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14 Constitutional Amendments on November Ballot

ANALYSIS

The constitution's current framework was adopted in 1876 during a period of strong public distrust of government. While the document's restrictions on state government are legendary, equally noteworthy is the public's willingness to continually modify it into contemporary relevance through statute-like amendments -- 353 amendments have been approved by voters in the past 119 years (see box below) and 14 more are on the ballot this year.

As in years past, most of the proposed amendments respond to the constitutional limitations placed on bonded debt, property tax exemptions, and local government.

The 14 amendments are listed in order of appearance on page 2. The more detailed discussion following the list groups the amendments by topic.

Bonded Debt. Because the constitution generally prohibits the creation of state debt, voters must approve an authorizing amendment (or proposition) before general obligation (G.O.) bonds may be issued. Four amendments on November's ballot deal with bonded debt: Nos. 7 and 8 propose financing for veterans' housing and student loans; No. 9 would reduce the authorized debt for the superconducting super collider; and No. 10 would redirect existing bond revenue to rural economic development programs.

Property Tax Exemptions. Under the constitution, all real and tangible personal property is subject to ad valorem taxation unless specifically exempted.

The first six amendments on the ballot propose new categories to be added to the extensive list of existing exemptions.

Local Government. An outgrowth of the constitution's restrictions on local government organization, No. 12 proposes abolishing county constables in three counties.

Constitutional Officers. No. 11 would abolish the office of state treasurer provided for in Article IV of the constitution.

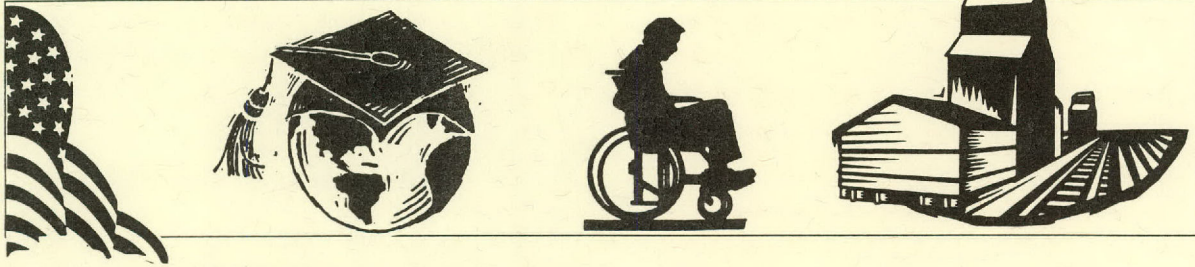
Miscellaneous. The last two amendments address separate issues. No. 13 would repeal the requirement that businesses investing in South Africa or Namibia disclose these investments in order to receive money from the Texas growth fund. No. 14 concerns the validity of homestead encumbrances to secure debts from the division or award of property in divorce settlements or to refinance a lien against a homestead.

**Constitutional Amendments
by Year Voted**

	Proposed	Adopted
Pre 1970	313	195
1970-1979	65	40
1980-1989	108	91
1990-May 1993	19	13
November 1993	16	14
November 1995	14	?
Total	535	353

November 7, 1995 Ballot
The Constitutional Amendments

1. Authorizing a property tax exemption for income-producing personal property and mineral interests with insufficient taxable value to recover the administrative costs of collecting the tax.
2. Authorizing local-option property tax exemption for commercial fishing boats and related equipment.
3. Transferring an elderly person's property tax exemption to a surviving spouse aged 55 or older.
4. Increasing the limits of the homestead exemption for disabled veterans, their spouses, and minor children.
5. Designating wildlife management as a qualifying use for property tax appraisal as open-space land.
6. Authorizing a property tax exemption for property owned by organizations chartered by the Congress of the Republic of Texas and used for charitable or benevolent purposes.
7. Increasing G. O. bonds for veterans' housing by \$500 million.
8. Authorizing the issuance of \$300 million in G. O. bonds to finance educational loans to students.
9. Reducing G. O. bond authorization for the superconducting super collider from \$500 million to \$250 million.
10. Allowing up to \$200 million of existing bonds for farm and ranch financing to be used for other rural economic development programs.
11. Abolishing the office of state treasurer.
12. Abolishing the office of county constable in Mills, Reagan, and Roberts counties.
13. Repealing the requirement that businesses receiving money from the Texas growth fund disclose whether they have investments in South Africa or Namibia.
14. Permitting homestead encumbrance for property division due to a divorce settlement or for the refinancing of a lien.



