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Voters Face 21 Amendments on November Ballot

Texas has produced six constitutions with each marking a significant point in Texas history. The first, in 1836, established Texas as a Republic, and the second, in 1845, coincided with Texas statehood. Revisions were necessary in 1861 when Texas seceded from the Union, in 1866 after the demise of the Confederacy, in 1869 when Texas was subjected to Reconstruction, and finally, in 1876, at the end of the Reconstruction era.

Each constitution reflected the temper of the times; the 1876 document is a clear example. Texas' reconstruction period featured a state administration characterized by government extravagance, excessive taxation and military terrorism. The delegates to the 1875 constitutional convention, many of whom were conservative and inexperienced in political affairs, produced a document showing a marked reaction to the recent "carpetbag" rule.

The resulting 1876 Constitution -- the one still in effect -- combines general constitutional principles (the Bill of Rights for example) with statutory detail placing strict limits on spending, debt creation, legislative actions, executive privilege and government organization.

Extensive revision attempts have not been successful; the last, in 1975, was soundly rejected by the voters. Changes have been effected only by specific detailed amendment. Through 1988, 465 amendments have been proposed with 307 having been approved (see table); another 21 proposals face the electorate this year.

The 1989 Constitutional Amendments

The amendments to be included on the November 7th ballot are listed in numerical order on page 2. The discussion that begins on page 3 groups the proposals by topic.

Bonded Debt. Texas is a pay-as-you-go

state; the constitution requires a balanced budget and prohibits debt creation; prohibits, that is, except where it is otherwise specifically authorized -- a practice that has become commonplace. Six amendments (Nos. 2, 3, 8, 12, 18 and 21) pertain to bonded debt.

Property Tax Exemptions. The constitution once required that all property be subject to ad valorem taxes based on full market value. Over the years, a long list of exceptions have been adopted; propositions 4 and 5 would expand that list.

Legislative Pay. Typical of the detail contained in the constitution is the specification of the amounts paid to legislators. Amendments Nos. 1 and 11 would increase legislative pay and per diem.

Criminal Justice. Three amendments (Nos. 9, 10, and 13) pertain to the state's criminal justice system organization, to jury instructions in criminal trials, and to the rights of victims of crime.

Local Government. Local governments -- most particularly counties and special districts -- are severely restricted by the constitution. Proposals Nos. 6, 14, 16, 17, 19 and 20 apply to local government organization and activities.

Miscellaneous. The final two amendments (No. 7, oath of office for appointed and elected officials; No. 15, legalizing raffles for charitable purposes) deal with separate topics.

Constitutional Amendments by Year Voted

	Proposed	Adopted
Pre 1960	232	140
1960-1969	81	55
1970-1979	65	40
1980-1988	87	72
1989	21	?
Total	486	307

