Analyses of Proposed Constitutional Amendments

November 3, 2015, Election

Texas Legislative Council

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of the
Texas Legislative Council

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General Information

In 2015, the 84th Texas Legislature passed seven joint resolutions proposing amendments to the state constitution, and these proposed amendments will be offered for approval by the voters of Texas on the November 3, 2015, election ballot.

The Texas Constitution provides that the legislature, by a two-thirds vote of all members of each house, may propose amendments revising the constitution and that proposed amendments must then be submitted for approval to the qualified voters of the state. A proposed amendment becomes a part of the constitution if a majority of the votes cast in an election on the proposition are cast in its favor. An amendment approved by the voters is effective on the date of the official canvass of returns showing adoption. The date of canvass, by law, is not earlier than the 15th or later than the 30th day after election day. An amendment may provide for a later effective date.

From the adoption of the current Texas Constitution in 1876 through November 2014, the legislature has proposed 666 amendments to the constitution, of which 663 have gone before Texas voters. Of the amendments on the ballot, 484 have been approved by the electorate and 179 have been defeated. Three amendments were never placed on the ballot for reasons that are historically obscure. See the online publication *Amendments to the Texas Constitution Since 1876* for more information.

The *Analyses of Proposed Constitutional Amendments* contains, for each proposed amendment that will appear on the November 3, 2015, ballot, the ballot language, an analysis, and the text of the joint resolution proposing the amendment. The analysis includes background information and a summary of comments made during the legislative process about the proposed constitutional amendment by supporters and by opponents.

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Amendment No. 1 (S.J.R. 1)

Wording of Ballot Proposition

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, 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, authorizing the legislature to prohibit a political subdivision that has adopted an optional residence homestead exemption from ad valorem taxation from reducing the amount of or repealing the exemption, and prohibiting the enactment of a law that imposes a transfer tax on a transaction that conveys fee simple title to real property.

Analysis of Proposed Amendment

Summary Analysis

S.J.R. 1 proposes an amendment to the Texas Constitution to increase the portion of the market value of a residence homestead that is exempt from ad valorem taxation for public school purposes from $15,000 to $25,000. In addition, the proposed amendment provides 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. The proposed amendment also authorizes the legislature to prohibit the governing body of a political subdivision that has adopted an exemption from ad valorem taxation of a percentage of the market value of a residence homestead from reducing the amount of or repealing the exemption. Finally, the proposed amendment prohibits the legislature from imposing a transfer tax on a transaction that conveys fee simple title to real property.

Background and Detailed Analysis

Section 1-b(c), Article VIII, Texas Constitution, originally provided that $5,000 of the market value of a residence homestead is exempt from ad valorem taxation for general elementary and secondary public school purposes. In 1997, the amount of the exemption was increased to $15,000. The proposed amendment further increases the amount of the exemption to $25,000. The increase to $25,000 takes effect for the tax year beginning January 1, 2015.

Section 1-b(c) of Article VIII also authorizes the legislature to exempt a portion of the market value of the residence homestead of an elderly or disabled person from ad valorem taxation for general elementary and secondary public school purposes, and the legislature has previously provided for such an exemption in the Tax Code. Section 1-b(d) of Article VIII provides that if a person receives a residence homestead exemption prescribed by Section 1-b(c) for homesteads of persons who are elderly or disabled, the total amount of ad valorem taxes imposed on that homestead for general elementary and secondary public school purposes may not be increased while it remains the residence homestead of the person or the person's spouse who receives the exemption. In order for elderly or disabled homeowners whose homesteads are currently subject to the limitation to benefit from the proposed increase in the amount of the mandatory school district residence homestead exemption applicable to all homesteads, the proposed amendment provides that, for a residence homestead subject to the limitation in the 2014 tax year or an earlier tax year, the legislature shall provide for a reduction in the amount of the limitation for the 2015 tax year and subsequent tax years in an amount equal to $10,000 (the amount of the proposed increase in the homestead exemption) multiplied by the 2015 tax rate for general elementary and secondary public school purposes applicable to the residence homestead. A similar reduction to the amount of the limitation was provided for in 1997 when the mandatory school district residence homestead exemption was increased by $10,000.

Section 1-b(e) of Article VIII authorizes the governing body of a political subdivision, at its discretion, to exempt from ad valorem taxation a percentage of the market value of a residence homestead.

The percentage may not exceed 20 percent, except that the amount of the exemption may not be less than $5,000. The proposed amendment authorizes the legislature by general law to prohibit the governing body of a political subdivision that adopts an exemption under that subsection from reducing the amount of or repealing the exemption in future years.

The state and political subdivisions of the state do not currently impose any tax on transfers of real property. Sales taxes are imposed only on the sale of tangible personal property and certain services. However, there is no constitutional impediment to the legislature's providing for such a tax. The proposed amendment prohibits the enactment after January 1, 2016, of a law that imposes a transfer tax on a transaction that conveys fee simple title to real property. The provision does not prohibit the imposition of a general business tax measured by business activity, the imposition of a tax on the production of minerals, the imposition of a tax on the issuance of title insurance, or the change of a rate of a tax in existence on January 1, 2016.

Enacted in 2015 by the Texas Legislature, S.B. 1 is the enabling legislation for the proposed amendment. S.B. 1 amends the Tax Code to provide for the $10,000 increase in the mandatory school district residence homestead exemption and to implement the required reduction of the limitation on the total amount of ad valorem taxes that may be imposed by a school district on the residence homestead of an elderly or disabled person and establishes the procedure for assessing and collecting school district taxes imposed for the 2015 tax year to implement the increased exemption and reduced limitation for that year's taxes. The bill, as permitted by the constitutional amendment, also prohibits the governing body of a school district, municipality, or county that adopted an optional residence homestead exemption for the 2014 tax year from reducing the amount of or repealing the exemption before the end of the 2019 tax year. Finally, the bill amends the Education and Government Codes to provide for the reimbursement by the state of school districts for the revenue loss resulting from the $10,000 increase in the mandatory school district residence homestead exemption and the related reduction of the limitation on the total amount of ad valorem taxes that may be imposed by a school district on the residence homestead of an elderly or disabled person.

Summary of Comments

The following paragraphs are based on comments made about the amendment during the legislative process and generally summarize the main arguments supporting or opposing the amendment.

