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TLC. ANALYSIS OF PROPOSED  
CONSTITUTIONAL AMENDMENT

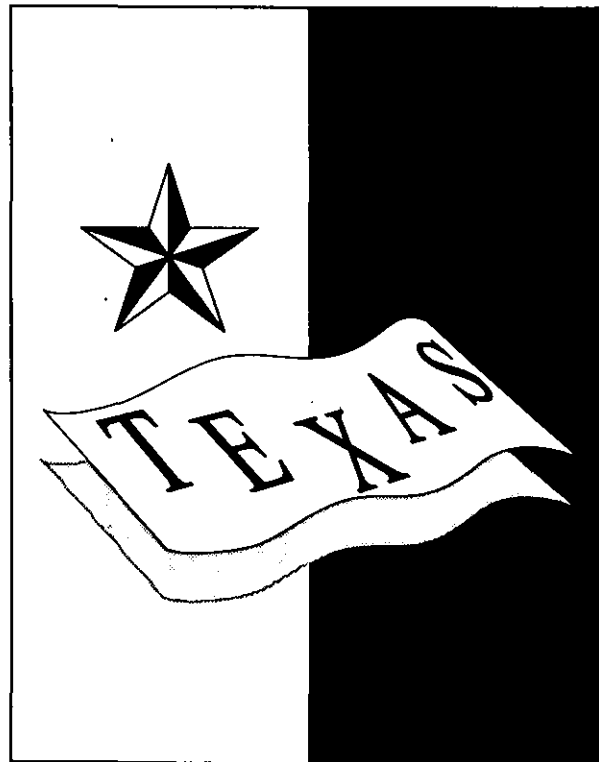
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# Analysis of Proposed Constitutional Amendment<sup>c4</sup>

August 9, 1997, Election



Texas Legislative Council  
September 1997

# **Analysis of Proposed Constitutional Amendment**

**August 9, 1997, Election**



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of the  
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## **Introduction**

## **General Information**

In the 1997 regular session, the 75th Texas Legislature passed 15 joint resolutions proposing constitutional amendments. One of these proposed amendments will be offered for ratification on the August 9, 1997, election ballot, with the remaining amendments appearing on the November 4, 1997, 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 June 1997, the state's constitution has been amended 364 times, from a total of 535 amendments submitted to the voters for their approval. The single amendment on the August 9, 1997, election ballot and the 14 amendments to be submitted on the November 4, 1997, ballot bring the total number of amendments submitted to 550. 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	1945	8	7
1881	2	0	1947	9	9
1883	5	5	1949	10	2
1887	6	0	1951	7	3
1889	2	2	1953	11	11
1891	5	5	1955	9	9
1893	2	2	1957	12	10
1895	2	1	1959	4	4
1897	5	1	1961	14	10
1899	1	0	1963	7	4
1901	1	1	1965	27	20
1903	3	3	1967	20	13
1905	3	2	1969	16	9
1907	9	1	1971	18	12
1909	4	4	1973	9	6
1911	5	4	1975	12‡	3
1913	8*	0	1977	15	11
1915	7	0	1978	1	1
1917	3	3	1979	12	9
1919	13	3	1981	10	8
1921	5**	1	1982	3	3
1923	2†	1	1983	19	16
1925	4	4	1985	17**	17
1927	8**	4	1986	1	1
1929	7**	5	1987	28**	20
1931	9	9	1989	21**	19
1933	12	4	1990	1	1
1935	13	10	1991	15	12
1937	7	6	1993	19**	14
1939	4	3	1995	14	11
1941	5	1	1997	15	
1943	3**	3			

Total Proposed 550 — Total Adopted 364



## 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.

## **Wording of Ballot Proposition**

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 proposition offered at the August 9, 1997, election is provided below.

### **Amendment No. 1**

The constitutional amendment providing school property tax relief by increasing the residence homestead exemption by \$10,000 and providing for the transfer of the tax limitation to another qualified homestead for persons over 65 and a reduction in taxes on homesteads subject to the limitation.

**Analysis  
of  
Proposed Amendment**

## **Amendment No. 1**

House Joint Resolution 4, proposing a constitutional amendment to increase the amount of the residence homestead exemption from ad valorem taxation by a school district from \$5,000 to \$15,000 and to authorize the legislature to provide for the transfer of all or part of the limitation on school tax increases on the homestead of a person who qualifies for the residence homestead exemption for a person 65 years of age or older or the surviving spouse of such a person from the person's current residence homestead to a new residence homestead. (HOUSE AUTHOR: Tom Craddick, et al.; SENATE SPONSORS: Kenneth Armbrister, Teel Bivins)

The proposed amendment amends Section 1-b(c), Article VIII, Texas Constitution, by increasing the amount of the residence homestead exemption from ad valorem taxation for general elementary and secondary public school purposes (school district property taxes) from \$5,000 of the market value of a homestead to \$15,000. The amendment authorizes the legislature to provide that the exemption does not apply to a school district or political subdivision that is not the principal school district providing general elementary and secondary public education in its territory.

