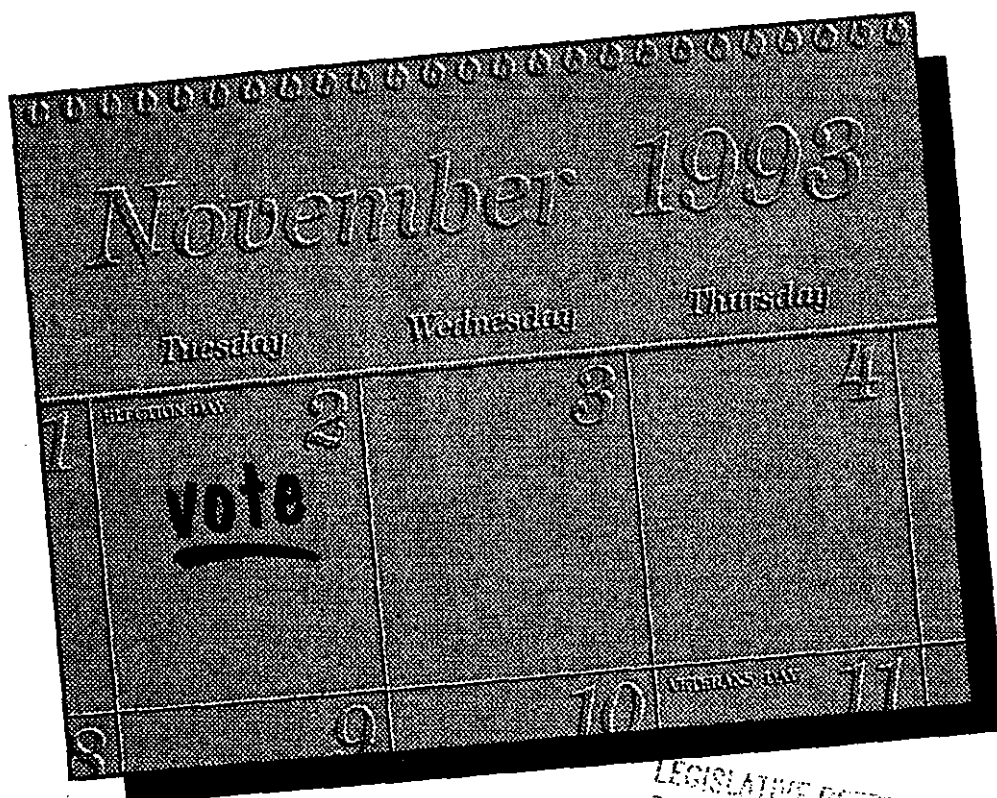


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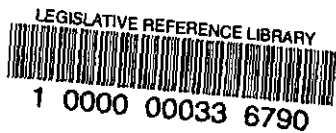
Analyses of Proposed Constitutional Amendments

November 2, 1993, Election



Texas Legislative Council
October 1993

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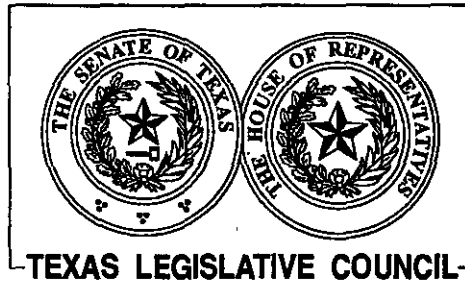
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Analyses of Proposed Constitutional Amendments

November 2, 1993, Election



Prepared by the Staff
of the
Texas Legislative Council

Published by the
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Austin, Texas

Lieutenant Governor Bob Bullock, Chairman
Speaker James E. "Pete" Laney, Vice Chairman
Robert I. Kelly, Executive Director
October 1993

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INTRODUCTION

GENERAL INFORMATION

In the 1993 regular session, the 73rd Texas Legislature passed 18 joint resolutions proposing 19 constitutional amendments. Three of the proposed amendments were offered for voter ratification on a May 1, 1993, election ballot, with the remaining 16 propositions to be offered for ratification on the November 2, 1993, 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 October 1993, the state's constitution has been amended 339 times, from a total of 505 amendments submitted to the voters for their approval. The 16 amendments on the November 2, 1993, election ballot bring the total number of amendments submitted to 521. The following table lists the years in which constitutional amendments have been proposed by the Texas Legislature, the number of amendments proposed, and the number of those adopted. The year of the vote is not reflected in the table.

TABLE 1876 CONSTITUTION AMENDMENTS PROPOSED AND ADOPTED					
year proposed	number proposed	number adopted	year proposed	number proposed	number adopted
1879	1	1	1943	3**	3
1881	2	0	1945	8	7
1883	5	5	1947	9	9
1887	6	0	1949	10	2
1889	2	2	1951	7	3
1891	5	5	1953	11	11
1893	2	2	1955	9	9
1895	2	1	1957	12	10
1897	5	1	1959	4	4
1899	1	0	1961	14	10
1901	1	1	1963	7	4
1903	3	3	1965	27	20
1905	3	2	1967	20	13
1907	9	1	1969	16	9
1909	4	4	1971	18	12
1911	5	4	1973	9	6
1913	8*	0	1975	12‡	3
1915	7	0	1977	15	11
1917	3	3	1978	1	1
1919	13	3	1979	12	9
1921	5**	1	1981	10	8
1923	2†	1	1982	3	3
1925	4	4	1983	19	16
1927	8**	4	1985	17**	17
1929	7**	5	1986	1	1
1931	9	9	1987	28**	20
1933	12	4	1989	21**	19
1935	13	10	1990	1	1
1937	7	6	1991	15	12
1939	4	3	1993	19**	(a)
1941	5	1			

TOTAL PROPOSED 521 — TOTAL ADOPTED 339

NOTES

- * Eight resolutions were approved by the legislature, but only six were actually submitted on the ballot; one proposal that included two amendments was not submitted to the voters.
- ** Total reflects two amendments that were included in one joint resolution.
- † Two resolutions were approved by the legislature, but only one was actually submitted on the ballot.
- ‡ Total reflects eight amendments that would have provided for an entire new Texas Constitution and that were included in one joint resolution.
- (a) Three amendments approved by the 73rd Legislature during the 1993 regular session appeared on the May 1, 1993, election ballot, but none were adopted. The remaining 16 amendments will appear on the November 2, 1993, election ballot.

WORDING OF BALLOT PROPOSITIONS

The ballot wording of a proposal to amend the state constitution is prescribed in the joint resolution adopted by the legislature that authorizes the submission of the proposed amendment to the voters for ratification. The wording of the ballot propositions offered at the November 2, 1993, election is provided below.

AMENDMENT NO. 1

The constitutional amendment authorizing the legislature to provide for the issuance of \$50 million of general obligation bonds for the recovery and further development of the state's economy and for increasing job opportunities and other benefits for Texas residents through state financing of the start-up costs of historically underutilized businesses.

AMENDMENT NO. 2

The constitutional amendment to promote the reduction of pollution and to encourage the preservation of jobs by authorizing the exemption from ad valorem taxation of real and personal property used for the control of air, water, or land pollution.

AMENDMENT NO. 3

The constitutional amendment providing for the clearing of land titles by the release of a state claim in a fractional interest, arising out of the voiding of an interest under a Mexican land grant, to the owners of certain property in Fort Bend and Austin counties.

AMENDMENT NO. 4

The constitutional amendment prohibiting a personal income tax without voter approval and, if an income tax is enacted, dedicating the revenue to education and limiting the rate of local school taxes.

AMENDMENT NO. 5

The constitutional amendment to allow the legislature to prescribe the qualifications of sheriffs.

AMENDMENT NO. 6

The constitutional amendment abolishing the office of county surveyor in Jackson County.

AMENDMENT NO. 7

The constitutional amendment repealing certain restrictions on the ability of corporations to raise capital.

AMENDMENT NO. 8

The constitutional amendment to abolish the office of county surveyor in McLennan County.

AMENDMENT NO. 9

The constitutional amendment to modify the provisions for the redemption of real property sold at a tax sale.

AMENDMENT NO. 10

The constitutional amendment authorizing issuance of \$750 million in general obligation bonds to augment the Veterans' Land Fund and the Veterans' Housing Assistance Fund and to fund the Veterans' Housing Assistance Fund II.

AMENDMENT NO. 11

The constitutional amendment providing that the trustees of a local public pension system must administer the system for the benefit of the system's participants and beneficiaries.

AMENDMENT NO. 12

The constitutional amendment permitting the denial of bail to certain persons charged with certain violent or sexual offenses committed while under the supervision of a criminal justice agency of the state or a political subdivision of the state.

AMENDMENT NO. 13

The constitutional amendment relating to the amount and expenditure of certain constitutionally dedicated funding for public institutions of higher education.

AMENDMENT NO. 14

The constitutional amendment authorizing the issuance of up to \$1 billion in general obligation bonds payable from the general revenues of the state for projects relating to facilities of corrections and mental health and mental retardation institutions.

AMENDMENT NO. 15

The constitutional amendment to permit the voters of a county to decide, at an election called by the commissioners court, whether to abolish the office of county surveyor in the county.

AMENDMENT NO. 16

The constitutional amendment authorizing up to a total of \$100 million in bonds and notes to be issued or sold to finance the Texas agricultural fund for providing financial assistance to develop, increase, improve, or expand the production, processing, marketing, or export of crops or products grown or produced primarily in this state by agricultural businesses domiciled in the state.

**ANALYSES
OF
PROPOSED AMENDMENTS**

AMENDMENT NO. 1

Senate Joint Resolution 9, proposing a constitutional amendment authorizing the legislature to provide for the issuance of bonds for the state financing of start-up costs for historically underutilized businesses. (SENATE AUTHOR: Eddie Lucio, et al.; HOUSE SPONSOR: Sylvia Romo)

The proposed amendment to Article XVI of the Texas Constitution adds Section 72, authorizing the legislature to establish a Texas historically underutilized business capital growth and start-up fund and to issue up to \$50 million in general obligation bonds. The proceeds of the bonds would be deposited in the fund and could be used only to finance a program established by the legislature to provide financial aid to assist the creation of historically underutilized businesses.

