

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86/2

811 SCOM127: INT. COMM. CONSTITUTIONAL CONVENTION 1979-80

defines separate and community property in terms of both spouses. Permits the spouses by written agreement to change community property into separate property and to create a right of survivorship in community property.

terms of the wife. No provision for creation of right of survivorship.

10. Protects the homestead from forced sale. Defines rural and urban homesteads and residential and nonresidential homesteads. Permits the legislature to increase the value of the urban homestead. Permits liens on nonresidential homestead.

Similar provisions providing protection from forced sale with the same exceptions. Does not permit liens on homestead nor authorize legislature to increase value of urban homestead.

11. Requires the legislature to exempt certain items of personal property from forced sale by creditors.

Similar provision.

12. Prohibits the garnishment of current wages.

Same as 1976 revision.

13. Requires that private corporations be created under general laws.

Same as 1976 revision.

14. Prohibits foreign banks and branch banking by banks in Texas. Requires the legislature to regulate bank holding companies.

Similar provisions concerning foreign banks and branch banking. No provision on bank holding companies.

15. Preserves the system of local option elections for the prohibition or sale of

Similar provision.

alcoholic beverages in a county, justice precinct, or municipality.

16. Requires the legislature to set qualifications for the practice of medicine, but stipulates that no preferential treatment may be given to any school of medicine.

Similar provision.

17. Requires the legislature to prohibit lotteries but permits bingo and raffles conducted by nonprofit charitable organizations if the proceeds are used in this state solely for charitable purposes.

Similar provision requiring the legislature to prohibit lotteries, but does not permit bingo and raffles.

18. Grants lien to mechanics, artisans, and materialmen for materials and labor.

Similar provision.

19. Provides retirement, disability, and death benefit programs for teachers and other public employees and officers.

Similar provision.

20. Prohibits discrimination against handicapped persons.

No similar provision.

21. Establishes a goal of adequate health care for every resident as state policy.

No similar provision.

ARTICLE XI

COMPARISON OF PROVISIONS ON MODE OF AMENDING THE CONSTITUTION

Proposed 1976 Revision	ION	Present Constitution	TUTION
1. Establishes a procedure for constitutional amendments requiring a two-thirds vote of each house of the legislature and majority approval by the voters. Amendments limited to an article or less. Proposed amendments to be publicized as provided by law.		<i>Similar provision, except there is no limitation to an article or less. Manner of publicizing proposed amendments specified.</i>	
2. Allows the legislature to submit to the people the question of whether to call a limited or unlimited constitutional convention upon a two-thirds vote of the membership of each house. Proposals submitted by the convention must be approved by a two-thirds vote of its membership.		<i>No similar provision.</i>	
3. Requires that the question of whether to call a constitutional convention be submitted to the voters at least once every 30 years.		<i>No similar provision.</i>	

V.

**SAMPLE BALLOT FOR THE
NOVEMBER 4, 1975 ELECTION
ON THE
PROPOSED REVISION OF THE
TEXAS CONSTITUTION**

ELECTION ON PROPOSED
REVISION OF THE CONSTITUTION OF TEXAS

_____, County, Texas

November 4, 1975

NO. 0080

_____, County, Texas

November 4, 1975

OFFICIAL BALLOT

INSTRUCTION NOTE: Place an "X" in the square beside the statement indicating the way you wish to vote.

PROPOSITION NO. 1

The constitutional amendment revising the SEPARATION OF POWERS, LEGISLATIVE, AND EXECUTIVE PROVISIONS of the Texas Constitution.

- ☐ FOR
☐ AGAINST

PROPOSITION NO. 2

The constitutional amendment revising the JUDICIARY PROVISIONS of the Texas Constitution.

- ☐ FOR
☐ AGAINST

PROPOSITION NO. 3

The constitutional amendment revising the VOTING AND ELECTION PROVISIONS of the Texas Constitution.

- ☐ FOR
☐ AGAINST

PROPOSITION NO. 4

The constitutional amendment revising the EDUCATION PROVISIONS of the Texas Constitution.

- ☐ FOR
☐ AGAINST

PROPOSITION NO. 5

The constitutional amendment revising the FINANCE PROVISIONS of the Texas Constitution.

- ☐ FOR
☐ AGAINST

PROPOSITION NO. 6

The constitutional amendment revising the LOCAL GOVERNMENT PROVISIONS of the Texas Constitution.

- ☐ FOR
☐ AGAINST

PROPOSITION NO. 7

The constitutional amendment revising the GENERAL PROVISIONS of the Texas Constitution.

- ☐ FOR
☐ AGAINST

PROPOSITION NO. 8

The constitutional amendment revising the MODE OF AMENDING PROVISIONS of the Texas Constitution.

- ☐ FOR
☐ AGAINST

IMPLEMENTATION SCHEDULE FOR AMENDMENTS ADOPTED

BY THE VOTERS ON NOVEMBER 4, 1975

The articles of the proposed revision of the constitution become effective on the following dates:

Article II, Separation of Powers – January 1, 1976

Article III, Legislative – January 1, 1976

Article IV, Executive – January 1, 1976

Article V, Judiciary – September 1, 1976

Article VI, Voter Qualifications and Elections – September 1, 1976

Article VII, Education – September 1, 1976

Article VIII, Finance – September 1, 1976

Article IX, Local Government – September 1, 1976

Article X, General Provisions – September 1, 1976

Article XI [XVII] Mode of Amending – September 1, 1976

If Proposition No. 1, revising the Separation of Powers, Legislative, and Executive provisions of the constitution is adopted alone or with other propositions, the legislature will convene in a regular 90 day session on the first Monday in January, 1976, for the limited purpose of implementing the adopted amendments and items submitted by the governor.

If Proposition No. 1 is not adopted but any of the following propositions is adopted, the governor is mandated to call the legislature into special session prior to July 1, 1976 for implementing (as determined by the governor) the revised articles:

Proposition No. 2 – Article V, Judiciary

Proposition No. 4 – Article VII, Education

Proposition No. 5 – Article VIII, Finance

Proposition No. 6 – Article IX, Local Government

Proposition No. 7 – Article X, General Provisions

Several provisions of the proposed revision of the constitution take effect at specified dates after September 1, 1976. These are:

Article III, Section 5. Legislative Redistricting – January 1, 1981 (after the next federal decennial census)

Article VII, Section 9. Higher Education Fund for Texas and Bonds and Notes – January 1, 1979 (at the conclusion of the current 10 year phase of constitutional funding for colleges and universities covered by the new fund)

Article VIII, Section 2(b) & (c). Uniform Standardization of Ad Valorem Appraisal – January 1, 1978 (to allow time for the passage of implementing legislation and adjustment to the new single appraisal concept)

Article VIII, Section 6(c). Authority and Duties of District Court in Tax Cases – January 1, 1979 (to allow time for the passage of appropriate legislation)

**Office of Constitutional Research
Texas Legislative Council**

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TEXAS ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

The Texas Advisory Commission on Intergovernmental Relations was created by the Texas Legislature to improve coordination and cooperation between the state and its local governments and between the state and the federal government by providing continuing research, information, and advisory services to public officials and citizens of the state. The Commission's membership, which includes private citizens, is broadly representative of every level of government in Texas -- state, local, and federal.

AMENDING THE TEXAS CONSTITUTION: 1951-1972

Janice C. May

TEXAS ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Austin: 1972

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The preparation of this report was financially aided through a grant from the Department of Housing and Urban Development authorized by Section 701 of the Housing Act of 1954, as amended.

FOREWORD

Adopted almost a century ago, the Texas Constitution has had to change over time to meet the needs of a growing state. The manner of its development has influenced profoundly the shape of the present document. Whereas the United States Constitution has developed through judicial interpretation, the Texas Constitution has developed through amendment. Thus, the Texas Constitution is extraordinarily long, for it has been amended many times.

What are the causes and consequences of the need for frequent amendment? The question has been asked many times. In an attempt to find answers, the Texas Advisory Commission on Intergovernmental Relations requested this study as a part of its continuing constitutional studies program. The Commission always has recognized the significance of the Constitution for efficient and effective government. Prepared by Dr. Janice C. May, Assistant Professor of Government, The University of Texas at Austin, the study examines the amending process from 1951 to 1972. These years provide the best basis for assessing the impact of the amending process on modern Texas.

While the Commission is pleased to make the study available, the conclusions and opinions expressed therein do not represent any official position of the Commission or its members. They are the author's responsibility.

Austin, Texas
December, 1972

Tom J. Vandergriff
Chairman

PREFACE

It has been my privilege to write this technical report on amending the Texas Constitution at the request of the Texas Advisory Commission on Intergovernmental Relations.

I am particularly indebted to Professor John E. Bebout for his wise counsel and warm encouragement in the preparation of the manuscript and on so many other occasions. My appreciation goes to James F. Ray, Executive Director, and all the members of the staff of the Texas Advisory Commission on Intergovernmental Relations who facilitated the completion of the report and especially to Philip W. Barnes, Research Director, for his valuable suggestions and other assistance.

A special note of thanks is due my husband, Francis B. May, who helped with matters statistical. Any errors are mine.

Janice C. May

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SUMMARY

The Texas Constitution, the sixth longest in the United States, has been amended 212 times since it was adopted in 1876, almost one hundred years ago. From 1951 to 1972 it was amended 105 times; and if the trend continues, 345 amendments will have been added to the Constitution by the year 2001.

Why are there so many amendments? What are the consequences, including the costs, of the amendments and their frequency for Texas state and local governments -- their relations with one another and with the national government, and their capacity to serve the people of Texas? How do voters react to the constant trips to the polls and the long ballot? Were all the 212 amendments really necessary? Must we go on like this, amendment by amendment by amendment?

This research was undertaken to answer these and related questions about the Texas amendment process. Special emphasis has been given to the causes and consequences of amendments as they concern intergovernmental relations in Texas because the Texas Constitution is essentially an intergovernmental document. It provides the basic framework for the state government and its relations with all political subdivisions -- municipalities, counties, school districts and other special districts. It is also the state's basic law governing the relations among the state, local and national governments in the pursuit of common goals.

The research on which this report is based consisted of an analysis of the 131 amendments proposed and the 94 amendments adopted at 19 elections from 1951 to 1971 inclusive. The 14 amendments submitted to the voters at the November 1972 election, of which 11 were approved, are included also in selected portions of the report.

The 1951 to 1971-72 time period selected for the research proved to be a felicitous choice. As the most recent period in Texas history it is no doubt the best indicator of future trends. Moreover, the amendments proposed and ratified represented close to half of all such amendments since 1876. The 131 amendments proposed accounted for 40 percent of all those proposed; the 94 amendments approved, 47 percent of all ratified; and the 37 amendments defeated, 32 percent of all amendments rejected by the voters over the years.

The report was designed to be the beginning of a more systematic approach to the study of Texas amendments. Various statistical techniques, including correlation analysis and extrapolation, were applied to this end. The report was inspired by the thought that a careful, systematic study of the amendments might be the key to an understanding of the real nature of the Texas Constitution and its impact upon Texas.

The research project was divided into three parts, each intended to reveal certain basic dimensions about constitutional amendments, and their causes and consequences.

Classification of Amendments

The first section of the report is devoted to a classification of all amendments proposed during the 21-year period, including the 14 submitted to the voters in 1972. The initial classification consisted of the number of times each of the 17 articles of the Texas Constitution had been the target of proposed amendments. The purpose was to determine the articles generating the most amendments. The principal finding was that three articles were most subject to amendment, to wit: the legislative article (III) with 67 proposed amendments; the general provisions article (XVI) with 27 proposed amendments; and the article on taxation and revenue (VIII) with 15 proposed amendments.

The amendments were then classified by the causes or reasons for their submission, certain suggestive patterns having emerged from the initial classification. In order of relative importance as determined by the number of times amendments were proposed in a given category, 95 amendments were submitted in order to evade the Constitution's restrictions on state and local finance; 85 were proposed to amend earlier amendments; 46 were designed to overcome limitations on local governments; 28 were proposed in an effort to override an electoral defeat by the voters; 21 were responses to the national government; and 12 were proposed to accommodate decisions of Texas courts and the opinions of Texas Attorneys General.

An analysis of the more fundamental reasons underlying the submission of the numerous amendments concludes the first section. The analysis emphasizes the impact on intergovernmental relations of changes to an urban, industrialized society and the need for constant amendment of a rural-oriented Constitution to keep abreast of these developments.

Costs of Amendments

The second section of the research report consists of a largely original study of the costs incurred in holding elections on amendments. Costs are obvious consequences of the amendment process as it is practiced in Texas. It is important for the people of Texas to know how much in dollars and cents they pay as taxpayers for frequent amendment of the Constitution.

Two kinds of costs were analyzed. The first were expenditures of the state government for the purpose of publicizing amendments. The Constitution directs that the text of proposed amendments be published

in newspapers prior to each election).^{*} The second were the expenditures of county governments for holding elections on amendments.

Adding together the two items of expenditures yielded an estimate of the total costs of amendments to state and local governments over the 21-year period of approximately \$9 million. This amounts to about \$48,700 for each of the 131 proposed amendments and \$95,700 for each of the 94 ratified amendments.

Voters and Elections

Under the Texas system of self-government, the people must ultimately resolve basic constitutional questions at the ballot box. The Texas Constitution cannot be formally amended without the consent of the voters. The third part of the research project sought to answer questions about the fundamental relationship between the voters and the Constitution. In terms of causes and consequences of the amendment process, the relationship is very important. Support for the Texas constitutional system can be gauged to some extent by the degree of voter participation. The costs to the voters of time, energy, and thought resulting from a long ballot and many elections are important.

The results were based on election data never before collected. The most important discovery was that a minority, often a very small minority, of the Texas electorate votes on constitutional amendments. Amendments trail the presidential vote in presidential elections and the gubernatorial vote in the off-year by hundreds of thousands, sometimes almost a million votes. Moreover, the percentage of the electorate voting on constitutional amendments at special elections is even lower. As might be expected, the lowest voter participation in an election occurs when an amendment affects only one local area, such as an amendment creating or abolishing a hospital district for a single county.

Another very important finding was that 72 percent of all amendments submitted were approved by the voters over the 21-year period but that the approval rate at general elections was 30 percent higher than at special elections. Patterns of defeat and victory among the amendments were investigated as were many other questions of voter participation, including the effect of the number of amendments or the long ballot on voter participation.

Conclusions and Recommendations

In the fourth and closing section of the report, conclusions are drawn and recommendations made based on the research findings. The need

^{*}Amendment Number 10 approved by the voters at the November 1972 election changes the procedure for publicizing amendments.

for and the timeliness of a new approach to constitutional change are emphasized. Strongly recommended is comprehensive revision of the entire Texas Constitution or at a minimum, selective revision in an orderly fashion of key articles concerned with intergovernmental relations, primarily those affecting state and local governmental fiscal capacity and the powers of the Texas Legislature. These were the provisions causing the most amendments.

CLASSIFICATION OF AMENDMENTS

Amendments were classified in a great variety of ways. The classifications were used to answer several questions. The two most important were first, what provisions of the Texas Constitution accounted for the most amendments? Second, what were the reasons for the amendments?

Classification by Constitutional Article

The target of most of the amendments by far was the Legislative Article (III). Of the 145 amendments submitted, 67 concerned Article III in whole or in part. Of the 105 amendments passed, 47 also concerned this provision of the Constitution. One reason for the popularity of the Legislative Article as a subject of amendment is that it contains much more than one would expect from its title. In addition to legislative structure, procedures and basic powers and limitations, there are numerous substantive sections on subjects such as education, local government, rural fire prevention districts, welfare and the like. The dubious honor of breeding the most amendments from 1951-1972 goes to Section 51 of Article III. Some 20 amendments were proposed to this section and 16 passed.

