reenactment of any provision for purposes of amendment does not revive a provision that may have been impliedly repealed by the adoption of a later amendment.

(n) The amendment of any provision does not affect vested rights.

SECTION 57. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 2, 1999. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to eliminate duplicative, executed, obsolete, archaic, and ineffective provisions of the Texas Constitution."

Amendment No. 4 (H.J.R. No. 4)

Wording of Ballot Proposition:

The constitutional amendment to authorize the legislature to exempt property owned by institutions engaged primarily in public charitable functions from ad valorem taxation.

Analysis of Proposed Amendment:

The proposed amendment amends Section 2(a), Article VIII, Texas Constitution, to authorize the legislature by general law to exempt from ad valorem taxation the property of institutions engaged primarily in public charitable functions, including institutions that also conduct auxiliary activities to support those functions. In addition, the proposed amendment makes a conforming amendment to Section 71(b), Article XVI, Texas Constitution, to provide that a small business incubator operating under the program authorized by that subsection is exempt from ad valorem taxation in the same manner as an institution of public charity under Section 2, Article VIII.

Background

Section 1, Article VIII, Texas Constitution, provides that all real property and tangible personal property, unless exempt as required or permitted by the constitution, must be taxed according to its value. Any exemption from ad valorem taxation not authorized by the Texas Constitution is void; neither the legislature nor local governments imposing ad valorem taxes may exempt any property from ad valorem taxation without constitutional authority.

Currently, Section 2(a), Article VIII, Texas Constitution, authorizes the legislature by general law to grant certain exemptions from ad valorem taxation, including an exemption for "institutions of purely public charity." The Texas Supreme Court has construed that authority very narrowly, holding that the legislature may grant an exemption to a charitable organization only if the organization is organized and operated exclusively

for charitable purposes and the property in question is used exclusively for those purposes. The fact that an organization performs some charitable acts or engages in some charitable activity is not enough to qualify for a tax exemption. *City of Amarillo v. Amarillo Lodge No. 731, A.F. & A.M.*, 488 S.W.2d 69, 71, and 72 (Tex. 1972).

The proposed amendment substantially broadens the authority of the legislature to exempt from ad valorem taxation the property of charitable institutions. Under the proposed amendment, the legislature could exempt organizations that engage "primarily," rather than exclusively, in public charitable functions, even if those organizations conduct non-charitable auxiliary activities to support their charitable functions.

The proposed amendment also makes a conforming amendment to Section 71(b), Article XVI, Texas Constitution. Section 71(b) authorizes the legislature to establish a Texas small business incubator fund and provides that a small business operating under the program is exempt from ad valorem taxation in the same manner as an institution of purely public charity under Section 2, Article VIII. The proposed amendment strikes "purely" to conform to the amendment to Section 2(a), Article VIII.

Section 11.18, Tax Code, is the enabling statute for the part of Section 2(a), Article VIII, Texas Constitution, authorizing the legislature to exempt from ad valorem taxation the property of institutions of purely public charity. Section 11.18 currently provides that a charitable organization is entitled to an exemption from taxation of its property only if the property is used exclusively by a qualified charitable organization and only if the charitable organization engages exclusively in performing one or more of certain specified charitable functions, including providing support to elderly persons. House Bill No. 1978, enacted by the 76th Legislature, Regular Session, 1999, which takes effect only if the constitutional amendment proposed by House Joint Resolution No. 4 is adopted, amends the part of Section 11.18 relating to charitable organizations that provide support to elderly persons. As amended by House Bill No. 1978, Section 11.18 would exempt from taxation property

of a charitable organization that engages "primarily" in providing support to elderly persons, including the provision of recreational or social activities and facilities designed to address the special needs of elderly persons, even if the organization also engages in other activities, so long as those other activities support or are related to its charitable functions.

House Bill No. 1978 does not affect the statutory requirements for other charitable organizations to receive a tax exemption. Until the legislature makes additional amendments to Section 11.18, Tax Code, other organizations must engage exclusively in charitable functions to receive an exemption.

Arguments For:

1. The performance by private institutions of public charitable functions relieves the government of burdens that would otherwise fall to the taxpayers. The legislature should be authorized to encourage private institutions to perform those functions by broadening the availability of property tax exemptions to institutions engaged primarily, though not exclusively, in performing charitable activities.

2. Currently, the law relating to charitable exemptions is administered inconsistently. Some organizations that use property primarily, but not exclusively, for charitable functions receive property tax exemptions, while other organizations are denied those exemptions. The proposed amendment will help the legislature ensure consistent administration of the law by specifying that an organization may receive an exemption if it is engaged primarily in charitable functions even though it also conducts auxiliary activities that are not themselves charitable functions.

3. It is unfair to grant a property tax exemption to an organization that uses its property exclusively for charitable functions while denying any tax relief at all to an organization that uses its property primarily, though not exclusively, for charity, particularly if the other functions for which the property is used support the organization's charitable functions.

Arguments Against:

1. If the legislature acts to broaden the availability of property tax exemptions to charitable organizations as authorized by the proposed amendment, the tax base will be eroded. Because the amount of property subject to taxation will be reduced, taxing units will likely need to increase the taxes imposed on property of other taxpayers to make up for the lost tax revenue.

2. Although the law relating to charitable exemptions may be administered inconsistently, it is nevertheless clear. Property tax exemptions are available only for institutions of "purely" public charity. The courts have consistently held that this means organizations engaged exclusively in charitable activities. The proposed amendment would in fact increase the risk of inconsistent administration of the law because it is unclear what "auxiliary activities" an exempt organization would be allowed to conduct. The appropriate remedy for inconsistent administration of the law is to provide more adequate enforcement mechanisms or additional education of tax officials, not to make a substantive change in the law.

3. A property tax exemption should be available only to an organization that uses its property exclusively for charitable functions. An organization that uses its property primarily for charitable functions but also for "auxiliary" functions should not be granted a tax exemption since use of its property for those auxiliary functions does not constitute taking on a burden that would otherwise fall to the taxpayers. Taxpayers should not be expected to subsidize the use of property for those other functions.

Text of H.J.R. No. 4: **HOUSE AUTHOR:** Edmund Kuempel
SENATE SPONSOR: Jeff Wentworth

HOUSE JOINT RESOLUTION

proposing a constitutional amendment to authorize the exemption of property owned by institutions engaged primarily in public charitable functions from ad valorem taxation.

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

SECTION 1. Section 2(a), Article VIII, Texas Constitution, is amended to read as follows:

(a) All occupation taxes shall be equal and uniform upon the same class of subjects within the limits of the authority levying the tax; but the legislature may, by general laws, exempt from taxation public property used for public purposes; actual places of religious worship, also any property owned by a church or by a strictly religious society for the exclusive use as a dwelling place for the ministry of such church or religious society, and which yields no revenue whatever to such church or religious society; provided that such exemption shall not extend to more property than is reasonably necessary for a dwelling place and in no event more than one acre of land; places of burial not held for private or corporate profit; solar or wind-powered energy devices; all buildings used exclusively and owned by persons or associations of persons for school purposes and the necessary furniture of all schools and property used exclusively and reasonably necessary in conducting any association engaged in promoting the religious, educational and physical development of boys, girls, young men or young women operating under a State or National organization of like character; also the endowment funds of such institutions of learning and religion not used with a view to profit; and when the same are invested in bonds or mortgages, or in land or other property which has been and shall hereafter be bought in by such institutions under foreclosure sales made to satisfy or protect such bonds or mortgages, that such exemption of such land and property shall continue only for two years after the purchase of the same at such sale by such

institutions and no longer, and institutions engaged primarily in public charitable functions, which may conduct auxiliary activities to support those charitable functions [~~of purely public charity~~]; and all laws exempting property from taxation other than the property mentioned in this Section shall be null and void.

SECTION 2. Section 71(b), Article XVI, Texas Constitution, is amended to read as follows:

(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.

SECTION 3. Article VIII, Texas Constitution, is amended by adding the following temporary provision:

TEMPORARY PROVISION. The constitutional amendment proposed by the 76th Legislature, Regular Session, 1999, to authorize the exemption of property of institutions engaged primarily in public charitable functions from ad valorem taxation takes effect January 1, 2000, and applies only to taxes imposed on or after that date. This temporary provision expires January 1, 2002.

SECTION 4. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1999. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to authorize the legislature to exempt property owned by institutions engaged primarily in public charitable functions from ad valorem taxation."

Amendment No. 5 (S.J.R. No. 26)

Wording of Ballot Proposition:

The constitutional amendment allowing state employees to receive compensation for serving as a member of a governing body of a school district, city, town or other local governmental district.

Analysis of Proposed Amendment:

The proposed amendment strikes a portion of the Texas Constitution, Section 40, Article XVI, to allow state employees or other individuals who receive all or part of their compensation from the state to also receive any applicable salary for serving as members of a governing body of a local governmental entity such as a school district, city, or town.

Background

Dual-officeholding is restricted by Section 40, Article XVI, Texas Constitution. Section 40, Article XVI, prohibits a person from holding "more than one civil office of emolument." However, there are exceptions for a few offices, including a justice of the peace, a county commissioner, and an officer or director of a soil and water conservation district. The phrase "of emolument" limits the constitutional provision to persons who receive monetary profit, gain, or advantage from the office.

