



TEXAS STATE SENATOR

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## 2019 CONSTITUTIONAL AMENDMENT ELECTION

October 2019

Volume 1, Edition 1

Each Legislative session, the Texas Legislature considers dozens of amendments to the Texas Constitution. Unlike the United States Constitution, which contains under 7,600 words and has only been amended 27 times in 230 years, the Texas Constitution contains nearly 390,000 words and voters have approved 498 amendments to the Texas Constitution since the current constitution was adopted in 1876. The current Texas Constitution, adopted after the Civil War and Reconstruction, is the 6th state constitution adopted by Texas as a state and is lengthy to prescribe the various functions of government as well as various limitations on governmental authority.

For the state constitution to be amended, each chamber of the legislature must approve a proposed amendment by at least a 2/3 majority vote of all members of each the Texas House and Texas Senate. Once these propositions are approved by the legislature, Texas voters must approve them through a statewide election. This year, the legislature considered 217 potential amendments and approved ten of them. Voters will consider these ten amendments during the constitutional amendment election on November 5, 2019.

This newsletter provides a brief summary of the ten constitutional amendments that will be on the November 5 ballot this year. You may review the full analysis of the constitutional amendments on the Texas Legislative Council website at [https://tlc.texas.gov/docs/amendments/analyses1\\_2.pdf](https://tlc.texas.gov/docs/amendments/analyses1_2.pdf). You may check your voter registration information at the Secretary of State's website at <https://teamrv-mvp.sos.texas.gov/MVP/mvp.do>.



# PROPOSED AMENDMENTS

## PROPOSITION 1 (H.J.R. 72)

### Ballot Language:

*"The constitutional amendment permitting a person to hold more than one office as a municipal judge at the same time."*

### Background and Summary:

The Texas Constitution currently prevents a person from holding more than one paid public office at the same time. However, there are numerous exceptions for certain offices, such as justice of the peace, county commissioner, notary public and members of the Texas Military Department. Proposition 1 proposes a constitutional amendment to allow a person to hold more than one office as a municipal judge in more than one municipality at the same time, regardless of whether the person was elected or appointed.

### Supporters Say:

The impetus for this legislation is to allow small and rural municipalities to have qualified municipal judges. The pool of potential municipal judges in many of these small communities who are willing to serve is limited because many small towns do not have attorneys available to be appointed to a judicial position. Therefore, allowing for a person to serve as a municipal judge in multiple cities will allow for more qualified judges across the state.

### Opponents Say:

No concerns were raised during the legislative session. However, some judges have since expressed concern that this may lead to municipal judges having too many cases and not being able to offer adequate time and attention to each case.

## PROPOSITION 2 (S.J.R. 79)

### Ballot Language:

*"The constitutional amendment providing for the issuance of additional general obligation bonds by the Texas Water Development Board in an amount not to exceed \$200 million to provide financial assistance for the development of certain projects in economically distressed areas."*

### Background and Summary:

The Economically Distressed Areas Program is under the control of the Texas Water Development Board. This program provides financial assistance for projects that develop water and wastewater services in economically distressed areas where these services or facilities do not meet minimum state standards. The program is funded by general obligation bonds. Proposition 2 would allow the Texas Water Development Board to issue additional general obligation bonds for the Economically Distressed Areas Program account, up to \$200 million, to provide financial assistance for projects in economically distressed areas.

### Supporters Say:

The cost of water infrastructure is high and economically disadvantaged areas cannot afford the financing for these projects without state assistance. The Economically Distressed Areas Program needs to be replenished with general obligation bonds to continue to fund existing projects and support future projects that need to ensure their water and wastewater meet state standards.

### Opposition:

Proposition 2 would constitutionally dedicate general obligation bonds to specific programs. The state should use general revenue funds instead and require local governments to match the funds for those projects.

## PROPOSITION 3 (H.J.R. 34)

### Ballot Language:

*"The constitutional amendment authorizing the legislature to provide for a temporary exemption from ad valorem taxation of a portion of the appraised value of certain property damaged by a disaster."*

### Background and Summary:

Proposition 3 proposes a constitutional amendment that would allow for a temporary property tax exemption that a political subdivision could adopt for persons owning property in an area declared a disaster by the Governor. The current method of providing property tax relief after a disaster is to reappraise the property, which is costly for the appraisal district, subjective based on the nature of the disaster, and not as intuitive for the property owners. This concept was proposed in the wake of Hurricane Harvey as counties and cities were assessing full property taxes on properties that had been damaged or completely destroyed by the storm and did not have the same market value for that particular tax year.