Comments by Supporters. The ad valorem tax on property is regarded by many as the most onerous tax. At the same time, the affordability of homes in certain parts of the state is a major concern. In areas with rapid economic growth where demand for housing is strong, homeowners, especially those living on fixed incomes, may be priced out of their homes by rising property taxes. The amount of the mandatory school district residence homestead exemption has not been updated since 1997. In the meantime, appraisals have continued to increase. Property taxes are rising faster than other taxes and have risen substantially in recent years, outpacing the rate of growth in wages. The amount of taxes on real estate paid by the average Texan is the fifth highest amount of any state in the country. The proposed amendment provides much-needed tax relief by increasing the amount of the mandatory school district residence homestead exemption, likely reducing the amount of taxes paid by a homeowner over the average lifetime of homeownership by thousands of dollars. By making the exemption effective for 2015 taxes, the proposed amendment ensures that the benefits of the increased homestead exemption are felt immediately. Even if the homestead exemption increase does not result in an outright reduction in the property tax burden because of appraisal increases, it will reduce the rate of growth in property taxes on residence homesteads, thereby providing needed tax relief to homeowners. The proposed amendment also promotes economic growth by allowing homeowners, who are more economically efficient agents than the government, to retain more of their money. At the same time, the enabling legislation for the proposed amendment makes up the revenue loss to school districts while allowing the state budget to remain within the constitutional spending limit, and, given the surplus in state tax revenue, the state should have sufficient revenue to continue to make up the revenue loss for the foreseeable future.

The provision of the proposed amendment authorizing the legislature to prohibit a political subdivision that has adopted a local option

exemption of a percentage of the market value of a homestead from reducing the amount of or repealing the exemption permits the legislature to prevent such a political subdivision from offsetting the increase in the mandatory school district residence homestead exemption effected by the proposed amendment by reducing the amount of or repealing the local option exemption.

Although the state and local governments do not currently impose a transfer tax on real estate transactions, some have advocated such a tax as a substitute for property taxes. However, such a tax would create a barrier to homeownership, impede the real estate market, and make the state and local governments dependent on a volatile revenue source. The proposed amendment protects homeowners, the state, and local governments from those consequences by prohibiting the legislature from enacting a law imposing such a tax.

Comments by Opponents. The increase in the mandatory school district residence homestead exemption will provide only nominal property tax relief for homeowners. The exemption will reduce property taxes for the average homeowner by about $126 a year. Increases in appraisals and local property tax rates may mean that no actual reduction in property taxes occurs, merely a reduction in the rate of growth of property taxes. Furthermore, the homestead exemption increase provides no benefit whatsoever for those who rent their homes. While the homestead exemption increase will provide only nominal property tax relief for any individual homeowner and no relief at all for those who do not own their own homes, it will cost the state $1.24 billion every two years to make up the revenue loss for school districts. That is in addition to the $8.4 billion a year the state already spends for tax relief provided in prior years that likewise never materialized because of rising appraisals and tax rates. Rather than spending money making up for an illusory tax cut that benefits only certain property owners, the legislature should cut other state taxes, such as sales or franchise taxes, or increase spending on transportation and other infrastructure, education, or other critical needs. A sales tax cut would benefit everyone, not just homeowners. Also, because the state controls the rates of the sales and franchise taxes, a sales or franchise tax cut would not be undermined by actions

taken at the local level. Furthermore, a cut in the sales or franchise tax would create more jobs and economic activity than an increase in the homestead exemption. Finally, it is not clear that the state will continue to generate revenue surpluses sufficient to make up the revenue loss to school districts arising from the homestead exemption increase. Property taxes are a local matter. The best way to control local property taxes is for voters to hold local officials accountable.

The provision of the proposed amendment authorizing the legislature to prohibit a political subdivision that has adopted a local option exemption of a percentage of the market value of a homestead from reducing the amount of or repealing the exemption is overbroad in that it is not limited to school districts. While it is understandable that the legislature might desire to prevent school districts that have adopted a local option percentage exemption from reducing the amount of or repealing the exemption to negate the increase in the amount of the mandatory school district residence homestead exemption, there is no reason to prohibit other political subdivisions not affected by the increase in the exemption from school district taxes from reducing the amount of or repealing a local option exemption. Furthermore, it is inappropriate for the legislature to mandate that a school district that has elected to offer such an exemption continue doing so if the legislature is not going to make up the revenue loss to the school district. If the economy were to decline or the legislature were to cut funding for education, a school district that elected to offer such an exemption might determine that it could no longer afford to continue doing so, but the proposed amendment would authorize the legislature to mandate that it continue doing so without making up the revenue loss to the district. A local option exemption, having been adopted, would effectively become a mandatory exemption.

The provision of the proposed amendment prohibiting a transfer tax on real estate transactions is unnecessary because such transactions are not currently subject to taxation, nor is such a tax currently under consideration. Furthermore, the provision is unwise in that it precludes

a future legislature from considering such a tax as a means of addressing a revenue shortfall. Finally, it singles out one particular type of transaction for special treatment when no similar protection is provided for transactions in other goods that are just as essential, including food and medicine.

Text of S.J.R. 1

SENATE JOINT RESOLUTION

proposing a constitutional amendment increasing the amount of the residence homestead exemption from ad valorem taxation for public school purposes 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, authorizing the legislature to prohibit a political subdivision that has adopted an optional residence homestead exemption from ad valorem taxation from reducing the amount of or repealing the exemption, and prohibiting the enactment of a law that imposes a transfer tax on a transaction that conveys fee simple title to real property.

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

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

(c) The amount of $25,000 [~~Fifteen Thousand Dollars ($15,000)~~] of the market value of the residence homestead of a married or unmarried adult, including one living alone, is exempt from ad valorem taxation for general elementary and secondary public school purposes. The legislature by general law may provide that all or part of the exemption does not apply to a district or political subdivision that imposes ad valorem taxes for public education purposes but is not the principal school district providing general elementary and secondary public education throughout its territory. In addition to this exemption, the legislature by general law may exempt an amount not to exceed [~~Ten Thousand Dollars (~~] $10,000[~~)~~] of the market value of the residence homestead of a person who is disabled as defined in Subsection (b) of this section and of a person [~~sixty-five (~~] 65[~~)~~] years of age or older from ad valorem taxation for general elementary and secondary public school purposes. The legislature by general law may base the amount of and condition eligibility for the additional exemption authorized by this subsection for disabled persons and for persons [~~sixty-five (~~] 65[~~)~~] years of age or older on economic need. An eligible disabled person who is [~~sixty-five (~~] 65[~~)~~] years