A 1972 amendment to Section 40, Article XVI, of the state constitution added the provision that permits a state employee or any other person who is compensated with state funds to serve on a local governing board if the person does not receive a salary for serving on the board. The amendment was proposed to counteract, in part, a court case that interpreted another provision of the state constitution, Section 33 of Article XVI. The case was *Boyett v. Calvert*, 467 S.W.2d 205 (Tex. Civ. App.—Austin 1971, writ ref'd n.r.e.), appeal dism'd, 405 U.S. 1035 (1972). The effect of the court's ruling was to prohibit the state from paying any compensation to a state officer or employee who holds any other state or local government office or employee position.

The constitutional amendment currently proposed would allow a state employee or any other person who is compensated with state funds to serve as a member of the governing body of a local governmental entity, such as a school district, city, or town, and to receive compensation from the state for the person's state service as well as compensation from the local government for the local service.

Arguments For:

1. A repeal of the salary prohibition in Section 40, Article XVI, would increase the pool of qualified candidates for local governing board positions. State employees will be more willing to contribute their time and talents to local governmental bodies if they are compensated for their state and local service. An increase in the number of qualified candidates will improve the quality of the local governing bodies.

2. The potential for a conflict of interest between a state employee position and a position on a local governing body, such as a school board or a city council, is negligible. State employees should be encouraged to serve their communities and should receive just compensation for their time and efforts.

Arguments Against:

1. Taxpayers expect their state employees to make a total commitment to the state job. Local government positions are often very time-consuming, complex endeavors. Encouraging a person to divide time between a position on a local governing board and a state employment position will result in a decrease in the quality of performance of both positions.

2. The proposed constitutional amendment is too limited in scope. The proposed amendment would allow state employees or other persons who are compensated with state funds to serve on the "governing bodies" of local governmental entities, but does not permit those persons to hold other local offices. The amendment should be broadened to allow state employees or other persons who are compensated with state funds to seek any local office and receive compensation for their service to the state and to the local governmental entity.

Text of S.J.R. No. 26: **SENATE AUTHOR:** Bill Ratliff et al.
HOUSE SPONSOR: Mike Krusee

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to compensation for state employees serving as members of local governing boards.

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

SECTION 1. Section 40, Article XVI, Texas Constitution, is amended to read as follows:

Sec. 40. No person shall hold or exercise at the same time, more than one civil office of emolument, except that of Justice of the Peace, County Commissioner, Notary Public and Postmaster, Officer of the National Guard, the National Guard Reserve, and the Officers Reserve Corps of the United States and enlisted men of the National Guard, the National Guard Reserve, and the Organized Reserves of the United States, and retired officers of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and retired warrant officers, and retired enlisted men of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and the officers and directors of soil and water conservation districts, unless otherwise specially provided herein. Provided, that nothing in this Constitution shall be construed to prohibit an officer or enlisted man of the National Guard, and the National Guard Reserve, or an officer in the Officers Reserve Corps of the United States, or an enlisted man in the Organized Reserves of the United States, or retired officers of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and retired warrant officers, and retired enlisted men of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and officers of the State soil and water conservation districts, from holding at the same time any other office or position of honor, trust or profit, under this State or the United States, or from voting at any election, general, special or primary in this State when otherwise qualified. State employees or other individuals who receive all or part of their compensation either directly or indirectly from funds of the State of

Texas and who are not State officers, shall not be barred from serving as members of the governing bodies of school districts, cities, towns, or other local governmental districts[~~; provided, however, that such State employees or other individuals shall receive no salary for serving as members of such governing bodies~~]. It is further provided that a nonelective State officer may hold other nonelective offices under the State or the United States, if the other office is of benefit to the State of Texas or is required by the State or Federal law, and there is no conflict with the original office for which he receives salary or compensation. No member of the Legislature of this State may hold any other office or position of profit under this State, or the United States, except as a notary public if qualified by law.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1999. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment allowing state employees to receive compensation for serving as a member of a governing body of a school district, city, town or other local governmental district."

Amendment No. 6 (S.J.R. No. 22)

Wording of Ballot Proposition:

The constitutional amendment increasing the maximum size of an urban homestead to 10 acres, prescribing permissible uses of urban homesteads, and preventing the overburdening of a homestead.

Analysis of Proposed Amendment:

The proposed amendment amends Section 51, Article XVI, Texas Constitution, by increasing the maximum size of an urban homestead to 10 acres, prescribing permissible uses of urban homesteads, and preventing the overburdening of a homestead.

Background

Section 50, Article XVI, Texas Constitution, protects a homestead from forced sale for the payment of debts except for debts resulting from purchase money to acquire the homestead property, construction of improvements on the homestead property, taxes due on the homestead property, certain partitions imposed on the homestead property, the refinance of a lien on the homestead property, and the acquisition of a home equity loan or reverse mortgage secured by the homestead property. Section 51, Article XVI, Texas Constitution, limits an urban homestead to a lot or lots consisting of not more than one acre and permits the urban homestead to be used as either a home or a place of business. That section also limits a rural homestead to one or more parcels of land consisting of not more than 200 acres.

The proposed constitutional amendment increases the size of an urban homestead from one acre to 10 acres, permits only a single lot or parcel constituting contiguous lots to be considered an urban homestead, and permits an urban homestead to be used as a home or as both a home and a place of business. In addition, the proposed amendment provides that a release or refinance of an existing lien on a part of homestead property does not create an additional burden on the part of the homestead property

that is not released or subject to the refinance and specifically provides that the newly created lien is not invalid as a result of that action. The provision of the proposed amendment addressing the concept of creating an additional burden on homestead property is in response to Texas case law developed over the past 60 years that reaches a contrary result in certain circumstances.

Senate Bill No. 496, enacted by the 76th Legislature, Regular Session, 1999, which takes effect only if the proposed constitutional amendment is adopted, implements the substantive changes provided in the amendment.

Arguments For:

1. The proposed amendment extends the opportunity to obtain home equity loans to a wider range of Texas property owners. The home equity requirements prescribed by Section 50, Article XVI, Texas Constitution, prohibit the use of collateral other than homestead property as security for a home equity loan. Accordingly, those urban property owners that reside on property that exceeds one acre in size are generally unable to obtain a home equity loan using their residential property as collateral because lending institutions are unwilling to accept only the portion of the property owner's residential property that constitutes homestead property as collateral and are prohibited from accepting the additional property as collateral. The proposed amendment protects business homesteads and at the same time permits property owners with both an urban home and a business interest on the same property to qualify for a home equity loan. Under the proposed amendment, an urban homestead does not forfeit its homestead character simply because a portion of that homestead property is used for business purposes.

2. The proposed amendment rejects the line of Texas case law that classifies certain lending practices as creating an additional burden on homestead property and permits lending institutions to offer loans routinely approved in other states.

Arguments Against:

1. The wording of the proposed ballot proposition is vague and does not provide voters with sufficient information to understand the effects of the amendment, one of which is to further expand home equity lending. The constitutional amendment authorizing home equity lending adopted by the legislature and approved by the voters in 1997 authorizes home equity lending in limited circumstances and provides numerous consumer safeguards to ensure that homestead mortgage lending will not be abused. The effect of the proposed amendment expands the circumstances under which property owners may obtain home equity loans without making this effect apparent to voters in the wording of the ballot proposition.

2. The proposed amendment reverses an established line of Texas case law developed over the past 60 years prohibiting certain lending practices that the courts have indicated create an additional burden on homestead property.

Text of S.J.R. No. 22: **SENATE AUTHOR:** Chris Harris
HOUSE SPONSOR: Kim Brimer

SENATE JOINT RESOLUTION

proposing a constitutional amendment increasing the maximum size of an urban homestead to 10 acres, prescribing permissible uses of urban homesteads, and preventing the overburdening of a homestead.

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

SECTION 1. Section 51, Article XVI, Texas Constitution, is amended to read as follows:

Sec. 51. The homestead, not in a town or city, shall consist of not more than two hundred acres of land, which may be in one or more parcels, with the improvements thereon; the homestead in a city, town or village, shall consist of lot or contiguous lots amounting to not more than 10 acres [~~one acre~~] of land, together with any improvements on the land; provided, that the homestead in a city, town or village [~~same~~] shall be used for the purposes of a home, or as both an urban home and a place to exercise a [~~the~~] calling or business, of the homestead claimant, whether a single adult person, or the head of a family; provided also, that any temporary renting of the homestead shall not change the character of the same, when no other homestead has been acquired; provided further that a release or refinance of an existing lien against a homestead as to a part of the homestead does not create an additional burden on the part of the homestead property that is unreleased or subject to the refinance, and a new lien is not invalid only for that reason.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1999. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment increasing the maximum size of an urban homestead to 10 acres, prescribing permissible uses of urban homesteads, and preventing the overburdening of a homestead."

Amendment No. 7 (H.J.R. No. 16)

Wording of Ballot Proposition:

The constitutional amendment authorizing garnishment of wages for the enforcement of court-ordered spousal maintenance.

Analysis of Proposed Amendment:

The proposed amendment amends Section 28, Article XVI, Texas Constitution, to allow an additional exception to the general constitutional prohibition against the garnishment of current wages for personal service.

Background

When a person owes a debt, the law provides several different ways through which the person to whom the debt is owed may collect the money owed. The first step is to sue the debtor and receive from the court either a judgment or some other kind of order that requires the debtor to pay the debt. If the person gets a judgment or court order and the debtor still fails to pay, the person to whom the debt is owed may use various remedies. Among those are execution, which involves sending an officer to seize and sell the debtor's property, and garnishment, which requires a third person who has property belonging to the debtor to transfer the debtor's property to the person to whom the debt is owed.