### Supporters Say:

Proposition 3 received broad support from stakeholders to develop a procedure to provide tax relief to property owners in disaster areas that is easy to administer and easier to understand for taxpayers and local governments.

### Opponents Say:

Some individuals believe that the properties in disaster areas should be completely reappraised as a result of the damage so the property tax relief will be more permanent instead of a temporary exemption from a portion of property taxes.

## PROPOSITION 4 (H.J.R. 38)

### Ballot Language:

*"The constitutional amendment prohibiting the imposition of an individual income tax, including a tax on an individual's share of partnership and unincorporated association income."*

### Background and Summary:

The Texas Constitution was amended in 1991 to allow for an income tax only if voters were to approve the income tax in a statewide referendum. This provision would be repealed and replaced with a new constitutional provision prohibiting a statewide income tax from being levied on individuals, including an individual's share of partnership and unincorporated association income.

### Supporters Say:

Texas does not currently levy an income tax on individuals but, under existing law, it could as long as there is voter approval. Not levying an income tax has helped Texas to create a vibrant economy for businesses and entrepreneurs alike. Introducing an income tax could create economic disincentives and potentially damage the state's job market. Constitutionally prohibiting such a tax sets a higher hurdle for initiating an income tax in the future as both the legislature and voters would have to repeal this provision if it were to pass.

### Opponents Say:

An income tax, if appropriately levied, could be a replacement for the more regressive property tax or sales tax. The constitution currently requires a statewide referendum to create an income tax and that alone has resulted in Texas never attempting to implement an income tax. There is some concern among tax attorneys on the bill language with respect to "individuals" versus "natural persons" which could limit the current franchise tax on businesses.

## PROPOSITION 5 (S.J.R. 24)

### **Ballot Language:**

*"The constitutional amendment dedicating the revenue received from the existing state sales and use taxes that are imposed on sporting goods to the Texas Parks and Wildlife Department and the Texas Historical Commission to protect Texas' natural areas, water quality, and history by acquiring, managing, and improving state and local parks and historic sites while not increasing the rate of the state sales and use taxes."*

### **Background and Summary:**

The Texas sales tax codes requires that 94 percent of the sales taxes collected on sporting goods be credited to the Texas Parks and Wildlife Department and six percent to the Texas Historical Commission for preservation of state parks and historical sites. However, this dedication is a statutory dedication which does not ensure actual disbursement of the funds. Thus, the legislature is not able to direct the guaranteed funding for future legislatures except through constitutional provision. Proposition 5 provides for a constitutional amendment to dedicate those funds and ensure they are actually dispersed.

### **Supporters Say:**

State historic sites and parks are aging and in need of funding for maintenance and operations of these sites. The constitutional amendment simply guarantees the dedication of the existing sales tax revenue for sporting goods is directed to the purposes stated in law for long-term planning and stability of funds.

### **Opponents Say:**

Concerns have been raised about the long-term dedication of funds in general. The legislature already has the discretion to appropriate funds as necessary, but dedicated funds reduced the flexibility of the appropriations process.

## PROPOSITION 6 (H.J.R. 12)

### **Ballot Language:**

*"The constitutional amendment authorizing the legislature to increase by \$3 billion the maximum bond amount authorized for the Cancer Prevention and Research Institute of Texas."*

### **Background and Summary:**

In 2007, the legislature passed a constitutional amendment, which was approved by the voters, to establish the Cancer Prevention and Research Institute of Texas (CPRIT). CPRIT provides grants to support institutions of learning and medical research facilities to identify causes and develop clinical trials for cancer treatments. The legislature authorized \$3 billion in total general obligation bonds to provide the grants for CPRIT in 2007. Proposition 6 increases the bonding capacity for CPRIT from \$3 billion to \$6 billion.

### **Supporters Say:**

CPRIT has allowed Texas to become a leader in cancer research and clinical trials to help patients. CPRIT funding has supported world-renowned scholars and attracted private capital investments into state research facilities. The resulting economic growth as a result of the capital investments to CPRIT is also important to our communities and state. Continuing the state's effort into CPRIT funding will result in additional economic growth and critical research for cancer treatments.

### **Opponents Say:**

CPRIT funding is not an essential function of state government, so instead of committing additional state funds, the legislature should develop a plan to allow CPRIT to be financially self-sufficient long-term. Proposition 6 doubles the amount of state debt for CPRIT, even though the original \$3 billion in bonds have not been exhausted.

