

CONSTITUTIONAL AMENDMENTS



VOTER'S GUIDE

SENATOR STEVE OGDEN

82nd Legislature

Senate District 5

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THE SENATE of
THE STATE of TEXAS



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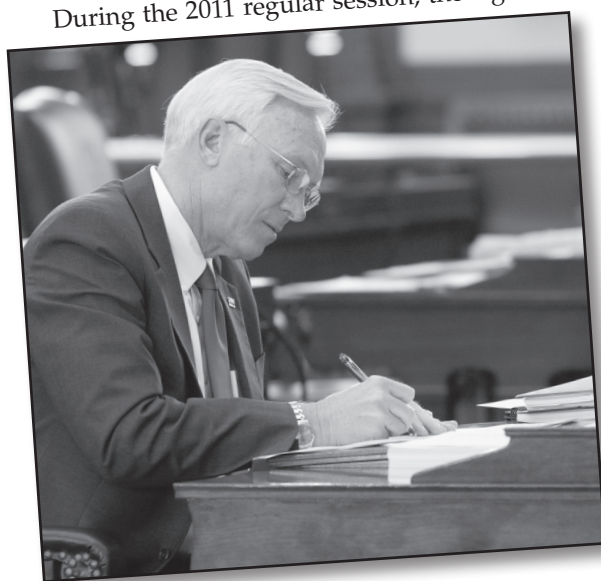
Dear Neighbors:

It has been an honor serving as your state senator during the 82nd Legislative Sessions. I am pleased to report to you some of the accomplishments of the legislature, and inform you about the proposed constitutional amendments that will be on the November ballot.

The legislature focused on the large fiscal year 2011 shortfall of \$3.9 billion and very tight budget projections for fiscal years 2012 and 2013. We were able to cover the shortfall and additional fiscal year 2011 needs with budget spending reductions and a one-time appropriation of \$3.2 billion from the rainy day fund. For the next two years beginning September 2011, the legislature appropriated \$172 billion to meet the essential governmental needs of Texans. We focused our spending on education, health care, public safety, and highway construction. This budget is conservative, balanced, and sets a standard for our federal representatives to take notice of and to emulate.

Budget cuts and state employee layoffs were kept to a minimum. On average, higher education will absorb a 7% state funding reduction compared to current spending. Public education will see an average reduction of 6% in entitlement spending, though total spending for public education will not be reduced.

As we move toward the next legislative session with serious fiscal issues facing us in the areas of public education, tax policy, health care, and transportation funding, our state faces the economic future in good fiscal condition. Texas will have a rainy day fund that is likely to exceed \$7 billion and a growing state economy. In terms of state revenues, our state's accelerating economic growth has already resulted in revenues exceeding last spring's estimate by almost \$2 billion. The state's economy is recovering, our future fiscal condition is solid, our credit rating is AAA, and I believe tomorrow will be better than today for our children and grandchildren.



During the 2011 regular session, the legislature proposed 10 amendments to the Texas Constitution that will be on the ballot in November. Some of these items are quite significant and may directly affect you. This guide is intended to provide you information about the propositions, and I hope you will think about the proposed amendments, the arguments for and against them, and then reach your own conclusions.

You may find additional information about all legislation, including the proposed amendments, at www.capitol.state.tx.us. On November 8, 2011, I hope that you will exercise your right to vote on your state constitution.

Sincerely,

Steve Ogden
Stephen E. Ogden
State Senator, District 5

Committees: Finance, Chairman; Education; Administration; Government Organization

ELECTION DAY: NOVEMBER 8, 2011

Constitutional Amendments Voter's Guide

Election Day: Tuesday, November 8, 2011

Contact your county clerk's office for a list of voting times and locations in your area.

1 Proposition No. 1 (S.J.R. No. 14)

The constitutional amendment authorizing the legislature to provide for an exemption from ad valorem taxation of all or part of the market value of the residence homestead of the surviving spouse of a 100 percent or totally disabled veteran.