In general, Section 28, Article XVI, Texas Constitution, does not permit garnishment against an employer if the person who owes the debt is working for wages. Historically, many of the persons who settled in Texas during the 19th century came to avoid financial difficulties, and after the Civil War many Texans faced financial hardship. As a result, the constitution adopted after the Reconstruction period prohibited the garnishment of wages for personal services to allow debtors to have a method of supporting their families.

In 1983, the constitution was amended to allow the garnishment of wages only for the enforcement of court-ordered child support. Before 1995, child support was the only type of family support that could be

ordered in this state, and that remains the only type of family support for which wages may be garnished. In 1995, in reforming the welfare laws of this state, the legislature authorized limited spousal maintenance following the dissolution of a marriage in an attempt to keep a spouse with limited job skills and financial resources from having to rely on governmental assistance programs for that person's support. Court orders for spousal maintenance have been difficult to enforce without a garnishment provision. In 1999, the 76th Legislature adopted a law that will permit a judge to require a person who is obligated to pay spousal maintenance to assign a portion of the person's wages to pay the spousal maintenance. That law will not take effect unless the amendment to permit the garnishment of wages for the enforcement of court-ordered spousal maintenance is approved by the voters. The amendment is limited to the enforcement of court-ordered spousal maintenance and does not extend the use of garnishment of wages as a means to enforce collection of other types of debts or obligations.

Arguments For:

1. Most other states authorize the garnishment or involuntary assignment of wages for certain obligations. Texans elected to allow garnishment for child support in 1983. Currently, at least 45 other states allow garnishment of wages for enforcement of court-ordered spousal maintenance. The approval of the constitutional amendment would allow Texas to have the same ability to enforce spousal maintenance orders as those other states.

2. Spousal maintenance in this state is limited to circumstances in which the recipient spouse is unlikely to be able to provide for the person's own support and would therefore be likely to have to rely on governmental assistance programs. This state has adopted other programs to assist spouses who are displaced because of divorce, including job counseling programs. The approval of the constitutional amendment would expand the types of assistance available and would allow a dependent spouse to have secure support for a limited period while the person becomes financially independent without imposing an additional burden on the taxpayers of this state.

Arguments Against:

1. Garnishment of wages places the burden of collecting and paying spousal maintenance on the employer rather than the employee. Because the employee has failed to comply with the employee's obligation to pay court-ordered spousal maintenance, the employer is obligated to deduct the wages garnished or assigned and to send the amounts deducted to the appropriate court. Even if the employer is reimbursed for the administrative expenses incurred by the employer in deducting and paying an employee's spousal maintenance, it still imposes an additional burden on the employer.

2. The obligation to pay spousal maintenance is only one of many obligations that a person may have, including payment of taxes, judgments, and other debts. Expanding the authorization for garnishment beyond garnishment for enforcement of court-ordered child support logically will encourage adoption of additional exceptions to allow garnishment to pay other types of obligations.

Text of H.J.R. No. 16: **HOUSE AUTHOR:** Senfronia Thompson et al.
SENATE SPONSOR: Chris Harris

HOUSE JOINT RESOLUTION

proposing a constitutional amendment to authorize garnishment of wages for the enforcement of court-ordered spousal maintenance.

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

SECTION 1. Section 28, Article XVI, Texas Constitution, is amended to read as follows:

Sec. 28. No current wages for personal service shall ever be subject to garnishment, except for the enforcement of court-ordered:

(1) child support payments; or

(2) spousal maintenance.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 2, 1999. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment authorizing garnishment of wages for the enforcement of court-ordered spousal maintenance."

Amendment No. 8 (H.J.R. No. 95)

Wording of Ballot Proposition:

The constitutional amendment to provide that the adjutant general serves at the pleasure of the governor.

Analysis of Proposed Amendment:

The proposed amendment would add Subsection (e) to Section 30, Article XVI, Texas Constitution, to allow the governor to appoint and replace the state adjutant general at the governor's pleasure.

Background

The adjutant general's department is a state agency established by statute to govern certain military matters affecting the state. The department is directed by a single state officer who holds the title of adjutant general and who is appointed by the governor.

The department's military forces are composed primarily of the Texas National Guard (which includes the Texas Army National Guard and Texas Air National Guard) and the Texas State Guard and are governed by a mixture of state and federal law. The control of the Texas State Guard is determined by state law. The state guard is a voluntary state reserve force that the governor may call into action if the national guard is called into federal service. The department's operations in relation to the national guard are determined primarily by federal law and the regulations of the United States Armed Forces. The national guard is a military force under the direction of the president in times of military conflict. The national guard responds to the orders of the governor in times requiring assistance to the state because of a natural disaster or civil disturbance.

Under the current law, the adjutant general is appointed by the governor and holds office for a term of two years expiring February 1 of each odd-numbered year. The term is set in accordance with Subsection (a), Section 30, Article XVI, Texas Constitution, which provides that a term

of office may not exceed two years unless the constitution provides otherwise.

Under Sections 7 and 9, Article XV, Texas Constitution, an officer such as the adjutant general may not be removed from office unless the officer receives a trial regarding the removal or unless the governor who appointed the officer removes the officer with the consent of two-thirds of the senate. The proposed constitutional amendment would make the dismissal of the adjutant general an action the governor may take at any time as the governor considers appropriate.

Arguments For:

1. Greater accountability is needed for the adjutant general. Allowing for the quick removal of the adjutant general by the governor would greatly help in providing that accountability. The need for greater accountability is a result of the military nature of the duties of the adjutant general, the fact that the adjutant general is appointed rather than elected, and the declaration by the state constitution that the governor is the commander-in-chief of the state military forces. It is good policy to provide that the military is under the control of civilians. In fact, Section 24, Article I, Texas Constitution, recognizes that policy by stating that "[t]he military shall at all times be subordinate to the civil authority." The proposed amendment helps in implementing that policy. Furthermore, a sound method for achieving accountability for an appointed officer is to make the officer subject to removal by an officer elected statewide. The governor is the obvious choice to be given the authority to remove the adjutant general since the governor appoints the adjutant general and is designated by Section 7, Article IV, Texas Constitution, as the commander-in-chief of the state military forces.

2. The governor is the primary state policymaker regarding the state's military forces. For the governor to be most effective in making and implementing policy affecting the military forces, the governor must have a close working relationship with the adjutant general. That relationship will be fostered if the governor has the power, which the proposed amendment would grant, to replace the adjutant general as the governor considers appropriate.

Arguments Against:

1. The two-year term currently established for the adjutant general creates adequate accountability for that officer. Because the governor is elected to a four-year term, the adjutant general's term will expire twice during the governor's term. Two opportunities to replace the adjutant general during the governor's term are sufficient. Allowing for more frequent replacement of the adjutant general subjects the adjutant general to too much political influence. The adjutant general must have sufficient independence to carry out the duties of the office without fear of immediate reprisals if the adjutant general makes a politically unpopular decision.

2. A detailed provision applying to a specific state officer should not be included in the state constitution. The constitution should be a statement of general principles, not of overly specific constraints. If a constitutional amendment on this subject is necessary at all it should be written as a general authorization to the legislature to establish this kind of detail by statute. The legislature would then have greater flexibility to change the removal provision as future circumstances may warrant.

Text of H.J.R. No. 95: **HOUSE AUTHOR:** Patricia Gray
SENATE SPONSOR: J. E. Brown et al.

HOUSE JOINT RESOLUTION

proposing a constitutional amendment to provide that the adjutant general serves at the pleasure of the governor.

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

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

(e) If the legislature establishes an office, known as the office of the adjutant general or known by another title, that is filled by appointment by the governor and that is the single governing office, subordinate only to the governor, of the state military forces, the person holding that office serves at the pleasure of the governor notwithstanding Subsection (a) of this section or any time limit prescribed by other law.

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 76th Legislature, Regular Session, 1999, that provides that the adjutant general serves at the pleasure of the governor.

(b) The person who holds office as the adjutant general on the effective date of that constitutional amendment is subject to that amendment.

(c) This temporary provision expires February 1, 2001.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1999. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to provide that the adjutant general serves at the pleasure of the governor."

Amendment No. 9 (S.J.R. No. 10)

Wording of Ballot Proposition:

The constitutional amendment authorizing the legislature to create a judicial compensation commission.

Analysis of Proposed Amendment:

The proposed amendment adds a new Section 32 to Article V of the Texas Constitution and authorizes the legislature to create a judicial compensation commission to make recommendations for judicial salaries for justices and judges of the Texas Supreme Court, the Texas Court of Criminal Appeals, the courts of appeals, and the district courts. Those recommendations become law if neither the Texas Senate nor the Texas House of Representatives, by majority vote, rejects the recommendations.

Background

The salaries of the justices and judges of the Texas Supreme Court, the Texas Court of Criminal Appeals, the courts of appeals, and the district courts are in the amounts provided by the General Appropriations Act, subject to the salary differentials under Section 659.012, Government Code. The proposed constitutional amendment would authorize the legislature to create a judicial compensation commission to make recommendations for those judicial salaries. The commission's recommendations would become law if neither the Texas Senate nor the Texas House of Representatives, by majority vote, rejected the recommendations.

The creation of the compensation commission was recommended by the Commission on Judicial Efficiency, which was established in 1995 by the chief justice of the supreme court in response to a request by the 74th Legislature. The Commission on Judicial Efficiency, following a year-long evaluation of the judiciary, made recommendations on the funding of the judiciary, including compensation, on technology, and on selection and retention of justices and judges.