The constitutional article attracting the next most attention is General Provisions (Article XVI). Many unrelated topics are included therein, such as liquor by the drink, county retirement plans, pensions for Texas Rangers, jury service for women, oaths of office, and loan shark regulation, among others. This article attracted 27 of the 145 amendments submitted; 19 of them were ratified.

As the table on the following page indicates, the remaining articles have not attracted as many amendments. Article VIII on Taxation and Revenue has been the subject of 15 proposed amendments, while Article IX on Counties has been the subject of 13. Others include: Article VII, Education, with ten proposed amendments; Article VI, Suffrage, and Article V, Judiciary, each with five; Article IV, Executive, with four; Article I, Bill of Rights, and Article XVII, the amending article, each with three. All other articles have each been the subject of one proposed amendment, except Article XV, Impeachment. The Impeachment article was untouched over the 21-year period. Article XIII, Spanish and Mexican Land Titles, was eliminated by its only amendment.

Classification by Reasons for Amendment

The classification by number of times each article has been amended shows clearly that the legislative article and the articles on counties and general provisions have prompted the largest number of amendments

TABLE I
PROPOSED AMENDMENTS TO THE TEXAS CONSTITUTION,
1951-1972: BY ARTICLE

Article	Number of Proposed Amendments	Number Approved
I. Bill of Rights	3	3
II. The Powers of Government	1	0
III. Legislative Department	67	47
IV. Executive Department	4	2
V. Judicial Department	5	5
VI. Suffrage	5	4
VII. Education	10	9
VIII. Taxation and Revenue	15	9
IX. Counties	13	12
X. Railroads	1	1
XI. Municipal Corporation	1	1
XII. Private Corporations	1	1
XIII. Spanish and Mexican Land Titles	1	1
XIV. Public Lands and Land Office	1	1
XV. Impeachment	0	0
XVI. General Provisions	27	19
XVII. Mode of Amending the Constitution of this State	3	3
TOTALS	158*	118*

*The actual numbers of amendments submitted and approved are 145 and 105, respectively. The totals here are larger because individual amendments occasionally affected more than one article.

submitted over the 21-year period. Certain subject areas of these articles obviously have required more attention than others. By identifying these subject areas we are on the road toward discovering reasons for the amendments.

(1) To Evade Financial Restrictions

A special tally was taken of amendments concerned with government finance with dramatic results, among the most significant in the entire research project. Considering provisions dealing with spending, taxing, borrowing and debt, and fiscal administration, including constitutional funds, we find that 98, or about two-thirds, of the 145 amendments submitted concerned finance; 72 percent were passed.

Of the finance amendments, 68 concerned state and 30 local finance. The largest state category consisted of the constitutional funds, which were categorized separately even though they could well be included with the spending, taxing and borrowing provisions as well as fiscal administration. There were 13 funds either established or amended during the 20-year period of the study. They are as follows:

- Permanent University Fund
- State Medical Education Fund
- Teachers Retirement System
- State Retirement, Disability and Death Compensation Fund
- College Building Fund
- Veterans Land Fund
- Texas Water Development Fund
- Permanent School Fund
- Available School Fund
- State Park Development Fund
- Texas Opportunity Plan for Students
- Confederate Pension Fund
- State Building Fund

The importance of these funds is well illustrated by the fact that 29 amendments were proposed in relation to them. All have been subject to amendment during the past 21 years, and five were created during this period, some requiring hundreds of words. In addition, there were other earmarked funds for purposes such as payments to survivors of state officers killed in the line of duty and medical assistance to certain law enforcement personnel.

Of local finance amendments, 12 involved taxation; 9 were approved.

The large number of finance-related amendments stems from the restrictiveness of the Texas Constitution. For one thing, the 1876 Constitution flatly prohibited debt except for defense and related matters and casual deficiencies up to \$200,000. This unrealistic approach to government finance has been evaded by constitutional amendments authorizing

debt for specific purposes. In addition, the section prohibiting the lending of credit to individuals, associations or corporations has been the subject of even more amendments.

Inextricably joined with debt are provisions on spending, and they have been the biggest problem of all. In addition to the normal safeguards against unauthorized spending, the Texas Constitution prohibits grants of public money. Section 51 of Article III, the section breeding the most amendments, prohibits the state from grants of public moneys "to any individual, association of individuals, municipal or other corporation whatsoever." Section 52 extends the prohibition to all local governments. The section has been amended often because such prohibitions are unworkable. Grants of public money are essential to the business of modern state government.

Welfare spending has been a consistent begetter of amendments; some 13 have been proposed and 10 ratified from 1951-1972. In addition to dollar limits on the welfare programs, the Texas Constitution at great length also delineates the kinds of programs authorized, eligibility for assistance, division of the available funds, and many other details that demand constant attention, often by federal mandate or in order to take advantage of federal programs.

The constitutional cross borne by local governments in fiscaldom has involved primarily taxation, although spending and borrowing are also affected; in fact, all are related. Constitutional restrictions on the authority of local governments to incur bonded indebtedness for water and road programs have created through amendments some of the most confusing sections of the Constitution. Similarly, local government financial limitations encourage the creation of hospital and other special districts. The number of hospital district amendments alone attests to the importance of finance as a breeder of amendments.

(2) To Amend Amendments

In terms of sheer numbers, the second most important reason for amendments has been amendments to amendments. This is a question of mode or method of constitutional change as well as substance; but method is important in understanding why the Texas Constitution is so long. Quite obviously, the tradition has been to patch, rather than to revise in a comprehensive and orderly fashion.

Eighty-five of the 145 amendments were changes in amendments already passed, many of them originally passed during the 1951-1972 period. This means that not only is the 1876 Constitution requiring amendment, but the amendments themselves must be changed. Of the 85 proposed amendments, 63 or 74 percent passed.

What requires so much tinkering? Once again, finances dominate the picture. Of the 85 amendments in question, 64 concerned finance.

Of these, 17 dealt with constitutional funds, 13 with welfare expenditures, 11 retirement programs, 7 education funds, 8 legislative salaries, and 6 veterans' land programs. (There is deliberate overlapping in some of these categories.)

The numerous amendments are understandable. If specific interest rates are to be set in the Constitution, specific investment portfolios, the specific apportionment of funds among programs, the specific amount of borrowing authority, and so on, obviously changes will have to continually be made to keep abreast of changing market and general economic conditions.

But another reason for continual amending of amendments is that many amendments simply are poorly drafted and have to be changed. It is not uncommon for the Legislature to fail to foresee the consequences of a given amendment on other related provisions of the Constitution, necessitating housekeeping amendments.

Among the amendments to amendments proposed for those purposes are the following, each described briefly below: (1) rural fire prevention amendment of 1951; (2) oaths of office of 1956, (3) terms of county officers, 1954 and 1958.

In 1949 the Legislature proposed and the electorate approved an amendment authorizing rural fire prevention districts, but the tax rate provided for was only three cents for each \$100 valuation and was inadequate even to purchase fire fighting equipment. In 1951 the Legislature proposed a change from three to fifty cents in the tax rate. The news commentators dubbed it the "one word amendment" for obvious reasons. Unfortunately for rural fire fighters, the amendment failed.

In 1938 an amendment was passed omitting dueling from the oath required of officials (and making other changes), but it failed to include language appropriate for appointive officials. In 1956 an amendment was proposed which amounted to a seven word change, deleting these words: "the elect at which I was elected."

In 1954 an amendment changing the terms of county and district officers from two to four years was adopted by the voters. Unforeseen consequences soon dictated amendments to the amendment. At the 1958 election two amendments were submitted. One dealt with vacancies in the offices of county judge and justices of the peace; it simply deleted three words, namely, "for such office," so that the County Commissioners Court would not be able to fill vacancies for more than a relatively short period of time rather than for almost an entire four year period. Also, county officials running for another elective office were required to resign when more than one year of their term remained unserved.

Finally, many of the amendments are designed to expand a good thing. That is, an amendment limited to one county or group of counties or to any limited area, office or subject, is amended in order to expand

coverage. Possibly as many as 70 amendments could qualify in some manner under this rubric. Among many examples, the hospital district story is a good place to begin. Eight amendments have concerned these districts. After the voters turned down an amendment authorizing the Legislature to create hospital districts on a general basis, specific amendments were proposed authorizing districts in given areas until a comprehensive amendment was passed. Another example of extending a good thing is the 1970 amendment to the judicial article. A 1965 amendment established the Judicial Qualifications Commission and adopted new provisions on judicial removal, resignation, discipline, and retirement. Applicable originally only to district and appellate courts, it was extended to all courts by an amendment passed in 1970.

Workmen's compensation for government employees was first provided for state employees by a 1936 amendment; in 1948 it was extended to county employees; in 1952 to employees of municipalities; and finally in 1962 to all political subdivisions.

Provisions for retirement systems for government employees began in 1936 with the Teacher Retirement System. This was followed in 1946 by a system for appointive state employees and county employees. In 1948 a judicial retirement system was begun; in 1954 an exchange of credits from the teachers' to the State Employees' System was authorized; further changes in teachers' retirement occurred in 1957. In 1957 a retirement system for elected state officers and employees was instituted. Then the system was extended to employees of all political subdivisions. Had the original amendment authorized the Legislature to create retirement systems with or without a referendum, the remaining amendments would all have been avoided.

Finally, we might mention the three amendments pertaining to the consolidation of county offices and functions and authority to make intergovernmental contracts. The first amendment applied in effect only to Harris County by population bracket; the second specifically applied only to El Paso and Tarrant Counties; and the third amendment finally got around to all counties although it was originally introduced in the Legislature for Bexar County only.

What we have seen in this last series of amendments is piecemeal or incremental change. This method of constitutional revision is characteristic of the Texas constitutional amendment process, perhaps its most important feature.

(3) To Overcome Limitations on Local Government

A special tally was also taken of local government amendment in the hope that this would shed some light on the impact of the amendment process on intergovernmental relations in Texas. It is significant that over 30 percent of the amendments submitted to the electorate (46 of the 145) directly concerned local government: counties, municipalities,

special districts, school districts, or simply all political subdivisions. The approval rate was 78 percent.

The distribution of the amendments by the unit of government concerned is revealing:

- counties (23)
- municipalities (5)
- special districts (14)
- school districts (3)
- "all political subdivisions" (5)

The fact that counties led in number of amendments can be explained by the numerous restrictions imposed by the Constitution upon this unit of government. These restrictions require relatively frequent constitutional change. This is in sharp contrast to the few amendments dealing solely or mainly with municipalities. The widely heralded Home Rule amendment for municipalities undoubtedly is an important explanation for the difference. The large number of special district amendments is primarily due to the so-called explosion of hospital districts during the period under review, which accounted for eight of the 14. Regionalism is at work here also, not only insofar as hospital districts are concerned, but also in such matters as regional airports.

Many of the local government amendments also concerned finance. The hospital districts, for example, were not loved for their sake alone but also for their value as a means of evading rigid constitutional restrictions on taxation. Medical services could be provided by the district without increasing tax rates.

The state of Texas is responsible for its political subdivisions which are its legal creatures, but the Texas Constitution has failed to treat this important subject in a consistent manner, observing no systematic theory. Most of the local government amendments have dealt with counties and more will be necessary until the state allows the counties more freedom and flexibility in handling their affairs.

(4) To Reverse an Electoral Decision

Another significant cause of amendments has been the desire to reverse a decision by the electorate on given amendments which have been defeated at the polls. Apparently the need for these amendments is so great that the Legislature feels compelled to resubmit them, sometimes time and time again. The Legislature resubmitted, in some form or another, at least 28 amendments and probably more from periods not covered in this research project. Proposals for legislative pay led the pack, accounting for nine or one-third. Fixing the legislative salary in the Constitution causes considerable constitutional business. When the voters prefer to reject the amendments increasing compensation, the amendment business booms. Among other repeaters are the following:

county retirement (3)
welfare (3)
veterans' land program (2)
poll tax (2)
maximum interest rate on state bonds (1)
four year terms for Governor and other state executives (1)
annual legislative sessions (1)
Permanent University Fund (1)
hospital districts for any area (1)
dual office holding (3)
proposing amendments at special sessions (1)

(5) To Respond to the National Government

Twenty-one amendments can be traced directly to the influence of the national government. No doubt many others were indirectly influenced. In addition to passing amendments in order to meet federal requirements for particular programs, others were passed as a result of federal court decisions or other federal mandates. The most important single group of amendments in this regard has been the 13 welfare proposals. Four of the five suffrage amendments are also the product of federal action, in some instances in anticipation of a new federal law or an amendment to the United States Constitution. Other examples are the amendments authorizing regional airport authorities and water development programs.

(6) To Accommodate Decisions of Texas Courts and the Opinions of Texas Attorneys General

Decisions of the Texas courts and Texas Attorney General Opinions have accounted for twelve amendments, one having been the result of both a judicial decision and an Attorney General opinion. Court decisions leading to amendments have included decisions on city workmen's compensation programs, commitment of the mentally ill without a trial by jury, terms for directors of Conservation and Reclamation Districts, dual office holding, the effect of changes of boundaries of school districts on taxes and bonds, and exchange of credits between the Teacher Retirement System and the State Employee Retirement System. Attorney General Opinions have concerned such problems as eligibility of employees of political subdivisions for social security coverage, terms of directors of Conservation and Reclamation Districts, dissolution of hospital districts, mental health expenditures by political subdivisions within a hospital district, and persons entitled to state assistance when officers are killed in the line of duty. As was true of the national government, no doubt the influence of the Texas courts and the Attorney General extends way beyond the few amendments listed here. In fact, the entire amendment process is significantly affected by the traditionally cautious view taken by the judiciary and the Attorney General on the meaning of constitutional provisions, which has the effect of increasing the burden on the amendment process. That is, instead of constitutional

change proceeding by interpretation it proceeds by numerous amendments. This cautious approach is no doubt facilitated by constitutional detail and it in turn prompts more detail. The only possible result of failure to change the pattern is a longer and more complicated constitution. Georgia and Louisiana have carried this to an extreme.

An Analysis of Reasons for Amendment

Underlying the reasons given above for the amendments submitted over the past 21 years are more basic forces or conditions, including societal and political changes. These have consequences for the Texas constitutional system and explain why many of the amendments were proposed.

As Texas has become an industrialized and urban state, having the fourth largest population of any state in the Union and the largest number of metropolitan areas, demands for more governmental services and other kinds of public activity have proved overwhelming. The amendments proposed during the past 21 years provide, in fact, a panoramic view of the problems facing Texas in the 20th Century -- water development, parks and recreation, welfare, education, law enforcement, medical care, and many others.

One constitutional response has been to permit intergovernmental cooperation as a means of handling areawide problems in an urban society. The amendments authorizing counties to consolidate offices and functions and to make intergovernmental contracts, the hospital districts, the regional airport authorities, and the water development programs are all good examples of this approach. In addition, there are amendments of limited application also reflecting regionalism, such as the ill-fated attempt to allow Texarkana, Texas, to get a refund on cigarette taxes in order to compete with its neighbor Texarkana, Arkansas.

Another constitutional response has been to authorize borrowing, spending and, in a few instances, tax exemptions or tax increases.

Changes in the political system are evidenced by suffrage amendments which have expanded the base of participation in Texas politics. In addition, fundamental social changes are reflected in the amendments traceable to the civil rights revolution, such as the amendment deleting the section requiring segregation by race in the public schools, the proposed Equal Rights Amendment on the 1971 ballot, and perhaps the amendment allowing women to serve on juries in 1954.

