

Texas Construction Association

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CONSTITUTIONAL AMENDMENTS ON NOVEMBER GENERAL ELECTION

BALLOT. In odd-numbered years, the November General Election ballot is usually devoid of candidates seeking office. Instead, this is the usual election date for proposed constitutional amendments passed in the prior legislative session. This year 11 propositions are on the ballot for consideration. Subjects on the ballot include property tax appraisal changes, creation of a national research university fund, issuance of bonds by the Veteran's Land Board, contributions by the state to help establish a veteran's hospitals in the state and a proposition relating to the eminent domain powers of governmental entities.

Election day is Tuesday, November 3. Early voting began on Monday, October 19 and continues until Friday, October 30

Possibly the most controversial amendment is Proposition 2, which would require local appraisal districts to appraise a residential homestead solely at its value as a residential homestead and not at its "highest and best use". When a home is located near a commercial development and would have a higher value if appraised for commercial purposes rather than its actual current use as a residential homestead, it can currently be appraised at the higher amount. Proposition 2 would prohibit using "highest and best use" as the standard for appraisal. It is neither the intent nor would it be the effect of this proposition to create a new statewide property tax.

For an in-depth analysis of all the propositions, go to www.hro.state.tx.us. On the home page hit the link "New Reports" and on that page hit "Constitutional Amendments Proposed for 2009 Ballot". Each proposition is described below.

Listing of Propositions on the 2009 Ballot:

Proposition 1: 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.

Prop 1 would allow cities and counties to prevent or limit development of the area surrounding a military installation by issuing bonds or notes to raise the funds to purchase that land or to build roads and utilities that divert the development in those areas. Since the land purchased by the city or county would be publicly owned and could no longer be taxed, Prop 1 could result in an increase in property tax.

Proposition 2: 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.

The Texas Constitution requires property to be taxed in proportion to its value. Prop 2 would require that the taxable value of a residence be determined by its current use as a homestead regardless of whether that is the "highest and best use" of the property.

Proposition 3: The constitutional amendment providing for uniform standards and procedures for the appraisal of property for ad valorem tax purposes.

The Texas Constitution requires that the administration and enforcement of the appraisal of property for its tax value must originate in the county where the tax is imposed. Prop 3 would remove that requirement and allow direct state enforcement and oversight of local appraisal processes. Currently, the Comptroller's Office provides training to appraisers for state standards and practices, and also provides an annual property tax study to compare state property tax value findings with local appraisal district findings.

Proposition 4: 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.

Texas has three tier-one research universities, a status associated with high-performing research universities. Prop 4 would establish the National Research University Fund to provide a dedicated and independent source of funding for emerging universities to achieve national prominence as major research universities. Eligibility to receive funding would be established by the Legislature, and universities could use the fund only to promote increased research capacity.

Proposition 5: 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.

The Texas Constitution requires that there be a single appraisal review board for each entity that appraises property for its tax value. Prop 5 would allow two or more adjoining appraisal districts to form a single consolidated board for appraisal reviews.

Proposition 6: The constitutional amendment authorizing the Veterans' Land Board to issue general obligation bonds in amounts equal to or less than amounts previously authorized.

Currently, bonds backed by the state for the purpose of financing housing and land-purchase loans for Texas veterans are administered through the General Land Office and are repaid at a lower interest rate. Prop 6 would require that the principal amount of these outstanding bonds not exceed the amount of previously authorized bonds, however these bonds would not be included in the calculation used to determine the state debt limit.

Proposition 7: 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.

The Texas Constitution allows a civil official to hold only certain dual paid civil offices concurrently. Prop 7 would add Texas State Guard and other military forces to that list of offices that one can hold while performing another office.

Proposition 8: The constitutional amendment authorizing the state to contribute money, property and other resources for the establishment, maintenance, and operation of veteran's hospitals in the state.

This constitutional amendment would ensure that the state could contribute to a federal initiative to build, operate, and maintain veteran's hospitals in the state. Such contributions are currently allowed by enactment of specific legislative statutes.

Proposition 9: 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.

The Texas Constitution grants unrestricted access to state-owned beaches and a right to use all public beaches. It prohibits construction that restricts free access and use to public beach easement. Prop 9 would provide permanent public easement in the event of shifting boundaries and vegetation lines due to erosion, storms, or construction of seawalls, however it does not create a private right of enforcement.

Proposition 10: The constitutional amendment to provide that elected members of the governing boards of emergency services districts may serve terms not to exceed four years. The Texas Constitution currently limits all emergency service commissioners to two-year terms. Prop 10 would allow members of the governing board of emergency services districts to serve terms of up to four years.

Proposition 11: 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.

The Texas Constitution currently grants governments, special districts, and some private entities that serve public functions the authority to take, damage or destroy a person's property for the purpose of public use *only* if adequate compensation has been given to the owner or if the owner has given consent. Prop 11 would grant this power of eminent domain only by a two-thirds vote of all the members elected to each house, and it would restrict this authority for ownership and use by state or local government, the public at large, or in cases of the elimination of urban blight. It would not include the taking of property for the purpose of economic development or enhancement of tax revenues.