BACKGROUND

Although the proposed amendment does not define "historically underutilized businesses," the legislature probably intended to include businesses that are owned or operated by women or members of certain minority groups. Many of these businesses have been handicapped by discrimination, lack of funds, and geographic location. Although the term is new to Texas law, some statutory programs to assist this type of business exist in current law. For example, the Office of Small Business Assistance exists within the Texas Department of Commerce to provide various forms of general business assistance to businesses that the law defines as "disadvantaged businesses," which are similar to historically underutilized businesses (Subchapter G, Chapter 481, Government Code). The General Services Commission and other state agencies are directed to assist disadvantaged businesses in procuring state contracts (Sections 1.03, 1.04, and 5.36, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes)). The proposed amendment goes beyond these existing programs of aid to historically underutilized businesses by providing direct financial aid to those businesses. Although state law currently provides a number of programs of financial aid to

businesses, none is directed specifically at historically underutilized businesses. Examples of these financial aid programs are the Texas product development and small business incubator funds (Article XVI, Section 71, of the Texas Constitution) and the Texas growth fund (Article XVI, Section 70, of the Texas Constitution).

Enabling legislation for the proposed amendment has not been enacted by the legislature. Because the proposed amendment does not contain sufficient detail to make it self-enacting, its adoption would have no effect unless the legislature enacts enabling legislation in the future.

ARGUMENTS

FOR:

1. Historically underutilized businesses traditionally have been excluded from conventional financing sources for reasons unrelated to their creditworthiness or potential for success. The proposed amendment provides for an alternative source of financing specifically aimed at worthy businesses of the type that have suffered this discrimination.

2. Assisting historically underutilized businesses will benefit the entire state by providing economic development benefits, including the creation of new jobs and the collateral development of related businesses that supply and provide services to the aided businesses, and by increasing state tax receipts.

3. Because the legislature failed to adopt the legislation necessary to carry out the program authorized by this amendment, the legislature will likely consider the issue again when it next meets. A large affirmative vote for the proposed amendment will demonstrate the voters' support for assisting historically underutilized businesses and encourage the legislature to adopt strong enabling legislation.

AGAINST:

1. Because of the strong economic recovery of the state, especially of the state banking system, adequate private sources of financing are likely to be available for any business that has potential for success. If

so, the state should not take business away from private lenders or, in the alternative, should not finance business ventures that private lenders consider to be too risky.

2. The state has already authorized huge amounts of bonded indebtedness. Additional authorization of bonds could threaten the state's financial standing in the economic community and further violates the state's traditional policy against state debt.

3. Because the legislature failed to adopt the necessary enabling legislation for this amendment, the voters cannot know the details of the program they are authorizing by their vote. The proposal should not be adopted until the legislature has presented these details.

AMENDMENT NO. 2

House Joint Resolution 86, proposing a constitutional amendment to authorize the legislature to exempt real and personal property used for the control of air, water, or land pollution from ad valorem taxation. (HOUSE AUTHOR: Mark Stiles, et al.; SENATE SPONSOR: Kenneth Armbrister)

The proposed amendment adds a new Section 1-1 to Article VIII of the Texas Constitution to authorize the legislature to enact ad valorem tax relief for certain real and personal property that is used, constructed, acquired, or installed to meet or exceed environmental rules for the prevention, monitoring, control, or reduction of air, water, or land pollution.

BACKGROUND

The requirements of the Clean Air Act amendments of 1990 and of other federal, state, and local environmental protection laws will necessitate that Texas businesses—large and small—invest in pollution control property. Environmental compliance is an increasingly large part of the cost of doing business in this state, but the acquisition of pollution control property does not usually add to the profitability of a business.

Article VIII, Section 1, of the Texas Constitution provides that all real property and tangible personal property, unless exempt as required or permitted by the constitution, shall be taxed according to its market value. Exemptions from ad valorem taxation that are not authorized by the Texas Constitution are void. The Texas Constitution does not currently exempt or authorize the legislature to exempt pollution control property from ad valorem taxation. Accordingly, the proposed constitutional amendment would authorize the legislature to exempt from ad valorem taxation pollution control property that would otherwise be taxable on or after January 1, 1994.

House Bill 1920, also approved by the 73rd Legislature, Regular Session, 1993, and contingent on the adoption of the constitutional amendment proposed by House Joint Resolution 86, provides for the exemptions authorized by the proposed constitutional amendment.

ARGUMENTS

FOR:

1. Property tax relief for pollution control property will encourage compliance with environmental laws. It is unfair to tax businesses on pollution control property they are required by law to acquire and install.
2. Approximately 32 other states already offer similar property tax incentives. Without this inducement, new businesses will be less willing to come to Texas, and businesses in Texas will be motivated to relocate to other states. The positive economic effect of this tax incentive will benefit the overall economy of the state, as well as the economies of individual locales. The benefits will be shared by every Texan.
3. Pollution control property that is currently taxed will not be taken off of the tax rolls. Only property that would be taxable for the first time on or after January 1, 1994, may qualify for the exemption.

AGAINST:

1. Environmental laws have been enacted because business has been reluctant to expend the funds necessary to control pollution in the first place. A business should not be allowed to require other taxpayers to pay to fix environmental problems that the business creates.
2. Businesses locate in a state for many reasons. The many incentives that Texas already offers to new and existing businesses and the state's excellent business climate are adequate to keep Texas competitive in attracting and retaining businesses. A business that has a large capital investment in Texas will not likely close down or move out of state if the proposed amendment is rejected.

3. In the future, businesses will have to install new pollution control property because of the technological obsolescence of existing pollution control property and to come into compliance with new environmental regulations. If the amendment is approved, at some point in the future much, if not most, pollution control property in the state will not be on the tax rolls. To make up for the loss to their tax bases, taxing jurisdictions will be forced to raise property taxes on residential and other commercial property, to impose new taxes, or both.

AMENDMENT NO. 3

House Joint Resolution 3, proposing a constitutional amendment providing for the clearing of land titles by the release of a state claim in a fractional interest, arising out of the voiding of an interest under a Mexican land grant, to the owners of certain property in Fort Bend and Austin counties. (HOUSE AUTHOR: Robert Saunders, et al.; SENATE SPONSOR: Kenneth Armbrister)

The proposed amendment amends Article VII of the Texas Constitution by adding Section 2A. With this amendment, the State of Texas relinquishes and releases any claim of sovereign ownership or title to an undivided one-third interest in lands within the Shelby, Frazier, and McCormick League in Fort Bend and Austin counties, including mineral rights as well as surface rights.

BACKGROUND

The constitutional amendment is designed to clear the title of landowners in the Shelby, Frazier, and McCormick League, located in Austin and Fort Bend counties. An original grant of the full league of land was made by Stephen F. Austin in 1824 under the Mexican colonization laws to three men: Shelby, Frazier, and McCormick. John McCormick subsequently abandoned the colony, and his one-third interest in the land was voided by the governing council of Austin's original colony and returned to the sovereign by that council. The state maintains that this action was validated by the Texas Supreme Court in the case of Marsh v. Weir, 21 Tex. 97 (1858). McCormick's interest was never subsequently granted out or separated from sovereign ownership by Mexico, the Republic of Texas, or the State of Texas, but until recently this title question was not raised, and private landowners bought and sold the land, paid taxes on it, and made improvements to it as if they owned the land in its entirety, not just a two-thirds interest.

Arguments have been made that McCormick did not abandon his one-third interest in the land but gave it to Shelby, and that the state would have listed the land as available for regranting if McCormick had

abandoned his interest. It has also been argued that the Marsh case does not uphold the state's position on reversion.

The state regards the one-third interest in the land at issue to be part of the permanent school fund, overseen by the General Land Office, because in 1900 all unpatented Texas land not held or dedicated for other purposes was dedicated to the school fund. While the state has no particular interest in stripping the landowners of a one-third interest in their land, it does not have the discretion to release its claim without a constitutional amendment.

ARGUMENTS

FOR:

1. This constitutional amendment is necessary to clear the title to land held by innocent purchasers and their successors. Those owners purchased the land in good faith and should not have to buy it again because of a dispute over events that occurred more than 150 years ago. The amendment will remove a major defect in the title of the landowners and allow sales, partitions, financings, and crop loans to be made and closed.

2. This amendment will save the taxpayers money over the long term. Although the state and counties incur the costs of putting the proposed amendment on the ballot, the costs of litigating over the title with each of the landowners are potentially far greater.

3. This amendment is limited to specific land and will have no impact on any other land dispute involving the state.

AGAINST:

1. Instead of requiring the voters of Texas to judge land title disputes affecting relatively few landowners, an ongoing mechanism should be established to settle these disputes with the state without the expense of a constitutional amendment election. Similar amendments to remove clouds on land titles had to be placed on the statewide ballot in 1981 and 1991.

AMENDMENT NO. 4

Senate Joint Resolution 49, proposing a constitutional amendment prohibiting a personal income tax without voter approval and dedicating the proceeds of the tax, if enacted, to education and property tax relief. (SENATE AUTHOR: John Montford, et al.; HOUSE SPONSOR: Mark Stiles)

The proposed constitutional amendment amends Article VIII of the Texas Constitution by amending Section 1(c) and adding Section 24.

The amendment to Section 1(c) provides that the legislature's authority to impose income taxes is subject to the restrictions of added Section 24 of Article VIII. Section 24 provides that a general law that enacts or increases the rate of the tax or otherwise changes the tax in a manner that results in an aggregate increase in income tax liability of persons subject to the tax may not take effect until approved by the voters in a statewide referendum. The section also provides that not less than two-thirds of the net revenues of the tax must be used to reduce school district property tax rates and to provide continued tax relief. Finally, the section provides that a school district's maximum allowable property tax rate is decreased by the same amount that the tax is reduced through using revenue from the income tax. The voters of a school district may, however, subsequently vote to increase the district's tax rate.

BACKGROUND

Article VIII, Section 1(c), of the Texas Constitution authorizes the legislature to impose a personal income tax. The current constitution does not address how a personal income tax may be enacted or how that money might be used.

ARGUMENTS

FOR:

1. Presently, a personal income tax may be enacted by majority vote of each house of the legislature. The constitutional amendment will give the people of Texas a veto over the establishment of a personal

income tax. The idea is not new, in that the legislature has previously authorized the voters to approve or veto controversial matters such as whether to establish a state lottery, authorize horse and greyhound racing, and permit liquor by the drink. Because imposition of a personal income tax is a radical change in state policy that will personally affect every Texan, the voters should be able to participate directly in the decision-making process.

2. The constitutional amendment, if enacted, will provide that money from a personal income tax will go to support public education and to reduce school property taxes. This dedication is appropriate because school funding and high property taxes are the most pressing issues currently facing the state.