The proposed amendment also amends Section 1-b(d), Article VIII, Texas Constitution, to authorize the legislature to provide for the transfer of all or a part of the constitutional limitation on school district ad valorem tax increases (the school district "tax freeze") on the residence homestead of a person who qualifies for a residence homestead exemption for a person 65 years of age or older, or the surviving spouse of such a person, if the person moves from the person's residence homestead and subsequently establishes a different residence homestead. The amendment to Section 1-b(d) also provides for a one-time reduction in the amount of the tax freeze for persons already receiving the tax freeze, to take into account the tax reduction provided by the additional \$10,000 proposed school tax exemption for homesteads.

## **Background**

Section 1-b, Article VIII, Texas Constitution, provides for a number of ad valorem tax exemptions of a portion of the market value of certain residence homesteads. Section 1-b(c), Article VIII, Texas Constitution, provides for a \$5,000 exemption from school district taxation for all residence homesteads. As part of the tax relief constitutional amendment approved by the voters in 1978, Section 1-b(d), Article VIII, Texas Constitution, was amended to prohibit any increase in the amount of property taxes levied for primary and secondary public school purposes against the residence homestead of a person who qualifies for a residence homestead exemption for a person 65 years of age or older as long as the property remains the person's residence homestead, except that the tax may be increased according to the value of certain improvements to the homestead. In 1987, the tax freeze was extended to a surviving spouse at least 55 years old on the death of the person receiving the initial tax freeze.

The \$5,000 exemption from school district property taxes is codified in Section 11.13, Tax Code. The school district property tax freeze is codified in Section 11.26, Tax Code. The tax exemption and tax freeze are administered by county appraisal districts and school districts under the statutory procedures set out in the Tax Code.

Property taxes are the chief source of revenue for Texas local governments, generating an estimated \$15.4 billion in revenue during fiscal year 1995. Almost 60 percent of property taxes are levied by school districts, the remainder by municipalities, counties, and a variety of special districts. In 1993, single-family residences made up 40 percent of the property taxable by school districts, and that share of the school tax base has risen steadily since 1982. Approximately 13 percent of the average homeowner's mortgage payment is required to pay the school property taxes on the home. Although nearly all property taxes have increased in recent years, more than doubling over the past decade, school property taxes in Texas have increased the most, rising faster than those in all but two states.

Over the past 10 years, the cost of educating a Texas schoolchild has increased substantially, and state funding has not kept pace. As a result, local school districts have had to rely more and more on the school property tax. The local share of public education costs in Texas is over 50 percent.

Concerned about increasing property taxes, in 1995 Governor Bush created a staff work group on property tax relief that consisted of representatives from the offices of the governor, the lieutenant governor, the speaker of the house of representatives, and the comptroller of public accounts. To gather public input and to gauge public sentiment for property tax relief, the governor created a citizens' committee on property tax relief that held hearings across the state.

Following those hearings, Governor Bush presented to the legislature proposals to lower property taxes for all property owners by cutting local school taxes, to replace the business franchise tax with a new business activity tax, and to pay for the school tax cut in part by using a projected \$1 billion state budget surplus for the next biennium. The governor's proposals were included in House Joint Resolution 4 and in House Bill 4 as introduced in the 1997 regular legislative session.

Following their introduction, the house of representatives and senate held extensive hearings on the proposed constitutional amendment and bill. While both the house and the senate agreed as to the need to provide both substantial property tax relief and a reliable source of state revenue for public education, the two houses were unable to agree on specific legislation. As they were finally enacted, House Joint Resolution 4 and House Bill 4 represent a compromise fallback position that will provide some property tax relief from school district taxes for homeowners and provide additional state revenue to school districts from the budget surplus.

House Bill 4, the relevant parts of which become effective September 1, 1997, if the proposed constitutional amendment is approved by the voters, codifies the increase in the school district residence homestead exemption by making appropriate changes to Section 11.13, Tax Code, and codifies the changes relating to the school district property tax freeze by making appropriate changes to Section 11.26, Tax Code.

Other parts of House Bill 4 provide that to offset the property tax losses to school districts caused by the increased residence homestead exemption, the state will provide school districts with increased state aid under the Foundation School Program. In addition, House Bill 4 provides new formulas for the calculation of a school district's property tax rollback rates. These provisions are intended to reduce the need for school districts to increase their property tax rates and to prevent school districts from obtaining windfall tax revenues.

These parts of House Bill 4 are contingent on the approval by the voters of House Joint Resolution 4. If the joint resolution is not approved by the voters, these parts of House Bill 4 will not become law.

### **Arguments**

#### **For:**

1. School district taxes generally make up the largest part of a homeowner's property taxes. The current \$5,000 residence homestead exemption from school taxes provided significant tax relief when it was originally adopted, but as the value of homesteads has increased, it has lost most of its impact. Increasing the amount of the residence homestead exemption to \$15,000 will give all homeowners some relief from increasing school district property taxes and will make home ownership more attainable.