ANALYSIS

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November 7th Ballot

The Constitutional Amendments

1. To limit the salary of the lieutenant governor and the speaker of the house of representatives to not more than one-half of the governor's salary and to limit the salary of a member of the legislature to not more than one-fourth of the governor's salary.
2. To authorize issuance of an additional \$500 million of Texas water development bonds for water supply, water quality, and flood control purposes.
3. Authorizing the legislature to provide for the recovery and further development of the state's economy, with goals of increasing job opportunities and other benefits for Texas residents, through state financing of the development and production of Texas products and businesses.
4. To authorize the legislature to exempt property of nonprofit veterans organizations from ad valorem taxation.
5. Promoting economic growth, job creation and fair tax treatment for Texans who export goods to other states and nations by restoring and allowing, on a local option basis, an ad valorem tax exemption for certain personal property that is in Texas only temporarily for the purpose of assembling, storing, manufacturing, processing or fabricating.
6. Authorizing the members of a hospital district governing board to serve four-year terms.
7. To require that a member of the legislature, the secretary of state, and an elected or appointed officer, before assuming office, sign a written oath stating that the member, the secretary of state, or the officer did not engage in bribery to obtain the office.
8. Authorizing the issuance of general obligation bonds for projects relating to facilities of corrections institutions, youth corrections institutions, and mental health and mental retardation institutions and for the expansion of statewide law enforcement facilities.
9. Authorizing the legislature to organize and combine various state agencies that perform criminal justice functions.
10. Authorizing the legislature to require or permit courts to inform juries about the effect of good conduct time and eligibility for parole or mandatory supervision on the period of incarceration served by a defendant convicted of a criminal offense.
11. To set the amount of per diem received by a member of the legislature at the amount allowed for federal income tax purposes as a deduction for living expenses incurred by a state legislator in connection with official business.
12. To provide for using the permanent school fund and its income to guarantee bonds issued by the state for the purpose of aiding school districts.
13. Providing a bill of rights for crime victims.
14. Requiring a district attorney serving in Fort Bend County to be elected and serve a term in the manner provided by general law for criminal district attorneys.
15. Authorizing the legislature to permit and regulate raffles conducted by certain nonprofit organizations for charitable purposes.
16. Granting to the people the right to decide whether to create and maintain hospital districts to protect the public well-being in a manner independent of the legislature.
17. Authorizing the state to provide scholarships, grants, loans, and other financial assistance to local fire departments and other public fire-fighting organizations to purchase fire-fighting equipment, to aid in providing necessary equipment and facilities to comply with federal and state law, and to educate and train their members.
18. To eliminate certain time limitations relating to the issuance of Texas agricultural water conservation bonds.
19. To authorize local governments to invest their funds as provided by law.
20. To abolish the office of county surveyor in Cass, Ector, Garza, Smith, Bexar, Harris and Webb counties.
21. Providing for the issuance of general obligation bonds to provide educational loans to students and to encourage the public to save for a college education.

ADDITIONAL STATE BONDS

2

Water Bonds

The Water Development Board would be authorized to issue an additional \$500 million in G.O. bonds for various water projects by this amendment. Of that total amount, \$250 million would be available for financial assistance to local water projects, \$200 million would be for water quality enhancement, and \$50 million would be for flood control projects.

Over the past 30 years, several constitutional amendments have authorized the issuance of water project bonds. Most recently, 1985 and 1987 amendments authorized issues of \$980 million and \$400 million respectively. About \$1.09 billion from those two authorizations remains to

be issued.

Amendment No. 2 also would authorize new uses for water bonds. First, the prohibition on use of bond proceeds to provide for **retail** distribution or transportation of water solely to retail purchasers would be removed. Second, the legislature can authorize the use of up to 20% of the bond issue (\$100 million) to provide **grants** or loans for water projects in economically distressed areas.

In the implementing legislation, the "colonias" along the Texas-Mexico border are the distressed areas directly targeted, but any county (in addition to those bordering on Mexico) that has a per capita income averaging 25% below the state average and an unemployment rate 25% above the state average would be an area eligible for participation. Unreimbursed assistance may not exceed \$75 million.

Definitions

General Obligation Bonds are backed by the state's full faith and credit and constitute a first draw on available revenue; issuance requires passage of a constitutional amendment.

Revenue Bonds are secured only by specifically designated revenues and not by the state's general credit; 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 the operation of some enterprise (such as a toll road), but also may include state appropriations.

"Gimmick" Bonds is a term used to describe revenue bonds that are secured principally by state appropriations. Typically, an authority is created by statute to issue bonds for the acquisition of some facility which is in turn leased back to the state for an amount

sufficient to meet debt service requirements (see Amendment No. 8 for an example). Technically, the state is not obligated beyond the constitutionally mandated two-year life of the current appropriation. However, the practical effect is to create general state debt without a constitutional authorization.

Implementing or Enabling Legislation, as the name implies, is legislation required to implement some constitutional grant of authority. "Self-enacting" constitutional provisions require no further legislation because all the necessary details are included. 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 legislative session.

