



FOCUS *report*

Proposed constitutional amendments for the May 2022 ballot

Texas voters have approved more than 500 amendments to the Texas Constitution since its adoption in 1876, according to the Legislative Reference Library. Two more proposed amendments will be submitted to voters at the election held May 7, 2022.

This report contains an explanation of the process by which constitutional amendments are adopted and information on the proposed 2022 amendments, including an analysis of each proposal.

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Amending the Texas Constitution

Article 17 of the Texas Constitution describes the process by which the Constitution may be amended and requires that amendments be approved by a majority of Texas voters to go into effect. For a proposition to appear on the ballot, the Legislature must adopt a proposed constitutional amendment in a joint resolution. Joint resolutions contain the ballot wording of the propositions to go before the voters, and some require “enabling” legislation to further specify how the amendment would operate.

Joint resolutions

The Texas Legislature proposes constitutional amendments in joint resolutions that originate in either the House of Representatives or the Senate. For example, Proposition 1 on the November 2, 2021, ballot was proposed by House Joint Resolution (HJR) 143, introduced by Rep. Charlie Geren and sponsored in the Senate by Sen. Jane Nelson. Art. 17, sec. 1 of the Texas Constitution requires that a joint resolution be adopted by at least a two-thirds vote of the membership of each house of the Legislature (100 votes in the House, 21 votes in the Senate) to be presented to voters. The governor cannot veto a joint resolution.

Amendments may be proposed in either regular or special sessions. A joint resolution includes the text of the proposed constitutional amendment and specifies an election date. The ballot wording of a proposition is specified in the joint resolution. The secretary of state conducts a random drawing to assign each proposition a ballot number if more than one proposition is being considered.

If voters reject an amendment proposal, the Legislature may resubmit it. For example, at an August 10, 1991, election, the voters rejected a proposition authorizing \$300 million in general obligation bonds for college student loans, then approved an identical proposition at the November 5, 1991, election after the Legislature readopted the proposal and resubmitted it in essentially the same form.

Election date

The Legislature specifies an election date for voter consideration of proposed constitutional amendments. In recent years, most proposals have been submitted at the November general election held in odd-numbered years.

Publication

Texas Constitution Art. 17, sec. 1 requires that a brief explanatory statement of the nature of each proposed amendment, along with the ballot wording for each, be published twice in each newspaper in the state that prints official notices. The first notice must be published 50 to 60 days before the election. The second notice must be published on the same day of the following week. The secretary of state must send a complete copy of each amendment to each county clerk, who must post it in the courthouse at least 30 days before the election.

The secretary of state prepares the explanatory statement, which must be approved by the attorney general. The estimated total cost of publication twice in newspapers across the state for the May 7 election is \$178,333, according to the Legislative Budget Board.

Enabling legislation

Some constitutional amendments are self-enacting and require no additional legislation to implement their provisions. Other amendments grant discretionary authority to the Legislature to enact legislation in a particular area or within certain guidelines. These amendments require “enabling” legislation to fill in the details of how the amendment would operate. The Legislature sometimes adopts enabling legislation in advance, making the effective date of the legislation contingent on voter approval of a particular amendment. If voters reject the amendment, the legislation dependent on the constitutional change does not take effect.

Effective date

Constitutional amendments take effect when the official vote canvass confirms statewide majority approval unless a later date is specified. Statewide election results are tabulated by the secretary of state and must be canvassed by the governor 15 to 30 days following the election.

Proposition 1: Reducing the limitation on property taxes for a person who is elderly or disabled

SJR 2 by Bettencourt (Meyer) — Second Called Session

Background

Texas Constitution Art. 8, sec. 1 requires taxation to be equal and uniform and that all real property and tangible personal property in the state, unless exempt as required or permitted by the Constitution, be taxed in proportion to its value.