of age or older may not receive both exemptions from a school district but may choose either. An eligible person is entitled to receive both the exemption required by this subsection for all residence homesteads and any exemption adopted pursuant to Subsection (b) of this section, but the legislature shall provide by general law whether an eligible disabled or elderly person may receive both the additional exemption for the elderly and disabled authorized by this subsection and any exemption for the elderly or disabled adopted pursuant to Subsection (b) of this section. Where ad valorem tax has previously been pledged for the payment of debt, the taxing officers of a school district may continue to levy and collect the tax against the value of homesteads exempted under this subsection until the debt is discharged if the cessation of the levy would impair the obligation of the contract by which the debt was created. The legislature shall provide for formulas to protect school districts against all or part of the revenue loss incurred by the implementation of this subsection, Subsection (d) of this section, and Section 1-d-1 of this article [~~Article VIII, Sections 1-b(c), 1-b(d), and 1-d-1, of this constitution~~]. The legislature by general law may define residence homestead for purposes of this section.

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

the limitation and establishes a different residence homestead. However, taxes otherwise limited by this subsection may be increased to the extent the value of the homestead is increased by improvements other than repairs or improvements made to comply with governmental requirements and except as may be consistent with the transfer of a limitation under this subsection. For a residence homestead subject to the limitation provided by this subsection in the 1996 tax year or an earlier tax year, the legislature shall provide for a reduction in the amount of the limitation for the 1997 tax year and subsequent tax years in an amount equal to $10,000 multiplied by the 1997 tax rate for general elementary and secondary public school purposes applicable to the residence homestead. For a residence homestead subject to the limitation provided by this subsection in the 2014 tax year or an earlier tax year, the legislature shall provide for a reduction in the amount of the limitation for the 2015 tax year and subsequent tax years in an amount equal to $10,000 multiplied by the 2015 tax rate for general elementary and secondary public school purposes applicable to the residence homestead.

(e) The governing body of a political subdivision, other than a county education district, may exempt from ad valorem taxation a percentage of the market value of the residence homestead of a married or unmarried adult, including one living alone. In the manner provided by law, the voters of a county education district at an election held for that purpose may exempt from ad valorem taxation a percentage of the market value of the residence homestead of a married or unmarried adult, including one living alone. The percentage may not exceed twenty percent. However, the amount of an exemption authorized pursuant to this subsection may not be less than [~~Five Thousand Dollars (~~]$5,000[~~)~~] unless the legislature by general law prescribes other monetary restrictions on the amount of the exemption. The legislature by general law may prohibit the governing body of a political subdivision that adopts an exemption under this subsection from reducing the amount of or repealing the exemption. An eligible adult is entitled to receive other applicable exemptions provided by law. Where ad valorem tax has previously been pledged for the payment of debt, the governing body of a political subdivision may continue to levy and collect the tax against the value of the homesteads exempted

under this subsection until the debt is discharged if the cessation of the levy would impair the obligation of the contract by which the debt was created. The legislature by general law may prescribe procedures for the administration of residence homestead exemptions.

SECTION 2. Article VIII, Texas Constitution, is amended by adding Section 29 to read as follows:

Sec. 29. (a) After January 1, 2016, no law may be enacted that imposes a transfer tax on a transaction that conveys fee simple title to real property.

(b) This section does not prohibit:

(1) the imposition of a general business tax measured by business activity;

(2) the imposition of a tax on the production of minerals;

(3) the imposition of a tax on the issuance of title insurance; or

(4) the change of a rate of a tax in existence on January 1, 2016.

SECTION 3. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015.

(b) The amendments to Sections 1-b(c), (d), and (e), Article VIII, of this constitution take effect for the tax year beginning January 1, 2015.

(c) This temporary provision expires January 1, 2017.

SECTION 4. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 3, 2015. The ballot shall be printed to permit voting for or against the proposition: "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, 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, authorizing the legislature to prohibit

a political subdivision that has adopted an optional residence homestead exemption from ad valorem taxation from reducing the amount of or repealing the exemption, and prohibiting the enactment of a law that imposes a transfer tax on a transaction that conveys fee simple title to real property."

Senate Author: Jane Nelson et al.
House Sponsor: Dennis Bonnen et al.

Amendment No. 2 (H.J.R. 75)

Wording of Ballot Proposition

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.

Analysis of Proposed Amendment

Summary Analysis

Section 1-b, Article VIII, Texas Constitution, governs residence homestead exemptions from ad valorem taxation on property. The constitutional amendment proposed by H.J.R. 75 amends Section 1-b by adding Subsection (j-1) to that section. That subsection authorizes the legislature by general law to provide that 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 is entitled to receive an ad valorem tax exemption of the same portion of the market value of the same property to which the disabled veteran's exemption would have applied if the exemption had been in effect when the disabled veteran died, provided that the surviving spouse has not remarried since the death of the disabled veteran and the property was the residence homestead of the surviving spouse when the disabled veteran died and remains the surviving spouse's residence homestead. The proposed amendment also amends Section 1-b(k) of Article VIII to authorize the legislature by general law to provide that a surviving spouse who receives an exemption under proposed Subsection (j-1) and who subsequently qualifies a different property as the surviving spouse's residence homestead is entitled to an exemption from ad valorem taxation of the subsequently qualified residence homestead in an amount equal to the dollar amount of the exemption from ad valorem taxation of the former homestead in accordance with proposed Subsection (j-1) in the

last year in which the surviving spouse received that exemption for that homestead if the surviving spouse has not remarried. The proposed amendment applies only to ad valorem taxes imposed for a tax year beginning on or after January 1, 2016.