Senate Bill No. 71, enacted by the 76th Legislature, Regular Session, 1999, and contingent on the adoption of the constitutional amendment proposed by Senate Joint Resolution No. 10, creates the Judicial Compensation Commission and repeals Section 659.012, Government Code. The commission consists of nine members appointed by the governor with the advice and consent of the senate. The Office of Court Administration of the Texas Judicial System is required to provide to the commission all reasonable administrative support necessary to carry out the commission's powers and duties. The commission is required to submit a biennial report to the legislature recommending the proper salaries to be paid by the state for all justices and judges of the Texas Supreme Court, the Texas Court of Criminal Appeals, the courts of appeals, and the district courts. In making its recommendations, the commission is required to consider a number of objective factors. The commission's recommendations are binding and have full force of law on September 1 following the delivery of the report if neither the Texas Senate nor the Texas House of Representatives, by majority vote, rejects the recommendations before the enactment of the General Appropriations Act for the subsequent biennium.

Arguments For:

1. Retirement pensions for state officers in the elected class of membership in the retirement system are tied by statute to the salaries of district judges. That membership class includes members of the legislature. Thus, when the legislature votes to increase judicial salaries, it may be perceived as a conflict of interest. An independent judicial compensation commission would remove this potential conflict of interest by giving primary responsibility for determining judicial compensation to an independent body.

2. A judicial compensation commission charged exclusively with the responsibility of determining appropriate judicial compensation is best able to discharge that duty because the commission will be able to focus solely on the task of setting proper judicial salaries in order to determine a level of compensation necessary to attract the most highly qualified individuals to the judiciary and to retain an experienced judiciary.

Arguments Against:

1. Section 1, Article III, Texas Constitution, vests the lawmaking power of this state in the legislature. Although the constitution does not grant exclusive lawmaking authority to the legislature and the legislature may delegate its authority under certain circumstances, the legislature is the primary repository of lawmaking power. The proposed constitutional amendment would erode the legislature's lawmaking authority by authorizing a nonlegislative body to exercise limited lawmaking power.

2. The determination of appropriate judicial compensation is a decision better reserved to the legislature rather than a judicial compensation commission because the determination involves the appropriation of state funds. A judicial compensation commission would consist of members appointed by the governor with the advice and consent of the Texas Senate. In contrast, the legislature is an elected body accountable for its decisions to the people of Texas. A determination that involves the appropriation of state funds should be made by an elected body rather than an appointed commission.

Text of S.J.R. No. 10: **SENATE AUTHOR:** J. E. Brown
HOUSE SPONSOR: Senfronia Thompson

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the creation of a judicial compensation commission.

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

SECTION 1. Article V, Texas Constitution, is amended by adding Section 32 to read as follows:

Sec. 32. (a) Notwithstanding any other provisions of this constitution, the Legislature may by law create a judicial compensation commission to make recommendations for judicial salaries that become law if neither the Senate nor the House of Representatives, by majority vote, rejects the recommendations.

(b) Subsection (a) of this section applies only to salaries for justices and judges of the Supreme Court, the Court of Criminal Appeals, the Courts of Appeals, and the District Courts.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1999. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the legislature to create a judicial compensation commission."

Amendment No. 10 (H.J.R. No. 74)

Wording of Ballot Proposition:

The constitutional amendment to provide that the commissioner of health and human services serves at the pleasure of the governor.

Analysis of Proposed Amendment:

The proposed amendment would add Subsection (e) to Section 30, Article XVI, Texas Constitution, to allow the governor to appoint and replace the state commissioner of health and human services at the governor's pleasure.

Background

The Health and Human Services Commission is a state agency established by statute in 1991 to coordinate the planning and delivery of health and human services among the state's health and human services agencies. The commission is directed by a single state officer who holds the title of commissioner of health and human services and who is appointed by the governor.

The state agencies under the commissioner's jurisdiction are the: (1) Interagency Council on Early Childhood Intervention; (2) Texas Department on Aging; (3) Texas Commission on Alcohol and Drug Abuse; (4) Texas Commission for the Blind; (5) Texas Commission for the Deaf and Hard of Hearing; (6) Texas Department of Health; (7) Texas Department of Human Services; (8) Texas Juvenile Probation Commission; (9) Texas Department of Mental Health and Mental Retardation; (10) Texas Rehabilitation Commission; (11) Department of Protective and Regulatory Services; (12) Children's Trust Fund of Texas Council; and (13) Texas Health Care Information Council.

To promote further coordination of health and human services, in 1999 the legislature enacted House Bill No. 2641. House Bill No. 2641 gives the commissioner of health and human services broad managerial powers over the health and human services agencies. Those powers

include the authority to direct the daily operations of each agency, supervise and direct the activities of each agency director, determine the organizational structure of each agency and the location of each agency's facilities, allocate the funds of each agency, and adopt or approve the rates of payment over which each agency has control.

Under the current law, the commissioner of health and human services is appointed by the governor and holds office for a term of two years expiring February 1 of each odd-numbered year. The term is set in accordance with Subsection (a), Section 30, Article XVI, Texas Constitution, which provides that a term of office may not exceed two years unless the constitution provides otherwise.

Under Sections 7 and 9, Article XV, Texas Constitution, an officer such as the commissioner of health and human services may not be removed from office unless the officer receives a trial regarding the removal or unless the governor who appointed the officer removes the officer with the consent of two-thirds of the senate. The proposed constitutional amendment would make the dismissal of the commissioner of health and human services an action the governor may take at any time as the governor considers appropriate.

Arguments For:

1. Greater accountability is needed for the commissioner of health and human services. Allowing for the quick removal of the commissioner by the governor would greatly help in providing that accountability. The need for greater accountability is a result of the nature of, and number of people affected by, the programs under the control of the commissioner, the size of the budget under the commissioner's jurisdiction, and the fact that the commissioner has vast authority and is appointed rather than elected. The programs under the control of the commissioner are numerous and varied and affect the health and welfare of millions of Texans. Those programs include state programs as well as certain federal entitlement programs such as Medicaid, Temporary Assistance for Needy Families, and food stamps. The state's annual budget for health and human services programs involves billions of dollars, ranking second only to the state's budget for education programs. The authority of the commissioner

is enormous, and as a result there is a need to make the commissioner immediately answerable to a statewide elected officer.

2. The governor must play an active and important role in making the coordination of health and human services a success. For the governor to be most effective in achieving that coordination, the governor must have a close working relationship with the commissioner of health and human services. That relationship will be fostered if the governor has the power, which the proposed amendment would grant, to replace the commissioner as the governor considers appropriate.

Arguments Against:

1. The two-year term currently established for the commissioner of health and human services creates adequate accountability for that officer. Because the governor is elected to a four-year term, the commissioner's term will expire twice during the governor's term. Two opportunities to replace the commissioner during the governor's term are sufficient. Allowing for more frequent replacement of the commissioner subjects the commissioner's office to too much political influence. The commissioner must have sufficient independence to carry out the duties of the office without fear of immediate reprisals if the commissioner makes a politically unpopular decision.

2. A detailed provision applying to a specific state officer should not be included in the state constitution. The constitution should be a statement of general principles, not of overly specific constraints. If a constitutional amendment on this subject is necessary at all, it should be written as a general authorization to the legislature to establish this kind of detail by statute. The legislature would then have greater flexibility to change the removal provision as future circumstances may warrant.

Text of H.J.R. No. 74: **HOUSE AUTHOR:** Patricia Gray
SENATE SPONSOR: J. E. Brown et al.

HOUSE JOINT RESOLUTION

proposing a constitutional amendment to provide that the commissioner of health and human services serves at the pleasure of the governor.

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

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

(e) If the legislature establishes an office, known as the office of the commissioner of health and human services or known by any other title, that is filled by appointment by the governor and that is the single governing office of the state agency responsible for coordinating the planning and delivery of health and human services by the state health and human services agencies, the person holding that office serves at the pleasure of the governor notwithstanding Subsection (a) of this section or any time limit prescribed by other law.

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 76th Legislature, Regular Session, 1999, that provides that the commissioner of health and human services serves at the pleasure of the governor.

(b) The person who holds office as the commissioner of health and human services on the effective date of that constitutional amendment is subject to that amendment.

(c) This temporary provision expires February 1, 2001.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1999. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to provide that the commissioner of health and human services serves at the pleasure of the governor."

Amendment No. 11 (H.J.R. No. 69)

Wording of Ballot Proposition:

The constitutional amendment permitting a political subdivision to purchase nonassessable property and casualty insurance from an authorized mutual insurance company in the same manner that the political subdivision purchases life, health, and accident insurance.

Analysis of Proposed Amendment:

The proposed constitutional amendment amends Section 52(a), Article III, Texas Constitution, to expand the application of an existing exception to the constitutional rule that prohibits a political subdivision from lending its credit or granting public money to an individual, corporation, or association, or from becoming a stockholder in a corporation or association.

Background

Section 52(a), Article III, Texas Constitution, prohibits the legislature from authorizing a political subdivision to lend credit, money, or valuables to individuals, associations, or corporations, or to become a stockholder in a corporation or association. The policy behind the prohibition was developed by the framers of the 1876 constitution to address certain serious problems in the way the state had been spending its money. In the middle to late 1800s, the state and its political subdivisions loaned money to private railroads to help develop a rail system in Texas. Many of the railroad companies were unable to repay a significant amount of the debt owed to the state and local governments. As a result, the prohibitions found in Sections 50, 51, and 52, Article III, Texas Constitution, were adopted.