As the national government has assumed more responsibilities for domestic concerns, it has made an imprint on the Texas Constitution, as already indicated above. Furthermore, a desire to modernize Texas state and local governments so that they can cope more effectively with modern problems has resulted in several amendments, including the five on the judicial branch; the various amendments to raise the salaries of legislators and the two proposing annual sessions; the county and special

district amendments already mentioned; and the four-year terms for state executive officials.

Finally, a word about the original Texas Constitution of 1876. The nature of this Constitution with its myriad restrictions and detail, mainly statutory, and its general tone has been the root cause of numerous amendments from 1951-1972. Despite the 212 amendments, the Constitution still maintains its original shape, creating formidable barriers to efforts to respond effectively to the pressures of modern society. The basic structure of government remains pretty much intact; the basic prohibitions on debt, spending, and taxation are all there although the amendments provide numerous exceptions; and so on. The amendments continue in the same manner as the original Constitution. So we get more of the same compounded. Finally, contributing to the need for amendments has been the generally strict construction given the Constitution by the Texas courts and Attorney General.

COSTS: THE NITTY GRITTY

One would assume that holding 19 elections in 21 years on 131 amendments would cost plenty. And it does, insofar as we can determine.

Publication Costs

The amending article of the Texas Constitution, Article XVII, requires that proposed amendments be published once a week for four weeks beginning at least three months before an election in one weekly newspaper of each county in which there is a newspaper. An amendment adopted in 1972 has changed these requirements, but whether the net cost will be less is not known. The new amendment states that amendments only have to be published twice and not in full; and all newspapers in the state qualifying for publication of legal notices would be required to publish a synopsis of the amendment. Also, the Legislature would be authorized to set the rate which the newspaper could charge, which could not be more than the newspaper's national published advertising rate per column inch. In addition, the entire text of each amendment would have to be posted at the courthouse of each county.

The cost of publishing amendments from 1951 to 1971, as required by the Constitution and statutes, amounted to \$2,491,467, or about \$19,000 an amendment. The range per amendment was from \$6,818 to \$39,500 fluctuating greatly from election to election. The costs have been rising in recent years, measured by either the cost per word or the average cost per amendment. An extrapolation to the year 2001 suggests that if nothing else changes, we can expect a publication cost per amendment of \$50,000. Multiplying this figure by 36, the number of amendments we can expect to be proposed in 2001, the total publication cost for that biennium, 2001-02, will be an awe-inspiring \$1.8 million.

Costs of Holding Elections

To the best of our knowledge, no one has attempted to find out how much it costs to hold elections for amendments in all Texas counties. In an attempt to provide reliable data on this subject, questionnaires were mailed to all counties; information was requested about the costs of the 1971 and 1969 special elections held on amendments and the 1970 general election at which amendments were submitted. Of the 254 counties, replies were returned from 145, including the big four -- Bexar, Dallas, Harris and Tarrant. The votes cast on amendments in the 145 counties represented 83 percent of all the votes in 1971; 77 percent of the votes in 1969; and 77 percent in 1970.

For the 1971 election, the cost per vote for the counties responding to the questionnaire was as follows:

Counties casting 0 - 999 votes	\$1.61
Counties casting 1,000 - 4,999 votes	1.08
Counties casting 5,000 - 14,999 votes	.99
Counties casting 15,000 - 29,999 votes	.66
Counties casting 30,000 and above votes	.55

The estimated cost for all 254 counties was \$622,228.98.*

For the 1969 election, the cost per vote for the counties responding was as follows:

Counties casting 0 - 999 votes	\$1.12
Counties casting 1,000 - 4,999 votes	.80
Counties casting 5,000 - 14,999 votes	.60
Counties casting 15,000 - 29,999 votes	.52
Counties casting 30,000 and above votes	.73

The estimated cost for all counties was \$498,052.46.**

The sharp differences in costs among the counties suggests something about the efficiency of devolving election administration upon 254 separate administrative units, some of which are extremely small.

Most constitutional amendments are submitted at general elections. It is virtually impossible to determine what percentage of the total cost can be attributed to the amendments on the ballot, but one would assume that the cost would be considerably less since it would not be necessary to crank up the entire election machinery for the amendments. The county officials receiving the questionnaire were asked to report the total cost of the 1970 General Election and then to make an estimate of the cost attributable to the amendments either by a percentage figure or in absolute dollars. The average estimate given by county officials was 18 percent of the total cost. Basing calculations

*The costs varied widely from county to county and between groups of counties. In order to make a more reliable estimate of the election costs for all counties, the 145 counties were broken down into five groups on the basis of the number of votes cast for amendments. The cost per vote for each group of counties was calculated and then multiplied by the total vote cast by all counties within each group. The product of each group of counties was then summed to get the total cost for all 254 counties.

**It should be noted that the ballots in some counties included more than constitutional amendments. Hence, the estimated cost for the special elections is not wholly accounted for by the amendments.

upon this figure, the cost of amendments in the 1970 general elections was estimated to be \$217,816.51 for all 254 counties.* The total, as anticipated, was less than that for special elections.

Combined Costs

From these figures, we can estimate that the total cost of holding the 19 elections on amendments from 1951 - 1971 was probably in the neighborhood of \$6,500,000.** This figure includes the estimates of the costs at general elections and must be accepted with caution. If this figure is coupled with the publication costs of \$2.5 million over the same period, the total direct cost to the taxpayers for holding constitutional amendment elections was \$9.0 million or \$95,744 for every amendment approved and \$68,702 for every amendment submitted at elections from 1951 - 1971.

No public expenditures in these amounts should be dismissed lightly. One must always ask the question, whatever the expenditure: Are there better ways to spend the taxpayer's dollar?

*The total cost reported by the counties replying to the questionnaire was \$936,837.05. This figure was multiplied by 18 percent, the estimate of the amount traceable to amendments. Then, the product, \$168,630.67 was divided by the total number of votes cast by the 145 counties reporting. The dividend, \$.11 was then multiplied by the total vote cast on amendments in all the counties in 1970 for the estimate of the cost of having amendments on the 1970 general election ballot.

**This assumes that the cost of a special election is about \$500,000., which is the midpoint between the 1971 and the 1969 costs, and a general election cost of \$200,000. There were nine special elections for a total of \$4,500,000 and 10 general elections for a total of \$2,000,000 giving us a grand total of \$6,500,000.

VOTERS AND ELECTIONS

Number of Amendments and Elections

Between 1951 and 1972, the Legislature submitted and the people voted in 20 elections on 145 amendments to the Texas Constitution. The voters approved 105 for an approval rate of 72 percent. The highest number of amendments confronting the voter at any one time was 16 in the 1966 general election, and the largest number approved at a single election was 15, also in 1966. Table II on page 21 lists the date of the election, the number of amendments submitted, and the number approved. Table III on page 22 lists the number of amendments submitted and approved in rank order.

Texas has the sixth longest constitution in the United States, and it will continue to get longer if past trends persist. An extrapolation based on the 1951-71 base period indicates that by the year 2001 Texas will see a constitution with 345 amendments! We can also expect about 36 amendments to be proposed by the Legislature to the voters in 2001, of which 26 are likely to be approved.

Kinds of Elections: It Makes a Difference (1951 - 1971)

One of the most significant findings of the study was that there is a decided difference between special and general elections and even between presidential and off-year general elections insofar as the fate of amendments and other amendment questions are concerned.

A total of 43 amendments was voted on at 9 special elections for an average of 4.8 amendments per elections; and 22 of these were approved for an approval rate of only 51 percent. On the other hand, a total of 88 amendments were submitted at the 10 general elections, for an average of 8.8; of these, 72 were approved for a success rate of 82 percent. In other words, there was a differential of 30 percentage points in the number of amendments approved at special and general elections.

There were also significant differences between presidential and off-year elections within the general election category. In all but one of the five presidential elections, the voters approved every single one of the amendments offered; however, the overall approval rate was 77.4 percent because in one election only 7 of 14 amendments were approved. The totals in the presidential elections were 24 approved of 31 submitted. In the five off-year elections, the success rate was higher, 84.2 percent, 48 of 57 amendments being approved; but there was only one election in which the voters approved all the amendments.

Participation of Voters

What do the voters think about voting often on numerous amendments? Although we cannot probe further without interviews and precinct and county data, aggregate election data indicate that the voters do not particularly care about amendments. At least they keep away in droves from the ballot booth.

Only about one-third of the registered voters vote on amendments. Taking all 19 elections and averaging the number of registered voters participating, only 32 percent of those registered voted on amendments. In contrast, the participation rate for voting for President or for Governor in general elections is about two-thirds (67 percent) of the registered voters.

When we distinguish between general and special elections, the turnout becomes even more startling. In special elections without the pulling power of a race for President or for Governor, the percentage of registered voters participating drops precipitously to only 16 percent. The percentage of registered voters voting for amendments at general elections is about three times as great -- 45 percent -- although this is low also. A turnout of 6.7 percent occurred in one special election.

There is also a significant difference in turnout between presidential and off-year general elections. The percentage of registered voters casting ballots for amendments in Presidential elections is 51 percent in contrast to 39 percent in the off-year general elections.

Participation rates drop virtually to the vanishing point when resident voting age population is considered; this is the usual indicator of the potential electorate. Taking the number of voters as a percentage of the voting age population yields an average participation rate of only 17 percent. In the elections studied, the participation of the voting age population ranged from 3.7 percent to 28.9 percent. It is clear that a small minority of the people of Texas vote on amendments.

With these figures in hand, one would be hard put to argue that the voters are enthusiastic about amendments or that amendments draw voters to the polls. It is much closer to the truth to say that a candidate's race pulls the voter into the ballot booth; while there he may or may not vote on the amendments. When there are no races involving candidates, then the voting for amendments is not very popular, and one can assume from the data collected that the voters who do turn out are much more suspicious of the amendments offered and are more likely to defeat them than the voters in the general election.

Popular and Unpopular Amendments

What kinds of amendments attract the most votes and the least? The voters understandably pay the most attention to controversial and more

TABLE II
THE NUMBER OF PROPOSED AND ADOPTED AMENDMENTS TO
THE TEXAS CONSTITUTION FROM 1951 TO 1972:
BY YEAR

Year	Proposed	Adopted
1951	5	1
1952	2	2
1954	11	11
1956	8	8
1956	1	1
1957	3	3
1958	9	7
1960	4	4
1962	14	10
1963	4	1
1964	3	3
1965	1	0
1965	10	5
1966	16	15
1967	6	6
1968	14	7
1969	9	4
1970	7	5
1971	4	1
1972	<u>14</u>	<u>11</u>
Totals	145	105

TABLE III
RANK ORDER OF THE NUMBER OF PROPOSED
AND ADOPTED AMENDMENTS TO THE
TEXAS CONSTITUTION: 1951-1972

Proposed		Adopted
16		15
14		11
14		11
14		10
11		8
10		7
9		7
9		6
8		5
7		5
6	Median	4
5		4
4		3
4		3
4		2
3		1
3		1
2		1
1		1
1		0

basic amendments than to those having application to only a small area; or, are of concern to only a limited number of people; or, are of a highly technical nature. An examination of the 17 amendments drawing the most votes bears out this hypothesis.* Six or about one-third of the amendments dealt with welfare issues, a controversial matter in Texas. The other popular amendments involved the following issues: women on juries; interest rates, four-year terms for Governor and other high state executive officials; liquor by the drink; the veterans' land program; and retirement. Only one concerned a local government issue, and this was on the ballot with only one other competitor. It had to do with city employee's workmen's compensation. The approval rate for these popular amendments was about 71 percent.

The least popular amendments concerned local government issues, particularly those having limited application. Why should the people of San Antonio or Muleshoe be concerned about whether the Jefferson County Drainage District Number 7 and the Port Arthur Independent School District should combine for purposes of a hospital district? In total, over two-thirds of the amendments receiving the least votes in 17 elections concerned local government; and one-third or six concerned only one or a handful of local areas. Three of the other least popular amendments involved constitutional funds; one, maximum interest rates on state bonds; one, dual office holding; one, the state building commission; and one, proposing amendments at special elections. Of these seventeen amendments, five dealt with state finance.

The unpopularity of local government amendments was investigated further. Thirteen proposed amendments could be classified as local government amendments with limited application, meaning that they applied to only one or a handful of local government units. Six of these, almost half, received the least votes in the elections at which they were submitted; two others were next to the bottom of the list in order of votes received in the election; two were third from the bottom and two more, fourth. Only one of the 13 was anywhere near to the top in terms of voter drawing power; this was the amendment authorizing regional airport authorities, which at the time of adoption applied to only two areas.

It has often been remarked in Texas that unpopular amendments bring down other amendments in the same election. There might be some truth to this, but not too much. In each of the seven elections in which the rejection rate was 50 percent or higher, there was at least one unpopular amendment on the ballot. On the other hand, unpopular amendments were defeated at other elections in which the approval rate was much higher; and an amendment unpopular at one election has been approved at others even when the rejection rate is high. Welfare is a good example. One is forced to conclude that the voter uses a "search and destroy"

*Data were collected for the amendment at each election receiving the highest vote except for two elections where there was only one amendment.

tactic. Some amendments, such as increasing legislative pay, are going to have a sticky time of it, regardless of the popularity of the other amendments on the ballot. As earlier indicated, what is more important is whether the amendment is voted on at a special or general election.

The Rational Voter

Another item of interest was whether an amendment's position on the ballot affected its chance of passage. The present statute governing the place on the ballot of each proposed amendment assumes that it does; drawing by lot serves to give each amendment an equal chance of having first or any other place.

There is no evidence that ballot position makes much difference in the fate of an amendment. If a first place position is an advantage, one would expect amendments appearing first on the ballot to be adopted more frequently. Of the 17 amendments first on the ballot during the 21 year period covered by this study (excluding the two in elections in which there was only one amendment), 13 passed and 4 failed for an approval rate of 76 percent, several percentage points higher than the overall approval rate (72 percent) but not dramatically so. As for last place amendments, 12 of the 17 passed for an approval rate of 71 percent, virtually identical to the overall approval rate. Furthermore, the distribution of defeated and approved amendments showed no particular pattern by ballot position. For example, about the same number of approved amendments were in second and third place as in first.

The investigation also helps dispel the notion that the voter votes blindly. On the basis of fifty percent (there being two choices, yes or no) on 17 amendments in first place or last place, in no case was the success rate only 50 percent by ballot position. Apparently, the voter discriminates among the amendments offered to him.

Patterns of Defeat and of Victory

Can any pattern be detected in the amendments defeated and those approved by the voters? Although a wide variety of subjects was covered by both the defeated and the successful amendments, a few patterns were evident. About 70 percent of the rejected amendments concerned government financing. Within this group it is significant that five dealt with salaries of legislators, including in some cases the Lieutenant Governor. It was also significant that many proposed changes in the basic organization of government were rejected, suggesting a reluctance on the part of the voter to make fundamental changes incrementally. Examples of the defeated amendments of that character were those providing four-year terms for Governor and other high executive officials, although the voters finally approved these in 1972; four-year terms for Representatives; an enlarged Senate; and an Ethics Commission to get salary schedules subject to legislative approval. Tax exemptions were also relatively unpopular.

The 94 ratified amendments covered the constitutional rainbow. Nevertheless, it is significant that all amendments to the judicial article passed, including what might be classified as basic changes. Virtually all education proposals passed. Almost all hospital district amendments passed, as did all but three of the welfare proposals.

Other Patterns of Participation

In an effort to find out more about patterns of participation, an investigation utilizing correlation analysis was made of three important questions frequently asked about voter participation in the amendment process.

The first question was whether the number of amendments on the ballot makes a difference in the voter approval rate. For example, if the number of amendments gets very large, will the voters cry "Halt!" and reject them all? This happened in Louisiana recently. After years of approving large batches of amendments, the voters defeated all 53 proposed in 1970.

