

# ANALYSES OF PROPOSED CONSTITUTIONAL AMENDMENTS



88th Texas Legislature  
November 7, 2023, Election

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# General Information

During its 2023 Regular Session and 2nd Called Session, the 88th Texas Legislature passed a total of 14 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 7, 2023, 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 May 2022, the legislature has proposed 700 amendments to the constitution, of which 697 have gone before Texas voters. Of the amendments on the ballot, 517 have been approved by the electorate and 180 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.

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

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# Proposition 1

(H.J.R. 126, 88th Leg., R.S.)

The constitutional amendment protecting the right to engage in farming, ranching, timber production, horticulture, and wildlife management.

## SUMMARY ANALYSIS

The proposed constitutional amendment creates a new right for people to engage in generally accepted farm, ranch, timber production, horticulture, and wildlife management practices on land they own or lease. The proposed amendment does not affect the legislature's authority to authorize state or local regulation of those agricultural practices when necessary to protect health and safety, animal health and crop production, or natural resources, or to use the power of eminent domain.

## BACKGROUND AND DETAILED ANALYSIS

Farmland and ranch land in this state is being impacted by the growth of urban areas and increasing municipal regulation. The proposed amendment provides constitutional protection to farmers and ranchers engaged in normal practices of agricultural operations on property they own or lease.

H.J.R. 126 amends the Bill of Rights to the Texas Constitution (Article I) by adding Section 36, which would protect the people's right to engage in generally accepted farm, ranch, timber production, horticulture, or wildlife management practices on land they own or lease.

The proposed amendment maintains the legislature's authority to enact laws authorizing the regulation of generally accepted agriculture practices under three circumstances. First, the legislature may authorize a state agency or political subdivision to regulate those practices when there is clear and convincing evidence that the law or regulation is necessary to protect the public health and safety from imminent danger. Second, the legislature may authorize a state agency to regulate those practices to prevent a danger to animal health or crop production. Third, the legislature may authorize a state agency or political subdivision to regulate those

practices to preserve or conserve the natural resources of the state, as provided by Section 59, Article XVI, Texas Constitution.

The proposed amendment also provides that the new right to engage in these activities does not affect the legislature's authority to enact laws authorizing use of the power of eminent domain.

### **SUMMARY OF COMMENTS**

The following comments supporting or opposing the proposed amendment reflect positions that were presented in committee proceedings, during house or senate floor debate, or in the analysis of the resolution prepared by the House Research Organization (HRO) when the resolution was considered by the House of Representatives.

#### **Comments by Supporters**

- As the state's population continues to grow and the demand for food increases, it is important to prevent municipal overregulation that could threaten agricultural production.
- Enshrining the right to engage in activities such as farming and ranching in the Texas Constitution can help avoid some of the conflict that has been experienced when suburban expansion and development encroaches on working farmland or ranchland.
- Although there are currently protections for farmers and ranchers in statute, there is no guarantee that future legislatures will keep them.
- State agencies and political subdivisions would still be able to address serious concerns involving public health and safety and animal welfare.
- The proposed amendment officially recognizes the authority of the state or a political subdivision to regulate protected activities in order to preserve or conserve the state's natural resources.

## **Comments by Opponents**

- Limiting governments' abilities to set reasonable standards regarding food safety, water pollution, and animal welfare would enable large, industrial factory farms to operate with less accountability, which also could undermine smaller family farms.
- Requiring that a threat to health and safety be "imminent" before regulations may be imposed could hinder the ability of the state or local governments to regulate agricultural operations that could pose a threat to public safety during a natural disaster until the natural disaster was imminent. Additionally, requiring clear and convincing evidence that a regulation is necessary to protect public health and safety is too high a burden of proof.
- By using vague terminology such as "generally accepted practices" and "wildlife management practices," the proposed amendment will lead to confusion or abuses by certain entities.

## Text of H.J.R. 126

### A JOINT RESOLUTION

proposing a constitutional amendment protecting the right to engage in farming, ranching, timber production, horticulture, and wildlife management.

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

SECTION 1. Article I, Texas Constitution, is amended by adding Section 36 to read as follows:

Sec. 36. (a) The people have the right to engage in generally accepted farm, ranch, timber production, horticulture, or wildlife management practices on real property they own or lease.

(b) This section does not affect the authority of the legislature to authorize by general law the regulation of generally accepted farm, ranch, timber production, horticulture, or wildlife management practices by:

(1) a state agency or political subdivision when there is clear and convincing evidence that the law or regulation is necessary to protect the public health and safety from imminent danger;

(2) a state agency to prevent a danger to animal health or crop production; or

(3) a state agency or political subdivision to preserve or conserve the natural resources of this state under Section 59, Article XVI, of this constitution.

(c) This section does not affect the authority of the legislature to authorize by general law the use or acquisition of property for a public use, including the development of the natural resources of this state under Section 59, Article XVI, of this constitution.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2023. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment protecting the right to engage in farming, ranching, timber production, horticulture, and wildlife management."

House Author: Burns et al.  
Senate Sponsor: Perry

# Proposition 2

(S.J.R. 64, 88th Leg., R.S.)

The constitutional amendment authorizing a local option exemption from ad valorem taxation by a county or municipality of all or part of the appraised value of real property used to operate a child-care facility.

## SUMMARY ANALYSIS

S.J.R. 64, 88th Legislature, Regular Session, 2023, proposes to add Section 1-r to Article VIII, Texas Constitution, to authorize the governing body of a county or municipality to exempt from ad valorem taxation all or part of the appraised value of real property used to operate a child-care facility. The resolution authorizes the governing body of the county or municipality to adopt the exemption as a percentage of the appraised value of the property, provided that the percentage adopted by the governing body is not less than 50 percent. The resolution further authorizes the legislature by general law to define “child-care facility” for purposes of the exemption and to prescribe eligibility requirements for the exemption.

## 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. Any exception to that rule that is not authorized by the Texas Constitution is invalid. Neither the legislature nor a local government that imposes ad valorem taxes may exempt any property from ad valorem taxation without constitutional authority.

The Texas Constitution does not currently authorize a local government to provide an exemption from ad valorem taxation for real property on the basis of the property being used as a child-care facility. The constitutional amendment proposed by S.J.R. 64 amends Article VIII, Texas Constitution, by adding Section 1-r, which authorizes the governing body of a county or municipality to exempt from ad valorem taxation all or part of the appraised value of real property used to operate a child-care facility. The proposed amendment authorizes the governing body of a

county or municipality to adopt the exemption as a percentage of the appraised value of the property, provided that the percentage adopted by the governing body is not less than 50 percent, and further authorizes the legislature by general law to define “child-care facility” and prescribe eligibility requirements for the exemption. The proposed amendment allows only counties and municipalities to adopt the exemption authorized by the resolution; school districts and other local governments that impose ad valorem taxes are not authorized to adopt the exemption.

S.B. 1145, 88th Legislature, Regular Session, 2023, is the enabling legislation for the proposed amendment. S.B. 1145 amends Subchapter B, Chapter 11, Tax Code, by adding Section 11.36, which governs the exemption authorized by the proposed amendment. Section 11.36 defines “child-care facility” and provides that a child-care facility qualifies for the exemption if the owner or operator of the facility participates in the Texas Rising Star Program for the facility and at least 20 percent of the children enrolled at the facility receive subsidized child-care services through a program administered by the Texas Workforce Commission. The Texas Rising Star Program certifies child care programs that have achieved certain levels of quality care. Section 11.36 provides that, if the exemption is adopted by a governing body of a county or municipality, a person is entitled to an exemption from ad valorem taxation by the county or the municipality of all or part of the appraised value of real property the person owns and uses to operate a qualifying child-care facility or leases to a person who uses the property to operate a qualifying child-care facility and authorizes the governing body to adopt the exemption as a percentage of the appraised value of the property, provided that the percentage adopted is not less than 50 percent. In addition, Section 11.36 prescribes the permissible uses of the property for purposes of receiving the exemption and provides that a person may not claim an exemption for property the person leases to another person for purposes of operating a child-care facility if the person claims the property as the person’s residence homestead or leases any part of the property to another person for use as a primary residence. Finally, Section 11.36 requires a person claiming the exemption for property the person leases to another person for purposes of operating a child-care facility to include with the application for the exemption an affidavit certifying that the person has notified the child-care facility of the tax savings the person has received as a result of the exemption, the rent charged for the property reflects the reduction in the amount of taxes on the property as a result of the exemption, and the rent charged for the property does not exceed rent charged for comparable properties.

S.B. 1145 also amends Section 11.43(c), Tax Code, to provide that a person who initially receives an exemption under Section 11.36 is not required to reapply for the exemption each year. The bill takes effect January 1, 2024, contingent on voter approval of the constitutional amendment proposed by S.J.R. 64.

### **SUMMARY OF COMMENTS**

The following comments supporting or opposing the proposed amendment reflect positions that were presented in committee proceedings, during house or senate floor debate, or in the analysis of the resolution prepared by the House Research Organization (HRO) when the resolution was considered by the House of Representatives.

#### **Comments by Supporters**

- Inflationary costs are making it hard for child-care facilities to stay in business, and many facilities in Texas have closed in recent years. This leaves working families with fewer options for child care.
- The high costs associated with operating child-care facilities and the inability of facilities to provide competitive wages have resulted in a shortage of employees for many child-care facilities.
- High property taxes have contributed to the rising cost of child care.
- Providing local governments with the authority to offer a tax exemption for property used to operate an eligible child-care facility may free up resources that could be used to hire and retain staff, which would help to reduce the prevalence of child-care deserts in Texas communities. A facility's savings from such an exemption may also be passed down to consumers, which would address child-care affordability.

#### **Comments by Opponents**

- No opposition to the proposed constitutional amendment was expressed during legislative consideration of the proposal.

## Text of S.J.R. 64

### SENATE JOINT RESOLUTION

proposing a constitutional amendment authorizing a local option exemption from ad valorem taxation by a county or municipality of all or part of the appraised value of real property used to operate a child-care facility.

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

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

Sec. 1-r. The governing body of a county or municipality may exempt from ad valorem taxation all or part of the appraised value of real property used to operate a child-care facility. The governing body may adopt the exemption as a percentage of the appraised value of the real property. The percentage specified by the governing body may not be less than 50 percent. The legislature by general law may define "child-care facility" for purposes of this section and may provide additional eligibility requirements for the exemption authorized by this section.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2023. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment authorizing a local option exemption from ad valorem taxation by a county or municipality of all or part of the appraised value of real property used to operate a child-care facility."

Senate Author: West

House Sponsor: Talarico

# Proposition 3

(H.J.R. 132, 88th Leg., R.S.)

The constitutional amendment prohibiting the imposition of an individual wealth or net worth tax, including a tax on the difference between the assets and liabilities of an individual or family.

## SUMMARY ANALYSIS

H.J.R. 132 would amend the Texas Constitution to prohibit the legislature from imposing a tax on the wealth or net worth of individuals or families. The prohibition would specifically cover a tax on the amount equal to the difference between the assets and liabilities of an individual or family.

