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CONSTITUTIONAL

Amendments Proposed

for November 2015 Ballot

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Number 84-6

Amending the Constitution

Texas voters have approved 484 amendments to the state Constitution since its adoption in 1876, according to the Legislative Reference Library. Seven more proposed amendments will be submitted for voter approval at the general election on Tuesday, November 3, 2015.

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 3, 2015, ballot was proposed by Senate Joint Resolution (SJR) 1, introduced by Sen. Jane Nelson and sponsored in the House by Rep. Dennis Bonnen. 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 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, the voters rejected a proposition authorizing $300 million in general obligation bonds for college student loans at an August 10, 1991, election, 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.

Ballot wording

The ballot wording of a proposition is specified in the joint resolution adopted by the Legislature, which has broad discretion concerning the wording. In rejecting challenges to the ballot language for proposed amendments, the courts generally have ruled that ballot language is sufficient if it describes the proposed amendment with such definiteness and certainty that voters will not be misled and if it allows a voter of average intelligence to distinguish one proposition from another on the ballot. The courts have assumed that voters become familiar with the proposed amendments before reaching the polls and that they do not decide how to vote solely on the basis of the ballot language.

Election date

The Legislature may call an election for voter consideration of proposed constitutional amendments on any date, as long as election authorities have enough time to provide notice to the voters and print the ballots. 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. Also, 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, and arranges for the required newspaper publication. The estimated total cost of publication twice in newspapers across the state for the November 3 election is $118,681, 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 often 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.

Previous Election Results

Analyses of the nine proposals on the November 5, 2013, ballot appear in House Research Organization Focus Report No. 83-5, *Constitutional Amendments Proposed for November 2013 Ballot*, August 7, 2013. The analysis of the proposal on the November 4, 2014, ballot appears in House Research Organization Focus Report No. 83-9, *Constitutional Amendment on November 2014 Ballot*, May 29, 2014.

Constitutional amendment election, November 5, 2013

Prop. 1: *Property tax exemption for surviving spouses of certain service members*

FOR	*999,724*	*87.0%*
AGAINST	*149,613*	*13.0%*

Prop. 2: *Removing provisions for the State Medical Education Board*

FOR	*950,046*	*84.7%*
AGAINST	*171,666*	*15.3%*

Prop. 3: *Allowing extension of exemption from inventory taxes for aircraft parts*

FOR	*626,602*	*57.7%*
AGAINST	*458,767*	*42.3%*

Prop. 4: *Tax exemption for disabled veterans whose homesteads were donated by a charity*

FOR	*965,377*	*85.1%*
AGAINST	*168,435*	*14.9%*

Prop. 5: *Authorizing a reverse mortgage loan for the purchase of homestead property*

FOR	*683,402*	*62.6%*
AGAINST	*408,197*	*37.4%*

Prop. 6: *Creating funds to assist in the financing of priority projects in the state water plan*

FOR	*839,369*	*73.4%*
AGAINST	*304,981*	*26.6%*

Prop. 7: *Allowing home-rule cities to decide how to fill vacant elected seats*

FOR	*809,844*	*74.4%*
AGAINST	*278,878*	*25.6%*

Prop. 8: *Repealing the provision authorizing a hospital district in Hidalgo County*

FOR	*743,510*	*72.4%*
AGAINST	*283,933*	*27.6%*

Prop. 9: *Expanding the State Commission on Judicial Conduct's sanctioning authority*

FOR	*925,509*	*84.7%*
AGAINST	*167,825*	*15.3%*

Source: Secretary of State's Office

General election, November 4, 2014

Prop. 1: *Authorizing the dedication of rainy day fund revenue to transportation*

FOR	*3,213,483*	*79.9%*
AGAINST	*810,382*	*20.1%*

Increasing the homestead property tax exemption

1
Proposition

SJR 1 by Nelson (D. Bonnen)

Background

Texas Constitution, Art. 8, sec. 1-b(c) requires a school district to exempt from taxation $15,000 of the value of a residence homestead. Under this provision, as implemented by Tax Code, sec. 11.13(c), a school district must grant an additional $10,000 exemption from the appraised value of a residence homestead for adults who are disabled or at least 65 years old.

Art. 8, sec. 1-b(d) limits the total amount of property tax levied for general elementary and secondary public school purposes on a homestead of a person or the spouse of a person who is 65 or older or disabled. Under this provision, also known as a "tax freeze," the dollar amount of the total tax burden may not be increased as long as the property remains the residence homestead of the person or the person's surviving spouse. Art. 8, sec. 1-b(e) allows a political subdivision other than a county education district to enact a percentage-based homestead exemption that exempts at least $5,000 but not more than 20 percent of a homestead's value from taxation.

