

Constitutional Amendments
Election Day: Tuesday, November 3, 2009

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(For more detailed analysis, click inside the table.)

Proposition Number	Heritage Alliance Recommendation	Ballot Language
1	AGAINST	The constitutional amendment authorizing the financing, including through tax increment financing, of the acquisition by municipalities and counties of buffer areas or open spaces adjacent to a military installation for the prevention of encroachment or for the construction of roadways, utilities, or other infrastructure to protect or promote the mission of the military installation.
2	FOR	The constitutional amendment authorizing the legislature to provide for the ad valorem taxation of a residence homestead solely on the basis of the property's value as a residence homestead.
3	AGAINST	The constitutional amendment providing for uniform standards and procedures for the appraisal of property for ad valorem tax purposes.
4	AGAINST	The constitutional amendment establishing the national research university fund to enable emerging research universities in this state to achieve national prominence as major research universities and transferring the balance of the higher education fund to the national research university fund.
5	FOR	The constitutional amendment authorizing the legislature to authorize a single board of equalization for two or more adjoining appraisal entities that elect to provide for consolidated equalizations.
6	FOR	The constitutional amendment authorizing the Veterans' Land Board to issue general obligation bonds in amounts equal to or less than amounts previously authorized.
7	FOR	The constitutional amendment to allow an officer or enlisted member of the Texas State Guard or other state militia or military force to hold other civil offices.
8	AGAINST	The constitutional amendment authorizing the state to contribute money, property, and other resources for the establishment, maintenance, and operation of veterans hospitals in this state.
9	AGAINST	The constitutional amendment to protect the right of the public, individually and collectively, to access and use the public beaches bordering the seaward shore of the Gulf of Mexico.
10	AGAINST	The constitutional amendment to provide that elected members of the governing boards of emergency services districts may serve terms not to exceed four years.
11	FOR	The constitutional amendment to prohibit the taking, damaging, or destroying of private property for public use unless the action is for the ownership, use, and enjoyment of the property by the State, a political subdivision of the State, the public at large, or entities granted the power of eminent domain under law or for the elimination of urban blight on a particular parcel of property, but not for certain economic development or enhancement of tax revenue purposes, and to limit the legislature's authority to grant the power of eminent domain to an entity.

Acknowledgement

Heritage Alliance acknowledges reports and analysis of the Texas House Research Organization and the Texas Legislative Council concerning these eleven propositions.

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Proposition No. 1

Heritage Alliance Recommendation: AGAINST

How the proposition will appear on the ballot:

The constitutional amendment authorizing the financing, including through tax increment financing, of the acquisition by municipalities and counties of buffer areas or open spaces adjacent to a military installation for the prevention of encroachment or for the construction of roadways, utilities, or other infrastructure to protect or promote the mission of the military installation.

Summary:

This proposition would allow the Legislature to authorize a municipality or county to issue bonds or notes to finance the acquisition of land adjacent to a military base in order to create a buffer zone or open space and prevent encroachment on the base. The bonds or notes also could be used to finance construction of highways, utilities, or other infrastructure that would protect or promote the military installation's mission. It also would allow the governmental entity to pledge increases in property tax revenue in the zone to repay the bonds or notes.

Heritage Alliance Recommendation:

AGAINST

Conservative Principles which are the basis for this recommendation:

There is no compelling interest to vote for this proposition. Municipalities already have authority to condemn private property to build roads or other infrastructure for the public good. This proposition does not specify limits on the width of the buffer zone created by a municipality. A vote against this proposition will preserve private property rights, and would stop government from incurring more debt to finance bonds to purchase private property. A vote against this amendment avoids giving special privilege to some (such as industries related to infrastructure designed to complement the mission of the military installation). A vote against this amendment avoids tax increment financing which ties up tax revenue, thus protecting future generations from being encumbered by debt.

Legislative History:

<http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HJR132>

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Proposition No. 2

Heritage Alliance Recommendation: FOR

How the proposition will appear on the ballot:

The constitutional amendment authorizing the legislature to provide for the ad valorem taxation of a residence homestead solely on the basis of the property's value as a residence homestead.