The experience during the past 21 years in Texas has been that the voters generally approve the amendments, regardless of the number on the ballot. For example, in the election in which the most amendments were proposed, 16, 15 were approved. Also, there have been eight elections in which all the amendments, ranging in number from 2 to 11, were approved. In fact, the correlation between the number of amendments proposed and ratified is a high .89. So the Louisiana syndrome has not yet been experienced in Texas.

On the other hand, there is a tendency in general elections for the voters to approve a smaller percentage of amendments as the number proposed gets larger. For example, in the only presidential election from 1951 to 1971 in which the approval rate was not 100 percent, the number of amendments submitted was 14, the largest number submitted at these elections.

A second question was whether the voters would be more likely to vote on the amendments if the number of amendments was large. In other words, are voters attracted to the polls when there are more choices, so to speak? There was some indication that this was true in special elections. The percentage of registered voters participating in these elections was greater when the number of amendments was greater. But this was not always true in general elections. The reason for this was probably the drawing power of the presidential race in which the number of amendments voted on tended to be smaller than in the off-year general elections.

A third question was whether a large turnout was a factor contributing to the victory or defeat of amendments. There was some evidence that insofar as special elections were concerned, the percentage of amendments approved tended to decline as the turnout increased. That is, a larger turnout has been associated to a limited extent with a higher

rejection rate. Perhaps a campaign to get voters to the polls in special elections would help to defeat amendments. As for general elections, the correlations analysis revealed no association between participation rates and the percentage of amendments approved or rejected. Turnout, then, was not important for victory or defeat in those elections as measured by that statistic.

CONCLUSIONS AND RECOMMENDATIONS

The findings reported in the three sections of the research project analyzing amendments to the Texas Constitution from 1951 to 1972 lead to the following general conclusions:

- Most of the amendments -- particularly fiscal and local in nature have been caused by the need to evade or otherwise to overcome the deficiencies of the Constitution of 1876 and to keep abreast of the rapid changes of an urban state.
- Amendments have in turn resulted in other amendments, contributing to the extreme length and detail of the Constitution and its statutory character, a document now containing over 50,000 words and 212 amendments.
- High costs of publishing amendments and holding elections have been an important consequence of the frequency of amendments.
- Only a small minority of the voters -- in fact a tiny minority in special elections -- vote on amendments, thereby making decisions affecting the future of Texas.

The analysis has highlighted the importance of the amendments for inter-governmental relations in Texas. As noted in the Summary, the Texas Constitution provides the basic framework for these relations; numerous amendments have had an impact upon that framework. In particular, the findings reveal that most of the amendments have concerned the fiscal capacity of state and local government, the structure and powers of local governments, and the powers and responsibilities of the Texas Legislature, generally. Hence, the story of constitutional amendments from 1951 to 1972 has been largely a story of the capacity of state and local governments to serve the people of Texas.

Shall we go on as we have in the past, amendment after amendment after amendment? Recommendations for a different course of action conclude this report.

Finance

Every state constitution should contain safeguards against raids on the public purse; and it should contain assurances of honest and orderly procedures in the handling of state money. The Texas Constitution provides these by requiring that public moneys be spent only in pursuance of an appropriation and only for a public purpose. The pay-as-you-go amendment of 1942 is an additional safeguard. But beyond this, the

Texas Constitution imposes restrictions and detail that have been evaded or changed by numerous amendments. The amendments themselves are proof that the restrictions do not work.

The prohibitions against grants to individuals, associations, and corporations should be deleted, relying instead as most state constitutions do on the injunction that public moneys should be spent only for public purposes. Even if Texans desire to retain restrictions on welfare spending, it is not necessary to have the lengthy provisions now incorporated in the Constitution for this purpose. The Legislature could be authorized expressly to provide for public welfare expenditures. If a dollar limit must be imposed, and Texas is the only state left that does so, then at least the Constitution should provide for a referendum on the raising of the ceilings rather than requiring a constitutional amendment each time the dollar limits are changed. Other restrictions, such as those on eligibility which are often contrary to federal regulations in any event, programs which are spelled out in detail, and similar provisions could have been deleted.

Then there are the constitutional funds. Is all this statutory detail necessary? Does anyone seriously think that the voters will or should inform themselves about the myriad details of the water development fund, the veterans land fund, the college building fund, the Permanent University Fund and the others? Funds, which in the public interest ought to have constitutional status, could be referred to in the Constitution without the statutory material; and safeguards stated in general terms requiring audit or review could have saved hundreds of words and more than 20 amendments, over the past 20 years.

The prohibition of public debt is unrealistic. Texas has a public debt: constitutional amendments authorize it. If a debt limit is politically necessary, it could be stated as a relationship to a general indicator such as a percentage of the Gross National Product. Thus, the debt ceiling would expand and contract with the economic trends. If the voters insist on a dollar limit, provision for a referendum for raising the ceiling would save countless amendments over the years.

In sum, the vast majority of the 98 amendments dealing with finance could have been avoided entirely if the Constitution had contained provisions for a realistic fiscal policy with adequate safeguards for the public interest.

Local Government

About one-third of all the amendments proposed from 1951 - 1972 have concerned local government, many of them involving fiscal matters. Most could have been avoided.

It is ironic that at least one constitutional restriction on taxation has actually increased the taxpayer's burden. The Constitution sets

the maximum tax for bonded indebtedness of home rule cities. Because of this limitation, many cities have had to pay a higher interest rate in order to borrow money. Apparently, bonding authorities are fearful that defaults could occur if local governments are forced to a tax effort near the constitutional maximum.

Similar tax limits, moreover, have made it difficult for Texas counties to take on urban-type functions and assume their rightful place in metropolitan areas. The numerous amendments concerning hospital districts might have been eliminated had cities and counties not needed to evade restrictions on taxing and borrowing power.

Finally, many amendments to county government provisions could have been eliminated had the organization of county government not been frozen in the Constitution. Although counties serve as administrative arms of the state, they are also local governments. More options to the voters and local officials would have reduced the number of amendments and permitted more effective county government tailored to the people's needs in each local area.

Legislature

All roads to constitutional revision lead eventually to the Texas Legislature. As observed earlier, the most amendments by far have concerned the legislative article. This article includes many of the financial restrictions, some of the local government sections, some of the constitutional funds, and other topics considered above. Many of these relate to the power and responsibilities of the Legislature. Others pertain to the structure and operation of the Legislature.

The Legislature needs to be strengthened if it is to play its proper role in a democratic society. Certain constitutional changes, often proposed but resisted by the voters, are needed. These include provisions for annual sessions, preferably of undetermined length, and for legislative compensation set by law, perhaps on recommendation of an independent commission.

As the Legislature is given the resources with which to govern more capably, the voters' confidence in their legislators should increase correspondingly. This in turn will contribute to the deletion of constitutional provisions based on mistrust, including many of the fiscal restrictions. Replacing them should be the normal political processes of elections, community action, petition, and lobbying whereby the citizens hold their legislators accountable.

Comprehensive and Piecemeal Revision

Texas has had almost a century of experience with piecemeal revision, amendment by amendment. Many of the consequences of this process have

been apparent from this study of amendments. It would appear virtually impossible to make any basic change in the Texas constitutional system by continuing on as we have in the past. For one thing, the Legislature cannot give proper attention to all the constitutional amendments required during the Regular Session and certainly not within a framework conducive to letting the constitutional right hand know what the constitutional left hand is doing. Indeed, mistakes are common, some necessitating amendments to amendments. One mistake proved particularly costly in 1956. An amendment intended to be voted upon at the general election in November of that year carried the wrong Tuesday in the wording, and a special election just for one amendment had to be held a week after the general election! The voters registered their dismay by staying home. Only about six percent of the voters actually came to the polls on that second round.

If the pitfalls of the past are to be avoided, it is essential that there be a new kind of revision, either a comprehensive overhaul of the entire document or orderly selective revision of important articles. At the minimum, those provisions concerned with state and local finance and legislative powers must be changed. We must have a constitutional framework that allows the state to serve the people in a responsive and efficient manner and to work in partnership with the national government toward common goals.

The voters voiced their firm support for a new approach to constitutional revision by adopting Amendment Number Four at the general election on November 7, 1972. Amendment Number Four provides for a constitutional revision commission to be established in January 1973 and for the members of the Legislature to serve as a constitutional convention during a special session in January 1974.

A comprehensive revision of the Texas Constitution has long been needed. The time for revision has clearly arrived. No longer should the people of Texas tolerate a mass of amendments with their attendant consequences resulting from deficiencies in the original document. With proper revision years ago, perhaps 90 percent of the amendments which have required the attention of the Legislature, the courts, state and local officials, and, most important, the citizens of Texas, could have been avoided. And this could have been accomplished without reducing the constitutional safeguards necessary to protect the public interest.

APPENDICES

APPENDIX A

RESEARCH METHODS, SCOPE, AND SOURCES

The texts of all the 145 amendments proposed during the period under review and analyses of each prepared by the Texas Legislative Council, the Texas Legislative Reference Library, the Institute of Public Affairs at the University of Texas at Austin, and news commentaries were collected and examined. In addition, the *Citizens' Guide to the Texas Constitution* by George Braden (published by the Texas Advisory Commission on Intergovernmental Relations), the 1968 Report of the Texas Constitutional Revision Commission, and the 1961 Report of the Texas Legislative Council on the Texas Constitution were frequently consulted.

On the basis of the texts and analyses of the amendments, all the amendments were classified in numerous ways including by subject matter; by constitutional provision affected; by passage or defeat; by position on the ballot; by order of vote received in the election; and by cause or reason for the amendment. The tallies yielded invaluable information.

The votes on the 131 amendments at the 19 elections from 1951 to 1971 were checked with the Index of Official Reports in the Secretary of State's Office after being collected initially from the *General and Special Laws of the State of Texas*. (The votes on the 14 amendments submitted at the 1972 election were not available at the time of the project.) A number of discrepancies and omissions were uncovered; these were corrected for the tabulation in the research on election studies.

The number of registered voters in Texas was secured from the reports of the Secretary of State's Office; the *Texas Almanac* (Dallas: A.H. Belo Corporation) was also relied upon, particularly for estimates of the total number of eligible voters during the poll tax period when some voters were not required to register in order to vote. The votes cast for President and for Governor were obtained from the *Texas Almanac*, the Secretary of State's Office, and *America Votes 4* (Pittsburgh: University of Pittsburgh Press) by Richard Scanmon.

The election data were arranged in tabular form in order to give the number and percentage of registered voters voting on the amendment receiving the most votes at each election, the number of amendments submitted and approved at each election, and the number and percentage of registered voters voting for President in presidential years and for Governor in the off-years. The data were also arranged to distinguish between special and general elections and also between presidential and off-year elections. Totals and averages were calculated to give aggregate data as needed.

Extrapolations, using the base period 1951-71 in most cases, were calculated by least squares trend lines to indicate the number of amendments that will have been added to the Texas Constitution by the year 2001, the number of amendments to be submitted by the Legislature to the voters that year, and the number to be approved by the voters during the 2001-2002 biennium. The extrapolations assume no changes in constitutional amendment procedures or in constitutional revision.

Many costs are incurred in amending the Texas Constitution. Two kinds were investigated for this study. First, the publication costs incurred by the state were secured from the Secretary of State's Office for the years 1956 to 1971 and from the appropriations statutes for the years 1951-1954. (There were no elections in 1953 and 1955.) These costs were arrayed in tabular form by year, totaled, and averages taken to get the average publication cost for each amendment. Then, the costs were extrapolated to the year 2001 to give both totals and average costs. Again, the extrapolation assumes no changes in the constitutional requirements and procedures for publishing amendments and do not take into account changing price levels. However, changes in price levels during the base period are reflected in the extrapolation.

Second, the costs shouldered by counties in holding elections at which amendments are voted on were investigated. A questionnaire requesting data from county auditors and, in counties without auditors, county judges was mailed to each county. The officers were asked to report the cost of holding the August, 1969, and the May, 1971, special elections, in which a number of amendments were on the ballot. Also, the officers were asked to give the total cost of the 1970 general election and to make an estimate of the percentage of the total that could be attributed to the amendments on the ballot.

One hundred and forty-five counties replied to the questionnaire. As the reports came in, the election costs were tabulated by county and date of election; the votes cast in each county for the amendment receiving the most votes at the elections in review were tabulated to give the cost per vote at amendment elections. In addition to the sums and averages calculated from the data available, the counties were divided into five groups on the basis of the number of votes for amendments cast. The first group consisted of counties in which 0 - 999 votes had been cast; the second, 1000 - 4,999; the third, 5,000 - 14,999; the fourth, 15,000 - 29,999; and the fifth, 30,000 and above. The cost per vote cast was then calculated for each group of counties. As anticipated, the larger counties show smaller costs per vote cast than the smaller counties.

Pearson product moment correlation analysis was used to help answer three questions often asked about voting on amendments: (1) Does the number of amendments make a difference in voter approval or rejection? (2) Are voters attracted to or repelled from the polls by the number of amendments on the ballot, that is, a short or a long ballot? (3) Does the size of the voter turnout help to defeat or approve amendments?

Correlations do not tell us whether variable A causes variable B. They can tell us whether there is an association between variables and its magnitude. If there is no association, it can be assumed that neither variable causes the other. For example, if the size of the voter turnout is not associated with either defeat or victory of amendments, then it may be assumed that defeat or victory is not caused by the number of voters participating.

Correlation coefficients may take on a value from -1 to +1, indicating a perfect negative correlation and a perfect positive correlation, respectively. The value 0 means there is no association between the variables. Correlation coefficients are designated by the letter "r".

The correlation coefficients calculated to answer the three questions referred to above were large with respect to the first question concerned with the number of amendments and voter approval or rejection. The "r" was .89 in all elections, .75 in special elections, and .89 in general elections. However, this calculation was based on absolute numbers. When the percentage of amendments approved or rejected was correlated with the number of amendments submitted, the correlation was negligible except for a negative correlation of -.52 in general elections.

Other correlations of some magnitude were as follows: (1) the number of amendments and the percentage of registered voters at special elections, .56; (2) the percentage of voters registered and the number of amendments approved at general elections, -.42; (3) the percentage of voters registered and the percentage of amendments approved at special elections, -.49.

Since the data constituted a universe and not a sample and in any event were not randomly selected, tests of significance were not appropriate and were not calculated.

APPENDIX B

SUBJECTS OF PROPOSED AMENDMENTS TO THE TEXAS CONSTITUTION: 1951-1972

<u>Election Year</u>	<u>Article and Section</u>	<u>Subject</u>
1951	III:48-d	*Permitting an increase in ad valorem tax for the creation of rural fire prevention districts.
	III:49-b	Enlarging amount of Veterans' Land Fund.
	III:51a	*Increasing the maximum amount spent for state welfare pensions.
	VII:11a	*Enabling UT Board of Regents to invest university fund in additional securities.
	XVI:63	*Authorizing a statewide retirement system for county employees.
1952	III:50a	Establishing a State Medical Education Fund to encourage rural medical practice.
	III:61	Providing for workmen's compensation insurance for city employees.
1954	III:51a	Increasing amount of old age assistance, aid to the blind and to dependent children.
	III:51b	Authorizing transfer of Confederate Pension Fund to the State Building Fund.
	III:51g	Providing social security coverage for proprietary employees.
	III:52b	Prohibiting lending of state credit or use of state funds for toll roads.
	IV:5, 21	Allowing Legislature to set salaries of certain state officers; per diem.
	22, 23	
	III:24, 61	
	V:9, 15,	Providing four year terms for elective district, county and precinct offices.
	18, 20,	
	21, 23, 30	
	VIII:14, 16	
	XVI:41, 64, 65	
	VI:1, 2, 2a	Conferring voting privileges to members of the Armed Forces who were already Texas residents.
	VIII:16a	Allowing creation of tax assessor-collector in counties with less than ten thousand population.