## BACKGROUND AND DETAILED ANALYSIS

Texas does not currently impose a state tax on the wealth or net worth of an individual or family. However, because Section 1, Article VIII, Texas Constitution, requires or authorizes, under certain circumstances, the taxation of both tangible and intangible property, a tax on an individual's or family's wealth or net worth, such as a property tax on an individual's stock holdings or bank accounts, is not strictly prohibited by the Texas Constitution.

H.J.R. 132 amends Article VIII, Texas Constitution, by adding Section 25, which would prohibit the imposition of a tax on the wealth or net worth of individuals or families, including a tax based on the difference between the assets and liabilities of an individual or family.

## SUMMARY OF COMMENTS

The following comments supporting or opposing the proposed amendment reflect positions that were presented in committee proceedings, during house or senate floor debate, or in the analysis of the resolution prepared by the House Research Organization (HRO) when the resolution was considered by the House of Representatives.

### **Comments by Supporters**

- Enshrining a ban on a wealth tax in the Texas Constitution now will ensure that a future legislature cannot impose such a tax without the consent of voters.
- Prohibiting the imposition of a wealth tax will help ensure that Texans know they will not be penalized for working to create wealth.
- Wealth taxes discourage economic innovation and investment and can lead to stagnation. Many European countries that previously imposed a wealth tax have since repealed the tax due to negative economic consequences.

### **Comments by Opponents**

- The current legislature cannot anticipate how the needs of the state will change over time, so it would be better to let future legislatures decide how to address future needs. A constitutional ban means that even if a majority of people support a wealth tax in the future, a minority of legislators in either chamber could block it.
- This measure is unnecessary because a wealth tax has not been proposed in Texas.

## **Text of H.J.R. 132**

### **A JOINT RESOLUTION**

proposing a constitutional amendment prohibiting the imposition of an individual net worth or wealth tax.

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

SECTION 1. Article VIII, Texas Constitution, is amended by adding Section 25 to read as follows:

Sec. 25. The legislature may not impose a tax based on the wealth or net worth of an individual or family, including a tax based on the difference between the assets and liabilities of an individual or family.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2023. The ballot shall be printed to permit voting for or against the proposition: “The constitutional amendment prohibiting the imposition of an individual wealth or net worth tax, including a tax on the difference between the assets and liabilities of an individual or family.”

House Author: Hefner et al.

Senate Sponsor: Hughes

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# Proposition 4

(H.J.R. 2, 88th Leg., 2nd C.S.)

The constitutional amendment to authorize the legislature to establish a temporary limit on the maximum appraised value of real property other than a residence homestead for ad valorem tax purposes; to increase the amount of the exemption from ad valorem taxation by a school district applicable to residence homesteads from \$40,000 to \$100,000; to adjust the amount of the limitation on school district ad valorem taxes imposed on the residence homesteads of the elderly or disabled to reflect increases in certain exemption amounts; to except certain appropriations to pay for ad valorem tax relief from the constitutional limitation on the rate of growth of appropriations; and to authorize the legislature to provide for a four-year term of office for a member of the board of directors of certain appraisal districts.

## SUMMARY ANALYSIS

H.J.R. 2, 88th Legislature, 2nd Called Session, 2023, proposes several amendments to the Texas Constitution relating to ad valorem taxes and the administration of the ad valorem tax system. S.B. 2, 88th Legislature, 2nd Called Session, 2023, the Property Tax Relief Act, is the enabling legislation for the proposed amendments.

1. The proposed constitutional amendment authorizes the legislature to establish a temporary limit on the maximum appraised value of real property other than a residence homestead in a tax year of the lesser of the market value of the property or 120 percent, or a greater percentage, of the appraised value of the property for the preceding tax year. If the proposed amendment is approved by the voters, S.B. 2 implements this appraisal limit so that the appraised value of real property does not increase by more than 20 percent a year for the next three years.

2. The proposed amendment increases the portion of the market value of a residence homestead that is exempt from ad valorem taxation for public school purposes from \$40,000 to \$100,000.
3. The proposed amendment provides for a reduction of the limitation, or "tax freeze," on the total amount of ad valorem taxes that may be imposed for public school purposes on the homestead of an elderly or disabled person to reflect increases in the amount of school district residence homestead exemptions, including the increase to \$100,000 described above and any future increases.
4. The proposed amendment excepts appropriations of state tax revenue for purposes of paying for ad valorem tax relief from the constitutional limit on the rate of growth of appropriations. This change has the effect of exempting state payments to reduce school district taxes from the general state spending cap on appropriations and applies to the amounts appropriated by the 88th Legislature to decrease school tax rates as directed by S.B. 2.
5. Finally, the proposed amendment authorizes the legislature to provide for four-year terms for members of the governing body of an appraisal district established for a county with a population of 75,000 or more. S.B. 2, which provides for a combination of elected and appointed appraisal district board members in counties with a population of 75,000 or more if this amendment is approved, increases the terms of board members in those populous counties to four years.

### **BACKGROUND AND DETAILED ANALYSIS**

H.J.R. 2, 88th Legislature, 2nd Called Session, 2023, proposes several amendments to the Texas Constitution relating to ad valorem taxes and the administration of the ad valorem tax system. S.B. 2, 88th Legislature, 2nd Called Session, 2023, the Property Tax Relief Act, is the enabling legislation for H.J.R. 2. The amendments proposed by H.J.R. 2 are necessary to allow the legislature to make the changes in law proposed by S.B. 2.

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. Any exception to that rule that is not authorized by the Texas Constitution is invalid.

Neither the legislature nor a local government that imposes ad valorem taxes may exempt property from ad valorem taxation or otherwise limit the amount of taxes a property owner is required to pay without constitutional authority.

The Texas Constitution does not currently authorize the legislature to limit the maximum appraised value of real property other than a residence homestead for ad valorem tax purposes. The constitutional amendment proposed by H.J.R. 2 amends Section 1, Article VIII, Texas Constitution by adding Subsections (n) and (n-1) to that section. Section 1(n), Article VIII, Texas Constitution, as added by the proposed amendment, authorizes the legislature to establish a temporary limit on the maximum appraised value of real property other than a residence homestead in a tax year of the lesser of the market value of the property or 120 percent, or a greater percentage, of the appraised value of the property for the preceding tax year. Section 1(n-1), Article VIII, Texas Constitution, as added by the proposed amendment, provides that the legislature's authority to limit the maximum appraised value of real property other than a residence homestead under added Section 1(n) expires on December 31, 2026. The expiration provided under added Section 1(n-1) means that the appraisal limit authorized under added Section 1(n) may be in effect only for the 2024, 2025, and 2026 tax years. If the amendment proposed by H.J.R. 2 is approved by the voters, S.B. 2 implements the appraisal limit by adding Section 23.231, Tax Code, and making other conforming changes. Section 23.231 provides that the appraised value of real property other than a residence homestead may not increase by more than 20 percent a year for the next three years.

The constitutional amendment proposed by H.J.R. 2 amends Sections 1-b(c) and (d), Article VIII, 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 and to reduce the amount of ad valorem taxes imposed by school districts on the residence homesteads of certain elderly or disabled homeowners. As originally adopted in 1978, Section 1-b(c) exempted \$5,000 of the market value of a residence homestead from those school district taxes. Subsequent constitutional amendments have increased the amount of the school tax exemption provided by Section 1-b(c) from \$5,000 to \$15,000 in 1997, from \$15,000 to \$25,000 in 2015, and from \$25,000 to \$40,000 in 2022. The constitutional amendment proposed by H.J.R. 2 amends Section 1-b(c) to further increase the amount of the exemption from \$40,000 to \$100,000. Section 1-b(d), Article VIII, Texas Constitution, provides that if a person receives a residence homestead exemption from school district taxes under Section 1-b(c) for the homesteads of persons who are elderly or disabled, the total amount of ad valorem taxes imposed on that homestead for 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. This is commonly referred to as a "tax freeze" for elderly or disabled homeowners. In order for elderly or disabled homeowners whose homesteads are currently subject to the limitation to benefit from the increase in the amount of the mandatory school district residence homestead exemption applicable to all homesteads proposed by H.J.R. 2, as well as any future increases in the amount of the school district residence homestead exemptions provided by Section 1-b(c), the proposed amendment provides that, beginning with the 2023 tax year, for a residence homestead subject to the limitation in that tax year or an earlier tax year, the legislature shall provide for a reduction in the amount of the limitation to account for any increase in the amount of the school district residence homestead exemptions provided by Section 1-b(c). The proposed amendment further provides for a reduction in the amount of the limitation for elderly or disabled homeowners whose homesteads were subject to the limitation in the 2021 or an earlier tax year to account for the fact that a similar reduction to the amount of the limitation was not provided for in 2022 when the mandatory school district residence homestead exemption was increased by \$15,000. The proposed amendment provides that the amendments to Sections 1-b(c) and (d) take effect January 1, 2023, and apply to an ad valorem tax year that begins on or after that date. If the amendment proposed by H.J.R. 2 is approved by the voters, S.B. 2 conforms the relevant provisions of law to the amendments to Sections 1-b(c) and (d) proposed by H.J.R. 2 and provides for school districts to receive additional state revenue to make up for any revenue the school districts would lose as a result of the proposed amendments to Sections 1-b(c) and (d). Under S.B. 2, the increased residence homestead exemption and additional state aid to school districts would apply beginning in 2023 if the constitutional amendment is approved.

Section 22, Article VIII, Texas Constitution, limits the rate of growth of appropriations from certain state tax revenue from one state fiscal biennium to the next to the estimated rate of growth of the state's economy. The constitutional amendment proposed by H.J.R. 2 amends Section 22 to except appropriations for purposes of paying for ad valorem tax relief from the limitation imposed by that section. The proposed amendment provides that the legislature by general law may determine whether an appropriation is made for the purpose of paying for ad valorem tax relief and further provides that the proposed amendment applies to appropriations made for the state fiscal biennium that begins September 1, 2023. S.B. 2 provides the manner in which certain state money appropriated by the legislature for school district ad valorem tax relief is to be used to decrease school

tax rates; the amendment proposed by H.J.R. 2, if approved by the voters, would have the effect of excepting state payments made to decrease school tax rates as directed by S.B. 2 from the constitutional state spending limit. In the General Appropriations Act for the state fiscal biennium beginning September 1, 2023, the legislature appropriated a total of \$17.6 billion for school district property tax relief, of which nearly \$12.3 billion is contingent on voter approval of this constitutional amendment excepting these amounts from the spending limit. See H.B. 1, 88th Legislature, Regular Session, 2023, Article IX, Section 18.79 (page IX-138).

Section 30, Article XVI, Texas Constitution, provides that the term of all public offices not established by the Texas Constitution may not exceed two years. The constitutional amendment proposed by H.J.R. 2 amends Section 30 to authorize the legislature to provide for up to a four-year term of office for members of the board of directors of an appraisal district in counties with a population of 75,000 or more. If the amendment proposed by H.J.R. 2 is approved by the voters, S.B. 2 amends the law to provide that the board of directors of an appraisal district established in a county with a population of 75,000 or more consists of both elected and appointed board members who serve staggered four-year terms.