Summary:

Current state law allows appraisal districts to tax a residential homestead on the basis of its potential value in some other use (for example retail, commercial or industrial). This proposal would provide that residential homestead properties be evaluated on the basis of its actual use as a residence.

Heritage Alliance Recommendation:

FOR

Conservative Principles which are the basis for this recommendation:

A vote for this amendment will protect citizens' property from theft, loss, or confiscation, in this case by the levy of property taxes on the basis of potential use (resulting in higher taxes) rather than actual use of a property.

Legislative History:

<http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HJR36>

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Proposition No. 3

Heritage Alliance Recommendation: AGAINST

How the proposition will appear on the ballot:

The constitutional amendment providing for uniform standards and procedures for the appraisal of property for ad valorem tax purposes.

Summary:

Amends Section 23(b), Article VIII, Texas Constitution, to require that administrative and judicial enforcement of uniform standards and procedures for appraisal of property for ad valorem tax purposes be prescribed by general law. Deletes existing text requiring that administrative and judicial enforcement of uniform standards and procedures for appraisal of property for ad valorem tax purposes, as prescribed by general law, originate in the county where the tax is imposed, except that the legislature is authorized to provide by general law for political subdivisions with boundaries extending outside the county.

Heritage Alliance Recommendation:

AGAINST

Conservative Principles which are the basis for this recommendation:

There is no compelling interest to vote for this proposition. If passed, this amendment could be used in the future to facilitate Acircuit breaking,@ the concept of tying property tax rates to property owners' income levels. Voting against this proposition will keep control of property appraisal at the local level. Local governments are best equipped to determine how property should be appraised in their communities.

Legislative History:

<http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HJR36>

Constitutional Amendments
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Proposition No. 4

Heritage Alliance Recommendation: AGAINST

How the proposition will appear on the ballot:

The constitutional amendment establishing the national research university fund to enable emerging research universities in this state to achieve national prominence as major research universities and transferring the balance of the higher education fund to the national research university fund.

Summary:

This proposition would authorize the \$400 million currently in the Higher Education Fund to be transferred to a new national research university fund.

Heritage Alliance Recommendation:

AGAINST

Conservative Principles which are the basis for this recommendation:

There is currently about \$400 million in the Higher Education Fund. The money was designed to provide resources to state universities not funded by the Permanent University Fund (University of Texas, Texas A&M, and Prairie View A&M). The Legislature already has the ability to fund higher education, but has not leveraged state resources in recent years to increase the value of the Higher Education Fund so that it can be used to support these other universities. Texas already has three Tier I universities: Rice University (private), University of Texas, and Texas A&M. A vote against this proposition would ensure that Texas keeps a priority on education of students. A focus on research in higher education not only harms the quality of education students receive, but often inflates tuition costs.

Proposition 4, if passed, will enlarge the role of government in an area where free enterprise is clearly better suited. The private market has already shown that it can take care of the nation=s research needs. Compared to research performed at universities, where federal grant money is often used on projects of questionable value, research performed by the free market is managed more efficiently, with clear objectives and applications for the public good, and is not subsidized by Texas taxpayers and students.

Legislative History:

<http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HJR14>

Constitutional Amendments
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Proposition No. 5

Heritage Alliance Recommendation: FOR

How the proposition will appear on the ballot:

The constitutional amendment authorizing the legislature to authorize a single board of equalization for two or more adjoining appraisal entities that elect to provide for consolidated equalizations.

Summary:

Authorizes the legislature, by general law, to authorize a single board of equalization for two or more adjoining appraisal entities that elect to provide for consolidated equalizations.

Heritage Alliance Recommendation:

FOR

Conservative Principles which are the basis for this recommendation:

This proposition would be useful to rural counties with small population. A vote for this proposition will make government more efficient by allowing smaller counties to pool their resources to accomplish the task of property tax appraisal for those counties who agree to have a single board of equalization. If the amendment passes, a vote of the people in the affected counties would be required before the single board of equalization could be created.

Legislative History:

<http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HJR36>

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Proposition No. 6

Heritage Alliance Recommendation: FOR

How the proposition will appear on the ballot:

The constitutional amendment authorizing the Veterans' Land Board to issue general obligation bonds in amounts equal to or less than amounts previously authorized.