Digest

Proposition 1 would amend Texas Constitution, Art. 8, sec. 1-b(c) to increase the mandatory homestead exemption from $15,000 to $25,000. The taxable value of homesteads owned by the elderly or by people who are disabled also would be correspondingly reduced.

Proposition 1 also would allow the Legislature to prohibit the reduction or elimination of optional homestead exemptions established by non-school district taxing entities under Art. 8, sec. 1-b(e). It also would prohibit the enactment of a real estate transfer tax.

The ballot proposal reads: "The constitutional amendment increasing the amount of the residence homestead exemption from ad valorem taxation for public school purposes from $15,000 to $25,000 and providing for a reduction of the limitation on the total amount of ad valorem taxes that may be imposed for those purposes on the homestead of an elderly or disabled person to reflect the increased exemption amount."

Supporters say

By increasing the homestead exemption, Proposition 1 would provide broad-based, crucial tax relief to Texans and drive economic growth.

Economic impact. Because the property tax is imposed on living spaces, virtually everyone in the state pays it in some manner. Homeowners pay directly, and renters pay it through higher rents as landlords factor in the cost. Although an increase in the homestead exemption would not directly benefit renters, it would drive down the cost of owning a home, which could lower rents by reducing demand for rental property.

The property tax is not related to income or consumption so it can negatively impact those with fixed incomes who are not subject to the tax freeze in Art. 8, sec. 1-b(d). When appraisal values rise significantly and tax rates are not adjusted downward, such people may find themselves priced out of their homes. This phenomenon is particularly common in areas with strong economic growth, where demand for housing rises with the influx of people seeking work. Data from the comptroller's *Tax Exemptions and Tax Incidence* report indicates that homestead exemptions particularly benefit low-income individuals because a dollar-value homestead exemption exempts a higher percentage of the total value of a less expensive home. In this way, Proposition 1 would provide meaningful relief to Texas homeowners even in the face of rising appraisals.

Local control. State law places limitations on school districts' ability to set property tax rates, and partially as a result of this, it is impractical for many districts to decrease rates even when appraisals increase.

Taxpayers continually request property tax relief from the state, so it is appropriate to address it through a constitutional amendment at the state level, rather than to rely on local governments to take action.

Revenue stability. Texas should have sufficient revenue to meet its obligations in future biennia, including the enabling legislation's requirement that the state hold public schools harmless for a reduction in local property tax revenue resulting from the increased homestead exemption. The revenue stream from the ongoing shale oil boom in recent years should be reliable despite a recent drop in oil prices that is likely to be temporary. The state also has billions of untapped dollars in the rainy day fund that could compensate for any unforeseen loss of revenue.

Spending alternatives. The fiscal 2016-17 budget passed by the 84th Legislature includes more money for a variety of critical state services, ensuring that they are well funded. Because these priorities have been addressed, the state should provide tax relief that will create jobs and stimulate economic activity.

Tax cut alternatives. The property tax should be cut because it is an onerous and noticeable tax for a large number of Texans. It is a tax upon the ownership of property, one of the most fundamental rights that people have. While taxpayers frequently ask for property tax cuts, they rarely report being overly burdened by the sales tax and see only the secondary effects of the franchise tax.

Opponents say

Increasing the homestead exemption as proposed in Proposition 1 would not have a significant impact on the average Texan, and the state would lose the opportunity to make better investments in areas with critical needs, such as public or higher education.

Economic impact. This amendment would not provide meaningful relief for the millions of Texans who rent or who otherwise do not own homes. Any decrease in rental prices would be negligible. Other tax cut alternatives, such as a sales tax cut, would provide broader and more equitable tax relief.

State law already provides relief for some of those who are most likely to be on fixed incomes. Texas Constitution, Art. 8, sec. 1-b(d) freezes the amount of tax that may be levied on homesteads owned by certain individuals, including those who are at least 65 years old or disabled.

Local control. Property taxes are fundamentally local taxes, and the state should not take ownership of rising local tax burdens. The proposed amendment is motivated by growing tax burdens caused by rising appraisals and static tax rates. When appraisals rise, total tax collections also rise without an increase in the tax rate. If, however, the cost to facilitate local services paid for by the property taxes is the same, then rising appraisals should be addressed by reducing the tax rate — which keeps the burden on taxpayers the same.