Background: In 2007, Texans amended the Texas Constitution to allow the legislature to exempt from all property (ad valorem) taxation the residence homestead of a totally disabled veteran. The proposed amendment would authorize the legislature to allow the surviving spouse of a totally disabled veteran to continue to receive the veteran's residential homestead property tax exemption after the veteran's death. For a surviving spouse to continue to receive the property tax exemption, the property must have previously received the exemption from property taxes, the property must have been the residence homestead of the surviving spouse when the disabled veteran died, the property must remain the residence homestead of the surviving spouse, and the surviving spouse must not be remarried. The proposed amendment would also allow the exemption to follow the surviving spouse to a new homestead, but it would be limited to the dollar amount of the exemption for the prior qualifying homestead and the exemption would end if the surviving spouse remarried.

Arguments For:

- ★ Surviving spouses are currently required to resume paying property taxes on the residence homestead when a totally disabled veteran dies, and some spouses may be forced to sell the home if unable to afford this expense. This amendment recognizes the sacrifices made by military families and helps to prevent this situation by allowing the totally disabled veteran's exemption to pass to the surviving spouse.
- ★ There is precedent for maintaining or transferring a tax exemption to the surviving spouse. Texas currently grants certain surviving spouses the right to keep a school tax freeze that is available to the owner of a residential homestead at age 65 if the surviving spouse is at least 55 years of age at the time of transfer.

Arguments Against:

- ★ The state should not continue to grant additional tax exemptions that decrease the amount of tax revenues that go to fund schools, health care and other essential services. In order to make up for the foregone tax revenues, the proposed amendment could result in local governments increasing property tax rates on other homeowners.
- ★ There are no financial standards (means testing) associated with continuing the exemption for a surviving spouse. As such, a surviving spouse who can afford to pay taxes can still take advantage of the exemption.

2 Proposition No. 2 (S.J.R. No. 4)

The constitutional amendment providing for the issuance of additional general obligation bonds by the Texas Water Development Board in an amount not to exceed \$6 billion at any time outstanding.

Background: The Texas Water Development Board (TWDB) provides financial assistance in the form of loans and grants through state and federal programs to Texas communities for the construction of water supply, wastewater treatment, flood control, and agricultural water conservation projects. The Texas Constitution currently provides the TWDB with one-time bonding authority for water projects, but this current bonding authority will soon reach its limit. The total amount of outstanding bonds for this program is currently \$1.8 billion. The proposed amendment expands TWDB bonding authority and provides "evergreen" authority. This will allow the board to issue water project bonds perpetually. As outstanding bonds are repaid, the TWDB is authorized to issue additional debt so long as there is never more than \$6 billion of debt owed at one time.

Arguments For:

- ★ This program has been successful, and is largely self-supporting through loan repayments. Without additional bond authority, TWDB will run out of eligible funds to provide financial assistance to political subdivisions to meet water and wastewater infrastructure needs.
- ★ Authorizing ongoing "evergreen" bond authority would allow TWDB to continuously fulfill its constitutional mission as well as simplify its bond authorization process. The risk of default is low.
- ★ There is precedent for allowing the "evergreen" bonding authority. In 2009, Texas voters approved a similar constitutional provision for the bonds issued by the Veterans Land Board to finance the state program that provides low-interest loans for land and home mortgages for veterans.

Arguments Against:

- ★ Although the TWDB bonds could be considered largely self-supporting because the loans are repaid by political subdivisions, and the risk of default is low, the issued bonds are general obligation bonds (GO bonds) and any default would become an obligation of the state.
- ★ This proposed constitutional amendment would provide for perpetual bond issuances and would break from the traditional deliberative practice of requiring the legislature and voters to approve new bond issuances.
- ★ If this amendment is approved and fully utilized, total outstanding GO bonds at the TWDB could increase by as much as \$6 billion, and total state GO bonds outstanding could increase above the approximately \$14.0 billion currently outstanding, which is an excessive amount of debt.

Proposition No. 3 (S.J.R. No. 50)

The constitutional amendment providing for the issuance of general obligation bonds of the State of Texas to finance educational loans to students.

Background: The Higher Education Coordinating Board (HECB) provides financial assistance to students in the form of the Hinson-Hazelwood Student Loan Program. The Texas Constitution currently provides the HECB one-time bonding authority for this program, but this current bonding authority will soon reach its limit. The total amount of outstanding bonds for this program is currently \$800 million. The proposed amendment expands HECB bonding authority and provides “evergreen” authority. This will allow the board to issue bonds for financial aid perpetually. As outstanding bonds are repaid, the HECB is authorized to issue additional debt so long as there is never more than \$1.86 billion of debt owed at one time.