3. Dedication of the revenue from a personal income tax to the reduction of property taxes would reduce the tax burden of many businesses in the state and, therefore, make Texas more attractive for the location or relocation of businesses.

AGAINST:

1. Adoption of the constitutional amendment will actually make the enactment of a personal income tax easier. Dedication of the revenue will make the proposal more attractive to the voters even though the dedication itself does not ensure more spending for education, and voter approval may provide an excuse for the members of the legislature to vote for an income tax.

2. The revenue from a personal income tax should never be dedicated. There is no guarantee that the money will not be needed for another state function such as law enforcement or health care. Dedicating the revenue will further reduce the legislature's ability to respond to changing needs and economic conditions.

3. Dedicating not less than two-thirds of income tax revenue to property tax relief will limit the amount of money that is available to be used to improve education and equalize local funding. The dedication also misdirects tax relief because the majority of the property tax relief would not go to individuals who are paying the personal income tax but to business, which pays about 60 percent of all property taxes.

AMENDMENT NO. 5

Senate Joint Resolution 18, proposing a constitutional amendment allowing the legislature to prescribe the qualifications of sheriffs. (SENATE AUTHOR: Carl Parker; HOUSE SPONSOR: Mark Stiles)

The proposed amendment to Article V, Section 23, of the Texas Constitution authorizes the legislature to prescribe the qualifications of sheriffs.

BACKGROUND

Article V, Section 23, of the Texas Constitution provides that the voters of each county shall elect a sheriff and that the legislature shall prescribe the perquisites, fees of office, and duties of sheriffs. It is not clear whether the legislature may also prescribe the qualifications of sheriffs without express constitutional authorization. While the legislature's general power to enact a law is limited only by express or necessarily implied constitutional limitations, the courts could hold that there is an implied constitutional limitation on the power of the legislature to prescribe the qualifications of sheriffs because the office of sheriff is a constitutional elective office and the courts generally disfavor restrictions on eligibility to run for office.

Senate Bill 339 is the enabling legislation for this constitutional amendment. By its own terms Senate Bill 339 will take effect only if the constitutional amendment is approved by the voters. Senate Bill 339 provides that a person who becomes a sheriff for the first time after the constitutional amendment takes effect must:

(1) have a high school diploma or a high school equivalency certificate;

(2) be eligible under the minimum age and no-felony-conviction requirements for licensure by the Commission on Law Enforcement Officer Standards and Education, the state agency that licenses peace officers; and

(3) become licensed by the Commission on Law Enforcement Officer Standards and Education within two years after taking office.

ARGUMENTS

FOR:

1. The sheriff is the head of county law enforcement, and in that capacity the sheriff must have good moral character and much technical and other specialized knowledge. The public welfare and safety requires that the legislature be able to ensure that candidates for the position of sheriff possess certain minimum qualifications.

2. There is no need to fear that qualifications will be set at an unnecessarily strict level for some counties. The qualifications that will take effect under the implementing statute, Senate Bill 339, are basic minimum qualifications that are appropriate for all counties. Furthermore, in setting the qualifications for sheriffs, the legislature is not prevented from tailoring the qualifications to the needs of different categories of counties if that action becomes necessary. For example, the legislature could establish different qualifications for sheriffs in rural and urban counties.

AGAINST:

1. There is a good reason that the courts disfavor restrictions on eligibility to run for office. In a democracy, the people should be able to elect whom they please.

2. Some counties in the state are sparsely populated rural counties. The qualifications that should be required of sheriffs in those counties are very different from the qualifications that should be required of the sheriffs in the urban counties. Under the proposed constitutional amendment, there is too great of a likelihood that one set of qualifications, which are stricter than necessary for those rural counties, will be established for all sheriffs. As a result, those rural counties may have trouble finding candidates who have the qualifications for the sheriff's office.

AMENDMENT NO. 6

House Joint Resolution 21, proposing a constitutional amendment relating to the abolition of the office of county surveyor in Jackson County. (HOUSE AUTHOR: Steve Holzheuser; SENATE SPONSOR: Kenneth Armbrister)

The proposed amendment to Article XVI, Section 44, of the Texas Constitution would add Subsection (h), which would abolish the office of county surveyor in Jackson County. The functions of the county surveyor would be transferred to a county officer or county employee designated by the commissioners court of Jackson County.

The abolition of the county surveyor's office in Jackson County takes effect if the amendment is adopted at the statewide election. No subsequent approval by the voters of Jackson County is required.

BACKGROUND

Article XVI, Section 44, of the Texas Constitution currently requires the legislature to prescribe the functions and provide for the election of a county surveyor in each county. The surveyor's functions are defined primarily by Chapter 23, Natural Resources Code, and consist mainly of keeping a record of surveys made in the county.

Since 1985, two separate constitutional amendments to Section 44 have resulted in the abolition of the office of county surveyor in 13 counties. In each of those counties, the functions of the abolished office may be transferred to a person employed or designated by the commissioners court of that county.

ARGUMENTS

FOR:

1. By abolishing the office of county surveyor and transferring the functions of the office to other persons, more efficient management of county business will be accomplished and county revenue will be saved.

2. Because the office of county surveyor performs no policy-making functions, the need for an elected surveyor responsive to a constituency is minimal. Elimination of this largely administrative position from the county ballot will simplify and shorten lengthy ballots.

AGAINST:

1. Although county government may need streamlining and reorganization, the piecemeal approach taken by this proposed amendment is not the answer. This approach has led to, and will continue to lead to, a rash of attempted constitutional amendments as even more counties seek to carve out individual exceptions for themselves. The proposed amendment is the third of its kind to be submitted to the voters in the last eight years. Thirteen exceptions to the county surveyor requirement have been created already, and now the November ballot contains two more counties that would be excepted from the county surveyor requirement. A thorough statewide study should precede any further attempt to alter this county office.

2. The office of county surveyor is an elective office. By permitting the abolition of this office, the voters of a county will lose a measure of their control over certain affairs of county government.

AMENDMENT NO. 7

House Joint Resolution 57, proposing a constitutional amendment repealing certain restrictions on the ability of corporations to raise capital. (HOUSE AUTHOR: Anna Mowery; SENATE SPONSOR: O. H. "Ike" Harris)

The proposed amendment would repeal existing Article XII, Section 6, of the Texas Constitution, which provides that "No corporation shall issue stock or bonds except for money paid, labor done or property actually received, and all fictitious increase of stock or indebtedness shall be void."

BACKGROUND

Article XII, Section 6, of the Texas Constitution was adopted in 1875 in response to stock watering (issuing stock for less than full payment), then a common business practice among large corporations. For example, one corporation issued \$3,500 of stock for every \$1,000 that was invested in the corporation. That action defrauded those stockholders who had paid full value for their shares and misled creditors who relied on the stated capital of a corporation in extending credit. Scandals involving stock watering were partly responsible for the Panic of 1873, which resulted in an economic depression. At that time, the U.S. Congress did little to ban stock watering or control fraudulent corporate practices, so Texas and other southern states enacting post-Reconstruction constitutions included a provision outlawing stock watering.

ARGUMENTS

FOR:

1. This constitutional provision is obsolete. Creditors and shareholders are protected against the abuses this provision was intended to prevent by current laws regulating securities and business associations. The Business Corporation Act, Insurance Code, and Texas Banking Code contain detailed rules on stock issuance, as do modern accounting principles and federal securities regulations.

2. This provision unnecessarily restricts the ability of Texas businesses to raise capital. Businesses often desire to issue stock or debt for other types of interests that do not fit within the provision's categories of assets. For example, a corporation needing to conserve corporate cash may offer a prospective key employee stock in order to attract the employee to the company. Issuing this stock would be barred by Article XII, Section 6, because the employee has not yet performed services that constitute "labor done." Promissory notes may be prohibited under this provision if they are not considered "property actually received."

3. The constitutional provision prevents Texas from enacting certain other modern legislation involving stock issuance that other states have adopted to give corporations more financial flexibility, all within the context of current securities regulation.

AGAINST:

1. No apparent opposition emerged when repeal of this provision was considered by the state legislature. However, litigation may still be filed under this provision which may serve as an additional protection to stockholders and creditors of corporations.

2. Several other states have similar constitutional provisions. The protection offered to shareholders and creditors of corporations by a constitutional provision is more difficult to modify or terminate than protection offered by a statute or a regulation. The constitutional protection may provide potential shareholders and creditors more of a feeling of security, thereby raising the prospect of additional funding.

3. This provision offers the type of protection that shareholders and creditors need to prevent a corporation that is in poor financial condition from offering excessive compensation to lure a high-profile executive or entering into a risky scheme to raise capital quickly to the detriment of its shareholders and creditors.

AMENDMENT NO. 8

House Joint Resolution 22, proposing a constitutional amendment relating to the abolition of the office of county surveyor in McLennan County. (HOUSE AUTHOR: Kip Averitt; SENATE SPONSOR: David Sibley)

The proposed amendment to Article XVI, Section 44(e), of the Texas Constitution would provide for the abolition of the office of county surveyor in McLennan County. The functions of the county surveyor would be transferred to a person the commissioners court of the county employs or to a person with whom the county may contract. The maps, field notes, and other records of an abolished county surveyor's office would be transferred to the county clerk of the county.

The abolition of the county surveyor's office in McLennan County takes effect if the amendment is adopted at the statewide election and if the abolition is approved at a separate election by the voters in the county. The commissioners court of McLennan County may call the separate election.

BACKGROUND

Article XVI, Section 44, of the Texas Constitution currently requires the legislature to prescribe the functions and provide for the election of a county surveyor in each county. The surveyor's functions are defined primarily by Chapter 23, Natural Resources Code, and consist mainly of keeping a record of surveys made in the county.

Since 1985, two separate constitutional amendments to Section 44 have resulted in the abolition of the office of county surveyor in 13 counties. In each of those counties, the functions of the abolished office may be transferred to a person employed or designated by the commissioners court of that county.

ARGUMENTS

FOR:

1. By abolishing the office of county surveyor and transferring the functions of the office to other persons, more efficient management of county business will be accomplished and county revenue will be saved.
2. Because the office of county surveyor performs no policy-making functions, the need for an elected surveyor responsive to a constituency is minimal. Elimination of this largely administrative position from the county ballot will simplify and shorten lengthy ballots.