In other words, instead of accepting increases in tax revenue due to rising appraisals, local governments should reduce tax rates and keep the total tax collected the same. Instead of the state taking responsibility for tax rates, local taxing districts should be held accountable by the voters.

Revenue stability. Any tax cuts are likely to be unsustainable over the long term. The Legislative Budget Board's fiscal note on the enabling legislation to Proposition 1 estimates a cost of about $1.2 billion per fiscal biennium to keep school funding constant while increasing the homestead exemption by $10,000. A substantial amount of the current surplus that would be used for this purpose comes from money left over from last session and increased severance tax revenue from oil and gas sales. The Legislature has no guarantee that either of those sources will persist into future fiscal biennia, even though tax cuts created by Proposition 1 effectively would be permanent. This could unnecessarily create a difficult fiscal situation that might lead to cuts in vital state services, as was the case following the 82nd legislative session.

Spending alternatives. The money required to reimburse school districts for lost property tax revenue due to the proposed amendment can and should be spent elsewhere. The state has an obligation to adequately fund basic services that help protect Texas' economic future, and the state needs further investment in other critical areas.

Tax cut alternatives. Because an increase in the homestead exemption would provide tax relief only to homeowners, the state instead should pursue tax cuts in other areas. A reduction in the sales tax would provide tax relief across the board, while further cutting franchise taxes would directly drive job creation. Analysis by the Legislative Budget Board predicts that either of these options would have a greater positive economic impact than an increase in the homestead exemption.

Notes

The enabling legislation, SB 1 by Nelson, will take effect January 1, 2016, if the voters approve Proposition 1. SB 1 would increase the mandatory homestead exemption from $15,000 to $25,000. The taxable value of homesteads owned by the elderly or people who are disabled also would be correspondingly reduced. A school district would be entitled to certain additional state aid via the Foundation School Fund to make up for the lost maintenance and operations tax revenue and tax revenue used to service eligible debt.

SB 1 also would prohibit the reduction or elimination of an optional homestead exemption by a school district, municipality, or county through 2019.

The bill would require school district tax assessors to prepare tax bills as though SB 1 and Proposition 1 took effect. SB 1 would then require the assessor of a school district to calculate and publish on a provisional tax bill a statement of the amount saved from the pending increase in the homestead exemption. That provisional tax bill would assume the higher homestead exemption. If the amendment was not approved by the voters, the bill would require the assessor for each school district to prepare and mail a supplemental tax bill accounting for the difference. Assessors would not be liable for civil damages nor subject to criminal prosecution for complying with these provisions.

The bill would have various transitional provisions for the 2015 tax year. Specifically, SB 1 would require a school district's effective tax rate and rollback tax rate, wealth per student, local share of program cost, enrichment tax rate, local revenue, bond tax rate, existing debt rate, and taxable value of property for the 2015-16 school year to be calculated assuming a $25,000 homestead exemption.

Certain school districts would be able to delay an election on possible actions to achieve the equalized wealth level for the 2015 tax year. Such a district also would be able to adopt a tax rate before its equalized wealth level was certified by the commissioner of education. A district that failed to hold the election or did not receive voter approval at the election would be subject to detachment and annexation of property as necessary to achieve the equalized wealth level as soon as practicable after this amendment was approved.

The Legislative Budget Board's fiscal note for SB 1 estimates a cost of about $1.2 billion per fiscal biennium to compensate school districts for the property tax revenue lost to the increase in the homestead exemption. This reflects the combined fiscal impact of the bill in conjunction with Proposition 1.

2 Proposition

Property tax exemptions for surviving spouses of certain disabled veterans

HJR 75 by D. Bonnen (L. Taylor)

Background

Art. 8, sec. 1-b(i) of the Texas Constitution authorizes the Legislature to exempt from property taxes all or part of the market value of the residence homestead of 100 percent or totally disabled veterans. HB 3613 by Otto, enacted by the 81st Legislature in 2009, created Tax Code, sec. 11.131(b), which fully exempts the residence homesteads of 100 percent or totally disabled veterans from property taxes. The bill took effect January 1, 2010.

In 2011, the 82nd Legislature passed, and voters approved, SJR 14 by Van de Putte. SJR 14 and its enabling legislation, SB 516 by Patrick, together fully exempt the residential homesteads of 100 percent or totally disabled veterans' surviving spouses from property taxes if:

- the disabled veteran qualified for the homestead exemption under Tax Code, sec. 131(b) when the veteran died;
- the property was the residence homestead of the surviving spouse when the disabled veteran died;
- the property remains the residence homestead of the surviving spouse; and
- the surviving spouse has not remarried.