Arguments For:

- ★ The program has been successful and is self-supporting through student loan repayments that cover the principal and interest on the bonds. Without additional bond authority, the HECB will run out of eligible funds to provide financial aid through the Hinson-Hazelwood Student Loan Program.
- ★ Authorizing this amendment would provide the Coordinating Board continued and uninterrupted authority to provide students with low-interest, stable-rate educational loans.
- ★ There is precedent for allowing the “evergreen” bonding authority. In 2009, Texas voters approved a similar constitutional provision for the bonds issued by the Veterans Land Board to finance the state program that provides low-interest loans for land and home mortgages for veterans.

Arguments Against:

- ★ Although the risk of default is extremely low, and the HECB bonds are considered self-supporting because the students must repay the loans, the issued bonds are general obligation bonds and a sudden increase in defaulted student loans beyond what the loan program could cover with reserves would become an obligation of the state.
- ★ This proposed constitutional amendment would provide for perpetual bond issuances as long as the amount outstanding does not exceed \$1.86 billion and would break from the traditional deliberative practice of requiring the legislature and voters to approve new bond issuances.
- ★ If this amendment is approved and fully utilized, total outstanding GO bonds at the HECB could increase by as much as \$1.06 billion, and total state GO bonds outstanding could increase above the approximately \$14.0 billion currently outstanding, which is an excessive amount of debt.

Proposition No. 4 (H.J.R. No. 63)

The constitutional amendment authorizing the legislature to permit a county to issue bonds or notes to finance the development or redevelopment

of an unproductive, underdeveloped, or blighted area and to pledge for repayment of the bonds or notes increases in ad valorem taxes imposed by the county on property in the area. The amendment does not provide authority for increasing ad valorem tax rates.

Background: The Texas Constitution currently allows the legislature to authorize an incorporated city or town to issue bonds to finance the development or redevelopment of an unproductive, underdeveloped, or blighted area within the city or town and to pledge for repayment of those bonds or notes increases in ad valorem tax revenues based on property in the area by the city or town and other political subdivisions. This is commonly called “tax increment financing.” This amendment would add counties to the existing constitutional provision.

Arguments For:

- ★ Using increases in ad valorem tax revenues resulting from improvements to an area (tax increment financing) is a reasonable way to finance the development or redevelopment of the area without raising tax rates.
- ★ Towns and cities already have this ability and the amendment would simply extend this authority to counties.

Arguments Against:

- ★ Many finance zones have increased demand for city and county services. Until the debt on the infrastructure improvements in these zones is paid off, everyone else will have to chip in to pay for these increased services in the finance zones.
- ★ If the finance zone is unsuccessful and increased property tax revenues are insufficient to cover the debt service on the bonds, the taxpayers of the county would be responsible for covering this shortfall should the bonds have to be refinanced and secured by other county tax revenues.

Proposition No. 5 (S.J.R. No. 26)

The constitutional amendment authorizing the legislature to allow cities or counties to enter into interlocal contracts with other cities or counties without the imposition of a tax or the provision of a sinking fund.

Background: Currently, a contract entered into by local governments with other governmental entities that is longer than one year constitutes debt and if a city or county wants to enter into an agreement with another to share projects or services, the Texas Constitution requires that a tax sufficient to pay interest on the debt be assessed and a sinking or reserve fund of 2% be created. This amendment would allow cities and counties to enter into multi-year interlocal contracts without imposing a tax or creating a sinking fund.

Argument For:

- ★ Allowing cities and counties to enter into interlocal contracts to consolidate and share services is an effective and efficient use of public funds and

could result in cost savings to taxpayers. This is not really “debt” in accordance with the general public’s understanding of the term.

Argument Against:

- ★ Savings to taxpayers are not guaranteed by the use of interlocal agreements, and multi-year interlocal contracts have the potential to obligate future local governments with financial obligations that must be paid for with local tax revenues. The current law concerning multi-year contracts, taxes, and a sinking fund is meant to limit the number and scope of interlocal contracts and deliberately discourages governments from hastily entering into obligations that last beyond the terms of the elected officials agreeing to them.