Background and Detailed Analysis

Section 1, Article VIII, Texas Constitution, requires that taxation be equal and uniform and that all real and tangible personal property be taxed in proportion to its value unless the property is exempt as required or permitted by the constitution. Section 1-b, Article VIII, Texas Constitution, provides for various exemptions from ad valorem taxation for residence homesteads and limitations on certain ad valorem taxes imposed on certain homesteads. In 2007, Section 1-b of Article VIII was amended by adding Subsection (i), which authorizes the legislature by general law to exempt from ad valorem taxation all or part of the market value of the residence homestead of a disabled veteran who is certified as having a disability rating of 100 percent or totally disabled. Under the authority of Subsection (i), in 2009 the legislature passed H.B. 3613, which added Section 11.131 to the Tax Code to provide for a total ad valorem tax exemption for the residence homestead of a 100 percent or totally disabled veteran. In 2011, Section 1-b of Article VIII was amended by adding Subsections (j) and (k). Subsection (j) authorizes the legislature by general law to provide that the surviving spouse of a 100 percent or totally disabled veteran who qualified for an ad valorem tax exemption in accordance with Subsection (i) when the disabled veteran died is entitled to an ad valorem tax exemption of the same portion of the market value of the same property to which the disabled veteran's exemption would have applied if the surviving spouse has not remarried since the death of the disabled veteran and the property was the residence homestead of the surviving spouse when the disabled veteran died and remains the surviving spouse's residence homestead. Subsection (k) authorizes the legislature by general law to provide that a surviving spouse who receives an exemption under Subsection (j) and who subsequently qualifies a different property as the surviving spouse's residence homestead is entitled to an exemption from ad valorem taxation of the subsequently

qualified residence homestead in an amount equal to the dollar amount of the exemption from taxation of the former homestead in accordance with Subsection (j) in the last year in which the surviving spouse received that exemption for that homestead if the surviving spouse has not remarried. Also in 2011, the legislature passed S.B. 516, which amended Section 11.131, Tax Code, to conform to the addition of Subsections (j) and (k) to Section 1-b of Article VIII. However, current law has been construed to mean that 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 is not entitled to receive an ad valorem tax exemption because a spouse is required to be the surviving spouse of a disabled veteran who "qualified for an exemption" from taxation when the disabled veteran died in order for the spouse to receive an exemption and, at the time of the disabled veteran's death, the exemption for a 100 percent or totally disabled veteran did not exist.

The proposed amendment authorizes the legislature by general law to provide that the surviving spouse of a 100 percent or totally disabled veteran who would have qualified for an ad valorem tax exemption of all or part of the market value of the disabled veteran's residence homestead but who died before the 2009 law authorizing a residence homestead exemption for such a veteran took effect is entitled to receive an ad valorem tax exemption of the same portion of the market value of the same property to which the disabled veteran's exemption would have applied if the surviving spouse otherwise meets the requirements of Section 1-b(j) of Article VIII. In addition, the proposed amendment authorizes the legislature by general law to provide that such a surviving spouse is entitled to an exemption from ad valorem taxation of a subsequently qualified residence homestead in an amount equal to the dollar amount of the exemption from taxation of the former homestead in the last year in which the surviving spouse received an exemption for that homestead if the surviving spouse has not remarried—in effect letting the surviving spouse take the exemption when moving to another homestead.

Enacted in 2015 by the Texas Legislature, H.B. 992 is the enabling legislation for the proposed amendment. The bill amends Section 11.131, Tax Code, to provide that the surviving spouse of a disabled veteran who

would have qualified for an exemption under that section if the section had been in effect on the date the disabled veteran died is entitled to receive the exemption provided by that section if the surviving spouse has not remarried since the death of the disabled veteran and the property was the residence homestead of the surviving spouse when the disabled veteran died and remains the residence homestead of the surviving spouse. The bill applies only to ad valorem taxes imposed for a tax year beginning on or after January 1, 2016, and takes effect only if the proposed amendment is approved by the voters.

Summary of Comments

The following paragraphs are based on comments made about the amendment during the legislative process and generally summarize the main arguments supporting or opposing the amendment.

Comments by Supporters. Current law unintentionally and inequitably creates two classes of surviving spouses of 100 percent or totally disabled veterans: the surviving spouse of a 100 percent or totally disabled veteran who died on or after January 1, 2010, is eligible to receive an ad valorem tax exemption if that spouse meets certain qualifications, while the surviving spouse of a 100 percent or totally disabled veteran who died before January 1, 2010, is not eligible to receive that exemption. The proposed amendment corrects that problem and recognizes that the sacrifice made by a 100 percent or totally disabled veteran and the person's surviving spouse is the same regardless of the date on which the disabled veteran died. In addition, the fiscal effect of the proposed amendment and the enabling legislation on taxing units would be minimal, while the benefit to the family of any individual disabled veteran who died before 2010 would be considerable.

Comments by Opponents. By enlarging the number of surviving spouses of 100 percent or totally disabled veterans eligible to receive an exemption from ad valorem taxation of the surviving spouse's residence homestead, the proposed amendment would decrease tax revenue available to school districts, municipalities, counties, and other taxing units to provide essential services and would impose a burden on the

state to the extent the state makes up the revenue loss to school districts. Additionally, because military families tend to reside in proximity to military bases and facilities in this state, property tax exemptions for disabled veterans and their families disproportionately affect certain areas of the state and have a greater effect on the ability of taxing units in those areas to raise sufficient revenue to provide essential services as well as on the distribution of the tax burden in those areas.

Text of H.J.R. 75

A JOINT RESOLUTION

proposing a 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.

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

SECTION 1. Section 1-b, Article VIII, Texas Constitution, is amended by adding Subsection (j-1) and amending Subsection (k) to read as follows:

(j-1) The legislature by general law may provide that the surviving spouse of a disabled veteran who would have qualified for an exemption from ad valorem taxation of all or part of the market value of the disabled veteran's residence homestead under Subsection (i) of this section if that subsection had been in effect on the date the disabled veteran died is entitled to an exemption from ad valorem taxation of the same portion of the market value of the same property to which the disabled veteran's exemption would have applied if the surviving spouse otherwise meets the requirements of Subsection (j) of this section.

(k) The legislature by general law may provide that if a surviving spouse who qualifies for an exemption in accordance with Subsection (j) or (j-1) of this section subsequently qualifies a different property as the surviving spouse's residence homestead, the surviving spouse is entitled to an exemption from ad valorem taxation of the subsequently qualified homestead in an amount equal to the dollar amount of the exemption from ad valorem taxation of the former homestead in accordance with Subsection (j) or (j-1) of this section in the last year in which the surviving spouse received an exemption in accordance with the applicable [~~that~~] subsection for that homestead if the surviving spouse has not remarried since the death of the disabled veteran.

SECTION 2. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 84th Legislature, Regular Session, 2015, authorizing the legislature to exempt from ad valorem taxation all or part of the market value of the residence homestead of certain surviving spouses of 100 percent or totally disabled veterans.

(b) The amendments to Section 1-b, Article VIII, of this constitution take effect January 1, 2016, and apply only to ad valorem taxes imposed for a tax year beginning on or after that date.