Only the surviving spouses of eligible disabled veterans who died on or after January 1, 2010, are entitled to the exemption.

Digest

Proposition 2 would amend Art. 8 to authorize the Legislature to provide a homestead exemption to the surviving spouses of 100 percent or totally disabled veterans who would have qualified for the exemption if it had been available to them when they died. A surviving spouse who otherwise qualified would be entitled to an exemption of the same portion of the market value of the same property to which the disabled veteran's exemption would have applied.

The ballot proposal reads: "The constitutional amendment authorizing the legislature to provide for an exemption from ad valorem taxation of all or part of the market value of the residence homestead of the surviving spouse of a 100 percent or totally disabled veteran who died before the law authorizing a residence homestead exemption for such a veteran took effect."

Supporters say

Proposition 2 would allow the Legislature to provide valuable tax relief to the families of deceased disabled veterans. Any fiscal impact on a single taxing district would be minimal, but the impact on individual families of totally disabled military veterans would be considerable.

Current law unintentionally creates two classes of surviving spouses of totally disabled veterans — those whose spouses died on or after January 1, 2010, and those whose spouses died before that date. Those whose spouses died in 2010 or after receive a full property tax exemption on their homesteads, but those whose spouses died before that date do not inherit eligibility because the exemption was not in effect before the veteran died. This is arbitrary.

According to estimates by the comptroller, this proposed amendment would allow only about 3,800 surviving spouses of totally disabled veterans who died before 2010 to claim this exemption, providing a lasting form of appreciation to families who have sacrificed a great deal.

Even taxing districts with higher populations of disabled veterans would not be harmed by the adoption of Proposition 2. HB 7 by Darby, enacted by the 84th Legislature, provides state aid to districts that would be disproportionately affected by the cost of extending property tax relief to disabled veterans.

Opponents say

Proposition 2 would reduce the revenue available to school districts, municipalities, counties, and other special taxing districts, such as hospital districts, and impose corresponding costs on the state.

The purpose of the original exemption for surviving spouses of disabled veterans, which took effect in 2011, was to relieve spouses of a sudden increased tax burden brought on by the death of their partners. In 2011, SJR 14 transferred the exemption of a totally disabled veteran to the veteran's surviving spouse upon the death of the veteran in order to alleviate this sudden increase. The Constitution should not be amended to make eligible for the exemption spouses who never experienced a sudden increase because the veterans to whom they were married died before the exemption was in effect.

Notes

The enabling legislation, HB 992 by D. Bonnen, will take effect January 1, 2016, if the voters approve Proposition 2. HB 992 would provide a homestead exemption to surviving spouses of 100 percent or totally disabled veterans who would have qualified for the exemption if it had been available to them when they died.

3 Proposition

Repealing requirement that statewide elected officials live in Austin

SJR 52 by Campbell (Otto)

Background

Texas Constitution, Art. 4, sec. 23 requires the comptroller of public accounts, commissioner of the General Land Office, attorney general, and any statutory state officer who is elected statewide to reside at the state capital during their terms of office.

Digest

Proposition 3 would amend Art. 4, sec. 23 to remove the constitutional requirement that the comptroller, land commissioner, attorney general, and any statutory state officer who is elected statewide reside in the capital during their terms of office.

The ballot proposal reads: "The constitutional amendment repealing the requirement that state officers elected by voters statewide reside in the state capital."

Supporters say

Proposition 3 would remove a constitutional requirement that is no longer necessary. Requiring elected state officers to reside in the capital made sense when the Constitution was adopted because traveling to Austin in 1876 might have taken many days for a state official who lived elsewhere. The requirement is no longer necessary due to advances in transportation and technology that allow officials to travel to Austin easily or manage their duties while living in another part of the state.

Officials may want to live in cities surrounding Austin and commute to work. Some agencies have regional offices where an agency head could work part of the time. In this day and age, an elected official's choice of where to live does not need to be limited. In addition, the cost of housing in Austin, along with considerations involving work and school for an elected official's spouse and children, could make moving to Austin difficult.

Some officials elected statewide who had previously represented a legislative district might not want to lose their local residency in case they later decide to seek an office that requires them to reside in a certain district.

Opponents say

Proposition 3 would change a provision in the Constitution that has served Texans well for 140 years. Statewide elected officials should carry out their duties in the seat of Texas government. Those elected to guide large agencies such as the comptroller's office, the land office, or the attorney general's office were elected to a full-time job and should be present at their respective agency headquarters in Austin on a daily basis. These officials know of the constitutional requirement to reside in the seat of Texas government when they decide to seek the office.