In 1926, the Texas Supreme Court adopted a judgment of the commission of appeals that stated that a political subdivision was barred under Section 52, Article III, from belonging to a mutual insurance association. An insurance agreement with a mutual insurance association required a policyholder to become a member of the association, and a

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

In 1942, the Texas Supreme Court followed the *Tyler* decision and held that a school district was prohibited from purchasing a policy of mutual insurance and that the statute purporting to authorize political subdivisions to purchase that type of policy was unconstitutional. *Lewis v. Independent School District of City of Austin*, 161 S.W.2d 450 (Tex. 1942). The court found that public policy, regardless of its wisdom, cannot overcome a clear prohibition in the constitution.

The court's interpretation of Section 52(a), Article III, has stood unchanged since the *Tyler* and *Lewis* cases. Because a policyholder of a mutual insurance company is considered to be a stockholder of the company and because policyholders share in the profits of the company and are subject to possible assessments to cover certain losses of the company, Section 52(a) generally prohibits a political subdivision from participating in these enterprises. The only exception is a 1986 amendment to Section 52(a), Article III, Texas Constitution, that allows a political subdivision to pay premiums for life, health, and accident insurance issued by a mutual insurance company as long as the political subdivision is not subject to assessments.

Most mutual insurance companies are able to issue nonassessable insurance policies, avoiding the necessity of assessments by charging advance premiums and developing surpluses sufficient to enable the company to meet its obligations. Under the terms of mutual insurance company contracts, the company assumes the same obligations as stock insurers. Mutual insurance company rates are competitive with the rates of stock insurance companies, and a mutual insurance company is regulated under state law in a manner similar to stock insurance companies. The proposed amendment allows a political subdivision to purchase nonassessable property and casualty insurance from a mutual insurance

company in the same manner that a political subdivision purchases life, health, and accident insurance under the 1986 amendment to Section 52(a), Article III, Texas Constitution.

Arguments For:

1. Some of the largest property and casualty companies in Texas are mutual insurance companies. The policies offered by these mutual companies offer the same protections available from stock insurance companies that sell property and casualty insurance. By allowing a political subdivision to purchase nonassessable property and casualty insurance from a mutual company, a political subdivision can shop for insurance from a wider range of insurers, resulting in the benefits that competition can provide for both the political subdivisions and the insurers. The amendment may provide significant benefits and poses no risk to the political subdivisions or the state.

2. The proposed amendment is consistent with the exception provided in the 1986 amendment to Section 52(a), Article III, and with the original intent of that section as a whole. An option for a political subdivision to obtain nonassessable property and casualty insurance from a mutual insurance company is no different from the option by a political subdivision to obtain nonassessable life, health, or accident insurance from a mutual. Because each type of policy allowed by the section is nonassessable to the political subdivision, the original intent of the section remains, by preventing a political subdivision from becoming financially involved in the operation of the business.

Arguments Against:

1. Regardless of whether the insurance obtained from a mutual insurance company is assessable or nonassessable, a political subdivision that obtains that insurance becomes a stockholder in the company. The original intent of Section 52(a), Article III, in response to the railroad deals of the late 1800s, was to prevent political subdivisions in this state from becoming financially involved in a private business. A stockholder has a financial interest in the business of a mutual insurance company. It

is still dangerous to allow a political subdivision to lend its credit to a private entity by becoming a stockholder. Although the political subdivision would only own part of a mutual insurance company as a policyholder, that action is one step closer to allowing the use of local government money to speculate in private enterprises.

2. Although the current provision of the constitution may exclude some insurers from competing for the business of a political subdivision, there is no compelling reason to amend the constitution excepting a general rule to benefit a particular interest group. An amendment of this type is one reason for the criticism that the Texas Constitution is too highly detailed and too often amended. Considering that this provision in the constitution has remained substantially unchanged since 1876, the need for this amendment now appears to be small.

Text of H.J.R. No. 69: **HOUSE AUTHOR:** Glenn Lewis
SENATE SPONSOR: Chris Harris

HOUSE JOINT RESOLUTION

proposing a constitutional amendment permitting a political subdivision to purchase property and casualty insurance from certain mutual insurance companies.

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

SECTION 1. Section 52(a), Article III, Texas Constitution, is amended to read as follows:

(a) Except as otherwise provided by this section, the Legislature shall have no power to authorize any county, city, town or other political corporation or subdivision of the State to lend its credit or to grant public money or thing of value in aid of, or to any individual, association or corporation whatsoever, or to become a stockholder in such corporation, association or company. However, this section does not prohibit the use of public funds or credit for the payment of premiums on nonassessable property and casualty, life, health, or accident insurance policies and annuity contracts issued by a mutual insurance company authorized to do business in this State.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 2, 1999. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment permitting a political subdivision to purchase nonassessable property and casualty insurance from an authorized mutual insurance company in the same manner that the political subdivision purchases life, health, and accident insurance."

Amendment No. 12 (S.J.R. No. 21)

Wording of Ballot Proposition:

The constitutional amendment to authorize the legislature to exempt from ad valorem taxation leased motor vehicles not held by the lessee primarily to produce income.

Analysis of Proposed Amendment:

The proposed amendment amends Section 1, Article VIII, Texas Constitution, to authorize the legislature to exempt leased motor vehicles from ad valorem taxes if the vehicles are not held by the lessee primarily for the production of income and the vehicles otherwise qualify under general law for exemption.

Background

Section 1, Article VIII, Texas Constitution, provides that all real property and tangible personal property, unless exempt as required or permitted by the constitution, shall be taxed according to its value. Any exemption from ad valorem taxation not granted or authorized by the Texas Constitution is void. Neither the legislature nor a local government that imposes ad valorem taxes may exempt any property from ad valorem taxation without constitutional authority.

Section 1, Article VIII, Texas Constitution, requires the legislature to 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. That section also authorizes the legislature to exempt personal property homesteads (personal property exempt by law from seizure to satisfy debt) and all other tangible personal property except structures and except property held or used for the production of income.

Under authority of Section 1, the legislature has exempted all personal property, including motor vehicles, owned by individuals and not used to produce income. That statute, Section 11.14, Tax Code, allows local

governments to override the exemption, and a few local governments have chosen to tax motor vehicles. However, under current law, personally owned motor vehicles are in most places exempt from local ad valorem taxes, while motor vehicles leased by individuals for personal use are subject to taxation as part of the business inventory of the leasing company. Under the typical lease, the lessee agrees to pay the annual ad valorem tax on the vehicle in addition to other lease payments.

Senate Joint Resolution No. 21, if adopted, will amend Section 1, Article VIII, Texas Constitution, to authorize the legislature to exempt from ad valorem taxation any leased motor vehicle that is not held by the lessee primarily for the production of income. The amendment also authorizes the legislature to provide limitations to the application of the exemption from ad valorem taxation. Senate Joint Resolution No. 21 will also permit local taxing units to provide for the taxation of motor vehicles that would otherwise be exempt. The 76th Legislature, Regular Session, 1999, did not enact any enabling legislation in anticipation of the proposed amendment. Accordingly, even if the amendment is approved by the voters, leased motor vehicles will continue to be taxed until future legislation provides otherwise.

Arguments For:

1. Texas is one of only a few states in which local governments impose ad valorem taxes on motor vehicles leased for personal use. Approval of the amendment will provide leased motor vehicles with the same tax treatment as personally owned vehicles and provide consumers with a financially beneficial alternative to purchasing their motor vehicles.

2. Imposition of the ad valorem tax on leased vehicles amounts to "double taxation" because the lessee of a motor vehicle is also required to pay sales and use taxes on the lease transaction. Approval of the amendment will eliminate the double tax that persons who lease motor vehicles for personal use in this state are now required to pay.

3. Most motor vehicles that are leased in this state are leased for personal use. Any shortfall in ad valorem tax revenue resulting from the elimination of ad valorem taxes on leased motor vehicles will be offset

by an increase in sales tax revenues brought about by consumers who choose to lease, rather than purchase, their motor vehicles. Leased motor vehicles that are used for business purposes or the production of income will continue to be subject to ad valorem taxation.

Arguments Against:

1. Any exemption from ad valorem taxation erodes the property tax base of school districts, cities, counties, and other local governments. If the proposed amendment is adopted, the new exemption will result in higher property taxes for other property owners, including persons who lease motor vehicles for business purposes.

2. Because local taxing units may elect to continue to impose ad valorem taxes on motor vehicles leased for personal use as permitted by the amendment, the proposed amendment will not bring consistency to the taxation of leased motor vehicles as the proponents claim.

3. Ad valorem taxes on a leased motor vehicle are the legal responsibility of the owner of the vehicle. The proposed exemption of motor vehicles leased for personal use is really a tax break for the leasing company. The inventory of a vehicle leasing company should be taxed in the same manner as any other business inventory.

Text of S.J.R. No. 21: **SENATE AUTHOR:** John J. Carona
HOUSE SPONSOR: Peggy Hamric et al.

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the exemption from ad valorem taxation of certain leased motor vehicles not held primarily for the production of income.

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

SECTION 1. Subsections (d) and (e), Section 1, Article VIII, Texas Constitution, are amended to read as follows:

(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 Subsections (e) and (g) 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; and

(3) subject to Subsection (e) of this section, a leased motor vehicle that is not held primarily for the production of income by the lessee and that otherwise qualifies under general law for exemption.

(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) or (3) of Subsection (d) of this section and not exempt from ad valorem taxation by any other law. The Legislature by general law may provide limitations to the

application of this subsection to the taxation of vehicles exempted under the authority of Subdivision (3) of Subsection (d) of this section. [~~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 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1999. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to authorize the legislature to exempt from ad valorem taxation leased motor vehicles not held by the lessee primarily to produce income."