Bonds

7. Veterans' Housing

Proposition 7 would authorize an additional \$500 million in G.O. bonds for the Veterans' Land Board to provide low interest home mortgage loans to veterans. The money would augment the Veterans' Housing Assistance Fund II, part of the Veterans Housing Assistance Program. The bonds are self-supporting. Since the program's inception in 1983, voters have approved \$1.5 billion in G.O. bonds, including \$500 million in 1993.

Due to the program's low interest rates, demand for mortgages was high in 1994. At the current lending rate, the remaining bond authority will be insufficient to meet loan demand after 1996.

8. College Student Loans

In 1965, the constitution was amended to allow the Higher Education Coordinating Board to issue up to \$85 million in G.O. bonds to support loans to resident students attending public or private universities in Texas. Since then, voters have approved additional bonding authority three times -- \$200 million in 1969, \$75 million in 1989, and \$300 million in 1991. The Coordinating Board cannot meet loan demand without new bonding authority. This amendment would authorize up to \$300 million of G.O. bonds.

Like the bonds for veterans' housing, these bonds are intended to be self-supporting. Previously, demand for loans outpaced repayments, necessitating authorization by the legislature of

revenue bonds (which do not require constitutional authorization, but bear a higher rate of interest than G.O. bonds) to fund student loan programs. In 1993, however, these programs became self-supporting.

9. Super Collider

In 1987, voters approved \$500 million in G.O. bonds to establish a superconducting super collider fund. The National Research Laboratory Commission has not issued \$250 million of these bonds. Now that the U.S. Congress has killed the project by withdrawing federal support, there is no need to issue this remaining amount. Proposition 9 would revoke authorization for those bonds by reducing the amount authorized by the constitution from \$500 million to \$250 million.

10. Rural Economic Development

Voters have authorized a maximum of \$530 million in G.O. bonds for three rural economic development programs: \$500 million for a farm and ranch land financing program, \$25 million for the Texas agricultural fund which assists agricultural businesses, and \$5 million for the rural microenterprise fund which supports small businesses in rural areas.

In 1993, voters rejected an amendment that proposed to increase the bond authorization for the Texas agricultural fund from \$25 million to \$100 million. This year's amendment would not increase funding. Instead, it would allow \$200 million from the existing bond authority for the farm and ranch land financing program to be used for the agricultural fund, the rural microenterprise development fund, or

any other rural economic development programs. The \$200 million would be deposited in the Texas agricultural fund and be administered by the Texas Agricultural Finance Authority.

Property Tax Exemptions

1. Personal Property

The Texas Constitution subjects all income-producing tangible personal property to ad valorem taxation. When the property has a value of less than \$500, the tax generated may not cover the administrative costs of collection. Under current law, taxing authorities are required to assess and collect a tax on these properties even though they may lose money in doing so.

Proposition 1 would ensure that taxes are imposed only on property that will recoup sufficient revenue to cover the cost of administration by exempting income-producing tangible personal property, as well as mineral interest property, valued at less than \$500.

The implementing legislation applies the exemption to each separate taxing unit in which a person holds or uses eligible property and requires all property owned by an individual taxpayer in each taxing unit to be aggregated to determine taxable value.

2. Fishing Boats

This amendment gives local governments the option of exempting from ad valorem taxation small commercial fishing boats and related equipment used in the taking of marine life for resale as food for human consumption.

For many small businesses in commercial fishing, the inconsistent nature of the industry makes property taxes on fishing boats and equipment burdensome. Proposition 2 is intended to provide these small

businesses with tax relief; accordingly, the exemption is limited to boats smaller than 100 feet.

3. Homesteads of the Elderly

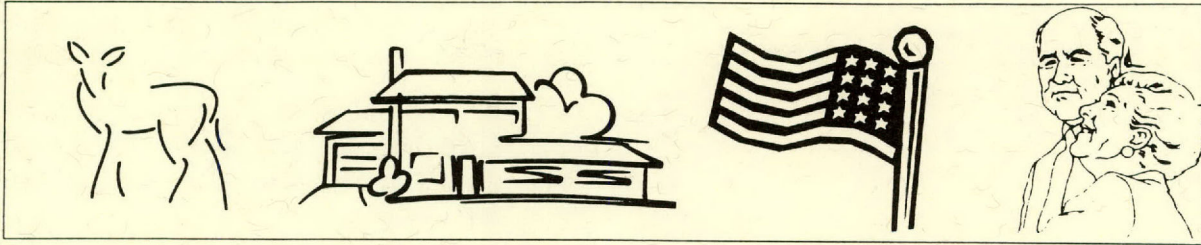
The constitution gives local governments the option of limiting property taxes on residence homesteads owned by individuals 65 years or older. In the case of school districts, the property tax levy is frozen at the level existing when the homeowner reached age 65, and the freeze continues to apply to a surviving spouse who is at least age 55. However, other taxing units that elect to offer an exemption to elderly people cannot transfer the rest of the exemption to the surviving spouse unless he or she already is 65.