While technology has made it easier for some workers to conduct business from home, such an arrangement might not be appropriate for statewide elected officials. Being physically present in Austin ensures these officials are accessible to their staffs and available to handle the important business of the state and to meet with other state leaders as necessary.

If the proposition is being driven by concerns about housing costs in Austin, it would be better to allow statewide officeholders to live within a 50-mile radius. Otherwise, Texas taxpayers could be stuck with the travel bill for agency heads who chose to live far from Austin but needed to travel to the capital frequently.

Allowing professional sports team foundations to conduct charitable raffles

4
Proposition

HJR 73 by Geren (Fraser)

Background

Texas Constitution, Art. 3, sec. 47 requires the Legislature to enact laws prohibiting lotteries and gift enterprises. There are exceptions to this requirement for the state lottery, charitable bingo, and charitable raffles.

Art. 3, sec. 47(d) allows the Legislature to enact laws permitting charitable raffles conducted by qualified religious societies, qualified volunteer fire departments, qualified volunteer emergency medical services, and qualified nonprofit organizations. Such laws must require that all proceeds from raffle ticket sales be spent for the charitable purposes of the organization and that the raffle be conducted by its members.

Occupations Code, ch. 2002 establishes how charitable raffles must be conducted and the types of organizations that may hold them. Sec. 2002.052(b) limits organizations to two raffles per year, and sec. 2002.056(a) prohibits money from being awarded as a prize in a charitable raffle. Unauthorized raffles are considered gambling under the Penal Code, according to the attorney general.

Digest

Proposition 4 would authorize the Legislature to enact laws to permit professional sports team charitable foundations to conduct charitable raffles. The laws could authorize the charitable foundation to pay reasonable advertising, promotional, and administrative expenses with the raffle proceeds.

A law enacted under Proposition 4 could apply only to an entity defined as a professional sports team charitable foundation on January 1, 2016. It could allow charitable raffles to be conducted only at games hosted at the home venue of the professional sports team associated with the foundation.

The ballot proposal reads: "The constitutional amendment authorizing the legislature to permit professional sports team charitable foundations to conduct charitable raffles."

Supporters say

Proposition 4 would provide Texas' professional sports teams with another tool to raise funds to support their charitable causes. While current law allows raffles for charitable purposes, restrictions in the Constitution and in the Occupations Code prevent charitable foundations of sports teams from making full use of a popular type of raffle to raise money for their youth sports, education, and community programs.

Current restrictions limit the number of raffles to two annually, ban cash prizes, and require all proceeds to go toward charitable purposes, which prohibits a popular type of raffle offered by many professional sports teams in other states, called a 50/50 raffle. Under these raffles, tickets are sold during a game, and 50 percent of ticket sales are awarded in cash prizes, with the other half going to charity.

Proposition 4 and its enabling legislation, HB 975 by Geren, would authorize 50/50 raffles at professional sports games by excepting charitable raffles conducted by the foundations of certain teams from the constitutional prohibition on lotteries and gift enterprises. The enabling legislation would allow cash prizes and authorize raffles during the teams' home games. This would put Texas in line with about 25 states and the District of Columbia that allow professional sports teams to conduct 50/50 raffles.

Given the large and supportive crowds at professional sporting events, these raffles have the potential to greatly increase revenue raised by foundations to support their worthwhile charitable programs, which include after-school activities, youth summer programs, leadership training, food bank

support, and renovating and maintaining fields for youth sports. Hosting 50/50 raffles can help a team link its fans to community programs supported by its foundation. The charitable arm of baseball's Milwaukee Brewers reported that in 2014 it raised $2.3 million through 50/50 raffles. Proposition 4 would give the fans of Texas teams the same opportunity to help their communities.

The proposed amendment and its enabling legislation contain several provisions that would allow only established, qualified organizations to hold the events in a manner consistent with Texas' policy on charitable raffles. To prevent the creation of entities solely to take advantage of Proposition 4, it would allow raffles only by foundations existing on January 1, 2016, and the legislation would require that the entity have existed at least three years before conducting a raffle. The proposed amendment would apply to the 10 Texas major league sports franchises that currently have charitable foundations.

The enabling legislation would guard against profiteering and ensure that the charitable programs supported by the foundations reaped the raffles' benefits. All ticket sales proceeds, minus the prizes and reasonable operating expenses, would support the foundation's charitable purposes. The legislation would define reasonable operating expenses and limit them to 10 percent of ticket sales.