AGAINST:

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

AMENDMENT NO. 9

Senate Joint Resolution 19, proposing a constitutional amendment to modify the provisions for the redemption of real property sold at a tax sale. (SENATE AUTHORS: Rodney Ellis, John Leedom; HOUSE SPONSOR: Robert Eckels)

The proposed amendment to Article VIII, Section 13, of the Texas Constitution affirms that the right of redemption is available in all tax foreclosure sales by repealing a requirement that the legislature provide for the sale without the necessity of a suit in court of land and other property for delinquent taxes.

For a residence homestead or agricultural land that is sold for unpaid taxes, the amendment maintains the existing guarantee that the former owner may redeem the property within two years of the date the purchaser's deed is filed for record. To redeem the property, the former owner must pay the amount the purchaser at the tax sale paid for the property, including the tax deed recording fee and all taxes, penalties, interest, and costs paid, plus an amount not exceeding 25 percent of the aggregate total in the first year of the redemption period or 50 percent of the aggregate total in the second year. The amendment authorizes the legislature to limit the right to redeem a residence homestead or agricultural land sold pursuant to a delinquent tax suit to property used for residential or agricultural purposes when the suit was filed.

The amendment reduces the guaranteed redemption period for real property other than a residence homestead or agricultural land that is sold for unpaid taxes to six months from the date the purchaser's deed is filed for record. To redeem the property, the former owner must pay the amount paid for the property at the tax sale, including fees, taxes, penalties, interest, and costs, plus an amount not exceeding 25 percent of the aggregate total.

The amendment takes effect January 1, 1994, and applies to the redemption of real property sold at a tax sale for which the purchaser's deed is filed for record on or after that date.

BACKGROUND

As originally adopted, Article VIII, Section 13, of the Texas Constitution required the legislature to provide for the sale of land and other property for delinquent taxes. In 1932 the section was amended to require that the legislature provide for a tax sale “without the necessity of a suit in Court”. The legislature has never provided for nonjudicial foreclosure of a tax lien. Under current law, a taxing unit must bring suit before foreclosing the lien. In City of San Antonio v. Berry, 92 Tex. 319, 48 S.W. 496 (1898), the supreme court held that the constitutional right of redemption applies only to land sold at a summary sale and not land sold pursuant to a judicial foreclosure. Because the legislature has not enacted a law permitting summary sale of land for delinquent taxes, the Berry decision arguably renders ineffective the constitutional guarantee of a right of redemption. By repealing any reference to summary sales, the amendment clarifies that the right of redemption applies to any form of tax foreclosure.

This section originally authorized the former owner to redeem property within two years of the date of the purchaser’s deed by paying double the amount the purchaser at the tax sale paid for the property. The 1932 amendment to this section permitted the former owner to redeem property within two years of the date the purchaser’s deed was filed for record. If the land is redeemed within the first year of the redemption period, the former owner must pay the amount the purchaser paid for the land at the tax sale, including the tax deed recording fee and all taxes, penalties, interest, and costs paid, plus an amount not exceeding 25 percent of the aggregate total. In the second year of the redemption period, the former owner must pay the amount paid for the land plus an amount not exceeding 50 percent of the aggregate total. Under Section 34.21, Tax Code, a former owner seeking to redeem property must pay the maximum amount permitted under the constitution. The enabling act for the amendment, Chapter 349, Acts of the 73rd Legislature, Regular Session, 1993, which takes effect only if the amendment is approved by the voters, likewise requires the former owner to pay the maximum amount permitted.

ARGUMENTS

FOR:

1. The amendment eliminates the requirement that the legislature enact enabling legislation authorizing a tax sale without the necessity of a court order. For over 60 years the legislature has failed to enact legislation to that effect. The state has historically placed a high value on private property rights. A taxing unit should not be permitted to summarily foreclose on a person's property without first obtaining a court order authorizing the sale.

2. The amendment would encourage investors and developers to purchase commercial property at tax sales and permit taxing units to dispose of property more easily. Under current law, a purchaser at a tax sale must wait two years before obtaining clear title to property. If the purchaser improves the property and the former owner exercises the right of redemption, the improvements belong to the former owner. A prospective purchaser may be reluctant to purchase property and wait two years before undertaking improvements. By limiting the redemption period for commercial property to six months, the amendment will attract more bidders to tax sales. Taxing units will be spared the expense of maintaining unproductive property pending tax sales, obtain higher prices at tax sales, and be able to get property back onto the tax rolls more quickly.

3. The amendment will not affect the redemption period for a residence homestead or agricultural land. The redemption period for that land will remain two years.

AGAINST:

1. Current law does not provide for nonjudicial foreclosure of tax liens; it merely obligates the legislature to do so. Because the legislature has elected not to do so, no change in the law is needed to preclude taxing units from foreclosing on property without obtaining a court order.

2. From its inception, the Texas Constitution has provided for a two-year redemption period for property sold at a tax sale. A person

may fail to pay taxes because of personal financial difficulties or the economy or because the person was not notified in a timely manner that taxes were due. The right of redemption afforded by the constitution gives a property owner an extra measure of protection above and beyond the requirement of judicial foreclosure. Limiting the redemption period for commercial property to six months makes it more likely that a property owner will be permanently deprived of the person's property following a tax sale.

3. The amendment unfairly distinguishes between residence homesteads and agricultural land on the one hand and commercial property on the other hand. There is no principled basis for distinguishing between categories of property for purposes of the right of redemption.

AMENDMENT NO. 10

Senate Joint Resolution 34, proposing a constitutional amendment relating to bonds issued to augment the Veterans' Land Fund and the Veterans' Housing Assistance Fund, to fund the Veterans' Housing Assistance Fund II, and to provide financial assistance to veterans of the state. (SENATE AUTHOR: Jim Turner; HOUSE SPONSOR: David Counts)

The proposed amendment adds Section 49-b-2 to Article III of the Texas Constitution. The section authorizes the Veterans' Land Board to issue general obligation bonds of the state in an amount not to exceed \$750 million to provide financing to veterans of the state.

Two hundred fifty million dollars of the general obligation bonds are to be used to augment the Veterans' Land Fund. Money in the fund is to be used by the board to purchase land in the state for sale to veterans in quantities, on terms, at prices, and at rates of interest determined by the board in accordance with rules of the board. The principal of and interest on the bonds authorized for the benefit of the fund are to be paid out of the money in the fund.

Five hundred million dollars of the general obligation bonds are to be used for the Veterans' Housing Assistance Fund II. Money in the fund is to be used by the board to make home mortgage loans to veterans for housing in the state in quantities, on terms, and at rates of interest determined by the board in accordance with rules of the board. The principal of and interest on the bonds are to be paid out of the money in the fund.

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, there is appropriated out of the treasury an amount sufficient to pay the principal and interest.

Money in the Veterans' Land Fund, the Veterans' Housing Assistance Fund, or the Veterans' Housing Assistance Fund II that the board

determines is not required for the payment of the principal of and interest on the general obligation bonds may be temporarily transferred to another of those funds to avoid a temporary cash deficiency in that fund, transferred to another of those funds for the purposes of that fund, used to pay the principal of and interest on general obligation bonds issued to provide money for another of those funds, or used to pay the principal of and interest on revenue bonds of the board that are issued to provide funds to purchase land for sale to veterans or make home mortgage loans to veterans.

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.

The board may issue revenue bonds that are special obligations of the board, are 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 do not constitute indebtedness of the state or the board. The 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 bonds shall be issued and sold in forms and denominations, in the manner, on terms, at times and places, in installments, and bearing a rate or rates of interest as the board determines. The board's determinations with regard to the bonds are binding and conclusive.

The amendment is 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. Therefore, the amendment reposes in the legislature full power to implement the amendment, including the power to delegate the duties, responsibilities, functions, and authority to the board it believes necessary.

BACKGROUND

In 1946 the Veterans' Land Fund was created to provide eligible veterans with low-interest loans to buy land. In 1983 the Veterans' Housing Assistance Fund was created to provide veterans with low-interest loans to buy houses. The Veterans' Land Board is authorized to issue more than \$2 billion in general obligation bonds to provide loans to veterans. In addition, the board may issue revenue bonds that are special obligations of the board and are payable only from the receipts of the funds and do not constitute indebtedness of the state or the board. The land program may exhaust its bonding authority before the next likely opportunity for a constitutional amendment, while the housing program should exhaust its authorization this fall.

ARGUMENTS

FOR:

1. The additional authorization is needed to maintain the board's land and housing programs, which reward veterans for the sacrifices they have made for their country.

2. The programs pose virtually no financial risk to the state. Payments on loans to veterans are pledged to pay debt service on the bonds. The foreclosure rate on loans made by the board is low, and the proceeds of foreclosure sales remain within the programs. The programs have never had to rely on the general revenue of the state.

3. The additional bonds authorized by the amendment amount to such a small portion of the nationwide bond market that they would not drive up interest rates on other bonds or materially reduce federal tax collections.

AGAINST:

1. Veterans are already eligible for a variety of other benefits, including Veterans' Administration housing loans, college tuition assistance, and hiring preferences for state and federal civil service jobs. The state's debt burden should not be increased to duplicate programs that are otherwise available.

2. The proposed amendment would authorize a large and unwarranted increase in state debt. Debt service from general revenue has risen by over 20 percent annually since 1986, while general revenue collections have risen by less than 10 percent annually. If all bonds already authorized were issued, debt service would amount to 2.3 percent of estimated annual general revenue collections. The state cannot afford to issue any more debt.

3. Issuance of the bonds authorized by the amendment would crowd out borrowing by businesses and individuals and drive up interest rates. In addition, the bonds would exacerbate the already staggering federal deficit because interest on bonds issued by the state is exempt from federal income taxation.

AMENDMENT NO. 11

Senate Joint Resolution 31, proposing a constitutional amendment relating to the duties of trustees of local public pension systems. (SENATE AUTHOR: John Whitmire; HOUSE SPONSOR: Pat Haggerty, et al.)

The proposed amendment amends Article XVI, Section 67, of the Texas Constitution by adding Subsection (f) to require the board of trustees of a local public pension system (or program) that does not participate in a statewide public retirement system to administer the benefits provided by the local system, use the system's assets exclusively to pay benefits provided by the system and reasonable administrative expenses of the system, select legal counsel and an actuary for the system, and adopt sound actuarial assumptions to be used by the system.