## **SUMMARY OF COMMENTS**

The following comments supporting or opposing the proposed amendment reflect positions that were presented in committee proceedings, during house or senate floor debate, or in the analysis of the resolution prepared by the House Research Organization (HRO) when the resolution was considered by the House of Representatives.

### **Comments by Supporters**

- Since Texas taxpayers are responsible for the state's historic budget surplus, the state should ensure that some of the surplus funds are returned to taxpayers. The proposed amendment will do so by helping to deliver the largest tax cut in state history.
- At a time in which many Texans are struggling to stay in their homes due to rapidly increasing property tax burdens, it is appropriate for the state to step in and dedicate money to help alleviate this burden.

- Increasing the residence homestead exemption to \$100,000 will be especially beneficial to the owners of moderately priced homes—the type of homeowner in the greatest need of property tax relief.
- While renters do not receive direct relief from the proposed amendment, they will still benefit substantially because residential and commercial landlords are going to see their tax burden reduced and those savings will enable landlords to avoid rent increases and even reduce rents.
- By providing tax relief for commercial property owners, the proposed resolution could help stabilize businesses struggling under the weight of rising property taxes and help them to further grow and aid in the state’s overall economic expansion.
- The limit on the increase in the appraised value of non-homestead real property provided for in the proposed amendment will help small business owners stay in business and provide greater predictability to Texans who are helping to drive the state’s economy.
- By making some positions on an appraisal district’s board of directors elected positions in certain counties, appraisal districts in those counties will be more directly accountable to local taxpayers.

### **Comments by Opponents**

- Increasing the residence homestead exemption by such a large amount could result in a shift of the tax burden from homeowners to business owners, which could result in higher prices for consumers.
- The proposed amendment does not go far enough since it does not put the state on a path toward eliminating property taxes entirely.
- Because the tax rate compression may be only temporary if state funding at the increased levels is not maintained, not

much actual relief is being provided. Any property tax relief needs to be permanent.

- By reducing property taxes, public education funding is placed in jeopardy as other revenues made available for public schools, such as sales tax revenues, are more volatile and less predictable than property taxes.
- Nearly four million Texans are renters, and the proposed amendment does nothing to provide them any direct financial relief.
- The proposed tax relief is not targeted enough to those who are struggling the most. The state's historic budget surplus should not be funneled directly to businesses and the wealthy.
- Individuals running for the elected seats on an appraisal district's board of directors may not be focused enough on the overall business of the board and instead focus too heavily on reducing property values.

## Text of H.J.R. 2

### A JOINT RESOLUTION

proposing a constitutional amendment to authorize the legislature to establish a temporary limit on the maximum appraised value of real property other than a residence homestead for ad valorem tax purposes; to increase the amount of the exemption from ad valorem taxation by a school district applicable to residence homesteads; to adjust the amount of the limitation on school district ad valorem taxes imposed on the residence homesteads of the elderly or disabled to reflect increases in certain exemption amounts; to except certain appropriations to pay for ad valorem tax relief from the constitutional limitation on the rate of growth of appropriations; and to authorize the legislature to provide for a four-year term of office for a member of the governing body of certain appraisal entities.

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

SECTION 1. Section 1, Article VIII, Texas Constitution, is amended by adding Subsections (n) and (n-1) to read as follows:

(n) This subsection does not apply to a residence homestead to which Subsection (i) of this section applies. Notwithstanding Subsections (a) and (b) of this section, the Legislature by general law may limit the maximum appraised value of real property for ad valorem tax purposes in a tax year to the lesser of the most recent market value of the property as determined by the appraisal entity or 120 percent, or a greater percentage, of the appraised value of the property for the preceding tax year. The general law enacted under this subsection may prescribe additional eligibility requirements for the limitation on appraised values authorized by this subsection. A limitation on appraised values authorized by this subsection:

(1) takes effect as to a parcel of real property described by this subsection on the later of the effective date of the law imposing the limitation or January 1 of the tax year following the first tax year in which the owner owns the property on January 1; and

(2) expires on January 1 of the tax year following the tax year in which the owner of the property ceases to own the property.

(n-1) This subsection and Subsection (n) of this section expire December 31, 2026.

SECTION 2. Sections 1-b(c) and (d), Article VIII, Texas Constitution, are amended to read as follows:

(c) The amount of \$100,000 [~~\$40,000~~] 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 \$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 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 65 years of age or older on economic need. An eligible disabled person who is 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. 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 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 who is 65 years of age or older or who is disabled 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 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. For a residence homestead subject to the limitation provided by this subsection in the 2021 tax year or an earlier tax year, the legislature shall provide for a reduction in the amount of the limitation for the 2023 tax year and subsequent tax years in an amount equal to \$15,000 multiplied by the 2022 tax rate for general elementary and secondary public school purposes applicable to the residence homestead. Beginning with the 2023 tax year, for any tax year in which the amount of the exemption provided by Subsection (c) of this section applicable to the residence homestead of a married or unmarried adult, including one living alone, or the amount of the exemption provided by Subsection (c) of this section applicable to the residence homestead of a person who is disabled as defined by Subsection (b) of this section and of a person 65 years of age or older is increased, the legislature shall provide for a reduction for that tax year and subsequent tax years in the amount of the limitation provided by this subsection applicable to a residence homestead that was subject to the limitation in the tax year preceding the tax year in which the amount of the exemption is increased in an amount equal to the amount by which the amount of the exemption is increased multiplied by the

tax rate for general elementary and secondary public school purposes applicable to the residence homestead for the tax year in which the amount of the exemption is increased.

SECTION 3. Section 22, Article VIII, Texas Constitution, is amended by adding Subsection (a-1) to read as follows:

(a-1) Appropriations from state tax revenues not dedicated by this constitution that are made for the purpose of paying for ad valorem tax relief as identified by the legislature by general law are not included as appropriations for purposes of determining whether the rate of growth of appropriations exceeds the limitation prescribed by Subsection (a) of this section.

SECTION 4. Section 30, Article XVI, Texas Constitution, is amended by adding Subsection (e) to read as follows:

(e) The Legislature by general law may provide that members of the governing body of an appraisal entity established in a county with a population of 75,000 or more serve terms not to exceed four years.

SECTION 5. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by H.J.R. 2, 88th Legislature, 2nd Called Session, 2023.

(b) The amendments to Section 1-b, Article VIII, of this constitution take effect for the tax year beginning January 1, 2023.

(c) The amendment to Section 22, Article VIII, of this constitution applies to appropriations made for the state fiscal biennium beginning September 1, 2023, and subsequent state fiscal bienniums.

(d) This temporary provision expires January 1, 2025.

SECTION 6. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2023. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to authorize the legislature to establish a temporary limit on the maximum appraised value of real property other than a residence homestead for ad valorem tax purposes; to increase the amount of the exemption from ad valorem taxation by a school district applicable to residence homesteads from \$40,000 to \$100,000; to adjust the amount of the limitation on school district ad valorem taxes imposed on the residence homesteads of the elderly or disabled to reflect increases in certain exemption amounts; to except certain appropriations to pay for ad valorem tax relief from the constitutional limitation on the rate of growth of appropriations; and to

authorize the legislature to provide for a four-year term of office for a member of the board of directors of certain appraisal districts.”

House Author: Metcalf et al.

Senate Sponsor: Bettencourt

# Proposition 5

(H.J.R. 3, 88th Leg., R.S.)

The constitutional amendment relating to the Texas University Fund, which provides funding to certain institutions of higher education to achieve national prominence as major research universities and drive the state economy.

## SUMMARY ANALYSIS

H.J.R. 3, 88th Legislature, Regular Session, 2023, proposes an amendment to the Texas Constitution to rename the national research university fund, which is used to support emerging research universities in Texas, as the Texas University Fund. The amendment would exclude state universities that are supported by the Permanent University Fund from eligibility to receive money from the Texas University Fund, and exempt money in the fund and state tax revenues appropriated to the fund from the constitutional state spending cap, which generally limits the rate of growth of appropriations. The proposed amendment further provides for a dedicated source of revenue for the Texas University Fund from the interest income, dividends, and investment earnings attributable to the state's economic stabilization fund ("rainy day fund"), not to exceed \$100 million per state fiscal year, as adjusted for inflation up to two percent per state fiscal year after the 2024 state fiscal year.

## BACKGROUND AND DETAILED ANALYSIS

Section 20, Article VII, Texas Constitution, established the national research university fund in 2009 to provide a dedicated, independent, and equitable source of funding to enable emerging research universities in this state to achieve national prominence as major research universities. The section provides that the legislature by general law may establish the criteria by which a state university becomes eligible to receive money from the fund and that a state university that becomes eligible to receive money from the fund in a state fiscal biennium remains eligible to receive money from the fund in any subsequent state fiscal biennium. The University of Texas at Austin and Texas A&M University, however, are not eligible to receive money from the fund.

Section 22, Article VIII, Texas Constitution, often referred to as the constitutional spending limit, provides that the rate of growth of appropriations from state tax revenues not dedicated by the Texas Constitution for a state fiscal biennium may not exceed the estimated rate of growth of the state's economy for that biennium. The section authorizes the legislature to provide for appropriations in excess of that limit by a resolution approved by a majority vote of each house finding that an emergency exists and identifying the nature of the emergency.

The constitutional amendment proposed by H.J.R. 3, 88th Legislature, Regular Session, 2023, amends Section 20, Article VII, Texas Constitution, to rename the national research university fund as the Texas University Fund, remove the provision stating that a state university that becomes eligible to receive money from the fund in a state fiscal biennium remains permanently eligible to receive money from the fund, and expand the state universities that are ineligible to receive money from the fund to include any state university that is entitled to participate in funding from the available university fund under Section 18, Article VII, Texas Constitution. Currently, only certain component institutions of The University of Texas System or The Texas A&M University System are entitled to participate in funding from the available university fund. The proposed amendment further provides that, for purposes of determining whether the rate of growth of appropriations from state tax revenues not dedicated by the Texas Constitution for a state fiscal biennium has exceeded the constitutional spending limit, money in the Texas University Fund is dedicated by the Texas Constitution and an appropriation of state tax revenues for the purpose of depositing money to the credit of the fund is treated as if it were an appropriation of revenues dedicated by the Texas Constitution, which has the effect of eliminating appropriations to the new fund from the spending limit.

The proposed amendment additionally provides for a dedicated source of revenue for the Texas University Fund from the interest income, dividends, and investment earnings attributable to the state economic stabilization fund established under Section 49-g, Article III, Texas Constitution, also known as the rainy day fund. Under that provision of the proposed amendment, for each state fiscal year, a certain amount of the interest income, dividends, and investment earnings attributable to the economic stabilization fund for the preceding state fiscal year is appropriated to the comptroller of public accounts for the purpose of immediate deposit to the credit of the Texas University Fund. The amount of the appropriation is limited to \$100 million for the state fiscal year beginning September 1, 2023, and that limit is adjusted for each subsequent state fiscal year for inflation, if any, as determined by

the comptroller on the basis of changes in the national consumer price index and not to exceed two percent per state fiscal year.