Proposition 4 and its enabling legislation would not open the door to electronic gambling. The enabling legislation would ban communicating the winning number through interactive and instantaneous technology. This would ensure that the raffles in no way resembled electronic gambling but were operated like traditional raffles. Instead, teams might announce the winner toward the end of a contest, such as during the seventh inning stretch of a baseball game or before the fourth quarter of a basketball game.

The proposition would not expand gambling because charitable raffles were approved by Texas voters in 1989. Proposition 4 would change only the details about how one type of raffle operates. It would be well within the spirit of the current raffle structure with its emphasis on charitable purposes. The raffles would be secondary to the professional sporting events taking place, and the youths and communities served by the programs supported by charitable foundations would be the real winners. Money spent on 50/50 raffles would come from sports fans' entertainment dollars spent at a ball park or stadium, not from other charitable raffles.

Proposition 4 would apply only to certain teams' foundations because 50/50 raffles are uniquely suited to the circumstances of professional sports games with large crowds attending a defined event. Professional sports team foundations can handle the logistics of operating a large raffle in a few hours and have proven successful at doing so in other states.

Opponents say

Proposition 4 could expand gambling in Texas by increasing the number of charitable raffles that certain groups can conduct and by allowing the groups to offer cash prizes. The changes proposed in the amendment and its enabling legislation would alter the rules designed to keep raffles to occasional games that award non-cash prizes and that funnel all proceeds to charity. These changes could open the door to other groups asking for expanded authority to offer such raffles.

Raffles authorized under Proposition 4 could compete with existing charitable raffles and divert funds that would have gone to other worthy causes.

Other opponents say

It would be unfair to allow only foundations related to professional sports teams to conduct 50/50 raffles. Any proposal to amend rules in the Constitution governing raffles also should extend this opportunity to other charitable groups supporting worthwhile causes.

Notes

Proposition 4's enabling legislation, HB 975 by Geren, would take effect January 1, 2016, if voters approve the proposition. The bill would establish the laws under which the charitable foundations of professional sports teams could conduct raffles. Professional sports teams would be defined as Texas teams that belong to Major League Baseball, the National Basketball Association, the National Hockey League, the National Football League, and Major

League Soccer. To qualify as a professional sports team charitable foundation, an organization would have to hold a certificate of formation under the Texas Business Organizations Code or be otherwise incorporated, be associated with a professional sports team, and be formed for a charitable purpose.

To qualify to conduct a raffle, a foundation would have to be associated with a professional sports team with a home venue in Texas and have existed for at least three years before conducting a raffle. A foundation also would be subject to other requirements governing organizations authorized to conduct charity raffles under current law.

A qualifying foundation could conduct a raffle during each preseason, regular season, and postseason game at the home venue of its team. It could award to a winner selected by a random drawing a cash prize of up to 50 percent of the gross raffle ticket sales. All ticket proceeds, minus amounts deducted for cash prizes and reasonable operating expenses, would have to be used for the foundation's charitable purposes. The winning number of a raffle could not be communicated to ticket holders through interactive and instantaneous technology.

HB 975 would define reasonable operating expenses, which could not exceed more than 10 percent of gross ticket sales. The bill includes other details about how raffles would be conducted, including what would have to be printed on tickets and who could buy and sell them.

HB 975 would create class C misdemeanor criminal offenses (maximum fine of $500) related to raffles conducted under Proposition 4. It would be an offense for a person to sell a ticket to someone under age 18, buy a ticket with money from the Temporary Cash Assistance for Needy Families program, accept anything other than U.S. currency when selling a ticket, or misrepresent the person's age as 18 years old or older to buy a ticket.

5 Proposition

Raising population cap for counties that may build private roads

SJR 17 by Perry (Springer)

Background

Texas Constitution, Art. 3, sec. 52f allows a county with a population of 5,000 or less, according to the most recent federal census, to build and maintain private roads if the county imposes a reasonable charge for the work.

Digest

Proposition 5 would amend Art. 3, sec. 52f to authorize a county with a population of 7,500 or less, according to the most recent federal census, to build and maintain private roads if the county imposed a reasonable charge for the work.

The ballot proposal reads: "The constitutional amendment to authorize counties with a population of 7,500 or less to perform private road construction and maintenance."

Supporters say

Proposition 5 would update a provision of the Texas Constitution adopted in 1980 that governs the maximum population of a county allowed to build and maintain private roads. Small counties in Texas have grown since that time, and the Constitution should be updated to reflect population growth over the past 35 years.