Summary:

Texas Constitution, Art. 3, sec. 49-b establishes the Veterans= Land Board (VLB), whose members are the land commissioner, a person well versed in veterans= issues, and a member well versed in finance. The VLB may issue and sell state bonds, as authorized by the Constitution, to finance land purchases and home mortgages for Texas veterans. The principal amount of outstanding bonds currently may not exceed \$500 million at any one time.

Under this proposed amendment, the principal amount of any outstanding bonds could not exceed the principal amount of state obligation bonds previously authorized by constitutional amendments. The VLB would be permitted to deposit the bond proceeds in or use them to augment the Veterans= Land Fund and the Veterans= Housing Assistance Fund, in addition to the Veterans= Housing Assistance Fund II. Bonds issued under this authority would not be considered payable from the general revenue fund. The \$500 million cap on total bonds outstanding at any one time would be eliminated.

Heritage Alliance Recommendation:

FOR

Conservative Principles which are the basis for this recommendation:

The Veterans Land Board has operated very efficiently over the years. There has been very low default on bonds issued to support loans to veterans. A vote for this proposition will make government more efficient by eliminating the necessity for the Veterans Land Board to seek Legislative authority every two years to issue low risk bonds.

Legislative History:

<http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HJR116>

Constitutional Amendments
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Proposition No. 7

Heritage Alliance Recommendation: FOR

How the proposition will appear on the ballot:

The constitutional amendment to allow an officer or enlisted member of the Texas State Guard or other state militia or military force to hold other civil offices.

Summary:

The Texas Constitution prohibits dual office holding with certain exceptions. This proposition would add officers and enlisted members of the Texas State Guard and any other active militia or military force organized under state law to the list of officeholders allowed to hold more than one civil office. The Texas Constitution currently allows dual office-holding for the following officials: justice of the peace; county commissioner; notary public and postmaster; officer of the National Guard, National Guard Reserve, and Officers Reserve Corps of the United States; enlisted men of the National Guard, the National Guard Reserve, the Organized Reserves of the United States; retired officers of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard; retired warrant officers; retired enlisted men of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard; and officers and directors of soil and water conservation districts.

Heritage Alliance Recommendation:

FOR

Conservative Principles which are the basis for this recommendation:

Avoids giving special rights to an individual or group. A vote for this proposition will give to officers and enlisted members of the Texas State Guard, as well as other active militia or military force organized under state law, the same right of dual office holding enjoyed by officers and members of military units established for federal purposes.

Legislative History:

<http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HJR127>

Constitutional Amendments
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Proposition No. 8

Heritage Alliance Recommendation: AGAINST

How the proposition will appear on the ballot:

The constitutional amendment authorizing the state to contribute money, property, and other resources for the establishment, maintenance, and operation of veterans hospitals in this state.

Summary:

Would amend the Texas Constitution by adding Art. 16, sec. 73 to require that the Texas Veterans Commission and the Department of State Health Services work with the U.S. Department of Veterans Affairs and any other appropriate federal agency to propose the establishment of a veterans hospital in the Rio Grande Valley Region. The federal government would establish the hospital, but the state would be able to contribute money, property, or other resources to the hospital's establishment, maintenance, or operation.

Heritage Alliance Recommendation:

AGAINST

Conservative Principles which are the basis for this recommendation:

There is no compelling interest to vote for this amendment. The establishment of veterans hospitals is properly the role of the federal government. There are nine (9) veterans hospitals in Texas, all of which were established with federal and private funding and without special authority of the Texas Constitution. If additional veterans hospitals are needed, no additional state authority or funding is necessary.

Legislative History:

<http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HJR7>

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Proposition No. 9

Heritage Alliance Recommendation: AGAINST

How the proposition will appear on the ballot:

The constitutional amendment to protect the right of the public, individually and collectively, to access and use the public beaches bordering the seaward shore of the Gulf of Mexico.

Summary:

This proposition, if passed, would amend the Texas Constitution by adding Art. 1, sec. 33 to establish the public's unrestricted right to access public beaches. This right would be dedicated as a permanent public easement. The resolution would define a public beach as a state-owned beach bordering on the seaward shore of the Gulf of Mexico, extending from the mean low tide to the landward boundary of state-owned submerged land, and from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico, to which the public had acquired a right of use or easement.