Amendment No. 13 (S.J.R. No. 16)

Wording of Ballot Proposition:

The constitutional amendment providing for the issuance of $400 million in general obligation bonds to finance educational loans to students.

Analysis of Proposed Amendment:

The proposed amendment adds Section 50b-5 to Article III of the Texas Constitution and permits the legislature to authorize the Texas Higher Education Coordinating Board to issue general obligation bonds of the State of Texas in an amount not to exceed $400 million. The proceeds of the bonds must be used to provide educational loans to students.

Background

In 1965, voters adopted Section 50b, Article III, Texas Constitution, which authorized the coordinating board of the Texas College and University System to issue up to $85 million in general obligation bonds to fund student loans. 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 Hinson-Hazelwood College Student Loan Program.

Since the initiation of the student loan program in 1965, voters have approved four additional constitutional amendments authorizing the issuance of general obligation bonds: (1) $200 million in 1969 (Section 50b-1, Article III, Texas Constitution); (2) $75 million in 1989 (Section 50b-2, Article III, Texas Constitution); (3) $300 million in 1991 (Section 50b-3, Article III, Texas Constitution); and (4) $300 million in 1995 (Section 50b-4, Article III, Texas Constitution).

Without additional bonding authority at this time, the Texas Higher Education Coordinating Board will be unable to meet anticipated loan requests for the foreseeable future.

The student loan program is designed to be self-supporting. Repayments of student loans under the program are applied toward retirement of the bonds. The coordinating board estimates that program revenues, including loan repayments and investment earnings, will be sufficient to pay debt service on the bonds and to cover the operation of the program. Historically, the student loan program has never required financial support from the state's general revenue fund. If, however, program revenues were unexpectedly insufficient, the state's general revenue would be used to meet the bonds' financial obligations to the extent of the program's revenue deficiency.

Senate Bill No. 184, enacted by the 76th Legislature, Regular Session, to take effect only if the constitutional amendment proposed by Senate Joint Resolution No. 16 is approved by the voters, provides that the additional bonds authorized by the constitutional amendment are to be administered under the existing Hinson-Hazelwood College Student Loan Program. Under Section 52.82, Education Code, not more than $100 million in bonds may be issued under the program in a single fiscal year.

Arguments For:

1. Widespread college attendance, producing a well-educated, productive workforce, is essential to the continued health of the state's economy. The state thus has a direct interest in promoting college attendance by ensuring that adequate student loans are available at the favorable interest rates accessible to the state.

2. The need for student loans is increasing because of tuition and fee increases designed to require a student to bear a greater percentage of the actual cost of a higher education. Authorizing additional bonds for student loans is a reasonable method of moderating the effect of these tuition and fee increases so that higher education remains accessible to all Texans.

Arguments Against:

1. Providing student loans is properly a function of the private financial sector. For the state to provide public loans in competition with the private sector at favorable interest rates available only to the state is inappropriate in the absence of a clear indication that the private sector is unable to meet loan demand.

2. Although the student loan program has historically been self-supporting, there is no guarantee that it will remain so. If declining economic conditions cause higher than average student loan default rates, or if other unanticipated shortages occur within the program, the state's general revenue may be required to meet the financial obligations of the bonds.

Text of S.J.R. No. 16: **SENATE AUTHOR:** Gonzalo Barrientos et al.
HOUSE SPONSOR: Bob Hunter

SENATE JOINT RESOLUTION

proposing a constitutional amendment providing for the issuance of general obligation bonds to finance educational loans to students.

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

SECTION 1. Article III, Texas Constitution, is amended by adding Section 50b-5 to read as follows:

Sec. 50b-5. 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 $400 million to finance educational loans to students. The bonds are in addition to those bonds issued under Sections 50b, 50b-1, 50b-2, 50b-3, and 50b-4 of this article.

(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 may not exceed the maximum rate provided 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 76th Legislature, Regular Session, 1999, is held or November 2, 1999. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment providing for the issuance of $400 million in general obligation bonds to finance educational loans to students."

Amendment No. 14 (H.J.R. No. 29)

Wording of Ballot Proposition:

The constitutional amendment authorizing the legislature to provide that a state board, commission, or other agency shall be governed by a board composed of an odd number of three or more members.

Analysis of Proposed Amendment:

The proposed amendment modifies and adds language to Section 30a, Article XVI, Texas Constitution, relating to the legislature's authority to set the number of board members for certain state agencies. The amendment requires that most state agencies that are governed by a multimember governing board whose members serve six-year terms be governed by a board composed of an odd number of members. The amendment also adds a temporary provision that gives the legislature two legislative sessions to identify and change affected boards to an odd number of members.

Background

Section 30, Article XVI, Texas Constitution, states that, as a general rule, public offices must have a term of office not to exceed two years. Section 30a (the subject of this proposed amendment) creates perhaps the most important exception to this general rule for state government by allowing the legislature to set six-year terms of office for members of most state boards. The constitution does not explicitly specify the number of members required or allowed on these boards, but does require that one-third of the board members be elected or appointed every two years. The one-third requirement is interpreted to mean that the board must be composed of a number of members that is a multiple of three. As a result, when the legislature wants to change the number of board members it must do so only in increments of three.

Under the proposed constitutional amendment, the members of a state board may serve six-year terms if the board is composed of an odd number of three or more members rather than being composed of members

in increments of three. The proposed amendment would provide an exception to this rule for state boards required by the constitution (as opposed to a statute). For constitutionally required boards, the legislature has a choice between a board with an odd number of members (3, 5, 7, etc.) and a board with a number of members that is a multiple of three (3, 6, 9, 12, etc.).

Arguments For:

1. By requiring an odd number of members on state boards, tie votes can be minimized.

2. The proposed amendment gives the legislature more flexibility with regard to the number of board members because increments of three are no longer required. This allows, for example, for efficient small boards of five or seven members. If the proposed amendment is not adopted, the only small boards the legislature may establish with six-year terms are boards with three or six members. Three-member and six-member boards have severe drawbacks. Tie votes are a problem with a six-member board. With a three-member board, if two board members informally discuss a matter with each other, the open meetings law is violated, unless they gave formal notice of their discussion and followed the procedures of that law, because the two members are a quorum of the three-member board and their discussion constitutes a meeting of a governmental body. That violation would occur even though another statute, such as the Administrative Procedure Act, allowed the discussion.

Arguments Against:

1. For many boards, especially large boards, having an odd number of members will not prevent many tie votes because all board members rarely show up for every meeting. In addition, if a member abstains from a vote (because of a conflict of interest or for any other reason), a tie vote could still occur.

2. The proposed amendment would be difficult to implement because it requires the legislature to identify and amend the statutes for dozens of state boards during two legislative sessions to achieve compliance with the change to the constitution. This would distract the legislature from dealing with other more important legislative business.

Text of H.J.R. No. 29: **HOUSE AUTHOR:** Pete Gallego
SENATE SPONSOR: Florence Shapiro

HOUSE JOINT RESOLUTION

proposing a constitutional amendment authorizing the legislature to provide that certain state boards, commissions, or other agencies shall be governed by a board composed of an odd number of three or more members.

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

SECTION 1. Section 30a, Article XVI, Texas Constitution, is amended to read as follows:

Sec. 30a. The Legislature may provide by law that the [~~members of the~~] Board of Regents of the State University and boards of trustees or managers of the educational, eleemosynary, and penal institutions of the State, and such boards as have been, or may hereafter be established by law, may be composed of an odd number of three or more members who serve for a [~~hold their respective offices for the~~] term of six (6) years, with one-third, or as near as one-third as possible, of the members of such boards to be elected or appointed every two (2) years in such manner as the Legislature may determine; vacancies in such offices to be filled as may be provided by law, and the Legislature shall enact suitable laws to give effect to this section. The Legislature may provide by law that a board required by this constitution be composed of members of any number divisible by three (3) who serve for a term of six (6) years, with one-third of the members elected or appointed every two (2) years.

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

TEMPORARY PROVISION. (a) This temporary provision applies to the amendment to Section 30a, Article XVI, of this constitution, proposed by the 76th Legislature, that provides that the governing body of a state agency may be composed of an odd number of three or more members. This provision expires September 1, 2005.

(b) The legislature shall provide by law for the change in composition of the governing body of a state agency that is composed in accordance with Section 30a, Article XVI, of this constitution, as added in 1912, but that is not composed in accordance with the amendment to that section. Laws enacted by the legislature under this subsection shall provide that the change in composition into a form allowed under this constitution will take place not later than September 1, 2003.

(c) The governing body of a state agency composed in accordance with Section 30a, Article XVI, of this constitution, as added in 1912, but that is not composed in accordance with the amendment to that section, may continue to act as the governing body until a quorum of the members of the governing body who take office under a law adopted under Subsection (b) of this section have qualified.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 2, 1999. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment authorizing the legislature to provide that a state board, commission, or other agency shall be governed by a board composed of an odd number of three or more members."

Amendment No. 15 (H.J.R. No. 36)

Wording of Ballot Proposition:

The constitutional amendment permitting spouses to agree to convert separate property to community property.

Analysis of Proposed Amendment:

The proposed amendment amends Section 15, Article XVI, Texas Constitution, by providing that spouses may agree in writing that all or part of either spouse's or both spouses' separate property shall be the spouses' community property.

Background

Section 15, Article XVI, Texas Constitution, addresses marital property. The section provides that all real and personal property owned or claimed by a spouse before marriage and acquired by gift or inheritance after marriage is the spouse's separate property. The central concept of the Texas marital property rights law known as the community property system is that all property acquired during a marriage, other than property specifically exempted by law, becomes the community or shared property of both spouses. This amendment to Section 15 would change some of the legal effects of the Texas community property system and create new procedures for departing from the system.