H.B. 1595, 88th Legislature, Regular Session, 2023, is the enabling legislation for the proposed amendment. That legislation provides for the management of the Texas University Fund, adjusts the criteria for a state university to become eligible to receive money from the Texas University Fund as well as the method of determining each eligible state university's share of the fund, and provides for conforming changes for other statutory funds that promote increased research capacity at certain state universities.

### **SUMMARY OF COMMENTS**

The following comments supporting or opposing the proposed amendment reflect positions that were presented in committee proceedings, during house or senate floor debate, or in the analysis of the resolution prepared by the House Research Organization (HRO) when the resolution was considered by the House of Representatives.

#### **Comments by Supporters**

- Providing a predictable and sustainable source of funding for high-quality research at universities in Texas that do not have access to the Permanent University Fund will help ensure that the future workforce needs of the state are met and that the state's economy continues to grow.
- Increased investment in cutting-edge research at universities in Texas is key to the state remaining competitive with other states making similar investments.
- Investing in research at the state level will help attract federal and private research funding and improve the caliber of the state's research universities. This will make it easier to recruit students and faculty.
- Previous legislation establishing higher education research funds has been successful in helping universities increase their research capabilities. The additional funding provided through H.J.R. 3 will allow these universities to continue their growth.

### **Comments by Opponents**

- No opposition to the proposed constitutional amendment was expressed during legislative consideration of the proposal. However, a review of other sources indicates concern about the use of money from the economic stabilization fund (often referred to as the “rainy day fund”) to fund higher education initiatives since that fund was not designed for such purposes.

## Text of H.J.R. 3

### A JOINT RESOLUTION

proposing a constitutional amendment relating to the Texas University Fund, which provides funding to certain institutions of higher education to achieve national prominence as major research universities and drive the state economy.

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

SECTION 1. Section 49-g, Article III, Texas Constitution, is amended by adding Subsections (p) and (q) to read as follows:

(p) On the first business day occurring on or after the 90th day of each state fiscal year, an amount equal to the interest income, dividends, and investment earnings attributable to the economic stabilization fund for the preceding state fiscal year, not to exceed the amount determined under Subsection (q) of this section, is appropriated from the economic stabilization fund to the comptroller of public accounts for the purpose of immediate deposit to the credit of the Texas University Fund. For purposes of this subsection, the amount of interest income, dividends, and investment earnings attributable to the economic stabilization fund for a state fiscal year is computed by:

(1) determining the amount of interest and dividends due to the fund for that fiscal year, including any interest credited to general revenue under Subsection (i) of this section;

(2) adding to the amount determined under Subdivision (1) of this subsection an amount equal to the increase, if any, in the fair market value of the fund between the last day of that fiscal year and the last day of the preceding state fiscal year; and

(3) subtracting from the amount determined under Subdivision (2) of this subsection the amount of any expenses of managing the investments of money in the fund that are paid from the fund during that fiscal year.

(q) The amount of the appropriation made under Subsection (p) of this section may not exceed:

(1) for the state fiscal year beginning September 1, 2023, \$100 million; or

(2) for a state fiscal year beginning on or after September 1, 2024, the amount determined under this subsection for the preceding state fiscal year adjusted by the increase, if any, in the general price level during the preceding state fiscal year, as determined by the comptroller of public accounts on the basis of

changes in the consumer price index published by the Bureau of Labor Statistics of the United States Department of Labor or a successor agency and not to exceed two percent per state fiscal year.

SECTION 2. Section 20, Article VII, Texas Constitution, is amended by amending Subsections (a) and (g) and adding Subsection (i) to read as follows:

(a) There is established the Texas University Fund [~~national research university fund~~] for the purpose of providing a dedicated, independent, and equitable source of funding to enable emerging research universities in this state to achieve national prominence as major research universities.

(g) The legislature shall establish criteria by which a state university may become eligible to receive a portion of the distributions from the fund. A state university that is entitled to participate in dedicated funding provided by Section 18 of this article is [~~becomes eligible to receive a portion of the distributions from the fund in a state fiscal biennium remains eligible to receive additional distributions from the fund in any subsequent state fiscal biennium. The University of Texas at Austin and Texas A&M University are~~] not eligible to receive money from the fund.

(i) For purposes of Section 22, Article VIII, of this constitution:

(1) money in the fund is dedicated by this constitution; and

(2) an appropriation of state tax revenues for the purpose of depositing money to the credit of the fund is treated as if it were an appropriation of revenues dedicated by this constitution.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2023. The ballot shall be printed to permit voting for or against the proposition: “The constitutional amendment relating to the Texas University Fund, which provides funding to certain institutions of higher education to achieve national prominence as major research universities and drive the state economy.”

House Author: Bonnen

Senate Sponsor: Huffman

# Proposition 6

(S.J.R. 75, 88th Leg., R.S.)

The constitutional amendment creating the Texas water fund to assist in financing water projects in this state.

## SUMMARY ANALYSIS

S.J.R. 75 proposes an amendment to the Texas Constitution to create the Texas water fund as a special fund in the state treasury outside the general revenue fund to be administered by the Texas Water Development Board or that board's successor in function. The resolution authorizes the administrator of the fund to use the fund only to transfer money to other funds or accounts administered by the board or its successor in function. The resolution also provides that money transferred from the fund to another fund or account may be spent as provided by general law, or may be restored to the Texas water fund without further appropriation. The resolution provides that not less than 25 percent of the initial appropriation to the fund must be used for transfer to the New Water Supply for Texas Fund. The resolution authorizes the expenses of managing the investments of the Texas water fund to be paid from that fund. Finally, the resolution provides that an appropriation of state tax revenues for the purpose of depositing money to the credit of the fund does not count against the constitutional limit on the rate of growth of appropriations, which has the effect of excluding the appropriation from the state spending limit.

## BACKGROUND AND DETAILED ANALYSIS

Persistent drought and continued population growth across Texas have overburdened and even depleted existing water sources. Aging water infrastructure causes significant water loss and often compromises the quality of water delivered to customers. Existing funding mechanisms for water projects do not provide sufficient flexibility to allow the Texas Water Development Board to undertake projects necessary to secure new water supply sources and repair existing water infrastructure. S.J.R. 75, in combination with the enabling legislation for the resolution, S.B. 28, 88th Legislature, Regular Session, 2023, seeks to address these concerns by establishing the Texas water fund to provide financial assistance for water projects. S.J.R. 75 adds

Section 49-d-16 to Article III, Texas Constitution, to create the fund. S.B. 28 includes provisions, contingent on approval of the constitutional amendment, governing administration of the Texas water fund by the Texas Water Development Board, including limitations on the funds and accounts to which money in the fund may be transferred and the purposes for which money transferred from the fund may be spent. S.B. 28 also includes provisions that are not contingent on approval of the constitutional amendment, including provisions creating the New Water Supply for Texas Fund and the Statewide Water Public Awareness Account, two of the funds and accounts to which the Texas Water Development Board may transfer money from the Texas water fund.

S.B. 30, a supplemental appropriations bill also enacted by the 88th Legislature, provides initial funding for the proposed Texas water fund. If the constitutional amendment is approved, \$1 billion in appropriations from the state's general revenue fund will be deposited to the Texas water fund. See Section 6.08, S.B. 30, 88th Legislature, Regular Session, 2023.

## **SUMMARY OF COMMENTS**

The following comments supporting or opposing the proposed amendment reflect positions that were presented in committee proceedings, during house or senate floor debate, or in the analysis of the resolution prepared by the House Research Organization (HRO) when the resolution was considered by the House of Representatives.

### **Comments by Supporters**

- Texas is in need of significant financial investment in water infrastructure and water supply development to address both aging infrastructure, the failure of which causes the state to lose an estimated 136 billion gallons of water each year and often subjects Texans to boil water notices, and the need for new water supply projects to support Texas' growing population amid perennial drought conditions that deplete existing water sources.
- The creation of the Texas water fund would further the state's investment in water infrastructure and would give the Texas Water Development Board flexibility in allocating financial

assistance through existing and newly created funds to address issues with existing water infrastructure and support new water supply projects across the state for years to come.

- Small water systems in less urban areas of the state do not have the tax base to support large water infrastructure projects, and a statewide approach is needed to ensure water resources are available to all Texans.

### **Comments by Opponents**

- The Texas Water Development Board should be able to address the state's water needs without the creation of new programs.

## Text of S.J.R. 75

### SENATE JOINT RESOLUTION

proposing a constitutional amendment creating the Texas water fund to assist in financing water projects in this state.

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

SECTION 1. Article III, Texas Constitution, is amended by adding Section 49-d-16 to read as follows:

Sec. 49-d-16. (a) The Texas water fund is created as a special fund in the state treasury outside the general revenue fund. The fund is administered by the Texas Water Development Board or by that board's successor in function as provided by general law. The legislature may appropriate money for the purpose of depositing the money to the fund to be available for transfer as provided by Subsection (b) of this section.

(b) The administrator of the Texas water fund may use the fund only to transfer money to other funds or accounts administered by the Texas Water Development Board or that board's successor in function. Money transferred from the Texas water fund to a fund or account may be spent without further legislative appropriation in the manner provided by general law governing the use of money in the fund or account to which the money was transferred. The administrator may restore to the fund money transferred from the fund and deposited to the credit of another fund or account. Legislative appropriation is not required for the administrator to transfer money from or restore money to the fund, including the transfer of money from the fund to or the restoration of the money from:

- (1) the Water Assistance Fund No. 480;
- (2) the New Water Supply for Texas Fund;
- (3) the Rural Water Assistance Fund No. 301; or
- (4) the Statewide Water Public Awareness Account.

(c) The Texas water fund consists of:

(1) money transferred or deposited to the credit of the fund by general law, including money appropriated by the legislature directly to the fund and money from any source transferred or deposited to the credit of the fund authorized by general law;

(2) any other revenue that the legislature by statute dedicates for deposit to the credit of the fund;

(3) investment earnings and interest earned on amounts credited to the fund;

(4) money from gifts, grants, or donations to the fund; and

(5) money returned from any authorized transfer.

(d) The legislature by general law shall provide for the manner in which money from the Texas water fund may be used, subject to the limitations provided by this section.

(e) Of the amount of money initially appropriated to the Texas water fund, the administrator of the fund shall allocate not less than 25 percent to be used only for transfer to the New Water Supply for Texas Fund.

(f) The expenses of managing the investments of the Texas water fund shall be paid from that fund.

(g) For purposes of Section 22, Article VIII, of this constitution:

(1) money in the Texas water fund is dedicated by this constitution;  
and

(2) an appropriation of state tax revenues for the purpose of depositing money to the credit of the Texas water fund is treated as if it were an appropriation of revenues dedicated by this constitution.

(h) Any unexpended and unobligated balance remaining in the Texas water fund at the end of a state fiscal biennium is appropriated to the administrator of that fund for the following state fiscal biennium for the purposes authorized by this section.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2023. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment creating the Texas water fund to assist in financing water projects in this state."