BACKGROUND

Article XVI, Section 67, of the Texas Constitution requires the legislature to establish public retirement systems for state employees, teachers, and judges, statewide systems for officers and employees of counties, municipalities, and other political subdivisions in which participation by the political subdivisions is voluntary, and enabling statutes for counties and cities individually to create local public retirement systems for their officers and employees. Section 67 also authorizes the legislature to enact general laws creating public retirement systems and programs. Section 67 provides specific requirements for the state employees, teachers, and judicial systems and contains general provisions requiring that financing of benefits be based on sound actuarial principles, assets of a system not be diverted, benefits not be received from more than one system for the same service, and investment of a system's assets be prudent.

Texas has hundreds of public retirement systems, the vast majority of which were created locally under the authority of Section 810.001, Government Code. The state does not actively regulate most local systems, although they are subject to general requirements of Article

XVI, Section 67, of the Texas Constitution and some general laws relating to fiduciary duty or compilation, maintenance, and reporting of financial and actuarial records.

ARGUMENTS

FOR:

1. Public retirement systems provide the major source of financial security for the hundreds of thousands of Texans who are public employees. This statement in the Texas Constitution of clear duties for the trustees of the various local public retirement systems will help to ensure that those trustees, who seldom are professional money managers, will maintain the stability and soundness of those systems.

2. Proper administration of local public retirement systems is not only an issue important to the members and beneficiaries of the local public retirement systems but will become an increasingly important issue to the state as a whole. The aging of the population because of reduced birth rates and increasing longevity is anticipated to increase dramatically the need and demand for services for the older portions of the population, and the extent to which public retirement systems are actuarially sound and provide reasonable benefits will affect the extent of that need and demand.

AGAINST:

1. This amendment is unnecessary because it essentially tells trustees of local public retirement systems to do what is already expected of them under the common law as fiduciaries.

2. This amendment adds too much detail to a constitution that is already burdened with minutiae. If local public retirement system trustees need to have their duties specified, general law is an appropriate mechanism for that purpose.

AMENDMENT NO. 12

House Joint Resolution 23, proposing a constitutional amendment permitting the denial of bail to certain persons charged with certain violent or sexual offenses. (HOUSE AUTHORS: Kent Grusendorf, Keith Oakley; SENATE SPONSOR: Jane Nelson)

The proposed amendment would permit a judge to deny bail pending trial under the conditions described by Article I, Section 11a, of the Texas Constitution to a person accused of murder, aggravated assault with a deadly weapon, aggravated kidnapping, aggravated robbery, aggravated sexual assault, sexual assault, or indecency with a child if the offense was committed while on parole, mandatory supervision, or probation for a prior felony.

BACKGROUND

Under current Article I, Section 11a, of the Texas Constitution, a district judge may deny bail to a person accused of a felony, other than a capital felony, if the person has two or more prior felony convictions, the felony was committed while on bail for a prior felony, or the felony involved the use of a deadly weapon and the person has a prior felony conviction. The proposed amendment would add to this list of persons who may be denied bail.

Before the judge may deny bail, the person is entitled to a hearing in which the state must show substantial evidence of the person's guilt of the offense charged. The judge must enter the order denying bail not later than the seventh day after the date the accused is arrested. If the trial for the offense charged is not held before the 61st day after the date bail is denied, the court must set aside the order denying bail, unless the accused requested a continuance for the trial.

ARGUMENTS

FOR:

1. The proposed amendment is necessary to protect citizens from dangerous habitual offenders. It is possible under current law for a convicted felon who is accused of committing another felony while on parole to be released on bail pending trial. In 1989, a Fort Worth teenager was sexually assaulted and killed by a convicted felon who had been released on bail after being charged with another aggravated sexual assault committed while on parole.

2. The proposed amendment protects the public while also protecting the due process rights of the accused. A hearing must be held in which the state must show substantial evidence of the guilt of the accused. The judge must enter the order denying bail not later than the seventh day after the date the accused is arrested. Bail may not be denied for more than 60 days pending trial, unless the accused requests a continuance for the trial.

AGAINST:

1. The proposed amendment is unnecessary. Under current law, a parole panel or court may impose conditions on a person who is released on parole, mandatory supervision, or probation, including the condition that the person not commit an offense. If the person violates the condition of not committing another offense while on parole, mandatory supervision, or probation, the parole panel or court may order the person to be confined in prison or jail awaiting a revocation hearing.

2. Innocent persons may be detained unnecessarily and unfairly. In the American system of justice, a person is innocent until proven guilty. The proposed amendment requires only a showing of substantial evidence of guilt of an accused person before a judge may deny bail. This burden is lower than the standard required for a conviction—proof of guilt beyond a reasonable doubt.

AMENDMENT NO. 13

Senate Joint Resolution 13, proposing a constitutional amendment relating to the amount and expenditure of certain constitutionally dedicated funding for public institutions of higher education. (SENATE AUTHOR: Eddie Lucio, et al.; HOUSE SPONSORS: David Counts, Betty Denton)

The proposed amendment to Article VII, Section 17, of the Texas Constitution adds, effective September 1, 1995, the Texas State Technical College System and its campuses (TSTC), but not its extension centers or programs, to the list of public institutions of higher education that receive the constitutionally dedicated funding under that section (HEAF funds). The proposed amendment, however, limits the amount of HEAF funds that TSTC may receive to 2.2 percent of the total amount of HEAF funds appropriated each fiscal year.

The proposed amendment also expands how HEAF funds may be spent and the type of bonds and notes that may be pledged against those funds. Under the proposed amendment, HEAF funds may be used for acquiring, constructing, or equipping or for major repair or rehabilitation of buildings, facilities, other permanent improvements, or capital equipment used jointly for educational and general activities and for auxiliary enterprises to the extent of their use for educational and general activities. The proposed amendment deletes current language that authorizes the legislature to designate a single agency to issue bonds and notes secured by HEAF funds.

The proposed amendment establishes January 1, 2000, as the beginning of the next five-year period during which the legislature by two-thirds vote of the membership of each house may increase, but not decrease, the amount of the HEAF funds distributed during that five-year period.

Finally, the proposed amendment reflects the name changes of public institutions of higher education that are entitled to receive HEAF funds.

BACKGROUND

HEAF Funds:

Article VII, Section 17, of the Texas Constitution, establishing the HEAF, was adopted by the electorate on November 6, 1984, as a constitutionally dedicated source of funding for certain public institutions of higher education that did not receive permanent university fund income under Article VII, Section 18, of the Texas Constitution. The HEAF funds currently are an appropriation from general revenue each state fiscal year in the amount of \$100 million, which is distributed to 26 public institutions of higher education to buy land, to construct, equip, repair, and rehabilitate buildings, and to buy capital equipment and library books and materials. Those 26 institutions are East Texas State University, including East Texas State University at Texarkana; Lamar University, including Lamar University at Orange and Lamar University at Port Arthur; Midwestern State University; University of North Texas; The University of Texas—Pan American; The University of Texas at Brownsville; Stephen F. Austin State University; University of North Texas Health Science Center at Fort Worth, formerly known as the Texas College of Osteopathic Medicine; Texas State University System Administration; Angelo State University; Sam Houston State University; Southwest Texas State University; Sul Ross State University, including the Uvalde Study Center; Texas Southern University; Texas Tech University; Texas Tech University Health Sciences Center; Texas Woman's University; University of Houston System Administration; University of Houston; University of Houston—Victoria; University of Houston—Clear Lake; University of Houston—Downtown; Texas A&M University—Corpus Christi, formerly known as Corpus Christi State University; Texas A&M International University, formerly known as Laredo State University; Texas A&M University—Kingsville, formerly known as Texas A&I University; and West Texas A&M University, formerly known as West Texas State University.

Under Section 17, every five years after 1985 the legislature may by two-thirds vote adjust the amount of the HEAF fund constitutional appropriation for the next five-year period. This adjustment must take

place during the regular session that is nearest, but before, the beginning of each fifth fiscal year dating from September 1, 1985.

In addition, under Section 17, every 10 years after 1985 the legislature may reallocate by equitable formula the distribution of the HEAF fund appropriation to the public institutions of higher education that are entitled to receive HEAF funds. The legislature shall review, or provide for review of, that allocation formula at the end of the fifth year of that 10-year allocation period.

TSTC:

TSTC was technically under the supervision of the Central Education Agency in 1985 when the HEAF funds were constitutionally dedicated and did not have an opportunity to be included in HEAF funding at that time. TSTC provides college-level programs in highly specialized technical and vocational fields. It has four branch campuses in Amarillo, Harlingen, Sweetwater, and Waco. It has extension centers in Abilene, Brownwood, Marshall, and McAllen and an extension program offered through a rural technology center in Breckenridge.

ARGUMENTS

FOR:

1. TSTC is the only public institution of higher education in this state that does not have a dedicated revenue source for capital expenditures. Including TSTC among the institutions entitled to receive HEAF funds would provide TSTC with a steady source of capital construction income.

2. Including TSTC in the institutions entitled to receive HEAF funds frees general revenue funds for other purposes. TSTC now receives funds for capital expenditures from the general revenue fund. The comptroller of public accounts estimates that beginning in the state fiscal year that begins September 1, 1996, the savings to the general revenue fund would be \$1.6 million each fiscal year.

3. The proposed constitutional amendment contains language that clarifies the date of the beginning of the five-year period for the next increase of the amount of the constitutional appropriation of HEAF funds. The language creating the five-year period during which the amount of the constitutional appropriation of HEAF funds may be adjusted is currently ambiguous as to when the five-year period begins. The proposed constitutional amendment resolves that ambiguity. In addition, the proposed constitutional amendment clarifies that the amount of the constitutional appropriation of HEAF funds may be only increased and not decreased. Finally, in 1985, it was thought that a single agency would be created to issue HEAF bonds, but this never occurred. Deleting this language from the Texas Constitution would merely reflect reality.

AGAINST:

1. TSTC should continue to receive capital expenditures through the appropriations process on an as-needed basis. TSTC is not a four-year college with the same structure and mission as most public institutions of higher education that are entitled to receive HEAF funds.

2. TSTC had an opportunity to be part of the HEAF in 1985 and chose not to be a part of the HEAF because the institution was getting better funding through the appropriations process. Now that times have changed, TSTC officials are seeking a steady source of dedicated money to fund a capital construction program. Allowing TSTC to join the list of institutions that are entitled to receive HEAF funds dilutes the amount of funds that are available to other institutions.

3. Having to clean up and clarify the provisions of Article VII, Section 17, of the Texas Constitution by a constitutional amendment is another example of why laws like this should not be in the constitution. Rejecting this amendment will discourage the use of the constitution to do what should be done by simple legislative enactment.