The notion of marital community property rights originated with Germanic tribes, was taken by conquering Goths to Spain and France, and was subsequently exported to Spanish and French colonies in the New World, where it was the law of Texas during the periods of both Spanish and Mexican rule. Texas adopted Spanish law when it became a republic in 1836 and elected to retain it with regard to land and slaves when a statute was enacted in 1840 adopting English common law as the general body of legal principles for all other purposes. The constitution adopted at the time Texas became a state applied the community property system to all property, real and personal, and that system has survived virtually intact to the present, except for some changes in management

and disposition of marital property as a result of statutes and judicial interpretations, the allowance of partition resulting from a 1948 constitutional amendment, and the allowance of the spouses after a 1980 constitutional amendment to agree that income or property arising from a spouse's separate property will be the separate property of that spouse. Eight other states (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Washington, and Wisconsin) determine rights in marital property through some variant of the community property system.

The community property system does not, of course, meet the perceived needs of all married Texans, and periodic attempts have been made to create alternative arrangements for the ownership, control, and disposition of marital property. One attempt held unconstitutional by the Texas Supreme Court resulted in the 1948 constitutional amendment authorizing partition of community property into separate property. In 1980, a constitutional amendment was approved that allowed spouses to agree that income from separate property would be separate property. This provision is now common in premarital and postmarital agreements. Most recently, in 1987, the constitution was amended to validate survivorship agreements between spouses with regard to community property.

Under current law, persons about to marry or spouses may, without the intent to defraud creditors, agree in writing to partition all or part of their property then existing or later acquired. The parties may also exchange between themselves the community interest of one party for the community interest of the other. The portion or interest set aside becomes the party's separate property. Also, the parties may agree in writing that income or property from a party's separate property shall be that spouse's separate property and the parties may agree that a spouse's community property becomes the property of the surviving spouse.

House Bill No. 734, the relevant parts of which become effective January 1, 2000, if the proposed constitutional amendment is approved by the voters, codifies the requirements of an agreement to convert separate property to community property. The agreement is required to be in writing and signed by the spouses, must identify the property being converted, must specify that the property is being converted to community

property, and is enforceable without consideration. The bill addresses the management, control, and disposition of the converted property as well as the rights of creditors in regard to the property. The agreement is not enforceable if a spouse proves that the spouse did not execute the agreement voluntarily or receive a fair and reasonable disclosure of the legal effect of converting the property to community property. The bill also contains wording that may be contained in the agreement in order to create a rebuttable presumption that a fair and reasonable disclosure was made with regard to the legal effect of the conversion.

These parts of House Bill No. 734 are contingent on the approval by the voters of House Joint Resolution No. 36. If the joint resolution is not approved by the voters, these parts of House Bill No. 734 will not become law.

Arguments For:

1. A system of marital property law should provide general rules for determining rights in property and then allow, as the amendment would do, considerable freedom for persons to make alternative property arrangements when they perceive doing so to be in their best interest.

2. The proposed constitutional amendment would authorize the conversion of separate property to community property just as community property may be converted to separate property under current law. This reciprocity would give Texas spouses more freedom in disposing of their separate property.

3. Prenuptial agreements that provide for conversion of certain community property to separate property are already allowed in Texas. The proposed amendment would accommodate the desire of some spouses to make the opposite conversion of separate property to community property. The conversion may only be made after a fair and reasonable disclosure of the legal consequences of converting the property. The enabling legislation for this amendment contains language similar to that already found in prenuptial agreements that creates a rebuttable presumption that each spouse received a fair and reasonable disclosure of the legal effects of converting separate property to community property.

Arguments Against:

1. The community property system has served the citizens of Texas well since the time of Spanish rule, providing a system of rights that promotes the welfare of the vast majority of spouses, and no compelling reasons have been given for altering the basic rules of the system. The principle that forms the basis of the community property system is that this property is built up by both spouses during the marriage. A spouse should be able to share only what is earned during the marriage and be protected from having the spouse's separate property converted.

2. The degree of departure from the community property system permitted by the amendment is so great that it could foster the creation of an entirely different system of marital property law in Texas. This would provide considerable confusion for both married persons and administrators of the law, who would be equally unfamiliar with the implications of the new system.

3. The conversion of separate property to community property could lead to unintended consequences. A spouse may voluntarily convert separate property to community property and then, after the conditions of the marriage change, regret that decision. On divorce, property that formerly belonged only to that spouse could be divided between the spouses. Also, the spouse may convert the spouse's property without full knowledge of the legal effects of the conversion. The specific language contained in the enabling legislation does create a rebuttable presumption of a fair and reasonable disclosure but that language is merely optional and not required to be contained in each agreement.

Text of H.J.R. No. 36: **HOUSE AUTHOR:** Toby Goodman
SENATE SPONSOR: Chris Harris

HOUSE JOINT RESOLUTION

proposing a constitutional amendment permitting the conversion of separate property to community property.

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

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

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

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1999. The ballot proposition shall be printed to provide for voting for or against the proposition: "The constitutional amendment permitting spouses to agree to convert separate property to community property."

Amendment No. 16 (H.J.R. No. 71)

Wording of Ballot Proposition:

The constitutional amendment to provide that certain counties shall be divided into a specific number of precincts.

Analysis of Proposed Amendment:

The proposed amendment amends Section 18(a), Article V, Texas Constitution, by revising the population requirements and other requirements that a county must use to determine the number of precincts in the county from which justices of the peace and constables will be elected. The proposed amendment also applies to Randall County the exception to the precinct requirements that the Texas Constitution provides for Chambers County.

Background

The Texas Constitution requires each county to be divided into a certain number of precincts based on the county's population as determined by the federal census. Each precinct is served by one or more elected justices of the peace and one elected constable.

The Texas Constitution prescribes, based on population, three categories of counties. Counties with a population of less than 18,000 must have one to four precincts; counties with a population of 18,000 or more but less than 30,000 must have two to five precincts; and counties with a population of 30,000 or more must have four to eight precincts. The proposed amendment increases the maximum number of precincts from five to eight for the second category of counties described above and expands the population bracket in the second and third categories of counties described above by changing the population figure from 30,000 to 50,000.

The Texas Constitution exempts Chambers County from the population-based precinct requirements described by Section 18(a), Article V, by establishing a separate precinct requirement for Chambers County.

Chambers County is required to have two to six precincts. The proposed amendment treats Randall County in the same manner as Chambers County.

The proposed amendment also requires counties that currently have four or more precincts to maintain a minimum of four precincts.

Arguments For:

1. Following the federal census in 2000, some counties with increased populations may be reclassified into new population categories and, as a result, will be required to add precincts and elect additional justices of the peace and constables to conform to constitutional requirements. The election of the additional justices of the peace and constables could create a financial burden for the affected counties. The proposed amendment changes the population requirements so that some counties will not be reclassified into new categories and, thus, will not incur those financial burdens.

2. The proposed amendment provides certain smaller counties with more flexibility by increasing the maximum number of precincts that those counties may choose to create.

Arguments Against:

1. Counties with increased populations need additional justices of the peace and constables to manage the corresponding increase in demand for services. The proposed amendment changes population requirements to allow certain counties to avoid meeting the increased demand for services and to avoid relieving the increased workloads in existing justice of the peace courts.

2. The proposed changes in the population brackets are premature. No changes should be made until the workload of existing justice of the peace courts is analyzed following the federal census in 2000.

Text of H.J.R. No. 71: **HOUSE AUTHOR:** Mark Homer et al.
SENATE SPONSOR: Bill Ratliff

HOUSE JOINT RESOLUTION

proposing a constitutional amendment to provide for the number of precincts that certain counties must create for justices of the peace and constables.

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

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

(a) Each county in the State with a population of 50,000 [~~30,000~~] or more, according to the most recent federal census, from time to time, for the convenience of the people, shall be divided into not less than four and not more than eight precincts. Each county in the State with a population of 18,000 or more but less than 50,000 [~~30,000~~], according to the most recent federal census, from time to time, for the convenience of the people, shall be divided into not less than two and not more than eight [~~five~~] precincts. Each county in the State with a population of less than 18,000, according to the most recent federal census, from time to time, for the convenience of the people, shall be designated as a single precinct or, if the Commissioners Court determines that the county needs more than one precinct, shall be divided into not more than four precincts. Notwithstanding the population requirements of this subsection, Chambers County and Randall County, from time to time, for the convenience of the people, shall be divided into not less than two and not more than six precincts. A division or designation under this subsection shall be made by the Commissioners Court provided for by this Constitution. Except as provided by [~~Subsection (c) of~~] this section, in each such precinct there shall be elected one Justice of the Peace and one Constable, each of whom shall hold his office for four years and until his successor shall be elected and qualified; provided that in a county with a population of less than 150,000, according to the most recent federal census, in any precinct in which there may be a city of 18,000 or more inhabitants, there shall be

elected two Justices of the Peace, and in a county with a population of 150,000 or more, according to the most recent federal census, each precinct may contain more than one Justice of the Peace Court. Notwithstanding the population requirements of this subsection, any county that is divided into four or more precincts on November 2, 1999, shall continue to be divided into not less than four precincts.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1999. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to provide that certain counties shall be divided into a specific number of precincts."

Amendment No. 17 (H.J.R. No. 58)

Wording of Ballot Proposition:

The constitutional amendment relating to the investment of the permanent university fund and the distribution from the permanent university fund to the available university fund.