Texas State Bonded Debt

(Millions of Dollars)
Estimated as of August 31, 1989

	Authorized ¹	Outstanding	Unissued
General Obligation Bonds:			
Veterans Land & Housing	\$2,250.0	\$1,365.0	\$ 405.0
Farm and Ranch Finance	500.0	0.0	500.0
Water Bonds ²	1,980.0	85.5	1,089.5
Student Loans	285.0	167.9	0.0
Farm and Ranch Loan Security	10.0	10.0	0.0
Park Development	75.0	29.3	29.3
Super Collider	500.0	0.0	500.0
State Agencies	500.0	474.5	25.0
Subtotal	<u>\$6,100.0</u>	<u>\$2,132.2</u>	<u>\$2,548.8</u>
Perm. Univ. Fund Bonds		725.3	3
High. Ed. Constitutional		181.4	4
Total	<u>\$6,100.0</u>	<u>\$3,038.9</u>	<u>\$2,548.0</u>
G.O. Bond Proposals:			
Ag. Water Conservation	200.0		
Products & Business	75.0		
State Agencies	400.0		
College Savings Bonds	75.0		
Water Bonds	500.0		
Subtotal	<u>\$1,250.0</u>		
Total G.O. Bonds	<u>\$7,350.0</u>	<u>\$3,038.9</u>	<u>\$2,548.0</u>
Revenue Bonds:⁵			
Colleges and Universities		\$ 953.0	
Texas Housing Agency		1,793.2	
Texas Turnpike Authority		577.3	
Texas Armory Board		21.1	
Public Finance Authority		198.4	
Indust. Development Corp		100.0	
Hospital Equipment		37.4	
Super Collider	500.0	0.0	
Ag. Finance Authority	500.0	0.0	
Water Resources Finance		508.3	
School District Facilities ⁶	750.0	0.0	
School for the Deaf ⁶	45.0	0.0	
State Office Buildings ⁶	73.5	0.0	
Total Revenue Bond		<u>\$4,188.7</u>	

1 Total bonds originally authorized; because of bond repayments and refinancing, outstanding and unissued may not equal authorized total.

2 An additional \$250 million in local water bonds can be guaranteed by the State. This provision expires in 1991 unless 2/3 vote of the legislature authorizes its extension. \$511 million in G.O. water bonds outstanding at the end of fiscal year 1988 were defeased and became Water Resources Finance revenue bonds.

3 UT bonds may not exceed 20% of the value of the PUF, excluding real estate, and A&M bonds may not exceed 10%.

4 No limit on bonds, but debt service may not exceed \$50 million per year.

5 Authorized amounts are listed only for programs with limits on the amount of bonds that may be issued.

6 New authorizations passed in the 1989 session.

3 Economic Development Bonds

Initial funding for four new economic development endeavors would be provided by a \$75 million G. O. bond issue authorized by this amendment -- a scaled-down rerun of a similar proposal rejected by the voters in 1987.

- \$25 million would be available to enhance the production, processing and marketing of agricultural crops grown primarily in the state.
- \$5 million could be used to promote small business creation and expansion in rural areas.
- \$25 million is allocated to aid in the development and production of new or improved products.
- \$20 million would be devoted to aiding business incubators to stimulate the development of small businesses in the state.

The first two programs would be the responsibility of the Texas Agricultural Finance Authority -- a part of the Department of Agriculture. The authority could participate in various financial assistance programs, including direct loans and loan guarantees. In addition to the general obligation bonding authorization, up to \$500 million in revenue bonds (constitutional authorization is not required) could be issued by the finance authority.

The latter two programs would be the responsibility of the Department of Commerce. The product development program would involve loans and equity investments to companies in such areas as biotechnology, biomedicine, energy, etc., where the company can demonstrate that private financing is not available. The state would acquire royalties, patent rights and equitable interests in products developed.