Senate Author: Perry

House Sponsor: King, Tracy O. et al.

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# Proposition 7

(S.J.R. 93, 88th Leg., R.S.)

The constitutional amendment providing for the creation of the Texas energy fund to support the construction, maintenance, modernization, and operation of electric generating facilities.

## SUMMARY ANALYSIS

S.J.R. 93, 88th Legislature, Regular Session, 2023, proposes the addition of Section 49-q to Article III, Texas Constitution, to provide for the creation of the Texas energy fund to support the construction, maintenance, modernization, and operation of electric generating facilities. If this amendment is approved by the voters, the legislature has provided initial funding of \$5 billion and enacted enabling legislation to begin providing loans and grants from the fund.

## BACKGROUND AND DETAILED ANALYSIS

The constitutional amendment proposed by S.J.R. 93, 88th Legislature, Regular Session, 2023, would create the Texas energy fund and authorize the Public Utility Commission of Texas to administer and use the fund as provided by general law, without further appropriation, to provide loans and grants to any entity to finance or incentivize the construction, maintenance, modernization, and operation of electric generating facilities, including associated infrastructure, necessary to ensure the reliability or adequacy of an electric power grid in Texas.

The proposed amendment would require the Public Utility Commission of Texas to allocate money from the fund for loans and grants for electric generating facilities that serve as backup power sources and for projects in each region of the state that is part of an electric power grid in proportion to that region's load share.

Enacted in 2023 by the 88th Legislature in the Regular Session, S.B. 2627 is the enabling legislation for S.J.R. 93. The bill takes effect only if S.J.R. 93 is approved by voters at an election to be held November 7, 2023. The bill addresses in more detail the projects for which the Public Utility Commission of Texas may provide loans and grants from the Texas energy fund.

The bill would authorize the Public Utility Commission of Texas to provide loans from the Texas energy fund to finance upgrades to existing dispatchable electric generating facilities in the ERCOT power region and for the construction of new dispatchable electric generating facilities in the ERCOT power region. The bill would require the Public Utility Commission of Texas to provide completion bonus grants from the Texas energy fund for the construction of dispatchable electric generating facilities in the ERCOT power region. The bill would allow the total amount of these loans and grants to equal not more than \$7.2 billion.

The bill would authorize the Public Utility Commission of Texas to provide up to \$1 billion in grants for transmission and distribution infrastructure and electric generating facilities in Texas outside the ERCOT power region.

The bill would authorize the Public Utility Commission of Texas to provide up to \$1.8 billion in grants or loans for the operation of stand-alone, behind-the-meter, multiday backup power sources in any part of Texas.

The 2023 General Appropriations Act (H.B. 1, 88th Legislature, Regular Session, 2023) provides \$5 billion for the implementation of S.B. 2627 in the 2024-2025 fiscal biennium. This funding is contingent on S.B. 2627 taking effect on voter approval of this proposed constitutional amendment.

## **SUMMARY OF COMMENTS**

The following comments supporting or opposing the proposed amendment reflect positions that were presented in committee proceedings, during house or senate floor debate, or in the analysis of the resolution prepared by the House Research Organization (HRO) when the resolution was considered by the House of Representatives.

### **Comments by Supporters**

- Additional state funding is needed to increase the reliability of the state's electric market, particularly with regard to dispatchable generation.
- Creating the Texas energy fund would enable the Public Utility Commission of Texas to provide loans and grants to finance or incentivize the construction, maintenance, modernization, and operation of electric generating facilities, including

associated infrastructure, necessary to ensure the reliability or adequacy of the state's electric power grid.

### **Comments by Opponents**

- Providing funding to increase the reliability of the Texas grid would be more appropriate through the rate payer system as opposed to providing state subsidies funded by all taxpayers.

## Text of S.J.R. 93

### SENATE JOINT RESOLUTION

proposing a constitutional amendment providing for the creation of the Texas energy fund to support the construction, maintenance, modernization, and operation of electric generating facilities.

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

SECTION 1. Article III, Texas Constitution, is amended by adding Section 49-q to read as follows:

Sec. 49-q. (a) The Texas energy fund is created as a special fund in the state treasury outside the general revenue fund.

(b) As provided by general law, money in the Texas energy fund may be administered and used, without further appropriation, only by the Public Utility Commission of Texas or that commission's successor in function to provide loans and grants to any entity to finance or incentivize the construction, maintenance, modernization, and operation of electric generating facilities, including associated infrastructure, necessary to ensure the reliability or adequacy of an electric power grid in this state. The commission shall allocate money from the fund for loans and grants to eligible projects:

(1) for electric generating facilities that serve as backup power sources; and

(2) in each region of the state that is part of an electric power grid in proportion to that region's load share.

(c) The entity administering the Texas energy fund may establish separate accounts in the fund as necessary or convenient for the fund's administration.

(d) The Texas energy fund consists of:

(1) money credited, appropriated, or transferred to the fund by or as authorized by the legislature;

(2) revenue that the legislature dedicates for deposit to the credit of the fund;

(3) the returns received from the investment of the money in the fund; and

(4) gifts, grants, and donations contributed to the credit of the fund.

(e) The reasonable expenses of managing the Texas energy fund's assets shall be paid from the fund.

(f) The legislature by a provision of a general appropriations act may provide for the transfer to the general revenue fund of money that is subject to this section.

(g) The legislature may appropriate general revenue for the purpose of depositing money to the credit of the Texas energy fund to be used for the purposes of that fund.

(h) For purposes of Section 22, Article VIII, of this constitution:

(1) money in the Texas energy fund is dedicated by this constitution;  
and

(2) an appropriation of state tax revenues for the purpose of depositing money to the credit of the Texas energy fund is treated as if it were an appropriation of revenues dedicated by this constitution.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2023. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment providing for the creation of the Texas energy fund to support the construction, maintenance, modernization, and operation of electric generating facilities."

Senate Author: Schwertner  
House Sponsor: Hunter

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# Proposition 8

(H.J.R. 125, 88th Leg., R.S.)

The constitutional amendment creating the broadband infrastructure fund to expand high-speed broadband access and assist in the financing of connectivity projects.

## SUMMARY ANALYSIS

H.J.R. 125 proposes the addition of Section 49-d-16, Article III, Texas Constitution, to create the broadband infrastructure fund for the expansion of access to and adoption of broadband and telecommunications services. The proposed amendment takes effect January 1, 2024, and expires on September 1, 2035, unless extended for 10 years by a concurrent resolution approved by a record vote of two-thirds of the members of each house of the legislature. The legislature has appropriated \$1.5 billion to the proposed fund contingent on voter approval of the proposed amendment.

## BACKGROUND AND DETAILED ANALYSIS

The constitutional amendment proposed by H.J.R. 125 creates the broadband infrastructure fund as a special fund in the state treasury outside the general revenue fund and authorizes the comptroller of public accounts to administer the fund. The fund consists of money transferred or deposited to the credit of the fund by the constitution, general law, or the General Appropriations Act, revenue dedicated by general law for deposit to the credit of the fund, investment earnings and interest earned on money in the fund, and gifts, grants, and donations to the fund.

The proposed amendment prescribes that the money in the fund may be used, without further appropriation, only for the expansion of access to and adoption of broadband and telecommunications services, including the development, construction, reconstruction, expansion, operation, and provision of broadband and telecommunications infrastructure or services. The proposed amendment authorizes transfers of money from the fund to another fund to be used only as provided by general law for the expansion of access to and adoption of broadband. Money in the

fund may be used in conjunction with other state or federal funds in accordance with procedures, standards, and limitations established by federal and general law.

Finally, the proposed amendment requires the comptroller to transfer to the general revenue fund any unexpended and unobligated balance remaining in the broadband infrastructure fund before the expiration date of proposed Section 49-d-16, Article III, Texas Constitution.

H.B. 9, 88th Legislature, Regular Session, enacts Subchapter T, Chapter 403, Government Code, providing for the administration of the broadband infrastructure fund, including the specific purposes for which the comptroller may disburse money from the fund. H.B. 9 takes effect only if this proposed constitutional amendment is approved by the voters.

The 2023 General Appropriations Act (Rider 18.05, page IX-122, H.B. 1, 88th Legislature, Regular Session, 2023) appropriates \$1.5 billion in general revenue to the proposed broadband infrastructure fund in fiscal year 2024. The appropriation is contingent on the enactment of H.B. 9 and voter approval of this proposed constitutional amendment.

## **SUMMARY OF COMMENTS**

The following comments supporting or opposing the proposed amendment reflect positions that were presented in committee proceedings, during house or senate floor debate, or in the analysis of the resolution prepared by the House Research Organization (HRO) when the resolution was considered by the House of Representatives.

### **Comments by Supporters**

- Establishing a fund to support broadband expansion and infrastructure investment would provide resources to close the digital divide in Texas, which in turn could help to improve quality of life and lead to increased economic growth.
- Without reliable access to broadband Internet, millions of Texans are at a disadvantage in seeking employment opportunities and accessing certain educational and health care services that are increasingly going virtual.

- By investing state dollars in the expansion of broadband infrastructure, the state would be well positioned to draw down funds from the federal Broadband Equity, Access, and Deployment (BEAD) Program, which matches state dollars on a four-to-one basis.
- A state funding source for broadband expansion will provide much-needed flexibility in achieving broadband attainment goals that is missing with federal programs that come with certain added constraints.

### **Comments by Opponents**

- The broadband infrastructure fund should be required to prioritize projects that develop fiber optic broadband infrastructure, which may be faster, safer, and more durable and reliable than wireless broadband.
- Texas has previously allocated \$600 million for broadband purposes, and the state is likely to receive billions of dollars from the federal BEAD program for these purposes. Creating a costly new broadband fund with state taxpayer dollars is excessive and fiscally irresponsible.

## Text of H.J.R. 125

### A JOINT RESOLUTION

proposing a constitutional amendment creating the broadband infrastructure fund to expand high-speed broadband access and assist in the financing of connectivity projects.

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

SECTION 1. Article III, Texas Constitution, is amended by adding Section 49-d-16 to read as follows:

Sec. 49-d-16. (a) In this section:

(1) "Comptroller" means the comptroller of public accounts of the State of Texas or its successor.

(2) "Fund" means the broadband infrastructure fund.

(b) The broadband infrastructure fund is created as a special fund in the state treasury outside the general revenue fund.

(c) The fund consists of:

(1) money transferred or deposited to the credit of the fund by this constitution, general law, or the General Appropriations Act;

(2) revenue that the legislature by general law dedicates for deposit to the credit of the fund;

(3) investment earnings and interest earned on money in the fund;  
and

(4) gifts, grants, and donations to the fund.

(d) Money in the fund shall be administered by the comptroller. Money from the fund may be used, without further appropriation, only for the expansion of access to and adoption of broadband and telecommunications services, including:

(1) the development, construction, reconstruction, and expansion of broadband and telecommunications infrastructure or services;

(2) the operation of broadband and telecommunications infrastructure;

(3) the provision of broadband and telecommunications services;  
and

(4) the reasonable expenses of administering and managing the investments of the fund.