(c) This temporary provision expires January 1, 2017.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 3, 2015. The ballot shall be printed to permit voting for or against the proposition: "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."

House Author: Dennis Bonnen et al.
Senate Sponsor: Larry Taylor et al.

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Amendment No. 3 (S.J.R. 52)

Wording of Ballot Proposition

The constitutional amendment repealing the requirement that state officers elected by voters statewide reside in the state capital.

Analysis of Proposed Amendment

Summary Analysis

Section 23, Article IV, Texas Constitution, requires certain state officers elected by the voters statewide, including the comptroller of public accounts, commissioner of the General Land Office, attorney general, commissioner of agriculture, and railroad commissioners, to reside at the state capital while in office. The constitutional amendment proposed by S.J.R. 52 removes that residency requirement. The residence of the governor is addressed by Section 13, Article IV, Texas Constitution, and is not affected by this proposed amendment.

Background

Section 23, Article IV, Texas Constitution, as included in the 1876 Texas Constitution, established a state capital residency requirement, terms of office, salaries, duties, and certain fee use requirements and prohibitions for the comptroller of public accounts, the state treasurer, and the commissioner of the General Land Office. The section was amended in 1936 to increase the state officers' annual salary from $2,500 to $6,000 and amended again in 1954 to authorize the legislature to set the salaries of state officers. In 1972, the section was amended to apply to any statutory state officer elected by the electorate statewide and to increase the terms of state officers from two to four years. In 1995, the section as amended removed the reference to the state treasurer when that state office was abolished. In addition to other clarifying changes, the provision was amended in 1999 to include the attorney general and to remove a redundant provision stating that an officer serves until the officer's successor is qualified. The constitutional amendment proposed

by S.J.R. 52 removes the residency requirement for these officials. It does not change any of the other provisions of Section 23.

Summary of Comments

The following paragraphs are based on comments made about the amendment during the legislative process and generally summarize the main arguments supporting or opposing the amendment.

Comments by Supporters. The proposed amendment would allow certain state officers elected by the voters statewide to maintain a residency at a location in this state other than Austin, the state capital, and reduce the burden the state capital residency requirement places on the officers and their families. The capital residency requirement was included in the 1876 Texas Constitution when state officers traveled to the state capital by horse and buggy and has not been amended since. Advances in transportation, communication, and technology have rendered the residency requirement obsolete and have provided the possibility of performing official duties from other locations. In addition, state officers' duties extend to locations other than the state capital, and performance of those duties may require the officers to spend a majority of their time away from Austin. Any state officer who, as a result of the lack of a state capital residency requirement, fails to spend sufficient time at the state capital is accountable to the voters at the next election. Further, the residency requirement creates for statewide offices an elite class of candidates who live in or can afford to move to Austin. Finally, a majority of the other states in the United States do not require their state officers to reside at the seat of government.

Comments by Opponents. The proposed amendment allowing certain state officers elected by the voters statewide to live anywhere in this state would repeal a residency requirement that has remained unchanged in the Texas Constitution since its adoption in 1876. The amendment would allow state officers, who are serving in full-time paid positions, to be physically present at the state capital infrequently and to possibly neglect their duties of office. Essentially, state officers serve as the chief operating officers for their respective state agencies, which have central offices in

Austin, and the officers' duties require the officers to be available to the agency employees serving in Austin. State officers are often required to conduct statewide business at the seat of government, and residency in a location other than Austin would likely increase the state-reimbursed travel expenses of the officers. Finally, a state officer, by maintaining a residence away from the state capital, may be able to select a residence based on the officer's perception that the location would provide a more favorable venue than Travis County for any legal action brought against the officer.

Text of S.J.R. 52

SENATE JOINT RESOLUTION

proposing a constitutional amendment repealing the requirement that state officers elected by voters statewide reside in the state capital.

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

SECTION 1. Section 23, Article IV, Texas Constitution, is amended to read as follows:

Sec. 23. The Comptroller of Public Accounts, the Commissioner of the General Land Office, the Attorney General, and any statutory State officer who is elected by the electorate of Texas at large, unless a term of office is otherwise specifically provided in this Constitution, shall each hold office for the term of four years. Each shall receive an annual salary in an amount to be fixed by the Legislature[~~; reside at the Capital of the State during his continuance in office,~~] and perform such duties as are or may be required by law. They and the Secretary of State shall not receive to their own use any fees, costs or perquisites of office. All fees that may be payable by law for any service performed by any officer specified in this section or in the officer's [~~his~~] office, shall be paid, when received, into the State Treasury.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 3, 2015. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment repealing the requirement that state officers elected by voters statewide reside in the state capital."

Senate Author: Donna Campbell
House Sponsor: John Otto

Amendment No. 4 (H.J.R. 73)

Wording of Ballot Proposition

The constitutional amendment authorizing the legislature to permit professional sports team charitable foundations to conduct charitable raffles.

Analysis of Proposed Amendment

Summary Analysis

The constitutional amendment proposed by H.J.R. 73 authorizes the legislature by general law to permit a professional sports team charitable foundation to conduct charitable raffles under the terms and conditions imposed by the law and to use raffle proceeds to pay reasonable advertising, promotional, and administrative expenses. The provision limits the applicability of the law to an entity defined as a professional sports team charitable foundation on January 1, 2016, and limits the conduct of the raffles to games hosted at the home venue of the professional sports team associated with the foundation.

Background

Section 47, Article III, Texas Constitution, as originally adopted in 1876, required the legislature to pass laws prohibiting all lotteries and gift enterprises in the state. Section 47 has been interpreted to prohibit the state from authorizing most forms of gambling. However, Section 47 has been amended to provide several specific exceptions to the general prohibition. In 1980, the section was amended to allow the legislature by law to authorize and regulate bingo games conducted by certain religious and nonprofit organizations, volunteer fire departments, and fraternal organizations, provided the bingo proceeds are used for charitable purposes and the bingo games meet certain other requirements. In 1989, Section 47 was amended to authorize the legislature by law to authorize charitable raffles conducted by qualified religious societies, volunteer fire departments, volunteer emergency medical services, or nonprofit

organizations, provided the raffle proceeds are spent for the organization's charitable purposes and its members conduct the raffles. In 1991, the provision was amended to authorize the state to operate lotteries or to contract with legal entities to operate lotteries for the state. The constitutional amendment proposed by H.J.R. 73 adds another exception to the general prohibition by authorizing the legislature by general law to permit charitable raffles conducted by professional sports team charitable foundations under the terms and conditions imposed by law.