Analysis of Proposed Amendment:

The proposed amendment amends Section 11b, Article VII, Texas Constitution, to authorize the board of regents of The University of Texas System to manage and invest the assets of the permanent university fund (PUF) by using the standards that prudent investors would exercise in light of the purposes and distribution requirements of the fund, considering the fund's total investment rather than a single investment. The change would replace the slightly narrower "prudent person" standard that bars speculation and focuses on the permanent disposition of the fund, considering probable income as well as probable safety of the capital of the fund.

The proposed amendment amends Section 18, Article VII, Texas Constitution, to allow the board of regents of The University of Texas System to determine permanent university fund (PUF) distributions to the available university fund (AUF) based on the total return on all PUF assets, including capital gains, rather than only dividends, interest, and other income. It would require annual distributions from the PUF to the AUF in any fiscal year to cover at least the amount needed to pay money due on bonds and notes pledged against the PUF's earnings, to provide a stable and predictable stream of annual distributions to the AUF, to maintain over time the purchasing power of PUF investments, and to preserve the purchasing power of the PUF investments in any rolling 10-year period. The amendment would limit the amount distributed from the PUF to the AUF in a fiscal year to seven percent of the PUF, except as needed to make required payments on bonds and notes. The resolution proposing the amendment passed the legislature without a single negative vote in either house.

The proposed amendment adds to the constitution a temporary provision, expiring January 1, 2030, that guarantees the payment of all amounts due on PUF-backed bonds issued under Section 18, Article VII, before January 1, 2000, notwithstanding the limits on distributions from the PUF to be imposed by the proposed amendment to Section 18, Article VII.

Background

The permanent university fund (PUF) is a public endowment that provides financial support to the University of Texas and Texas A&M University systems and to certain institutions in those systems primarily by providing revenue to repay bonds for capital improvements. Under Section 18, Article VII, as it currently reads, the principal of the fund, which includes all proceeds from mineral royalties, all capital gains on investments, and all money received from the sale of university lands, may not be spent. The income generated by the surface estate of university lands and the net income from interest and dividends on PUF investments make up the available university fund (AUF), which is divided annually between the two university systems.

The 1876 constitution created the PUF by setting aside land in West Texas for the purpose of creating an educational endowment for higher education institutions in the state. In 1931, the legislature authorized a split in the net income from PUF investments, with The University of Texas to receive two-thirds of the money and Texas A&M University to receive one-third. The universities could issue bonds against a percentage of the fund, not to exceed 20 percent for The University of Texas and 10 percent for Texas A&M University. In 1984, the constitution was amended to expand the number of institutions benefiting from the proceeds of the PUF bonding program. The institutions benefiting from the PUF now include The University of Texas at Arlington, The University of Texas at Austin, The University of Texas at Dallas, The University of Texas at El Paso, The University of Texas of the Permian Basin, The University of Texas at San Antonio, The University of Texas at Tyler, The University of Texas Southwestern Medical Center at Dallas, The University of Texas

Medical Branch at Galveston, The University of Texas Health Science Center at Houston, The University of Texas Health Science Center at San Antonio, The University of Texas M. D. Anderson Cancer Center, The University of Texas Health Center at Tyler, Texas A&M University, Prairie View A&M University, Tarleton State University, and Texas A&M University at Galveston.

As a result of the constitutional prohibition against the distribution of capital gains from the PUF, the value of the PUF has grown much faster than required to maintain its purchasing power, since many of the most productive investments of the PUF are in stocks and similar assets that have grown substantially in market value over the years. While the corpus of the PUF has grown much faster than the rate of inflation, the income distributed to the AUF to fund capital improvements has failed to keep up with the demand for facilities at the institutions that benefit from the PUF. The legislature has met some of the demand by authorizing construction bonds backed by student tuition rather than PUF income. In recent years, the board of regents of The University of Texas System has limited the issuance of PUF-backed bonds to critical needs.

In 1996, the state auditor issued a report concluding that the constitutional restriction on the distribution of capital gains and the required distribution of ordinary investment income from the PUF to the AUF impair the ability of the board of regents to optimize the PUF's long-term performance. The auditor noted that a constitutional amendment eliminating those restrictions would provide more flexibility in attempting to maximize both long-term growth in the corpus of the PUF and the distributions to the AUF.

Arguments For:

1. Adoption of the amendment would modernize the investment and spending principles of the PUF and the AUF. The current provisions of the Texas Constitution actually inhibit the ability of the board of regents to preserve the purchasing power of the PUF. The provisions prohibiting the distribution of realized and unrealized gains in PUF assets were appropriate when the only eligible investments for the PUF cash assets

were public securities and interest-bearing accounts. Those provisions fail to take into account that today much of the increase in the value of a fund comes in the form of capital gains. The proposal balances the authority for the distribution of a portion of capital gains with safeguards that include limiting the distributions to seven percent of the corpus per year and prohibiting a distribution if it would decrease the value of the corpus. The more flexible investment standard proposed by the amendment would enable the board to take advantage of more sophisticated investment strategies that have proven to be effective for similar endowments, such as Harvard University's permanent endowments.

2. Allowing a portion of capital gains to be distributed from the PUF would vastly increase the amount of money available to the AUF to support construction and renovation of facilities and acquisition of equipment at the universities that benefit from PUF funding. The Legislative Budget Board estimates that the amendment would allow distributions to the AUF to increase by $33.6 million in fiscal year 2000 and by up to $49.75 million by fiscal year 2004. The additional revenue will reduce pressure to increase tuition and fees to support facilities bonds and will allow the universities to maintain adequate campuses. It is unwise to defer needed maintenance and construction at state universities as is now happening: restoring or replacing deteriorating facilities later is ultimately more expensive than routine maintenance, and deferring new construction undermines academic excellence and the quality of the state's educational system.

Argument Against:

1. The current pattern for investment and distributions has contributed to sustained growth for both the PUF and AUF. While the amendment would provide protections and conditions for distributing capital gains to the AUF to protect the corpus of the PUF, the state should err on the side of preserving and expanding the corpus of the endowment by retaining and reinvesting capital gains and continuing to distribute only dividends and other income.

Text of H.J.R. No. 58: **HOUSE AUTHOR:** Robert Junell et al.
SENATE SPONSOR: Bill Ratliff

HOUSE JOINT RESOLUTION

proposing a constitutional amendment relating to the investment of the permanent university fund and to distributions from that fund to the available university fund.

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

SECTION 1. Section 11b, Article VII, Texas Constitution, is amended to read as follows:

Sec. 11b. Notwithstanding any other provision of this constitution, in managing the assets of the permanent university fund, the Board of Regents of The University of Texas System may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions it establishes and in amounts it considers appropriate, any kind of investment, including investments in the Texas growth fund created by Article XVI, Section 70, of this constitution, that prudent investors, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment [~~persons of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the circumstances then prevailing, acquire or retain for their own account in the management of their affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. This section does not affect the custodial responsibilities of the comptroller of public accounts for public funds, securities, and other evidences of investment~~].

SECTION 2. Section 18, Article VII, Texas Constitution, is amended by amending Subsection (e) and adding Subsection (f) to read as follows:

(e) The available university fund consists of the distributions made to it from the total return on all investment assets of [~~dividends, interest and other income from~~] the permanent university fund, [~~(less administrative expenses)~~] including the net income attributable to the surface of permanent university fund land. The amount of any distributions to the available university fund shall be determined by the board of regents of The University of Texas System in a manner intended to provide the available university fund with a stable and predictable stream of annual distributions and to maintain over time the purchasing power of permanent university fund investments and annual distributions to the available university fund. The amount distributed to the available university fund in a fiscal year must be not less than the amount needed to pay the principal and interest due and owing in that fiscal year on bonds and notes issued under this section. If the purchasing power of permanent university fund investments for any rolling 10-year period is not preserved, the board may not increase annual distributions to the available university fund until the purchasing power of the permanent university fund investments is restored, except as necessary to pay the principal and interest due and owing on bonds and notes issued under this section. An annual distribution made by the board to the available university fund during any fiscal year may not exceed an amount equal to seven percent of the average net fair market value of permanent university fund investment assets as determined by the board, except as necessary to pay any principal and interest due and owing on bonds issued under this section. The expenses of managing permanent university fund land and investments shall be paid by the permanent university fund.

(f) Out of one-third of the annual distribution from the permanent university fund to the available university fund, there shall be appropriated an annual sum sufficient to pay the principal and interest due on the bonds and notes issued by the Board of Regents of The Texas A&M University System under this section and prior law, and the remainder of that one-third of the annual distribution to the available university fund shall be appropriated to the Board of Regents of The Texas A&M

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

SECTION 3. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) The amendment of Section 18, Article VII, of this constitution adopted in 1999 does not impair any obligation created by the issuance of bonds or notes in accordance with that section before January 1, 2000, and all outstanding bonds and notes validly issued under that section remain valid, enforceable, and binding and shall be paid in full, both principal and interest, in accordance with their terms and from the sources pledged to their payment. In order to ensure that the amendment of that section does not impair any obligation created by the issuance of those bonds and notes, there shall be distributed from the income, investment returns, or other assets of the permanent university fund to the available university fund during each fiscal year an amount at least equal to the amount necessary to pay the principal and interest due and owing during the fiscal year on those bonds and notes.

(b) This section expires January 1, 2030.

SECTION 4. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1999. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment relating to the investment of the permanent university fund and the distribution from the permanent university fund to the available university fund."