2. An elderly person who owns a home that qualifies for the school district property tax freeze loses the benefit of the tax freeze if the person moves to a different home and suffers a huge tax increase at a time the person is often on a fixed income. Under current law, the amount of the elderly person's tax freeze is recalculated on the person's new home. Because of increasing property values and increasing school district tax rates, the elderly person's school taxes on the person's new home are usually frozen at a greater amount. The proposed amendment will enable elderly persons to move to new homes without having to give up part of the benefit that the school district tax freeze was intended to provide to elderly persons.

3. By reducing the amount of the school district tax freeze on homes that qualified for the 65-and-older tax exemption in 1996 or an earlier tax year, the proposed amendment will allow elderly Texans to get all of the benefit from the \$10,000 increase in the residence homestead exemption. This will provide significant property tax savings to elderly Texans whose need for tax relief is the greatest.

**Against:**

1. There are already too many tax exemptions. Except for the most deserving persons, all Texans should pay a fair share of the costs of the public schools in this state. The proposed tax exemption benefits only those persons who own their own homes. The proposed increase in the residence homestead exemption and the increase in the school tax freeze will not provide any tax relief to the estimated 60 percent of all Texans who are renters.

2. The increase in the homestead exemption from school taxes and the additional tax relief proposed for persons eligible for the school tax freeze for elderly persons will simply shift the taxes saved by homeowners and elderly homeowners onto other taxpayers. There is no guarantee that state revenues will continue to be appropriated to make up for the lost homestead taxes. School districts may ultimately be forced to raise their tax rates or provide fewer services to make up for the property taxes that are lost because of the increased tax exemption and tax freeze.

3. Additional tax relief directed only at elderly persons exacerbates existing tax inequities. The age of a person is far less relevant to whether the person deserves a tax reduction than other factors, such as wealth, income, or ability to earn income.



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**Appendix**  
**Text of Resolution Proposing Amendment**

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## **Amendment No. 1**

HOUSE AUTHOR: Tom Craddick, et al.

H.J.R. 4

SENATE SPONSORS: Kenneth Armbrister, Teel Bivins

### **House Joint Resolution**

proposing a constitutional amendment increasing the amount of the school property tax residence homestead exemption and providing for the continuation and reduction of the school tax limitation on the homesteads of certain persons.

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

SECTION 1. Sections 1-b(c) and (d), Article VIII, Texas Constitution, are amended to read as follows:

(c) Fifteen Thousand Dollars (\$15,000) [~~Five Thousand Dollars (\$5,000)~~] of the market value of the residence homestead of a married or unmarried adult, including one living alone, is exempt from ad valorem taxation for general elementary and secondary public school purposes. The legislature by general law may provide that all or part of the exemption does not apply to a district or political subdivision that imposes ad valorem taxes for public education purposes but is not the principal school district providing general elementary and secondary public education throughout its territory. In addition to this exemption, the legislature by general law may exempt an amount not to exceed Ten Thousand Dollars (\$10,000) of the market value of the residence homestead of a person who is disabled as defined in Subsection (b) of this section and of a person sixty-five (65) years of age or older from ad valorem taxation for general elementary and secondary public school purposes. The legislature by general law may base the amount of and condition eligibility for the additional exemption authorized by this subsection for disabled persons and for persons sixty-five (65) years of age or older on economic need. An eligible disabled person who is sixty-five (65) years of age or older may not receive both exemptions from a school district but may choose either. An eligible person is entitled to receive both the exemption required by this subsection for all

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residence homesteads and any exemption adopted pursuant to Subsection (b) of this section, but the legislature shall provide by general law whether an eligible disabled or elderly person may receive both the additional exemption for the elderly and disabled authorized by this subsection and any exemption for the elderly or disabled adopted pursuant to Subsection (b) of this section. Where ad valorem tax has previously been pledged for the payment of debt, the taxing officers of a school district may continue to levy and collect the tax against the value of homesteads exempted under this subsection until the debt is discharged if the cessation of the levy would impair the obligation of the contract by which the debt was created. The legislature shall provide for formulas to protect school districts against all or part of the revenue loss incurred by the implementation of Article VIII, Sections 1-b(c), 1-b(d), and 1-d-1, of this constitution. The legislature by general law may define residence homestead for purposes of this section.

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

transfer of a limitation under this subsection. For a residence homestead subject to the limitation provided by this subsection in the 1996 tax year or an earlier tax year, the legislature shall provide for a reduction in the amount of the limitation for the 1997 tax year and subsequent tax years in an amount equal to \$10,000 multiplied by the 1997 tax rate for general elementary and secondary public school purposes applicable to the residence homestead.

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 H.J.R. No. 4, 75th Legislature, Regular Session, 1997, and expires January 2, 1998.

(b) The amendment to Section 1-b(c), Article VIII, of this constitution takes effect for the tax year beginning January 1, 1997.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held August 9, 1997. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment providing school property tax relief by increasing the residence homestead exemption by \$10,000 and providing for the transfer of the tax limitation to another qualified homestead for persons over 65 and a reduction in taxes on homesteads subject to the limitation."