(e) The legislature by general law shall provide for the manner in which the assets of the fund may be used, subject to the limitations of this section. Money in the

fund may be used in conjunction with other funds or financial resources, including money from the federal government, in accordance with procedures, standards, and limitations established by federal law and general law of this state.

(f) The comptroller may transfer money from the fund to another fund as provided by general law. The state agency that administers the fund to which the money is transferred as authorized by this subsection may use the money without further appropriation only for the expansion of access to and adoption of broadband and telecommunications services as provided by general law.

(g) Unless extended by adoption of a concurrent resolution approved by a record vote of two-thirds of the members of each house of the legislature, this section expires on September 1, 2035. A resolution suspends the expiration of this section until September 1 of the 10th year following the adoption of the resolution.

(h) Immediately before the expiration of this section, the comptroller shall transfer any unexpended and unobligated balance remaining in the fund to the general revenue fund.

(i) For purposes of Section 22, Article VIII, of this constitution:

(1) money in the fund is dedicated by this constitution; and

(2) an appropriation of state tax revenues for the purpose of depositing money to the credit of the fund is treated as if it were an appropriation of revenues dedicated by this constitution.

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

TEMPORARY PROVISION. (a) This temporary provision applies to the amendment to Article III of this constitution as proposed by the 88th Legislature, Regular Session, 2023, creating the broadband infrastructure fund to expand high-speed broadband access and assist in the financing of connectivity projects.

(b) The change made to Article III of this constitution by the amendment described in Subsection (a) of this section takes effect January 1, 2024.

(c) This temporary provision expires January 1, 2025.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2023. The ballot shall be printed to permit voting for or against the proposition: “The constitutional amendment creating the broadband infrastructure fund to expand high-speed broadband access and assist in the financing of connectivity projects.”

House Author: Ashby  
Senate Sponsor: Huffman

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# Proposition 9

(H.J.R. 2, 88th Leg., R.S.)

The constitutional amendment authorizing the 88th Legislature to provide a cost-of-living adjustment to certain annuitants of the Teacher Retirement System of Texas.

## SUMMARY ANALYSIS

H.J.R. 2, 88th Legislature, Regular Session, 2023, proposes a temporary amendment to the Texas Constitution that authorizes the current 88th Legislature to (1) provide by general law a cost-of-living adjustment to certain annuitants of the Teacher Retirement System of Texas and (2) appropriate state money to pay for the adjustment. The legislature has appropriated \$3.355 billion to fund the cost-of-living adjustment contingent on voter approval of the proposed amendment.

## BACKGROUND AND DETAILED ANALYSIS

Section 67, Article XVI, Texas Constitution, authorizes the legislature to enact general laws establishing systems of programs of retirement and related disability benefits for public employees and officers. Section 67(b)(1), Article XVI, Texas Constitution, specifically requires the legislature to establish the Teacher Retirement System of Texas (TRS) “to provide benefits for persons employed in the public schools, colleges, and universities supported wholly or partly by the state.” Included in the authority to provide benefits is the authority to change benefits, which the legislature has done on multiple occasions since the creation of the TRS. Historically, an increase in benefits provided under the TRS was funded from the system’s trust fund, an appropriation of state revenues, or some combination of those methods of funding. Regardless of the method of funding used to provide an increase in benefits, Section 67(a), Article XVI, Texas Constitution, requires that the “[f]inancing of benefits . . . be based on sound actuarial principles.” If the legislature seeks to fund an increase in benefits using an appropriation of state revenues, depending on the amount or method of appropriation, the Texas Constitution may impose other limitations on the appropriation, including the spending limit imposed by Section 22, Article VIII, Texas Constitution. Section 22, Article VIII, limits the rate of growth of

appropriations from state tax revenues not dedicated by the Texas Constitution for a state fiscal biennium to the estimated rate of growth of the state's economy.

The constitutional amendment proposed by H.J.R. 2, 88th Legislature, Regular Session, 2023, adds Section 67-a, Article XVI, Texas Constitution, to authorize the legislature to (1) provide a cost-of-living adjustment to annuitants of the Teacher Retirement System of Texas who are eligible for the adjustment as determined by that general law and (2) appropriate an amount of money from the general revenue fund to the comptroller of public accounts for deposit to the system's trust fund to pay the adjustment.

The proposed amendment also provides that for purposes of Section 22, Article VIII, Texas Constitution, an appropriation of state tax revenues to fund the authorized cost-of-living adjustment be treated as if it were an appropriation of revenues dedicated by the Texas Constitution, which effectively exempts it from the constitutional limit on overall state spending.

The proposed amendment expires September 1, 2025.

S.B. 10, 88th Legislature, Regular Session, 2023, is the enabling legislation for the proposed amendment. That legislation, in part, specifies the annuitants (TRS retirees and their beneficiaries) who are eligible for the cost-of-living adjustment and prescribes the amount and timing of the adjustment. The portion of S.B. 10 providing for the adjustment takes effect only if a constitutional amendment proposed by the 88th Legislature, Regular Session, 2023, authorizing the legislature to provide a cost-of-living adjustment for TRS annuitants is approved by the voters.

The 2023 General Appropriations Act (Rider 18.37, page IX-129, H.B. 1, 88th Legislature, Regular Session, 2023) appropriates \$3.355 billion in fiscal year 2024 from the general revenue fund to provide a cost-of-living adjustment for certain annuitants of the Teacher Retirement System of Texas. The appropriation is contingent on both the enactment of S.B. 10 and voter approval of this proposed constitutional amendment. Further, the General Appropriations Act rider provides that it is the legislature's intent that amounts directed for the adjustment be structured so as to not exceed the state spending limit under Section 22, Article VIII, Texas Constitution.

## **SUMMARY OF COMMENTS**

The following comments supporting or opposing the proposed amendment reflect positions that were presented in committee proceedings, during house or senate floor debate, or in the analysis of the resolution prepared by the House

Research Organization (HRO) when the resolution was considered by the House of Representatives.

### **Comments by Supporters**

- Because the vast majority of school districts in Texas do not participate in the federal social security system, the annuity from the Teacher Retirement System of Texas (TRS) is the only retirement benefit most retired teachers receive. Without having received a cost-of-living adjustment (COLA) in nearly 20 years, retired teachers have lost considerable purchasing power with their TRS annuity due to cost increases and high inflation.
- Funding a COLA for TRS retirees will provide the state's retired teachers with much-needed relief and is a wise use of the state's surplus revenue.

### **Comments by Opponents**

- No opposition to the proposed constitutional amendment was expressed during legislative consideration of the proposal.

## Text of H.J.R. 2

### A JOINT RESOLUTION

proposing a constitutional amendment authorizing the 88th Legislature to provide a cost-of-living adjustment to certain annuitants of the Teacher Retirement System of Texas.

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

SECTION 1. Article XVI, Texas Constitution, is amended by adding Section 67-a to read as follows:

Sec. 67-a. (a) As the Teacher Retirement System of Texas is actuarially sound according to an actuarial valuation update performed in February 2023, the 88th Legislature, Regular Session, 2023:

(1) by general law may provide a cost-of-living adjustment to annuitants of the Teacher Retirement System of Texas who are eligible for the adjustment as determined by that general law; and

(2) may appropriate an amount of money from the general revenue fund to the comptroller of public accounts for deposit to the trust fund of the Teacher Retirement System of Texas to pay the adjustment authorized by Subdivision (1) of this subsection.

(b) For purposes of Section 22, Article VIII, of this constitution, an appropriation of state tax revenues made by the 88th Legislature, Regular Session, 2023, for the purpose described by Subsection (a)(1) of this section is treated as if it were an appropriation of revenues dedicated by this constitution.

(c) This section expires September 1, 2025.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2023. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment authorizing the 88th Legislature to provide a cost-of-living adjustment to certain annuitants of the Teacher Retirement System of Texas."

House Author: Bonnen et al.

Senate Sponsor: Huffman

# Proposition 10

(S.J.R. 87, 88th Leg., R.S.)

The constitutional amendment to authorize the legislature to exempt from ad valorem taxation equipment or inventory held by a manufacturer of medical or biomedical products to protect the Texas healthcare network and strengthen our medical supply chain.

## SUMMARY ANALYSIS

The constitutional amendment proposed by S.J.R. 87 amends the Texas Constitution to authorize the legislature to exempt from ad valorem taxation the tangible personal property held by a manufacturer of medical or biomedical products as a finished good or used in the manufacturing or processing of medical or biomedical products.

## BACKGROUND AND DETAILED ANALYSIS

Under current state law, most property held by a business and used for the production of income is subject to ad valorem taxation. 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. The legislature may not exempt real or tangible personal property from ad valorem taxation unless the exemption is required or authorized by the constitution. Previously, Texas voters have approved constitutional amendments excepting various forms of commercial personal property from taxation, including exemptions for agricultural equipment and products, pollution control equipment, goods held temporarily for manufacturing or export, and marine oil drilling equipment in storage.

The constitutional amendment proposed by S.J.R. 87 amends Article VIII, Texas Constitution, by adding Section 1-x to authorize the legislature to exempt from ad valorem taxation the tangible personal property held by a manufacturer of medical or biomedical products as a finished good or used in the manufacturing or processing of medical or biomedical products.

The enabling legislation for the proposed exemption is S.B. 2289, 88th Legislature, Regular Session, 2023. The bill amends Subchapter B, Chapter 11, Tax Code, by adding Section 11.36. That section defines “medical or biomedical property” and “medical or biomedical manufacturing facility” for purposes of the section and provides that a person is entitled to an exemption from ad valorem taxation of medical or biomedical property the person owns or leases that is located in a medical or biomedical manufacturing facility that the person owns or leases. The new section also provides that, notwithstanding Section 11.14(c), Tax Code, which authorizes the governing body of a taxing unit to provide for the taxation of tangible personal property that a person owns and that is not held or used for production of income, the governing body of a taxing unit may not provide for taxation of medical or biomedical property exempted under that section. The enabling legislation also includes application procedures and other provisions relating to the administration of the exemption.

## **SUMMARY OF COMMENTS**

The following comments supporting or opposing the proposed amendment reflect positions that were presented in committee proceedings, during house or senate floor debate, or in the analysis of the resolution prepared by the House Research Organization (HRO) when the resolution was considered by the House of Representatives.

### **Comments by Supporters**

- Despite not having a corporate or individual income tax, Texas has a high effective tax rate for medical manufacturers as compared to other states. Taxes on medical and biomedical manufacturing inventory discourage capital investment in and the expansion of this industry in Texas.
- Most medical and biomedical manufacturing is located abroad, and the cost to ship medical supplies to the United States increased more than 50 percent in 2021, causing Texans to pay more for vital supplies. Encouraging local manufacturing would eliminate the added shipping costs.
- Inflationary pressures and supply chain constraints further contribute to the need to regionalize manufacturing.