The proposed amendment would give counties and private landowners more flexibility to update roads that have been poorly maintained because many small counties rarely have private contractors available to do the work. Poorly maintained roads create public safety hazards for citizens and emergency services. Private landowners still would have the flexibility to hire a private company instead of the county if they chose to do so.

The proposed amendment would affect about 20 counties with populations between 5,000 and 7,500. Some of these counties were under the 5,000-person threshold at the time the constitutional provision was adopted in 1980 but have since grown, including some that exceed the current threshold only because their populations grew through the addition of a prison.

Having a population cap for eligible counties is necessary to prevent all counties in the state from competing with private industry. However, in the small counties that would be affected by Proposition 5, there are few private industries with which to compete, and it is not profitable for outside companies to contract for minor projects in such counties. Small counties should be free to take on minor road projects to protect traffic safety in their jurisdictions.

Opponents say

Instead of increasing the maximum population threshold, the population limit for counties should be eliminated. All counties in the state should have the option to build and maintain their roads as long as private landowners agree and pay the county for the cost of the work.

Establishing right to hunt, fish, harvest wildlife

6
Proposition

SJR 22 by Creighton (Ashby)

Digest

Proposition 6 would amend the Bill of Rights (Art. 1, Texas Constitution) to establish the right to hunt, fish, and harvest wildlife in Texas.

The proposed amendment would provide that hunting and fishing were preferred methods of managing and controlling wildlife. Under the proposed amendment, people would have the right to hunt, fish, and harvest wildlife, including by the use of traditional methods. The right would be subject to laws or regulations to conserve and manage wildlife and preserve the future of hunting and fishing.

Proposition 6 would not affect laws on trespass, property rights, or eminent domain or the power of the Legislature to authorize a municipality to regulate the discharge of a weapon in a populated area in the interest of public safety.

The ballot proposal reads: "The constitutional amendment recognizing the right of the people to hunt, fish, and harvest wildlife subject to laws that promote wildlife conservation."

Supporters say

Proposition 6 would constitutionally guarantee the right of Texans to hunt, fish, and harvest wildlife. While Texas has a rich and vibrant hunting and fishing tradition, animal rights and anti-hunting organizations in other states have worked to limit hunting through onerous bag limits or by eliminating the hunting of certain types of game. To guard against such restrictions, many states already have passed right-to-hunt-and-fish amendments. Proposition 6 would ensure that Texas' long-standing heritage of hunting and fishing was protected for future generations.

Proposition 6 not only would preserve the cultural impact of hunting and fishing in Texas but would protect the economic impact of these activities. The outdoor industry drives employment, investment, and tax revenue while also funding conservation efforts across the state. Safeguarding the right to hunt and fish would protect landowners' incentive to provide quality habitat for game animals. It also would ensure the protection in Texas of open spaces and habitats of nongame species, including endangered species.

In stating that hunting and fishing are the preferred methods of managing wildlife populations, this proposed amendment would not restrict the use of other methods to achieve this goal. Use of the term "traditional methods" would ensure the protection of all methods of hunting, fishing, and harvesting wildlife, while also allowing for the Texas Parks and Wildlife Department to prohibit methods that were inhumane or not sporting or that could endanger wildlife populations.

Opponents say

Proposition 6 is unnecessary because there is no immediate threat to hunting and fishing in Texas.

The proposition also would single out hunting and fishing as "preferred methods of managing and controlling wildlife" when there are many ways to manage wildlife to achieve a balanced ecosystem. Some other methods, such as techniques to limit the reproduction of certain species, might be more appropriate in certain situations.

While the right to hunt, fish, and harvest wildlife under Proposition 6 would be "subject to laws or regulations to conserve and manage wildlife and preserve the future of hunting and fishing," there could be confusion in interpreting this provision. Texas has large nongame wildlife populations, including endangered and threatened species. Hunting and fishing of many of those species would not be appropriate and in some cases is prohibited by state and federal law.

The proposed amendment would protect the right to hunt and fish using “traditional methods” without defining the term. This language is broad and could lead to the protection of methods of taking wildlife that some consider to be inhumane.