The Legislature could enact laws to protect the right of public access to the beach and to protect the easement from interference and encroachments. The constitutional provision would not create a private right of enforcement.

Heritage Alliance Recommendation:

AGAINST

Conservative Principles which are the basis for this recommendation:

State law already provides in Chapter 61, Natural Resources Code, for an "open beaches" policy under which the public must have a free and unrestricted right of ingress and egress to the larger area extending from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico. In effect, the vegetation line marks the property line for private property owners along Texas beaches. The attorney general must enforce the open beaches law strictly to prevent encroachments against public access to beaches. The line of vegetation can shift because of erosion, storms, or construction of seawalls and other manmade barriers. The statute defines how beach boundaries may be determined in areas with no marked line of vegetation, and it defines the line of vegetation in several circumstances, including along the Galveston Seawall.

These laws can be challenged in court when necessary to protect private property rights. The proposed amendment would place the existing law into the constitution, creating a "right" to public beaches. Legal efforts to protect private property rights would be more difficult. A vote against this proposition would preserve private property rights under current law.

Legislative History:

<http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HJR102>

Constitutional Amendments
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Proposition No. 10

Heritage Alliance Recommendation: AGAINST

How the proposition will appear on the ballot:

The constitutional amendment to provide that elected members of the governing boards of emergency services districts may serve terms not to exceed four years.

Summary:

Under current state law, the board members of Emergency Service Districts serve two year terms and are either elected by the voters or appointed by county commissioners. This proposition would provide that the term of elected board members be changed to 4 years, while the term of appointed members would continue as two years.

Heritage Alliance Recommendation:

AGAINST

Conservative Principles which are the basis for this recommendation:

Board members of Emergency Service Districts have the authority to raise local taxes in the districts they represent. Elected officials with taxing authority should remain accountable to the voters through the ballot box. Other elected officials with the power to levy taxes such as state representatives and members of Congress are up for election every two years.

Legislative History:

<http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HJR85>

Constitutional Amendments
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Proposition No. 11

Heritage Alliance Recommendation: FOR

How the proposition will appear on the ballot:

The constitutional amendment to prohibit the taking, damaging, or destroying of private property for public use unless the action is for the ownership, use, and enjoyment of the property by the State, a political subdivision of the State, the public at large, or entities granted the power of eminent domain under law or for the elimination of urban blight on a particular parcel of property, but not for certain economic development or enhancement of tax revenue purposes, and to limit the legislature's authority to grant the power of eminent domain to an entity.

Summary:

Proposition 11, if passed, would amend Texas Constitution, Art. 1, sec. 17 to restrict the taking of property to instances in which the taking, damage, or destruction was necessary for the possession, occupation, and enjoyment of the property by a common carrier, by an entity providing utility services, by the public at large, or by the state or one of its subdivisions. Eminent domain proceedings on blighted property would have to be done on individual parcels of property, and not collectively on large swaths of land.

Heritage Alliance Recommendation:

FOR

Conservative Principles which are the basis for this recommendation:

The U.S. Constitution (Fifth Amendment) prohibits the taking of private property for public use without just compensation, commonly referred to as the Takings clause. Texas Constitution, Art. 1, sec. 17 prohibits a person's property from being taken, damaged, or destroyed without consent for public use without adequate compensation. In the *Kelo* decision, the United States Supreme Court ruled that each state may define the right to private property.

In 2005, the 79th Legislature (2nd Called Session) enacted Senate Bill 7, which prohibits governmental or private entities from using eminent domain to take private property if the taking: (1) confers a private benefit on a particular private party through the use of the property; (2) is for a public use that merely is a pretext to confer a private benefit on a particular private party; or (3) is for economic development purposes, unless economic development is a secondary purpose that results from municipal community development or municipal urban renewal activities to eliminate an existing affirmative harm on society from slum or blighted areas.

While some say the language of this proposed constitutional amendment does not go far enough

to protect private property, it does represent measurable forward progress in defining and strengthening private property rights by further restricting the taking of private property through the eminent domain process.

Legislative History:

<http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HJR14>