- Since 2020, Texas has missed opportunities for billions of dollars in private investment for biomedical manufacturing because it lacks tax incentives that other states provide.
- The proposed tax exemption would encourage investment in medical and biomedical manufacturing in Texas, which in turn would promote innovation and advancement in medical technologies, strengthen Texas' medical supply chain, and create jobs.

### **Comments by Opponents**

- No opposition to the proposed constitutional amendment was expressed during legislative consideration of the proposal.

## Text of S.J.R. 87

### SENATE JOINT RESOLUTION

proposing a constitutional amendment to authorize the legislature to exempt from ad valorem taxation equipment or inventory held by a manufacturer of medical or biomedical products to protect the Texas healthcare network and strengthen our medical supply chain.

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

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

Sec. 1-x. The legislature by general law may exempt from ad valorem taxation the tangible personal property held by a manufacturer of medical or biomedical products as a finished good or used in the manufacturing or processing of medical or biomedical products.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2023. The ballot shall be printed to permit voting for or against the proposition: “The constitutional amendment to authorize the legislature to exempt from ad valorem taxation equipment or inventory held by a manufacturer of medical or biomedical products to protect the Texas healthcare network and strengthen our medical supply chain.”

Senate Author: Huffman

House Sponsor: Bonnen

# Proposition 11

(S.J.R. 32, 88th Leg., R.S.)

The constitutional amendment authorizing the legislature to permit conservation and reclamation districts in El Paso County to issue bonds supported by ad valorem taxes to fund the development and maintenance of parks and recreational facilities.

## SUMMARY ANALYSIS

The constitutional amendment proposed by S.J.R. 32, 88th Legislature, Regular Session, 2023, would amend Section 59(c-1), Article XVI, Texas Constitution, to add El Paso County to the list of counties in Section 59(c-1) in which the legislature may authorize conservation and reclamation districts (special districts such as water control and improvement districts, municipal management districts, and special utility districts) to develop and finance parks and other purely recreational facilities with taxes. The amendment, without limiting any power to finance parks and recreational facilities in El Paso County that currently exists, provides for the issuance of bonds financed by taxes in districts located wholly or partly in El Paso County.

## BACKGROUND AND DETAILED ANALYSIS

The constitutional amendment proposed by S.J.R. 32, 88th Legislature, Regular Session, 2023, provides specific authority to the legislature regarding parks and recreational facilities developed by conservation and reclamation districts in El Paso County. The legislature's general authority to create conservation and reclamation districts is granted by Section 59, Article XVI, Texas Constitution. Section 59(a) provides that the conservation and development of natural resources, and the development of parks and recreational facilities, are public rights and duties and further requires the legislature to pass laws appropriate to achieve those goals. Section 59(b) authorizes the creation of conservation and reclamation districts to accomplish the purposes of Section 59. Section 59 also contains provisions authorizing the incursion of debt and the imposition of taxes by conservation and reclamation districts. One of those provisions, Section 59(c-1), added to the constitution in 2003, is the subject of the proposed amendment.

In 2003, voters approved a constitutional amendment to resolve issues surrounding the development and financing of parks and recreational facilities by conservation and reclamation districts. Before the 2003 amendment, it was unclear whether a conservation and reclamation district could use property taxes and issue bonds supported by property taxes to pay for the development and maintenance of parks and recreational facilities. The 2003 amendment clarified in Section 59(a), Article XVI, Texas Constitution, that conservation and reclamation districts may develop parks and recreational facilities and in Section 59(c-1) allowed the legislature to authorize conservation and reclamation districts to develop and finance with taxes those types and categories of parks and recreational facilities that were not previously authorized to be developed and financed with taxes. The 2003 amendment also prohibited the legislature from authorizing the issuance of those bonds unless a bond proposition is first submitted to the qualified voters of the district and the proposition is approved by the voters.

Section 59(c-1), Article XVI, Texas Constitution, applies only to conservation and reclamation districts located in one of 10 listed populous counties (Bexar, Bastrop, Waller, Travis, Williamson, Harris, Galveston, Brazoria, Fort Bend, and Montgomery Counties) and to the Tarrant County Regional Water District. Because Section 59(c-1) currently applies only to conservation and reclamation districts located in those counties, the legislature does not have specific constitutional authority to authorize a conservation and reclamation district in El Paso County to develop and finance parks and recreational facilities with taxes. The constitutional amendment proposed by S.J.R. 32, 88th Legislature, Regular Session, 2023, amends Section 59(c-1), Article XVI, Texas Constitution, to add El Paso County to the list of counties in which the legislature may authorize conservation and reclamation districts to develop and finance with taxes the types and categories of parks and recreational facilities that were not authorized before September 13, 2003, to be developed and financed with taxes. The amendment expands the existing powers of the legislature without limiting any existing powers of a conservation and recreation district in El Paso County with respect to parks and recreational facilities.

The legislature previously adopted S.J.R. 28, 82nd Legislature, Regular Session, 2011, which would have amended the Texas Constitution to make the same change in law regarding districts in El Paso County as is proposed by S.J.R. 32, but that amendment was not approved by the voters at the election held on November 8, 2011.

S.B. 938, 88th Legislature, Regular Session, 2023, is the enabling legislation for S.J.R. 32. The bill amends Section 49.4645(a), Water Code, to add El Paso County to the list of counties in which districts may be located that are authorized to issue bonds supported by taxes to pay for the development and maintenance of recreational facilities. S.B. 938 takes effect only if this proposed constitutional amendment is approved by the voters.

### **SUMMARY OF COMMENTS**

The following comments supporting or opposing the proposed amendment reflect positions that were presented in committee proceedings, during house or senate floor debate, or in the analysis of the resolution prepared by the House Research Organization (HRO) when the resolution was considered by the House of Representatives.

#### **Comments by Supporters**

- In 2003, the Texas Constitution was amended to allow conservation and reclamation districts in certain counties to issue bonds supported by property taxes to fund the development and maintenance of parks and recreational facilities if approved by district voters, but El Paso County was not among the counties included at that time. The proposed amendment would extend this beneficial authority to conservation and reclamation districts in El Paso County.
- The issuance of bonds to fund parks and recreational facilities in these districts in El Paso County would help to address the need for more parks and open spaces in the county and improve the quality of life for county residents. It could also make the county more competitive for Texans considering moving to El Paso.
- The decision to assess property taxes to support the issuance of bonds for that purpose is left to the discretion of each district and its voters. The assessment of property taxes would not be mandatory.

- The proposed amendment would not impair any district's contract with the federal government regarding per-acre assessments since it does not create a mandate.

### **Comments by Opponents**

- The proposed amendment would give certain conservation and reclamation districts in El Paso County the unnecessary authority to assess property taxes.
- Under Section 55.364, Water Code, certain conservation and reclamation districts in the county have federal contracts that require that any land within the districts be assessed on a per-acre basis. These districts should be excluded from the applicability of the resolution's property tax provisions to avoid additional tax burdens.

## Text of S.J.R. 32

### SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the authority of the legislature to permit conservation and reclamation districts in El Paso County to issue bonds supported by ad valorem taxes to fund the development and maintenance of parks and recreational facilities.

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

SECTION 1. Subsection (c-1), Section 59, Article XVI, Texas Constitution, is amended to read as follows:

(c-1) In addition and only as provided by this subsection, the Legislature may authorize conservation and reclamation districts to develop and finance with taxes those types and categories of parks and recreational facilities that were not authorized by this section to be developed and financed with taxes before September 13, 2003. For development of such parks and recreational facilities, the Legislature may authorize indebtedness payable from taxes as may be necessary to provide for improvements and maintenance only for a conservation and reclamation district all or part of which is located in Bexar County, Bastrop County, Waller County, Travis County, Williamson County, Harris County, Galveston County, Brazoria County, Fort Bend County, ~~or~~ Montgomery County, or El Paso County, or for the Tarrant Regional Water District, a water control and improvement district located in whole or in part in Tarrant County. All the indebtedness may be evidenced by bonds of the conservation and reclamation district, to be issued under regulations as may be prescribed by law. The Legislature may also authorize the levy and collection within such district of all taxes, equitably distributed, as may be necessary for the payment of the interest and the creation of a sinking fund for the payment of the bonds and for maintenance of and improvements to such parks and recreational facilities. The indebtedness shall be a lien on the property assessed for the payment of the bonds. The Legislature may not authorize the issuance of bonds or provide for indebtedness under this subsection against a conservation and reclamation district unless a proposition is first submitted to the qualified voters of the district and the proposition is adopted. This subsection expands the authority of the Legislature with respect to certain conservation and reclamation districts and is not a limitation on the authority of the Legislature with respect to conservation and reclamation

districts and parks and recreational facilities pursuant to this section as that authority existed before September 13, 2003.

SECTION 2. The legislature intends by the amendment proposed by Section 1 of this resolution to expand the authority of the legislature with regard to conservation and reclamation districts in El Paso County. The proposed amendment should not be construed as a limitation on the powers of the legislature or of a district with respect to parks and recreational facilities as those powers exist immediately before the amendment takes effect.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2023. The ballot shall be printed to permit voting for or against the proposition: “The constitutional amendment authorizing the legislature to permit conservation and reclamation districts in El Paso County to issue bonds supported by ad valorem taxes to fund the development and maintenance of parks and recreational facilities.”

Senate Author: Blanco

House Sponsor: Moody

# Proposition 12

(H.J.R. 134, 88th Leg., R.S.)

The constitutional amendment providing for the abolition of the office of county treasurer in Galveston County.

## SUMMARY ANALYSIS

The constitutional amendment proposing to add Section 44(d), Article XVI, Texas Constitution, if approved by the voters, would abolish the office of county treasurer in Galveston County and authorize the commissioners court of that county to employ or contract with a qualified person, or designate a county officer, to perform any of the functions that would have been performed by the county treasurer if the office had not been abolished. The amendment also provides that the amendment takes effect only if, in addition to approval by voters across the state, a majority of the voters in Galveston County voting on the question also approve the amendment.

## BACKGROUND AND DETAILED ANALYSIS

Section 44, Article XVI, Texas Constitution, requires in part that the legislature prescribe the duties and provide for the election of a county treasurer in each county. Section 44 also provides that each county treasurer shall have an office at the county seat, hold their office for four years, and be compensated as provided by law. Section 44 also provides that the office of county treasurer does not exist in a county in which the office has been abolished pursuant to a constitutional amendment.

The constitutional amendment proposed by H.J.R. 134, if approved by the voters, would add Section 44(d), Article XVI, Texas Constitution, to abolish the office of county treasurer in Galveston County. The amendment would allow the commissioners court of Galveston County to employ or contract with a qualified person, or to designate a county officer, to perform the functions that would have been performed by the county treasurer if the office had not been abolished. The amendment also provides that the amendment takes effect only if, in addition to approval by voters across the state, a majority of the voters in Galveston County voting on the question also approve the amendment. Similar constitutional amendments

have previously been approved by the voters to abolish the office of treasurer in a number of other counties.

### **SUMMARY OF COMMENTS**

The following comments supporting or opposing the proposed constitutional amendment reflect positions that were presented in committee proceedings, during house or senate floor debate, or in the analysis of the resolution proposing the amendment prepared by the House Research Organization (HRO) when the resolution was considered by the House of Representatives.