Proposition No. 6 (H.J.R. No. 109)

The constitutional amendment clarifying references to the permanent school fund, allowing the General Land Office to distribute revenue from permanent school fund land or other properties to the available school fund to provide additional funding for public education, and providing for an increase in the market value of the permanent school fund for the purpose of allowing increased distributions from the available school fund.

Background: The permanent school fund (PSF) is a trust that holds the revenues from state land and minerals, and the investments made with these revenues. The value of this fund is about \$25.1 billion.¹ The available school fund (ASF) consists of distributions from the PSF and certain tax allocations. These distributions are used to help fund public school districts on a per-student basis.

The PSF is managed by two entities. The State Board of Education (SBOE) manages the investments of the \$25.1 billion PSF. The School Land Board (SLB) within the General Land Office (GLO) supervises the management, leasing, and sale of public school lands; collects the revenue; and either reinvests the money or sends it to the PSF. However, the money and investments held by the SLB are not considered when calculating the ASF distribution. For purposes of calculating the ASF distribution, this amendment would include as part of the PSF corpus \$2.2 billion of investments and cash that are held by the SLB. The resulting increase in the value of the PSF would allow for an estimated \$150 million additional distribution to the school children of Texas this biennium.

Additionally, the amendment would authorize the GLO to distribute up to \$300 million in revenue each year from management of PSF properties directly to the ASF. It would also amend various constitutional provisions to make consistent the terminology used in referring to the “permanent school fund.” The state appropriations act for this biennium assumes these changes will result in \$450 million for the schoolchildren of Texas. ¹ Market Values are as of 07/31/11

Arguments For:

- ★ Including real assets investments and cash in the state treasury derived from property managed by the GLO in the total asset base used for calculating fund distributions will more accurately reflect the full value of the PSF and increase the amount of funds available for distribution from the ASF.
- ★ The amendment would specifically authorize the GLO to distribute a limited amount of revenue earned on management of PSF properties directly into the ASF, providing a much-needed additional infusion of up to \$300 million per year into the ASF for distribution to the state’s public schools.

Arguments Against:

- ★ Diverting to the ASF any revenue that otherwise would go into the PSF and increase the corpus would be shortsighted and would violate the principle that all revenues from state lands are reinvested by the SLB or SBOE. Only a portion of the interest and earnings from these investments are meant to be distributed to the school children of Texas.
- ★ Diverting up to \$300 million per year in revenue that might otherwise go into the PSF and become part of the corpus would be tantamount to liquidating a permanent asset to satisfy a short-term need and would defeat the purpose of the investment fund.

Proposition No. 7 (S.J.R. No. 28)

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.

Background: The Texas Constitution currently allows the legislature to authorize conservation and reclamation districts in certain counties to develop and finance with taxes certain parks and recreational facilities. It also allows the legislature to authorize those conservation and reclamation districts to levy and collect taxes necessary for the payment of interest and the creation of a sinking fund. The constitution also provides that the legislature may not authorize the issuance of bonds or authorize district taxes to pay for the bonds unless a proposition is first submitted to and adopted by the qualified voters of the district. The conservation and reclamation districts currently included in this constitutional provision are those districts all or part of which are located in Bexar, Bastrop, Waller, Travis, Williamson, Harris, Galveston, Brazoria, Fort Bend, and Montgomery Counties. This amendment would add conservation and reclamation districts all or part of which are located in El Paso County.

Argument For:

- ★ This amendment would give the districts in El Paso County additional flexibility in the financing of certain public projects deemed appropriate by local elected officials and voters.

Argument Against:

- ★ Debt backed by property taxes should not be incurred for non-essential purposes like parks and recreation facilities.

Proposition No. 8 (S.J.R. No. 16)

The constitutional amendment providing for the appraisal for ad valorem tax purposes of open-space land devoted to water-stewardship purposes on the basis of its productive capacity.