AMENDMENT NO. 14

Senate Joint Resolution 45, proposing a constitutional amendment providing for the issuance of general obligation bonds for certain construction projects. (SENATE AUTHOR: John Whitmire; HOUSE SPONSOR: Allen Hightower)

The proposed amendment to Article III of the Texas Constitution adds Subsection (e) to Section 49-h, authorizing the legislature to provide for the issuance of up to \$1 billion in general obligation bonds. The proceeds from the bond sale will be used 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 institutions.

BACKGROUND

The current facilities of the Texas adult corrections system, youth corrections institutions, and mental health and mental retardation institutions are below current needs and projections of future needs. The Texas Department of Mental Health and Mental Retardation has been monitored by the federal courts since 1974 as the result of a federal court case that challenged on a constitutional basis the adequacy of the services and facilities provided for retarded patients. The Texas Department of Criminal Justice has only recently been released from monitoring by the federal courts because of previous findings of violations of the rights of prisoners. The lack of facilities and unsuitable facilities have resulted in the state operating mental health and mental retardation institutions that are arguably in contempt of federal court orders and a prison system that could be returned to federal monitoring. In addition, the lack of prison facilities has created a backlog of convicted felons in county jails, causing an overcrowding crisis in many of those jails, and resulting in fines being imposed on the state by a federal court because of a determination that state corrections policy has contributed to jail overcrowding.

Previous amendments, adopted in 1987, 1989, and 1991, authorized the legislature to provide for the issuance of up to \$500 million, \$400 million, and \$1.1 billion, respectively, in general obligation bonds for similar purposes.

ARGUMENTS

FOR:

1. Authorizing the issuance of general obligation bonds and the use of bond proceeds for acquiring, constructing, or equipping new facilities and repairing existing facilities will make it possible for the state to comply with federal court orders and avoid further federal fines.

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

3. In spite of the hard economic times and arguments that may be made countering the existing and potential federal court orders, the state must meet its obligation to provide adequate facilities for inmates and mentally retarded patients for the general welfare of the state. Because the legislature has enacted a revised Penal Code creating a new level of felony (state jail felony) and has significantly increased the percentage of time the most violent offenders are required to serve before becoming eligible for parole, the state must provide these facilities to ensure the protection of the public. The proceeds of the general obligation bonds would provide the necessary resources to help the state meet these needs.

AGAINST:

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

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

3. Repeated reforms of the criminal justice system have not reduced the need for expanded corrections facilities. Instead of spending more money to expand facilities and placing the state further in debt, the state should invest those funds in social service programs designed to attack the societal causes of crime.

AMENDMENT NO. 15

House Joint Resolution 37, proposing a constitutional amendment relating to the abolition of the office of county surveyor in certain counties. (HOUSE AUTHOR: Bob Glaze; SENATE SPONSOR: Bill Ratliff)

The proposed amendment to Article XVI, Section 44, of the Texas Constitution would add Subsection (h), which would provide a method for abolishing the office of county surveyor in all counties that have not previously abolished the office. The functions of the county surveyor, along with the records of the office, would be transferred to a county officer or county employee designated by the commissioners court of the county in which the office is abolished.

The abolition of the county surveyor's office in a county takes effect if the amendment is adopted at the statewide election and if the abolition is approved at a separate election by the voters in the county. The commissioners court of the county may call the separate election.

BACKGROUND

Article XVI, Section 44, of the Texas Constitution currently requires the legislature to prescribe the functions and provide for the election of a county surveyor in each county. The surveyor's duties are defined primarily by Chapter 23, Natural Resources Code, and consist mainly of keeping a record of surveys made in the county.

Since 1985, two separate constitutional amendments to Section 44 have resulted in the abolition of the office of county surveyor in 13 counties. In each of those counties, the functions of the abolished office may be transferred to a person employed or designated by the commissioners court of that county.

ARGUMENTS

FOR:

1. By abolishing the office of county surveyor and transferring the functions of the office to other persons, more efficient management of county business will be accomplished and county revenue will be saved.

2. Allowing the voters of the counties affected by the proposed amendment to have the final determination over whether the elective office of county surveyor serves the needs of the county is in the best tradition of local self-government.

AGAINST:

1. Because the office of county surveyor performs several important functions within a county, the state should either decide to uniformly abolish or keep the office. Allowing individual counties to abolish or change the office will create a patchwork of different entities holding important land title information rather than the current uniform system.

2. The office of county surveyor is an elective office. By permitting the abolition of this office, the voters of a county will lose a measure of their control over certain affairs of county government.

AMENDMENT NO. 16

Senate Joint Resolution 44, proposing a constitutional amendment relating to the total principal amount of bonds and notes authorized to be issued or sold for the support of the Texas agricultural fund. (SENATE AUTHORS: O. H. "Ike" Harris, Eddie Lucio; HOUSE SPONSOR: Pete Patterson)

The proposed amendment to Article III, Section 49-i(b), of the Texas Constitution changes the dollar amount of bonds available to benefit the Texas agricultural fund by increasing the amount from \$25 million of outstanding bonds to a total of \$100 million for all bonds issued or sold for the fund. The proposed amendment also includes notes within the dollar amount limits prescribed for the issuance and sale of instruments for the benefit of the Texas agricultural fund and the rural microenterprise development fund under Section 49-i.

BACKGROUND

Article III, Section 49-i, of the Texas Constitution, adopted on November 7, 1989, authorizes the legislature to issue general obligation bonds to provide money for the Texas agricultural fund and the rural microenterprise development fund. The Texas Agricultural Finance Authority uses the Texas agricultural fund for loans to eligible agricultural businesses. Similarly, the Agricultural Diversification Board uses the rural microenterprise development fund to provide financial assistance to small businesses located in rural areas. Section 49-i provides maximum amounts for outstanding bonds of \$25 million for the Texas agricultural fund and \$5 million for the rural microenterprise development fund, respectively. The section also prescribes the uses of the two funds, permits the establishment of accounts within the funds and the investment of bond proceeds and fund accounts, and states that bonds issued under the section are general obligations of the state.

ARGUMENTS

FOR:

1. The additional capital that Senate Joint Resolution 44 would make available to agricultural businesses would bolster the state's agricultural economy. More money for agricultural loans and loan guarantees would encourage the expansion and creation of more agricultural jobs in the state.

2. Texas' state debt per capita is among the lowest of all states, including other populous states. The marginal increase in debt per capita resulting from debt issued under this program will add little to Texas' overall debt status; Texas will remain among the states with the least state debt.

AGAINST:

1. Loans and loan guarantees made under the programs authorized by Article III, Section 49-i, of the Texas Constitution are often made to businesses that cannot obtain financing from traditional financial institutions. These businesses are often a greater risk to lenders and the state should not increase the amount of loans and loan guarantees to businesses that pose a higher risk of default.

2. While Texas' state debt per capita is relatively low, Texas ranks high among all states in combined state and local government debt. This amendment continues a trend away from the traditional Texas philosophy of avoiding public debt.

APPENDIX

Text of Resolutions Proposing Amendments

AMENDMENT NO. 1

SENATE AUTHOR: Eddie Lucio, et al.

S.J.R. 9

HOUSE SPONSOR: Sylvia Romo

SENATE JOINT RESOLUTION

proposing a constitutional amendment authorizing the legislature to provide for the issuance of bonds for the state financing of start-up costs for historically underutilized businesses.

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

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

Sec. 72. (a) The legislature by law may establish a Texas historically underutilized business capital growth and start-up fund. The money in the fund may be used without further appropriation and only for a program established by the legislature to aid in the start-up costs of a historically underutilized business, as defined by the legislature. The fund must contain a program account, an interest and sinking account, and other accounts authorized by the legislature. To carry out the program authorized by this subsection, the legislature may issue up to \$50 million of general obligation bonds to provide funding for the fund. The fund is to be composed of the proceeds of the bonds authorized by this subsection, loan guarantee fees and other amounts received from loan guarantees made under this subsection, and any other amount required to be deposited in the fund by the legislature.

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

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

SECTION 2. This proposed amendment shall be submitted to the voters at an election to be held November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the legislature to provide for the issuance of \$50 million of general obligation bonds for the recovery and further development of the state's economy and for increasing job opportunities and other benefits for Texas residents through state financing of the start-up costs of historically underutilized businesses."

AMENDMENT NO. 2

HOUSE AUTHOR: Mark Stiles, et al.

H.J.R. 86

SENATE SPONSOR: Kenneth Armbrister

A JOINT RESOLUTION

proposing a constitutional amendment relating to the exemption from ad valorem taxation of real and personal property used for the control of air, water, or land pollution.

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

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

Sec. 1-1. (a) The legislature by general law may exempt from ad valorem taxation all or part of real and personal property used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States, this state, or a political subdivision of this state for the prevention, monitoring, control, or reduction of air, water, or land pollution.

(b) This section applies to real and personal property used as a facility, device, or method for the control of air, water, or land pollution that would otherwise be taxable for the first time on or after January 1, 1994.

(c) This section does not authorize the exemption from ad valorem taxation of real or personal property that was subject to a tax abatement agreement executed before January 1, 1994.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to promote the reduction of pollution and to encourage the preservation of jobs by authorizing the exemption from ad valorem taxation of real and personal property used for the control of air, water, or land pollution."

AMENDMENT NO. 3

HOUSE AUTHOR: Robert Saunders, et al.

H.J.R. 3

SENATE SPONSOR: Kenneth Armbrister

A JOINT RESOLUTION

proposing a constitutional amendment clearing land titles by relinquishing and releasing any claim of sovereign ownership or title to a fractional interest in the Shelby, Frazier, and McCormick League (now located in Fort Bend and Austin counties) arising out of the voiding of a certain interest under a Mexican land grant.

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

SECTION 1. Article VII of the Texas Constitution is amended by adding Section 2A to read as follows:

Sec. 2A. The State of Texas hereby relinquishes and releases any claim of sovereign ownership or title to an undivided one-third interest in and to the lands and minerals within the Shelby, Frazier, and McCormick League (now located in Fort Bend and Austin counties) arising out of the interest in that league originally granted under the Mexican Colonization Law of 1823 to John McCormick on or about July 24, 1824, and subsequently voided by the governing body of Austin's Original Colony on or about December 15, 1830, and title to such interest in the lands and minerals is confirmed to the owners of the remaining interests in such lands and minerals. This section is self-executing.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment providing for the clearing of land titles by the release of a state claim in a fractional interest, arising out of the voiding of an interest under a Mexican land grant, to the owners of certain property in Fort Bend and Austin counties."