The business incubator program, now funded primarily by local sponsors, provides space and support services to assist new business startups. With the bonding authority, the state would make loans or grants, up to \$250,000, to sponsors for acquisition of capital facilities. This amendment makes small business incubators operating under this program exempt from ad

valorem taxation in the same manner as a public charity institution.

8 State Facilities Bonds

Voters in 1987 authorized the issuance of \$500 million in G.O. bonds for facilities construction, acquisition and repair at adult and youth corrections institutions and at mental health and mental retardation institutions. The legislature has appropriated funds that would use up almost all of that bond authorization. Proposition No. 8 would add another \$400 million in G.O. bonds for the same purposes.

This bond program, through implementing legislation, is administered by the Texas Public Finance Authority. Specific projects to be financed with the bond proceeds require legislative approval, and the legislature in the 1990-1991 appropriations act authorized the construction or purchase of facilities that would use some of the bond proceeds. The kicker is that if the G.O. bonds are not approved by the voters, then the Finance Authority is authorized to issue \$400 million in revenue bonds to cover the legislative authorization.

12 Pledging the Permanent School Fund to Guarantee State Bonds

In 1989, the legislature created the School Facilities Aid Fund, administered by the state treasurer, to provide loans to local school districts for capital construction, improvements or equipment (not land, facilities used for extracurricular activities, or computers). The Bond Review Board is authorized to issue \$750 million in state revenue bonds to provide the aid funds. Those bonds would be repaid from the loan repayment proceeds from local districts; delinquent payments would be deducted from the district's state aid entitlement.

A constitutional amendment adopted in 1983 authorized the use of the Permanent School Fund (PSF) to guarantee the repayment of bonds

issued by local school districts. In excess of \$1.5 billion in school district bonds have been guaranteed under this program, and local districts have realized considerable savings because of the lower interest rates that resulted from the guarantee.

Proposition 12 would provide a similar PSF guarantee for the \$750 million in revenue bonds authorized to support the Facilities Aid Fund. Any funds required to be paid from the PSF would become a general obligation to be repaid from the state treasury. The bond amount that can be guaranteed by the PSF can exceed \$750 million if authorized by a 2/3 record vote of both houses of the legislature. Only the bond guarantee is contingent upon passage of amendment No. 12; the Facilities Aid Fund is authorized by an existing statute.

18 Removing Time Limit on Issuance of Agricultural Water Conservation Bonds

An amendment adopted in 1985 authorized the legislature by a 2/3 vote to allow the Texas Water Development Board to issue \$200 million of G.O. bonds for agricultural water conservation. That authorization expires on November 5, 1989. In the 1989 regular session, the legislature, by the required 2/3 vote, passed an act (effective September 1, 1989) allowing the \$200 million in bonds to be issued.

Amendment No. 18 removes the constitutional deadline for the bond sale. If the Develop-

ment Board is able to issue the bonds prior to November 5th, this amendment has no practical meaning; however, without this constitutional change, any bonds unissued on November 5th could not be sold.

21 College Savings Bonds

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. Another \$200 million in G.O. debt for the same purpose was authorized in another constitutional amendment approved in 1969. Of the total \$285 million authorized, \$206 million has been issued, and this year the remaining \$79 million was approved for issue.

Proposition No. 21 would authorize the legislature to allow the Coordinating Board to issue an additional \$75 million in G.O. bonds to support the student loan program. These bonds will be issued as college savings bonds.

Implementing legislation requires the savings bonds to be sold in denominations of \$1,000 or less and they must be the type of bond (e.g., zero-coupon) that will encourage the purchaser to hold the bond to maturity. Up to \$10,000 per year in proceeds from the bonds would be excluded from consideration in determining a student's eligibility for scholarships or other financial aid.

PROPERTY TAX EXEMPTIONS

4 Veterans' Organizations

This proposed amendment would permit the legislature to enact an ad valorem tax exemption for property owned by a nonprofit organization composed primarily of members or former

members of the armed forces of the United States or its allies and chartered or incorporated by the U.S. Congress.