*defeated

<u>Election Year</u>	<u>Article and Section</u>	<u>Subject</u>
1954 (cont.)	IX:4	Authorizing Legislature to create hospital districts in counties over 190,000 in population.
	XVI:19	Requiring women to serve on juries.
	XVI:63	Allowing exchange of retirement benefits for Teacher Retirement System and Employees Retirement System members.
1956	I:11a	Allowing denial of bail to habitual offender, except in capital cases.
	I:15a	Requiring medical testimony for commitment of persons of unsound mind.
	III:48a	Increasing benefits and coverage and revises investments of Teacher Retirement System.
	III:49-b	Increasing Veterans' Land Fund; altering membership of Veterans' Land Board.
	III:51b	Authorizing Legislature to provide for assistance to needy disabled persons.
	III:51-c	Permitting Legislature to grant aid and compensation to persons improperly fined or imprisoned.
	VII:11-a, 17, 18	Providing for improvements at state institutions of higher learning; investment of Permanent University Fund.
	VIII:9	Authorizing Commissioners Court to levy sums necessary for various fund purposes.
	XVI:1	Altering form of Oath of Office to include appointive officers of the state.
1957	III:49c	Providing for creation of the Texas Water Development Board and issuance of bonds for local water conservation and development projects.
	III:51-a	Increasing amount of old age assistance.
	XVI:62-a	Increasing retirement allowances and disability in State Employees Retirement System.
1958	III:5, 24, 24a	*Providing for annual Legislative session and salary increase.
	III:51-a	Authorizing the Legislature to provide funds for direct or vendor medical care for welfare recipients.
	V:28	Authorizing County Commissioners' Court to temporarily fill vacancies of county judge and justice of the peace.

*defeated.

<u>Election Year</u>	<u>Article and Section</u>	<u>Subject</u>
1958 (cont.)	IX:5	Authorizing the creation of four hospital districts: Amarillo, Wichita County, and Jefferson County.
	XI:11	Authorizing home rule and general law cities to provide term of office for officials.
	XVI:56	Authorizing the dissemination of information about Texas resources.
	XVI:62-b	*Providing retirement benefits for county officials and employees.
	XVI:65	Requiring resignation of county official if running for another office during four year term.
	XVI:66	Authorizing the Legislature to provide pensions for Texas Rangers.
1960	III:24	Increasing annual salaries for Legislators.
	III:49b	Increasing interest rate on Veterans' Land Bonds.
	IX:6, 7, 8	Authorizing the creation of special hospital districts in Lamar, Hidalgo, and Comanche Counties.
	XVI:11	Providing regulation of interest rates and classification of loans and lenders.
1962	II:2	*Authorizing Legislature to provide for trials de novo on all appeals from rulings of state administrative or executive agencies.
	III:49-b	Allowing resale of certain unsold lands by Veterans' Land Fund to non-veterans.
	III:49-d	Allowing development of water storage in reservoirs by Water Development Board.
	III:51a	Providing increase in old age assistance, aid to the blind, and aid to dependent children.
	III:51b	Providing for increase in assistance for the totally disabled.
	III:60	Providing workmen's compensation for employees of political subdivisions.
	III:62	Providing for Legislative System of emergency succession to public offices.
	VII:3-b	Validating all taxes and bonds voted by independent school districts in Dallas County.
	IX:1-A	Allowing counties to regulate use of their beach by the public.

*defeated

<u>Election Year</u>	<u>Article and Section</u>	<u>Subject</u>
1962 (cont.)	IX:9	Authorizing Legislature to create hospital districts statewide.
	IX:10	*Providing for creation of hospital district in Brazoria County and a home for the aged in Titus County.
	IX:11	Authorizing creation of hospital districts in Ochiltree, Castro, Hansford and Hopkins Counties.
	XVI:33	*Permitting dual office holding and compensation for state employees.
	XVI:62(b)	*Providing state retirement benefits for elected and appointed officers and employees of counties and other political subdivisions.
1963	III:49-b	*Permitting sale of additional bonds by Veteran's Land Board to finance the Veterans' Land Fund.
	III:51-a, 51-b-1	Removing of residence requirements for welfare; increase in assistance.
	VI:2, 4	*Providing for repeal of the poll tax and for voter registration.
	XVI:62	*Authorizing Jefferson County to provide their appointive officers and employees retirement benefits.
1964	III:51a-2	Providing medical care for needy 65 and over who are not recipients of old age assistance.
	VII:5	Removing authorization to transfer money from permanent school fund to available school fund.
	XVI:59(d)	Requiring notice of intention to create a conservation or reclamation district.
1965	III:2, 25	*Requiring apportionment of Senate according to population and increase of size of Senate.
	III:4	*Providing four year, staggered terms for State Representatives.
	III:24; IV:17	*Authorizing Legislature to set salaries of Lieutenant Governor and Speaker; increases per diem of Legislators.
	III:48b	Providing that assets of Teacher Retirement System be administered by Board of Trustees of the Teacher Retirement System.

*defeated

<u>Election Year</u>	<u>Article and Section</u>	<u>Subject</u>
1965 (cont.)	III:49-b	*Increasing amount of bonds issued by Veterans' Land Board.
	III:50b	Authorizing sale of bonds for Texas Opportunity Plan Fund loans to college students.
	III:51-a, 51a-1, 51-a-2	Expanding age limits and residency requirements for medical care for the aged and needy.
	IV:4, 22, 23 V:1-a	*Providing four year terms for state officials. Creating State Judicial Qualifications Commission for removal of district and appellate judges for misconduct and retirement for age or disability.
	VII:17	Increasing ad valorem tax for building construction by state institutions of higher learning.
	VIII:2-A	*Providing tax exemptions to charitable hospitals.
1966	III:3, 4	Establishing date newly-elected members of Legislature qualify and take office.
	III:49-d	Increasing amount of bonds issued by Texas Water Development Board and expansion of uses for fund.
	III:51-d	Providing assistance to survivors of certain officials suffering violent death in performance of duty.
	III:63	Authorizing consolidation of governmental functions within a county and intergovernmental contracts.
	V:4 & 5	Increasing number of judges on Texas Court of Criminal Appeals.
	VI:2	Allowing members of the armed forces to vote in Texas.
	VI:2 & 4	Repealing poll tax and requiring annual voter registration.
	VI:2a	Liberalizing residence requirements for voting for certain persons.
	VII:3-b	Authorizing that boundary changes will not nullify taxes or bonds previously approved by independent school district.
	VII:18	Withdrawing Arlington State College from participation in Permanent University fund.
	VIII:1-d	Assessing tax on agricultural lands based on land's value for agricultural purposes.

*defeated

<u>Election Year</u>	<u>Article and Section</u>	<u>Subject</u>
1966 (cont.)	IX:9	Providing method for dissolution of hospital districts.
	IX:12	Authorizing Legislature to provide for creation of airport authorities.
	XVI:6	Authorizing funds to assist the handicapped in becoming gainfully employed.
	XVI:30c	*Authorizing six year term for Directors of Conservation and Reclamation Districts.
	XVI:62-c	Authorizes Legislature to provide retirement benefits for officers and employees of a county or political subdivision.
1967	III:49-b	Authorizing sale of additional bonds and expands Veterans' Land Program to veterans of Viet Nam conflict.
	III:49-e	Authorizing Parks and Wildlife Department to sell bonds for Texas Park Development Fund.
	III:52-e	Authorizing counties to pay medical expenses of law enforcement officials injured in line of duty.
	VIII:9	Authorizing counties to combine all tax money into a single county tax fund.
	IX:13	Providing for the establishment of mental health or public health services within a hospital district.
	XVI:33	Permitting dual office holding and compensation for non-elective state officers and employees.
1968	III:18	Fixing time of ineligibility of Legislators for other offices.
	III:24	*Providing for Legislative salary increase and extension of per diem.
	III:48a	Removing ceiling on teacher contributions to Teacher Retirement System.
	III:51-a	Increasing financial assistance to the public welfare programs.
	III:52a	*Authorizing cities and counties to issue revenue bonds for industrial development.
	III:52e	Authorizing Dallas County to issue bonds for road construction and maintenance.
	III:64	Authorizing consolidation of governmental functions and intergovernmental contracts.
	VII:11a	Permitting UT Board of Regents more authority in investment of Permanent University Fund.

*defeated

<u>Election Year</u>	<u>Article and Section</u>	<u>Subject</u>
1968 (cont.)	VIII:1-e	Abolishing state ad valorem property tax except for amount for college building fund.
	VIII:1-f	*Authorizing ad valorem tax exemption for property stored in public warehouses.
	VIII:1-j	*Permitting tax refund on tobacco products for Texarkana.
	VIII:2-a	*Permitting property tax exemption for pollution abatement devices.
	XVI:21	*Removing some restrictions from state contract purchasing requirements.
	XVI:62a	Establishing the Employees Retirement System of Texas as a constitutional agency.
1969	III:5	*Providing for annual Legislative sessions.
	III:24	*Providing for Legislative salary increase; Legislature set its own salary and salary of Lieutenant Governor and Speaker.
	III:42, 46	Repealing of obsolete and unnecessary sections of the Texas Constitution.
	48	
	VII:3a, 7	
	VIII:12	
	IX:3	
	X:1, 3, 4, 5,	
	6, 7, 8, 9	
	XI:10	
	XII:3, 4, 5, 7	
	XIII:1, 2, 3, 4,	
	5, 6, 7	
	XIV:2, 3, 4, 5,	
	6, 7, 8	
	XVI:3, 4, 7, 13,	
	29, 32, 34,	
	35, 36, 38,	
	42, 45, 46,	
	54, 55, 57,	
	58, 60	
	III:49-d-1	*Broadening the powers of the Texas Water Development Board.
	III:50b-1	Authorizing student loans under Texas Opportunity Plan.
	III:51-a	Increasing welfare assistance payments.
	III:51-d	Authorizing payment of benefits to survivors of certain governmental officers and employees.
	III:64	*Authorizing removal of constitutional interest rate limitations on certain bonds.

*defeated

<u>Election Year</u>	<u>Article and Section</u>	<u>Subject</u>
1969 (cont.)	VIII:2	*Exempting nonprofit water supply corporations from ad valorem taxation.
1970	III:51-b(a)	*Establishing State Building Commission as Governor-appointed commission.
	III:52	Authorizing counties to issue road bonds.
	III:64(a)	Authorizing counties to consolidate governmental functions and for intergovernmental contracts.
	V:1-a	Providing for the removal, retirement and censure of judges and justices.
	VIII:1-d	*Authorizing Legislature to provide uniform method of tax assessment of agricultural lands.
	XVI:20(a)	Regulating sale of mixed alcoholic beverages on a local option basis.
	XVI:51	Increasing amount of homestead exemption.
1971	III:24	*Providing for a State Ethics Commission to recommend Legislative salaries and govern Legislative conduct.
	III:49-d-1	Authorizing issuance of Water Development Bonds for water quality control.
	III:51-a	*Removing limitation on appropriations for assistance grants, except for aid to dependent children.
	XVII:1	*Permitting Legislature to propose constitutional amendments at special or called sessions.
1972	I:3a	Providing equal rights for women.
	III:24	*Providing for Legislative salary increase.
	III:65	Increasing maximum interest rate on certain bonds issued under constitutional authority.
	IV:4, 22, 23	Providing four year terms for constitutional and statutory executive officers.
	IV:17	*Providing for salary increase for Speaker and Lieutenant Governor.
	III:24	Permitting county to distribute portion of County Permanent School Fund to school districts.
	VII:66	Permitting homestead tax exemptions from property tax for those 65 or older.
	VIII:1-b	Permitting property tax exemptions to disabled veterans and their survivors.
	VIII:2	Abolishing the Lamar County Hospital District.
	IX:6	

*defeated

<u>Election Year</u>	<u>Article and Section</u>	<u>Subject</u>
1972 (cont.)	XVI:33, 40	*Permitting dual office holding of Directors of Soil and Conservation Districts.
	XVI:33, 40	Permitting dual office holding for state employees providing no compensation is received.
	XVI:61	Providing compensation for justices of the peace on a salary basis.
	XVII:1	Permitting proposal of constitutional amendments at special sessions and changes in publication notice.
	XVII:2	Authorizing the Legislature to establish a constitutional revision commission and to convene as a constitutional convention.

*defeated

APPENDIX C

VOTER PARTICIPATION IN ELECTIONS ON AMENDMENTS

TO THE TEXAS CONSTITUTION: 1951-1971

Year	Special/General Election Amendment Receiving the Most Votes	Number of Votes Received	Registered Voters	Percent of Registered Voters Voting on Most Votes Amendment	Votes Cast for President or Governor	Percentage of Registered Voters Voting for President or Governor	Number of Amendments Submitted and Approved	Percentage of Amendments Approved
1951	Special Election - Welfare	237,464	1,832,475	12.958	---	---	5 - 1	20.000
1952	General Election - City Employees Workmen's Compensation	1,088,578	2,456,169	44.320	2,075,946	84.519	2 - 2	100.000
1954	General Election - Women on Juries	527,580	1,935,319	27.260	636,892	32.900	11 - 11	100.000
1956	General Election - Teachers Retirement System	1,517,160	2,640,221	57.463	1,955,168	74.053	8 - 8	100.000
1956	Special Election - Welfare	177,448	2,640,221	6.720	---	---	1 - 1	100.000
1957	Special Election - Welfare	225,123	2,084,453	10.800	---	---	3 - 3	100.000
1958	General Election - Legislative-Annual Session Salaries	637,796	2,213,514	28.813	1,317,492	59.520	9 - 7	77.777
1960	General Election - Loan Shark	1,458,125	2,798,986	52.094	2,311,845	82.595	4 - 4	100.000
1962	General Election - Welfare	1,108,264	2,467,106	44.921	1,569,198	63.604	14 - 10	71.428
1963	Special Election - Poll Tax Repeal	559,895	2,068,506	27.067	---	---	4 - 1	25.000
1964	General Election - Welfare	1,476,861	3,014,597	48.990	2,626,811	87.136	3 - 3	100.000
1965	Special Election - Increase Senate Size	222,412	1,971,965	11.278	---	---	1 - 0	0.000
1965	Special Election - Four Year Terms Executive (State)	503,879	1,971,965	25.552	---	---	10 - 5	50.000
1966	General Election - Repeal Poll Tax, Annual Registration	1,125,723	2,968,483	37.922	1,425,861	48.033	16 - 15	93.750
1967	Special Election - Veterans Land Program	274,249	2,982,862	9.194	---	---	6 - 6	100.000
1968	General Election - Teachers Retirement System	2,108,768	4,073,576	51.176	3,079,406	75.594	14 - 7	50.000
1969	Special Election - Welfare	661,778	3,500,649	18.904	---	---	9 - 4	44.444
1970	General Election - Liquor by the Drink	1,894,349	4,149,261	45.655	2,306,765	55.594	7 - 5	71.428
1971	Special Election - Welfare	792,100	3,986,690	19.868	---	---	4 - 1	25.000
19 Elections (10 General and 9 Special)		16,597,552	51,757,018	32.068	19,305,384	67.225	131 - 94	71.755

SOURCES:

Registered Voters: Official Reports from the Secretary of State's Office; *Texas Almanac* (Dallas: A. H. Belo Corporation, selected years). The number of poll tax receipts and exemption certificates are supplemented by an estimate of the number of persons in towns under 10,000 who might be eligible voters (1951-1965).