H.B. 975, Acts of the 84th Legislature, Regular Session, 2015, is the enabling legislation for the proposed amendment. The bill, which is effective January 1, 2016, if the voters approve H.J.R. 73, defines "professional sports team charitable foundation" as an organization formed for charitable purposes that holds a certificate of formation or is otherwise incorporated under the laws of this state and that is associated with a professional sports team organized in this state. The team must be a member of Major League Baseball, the National Basketball Association, the National Hockey League, the National Football League, or Major League Soccer. The bill authorizes a qualified professional sports team charitable foundation to conduct, in accordance with the requirements and limitations of the law, a charitable raffle during each game hosted at the home venue of the professional sports team associated with the charitable foundation and to offer to a randomly selected winner a cash prize that does not exceed 50 percent of the raffle's gross proceeds. The bill requires all raffle proceeds to be used for the foundation's charitable purposes other than payments for the cash prizes and for operating expenses. The bill also provides criminal penalties for certain violations and authorizes injunctions against unauthorized raffles.

Summary of Comments

The following paragraphs are based on comments made about the amendment during the legislative process and generally summarize the main arguments supporting or opposing the amendment.

Comments by Supporters. The amendment would allow professional sports team charitable foundations in this state to highlight the team's

philanthropic activities, bring awareness to community needs, encourage sports fans to contribute to worthy causes, and raise additional money for the foundation's charitable purposes. Under current law, nonprofit organizations may annually conduct not more than two charitable raffles. The proposed amendment merely increases the number of raffles the affected charitable foundations may conduct and authorizes cash payments. Several other states that are home to professional sports teams authorize the teams to conduct similar charitable raffles.

Comments by Opponents. No comments opposing the proposed amendment were made during the house or senate committee hearings or floor debates. A review of other sources, however, indicates that gambling opponents, while not necessarily opposed to charitable raffles, are concerned that the passage of H.J.R. 73 will expand gambling in this state and encourage future expansions of gambling in this state through the use of electronic displays to conduct the raffles that could potentially lead to electronic raffles at the sports venues and to other electronic gambling at bingo establishments or horse or greyhound racetracks.

Text of H.J.R. 73

A JOINT RESOLUTION

proposing a constitutional amendment authorizing the legislature to permit professional sports team charitable foundations to conduct charitable raffles.

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

SECTION 1. Section 47, Article III, Texas Constitution, is amended by amending Subsection (a) and adding Subsection (d-1) to read as follows:

(a) The Legislature shall pass laws prohibiting lotteries and gift enterprises in this State other than those authorized by Subsections (b), (d), (d-1), and (e) of this section.

(d-1) The legislature by general law may permit a professional sports team charitable foundation to conduct charitable raffles under the terms and conditions imposed by general law. The law may authorize the charitable foundation to pay with the raffle proceeds reasonable advertising, promotional, and administrative expenses. A law enacted under this subsection may apply only to an entity that is defined as a professional sports team charitable foundation on January 1, 2016, and may only allow charitable raffles to be conducted at games hosted at the home venue of the professional sports team associated with a professional sports team charitable foundation.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 3, 2015. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment authorizing the legislature to permit professional sports team charitable foundations to conduct charitable raffles."

House Author: Charlie Geren et al.
Senate Sponsor: Troy Fraser et al.

Amendment No. 5 (S.J.R. 17)

Wording of Ballot Proposition

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

Analysis of Proposed Amendment

Summary Analysis

S.J.R. 17 proposes an amendment to the Texas Constitution to increase from 5,000 to 7,500 the maximum population threshold of a county that may construct and maintain private roads if the county imposes a reasonable charge for the work.

Background

In 1980, voters approved a constitutional amendment adding Section 52f, Article III, Texas Constitution, authorizing counties with a population of 5,000 or less to perform private road construction and maintenance if the county imposed a reasonable charge for the work. Money collected by the county may be used only for the construction or maintenance of public roads. Section 52f authorizes the legislature to limit the counties' authority.

S.J.R. 17 amends Section 52f, Article III, to expand the class of counties authorized to perform private road work to those with a population of 7,500 or less.

Summary of Comments

The following paragraphs are based on comments made about the amendment during the legislative process and generally summarize the main arguments supporting or opposing the amendment.

Comments by Supporters. Rural counties in Texas have grown in population in the 35 years since the adoption of Section 52f, Article III, and the constitution should be updated to reflect population growth in that time.

The proposed amendment would give rural counties and private landowners in those counties more flexibility to update private roads that are poorly maintained. Many rural 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 include approximately 20 additional counties with populations between 5,000 and 7,500. Some of the additional counties were under the 5,000-person threshold at the time the constitutional provision was passed in 1980 or at some time since 1980, including some counties that exceeded the 5,000-person threshold only after a prison was constructed in the county.

The population limitation is necessary to prevent populous counties from competing with the private road construction industry. However, in the rural counties that would be covered by the proposed amendment, there are no private industries with which to compete, and counties should be allowed to deal with minor projects to maintain road safety. It would not be profitable for private companies to travel to rural counties for minor projects.

Comments by Opponents. Instead of increasing the maximum population threshold for counties allowed to perform private road work under Section 52f, Article III, the population limit should be eliminated. All counties in the state should have the option to construct and maintain private roads in the county as long as private landowners agree and pay the county for the cost of the work.

Text of S.J.R. 17

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to private road work by certain counties.

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

SECTION 1. Section 52f, Article III, Texas Constitution, is amended to read as follows:

Sec. 52f. A county with a population of 7,500 [~~5,000~~] or less, according to the most recent federal census, may construct and maintain private roads if it imposes a reasonable charge for the work. The Legislature by general law may limit this authority. Revenue received from private road work may be used only for the construction, including right-of-way acquisition, or maintenance of public roads.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 3, 2015. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to authorize counties with a population of 7,500 or less to perform private road construction and maintenance."