All real and tangible personal property is subject to property taxation unless specifically exempted by federal law or by the Texas Constitution. A number of exemptions are authorized in the constitution, including "institutions of purely public charity"; however, veterans' organizations are not specifically mentioned.

Despite a constitutional provision stating that all laws exempting property not specifically enumerated are null and void, the Property Tax Code includes an exemption for property owned by certain veterans' organizations. The attorney general ruled this exemption invalid in 1982, citing the lack of constitutional authorization. This ruling led to a proposed amendment in 1983 which would have allowed local taxing jurisdictions to exempt the property of certain fraternal and veterans' organizations. The voters rejected this proposal.

As a result, veterans' organizations currently can qualify for exemption only as "institutions of purely public charity" and it is often difficult for them to meet the strict eligibility standards which have been set forth by the courts.

5 Goods in Transit

The background of this proposed exemption is much the same as that relative to veterans' organizations. Since 1963 Texas has had a "freeport" statute on the books which exempts from property taxation certain goods temporarily stored in the state for eventual shipment outside the state. However, there is no specific constitutional authorization for the exemption and, as a result, it was declared invalid by the Texas courts in 1985.

To counter the adverse court decision, the legislature submitted to the voters in 1987 a proposed amendment which would have added the existing statutory freeport provisions to the constitution. A local-option feature was added whereby a county, city or school district would have been able to override the exemption and tax all or a percentage of the property's appraised value. The proposal was narrowly defeated. As a result, **Texas continues to be the only state that does not have some special provision dealing with the property taxation of inventories** -- an exemption for freeport goods, for all inventories, and/or for all personal property.

This proposed amendment is very similar to the 1987 proposal. It would exempt goods, wares, ores, and merchandise (other than oil, gas, or petroleum products) that are (1) acquired in

or imported into the state to be forwarded outside the state within 175 days of acquisition, and (2) detained for assembling, storing, manufacturing, processing, or fabricating purposes. Aircraft and parts used in repairing aircraft belonging to certificated air carriers also would be exempted. The governing body of a county, city, school, or junior college district could vote to continue taxing the property if action is taken before certain specified dates. However, the action to tax the property could later be rescinded.

Contingent upon passage of the proposed amendment, implementing legislation was adopted which will incorporate the new freeport provisions into the Property Tax Code and will establish the method for determining the amount of the exemption. The chief appraiser of a subject appraisal district will (1) determine the percentage of the owner's inventory that left the state within six months of acquisition in the preceding year, and (2) reduce the current year's inventory value by that percentage. Ineligible petroleum products would be limited to liquid and gaseous materials that are the immediate derivatives of oil or gas refining.

In addition, necessary changes would be made in effective tax rate calculations to prevent freeport exemptions from triggering rollback elections. The value of exempt freeport property also would be excluded from consideration as part of a school district's taxable value in order to avoid penalizing the district in state public school aid calculations.

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LEGISLATIVE PAY

1 Legislative Pay Raise

By the mere luck of the draw, the proposed amendment apt to receive the most attention will be the first one listed on the ballot. If adopted it would result in a tripling of legislative salaries.

The constitution sets the salary of members of the legislature at \$7,200 a year. The speaker of the House and the lieutenant governor, who presides over the Senate, receive the same \$7,200 annual salary. Legislative compensation was last increased in 1975 when legislators were receiving \$4,800 a year.

This proposed amendment would set legislative salaries at one-fourth of the governor's salary and would set the salary of the speaker of the House and the lieutenant governor at one-half of the governor's salary. Since the governor is now paid \$93,432 a year, under this provision legislators would be paid \$23,358; the speaker and lieutenant governor would receive an annual salary of \$46,716.

The salary increase would take effect with the convening of the next regular session in 1991. Also the constitution would specify that an increase in salary for the lieutenant governor would not render members of the legislature ineligible to serve in this office until their legislative term expires as is now required. This would allow senators with two years remaining in their term of office to run for, and serve as, lieutenant governor even though the legislature had acted to increase the lieutenant governor's salary.

