

A Conservative Review of the Constitutional Amendments Proposed For the November 2009 Ballot

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NOTE:

The information contained in the following document was largely taken from the House Research Organization focus report document provided to the House of Representatives on August 20, 2009 and the “The Travis Monitor” webpage on the 2009 Texas Constitutional Amendments.

The Perspective and Suggested Vote sections are the author’s interpretation and opinion based on the information contained in the HRO document.

Proposition 1 - NO

Summary

Allow local governments to finance the purchase of land to create buffer zones around military bases.

Perspective

The amendment would authorize the Legislature to allow cities and counties to issue bonds or notes to finance the acquisition of buffer areas or open spaces next to military installations to prevent encroachment or to construct roadways, utilities, or other infrastructure to protect or promote the mission of the military installation. The city or county could pledge increases in property tax revenues from the area to repay the bonds or notes.

Cities and Counties can already support military installations to prevent encroachment or otherwise buffer a military base through the use of existing zoning laws. This amendment would give authorization to borrow against future taxes to purchase land for public use. This amendment will also likely lead to additional “taking” under existing eminent domain laws.

Suggested Vote

NO

Proposition 2 - YES

Summary

Appraisals of homesteads will be based on the current use of a residence homestead and not the potential value of the property if the home is flipped to a commercial development.

Perspective

This amendment will reduce the potential for significant increases in homestead tax rates due to prospective commercial development in areas that are not protected by zoning regulations. In non-zoned areas the 10% per year maximum increase for homestead appraisal value does not apply. Homesteads in non-zoned or commercially zoned areas are vulnerable to sudden large increases in appraised value due to “best use” practices of property valuation in these areas.

Suggested Vote

YES

Proposition 3 - NO

Summary

Allows the Comptroller to enforce uniform appraisal standards for property tax purposes.

Perspective

The current Constitution gives authority over proper appraisal to the county where the tax is imposed. This keeps control of taxing methods at the local level. The Comptroller's office already exerts significant influence over local appraisal standards through required training and through state funding (or removal of funding) depending on how local methods compare to state-wide methods. Additionally the legislature has not created laws to enable enforcement yet, so this proposition would grant authority without definition of how that authority would be used.

Suggested Vote

NO

Proposition 4 - NO

Summary

Establish the National Research University Fund (NRUF) to enable emerging research universities in Texas to achieve national prominence.

Perspective

There are currently 7 Texas universities qualified as "emerging research universities" that would be eligible for NRUF funds. The stated goal is to spend at least \$100M per year for each qualifying university. The new fund would be started with approximately \$500M of existing endowment money, but the principle of the fund cannot be spent. Only interest or income generated by the assets of the fund can be spent to fund university research. The stated spending levels would require additional revenue in the form of state taxes.

Suggested Vote

NO

Proposition 5 - YES

Summary

Allow for the consolidation of appraisal review boards across counties.

Perspective

Counties are already allowed to consolidate their appraisal services (e.g. appraisers, judicial, enforcement, etc.) This proposition allows adjacent counties to also consolidate appraisal review boards if they so chose. Given that counties can decide for themselves if they want to consolidate or not, this proposition would not impede local control.

Suggested Vote

YES

Proposition 6 - NO

Summary

“Evergreens” the Veterans' Land Board (VLB) bonding authority for the purpose of purchasing land, selling land, providing home-mortgage or land-purchase loans to Texas veterans.

Perspective

Since the origination of the VLB in 1946, \$4B in bonds has been approved by the voters. Currently about \$2B of those bonds are retired (debt repaid) and the remaining \$2B are issued and outstanding (i.e. the VLB has no authority to issue new bonds at this time). Outstanding bonds issued by the VLB are not counted against the General Revenue Fund state debt limitations because they are considered self-supporting.

The existing system requires that VLB bonds are retired once they are repaid. The VLB must request the Legislature to authorize the issuance of new bonds. The most recent authorization was in 2001 for \$500M worth of new bonds. This system gives the voters control of any new debt created by the VLB through the issuance of new bonds.

Prop 6 proposes to “evergreen” all previously authorized bonds. This in effect allows the VLB to consistently issue a rolling \$4B in bonds (i.e. VLB issued bonds are never retired after paid).

- 1) This would immediately add \$2B to the state debt as the current retired bonds are re-issued.
- 2) This would remove voter control and regulation over VLB generated debt
- 3) This would likely create \$4B of “permanent” rolling debt that is not counted against the General Revenue Fund
- 4) It is possible that the VLB will issue the \$4B in bonds and need to request additional bonds from the Legislature in the future.

Suggested Vote

NO

Proposition 7 - NO

Summary

Allow members of the Texas State Guard to hold civil office.

Perspective

All specific exceptions to dual office-holding should be eliminated from the Texas Constitution and replaced with a general prohibition against holding two offices simultaneously, while authorizing the Legislature to make any needed exceptions by statute. Texas courts have well-established standards for determining whether two offices held by the same person are incompatible due to overlapping authority or conflicting loyalties. – HRO focus report Aug 20, 2009 Prop 7 “Opponents say” section

Suggested Vote

NO

Proposition 8 - NO

Summary

Allows the state to contribute resources to build veterans hospitals.

Perspective

State taxes should not be used to fund the building, maintaining or running of hospitals. Veterans should be able to use private hospitals to receive quality medical care.

Suggested Vote

NO

Proposition 9 - NO

Summary

Establishes a constitutional right to access and use public beaches along the Gulf Coast.

Perspective

There is already an Open Beach Act that provides the right of public access to State owned beaches along the Gulf Coast, so there is no need for a Constitutional Amendment.

Additionally, the public beach is defined from the “line of vegetation” to the water. One issue is when the “line of vegetation” moves due to erosion or storm. This can cause a private residence to suddenly be encroaching on the public beach. Under current law property owners in this situation can lose their homes without compensation. Creating a constitutional amendment will reduce property rights even further in these situations.

Suggested Vote

NO

Proposition 10 - NO

Summary

Allows the elected board of directors for emergency service districts to serve 4-year terms instead of 2-year terms.

Perspective

4-year terms would diminish public oversight of the ESD board members.

Suggested Vote

NO

Proposition 11 - NO

Summary

Restricts the use of eminent domain by a government entity to one that is solely for public use.

Perspective

The proposed amendment has very broad language when defining what qualifies as a public use and what restrictions the state is under regarding the use of “taken” property. The can lead to potentially unintended interpretations by the courts. Opponents have recommended testing these new laws in statutory form before locking them into the Constitution.

Furthermore, the amendment would allow the Legislature to grant eminent domain authority to certain “entities” with a 2/3 majority vote in the House and Senate. There is no specific definition or restriction of the “entities” that could be granted this authority and a 2/3 majority is not sufficient to prevent misuse of this power.

Suggested Vote
NO