Dedicating a portion of sales tax revenue to the state highway fund

7
Proposition

SJR 5 by Nichols (Pickett)

Digest

Proposition 7 would add sec. 7-c to Art. 8 of the Texas Constitution, directing up to $2.5 billion of any sales tax proceeds in excess of $28 billion to the state highway fund in each fiscal year starting with fiscal 2018 and ending with fiscal 2032. It would also direct 35 percent of any motor vehicle sales, use, and rental tax proceeds in excess of $5 billion to the state highway fund in each fiscal year starting with fiscal 2020 and ending with fiscal 2029. The Legislature could reduce these deposits to the state highway fund by up to half with a two-thirds vote of each house, as long as the reduction was only for the current fiscal year or the two immediately following. The Legislature also could extend either constitutional dedication in 10-year increments by a majority vote of each house.

These funds could be used only to construct, maintain, or acquire rights-of-way for roads other than toll roads or to repay bonds issued by the Texas Transportation Commission.

The ballot proposal reads: "The constitutional amendment dedicating certain sales and use tax revenue and motor vehicle sales, use, and rental tax revenue to the state highway fund to provide funding for non-tolled roads and the reduction of certain transportation-related debt."

Supporters say

Proposition 7 would provide a steady, consistent funding source for transportation projects across the state by dedicating a portion of two types of taxes to the state highway fund. Because the dedication could be temporarily reduced with a two-thirds vote of the House and Senate, the proposed amendment would accomplish these goals without unnecessarily tying the hands of the Legislature and compromising the state's ability to fund critical state services.

Transportation costs can be a drag on the economy when traffic congestion develops and the system does not work properly. The Texas A&M Transportation Institute estimated that delays and fuel costs as a result of traffic congestion cost the state $10.1 billion and more than 472 million hours of travel time in 2011. TRIP, a national transportation research group, estimated that an inadequate transportation system costs Texas more than $23 billion every year, which includes costs from congestion, vehicle maintenance, and public safety.

By funding road construction and paying off debt, the proposed amendment not only would address current needs but would provide more funding as the economy grows. The percentage of tax revenue deposited to the state highway fund would increase with economic growth and consumption.

The current funding system is unreliable, which has led to a variety of negative consequences. In fiscal 2012-13, the Legislature appropriated $2.4 billion for debt service and other financing costs. This debt followed years of variable appropriations that did not coincide with the volume of payments coming due. Because transportation projects can be expensive and may take years to complete, it is not practical to disburse the entire cost of the project in one year or one biennium.

One-time appropriations of money also are likely to be less effectively spent than the funds Proposition 7 would provide on a reliable basis. Increases often go toward shovel-ready or short-term projects in areas that might not yield the greatest return on investment because there is no guarantee that funding will be maintained for the next biennium. Having a stable source of revenue also could provide funding for projects that otherwise would be financed by tolls.

Variable funding also means that it is harder for contractors to maintain a trained workforce. Layoffs can follow the completion of a project when there is no guarantee of another one to follow. A steady source of revenue would allow projects to continue as needed.

Elements of the transportation planning process contribute to the need for Proposition 7. Each metropolitan planning organization is required by federal law to develop a short-term transportation improvement program (TIP). TIPs can include only projects for which there is money in the bank, and a project cannot be included if its funding is unreliable. The proposed amendment would provide a steady source of funding to allow the inclusion of necessary projects in transportation plans.

Transportation is a critical state priority that warrants the dedication of revenue. Dedicating money to transportation not only would provide a consistent funding source for highway construction but would make the budgetary process simpler and more efficient. In addition, the proposed amendment provides processes for the Legislature to change or reduce dedications if circumstances demanded it.

Opponents say

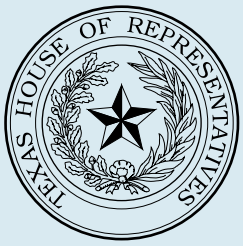
Proposition 7 could tie the hands of the state in future years by constitutionally dedicating more than $5 billion to transportation projects each fiscal biennium. Because the state has many other constitutionally dedicated funds and mandated expenses, the Legislature has discretion over only about 17 percent of the state budget. This means that tight fiscal times could trigger larger cuts in other critical state services, such as public education and health and human services. If the Legislature wishes to spend a portion of sales tax revenue on transportation, it can make this determination each session during the budgeting process without a constitutional amendment.

Dedicating revenue to transportation also could be problematic if the key to economic competitiveness changes. While gridlock on Texas roads may hamper the Texas economy, other issues, including education and workforce readiness, could become even more important as the economy becomes increasingly knowledge-based. The state should invest more in education before spending money on roads.

Notes

According to the Legislative Budget Board, Proposition 7 would cost an estimated $2.5 billion in general revenue in each year of fiscal 2018-19, and $2.9 billion in fiscal 2020.

HOUSE RESEARCH ORGANIZATION



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