Texas is one of only seven states which sets legislative salaries in the constitution. Legislative compensation is determined by the legislature in 27 states and by a compensation commission in 16 states. Additional compensation is provided for presiding officers in 37 states. States with constitutional salary limitations tend to have relatively lower levels of compensation and Texas is no exception to this rule.

Legislative salaries range from \$57,500 in New York to \$100 in New Hampshire. Legislators

receive more than \$30,000 a year in 10 states and less than \$10,000 in 18 states; 15 states pay less than does Texas. However, as the accompanying table illustrates, Texas has the lowest legislative salaries of the 12 most populous states. Generally, states that pay the higher salaries have full-time legislatures. If this amendment passes, Texas would rank 14th among all states and 9th among the most populous states.

11 Legislators' Per Diem

In addition to setting legislators' salaries, the constitution also specifies that legislators are to receive \$30 a day for living expenses whenever the legislature is in session. Concomitant with the last increase in legislative salaries, the per diem amount was raised in 1975 from \$12 to \$30. In 1984 the voters rejected by more than a 2-to-1 margin a proposed increase in per diem almost identical to the current proposition.

The constitutional \$30 limit on per diem

Legislative Compensation
Twelve Most Populous States

	Salary	Additional Compensation Presiding Officers	Per Diem
NY	\$57,500	\$30,000	\$75
PA	47,000	26,370	88 + 10,000 yr.
MI	45,450	23,000**	8,500 yr.
CA	40,816	None	88
OH	36,650	20,479	None
IL	35,661	10,972	74
NJ	35,000	8,333	None
MA	30,000	35,000	5 to 50***
FL*	20,748	8,064	50
NC	11,124	20,100**	81 + 465 month
GA*	10,251	44,669	59 + 4,800 yr.
TX*	7,200	None	30

*Length of sessions limited: FL--60 calendar days annually; GA--40 legislative days annually; TX--140 calendar days biennially.

**For House Speaker -- none for Senate President.

***Depending on distance from capitol.

Source: National Conference of State Legislatures

applies only during the 140-day biennial regular session and any special sessions called by the governor. Between sessions the amount of per diem which legislators receive when traveling on official state business (such as attending a committee hearing) is set by law. This amount currently is \$81 with a proviso that it will automatically increase along with any hike in the per diem rate which may be authorized by the federal government.

Federal income tax law allows legislators a tax deduction for each legislative day equal to either

the amount of per diem paid federal government employees when serving away from home or the amount of per diem set by state law, not to exceed 110% of the federal per diem. The federal figure is now \$81.

This proposed amendment in effect would conform statutory and constitutional per diem provisions. No specific per diem amount would be set in the constitution. Instead the amount of per diem allowed each year would be equal to the maximum federal income tax deduction allowed for living expenses of state legislators.

CRIMINAL JUSTICE

9 Criminal Justice Agencies Consolidation

In response to the persistent and growing problems of prison and jail overcrowding, the legislature enacted comprehensive criminal justice reform legislation. The centerpiece of this new system is the Texas Department of Criminal Justice which was established to bring about the coordinated management of adult corrections programs. This new agency was created by combining the Department of Corrections, the Board of Pardons and Paroles and the Adult Probation Commission.

The new department will be governed by a nine-member Board of Criminal Justice appointed by the governor. An enlarged Board of Pardons and Paroles is retained only to review pardon and parole applications. A new ten-member Legislative Criminal Justice Board will oversee policy implementation by the new department.

There is at least a possibility that a strict interpretation of the separation of powers clause of the constitution could invalidate major portions, if not all, of the reform package. This clause separates the powers of state government into three distinct departments (executive, legislative and judicial) and stipulates that no department may exercise any power properly attached to either of the others, except as expressly authorized by the constitution.

