



Voting Recommendations for 2009 Texas Constitutional Amendments

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.”

Recommended Vote: No

Reasoning: The language of this amendment is so vague that it will allow cities and counties to enlarge infrastructure, increase the use of eminent domain, and thus elevate property taxes under the laudable excuse of helping military bases. Municipalities already have the right to use eminent domain, but this amendment would authorize them to finance an expanded use of that power. While the stated purpose of this amendment is laudable, the potential for abuse and misuse is too great.

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.”

Recommended Vote: Yes

Reasoning: Currently, residential property is taxed on its “highest and best use,” thus allowing excessive property taxation by taxing residential property as if it were commercial property. According to the Texas House Select Committee on Property Tax Relief and Appraisal Reform, “appraisal values increased from 200-400% in one year as a result of the ‘highest and best use’ standard.” This amendment helps provide a limit on property tax appraisal hikes by ensuring that residential homes are appraised at a residential rather than a commercial value.

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

Recommended Vote: Yes

Reasoning: This amendment provides for equal treatment among Texans, ensuring that property tax appraisals will be calculated by uniform

standards and methods, thus reducing bias and manipulation in appraisals. Local decision-making on this tax issue will be eliminated by this amendment, but on this issue, equal treatment of all citizens under the law is a more fundamental and compelling principle than that of local controls.

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.”

Recommended Vote: NO

Reasoning: This amendment will increase spending on non-essential government services at a time when the economy is poor and there is a likelihood of a deficit in the coming legislative session. This is the wrong time for increased spending on non-essential governmental services; current educational resources should be focused on student education rather than research expansion. Furthermore, free enterprise already provides extensive and productive private research whereas government funded research often results in questionable projects and endeavors that would never withstand free-market scrutiny or competition.

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.

Recommended Vote: Yes

Reasoning: This amendment will help reduce government duplication and redundancy. Since rural counties with small populations often have a limited pool of qualified persons to serve on appraisal review boards, this consolidation will make it more likely that review boards will be staffed with competent and qualified personnel.

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.”

Recommended Vote: No strong recommendation; weak NO

Reasoning:

The Veterans’ Land Board (composed of both elected and appointed officials) has been one government agency with a record of efficient operation. Currently, the Board must seek legislative approval every two years in order to issue low risk bonds, but this amendment will eliminate

that bi-annual requirement. Based on the positive record of this Board, this amendment *might* possibly increase government operating efficiency. But on the other hand, for a board to seek a bi-annual legislative approval helps ensure accountability and maintains checks and balances, therefore remaining a sound principle of governance.

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.”

Recommended Vote: Yes

Reasoning: From the time of the Founding Fathers, state elected officials have been allowed to serve in state militaries (e.g., Samuel Adams and Patrick Henry). While this practice is not permitted on the federal level (the Constitution separates the civil authority from the military authority, and federal law reinforces that separation of power), it has been traditional at the state level. This amendment will permit Texas civil officials who wish to do so to also serve in the Texas State Guard.

Proposition 8: “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.”

Recommended Vote: No

Reasoning: Veterans hospitals and veterans benefits are services provided by the national military and are under the direct supervision of the national Congress (a fact made clear by George Washington in his letter resigning from the Continental Army at the end of the American Revolution). While there is currently a proper resistance to federal intrusion into state powers, the issue of veterans is one that constitutionally should be maintained at the federal rather than the state level. Veterans do need excellent services and facilities, but it is the responsibility of the federal and not the state governments to provide the necessary excellence in this area. Opposing this amendment preserves the constitutional separation of powers between the federal and the state levels.

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.”

Recommended Vote: No

Reasoning: Constitutionally requiring that there must be public access to these beaches infringes the private property rights of those owning property along those beaches. The Open Beaches Act of 1959 already provides protections for easements along those beaches. This is an expansion of government power that infringes on private property rights.

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.”

Recommended Vote: NO

Reasoning: Currently, Emergency Service Districts have great powers, including the power to levy taxes, and board members serve two year terms. Lengthening these terms would reduce public oversight over these board members and their extensive powers. These board members should be as accountable to voters as are members of the Texas and the U. S. House of Representatives and therefore should face elections every two rather than every 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.”

Recommended Vote: YES

Reasoning: In 2005, the U. S. Supreme Court’s *Kelo* decision wrongly allowed cities to depart from the tradition exercise of eminent domain for “public use” (i.e., to obtain private property for the construction of schools, bridges, roads, etc.) and instead to apply an expansive “public purpose” measurement whereby cities could seize private property and turn it over to economic developers who would generate increased tax revenue for cities. However, the Supreme Court did note that state legislatures could limit this power by defining “public use”; this amendment properly narrows the definition, thereby better protecting private property rights.