This amendment would extend the full amount of the elderly exemption on a residence homestead to a surviving spouse aged 55 or over. The surviving spouse is eligible if the deceased spouse received the exemption in the year of death, the property was the residence homestead of the surviving spouse when the deceased spouse died, and the property remains the residence homestead of the surviving spouse.

4. Disabled Veterans' Homesteads

In 1972, voters approved an exemption for property owned by disabled veterans or their surviving spouses or minor children. It has not been amended since, but inflation has risen considerably since 1972, eroding the value of the exemption.

Proposition 4 would increase the maximum allowable exemptions. The cap varies depending on the degree of disability. For example, the exemption for veterans who are 10% to 30% disabled would increase from \$1,500 to \$5,000; for veterans who are more than 70% disabled, more than 10% disabled and over 65, or disabled due to a loss of limbs, to blindness or to paraplegia, the cap would increase from \$3,000 to \$12,000. Veterans who are less than 10% disabled are not entitled to an exemption. The exemption for surviving spouses and minor children of a deceased



disabled veteran or of a member of the Armed Forces who dies while on active duty is made optional, and increased from a maximum of \$2,500 to \$5,000.

5. Wildlife Management Land

Open-space land used for farm or ranch purposes is taxed on the basis of its productive capacity. In 1991, the legislature statutorily added wildlife management as a qualifying use for this special appraisal practice. Proposition 5 includes a temporary provision validating the 1991 statutory changes, and authorizes the legislature to provide for local property taxation of land used for wildlife management in the same manner as farm and ranch land.

The implementing legislation removes statutory language requiring open-space qualification on January 1, 1992, and instead requires that the land be actively used for at least three of the wildlife management purposes, such as habitat or erosion control, listed in §23.51(7) of the Tax Code.

Owners of property used for wildlife management will not be entitled to refunds for taxes paid since 1991 unless they challenged the tax payment before the effective date of the amendment.

6. Masonic Lodges

Proposition 6 would exempt from ad valorem taxation the property of continuously existing organizations chartered by the Congress of the Republic of Texas.

While the amendment applies to any organization that meets the criteria, it specifically is

intended to help the Masonic Lodges. The Masons, who spend over \$80 million per year on charity and operate community projects such as literacy programs and hospitals, are facing a substantial drain on resources and the loss of meeting halls that are historic landmarks because of increasing property taxes. To be eligible for the exemption, the property must be used primarily for charitable, benevolent, or public service activities.

Local Government Officials

12. Abolish Constables In Three Counties

Over the years, there have been a stream of amendments posed to Texas voters proposing the abolition of the office of surveyor or of treasurer in individual counties. In 1993, an amendment was approved that put an end to that stream for county surveyors. Now the voters of each county are free to decide in a local election whether to abolish that office. However, the constitution still includes its general requirement for a treasurer in each county.

This year, county constables -- officials who execute civil or criminal process, warrants, subpoenas, etc. -- join treasurers as a subject for constitutional amendment. Proposition 12 would abolish that office in Mills, Roberts, and Reagan counties.

The Mills County constables will be abolished if the amendment is approved by voters statewide. In Roberts and Reagan counties, the amendment must receive majority approval both statewide and in the counties themselves. In all three counties, the duties of the constables would be transferred to the county sheriff.

Constitutional Officers

11. Abolish State Treasurer

The Texas Constitution provides for seven statewide elected officials, including the state treasurer. As recommended in the Texas Performance Review and by Treasurer Martha Whitehead during her election campaign, Proposition 11 would abolish that office effective September 1, 1996, and transfer the responsibility of

protecting, managing, and investing state cash and securities to the comptroller of public accounts.