Potential problems arise because the power to operate the prison system and to pardon or parole convicted criminals are functions reserved to the executive branch, whereas probation is granted and administered by the judicial branch pursuant to constitutional authority. This amendment is designed to eliminate any chance that criminal justice agency consolidation could be held to violate the separation of powers clause.

The legislature would be expressly authorized to organize and combine into one or more departments all agencies of the state dealing with the confinement or supervision of convicted criminals. It also would authorize the appointment of members of more than one department of government to serve on the governing body of any such criminal justice agency.

10 Jury Instructions

In 1985, legislation was passed requiring judges in all non-capital felony trials to instruct the jury in writing regarding state law on parole and good conduct time and their potential impact generally on the release of prison inmates. However, juries also were to be instructed not to consider the possible application of such provisions to the particular defendant on trial.

This jury-instruction law was invalidated by the Texas Court of Criminal Appeals in 1987.

The court found the statute violated both the due process of law and the separation of powers provisions of the constitution.

This proposed amendment would override the court decision by specifically permitting the legislature to require or permit juries to be informed about the effect of good conduct time and eligibility for parole or mandatory supervision on the period of incarceration served by a convicted defendant. The implementing legislation for this amendment would simply reenact the jury-instruction statute which was struck down by the court.

13 Rights of Crime Victims

This proposal would amend the constitution by adding to the Bill of Rights a new section which specifies the rights of crime victims. A crime victim would have the right to fair treatment, respect for dignity and privacy, and

reasonable protection from the accused throughout the criminal justice process.

In addition, a victim would have the right, upon request, to notification of court proceedings, to attend those proceedings, to confer with the prosecutor's office, to receive restitution, and to obtain information about the conviction, sentence, imprisonment and release of the accused.

The state, through the prosecuting attorney, would have the right to enforce all the rights of crime victims. However, government officials would not be liable for their failure or inability to provide an enumerated right.

In effect this amendment would elevate to constitutional status a basic set of crime victims' rights which are now guaranteed by statute. These basic rights and many others are detailed in Chapter 56 of the Code of Criminal Procedure, enacted in 1985. In addition to enumerating victims' rights, the law requires local prosecutors in jurisdictions of over 150,000 population to designate a victim assistance coordinator to ensure that victims are afforded their rights.

LOCAL GOVERNMENT

6 Hospital District Boards

The term of office for a government official is limited by the constitution to two years; however, a number of exceptions have been added by amendment. Proposition No. 6 would allow the legislature to set four-year terms of office for hospital district board members.

16 Hospital District Creation

Prior to a 1962 amendment, each hospital district created required a separate constitutional provision. A change approved that year allowed the legislature to provide by law for

district creation, however, each new district, and any subsequent change, requires a specific legislative act. Proposition No. 16 would allow the legislature to provide a general procedure for district creation.

An implementing bill, effective if No. 16 is approved, provides that hospital district creation may be initiated at the local level on petition of 100 registered voters to the county judge. A local election would be required to approve both the district creation and a proposed property tax rate (limited to 75¢ per \$100 of value). The bill also spells out the powers of a hospital district and requires voter approval prior to the issuance of G.O. bonds.

In a 1957 act, the legislature gave commissioners courts in counties with less than 75,000 population the general authority to create hospital districts in their county, but there was no constitutional predicate for that action. Proposition 16, in a separate part, empowers the legislature to take the action they approved in 1957.

14

Fort Bend County District Attorney

In the 1989 session, a bill was passed, contingent upon the passage of Amendment No. 14, dividing the criminal district attorney's office in Fort Bend County into two parts, a district attorney and a county attorney, reverting back to the form most counties use.

Vacancies in the two offices, under current law, are filled by the governor for district attorneys and by the commissioners court for county attorneys. This amendment would require a district attorney serving in Fort Bend County to be elected and to serve a term in the manner provided for criminal district attorneys. The essence of the amendment is that this one district attorney would be elected for a four-term beginning in 1990 rather than in 1992 when all other district attorneys in the state will be elected, and a vacancy to be filled by appointment would be avoided.