Votes on Amendment: Official Index from the Secretary of State's Office. These figures differ in a few instances from those in other sources such as the *General and Special Laws of the State of Texas* and the *Texas Almanac*.

Votes for President and Governor: *Texas Almanac*; Richard Scammon, *America Votes 4* (Pittsburg: University of Pittsburg, 1962).

APPENDIX D

STATE COSTS OF PUBLISHING AMENDMENTS: 1951-1971

<u>Year of Election</u>	<u>Number of Amendments</u>	<u>Total Cost</u>	<u>Cost Per Amendment</u>
1951	5	\$ 54,571.45*	\$10,714.28
1952	2	21,428.55*	10,714.28
1953	---	---	---
1954	11	75,000.00**	6,818.18
1955	---	---	---
1956	8,1***	103,511.95	11,501.33
1957	3	47,884.55	15,948.18
1958	9	94,515.40	10,501.71
1959	---	---	---
1960	4	39,265.30	9,816.45
1961	---	---	---
1962	14	254,192.10	18,156.58
1963	4	140,229.53	35,057.38
1964	3	52,257.84	17,419.28
1965	1	11,971.71	11,971.71
1966	10	394,189.53	39,418.95
1967	16	428,839.59	26,802.47
1968	6	187,677.06	31,279.51
1969	14	247,346.19	17,667.58
1970	9	121,120.09	13,457.77
1971	7	110,742.67	15,820.38
	4	107,723.49	26,930.86
Total	131	Total \$2,491,467.06	Avg. \$19,018.83

* The appropriation for publication of amendments for the 1951-52 biennium was \$75,000. The average cost for each amendment for 1951 and 1952 was calculated by dividing \$75,000 by seven. The total cost for each election was calculated by multiplying the cost for each amendment by five and two respectively.

**The appropriation for 1953-54 biennium was \$75,000. The cost per amendment was calculated by dividing \$75,000 by 11.

*** Two elections were held in 1956, eight amendments being on the ballot at the general election in November and one amendment on the ballot at a special election held one week later. The Secretary of State's data do not separate the costs of the two elections.

SOURCES: Office of the Secretary of State
General and Special Laws of the State of Texas, (1951 and 1953).

TEXAS ADVISORY COMMISSION
ON INTERGOVERNMENTAL RELATIONS

A New Constitution for Texas



A NEW CONSTITUTION FOR TEXAS

Prepared by

**TEXAS CONSTITUTIONAL REVISION
COMMISSION**

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To the Honorable William P. Hobby
Lieutenant Governor

To the Honorable Price Daniel, Jr.
Speaker of the House of Representatives

To the Members of the 63rd Legislature

In accordance with Article XVII, Section 2(b) of the Constitution of 1876, transmitted herewith are the recommendations of the Texas Constitutional Revision Commission. The recommendations consist of proposed constitutional language which the Commission was directed to prepare by Senate Concurrent Resolution Number 1, enacted by the 63rd Texas Legislature.

The proposed new constitution for Texas contained in this document is the first thorough revision of the State's basic law since it was adopted in 1876. The document is the result of months of intensive work by the Constitutional Revision Commission which was appointed in February, 1973 in accordance with a constitutional amendment approved by the voters of Texas in November, 1972. As you know, the constitutional revision process envisioned by that amendment includes a preparatory study and submission of recommendations by the Revision Commission, and then the convening of the Legislature as a Constitutional Convention in 1974 to recommend changes in the basic law of the State to the people.

After months of study and debate, the Commission has prepared a new constitution based on the general framework of the 1876 Constitution, but substantially shortened, simplified, and revised to reflect the needs of modern Texas. The new constitution contains eleven articles as opposed to seventeen in the 1876 Constitution. Much statutory detail has been eliminated from the new document and, where appropriate, will be retained in statutory form.

Although this publication fulfills the requirements set forth in Article XVII, copies of a more comprehensive report are being

presented today to the Lieutenant Governor and Speaker of the House. The full report will be distributed to members of the Legislature as soon as printed copies are available. That report contains a text of the new constitution, a description of the process by which the Revision Commission reached its conclusions, and a complete discussion of each recommended article and section of the new constitution.

In order to provide for an orderly transition of governmental operations upon the adoption of a new constitution, a transition schedule has been prepared and is included in this document.

Beryl Buckley Milburn

Mrs. Malcolm Milburn
Vice Chairman

RWC/BBM:cwj

Respectfully yours,

Robert W. Calvert

Robert W. Calvert
Chairman

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Preamble

Humbly invoking the blessings of Almighty God, the people of the State of Texas, do ordain and establish this Constitution.

Article I **Bill of Rights**

That the general, great and essential principles of liberty and free government may be recognized and established, we declare:

Section 1. Freedom and Sovereignty of State

Texas is a free and independent State, subject only to the Constitution of the United States, and the maintenance of our free institutions and the perpetuity of the Union depend upon the preservation of the right of local self-government, unimpaired to all the States.

Section 2. Inherent Political Power; Republican Form of Government

All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient.

Section 3. Equal Rights

All free men, when they form a social compact, have equal rights, and no man, or set of men, is entitled to exclusive separate public emoluments, or privileges, but in consideration of public services.

Section 3a. Equality under the Law

Equality under the law shall not be denied or abridged because of sex, race, color, creed, or national origin. This amendment is self-operative. (Added Nov. 7, 1972.)

Section 4. Religious Tests

No religious test shall ever be required as a qualification to any office, or public trust, in this State; nor shall any one be excluded from holding office on account of his religious sentiments, provided he acknowledge the existence of a Supreme Being.

Section 5. Witnesses Not Disqualified by Religious Beliefs; Oaths and Affirmations

No person shall be disqualified to give evidence in any of the Courts of this State on account of his religious opinions, or for the want of any religious belief, but all oaths or affirmations shall be administered in the mode most binding upon the conscience, and shall be taken subject to the pains and penalties of perjury.

Article I

Section 6. Freedom of Worship

All men have a natural and infeasible right to worship Almighty God according to the dictates of their own consciences. No man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent. No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given by law to any religious society or mode of worship. But it shall be the duty of the Legislature to pass such laws as may be necessary to protect equally every religious denomination in the peaceable enjoyment of its own mode of public worship.

Section 7. Appropriations for Sectarian Purposes

No money shall be appropriated, or drawn from the Treasury for the benefit of any sect, or religious society, theological or religious seminary; nor shall property belonging to the State be appropriated for any such purposes.

Section 8. Freedom of Speech and Press; Libel

Every person shall be at liberty to speak, write or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press. In prosecutions for the publication of papers, investigating the conduct of officers, or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels, the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

Section 9. Searches and Seizures

The people shall be secure in their persons, houses, papers and possessions, from all unreasonable seizures or searches, and no warrant to search any place, or to seize any person or thing, shall issue without describing them as near as may be, nor without probable cause, supported by oath or affirmation.

Section 10. Rights of Accused in Criminal Prosecutions

In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him, and to have a copy thereof. He shall not be compelled to give evidence against himself, and shall have the right of being heard by himself or counsel, or both, shall be confronted by the witnesses against him and shall have compulsory process for obtaining witnesses in his favor, except that when the witness resides out of the State and the offense charged is a violation of any of the anti-trust laws of this State, the defendant and the State shall have the right to produce and have the evidence admitted by deposition, under such rules and laws as the Legislature may hereafter provide; and no person shall be held to answer for a criminal offense, unless on an indictment of a grand jury, except in cases in which the punishment is by fine or imprisonment, otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in the militia, when in actual service in time of war or public danger. (Added Nov. 5, 1918.)

Section 11. Bail

All prisoners shall be bailable by sufficient sureties, unless for capital offenses, when the proof is evident; but this provision shall not be so construed as to prevent bail after indictment found upon examination of the evidence, in such manner as may be prescribed by law.

Section 11a. Multiple Convictions; Denial of Bail

Any person accused of a felony less than capital in this State, who has been theretofore twice convicted of a felony, the second conviction being subsequent to the first, both in point of time of commission of the offense and conviction therefor may, after a hearing, and upon evidence substantially showing the guilt of the accused, be denied bail pending trial, by any judge of a court of record or magistrate in this State; provided, however, that if the accused is not accorded a trial upon the accusation within sixty (60) days from the time of his incarceration upon such charge, the order denying bail shall be automatically set aside, unless a continuance is obtained upon the motion or request of the accused; provided, further, that the right of appeal to the Court of Criminal Appeals of this State is expressly accorded the accused for a review of any judgment or order made hereunder. (Added Nov. 6, 1956.)

Section 12. Habeas Corpus

The writ of habeas corpus is a writ of right, and shall never be suspended. The Legislature shall enact laws to render the remedy speedy and effectual.

Section 13. Excessive Bail or Fines; Cruel and Unusual Punishment; Remedy by Due Course of Law

Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. All courts shall be open, and every person for an injury done him, in his lands, goods, person or reputation, shall have remedy by due course of law.

Section 14. Double Jeopardy

No person, for the same offense, shall be twice put in jeopardy of life or liberty, nor shall a person be again put upon trial for the same offense, after a verdict of not guilty in a court of competent jurisdiction.

Section 15. Right of Trial by Jury

The right of trial by jury shall remain inviolate. The Legislature shall pass such laws as may be needed to regulate the same, and to maintain its purity and efficiency. Provided, that the Legislature may provide for the temporary commitment, for observation and/or treatment, of mentally ill persons not charged with a criminal offense, for a period of time not to exceed ninety (90) days, by order of the County Court without the necessity of a trial by jury. (As amended Aug. 24, 1935.)

Section 15-a. Commitment of Persons of Unsound Mind

No person shall be committed as a person of unsound mind except on competent medical or psychiatric testimony. The Legislature may enact all laws necessary to provide for the trial, adjudication of insanity and commitment of persons of unsound mind and to provide for a method of appeal from judgments rendered in such cases. Such laws may provide for a waiver of trial by jury, in cases where the person under inquiry has not been charged with the commission of a criminal offense, by the concurrence of the person under inquiry, or his next of kin, and an attorney ad litem appointed by a judge of either the County or Probate Court of the county where the trial is being held, and shall provide for a method of service of notice of such trial upon the person under inquiry and of his right to demand a trial by jury. (Added Nov. 6, 1956.)

Article I

Section 16. Bills of Attainder; Ex Post Facto or Retroactive Laws; Impairing Obligation of Contracts

No bill of attainder, ex post facto law, retroactive law, or any law impairing the obligation of contracts, shall be made.

Section 17. Taking, Damaging or Destroying Property for Public Use; Special Privileges and Immunities; Control of Privileges and Franchises

No person's property shall be taken, damaged or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person; and, when taken, except for the use of the State, such compensation shall be first made, or secured by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities, shall be made; but all privileges and franchises granted by the Legislature, or created under its authority shall be subject to the control thereof.

Section 18. Imprisonment for Debt

No person shall ever be imprisoned for debt.

Section 19. Deprivation of Life, Liberty, Etc.; Due Course of Law

No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.

Section 20. Outlawry or Transportation for Offense

No citizen shall be outlawed, nor shall any person be transported out of the State for any offense committed within the same.

Section 21. Corruption of Blood; Forfeiture; Suicides

No conviction shall work corruption of blood, or forfeiture of estate, and the estates of those who destroy their own lives shall descend or vest as in case of natural death.

Section 22. Treason

Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on confession in open court.

Section 23. Right to Keep and Bear Arms

Every citizen shall have the right to keep and bear arms in the lawful defense of himself or the State; but the Legislature shall have power, by law, to regulate the wearing of arms, with a view to prevent crime.

Section 24. Military Subordinate to Civil Authority

The military shall at all times be subordinate to the civil authority.

Section 25. Quartering Soldiers in Houses

No soldier shall in time of peace be quartered in the house of any citizen without the consent of the owner, nor in time of war but in a manner prescribed by law.

Section 26. Perpetuities and Monopolies; Primogeniture or Entailments

Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed, nor shall the law of primogeniture or entailments ever be in force in this State.

Section 27. Right of Assembly; Petition for Redress of Grievances

The citizens shall have the right, in a peaceable manner, to assemble together for their common good; and apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address or remonstrance.

Section 28. Suspension of Laws

No power of suspending laws in this State shall be exercised except by the Legislature.

Section 29. Provisions of Bill of Rights Excepted from Powers of Government; to Forever Remain Inviolate

To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

Article II

Separation of Powers

Section 1. Separation of Powers

The government of the State of Texas shall be divided into three branches: legislative, executive, and judicial. Except as otherwise authorized by this Constitution, each branch shall exercise the powers appropriate thereto.

Article III

The Legislature

Section 1. Legislative Power

The legislative power of the State of Texas shall be vested in two houses, a Senate and a House of Representatives, which together shall be styled "The Legislature of the State of Texas."

Section 2. Composition

As shall be provided by law, the Senate shall consist of not fewer than thirty-one nor more than fifty members, and the House of Representatives shall consist of not fewer than ninety-three nor more than one hundred fifty-five members. The number of members of the House of Representatives shall be a whole multiple of the number of members of the Senate.

Section 3. Qualification of Members

(a) A person shall be eligible for election to the Senate if a citizen of the United States, a qualified voter, twenty-five years of age or older, and a resident of this State for five years and of the senatorial district for one year immediately preceding the election.

(b) A person shall be eligible for election to the House of Representatives if a citizen of the United States, a qualified voter, twenty-one years of age or older, and a resident of this State for two years and of the representative district for one year immediately preceding the election.

(c) In the general election following a redistricting, a person shall be eligible to be elected to the Legislature from any new district that contains a part of the district in which that person was eligible for election on the effective date of the redistricting, but only if within thirty days after the date of filing as a candidate in the primary election that person becomes a resident of the new district.

(d) A member of the Legislature may not hold any other office or position of profit or trust under this State, the United States, or any foreign government, except as a member of the National Guard, National Guard Reserve, or any of the armed forces reserves of the United States, as a retired member of the armed forces of the United States, or as a notary public.

Section 4. Election and Terms of Members

(a) Senators and Representatives shall be elected at a general election.

(b) Each Senator shall serve a term of four years beginning on the date provided in this Constitution or by law for convening the Legislature in regular session. The qualified voters shall elect a new Senate after each statewide senatorial redistricting, and the Senators shall decide by lot which shall serve four-year terms and which shall serve two-year terms, so that one-half shall be chosen every two years thereafter.

(c) Each Representative shall serve a term of two years beginning on the date provided in this Constitution or by law for convening the Legislature in regular session.

(d) Vacancies in the Senate and House of Representatives shall be filled by special election as provided by law.

Article III

Section 5. Redistricting

(a) Before August 15 following publication of each federal decennial census, the Legislature shall by law divide the State into single-member senatorial districts and each senatorial district into single-member representative districts.

(b) All senatorial districts shall contain as nearly as practicable an equal number of inhabitants. All representative districts within a senatorial district shall contain as nearly as practicable an equal number of inhabitants. All districts shall be composed of compact and contiguous territory.

(c) A county entitled to more than one Senator or Representative shall be divided into the required number of districts. Population in excess of that required for complete districts within the county, or the population of a county insufficient to comprise a district, shall be joined with population of another county or counties to form one district.

(d) Senatorial and representative districts shall not divide counties unless necessary to prevent a significant population variance between districts.

(e) A Legislative Redistricting Board shall be constituted within twenty days after August 15. The board shall consist of the Governor, Lieutenant Governor, Speaker of the House of Representatives, Attorney General, and five members appointed by the Governor. The appointed members shall be from different geographical regions of the State, and due regard shall be given to the division between urban and rural areas. No appointed member shall be a public officeholder, and not more than three shall be from the same political party. The Legislature shall provide funds for the board's clerical, technical, and other expenses.