AMENDMENT NO. 4

SENATE AUTHOR: John Montford, et al.

S.J.R. 49

HOUSE SPONSOR: Mark Stiles

SENATE JOINT RESOLUTION

proposing a constitutional amendment prohibiting a personal income tax without voter approval and dedicating the proceeds of the tax, if enacted, to education and property tax relief.

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

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

(c) The Legislature may provide for the taxation of intangible property and may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. Subject to the restrictions of Section 24 of this article, it [It] may also tax incomes of both natural persons and corporations other than municipal. Persons[; except that persons] engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax.

SECTION 2. Article VIII of the Texas Constitution is amended by adding Section 24 to read as follows:

Sec. 24. (a) A general law enacted by the legislature that imposes a tax on the net incomes of natural persons, including a person's share of partnership and unincorporated association income, must provide that the portion of the law imposing the tax not take effect until approved by a majority of the registered voters voting in a statewide referendum held on the question of imposing the tax. The referendum must specify the rate of the tax that will apply to taxable income as defined by law.

(b) A general law enacted by the legislature that increases the rate of the tax, or changes the tax, in a manner that results in an increase in the combined income tax liability of all persons subject to the tax may

not take effect until approved by a majority of the registered voters voting in a statewide referendum held on the question of increasing the income tax. A determination of whether a bill proposing a change in the tax would increase the combined income tax liability of all persons subject to the tax must be made by comparing the provisions of the proposed change in law with the provisions of the law for the most recent year in which actual tax collections have been made. A referendum held under this subsection must specify the manner in which the proposed law would increase the combined income tax liability of all persons subject to the tax.

(c) Except as provided by Subsection (b) of this section, the legislature may amend or repeal a tax approved by the voters under this section without submitting the amendment or the repeal to the voters as provided by Subsection (a) of this section.

(d) If the legislature repeals a tax approved by the voters under this section, the legislature may reenact the tax without submitting the reenactment to the voters as provided by Subsection (a) of this section only if the effective date of the reenactment of the tax is before the first anniversary of the effective date of the repeal.

(e) The legislature may provide for the taxation of income in a manner which is consistent with federal law.

(f) In the first year in which a tax described by Subsection (a) is imposed and during the first year of any increase in the tax that is subject to Subsection (b) of this section, not less than two-thirds of all net revenues remaining after payment of all refunds allowed by law and expenses of collection from the tax shall be used to reduce the rate of ad valorem maintenance and operation taxes levied for the support of primary and secondary public education. In subsequent years, not less than two-thirds of all net revenues from the tax shall be used to continue such ad valorem tax relief.

(g) The net revenues remaining after the dedication of money from the tax under Subsection (f) of this section shall be used for support of education, subject to legislative appropriation, allocation, and direction.

(h) The maximum rate at which a school district may impose ad valorem maintenance and operation taxes is reduced by an amount equal to one cent per \$100 valuation for each one cent per \$100 valuation that the school district's ad valorem maintenance and operation tax is reduced by the minimum amount of money dedicated under Subsection (f) of this section, provided that a school district may subsequently increase the maximum ad valorem maintenance and operation tax rate if the increased maximum rate is approved by a majority of the voters of the school district voting at an election called and held for that purpose. The legislature by general law shall provide for the tax relief that is required by Subsection (f) and this subsection.

(i) Subsections (f) and (h) of this section apply to ad valorem maintenance and operation taxes levied by a school district on or after the first January 1 after the date on which a tax on the net incomes of natural persons, including a person's share of partnership and unincorporated association income, begins to apply to that income, except that if the income tax begins to apply on a January 1, Subsections (f) and (h) of this section apply to ad valorem maintenance and operation taxes levied on or after that date.

(j) A provision of this section prevails over a conflicting provision of Article VII, Section 3, of this Constitution to the extent of the conflict.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment prohibiting a personal income tax without voter approval and, if an income tax is enacted, dedicating the revenue to education and limiting the rate of local school taxes."

AMENDMENT NO. 5

SENATE AUTHOR: Carl Parker

S.J.R. 18

HOUSE SPONSOR: Mark Stiles

SENATE JOINT RESOLUTION

proposing a constitutional amendment authorizing the legislature to prescribe the qualifications of sheriffs.

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

SECTION 1. Article V, Section 23, of the Texas Constitution is amended to read as follows:

Sec. 23. There shall be elected by the qualified voters of each county a Sheriff, who shall hold his office for the term of four years, whose duties, qualifications, [and] perquisites, and fees of office, shall be prescribed by the Legislature, and vacancies in whose office shall be filled by the Commissioners Court until the next general election.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to allow the legislature to prescribe the qualifications of sheriffs."

AMENDMENT NO. 6

HOUSE AUTHOR: Steve Holzheuser

H.J.R. 21

SENATE SPONSOR: Kenneth Armbrister

A JOINT RESOLUTION

proposing a constitutional amendment to abolish the office of county surveyor in Jackson County.

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

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

(h) The office of County Surveyor in Jackson County is abolished. The powers, duties, and functions of the office are transferred to the county officer or employee designated by the commissioners court, and the commissioners court may change its designation as it considers appropriate.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment abolishing the office of county surveyor in Jackson County."

AMENDMENT NO. 7

HOUSE AUTHOR: Anna Mowery

H.J.R. 57

SENATE SPONSOR: O. H. "Ike" Harris

A JOINT RESOLUTION

proposing a constitutional amendment repealing the constitutional provision limiting the consideration for which stock and bonds of a corporation may be issued.

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

SECTION 1. Article XII, Section 6, of the Texas Constitution is repealed.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment repealing certain restrictions on the ability of corporations to raise capital."

AMENDMENT NO. 8

HOUSE AUTHOR: Kip Averitt
SENATE SPONSOR: David Sibley

H.J.R. 22

A JOINT RESOLUTION

proposing a constitutional amendment to abolish the office of county surveyor in McLennan County.

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

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

(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.

SECTION 2. This proposed amendment shall be submitted to the voters at an election to be held on November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to abolish the office of county surveyor in McLennan County."

AMENDMENT NO. 9

SENATE AUTHORS: Rodney Ellis, John Leedom

S.J.R. 19

HOUSE SPONSOR: Robert Eckels

SENATE JOINT RESOLUTION

proposing a constitutional amendment to modify the provisions for the redemption of real property sold at a tax sale.

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

SECTION 1. Article VIII, Section 13, of the Texas Constitution is amended to read as follows:

Sec. 13. (a) Provision shall be made by the ~~[first]~~ Legislature for the ~~[speedy]~~ sale~~[-without the necessity of a suit in Court,]~~ of a sufficient portion of all lands and other property for the taxes due thereon ~~that[; and every year thereafter for the sale in like manner of all lands and other property upon which the taxes]~~ have not been paid.

(b) ~~The[; and the]~~ deed of conveyance to the purchaser for all lands and other property thus sold shall be held to vest a good and perfect title in the purchaser thereof, subject only to redemption as provided by this section or impeachment ~~[be impeached only]~~ for actual fraud.

(c) ~~The[; provided, that the]~~ former owner of a residence homestead sold for unpaid taxes and the former owner of land designated for agricultural use sold for unpaid taxes shall within two years from date of the filing for record of the Purchaser's Deed have the right to redeem the property ~~[land]~~ on the following basis:

(1) Within the first year of the redemption period, upon the payment of the amount of money paid for the property ~~[land]~~, including ~~the [One (\$1.00) Dollar]~~ Tax Deed Recording Fee and all taxes, penalties, interest, and costs paid plus an amount not exceeding 25 ~~[twenty-five (25%)]~~ percent of the aggregate total; and

(2) Within the last year of the redemption period, upon the payment of the amount of money paid for the property ~~[land]~~, including

the [~~One (\$1.00) Dollar~~] Tax Deed Recording Fee and all taxes, penalties, interest, and costs paid plus an amount not exceeding 50 [~~fifty (50%)~~] percent of the aggregate total.

(d) If the property is sold pursuant to a suit to enforce the collection of the unpaid taxes, the Legislature may limit the application of Subsection (c) of this section to property used as a residence homestead when the suit was filed and to land designated for agricultural use when the suit was filed.

(e) The former owner of real property not covered by Subsection (c) of this section sold for unpaid taxes shall within six months from the date of filing for record of the Purchaser's Deed have the right to redeem the property upon the payment of the amount of money paid for the property, including the Tax Deed Recording Fee and all taxes, penalties, interest, and costs paid plus an amount not exceeding 25 percent of the aggregate total.

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 S.J.R. No. 19, 73rd Legislature, Regular Session, 1993, and expires January 1, 1997.

(b) The amendment to Article VIII, Section 13, of this constitution takes effect January 1, 1994.

(c) The amendment applies to redemption of real property sold at a tax sale for which the purchaser's deed is filed for record on or after the effective date of this amendment. Redemption of real property sold at a tax sale for which the purchaser's deed is filed for record before the effective date of this amendment is covered by the former law, and the former law is continued in effect for this purpose.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to modify the provisions for the redemption of real property sold at a tax sale."

AMENDMENT NO. 10

SENATE AUTHOR: Jim Turner
HOUSE SPONSOR: David Counts

S.J.R. 34

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to bonds issued to augment the Veterans' Land Fund and the Veterans' Housing Assistance Fund, to fund the Veterans' Housing Assistance Fund II, and to provide financial assistance to veterans of the state.

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

SECTION 1. Article III of the Texas Constitution is amended by adding Section 49-b-2 to read as follows:

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.

(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. 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. 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 Veterans' Land Fund.

(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.

(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.

(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 and the making of the loans may be paid from money in the Veterans' Housing Assistance Fund II.

(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.

(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.

(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.

(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.

(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 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.

(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, 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.

(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.

(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.

(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.

(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.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing issuance of \$750 million in general obligation bonds to augment the Veterans' Land Fund and the Veterans' Housing Assistance Fund and to fund the Veterans' Housing Assistance Fund II."

AMENDMENT NO. 11

SENATE AUTHOR: John Whitmire

S.J.R. 31

HOUSE SPONSOR: Pat Haggerty, et al.

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the duties of trustees of local public pension systems.