## PROPOSITION 7 (H.J.R. 151)

### **Ballot Language:**

*"The constitutional amendment allowing increased distributions to the available school fund."*

### **Background and Summary:**

The Texas Constitution requires the State Board of Education to manage the financial assets of the Permanent School Fund (PSF) and the School Land Board to oversee the management, sale, and leasing of 13 million acres of PSF land in Texas. The revenue generated goes toward helping public education via the Available School Fund (ASF). Currently, the Texas Constitution requires \$300 million is transferred annually to the ASF. Recent investment returns indicate that the transfer to the ASF should be greater as assets and investments continue to grow. Proposition 7 increases the amount of distributions to the available school fund from \$300 million annually to \$600 million annually.

### **Supporters Say:**

The increased investments and growth of the state funds necessitate an increased distribution to the available school fund. Much of the acreage owned by the PSF in Texas generates royalties from oil revenue. As oil and natural gas production continues to increase, the state should responsibly distribute these funds to the available school fund.

### **Opponents Say:**

Concerns were expressed regarding the responsibilities of the State Board of Education and the School Land Board. These entities have a complicated relationship in how they are each managed. This proposal may result in these challenges being amended into the constitution. By transferring money directly into the ASF, there may be less money transferred to the PSF, and therefore less long-term investment potential from the PSF.

## PROPOSITION 8 (H.J.R. 4)

### **Ballot Language:**

*"The constitutional amendment providing for the creation of the flood infrastructure fund to assist in the financing of drainage, flood mitigation, and flood control projects."*

### **Background and Summary:**

Proposition 8 amends the Texas Constitution to create a special fund in the state treasury outside of general revenue to provide financing for drainage, flood mitigation, or flood control projects. The fund would be administered by the Texas Water Development Board and would include funding for planning and design activities, work to obtain regulatory approval, or the construction of flood mitigation and drainage infrastructure. The fund would be capitalized by the Economic Stabilization Fund with \$790 million, which has been appropriated for this purpose should Prop 8 pass in November.

### **Supporters Say:**

After Hurricane Harvey, the needs of flood mitigation projects became more apparent. Local governments have the ability to receive federal grants after natural disasters for flood mitigation and flood control projects, but the local governments do not necessarily have access to the matching funds to receive the federal disaster grants. The flood infrastructure fund assists with providing state matching funds for flood mitigation and control projects.

### **Opponents Say:**

Concerns were expressed by members of the legislature about using the economic stabilization fund to and ongoing state programs instead of a one-time appropriation. Some individuals believe there is sufficient local and federal funding (such as FEMA grants and reimbursements) to cover the costs without a state constitutional fund.

## PROPOSITION 9 (H.J.R. 95)

### Ballot Language:

*"The constitutional amendment authorizing the legislature to exempt from ad valorem taxation precious metal held in a precious metal depository located in this state."*

### Background and Summary:

The Texas Legislature previously authorized the Comptroller to establish the state precious metal depository to allow individuals to deposit precious metals, such as gold and silver, in Texas. Some investors were concerned that the state would charge property taxes on the precious metals, many of which are used for currency or commodities, so the investors have been hesitant to deposit their precious metals in Texas.

### Supporters Say:

Proposition 9 proposes a constitutional amendment to provide accountholders and investors certainty in the regulatory and tax environment for the deposit of precious metals. The state already exempts these precious metals from sales tax, so this would simply extend the exemption to the property tax to provide certainty to investors.

### Opponents Say:

Concerns were expressed about using the tax system to pick winners and losers by encouraging certain forms of funds or currency.

## PROPOSITION 10 (S.J.R. 93)

### Ballot Language:

*"The constitutional amendment to allow the transfer of a law enforcement animal to a qualified caretaker in certain circumstances."*

### Background and Summary:

Proposition 10 proposes a constitutional amendment to authorize a state agency, county, or city to transfer of a law enforcement animal, such as a dog or horse, to the animal's handler or caretaker for free upon the animal's retirement or at another time in the animal's best interest. Under current law, the animal is considered state property and state property cannot be transferred to a private individual under the state constitution.

### Supporters Say:

The individuals who have the most vested interest and connection to a law enforcement animal, which are typically dogs and horses, are the animal's handlers. There is a strong bond between the handler and the animal and a bond of honor among the law enforcement community to properly care for these special animals. This constitutional amendment will allow for a retired animal to be transferred to their primary handler or other qualified person to ensure the animals are well cared for and the bonds are maintained.

### Opponents Say:

No concerns were identified.

**EARLY VOTING runs October 21 - November 1**  
**ELECTION DAY is Tuesday, November 5**

Visit [www.votetexas.gov](http://www.votetexas.gov) for polling location information.

[Click here](#) to check your voter registration status.