(f) If the Legislature fails to redistrict by August 15 or if its redistricting plan is declared invalid, the State shall be redistricted by the board. In the event of failure to redistrict, the board shall convene as soon as practicable after it is constituted. In the event the legislative redistricting plan is declared invalid, the board shall convene as soon thereafter as is practicable. The board shall make and file its redistricting plan with the Secretary of State within twenty-five days after its first meeting.

(g) If the board fails to complete its redistricting in accordance with the requirements of this Section, the Supreme Court of Texas shall have original jurisdiction to compel the board to perform its duties and may provide such remedies and penalties as may be appropriate.

(h) The board shall be dissolved immediately following the first general election held in accordance with a valid redistricting plan.

Section 6. Compensation

Each member of the Legislature shall receive compensation and allowances as provided by law, not to exceed the amount recommended by the salary commission. Any increase in compensation shall become effective only at the first regular session following the next general election.

Section 7. Sessions

(a) The Legislature shall meet at least once every two years and at such times and for such duration as provided by law.

(b) All legislative proceedings shall be open to the public.

Article III

(c) Neither house may adjourn or recess for more than three days without the consent of the other.

(d) The Legislature shall meet at the seat of government unless otherwise provided by law.

Section 8. Organization and Procedure

(a) Each house shall be the judge of the qualifications and election of its own members, but contested elections shall be determined as provided by law.

(b) Each house shall adopt its rules of procedure. The Legislature by majority vote of the membership of each house shall adopt joint rules. Rules, once adopted, shall remain in effect until amended, repealed, or otherwise changed by the same or succeeding Legislatures.

(c) At the beginning and end of each session the Senate shall elect from its members a president pro tempore who shall perform the duties of president when the Lieutenant Governor is absent or disabled, or when the office is vacant.

(d) When first assembled the House of Representatives shall organize and elect a speaker from its members.

(e) All elections held by either house of the Legislature shall be by individual voice votes to be recorded in the journal.

(f) Two-thirds of the membership of each house shall constitute a quorum for transacting business, but fewer members may recess or adjourn from day to day and compel the attendance of absent members.

(g) Each house shall prepare and publish a journal of its proceedings. At the request of any three members present, the votes on any question shall be recorded in the journal.

(h) Each house may punish a member for disorderly conduct or for cause deemed sufficient by that house and may expel a member by two-thirds vote of its membership, but not a second time for the same offense.

Section 9. Legislative Immunity

No member shall be questioned in any other place for speech or debate during a legislative proceeding.

Section 10. Conflict of Interest

(a) No member may vote for the appointment of another member to any office filled by the Legislature.

(b) During the term for which elected a member shall be ineligible for (1) any civil office of profit under this State which shall have been created, or the emoluments of which may have been increased, during such term, or (2) any office or position the appointment to which may be made, in whole or in part, by either house of the Legislature. The ineligibility shall terminate on the last day in December of the last full calendar year of the term for which the member was elected.

(c) A member privately interested in a bill, resolution, or other matter before the Legislature shall disclose the interest and shall not vote on the bill, resolution, or other matter.

Article III

(d) No member may have a pecuniary interest in any contract with the State.

(e) No member shall for compensation other than the emoluments of office appear before or have dealings with an executive or administrative unit of State government; and no member shall directly or indirectly share in any fee paid to any other person for such appearance or dealings.

(f) A continuance shall not be granted in any judicial proceeding solely because a party or attorney is a member of the Legislature.

Section 11. Bills

(a) The Legislature shall enact no law except by bill.

(b) A bill may originate in either house. After a bill passes either house, the other may amend or reject it, but neither house may so amend a bill as to change its original purpose.

(c) Every bill shall be limited to a single subject, which shall be expressed in its title. A general appropriation bill shall be limited to the subject of appropriations. A statutory revision bill shall be limited to that subject.

(d) A bill, amendatory in form, shall set out the complete section, as amended, of the statute it amends.

(e) Before a house considers a bill it must have been referred to a committee of that house and report least five days before adjournment of the session.

(f) Before a bill becomes law it must be read on three separate days in each house. Either house by four-fifths record vote of the members present and voting may suspend this requirement.

(g) If a bill or resolution is defeated by a vote of either house, no bill or resolution containing the same substance shall be passed during the same session.

(h) The presiding officer of each house shall, in the presence of that house, certify the final passage of each bill or resolution requiring the concurrence of both houses. The fact of certification shall be recorded in the journal.

(i) No law except the general appropriation act and redistricting acts shall take effect until ninety days after it becomes a law or ninety days after adjournment of the session at which it was enacted, whichever is earlier. The Legislature, by three-fourths record vote of the membership of each house, may authorize an earlier effective date.

Section 12. Local or Special Legislation

The Legislature may not enact a local or special law if a general law is or can be made applicable. Whether a general law is or can be made applicable shall be a matter for judicial determination.

Section 13. Impeachment

(a) The House of Representatives shall have the sole power to conduct legislative investigations to determine the existence of cause for impeachment and, by the record vote of two-thirds of its membership, to impeach executive officers and justices of the Supreme Court.

Article III

(b) Any officer against whom articles of impeachment have been preferred shall be suspended from the exercise of the duties of the office during the pendency of the impeachment. The Governor may make a temporary appointment to fill the vacancy occasioned by the suspension of the officer until the decision on the impeachment.

(c) Impeachments shall be tried by the Senate. When sitting for that purpose, Senators shall affirm or take an oath to try impartially the party impeached. If the Governor or Lieutenant Governor is tried, the Chief Justice of the Supreme Court shall preside. A person may be convicted of impeachment charges only by record vote of two-thirds of the membership of the Senate.

(d) A judgment of conviction by the Senate shall not extend beyond removal from office and disqualification to hold any office of honor, trust, or profit of this State. An impeached person, whether convicted or acquitted, shall be amenable to prosecution, trial, judgment, and punishment according to law.

Section 14. Advice and Consent of the Senate

Two-thirds of the members present and voting shall constitute consent to any appointment which this Constitution requires to be with the advice and consent of the Senate. The Legislature may provide by law for interim appointments made when the Senate is not in session.

Article IV

The Executive

Section 1. Officers Constituting the Executive Department

The Governor shall be the Chief Executive Officer of the State. The Executive Department shall consist of a Governor, Lieutenant Governor, Attorney General, Comptroller of Public Accounts, Secretary of State, Commissioner of the General Land Office, and such other officers as may be provided by law.

Section 2. Selection, Terms, and Residence of Officers of Executive Department

The Governor, Lieutenant Governor, Attorney General, and Comptroller of Public Accounts shall be elected by the qualified voters of the State at general elections beginning with 1978. The Secretary of State shall be appointed by the Governor. The Commissioner of the General Land Office shall be elected or appointed as provided by law. Appointive officers of the Executive Department shall be appointed by the Governor with the advice and consent of the Senate and shall serve at the pleasure of the Governor. Elective officers of the Executive Department shall serve four-year terms. All officers of the Executive Department shall reside at the seat of government.

Section 3. Returns of Election; Declaration of Election; Tie Votes; Contests

Election returns for executive officers shall, until otherwise provided by law, be sealed and transmitted to the Secretary of State, who shall open the returns and promptly certify the winner but shall do so no later than the first Monday in January. The person receiving the highest number of votes for an office shall be declared elected. If two or more persons shall have the highest and an equal number of votes for an office, one of them shall be chosen immediately by joint vote of both houses of the Legislature. Contested elections for executive offices specifically named in Section 1 of this Article shall be determined by both houses of the Legislature in joint session.

Section 4. Governor's Eligibility and Installation

(a) The Governor shall be at least thirty years of age, shall be a citizen of the United States, and shall have been a resident of this State at least five years immediately preceding election.

(b) The Legislature shall provide appropriations for a staff and office space for a new Governor-elect prior to inauguration. A new Governor-elect shall be entitled to receive from governmental agencies those reports to which an incumbent Governor is entitled.

(c) The Governor shall be inaugurated on the second Tuesday in January or as soon thereafter as practicable. In those years when a new Governor is inaugurated, the Legislature shall convene in regular session one day prior to inauguration and shall organize but shall not act as a deliberative body for the consideration and passage of bills and resolutions until forty-five days thereafter, except on matters called for by the Governor.

Section 5. Gubernatorial Succession

(a) If before inauguration the person elected Governor fails to qualify, is disabled, or dies, the person elected Lieutenant Governor shall be inaugurated and shall serve as Governor.

Article IV

until the person elected Governor at the next general election assumes office for the remainder of the term.

(b) If after inauguration the Governor dies, resigns, becomes disabled, or is removed from office, the Lieutenant Governor shall become Governor and shall serve for the remainder of the term unless the vacancy occurs within sixteen months after inauguration in which event the Lieutenant Governor shall serve only until the person elected Governor at the next general election assumes office for the remainder of the term.

(c) If after a vacancy occurs in the office of Governor and the Lieutenant Governor becomes Governor and thereafter dies, resigns, becomes disabled, or is removed from office, the Speaker of the House of Representatives, if qualified, shall become Governor under the same conditions and for the same term as provided for the Lieutenant Governor.

(d) If the Governor is absent from the State, the Lieutenant Governor shall act as Governor until the Governor returns. If both the Governor and Lieutenant Governor are absent from the State, the Speaker of the House of Representatives shall act as Governor during such absences.

(e) While serving or acting as Governor, the Lieutenant Governor or Speaker of the House of Representatives shall receive only the compensation payable to a Governor.

(f) The Legislature may provide by law for further succession to the office of Governor. No person shall serve as Governor unless qualified for that office.

Section 6. Disability of Elective Officers of Executive Department

The disability of any elected officer of the Executive Department to perform the duties of the office during the term for which elected shall be determined in a proceeding in the Supreme Court of the State under such rules of procedure as may be prescribed by that court. A majority vote of the Governor, Lieutenant Governor, Attorney General, Comptroller of Public Accounts, Commissioner of the General Land Office, Speaker of the House of Representatives, and President pro tempore of the Senate shall initiate such proceedings.

Section 7. Compensation of Officers of Executive Department

The compensation of the Governor, Lieutenant Governor, Attorney General, Comptroller of Public Accounts, Secretary of State, and Commissioner of the General Land Office shall be as provided by law, not to exceed the amount recommended by the salary commission. The compensation of officers of the Executive Department shall not be diminished during their term of office. The Governor shall have the use of the Governor's Mansion.

Section 8. Dual Office Holding; Other Compensation

No officer of the Executive Department shall hold any other civil or corporate office or practice any profession; nor shall any such officer receive any salary, reward, or compensation from non-governmental sources.

Section 9. Commander-in-Chief; Calling Forth Militia

The Governor shall be Commander-in-Chief of the military forces of the State, except when they are called into actual service of the United States, and shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and to repel invasions.

Section 10. Execution of Laws; Conduct of Business With Other States, The United States, and Foreign Nations

The Governor shall cause the laws to be faithfully executed and shall conduct, in person or in such manner as shall be provided by law, all intercourse and business of the State with other states, the United States, and foreign nations.

Section 11. Convening the Legislature in Special Session

The Governor may, on extraordinary occasions, convene the Legislature in special session, stating specifically the purpose and duration of the session.

Section 12. Governor's Message

At the beginning of each legislative session the Governor shall, and at other times may, give the Legislature information on the condition of the State, and may recommend legislative action.

Section 13. Action on Bills and Resolutions

(a) Every bill that passes both houses of the Legislature shall be presented to the Governor. The Governor may approve the bill by signing it in which event it shall become law and shall be filed with the Secretary of State. The Governor may veto the bill by returning it with objections to the house in which it originated. That house shall enter the objections in its journal and reconsider the bill for passage over the veto. If the bill passes that house by a two-thirds record vote of the membership, it shall be sent with the Governor's objections to the other house which shall enter the objections in its journal and reconsider the bill for passage over the veto. If the bill likewise passes that house by a two-thirds record vote of the membership, the bill shall become a law and shall be filed with the Secretary of State. If the Governor fails to veto a bill within ten days (Sundays excepted) after it is presented, the bill shall become a law and shall be filed with the Secretary of State. If the Legislature by its adjournment prevents a veto, the bill shall become a law and shall be filed with the Secretary of State unless within twenty days after adjournment the Governor files the bill and objections with the Secretary of State and gives public notice thereof by proclamation. If the same Legislature meets again, the Secretary of State shall return the bill with the Governor's objections to the house in which the bill originated for reconsideration in the manner provided above.

(b) The Governor may veto or reduce any item of appropriation in a bill, except that no item consisting of an appropriation for the salary for a single office or position may be reduced. Portions of a bill not vetoed and the reduced amount of items shall become law. Items vetoed and the amount by which items are reduced together with the Governor's objections shall be returned to the house in which the bill originated for reconsideration in the manner provided in Subsection (a).

(c) All orders and resolutions requiring the concurrence of both houses of the Legislature, except those concerning adjournment and legislative rules and those proposing amendments to the Constitution or a referendum on incurring State debt, shall be presented to the Governor. If the Governor disapproves an order or resolution, it shall not become effective unless repassed in the manner provided for in Subsection (a).

Section 14. Chief Planning Officer

The Governor shall be the chief planning officer of the State and may require information in writing and reports from all State agencies and officers upon any subject relating to their duties, conditions, management, and expenditures.

Article IV

Section 15. Budget Preparation

At the beginning of each session at which appropriations are to be made for the general operation of the government the Governor shall submit to the Legislature a budget for all proposed State expenditures for the applicable fiscal period, accompanied by an appropriation bill covering the proposed expenditures. This bill, to be known as the Budget Bill, shall be introduced immediately in each house by the respective chairmen of the committees on appropriations for consideration and passage as in the case of any other bill. Until the Budget Bill has been enacted, neither house shall finally pass any other appropriation bill, except emergency bills recommended by the Governor and appropriations for the operation of the Legislature.

Section 16. Budget Execution

The Governor shall be responsible as provided by law for the proper execution and administration of the total State budget and shall require of all State governmental agencies such expenditure plans, fiscal reports, and accounts as deemed necessary to supervise the expenditure of previously appropriated funds.

Section 17. Administrative Reorganization

The Governor may from time to time submit to the Legislature written reorganization plans reassigning functions among or consolidating or abolishing any State governmental agencies. Within sixty days after submission or within sixty days after the Legislature can act as a deliberative body, whichever comes later, either house may reject a plan by resolution. Unless rejected the plan shall become effective by its terms.

Section 18. Reprieves, Commutations, and Pardons; Remission of Fines and Forfeitures

The Governor shall have power as provided by law to grant reprieves relating to the execution of death sentences, and to grant commutations, pardons, and the remission of fines and forfeitures.

Section 19. Lieutenant Governor

The Lieutenant Governor shall possess the same qualifications as provided for the Governor. The qualified voters shall cast separate votes for the candidates for Governor and Lieutenant Governor. The Lieutenant Governor shall, by virtue of the office, be President of the Senate and when the Senate is equally divided may cast a deciding vote.

Section 20. Secretary of State

The Secretary of State shall perform the duties required by this Constitution and such other duties as may be provided by law.

Section 21. Attorney General

The Attorney General, except as expressly provided by law to the contrary, shall represent the State in all suits in which the State may be a party in all the courts of the State and of the United States, shall have all the powers of the office as at common law, and shall have such other duties as may be provided by law. The Attorney General must be qualified to practice before the Supreme Court of this State.

Section 22. Comptroller of Public Accounts

The Comptroller of Public Accounts shall perform the duties required by this Constitution and such other duties as may be provided by law.

Section 23. General Land Office

There shall be one General Land Office in the State at the seat of government, where all land titles emanating from the State shall be registered. The Commissioner of the General Land Office shall perform the duties required by this Constitution and such other duties as may be provided by law.