17

Aid to Local Fire Departments

This proposal would allow the state to provide loans or other financial aid to local fire departments and other public fire-fighting organizations to purchase fire-fighting equipment and to provide scholarships and grants for fire-fighting education and training.

Legislation, effective if No. 17 is approved, created a Fire Department Emergency Board (with a \$1 million appropriation) to implement the aid program. The Board would consider financial need and availability of other revenue sources in approving applications for grants or loans.

19

Local Government Fund Investment

In 1987, the legislature passed the Public Funds Investment Act which specifies the types of investments that can be made by cities, counties, most other local governments and higher education

institutions. One investment type authorized for bond proceeds is "common trust funds or comparable investment devices owned or administered by banks domiciled in this state...."

In a 1988 opinion, the attorney general concluded that this provision runs afoul of the constitutional provision that prohibits the legislature from authorizing a local government to become a corporate stockholder.

Amendment No. 19 would authorize local governments to invest their funds as provided by law. Approval of the proposal would overcome the objections raised by the attorney general, and in addition would permit the legislature to authorize other investment types.

20

Abolish Seven County Surveyors

The counties' organizational structure is prescribed in detail in the constitution. In order to change that structure to suit the needs or wishes of an individual locale, a constitutional amendment is required. Amendment No. 21 is another in a long series that seeks to introduce flexibility in county organization by removing an office (usually the treasurer or surveyor) from constitutional prescription and leaving the commissioners court the latitude to provide for necessary functions.

Proposition No. 20 would abolish the county surveyor office in seven counties: Cass, Ector, Garza, Smith, Bexar, Harris and Webb. To be effective, the amendment not only must be approved statewide, but also by a majority voting in each individual county affected. Where the office is abolished, the commissioners court would assign the surveyor's duties to some other county office or employee.

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OTHER

7

Oath of Office

The oath of office which members of the legislature and all other state and local elected officers must take is set forth in the constitution. It requires elected officials to swear (or affirm) (1) that they will faithfully execute their duties of office, (2) that they will preserve, protect, and defend the constitution and laws of the U.S. and Texas, and (3) that they have not offered any type of reward for the giving or withholding of a vote at their election. A similar oath also is prescribed for the secretary of state and all other appointed officials.

This proposed amendment would simply shorten the oath of office by removing the language concerning bribery. Instead, before taking the spoken oath of office all elected and appointed officers would be required to sign and file with the secretary of state a written statement denying any bribery in their election or appointment.

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Legalize Raffles

The constitution now directs the legislature to enact laws prohibiting lotteries and gift enterprises. With the exception of approved bingo games, this is a blanket prohibition which applies to lotteries and raffles of all kinds, even

those conducted for charitable purposes. The holding of a raffle or lottery is a gambling offense under the Penal Code and as such is a third-degree felony subject to a maximum punishment of 10 years in prison and a \$5,000 fine.

Prior to 1980 the constitution contained an absolute prohibition against lotteries and gift enterprises. In that year voters approved an amendment authorizing certain nonprofit organizations to conduct bingo games if the proceeds are used for charitable purposes and if bingo is approved by local referendum.

This proposed amendment would add another exception to the ban on gift enterprises by permitting the legislature to authorize charitable raffles conducted by certain specified nonprofit organizations. It also would require that all proceeds of any raffle be spent for the charitable purposes of the organization and that the raffle be conducted exclusively by the qualified organization.

The implementing legislation for this amendment imposes a number of restrictions on approved raffles. Qualified nonprofit organizations would be limited to two raffles a year. The prize could not be money and could not exceed \$25,000 in value. Further, the raffle could not be promoted statewide and could not be advertised in any medium of mass communication. Only members of the nonprofit organization could sell raffle tickets and no one could be paid for conducting a raffle or selling tickets.

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