Art. 8, sec. 1-b(c) exempts \$25,000 of the market value of a residence homestead from ad valorem taxation for public school purposes. Art. 8, sec. 1-b(c) and Tax Code sec. 11.13(c) entitle an adult who is disabled or at least 65 years old to an additional exemption from taxation by a school district of \$10,000 of the appraised value of the individual's residence homestead.

Under Texas Constitution Art. 8, sec. 1-b(d) and Tax Code sec. 11.26, a school district may not increase the total annual amount of property tax it imposes on the residence homestead of an individual who is disabled or at least 65 years old above the amount of tax it imposed in the first year in which the individual qualified for the additional residence homestead exemption.

Education Code sec. 48.2551 provides for the calculation of a school district's maximum compressed tax rate, or the tax rate for the current tax year at which the district must levy a maintenance and operation tax to receive the full amount of the Tier 1 allotment. The statute establishes formulas limiting growth of the maximum compressed rate.

Digest

Proposition 1 would add sec. 1-b(d-2) to Art. 8 of the Texas Constitution to allow the Legislature by general law to provide for the reduction of the limitation on property taxes imposed by a school district on the residence

homestead of an individual who is disabled or at least 65 years old to reflect any statutory reduction from the preceding tax year in the district's maximum compressed rate.

The general law could take into account the difference between the Tier 1 maintenance and operations rate for the 2018 tax year and the maximum compressed rate for the 2019 tax year applicable to a residence homestead and any reductions in the maximum compressed rate in subsequent tax years before the year in which the law took effect.

The ballot proposal reads: "The constitutional amendment authorizing the legislature to provide for the reduction of the amount of a limitation on the total amount of ad valorem taxes that may be imposed for general elementary and secondary public school purposes on the residence homestead of a person who is elderly or disabled to reflect any statutory reduction from the preceding tax year in the maximum compressed rate of the maintenance and operation taxes imposed for those purposes on the homestead."

Supporters say

Proposition 1, along with its enabling legislation SB 12 by Bettencourt, would provide significant property tax relief for homeowners who are disabled or elderly by lowering the ceiling on property taxes a school district could impose on the homeowner's residence homestead to reflect district compressed rates. The proposition would provide tax relief and make housing more affordable for some of the most vulnerable people in the state.

Taxpayers who are disabled or at least 65 years old currently qualify for a property tax exemption on their residence homestead, which also establishes a ceiling

on their school district property tax bill. This means that their tax bills are effectively “frozen” and may not increase year to year, assuming the taxpayer does not make improvements to the property. In 2019, the Legislature enacted legislation that compressed school district property tax rates in 2019 and 2020 and provided ongoing compression to offset property value increases. While this legislation provided relief for many homeowners, those who are disabled or elderly did not see the same benefits because of constitutional limitations on property tax exemptions.

Proposition 1 and SB 12 would correct this oversight and increase property tax relief for those taxpayers by providing compression for the tax ceiling from 2019 through 2023. Many individuals who are elderly or disabled live on fixed incomes, so this bill would provide them with meaningful relief and budget certainty. The enabling legislation also would hold school districts harmless for lost property tax revenue from the tax ceiling reductions, so there would be no losses to local taxing units.

Although some may say that the resolution and its enabling legislation would not provide enough property tax relief, the scope of this legislation is simply to correct an oversight and ensure that everyone, including taxpayers who are at least 65 years old or disabled, benefited from the compressed tax rates established in 2019 in an equitable way. The Legislature could discuss different property tax measures in other legislation.

Critics say

While Proposition 1 would be fair in extending existing property tax compression to people who are elderly or disabled, the changes to the property tax system would be relatively small, while housing prices in the state have continued to rise. Further exemptions would be needed to make housing more affordable for as many people as possible. The Legislature should take this opportunity to change more fundamental aspects of the property tax system and provide more meaningful and broad-based relief for people with disabilities and those who are elderly.