Senate Author: Charles Perry et al.
House Sponsor: Drew Springer

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Amendment No. 6 (S.J.R. 22)

Wording of Ballot Proposition

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

Analysis of Proposed Amendment

Summary Analysis

S.J.R. 22 creates a new right for people to hunt, fish, and harvest wildlife and establishes hunting and fishing as preferred methods of managing and controlling wildlife. The proposed right includes the use of traditional methods of hunting, fishing, and harvesting, although those methods are not defined. Under the proposed amendment, laws or regulations that conserve and manage wildlife and preserve the future of hunting and fishing apply to the exercise of the right to hunt, fish, or harvest wildlife. The proposed amendment does not affect laws or regulations that relate to trespass, property rights, eminent domain, or the municipal regulation of the discharge of a weapon in a populated area in the interest of public safety.

Background

Texas culture includes a rich and long-standing hunting and fishing tradition. The proposed amendment adds constitutional protection for that tradition but does not alter the current scheme of regulation applicable to those activities. The proposed amendment is similar to measures passed in a number of other states in response to antihunting efforts in those states.

Although currently the Texas Constitution does not specifically provide for or refer to a person's right to hunt and fish, it allows the legislature to pass local laws for the preservation of the game and fish of this state in specified localities despite a general prohibition on local laws (see Section 56, Article III) and mandates property tax relief to

promote the preservation of open-space land devoted to farm, ranch, or wildlife management purposes (see Section 1-d-1, Article VIII). Under Chapter 1 of the Texas Parks and Wildlife Code, all wild animals in this state, including birds, fish, and other aquatic life, are the property of the people of this state. Other provisions of that code and Texas Parks and Wildlife Commission regulations provide various methods of managing and controlling wildlife populations. Under the proposed amendment, hunting and fishing by traditional methods are declared to be a right of the people and the preferred methods of managing and controlling wildlife populations.

Summary of Comments

The following paragraphs are based on comments made about the amendment during the legislative process and generally summarize the main arguments supporting or opposing the amendment.

Comments by Supporters. Supporters of the amendment feel that animal rights groups and antihunting activists may try to impose stricter limits on hunting and fishing in this state, and supporters therefore seek constitutional protection for those activities as a preventive measure to preserve the opportunity to hunt and fish for future generations.

Supporters point out that protecting hunting and fishing would also protect the economic benefit enjoyed by the state from revenue generated by those activities because the surrounding industry contributes to employment, investment, and tax revenue. Additionally, industry related to hunting and fishing results in increased funding for conservation efforts and provides an incentive to landowners to maintain habitat, including open spaces, for game and nongame animals.

By specifically including traditional methods of hunting, fishing, and harvesting wildlife, and stating that hunting and fishing are preferred methods of managing and controlling wildlife, the proposed amendment does not prohibit the use of other methods and would still allow the prohibition of methods that are not sporting or that could endanger wildlife populations.

Comments by Opponents. Opponents of the amendment feel that the amendment is unnecessary because there is no threat to hunting and fishing in this state. Efforts to enact the amendment as a preventive measure may in fact spur groups opposed to hunting and fishing to begin activity in response.

A constitutionally stated preference for the use of hunting and fishing to control and manage wildlife may force regulations to change in a way that would make it more difficult to achieve a balanced ecosystem. While other methods of control might be more appropriate in certain situations, those methods might have to give way to the constitutional preference.

The amendment causes confusion between a person's protected right to hunt, fish, and harvest wildlife and the role of the state and federal government in enacting laws that regulate those activities. The line between regulation and right is unclear.

Text of S.J.R. 22

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the right to hunt, fish, and harvest wildlife.

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

SECTION 1. Article I, Texas Constitution, is amended by adding Section 34 to read as follows:

Sec. 34. (a) The people have the right to hunt, fish, and harvest wildlife, including by the use of traditional methods, subject to laws or regulations to conserve and manage wildlife and preserve the future of hunting and fishing.

(b) Hunting and fishing are preferred methods of managing and controlling wildlife.

(c) This section does not affect any provision of law relating to trespass, property rights, or eminent domain.

(d) This section does not affect 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.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 3, 2015. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment recognizing the right of the people to hunt, fish, and harvest wildlife subject to laws that promote wildlife conservation."

Senate Author: Brandon Creighton et al.
House Sponsor: Trent Ashby et al.

Amendment No. 7 (S.J.R. 5)

Wording of Ballot Proposition

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 nontolled roads and the reduction of certain transportation-related debt.

Analysis of Proposed Amendment

Summary Analysis

S.J.R. 5 proposes an amendment to the Texas Constitution directing the comptroller of public accounts to annually deposit to the state highway fund $2.5 billion of state sales and use tax revenue that exceeds the first $28 billion of those taxes collected during the fiscal year, and 35 percent of the state motor vehicle sales, use, and rental tax revenue that exceeds the first $5 billion of those taxes collected during the state fiscal year. The proposed amendment dedicates the tax revenue deposited to the state highway fund to constructing, maintaining, or acquiring rights-of-way for public roadways other than toll roads and to paying certain transportation-related bond debt. The proposed amendment would allow the legislature by a two-thirds vote to reduce the amount of those taxes to be deposited to the state highway fund and provides that, unless extended by the legislature, the deposit of state sales and use tax revenue ends in 15 years and the deposit of motor vehicle sales, use, and rental tax revenue ends in 10 years.

Background and Detailed Analysis

The Texas Legislature for years has discussed the need to provide adequate funding for transportation-related projects and methods for providing that funding. The proposed amendment would add Section 7-c, Article VIII, to the Texas Constitution. That section would require the comptroller of public accounts to deposit to the state highway fund in each state fiscal year beginning with the 2018 state fiscal year $2.5

billion of state sales and use tax revenue that exceeds the first $28 billion of that revenue collected in the state fiscal year, and in each state fiscal year beginning with the 2020 state fiscal year 35 percent of the state motor vehicle sales, use, and rental tax revenue that exceeds the first $5 billion of that revenue collected in the state fiscal year. The proposed amendment provides that money deposited to the credit of the state highway fund under Section 7-c may be appropriated only to construct, maintain, or acquire rights-of-way for public roadways other than toll roads, or to pay the principal of and interest on general obligation bonds issued under Section 49-p, Article III, Texas Constitution.