Section 24. Vacancies in Statewide Offices

Unless otherwise provided by this Constitution, all vacancies in elective statewide offices shall be filled by appointment of the Governor with the advice and consent of the Senate. An appointee shall serve for the remainder of the term unless the vacancy occurs within sixteen months after the elected officer assumed office, in which event the appointee shall serve only until a successor elected at the next general election assumes office for the remainder of the unexpired term.

Section 25. State Agencies

(a) The length of the term of members appointed by the Governor to State governmental agencies created by statute and with a life of not less than six years shall be two years, unless the number of appointed members is three or a whole multiple thereof in which case the length of the term shall be six years. Two-year terms shall expire between February 1 and April 1 of odd-numbered years. In the case of agencies with members who serve six-year terms, the terms of the members appointed by the Governor shall be staggered. The terms of one-third of such members shall expire between February 1 and April 1 of odd-numbered years.

(b) At the time of appointing members of multi-member agencies with six-year terms, the Governor may designate the chairman. If the Governor fails to designate a chairman prior to April 1, the members of an agency shall choose the chairman from among its membership.

Section 26. Seal of State and Commissions

There shall be a Seal of the State which shall be kept by the Secretary of State and used by that officer officially under the direction of the Governor. The Seal of the State shall be a star of five points encircled by olive and live oak branches and the words "The State of Texas." All commissions shall be in the name and by the authority of the State of Texas, sealed with the Seal of the State, signed by the Governor, and attested by the Secretary of State.

Article V

The Judiciary

Section 1. Unified Judicial System

The judicial power of the State is vested in the Judicial Branch. The State unified judicial system shall be composed of a Supreme Court, courts of appeals, district courts, and county courts. No other courts shall be created except municipal courts, provided by law or charter, and justice courts. All courts shall have jurisdiction as provided by law, but jurisdiction of courts of the same level shall be uniform throughout the State.

Section 2. Supreme Court

(a) The Supreme Court shall be the highest court of the State and shall consist of the Chief Justice of Texas and at least eight other justices. The court may sit in sections as designated by the court to hear argument of cases and to consider applications for writs of error or other preliminary matters, but a majority of the court shall be necessary to decide a case.

(b) The Supreme Court shall have the duty and authority to provide for the efficient and just operation of the judicial system. It may transfer cases from a trial court to a court of appeals or to the Supreme Court, and from one court of appeals to another or to the Supreme Court.

(c) The Supreme Court shall have authority to prescribe rules of civil and criminal procedure, but any rule of procedure expressly disapproved by the Legislature shall have no effect thereafter. The Supreme Court may prescribe other rules as provided by law.

Section 3. Courts of Appeals

The Legislature shall provide by law for one or more courts of appeals, each consisting of a chief judge and two other judges, and such additional judges as may be provided by law. Not fewer than three judges shall sit in any case.

Section 4. District Courts

The State shall be divided by law, or by an agency acting under authority of law, into geographical judicial districts. In each district there shall be one district court with one or more district judges and such other officials as provided in this Article or by law.

Section 5. County Courts

The Legislature shall provide by law for county courts. A county court may serve one or more counties, but no county shall have more than one county court. Each county court shall have one or more judges and such other officials as provided by law.

Section 6. Justice Courts

The governing body of each county shall establish and maintain one or more justice courts and, if more than one, shall divide the county into justice precincts and provide a justice court for each precinct.

Article V

Section 7. Qualifications of Judges

Each justice or judge shall be a citizen of this State and shall have such other qualifications as provided by law. Each justice and judge in the unified judicial system must be licensed to practice law in this State.

Section 8. Merit Selection and Nonpartisan Election*

(a) There is hereby created a Judicial Nominating Commission of eleven members, a majority of whom shall be non-lawyers. The Governor, Lieutenant Governor, and Speaker of the House of Representatives acting together shall select the members of the Judicial Nominating Commission and designate the chairman. The selection of the members shall be on a nonpartisan basis with due regard to representation of the sexes, ethnic groups, and geographical regions of the State.

(b) Members of the commission shall serve six-year terms, and no person shall serve more than one full term. Vacancies shall be filled by the selection committee for the remainder of the term.

(c) No member of the commission shall hold an elective or salaried public office or office in a political party, or shall be eligible for appointment to a State judicial office during the term for which appointed.

(d) When a vacancy occurs in the office of the Chief Justice of Texas, a supreme court justice, or a court of appeals judge, the vacancy shall be filled by the Governor from a list of three nominees submitted by the commission within forty-five days after the vacancy occurs. In selecting nominees, the commission shall consider only those who are well qualified from experience and knowledge of the law, but, among those so qualified, shall give fair consideration to the sexes, ethnic groups, and geographical regions of the State. If the Governor fails to make the appointment within sixty days after receiving the list of nominees, the Lieutenant Governor shall make the appointment from the list. A justice or judge appointed pursuant to this Subsection shall be subject, in the manner provided by law, to approval or rejection on a nonpartisan ballot at the first general election held more than ten months after the appointment is made, and every sixth year thereafter.

(e) If the Supreme Court determines that the Chief Justice is temporarily disabled, it shall designate another justice of the Supreme Court to serve temporarily as acting Chief Justice until the disability ends.

(f) District and county judges shall be elected on a nonpartisan ballot by the qualified voters as provided by law. Judges of the district courts shall serve six-year terms, and judges of the county courts shall serve four-year terms. Vacancies in the office of judge of the district and county courts shall be filled until the next succeeding general election by the Governor with the advice and consent of the Senate.

* The Commission voted its preference for merit selection of appellate judges but also recommends that the following proposal for nonpartisan election be submitted to the qualified voters as an alternative:

ALTERNATIVE SUBMISSION

Section 8. Nonpartisan Election of Appellate Judges

(a) The Chief Justice and justices of the Supreme Court shall be elected by the qualified voters of this State every six years on a nonpartisan ballot in the manner provided by law. Judges of the courts of appeals shall be elected by the qualified voters of their respective districts every six years on a nonpartisan ballot in the manner provided by law.

(b) Vacancies in the offices of justices and judges of the Supreme Court and the courts of appeals shall be filled until the next succeeding nonpartisan election by the Governor with the advice and consent of the Senate.

(g) Justices of the peace shall be elected every four years by the qualified voters of the county or precinct. Vacancies in the office shall be filled by the County Commission for the remainder of the term.

(h) No active justice or judge in the unified judicial system may engage in the practice of law. If any justice or judge files as a candidate for any elective nonjudicial office, the judicial office shall immediately become vacant.

Section 9. Compensation

The State shall pay the basic salaries of all justices and judges of the unified judicial system, subject to any supplementation by counties, and shall pay such other expenses of the system as provided by law. The salaries of such justices and judges shall not exceed the amount recommended by the salary commission. Funds collected by the courts may not be used to support the unified judicial system except to the extent of reimbursement of salaries and other expenses.

Section 10. Mandatory Retirement of Judges

The office of each justice and judge in the unified judicial system shall become vacant on the first day of January of the year following the date on which the incumbent reaches the age of seventy-five years or an earlier age, not less than seventy years, as provided by law.

Section 11. Removal of Judges

(a) Any justice of the Supreme Court shall be removed by the Governor, after a hearing by the Legislature and a vote by two-thirds of the membership of each house, for willful neglect of duty, incompetency, oppression in office, or other reasonable cause not a sufficient ground for impeachment.

(b) Any justice, judge, or other judicial officer may be removed from office, suspended, or censured by the Supreme Court for willful or persistent conduct which is clearly inconsistent with the proper performance of duties of the office, or which casts public discredit upon the judiciary or the administration of justice, and may be involuntarily retired or removed by the Supreme Court for disability seriously interfering with the performance of duties of the office if the disability is, or is likely to become, permanent.

(c) The Legislature shall establish by law a Judicial Qualifications Commission which shall operate under rules promulgated by the Supreme Court. The commission shall have authority to issue an order of public censure and to recommend to the Supreme Court suspension, removal, or retirement of any justice, judge, or other judicial officer.

Section 12. Judicial Council

(a) There is hereby created a Judicial Council which shall consist of the Chief Justice of Texas as chairman and the following members, each of whom shall serve a two-year term: two judges of the courts of appeals, three trial judges, one district clerk, and one county clerk, each appointed by the Supreme Court of Texas; four members of the State Bar appointed by its board of directors; and two members of each house of the Legislature appointed by each house. Vacancies shall be filled by the appointing authority for the remainder of the term.

(b) The council shall prescribe rules of administration for the unified judicial system and shall perform other duties as provided by law. Rules of administration shall not become effective until approved by the Supreme Court.

Article V

(c) Pursuant to rules of administration prescribed by the council, the Chief Justice may delegate administrative powers to active or retired judges, and temporarily assign a judge to any court of the same level and from a court of appeals to the Supreme Court. By such assignments, the membership of any court may be temporarily increased. The council shall also prescribe rules for filling vacancies temporarily for the purposes of trying cases and hearing appeals. If for any reason a judge feels aggrieved by any administrative action of the Chief Justice, the judge may petition the Supreme Court for review of such action.

Section 13. Clerks

(a) The Supreme Court and each court of appeals shall appoint a clerk who shall serve for a term of four years unless sooner removed by the court for good cause entered on the minutes of the court. These clerks shall give bond as required by law.

(b) District courts may remove their district clerks from office upon a jury finding of incompetence, official misconduct, or other causes defined by law.

Section 14. Juries

(a) Grand juries in the district courts shall consist of twelve persons, nine of whom shall constitute a quorum.

(b) Trial juries in the district courts shall consist of twelve persons and verdicts shall be unanimous, except that the Legislature or the Supreme Court pursuant to its rule-making power may provide that a verdict may be rendered in civil and misdemeanor cases in the district courts by fewer than twelve but not fewer than nine who shall concur in and sign the verdict.

(c) Trial juries in county courts shall consist of six persons and verdicts shall be unanimous, except that the Legislature or the Supreme Court pursuant to its rule-making power may provide that in civil cases a verdict may be rendered by fewer than six jurors.

(d) The qualifications of grand jurors and trial jurors shall be as provided by law.

(e) Any party shall have a right of trial by jury in civil causes in the district and county courts upon demand as provided by law or rule of the Supreme Court. A jury shall not be empaneled in any cause until a jury fee is paid if required by law or by rule of the Supreme Court.

Section 15. Suspension of Sentence and Probation

Courts having original jurisdiction of criminal cases shall have power to suspend sentence, place a defendant on probation, and reimpose sentence, subject to regulation by law.

Section 16. Appeal by State

The State shall have no right of appeal in criminal cases.

Section 17. Appeal by Accused

The right of appeal granted to an accused by Article I, Section 11a of this Constitution shall be direct to the Supreme Court of Texas.

Article VI

Suffrage

Section 1. Qualified Voter

Any citizen of the United States eighteen years of age or older who meets the registration and residence requirements provided by law, who is not serving a sentence for a felony, whether incarcerated, on parole, or on probation, and who is not of unsound mind as determined by a court, shall be a qualified voter.

Section 2. Elections

All elections by the qualified voters shall be by secret ballot. The Legislature by law shall provide the requirements for residence, registration, absentee voting, and administration of elections, and shall ensure the purity of elections and guard against abuses of the electoral process.

Section 3. General Elections

General elections shall be held in even-numbered years on a date provided by law.

Article VII

Education

Section 1. Equitable Support of Free Public Schools

(a) A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature to establish and make suitable provision for the equitable support and maintenance of an efficient system of free public schools and to provide equal educational opportunity for each person in this State.

(b) In distributing State resources in support of the free public schools, the Legislature shall ensure that the quality of education made available shall not be based on wealth other than the wealth of the State as a whole and that State supported educational programs shall recognize variations in the backgrounds, needs, and abilities of all students. In distributing State resources, the Legislature may take into account the variations in local tax burden to support other local government services.

Section 2. Permanent and Available School Fund

(a) The Permanent School Fund consists of all property set apart for support of the free public schools. The Permanent Fund shall not be expended but shall be preserved and invested at the direction of the State Board of Education in the manner prescribed by law.

(b) The Available School Fund consists of income from the Permanent Fund together with all State taxes dedicated to support the free public schools.

(c) The Available Fund shall be appropriated by the Legislature to support the free public schools, including the provision of free textbooks and such other instructional materials as may be required in academic programs.

Section 3. Prohibition of Aid to Non-Public Schools

Public funds shall not be used for support of religious, church-affiliated, or proprietary schools that provide education below the college level; nor shall public funds be provided to any students for payment of expenses incurred by attending such schools.

Section 4. Dedicated School Tax

One-fourth of the revenue from State occupation taxes and one-fourth of the net revenue from the State motor fuel tax are dedicated to the Available School Fund.

Section 5. State Board of Education

There shall be a State Board of Education which shall have the duties provided in this Article and by law. The Legislature may provide either for appointed or elected members whose terms shall not exceed six years. If the board is elective, the Governor shall appoint four additional members to the board. In making appointments the Governor shall give consideration to fair and equitable representation of the sexes, ethnic groups, social groups, and economic groups.

Article VII

Section 6. School and Community College Districts

The Legislature shall define by general law the duties and functions of school and community college districts and shall provide for establishing, financing, altering, consolidating, and abolishing such districts.

Section 7. First Class Colleges and Universities

The Legislature shall provide for a system of higher education of the first class which shall include The University of Texas System, the Texas A&M University System, universities, colleges, community colleges, and other first class institutions or systems as may be provided by law.

Section 8. Permanent University Fund. Its Administration, Its Investments; Available University Fund and Its Expenditure

(a) The Permanent University Fund consists of the two million acres of land set apart and appropriated for the establishment and maintenance of The University of Texas by the Constitution of 1876 and the Legislative Act of April 10, 1883, together with the proceeds of the sale of such land, including the sale of oil, gas, and other minerals from such land, and the securities and other assets purchased with the proceeds. All proceeds shall be invested, and only the income from the Permanent University Fund may be appropriated and expended.

(b) The Permanent University Fund shall be held in trust for the people of Texas and for the use and benefit of the Texas A&M University System and The University of Texas System. The land set apart to the Permanent University Fund, if sold, shall be sold under such regulations, at such times, and on such terms as may be provided by law.

(c) The Board of Regents of The University of Texas System may invest the Permanent University Fund in securities, bonds, or other obligations issued, insured, or guaranteed in any manner by the United States Government, or any of its agencies, in bonds issued by the State of Texas or any political subdivision thereof, and in such bonds, debentures, obligations, preferred stocks, or common stocks issued by corporations, associations, or other institutions as the Board of Regents of The University of Texas System may deem to be proper investments for the Permanent University Fund. However, not more than one percent of the Fund shall be invested in the securities of any one corporation nor shall more than five percent of the voting stock of any one corporation be owned by the Fund. In making each and all investments, the Board of Regents shall exercise the judgment and care under the circumstances then prevailing that men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital. The Board of Regents shall make full disclosure of all investments as provided by law.

(d) The net income (that is, dividends, interest, and other income less administrative expense) of the Permanent University Fund, exclusive of net income attributable to grazing leases of Permanent University Fund land, shall constitute the Available University Fund. Out of one-third of the Available University Fund, the Legislature shall appropriate an annual sum sufficient to pay the principal and interest due on Permanent University Fund bonds or notes issued by the Board of Directors of the Texas A&M University System pursuant to the next section or its predecessor sections of prior constitutions, and the remainder of such one-third of the Available University Fund shall be appropriated by the Legislature for the support and maintenance of Texas A&M University at College Station. Out of the other two-thirds of the Available University Fund, the Legislature shall appropriate an annual sum sufficient to pay the principal and interest due on Permanent University Fund