Background: The Texas Constitution requires that real property be taxed at its market value. At the same time, it states that, in order to promote the preservation of open-space land, the legislature shall provide for taxation of open-space land devoted to farm, ranch, or wildlife management purposes on the basis of the land's productive capacity, rather than full market value. This special valuation is commonly referred to as the "ag exemption." The proposed amendment would add water-stewardship purposes to the list of uses of open-space land that qualify real property for this particular tax treatment.

Arguments For:

- ★ The proposed amendment would create an incentive for landowners to partner with the state to protect water quality and increase conservation efforts in exchange for lowered property tax appraisals based on the productivity value of the land.
- ★ The amendment should help the state in addressing its overall water conservation goals and protecting valuable open space and water quality in rivers, streams, and aquifers without resorting to taxing and spending.

Arguments Against:

- ★ While open-space and water conservation are laudable goals, it would be more accurate to reduce the taxable value of the land based on the actual value of the water conservation efforts.
- ★ The state should not continue to expand eligibility for tax breaks that ultimately decrease the amount of tax revenue available for schools, health care, and other services, and may result in increased taxes for those who do not receive the tax break.

Proposition No. 9 (S.J.R. No. 9)

The constitutional amendment authorizing the governor to grant a pardon to a person who successfully completes a term of deferred adjudication community supervision.

Background: The Texas Constitution currently authorizes the governor, after conviction, to grant reprieves, commutations of punishments, and pardons if recommended by the Texas Board of Pardons and Paroles. The governor does not have the authority to grant a pardon if a person pleads guilty or no contest and successfully completes a term of deferred adjudication community supervision because no conviction results in such a case. A

benefit of a pardon is the expunction of certain related criminal history information so that the public does not have access to it. This constitutional amendment would authorize the governor, on the recommendation of the Texas Board of Pardons and Paroles, to grant a pardon to a person after successful completion of a term of deferred adjudication community supervision.

Argument For:

- ★ A person who is actually convicted of certain crimes may seek the benefit of a pardon and a person who is not convicted because the person successfully completes the terms of deferred adjudication should have the same opportunity. This current situation results in unfair discrimination.

Argument Against:

- ★ This amendment may deny to the public, press, potential employers, and others relevant information when checking the background of a person who was charged with a crime.

Proposition No. 10 (S.J.R. No. 37)

The constitutional amendment to change the length of the unexpired term that causes the automatic resignation of certain elected county or district officeholders if they become candidates for another office.

Background: The Texas Constitution currently includes a provision referred to as "resign to run." It provides that certain elected county and district officers automatically resign their offices if they become candidates for other offices at a time when there is more than one year remaining in their current terms of office. The constitution provides that automatic resignation applies to district clerks; county clerks; county judges; judges of the county courts at law, county criminal courts, county probate courts and county domestic relations courts; county treasurers; criminal district attorneys; county surveyors; county commissioners; justices of the peace; sheriffs; assessors and collectors of taxes; district attorneys; county attorneys; public weighers; and constables. This amendment would increase by 30 days the length of the relevant unexpired term that would trigger this provision.

Argument For:

- ★ This amendment is needed to reconcile the resign-to-run provision with the new filing deadline for candidates that has been moved up due to the state's compliance with the federal MOVE (Military and Overseas Voter Empowerment) Act.

Argument Against:

- ★ Elected officials should not be distracted by or neglect their current duties because of aspirations for higher office and should resign if they choose to pursue other offices at any time during their unexpired terms. Instead of relaxing this requirement, Texans should expand the resign-to-run provision to cover all elected officials.

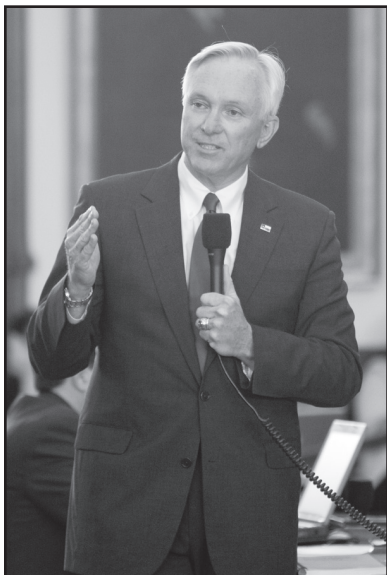


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82ND LEGISLATURE

SENATE DISTRICT 5

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