Notes

The enabling legislation for Proposition 1, SB 12 by Bettencourt, Second Called Session, would lower the property tax ceiling on a residence homestead owned by an individual who is disabled or over 65 years old to reflect any reduction from the preceding tax year in the district’s maximum compressed rate.

The bill would entitle school districts to additional state aid necessary to compensate them for the amount of property tax revenue lost due to the limitation on tax increases. It would require the Texas Education Agency to post certain tax rate information on its website. It also would require the comptroller’s study of school district property values to include the final taxable value for each school. The bill will take effect January 1, 2023, if voters approve the proposed amendment.

Proposition 2: Raising the residence homestead exemption to \$40,000

SJR 2 by Bettencourt (Button) — Third Called Session

Background

Texas Constitution Art. 8, sec. 1-b(c) exempts \$25,000 of the market value of a residence homestead from ad valorem taxation for public school purposes. It also establishes other requirements for the exemption, including that the Legislature provide for formulas to protect school districts against all or part of the revenue loss incurred. Tax Code sec. 11.13(b) provides for the same exemption in statute.

Tax Code sec. 11.13(j) defines “residence homestead” as a structure or separately secured and occupied portion of a structure (together with the land, not to exceed 20 acres, and improvements used in the residential occupancy of the structure, if the structure and the land and improvements have identical ownership) that is:

- owned by one or more individuals, either directly or through a beneficial interest in a qualifying trust;
- designed or adapted for human residence;
- used as a residence; and
- occupied as the individual’s principal residence by an owner, by an owner’s surviving spouse who has a life estate in the property, or, for property owned through a beneficial interest in a qualifying trust, by a trustor or beneficiary of the trust who qualifies for the exemption.

Digest

Proposition 2 would amend Texas Constitution Art. 8, sec. 1-b(c) to increase the amount of the residence homestead exemption from property taxes for public school purposes from \$25,000 to \$40,000. The amendment would include a temporary provision specifying that the increase took effect January 1, 2022, and would apply only to a tax year beginning on or after that date.

The ballot proposal reads: “The constitutional amendment increasing the amount of the residence homestead exemption from ad valorem taxation for public school purposes from \$25,000 to \$40,000.”

Supporters say

Proposition 2 would provide immediate and ongoing property tax relief to millions of Texan homeowners by raising the amount of the homestead exemption, saving a homeowner around \$176 a year on average. A flat exemption increase would especially benefit owners of homes with lower and average property values, while the state would ensure that school districts did not see negative fiscal impact due to the amendment. While the state would need to assume a higher share of public education funding, it can afford to do so because state tax revenue has grown steadily each year and likely will continue to do so. While broader property tax relief may be worth pursuing, this amendment at least would provide immediate and needed relief to average homeowners in Texas. In combination with other measures taken by the 87th Legislature, Proposition 2 would be a significant contribution to the Legislature’s ongoing efforts to decrease the property tax burden for all Texans.

Critics say

Although Proposition 2’s flat increase in the homestead exemption would especially benefit average homeowners, rather than the very wealthy, the state should be cautious not to prioritize such measures over long-term investment in other areas. While the state currently is in a strong financial position, this change could be more difficult to pay for in the future without negatively impacting funding for education and health care programs.

Other critics say

While Proposition 2 would provide some relief to homeowners, it would not go far enough to address the problem of increasingly burdensome property taxes for all Texans, including owners of other types of property and renters. The increased exemption may not be enough to ensure net savings for homeowners since appraisal values are also rising. Using general revenue to reduce property tax rates across the board would be a better approach to property tax relief.

Notes

The enabling legislation for Proposition 2, SB 1 by Bettencourt, Third Called Session, would amend the Tax Code to increase the amount of the residence homestead exemption from property taxes for public school purposes from \$25,000 to \$40,000. The bill also would entitle school districts to state aid to make up for the resulting loss of local revenue, beginning with the 2022-2023 school year. The bill will take effect on the date that the proposed constitutional amendment is approved by voters. If the amendment is not approved, the bill will have no effect.

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