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

SECTION 1. Article XVI, Section 67, of the Texas Constitution is amended by adding Subsection (f) to read as follows:

(f) Retirement Systems Not Belonging to a Statewide System. The board of trustees of a system or program that provides retirement and related disability and death benefits for public officers and employees and that does not participate in a statewide public retirement system shall:

(1) administer the system or program of benefits;

(2) hold the assets of the system or program for the exclusive purposes of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the system or program; and

(3) select legal counsel and an actuary and adopt sound actuarial assumptions to be used by the system or program.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment providing that the trustees of a local public pension system must administer the system for the benefit of the system's participants and beneficiaries."

AMENDMENT NO. 12

HOUSE AUTHORS: Kent Grusendorf, Keith Oakley

H.J.R. 23

SENATE SPONSOR: Jane Nelson

A JOINT RESOLUTION

proposing a constitutional amendment relating to the denial of bail to certain persons charged with certain violent or sexual offenses.

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

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

Sec. 11a. (a) Any person (1) accused of a felony less than capital in this State, who has been theretofore twice convicted of a felony, the second conviction being subsequent to the first, both in point of time of commission of the offense and conviction therefor, (2) accused of a felony less than capital in this State, committed while on bail for a prior felony for which he has been indicted, [or] (3) accused of a felony less than capital in this State involving the use of a deadly weapon after being convicted of a prior felony, or (4) accused of a violent or sexual offense committed while under the supervision of a criminal justice agency of the State or a political subdivision of the State for a prior felony, after a hearing, and upon evidence substantially showing the guilt of the accused of the offense in (1) or (3) above, [or] of the offense committed while on bail in (2) above, or of the offense in (4) above committed while under the supervision of a criminal justice agency of the State or a political subdivision of the State for a prior felony, may be denied bail pending trial, by a district judge in this State, if said order denying bail pending trial is issued within seven calendar days subsequent to the time of incarceration of the accused; provided, however, that if the accused is not accorded a trial upon the accusation under (1) or (3) above, [or] the accusation and indictment used under (2) above, or the accusation or indictment used under (4) above within sixty (60) days from the time of his incarceration upon the accusation,

the order denying bail shall be automatically set aside, unless a continuance is obtained upon the motion or request of the accused; provided, further, that the right of appeal to the Court of Criminal Appeals of this State is expressly accorded the accused for a review of any judgment or order made hereunder, and said appeal shall be given preference by the Court of Criminal Appeals.

(b) In this section:

(1) "Violent offense" means:

(A) murder;

(B) aggravated assault, if the accused used or exhibited a deadly weapon during the commission of the assault;

(C) aggravated kidnapping; or

(D) aggravated robbery.

(2) "Sexual offense" means:

(A) aggravated sexual assault;

(B) sexual assault; or

(C) indecency with a child.

SECTION 2. This proposed amendment shall be submitted to the voters at an election to be held on November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment permitting the denial of bail to certain persons charged with certain violent or sexual offenses committed while under the supervision of a criminal justice agency of the state or a political subdivision of the state."

AMENDMENT NO. 13

SENATE AUTHOR: Eddie Lucio, et al.

S.J.R. 13

HOUSE SPONSORS: David Counts, Betty Denton

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the amount and expenditure of certain constitutionally dedicated funding for public institutions of higher education.

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

SECTION 1. Article VII, Section 17(a), of the Texas Constitution is amended to read as follows:

(a) In the fiscal year beginning September 1, 1985, and each fiscal year thereafter, there is hereby appropriated out of the first money coming into the state treasury not otherwise appropriated by the constitution \$100 million to be used by eligible agencies and institutions of higher education for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair or rehabilitation of buildings or other permanent improvements, ~~[and] acquisition of capital equipment, library books and library materials, and paying for acquiring, constructing, or equipping or for major repair or rehabilitation of buildings, facilities, other permanent improvements, or capital equipment used jointly for educational and general activities and for auxiliary enterprises to the extent of their use for educational and general activities.~~ For the five-year period that begins on September 1, 2000, and for each five-year period that begins after that period, the legislature, during a [During the] regular session [of the legislature] that is nearest, but preceding, a five-year period, [the beginning of each fifth fiscal year dating from September 1, 1985, the legislature] may by two-thirds vote of the membership of each house increase [adjust] the amount of the constitutional appropriation for the five-year period [ensuing five years] but may not adjust the appropriation in such a way as to impair any

obligation created by the issuance of bonds or notes in accordance with this section.

SECTION 2. Article VII, Section 17(b), of the Texas Constitution is amended to read as follows:

(b) The funds appropriated under Subsection (a) of this section shall be for the use of the following eligible agencies and institutions of higher education (even though their names may be changed):

(1) East Texas State University including East Texas State University at Texarkana;

(2) Lamar University including Lamar University at Orange and Lamar University at Port Arthur;

(3) Midwestern State University;

(4) University of North Texas [~~State University~~];

(5) The University of Texas—Pan American [~~University~~] including The [~~Pan American~~] University of Texas at Brownsville;

(6) Stephen F. Austin State University;

(7) Texas College of Osteopathic Medicine;

(8) Texas State University System Administration and the following component institutions:

(9) Angelo State University;

(10) Sam Houston State University;

(11) Southwest Texas State University;

(12) Sul Ross State University including Uvalde Study Center;

(13) Texas Southern University;

(14) Texas Tech University;

(15) Texas Tech University Health Sciences Center;

(16) Texas Woman's University;

(17) University of Houston System Administration and the following component institutions:

- (18) University of Houston[~~—University Park~~];
(19) University of Houston—Victoria;
(20) University of Houston—Clear Lake;
(21) University of Houston—Downtown;
(22) Texas A&M University—Corpus Christi; [~~University System of South Texas System Administration and the following component institutions:~~]
(23) Texas A&M International [~~Corpus Christi State~~] University;
(24) [~~Laredo State University~~];
[(25)] Texas A&M [~~A&F~~] University—Kingsville; [and]
(25) [(26)] West Texas A&M [~~State~~] University; and
(26) Texas State Technical College System and its campuses, but not its extension centers or programs.

SECTION 3. Article VII, Section 17, of the Texas Constitution is amended by adding Subsection (d-1) to read as follows:

(d-1) Notwithstanding Subsection (d) of this section, the allocation of the annual appropriation to Texas State Technical College System and its campuses may not exceed 2.2 percent of the total appropriation each fiscal year.

SECTION 4. Article VII, Sections 17(e), (f), and (g), of the Texas Constitution are amended to read as follows:

(e) Each governing board authorized to participate in the distribution of money under this section is authorized to expend all money distributed to it for any of the purposes enumerated in Subsection (a). In addition, [~~unless a single bonding agency is designated as hereinafter provided;~~] such governing board may issue bonds and notes for the purposes of refunding bonds or notes issued under this section or prior law, acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, acquiring capital equipment, library books, and library materials, paying for acquiring, constructing, or equipping or for major repair or rehabilitation of

buildings, facilities, other permanent improvements, or capital equipment used jointly for educational and general activities and for auxiliary enterprises to the extent of their use for educational and general activities, and for major repair and rehabilitation of buildings or other permanent improvements, and may pledge up to 50 percent of the money allocated to such governing board pursuant to this section to secure the payment of the principal and interest of such bonds or notes. Proceeds from the issuance of bonds or notes under this subsection shall be maintained in a local depository selected by the governing board issuing the bonds or notes. The bonds and notes issued under this subsection shall be payable solely out of the money appropriated by this section and shall mature serially or otherwise in not more than 10 years from their respective dates. All bonds issued under this section shall be sold only through competitive bidding and are subject to approval by the attorney general. Bonds approved by the attorney general shall be incontestable. The permanent university fund may be invested in the bonds and notes issued under this section. ~~[In lieu of the authority granted to each governing board herein, the legislature by general law may designate a single agency to issue bonds and notes authorized under this section and transfer to that agency the authority to collect and pledge money to the payment of such bonds and notes for the purposes, to the extent, and subject to the restrictions of this section. Provided, that such agency shall be authorized to issue such bonds and notes for the benefit of an eligible institution and pledge money collected hereunder only as directed by the governing board of each eligible institution.]~~

(f) The funds appropriated by this section may not be used for the purpose of constructing, equipping, repairing, or rehabilitating buildings or other permanent improvements that are to be used only for student housing, intercollegiate athletics, or auxiliary enterprises.

(g) ~~The~~ ~~[Except for that portion of the allocated funds that may be required to be transferred to a single bonding agency, if one is created, the]~~ comptroller of public accounts shall make annual transfers of the funds allocated pursuant to Subsection (d) directly to the governing boards of the eligible institutions.

SECTION 5. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by S.J.R. No. 13, 73rd Legislature, Regular Session, 1993, and expires September 2, 1995.

(b) Section 2 of the constitutional amendment takes effect September 1, 1995.

SECTION 6. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment relating to the amount and expenditure of certain constitutionally dedicated funding for public institutions of higher education."

AMENDMENT NO. 14

SENATE AUTHOR: John Whitmire

S.J.R. 45

HOUSE SPONSOR: Allen Hightower

SENATE JOINT RESOLUTION

proposing a constitutional amendment providing for the issuance of general obligation bonds for acquiring, constructing, or equipping 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 institutions.

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

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

(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 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the issuance

of up to \$1 billion in general obligation bonds payable from the general revenues of the state for projects relating to facilities of corrections and mental health and mental retardation institutions.”

AMENDMENT NO. 15

HOUSE AUTHOR: Bob Glaze
SENATE SPONSOR: Bill Ratliff

H.J.R. 37

A JOINT RESOLUTION

proposing a constitutional amendment to provide for the abolition of the office of county surveyor.

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

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

(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 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to permit the voters of a county to decide, at an election called by the commissioners court, whether to abolish the office of county surveyor in the county."

AMENDMENT NO. 16

SENATE AUTHORS: O. H. "Ike" Harris, Eddie Lucio
HOUSE SPONSOR: Pete Patterson

S.J.R. 44

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the total principal amount of bonds and notes authorized to be issued or sold for the support of the Texas agricultural fund.

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

SECTION 1. Article III, Section 49-i(b), of the Texas Constitution is amended to read as follows:

(b) The total principal amount of bonds and notes that may be issued or sold [~~outstanding at one time~~] may not exceed \$100 [~~\$25~~] million for the Texas agricultural fund and \$5 million for the rural microenterprise development fund.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing up to a total of \$100 million in bonds and notes to be issued or sold to finance the Texas agricultural fund for providing financial assistance to develop, increase, improve, or expand the production, processing, marketing, or export of crops or products grown or produced primarily in this state by agricultural businesses domiciled in the state."