The proposed amendment authorizes the legislature to make two types of modifications to the deposits to the state highway fund required by the amendment. First, the proposed amendment allows the legislature, by adoption of a resolution approved by a record vote of two-thirds of the members of both houses of the legislature, to reduce the amount of state sales and use tax revenue or motor vehicle sales, use, and rental tax revenue deposited to the state highway fund in the state fiscal year in which the resolution is adopted, or in either of the two following state fiscal years, by an amount or percentage that does not result in a reduction of more than 50 percent of the amount of tax revenue from either source that would otherwise be deposited to the state highway fund. In addition, although the proposed amendment provides that the duty of the comptroller of public accounts to deposit state sales and use tax revenue and state motor vehicle sales, use, and rental tax revenue to the state highway fund ends on August 31, 2032, and August 31, 2029, respectively, it authorizes the legislature, by adoption of a resolution approved by a record vote of a majority of the members of each house of the legislature, to extend the duty to make those deposits in 10-year increments.

Summary of Comments

The following paragraphs are based on comments made about the proposed amendment or similar proposals during the legislative process and generally summarize the main arguments supporting or opposing the proposed amendment.

Comments by Supporters. The proposed amendment would provide a consistent and reliable source of funding for transportation projects in the state. This state's current transportation system is inefficient and in poor repair in many areas, which has a negative effect on the state's economy. The current method of funding transportation projects in this state is partially to blame for the state of the transportation system. Large transportation projects can take many years to complete and may include unforeseen costs, making it impractical to disburse the entire cost of a project at one time. The current practice of funding such projects using biennial appropriations, however, can lead to delays when an expected appropriation is not received or has to be spent for debt service. The state needs a predictable, dedicated revenue source that allows for future planning to address the state's infrastructure demands. The proposed amendment would provide that source of funding so that existing projects can be completed and new projects can be planned up to 10 years in advance and started in areas that will lead to the greatest return on the state's monetary investment.

Although the dedication of state tax revenue to the state highway fund does reduce the amount of revenue that would otherwise be available for general state purposes, the proposed amendment contains mechanisms by which the dedicated revenue would be available for those general purposes if needed. First, the proposed amendment preserves base amounts of the revenue for those purposes and dedicates only certain money in excess of those base amounts. In addition, the proposed amendment includes a mechanism by which the legislature may reduce the amount of money transferred to the state highway fund if necessary. Also, because the proposed amendment provides that the dedication of tax revenue ends in either 10 or 15 years, depending on the source of the revenue, the legislature will be required to periodically review whether the dedication of revenue is working as intended and should be extended as authorized by the proposed amendment.

Comments by Opponents. Although funding transportation projects is an important state priority, the proposed amendment is not the best method by which to address transportation funding. The proposed amendment, which would constitutionally dedicate billions of dollars of

state tax revenue each year only to transportation-related projects and the payment of transportation-related debt, would tie the hands of future legislatures during a time when the legislature has discretion over less than 20 percent of the state's budget. This could lead to the state being required to make substantial cuts in essential state services, such as public education and health and human services, in the event of a downturn in the state's economy.

There are better alternatives for providing transportation funding that would not affect the state's ability to respond to future budget crises. There is currently a considerable budget surplus available to the legislature that could be appropriated for transportation projects. In addition, the rates of other taxes the revenue from which is already dedicated to transportation could be increased to provide additional funding.

Text of S.J.R. 5

SENATE JOINT RESOLUTION

proposing a constitutional amendment dedicating a portion of the revenue derived from the state sales and use tax and the tax imposed on the sale, use, or rental of a motor vehicle to the state highway fund.

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

SECTION 1. Article VIII, Texas Constitution, is amended by adding Section 7-c to read as follows:

Sec. 7-c. (a) Subject to Subsections (d) and (e) of this section, in each state fiscal year, the comptroller of public accounts shall deposit to the credit of the state highway fund $2.5 billion of the net revenue derived from the imposition of the state sales and use tax on the sale, storage, use, or other consumption in this state of taxable items under Chapter 151, Tax Code, or its successor, that exceeds the first $28 billion of that revenue coming into the treasury in that state fiscal year.

(b) Subject to Subsections (d) and (e) of this section, in each state fiscal year, the comptroller of public accounts shall deposit to the credit of the state highway fund an amount equal to 35 percent of the net revenue derived from the tax authorized by Chapter 152, Tax Code, or its successor, and imposed on the sale, use, or rental of a motor vehicle that exceeds the first $5 billion of that revenue coming into the treasury in that state fiscal year.

(c) Money deposited to the credit of the state highway fund under this section may be appropriated only to:

(1) construct, maintain, or acquire rights-of-way for public roadways other than toll roads; or

(2) repay the principal of and interest on general obligation bonds issued as authorized by Section 49-p, Article III, of this constitution.

(d) The legislature by adoption of a resolution approved by a record vote of two-thirds of the members of each house of the legislature may direct the comptroller of public accounts to reduce the amount of money deposited to the credit of the state highway fund under Subsection (a) or (b) of this section. The comptroller may be directed to make that reduction only:

(1) in the state fiscal year in which the resolution is adopted, or in either of the following two state fiscal years; and

(2) by an amount or percentage that does not result in a reduction of more than 50 percent of the amount that would otherwise be deposited to the fund in the affected state fiscal year under the applicable subsection of this section.

(e) Subject to Subsection (f) of this section, the duty of the comptroller of public accounts to make a deposit under this section expires:

(1) August 31, 2032, for a deposit required by Subsection (a) of this section; and

(2) August 31, 2029, for a deposit required by Subsection (b) of this section.

(f) The legislature by adoption of a resolution approved by a record vote of a majority of the members of each house of the legislature may extend, in 10-year increments, the duty of the comptroller of public accounts to make a deposit under Subsection (a) or (b) of this section beyond the applicable date prescribed by Subsection (e) of this section.

SECTION 2. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 84th Legislature, Regular Session, 2015, dedicating a portion of the revenue derived from the state sales and use tax and the tax imposed on the sale, use, or rental of a motor vehicle to the state highway fund.

(b) Section 7-c(a), Article VIII, of this constitution takes effect September 1, 2017.

(c) Section 7-c(b), Article VIII, of this constitution takes effect September 1, 2019.

(d) Beginning on the dates prescribed by Subsections (b) and (c) of this section, the legislature may not appropriate any revenue to which Section 7-c(a) or (b), Article VIII, of this constitution applies that is deposited to the credit of the state highway fund for any purpose other than a purpose described by Section 7-c(c), Article VIII, of this constitution.

(e) This temporary provision expires September 1, 2020.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 3, 2015. The ballot shall be printed to permit voting for or against the proposition: "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 nontolled roads and the reduction of certain transportation-related debt."

Senate Author: Robert Nichols et al.
House Sponsor: Joseph Pickett et al.