#### **Comments by Supporters**

- The Galveston County Treasurer's Office does not provide a sufficient level of added protection for taxpayers to justify the amount of county funds needed to operate the office.
- The duties of the office of county treasurer could and would be absorbed by other county departments and done at a cost savings to taxpayers.
- Galveston County is well suited to successfully operate without a county treasurer as the county has a number of other officers, including an auditor, CFO, and purchasing agent, who perform duties that are performed by the county treasurer in other counties.
- Elimination of the treasurer's office is supported by the current Galveston County treasurer, all members of the Galveston County Commissioners Court, and all municipalities in the county.
- Galveston County voters have already tacitly approved of abolishing the office of county treasurer by voting for the current county treasurer, who ran on the platform of abolishing the office.
- Nine other counties have eliminated their county treasurer position and have been able to continue operating efficient county governments.

- Voters statewide have previously recognized that an official treasurer position is not necessary by voting to abolish the office of state treasurer in 1995.
- Eliminating a constitutionally elected office is not unprecedented as other such offices, like county land surveyor or animal control officer, have been eliminated in the past.

### **Comments by Opponents**

- A stand-alone office of county treasurer that is headed by a person directly elected by county voters provides essential checks and balances in the operation of county government.
- Eliminating the office of county treasurer would not provide any real cost savings as the duties undertaken by the office would still be necessary and additional employees would need to be hired in other county departments to carry out those duties.
- Eliminating one county office and absorbing its functions into other departments sets a bad precedent and could lead to the concentration of power within the county.
- Since the office of county treasurer is a constitutionally elected office, it is important to maintain the office.

**Text of H.J.R. 134**

**A JOINT RESOLUTION**

proposing a constitutional amendment to abolish the office of county treasurer of Galveston County.

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

SECTION 1. Section 44, Article XVI, Texas Constitution, is amended by adding Subsection (d) to read as follows:

(d) The office of County Treasurer in Galveston County is abolished. The Commissioners Court of Galveston County may employ or contract with a qualified person or may designate another county officer to perform any of the functions that would have been performed by the County Treasurer if the office had not been abolished.

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

TEMPORARY PROVISION. (a) The constitutional amendment proposed by the 88th Legislature, Regular Session, 2023, abolishing the office of County Treasurer in Galveston County takes effect only if, at the statewide election at which the amendment is submitted to and approved by the voters, a majority of the voters of Galveston County voting on the question at that election also favor the amendment. The amendment takes effect January 1, 2024, if the conditions of this subsection are met.

(b) This temporary provision expires January 2, 2024.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 7, 2023. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment providing for the abolition of the office of county treasurer in Galveston County."

House Author: Bonnen et al.

Senate Sponsor: Middleton

# Proposition 13

(H.J.R. 107, 88th Leg., R.S.)

The constitutional amendment to increase the mandatory age of retirement for state justices and judges.

## SUMMARY ANALYSIS

The proposed amendment amends Section 1-a(1), Article V, Texas Constitution, to increase the mandatory age of retirement of state justices and judges from 75 to 79 years unless the legislature sets a lower mandatory retirement age. The proposed amendment also increases the lowest age the legislature may prescribe from 70 to 75 years of age.

## BACKGROUND AND DETAILED ANALYSIS

Section 1-a(1), Article V, Texas Constitution, requires a state judge or justice to retire at the end of the term during which the judge or justice reaches the age of 75 or, if the judge or justice is serving a six-year term and turns 75 during the first four years of the term, requires the judge or justice to retire on December 31 of the fourth year of the term. The proposed amendment increases the mandatory retirement age to 79 years, removes the provision requiring a judge or justice elected for the remainder of a six-year term to retire on December 31 of the fourth year of the term after reaching the age of 75 during those years, and authorizes the legislature to prescribe an earlier mandatory retirement age of not younger than 75 years of age. Accordingly, as proposed, a state judge or justice would be required to retire at the end of the term during which the judge or justice reaches the age of 79 or the earlier age the legislature prescribes of not younger than 75.

## SUMMARY OF COMMENTS

The following comments supporting or opposing the proposed amendment reflect positions presented in committee proceedings, during house or senate floor debate, or in the analysis of the resolution prepared by the House Research Organization (HRO) when the resolution was considered by the House of Representatives.

### **Comments by Supporters**

- Because people are living and working longer than in decades past, it is appropriate to allow judges and justices to serve beyond the current mandatory retirement age of 75.
- Increasing the mandatory retirement age for judges and justices will allow experienced and competent public servants who are willing to continue to serve.
- Allowing judges and justices to serve longer could decrease turnover and ensure a more predictable and stable judicial system.
- Since judges and justices in Texas are elected, any issues with the performance of a particular judge or justice can be addressed by the electorate.

### **Comments by Opponents**

- No opposition to the proposed constitutional amendment was expressed during legislative consideration of the proposal.

## **Text of H.J.R. 107**

### **A JOINT RESOLUTION**

proposing a constitutional amendment to increase the mandatory age of retirement for state justices and judges.

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

SECTION 1. Section 1-a(1), Article V, Texas Constitution, is amended to read as follows:

(1) Subject to the further provisions of this Section, the Legislature shall provide for the retirement and compensation of Justices and Judges of the Appellate Courts and District and Criminal District Courts on account of length of service, age and disability, and for their reassignment to active duty where and when needed. The office of every such Justice and Judge shall become vacant on the expiration of the term during which the incumbent reaches the age of 79 [~~seventy-five (75)~~] years or such earlier age, not less than 75 [~~seventy (70)~~] years, as the Legislature may prescribe[~~, except that if a Justice or Judge elected to serve or fill the remainder of a six-year term reaches the age of seventy-five (75) years during the first four years of the term, the office of that Justice or Judge shall become vacant on December 31 of the fourth year of the term to which the Justice or Judge was elected~~].

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2023. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to increase the mandatory age of retirement for state justices and judges."

House Author: Price et al.

Senate Sponsor: Hinojosa

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# Proposition 14

(S.J.R. 74, 88th Leg., R.S.)

The constitutional amendment providing for the creation of the centennial parks conservation fund to be used for the creation and improvement of state parks.

## SUMMARY ANALYSIS

S.J.R. 74, 88th Legislature, Regular Session, 2023, proposes the addition of Section 49-e-1, Article III, Texas Constitution, to provide for the creation of the centennial parks conservation fund to be used for the creation and improvement of state parks.

## BACKGROUND AND DETAILED ANALYSIS

The Texas state parks system has traditionally been funded by a combination of user fees, such as park entrance fees, and legislative appropriations. In 2019, Texas voters approved a constitutional amendment to add Section 7-d to Article VIII, Texas Constitution, dedicating a portion of the state sales taxes on sporting goods to provide a revenue stream to the Parks and Wildlife Department. The constitutional amendment proposed by S.J.R. 74, 88th Legislature, Regular Session, 2023, adding Section 49-e-1, Article III, Texas Constitution, would create the centennial parks conservation fund to provide an additional dedicated funding source for Texas' state parks. The proposed fund, named in recognition of the 100th anniversary of the establishment of the state park system, would be created as a trust fund outside the treasury and would authorize the use of the fund only for the creation and improvement of state parks, in accordance with general law, and to pay the reasonable expenses of managing the fund and its assets. The fund would consist of: (1) money appropriated, credited, or transferred to the fund by the legislature; (2) gifts, grants, and donations received by the Parks and Wildlife Department or the department's successor in function for a purpose for which money in the fund may be used under the constitutional provision; and (3) investment earnings and interest earned on amounts credited to the fund.

The proposed amendment also provides that for purposes of the restriction on the rate of growth of appropriations established by Section 22, Article VIII, Texas Constitution, money in the fund would be dedicated by the Texas Constitution and an appropriation of state tax revenues to the fund would be treated as if it were an appropriation of revenues dedicated by the Texas Constitution.

Enacted in 2023 by the 88th Legislature in the Regular Session, S.B. 1648 is the enabling legislation for S.J.R. 74. The bill addresses in more detail the administration of the centennial parks conservation fund and takes effect only if S.J.R. 74 is approved by the voters at an election to be held November 7, 2023.

The 2023 General Appropriations Act appropriates \$1 billion to the Parks and Wildlife Department for the centennial parks conservation fund for the state fiscal year ending August 1, 2024. The appropriation is contingent on enactment of S.B. 1648 and voter approval of this constitutional amendment. See Rider 45, page VI-51, H.B. 1, 88th Legislature, Regular Session, 2023.

## **SUMMARY OF COMMENTS**

The following comments supporting or opposing the proposed amendment reflect positions that were presented in committee proceedings, during house or senate floor debate, or in the analysis of the resolution prepared by the House Research Organization (HRO) when the resolution was considered by the House of Representatives.

### **Comments by Supporters**

- Establishing a dedicated state fund for the purchase of land to develop new state parks would provide a stable and long-term funding source that will empower the state to protect Texas' unique natural resources and cultural history while making them accessible to our growing population.
- S.J.R. 74 would afford voters the opportunity to ensure that Texans and visitors alike can continue to enjoy the beauty of Texas' parks for generations to come.
- Texas has lower park acreage per capita than many other states, and visitation to Texas' parks has grown significantly in recent years.

- The current state park system is strained by user demand, with the vast majority of sites requiring reservations months in advance.
- The fund created by the proposed amendment would enable the state to purchase land for the development of new parks before land becomes more costly.
- State parks are a driver of economic activity and provide recreational, educational, and conservation opportunities.

### **Comments by Opponents**

- No opposition to the proposed constitutional amendment was expressed during legislative consideration of the proposal.

## Text of S.J.R. 74

### SENATE JOINT RESOLUTION

proposing a constitutional amendment providing for the creation of the centennial parks conservation fund.

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

SECTION 1. Article III, Texas Constitution, is amended by adding Section 49-e-1 to read as follows:

Sec. 49-e-1. (a) The centennial parks conservation fund is established as a trust fund outside the treasury. In accordance with general law, the fund may be used only for the creation and improvement of state parks.

(b) The centennial parks conservation fund consists of:

(1) money appropriated, credited, or transferred to the fund by the legislature;

(2) gifts, grants, and donations received by the Parks and Wildlife Department or the department's successor in function for a purpose for which money in the fund may be used under this section; and

(3) investment earnings and interest earned on amounts credited to the fund.

(c) The legislature may appropriate money from the centennial parks conservation fund to the Parks and Wildlife Department or the department's successor in function for the purposes prescribed for the fund by this section and general law.

(d) For purposes of Section 22, Article VIII, of this constitution:

(1) money in the centennial parks conservation fund is dedicated by this constitution; and

(2) an appropriation of state tax revenues for the purpose of depositing money to the credit of the fund is treated as if it were an appropriation of revenues dedicated by this constitution.

(e) The reasonable expenses of managing the fund and its assets shall be paid from the fund.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2023. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment

providing for the creation of the centennial parks conservation fund to be used for the creation and improvement of state parks.”

Senate Author: Parker

House Sponsor: Walle et al.

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