The implementing legislation would amend the Government Code to affect the change. In particular, if the treasurer and comptroller currently are both *ex officio* members of a committee or governing body, the legislation provides that the transfer would not give the comptroller the right to more than one vote. Similarly, if both have the power to appoint members to a committee, the transfer would not give the comptroller the right to additional

Definitions

General Obligation Bonds -- G.O. bonds are backed by the full faith and credit of the state and constitute a first draw on available revenue; authorization for the issuance requires voter approval of a constitutional amendment or of a proposition that passed both houses of the legislature by a two-thirds vote.

Revenue Bonds -- Revenue bonds are secured only by specifically designated revenues and not by the general credit of the state; thus, constitutional authorization for their issuance is not required. If pledged revenues are insufficient to meet debt service requirements, bondholders have no recourse against the state. Pledged revenues generally are fees and other receipts derived from operation of some enterprise (such as a toll road), but also may include state appropriations.

Self-supporting Bonds -- These bonds are paid from sources outside the state's general revenue fund or outside state government entirely. Examples include bond issuances such as Nos. 7 and 8 which go toward loans. In theory at least, once the loans have been made, the principal and interest payments will cover repayment of the bonds. If payments are inadequate, then the G.O. bonds are, as always, backed by the constitutional pledge of the full faith and credit of the state.

Implementing or Enabling Legislation -- As the name implies, this is legislation required to implement some constitutional grant of authority. "Self-enacting" provisions of the constitution require no further legislation because all the necessary details are included. (Amendment No. 4 would be self-enacting.) In contrast, "empowering" provisions must have additional legislation to be effective because the legislature is only authorized to take some action previously prohibited by the constitution. Such legislation can be passed at the same time as the authorizing amendment, with a proviso that it is effective only if the amendment wins voter approval, or can be left to some future legislation.

committee appointments. However, if the treasurer and comptroller both have the power to appoint members to a governing body, the transfer would allow the comptroller to make additional appointments as long as the members of the governing body serve six year terms.

Miscellaneous

13. Repeal of Restriction on Texas Growth Fund

The Texas growth fund is a potential source of capital for Texas businesses having difficulty in obtaining financing from existing capital markets. In 1988, the legislature prohibited the investment of money from the fund in businesses that had not submitted affidavits disclosing whether they had direct investments in South Africa or Namibia. The restriction was enacted to protest apartheid.

In 1993, South Africa's apartheid government was replaced by the democratically elected government of President Nelson Mandela. As a result, this amendment proposes to repeal the 1988 restriction. With approval of Proposition 13, Texas would join every other state in removing such restrictions on investment.

14. Homestead Encumbrances

The constitution protects resident homesteads from forced sale for the payment of all debts except for the purchase money of the property, for taxes due on the property, or for improvements. Other liens are invalid. This amendment would add two more exceptions to the list of enforceable encumbrances: those that secure the debt of a spouse resulting from a division or award of property in a divorce proceeding or the refinancing of a lien against a homestead.

In the past, Texans have partitioned their homesteads in divorce proceedings by transferring

the homestead to one spouse and imposing a lien against the entire property to secure the owelty of (i.e. the debt resulting from) partition. This practice facilitated the availability of third party financing. Encumbrances also were deemed valid to secure third party financing of liens such as federal tax debt. The rationale for this exception to the prohibition on homestead encumbrances was that, under federal law, a lien attaches to real estate of the taxpayer

Texas Debt: How Does It Compare?

Although Texas has a bond rating of AA, the state's debt burden is less than that of six of the eight states that have a AAA bond rating, which is the highest issued by Moody's.

Texas ranks 39th in tax-supported state debt as a percentage of personal income, with a debt to personal income ratio of 1.2%. In comparison, other large states such as New York, Florida, and California have ratios of 6.4%, 2.9%, and 3.0% respectively. The national average is 3.1%.

Among the 10 most populous states, Texas ranks fifth in the per capita amount of total state and local debt with \$3,786 of debt per person. In terms of strictly state debt per capita, Texas is last among this group with a ratio of \$453 per person. However, in terms of strictly local debt, Texas ranks first with a per capita amount of \$3,332. Local government debt accounted for 88% of the \$66.8 billion in Texas' total state and local debt.

SOURCE: 1992 Data from Texas Bond Review Board 1994 Annual Report

regardless of whether that property is exempt under state law. Recent litigation has cast doubt on the validity of both of these practices. The purpose of Proposition 14 is to clarify the law regarding when a homestead is not protected from forced sale due to failure to pay a debt secured by the property.

In addition, the amendment would authorize a purchaser or lender to rely on an affidavit stating that the property to be conveyed or encumbered is not the affiant's homestead.

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