

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

812 SCOM.427: INT. COMM. CONSTITUTIONAL CONVENTION 1979-80

bonds or notes issued by the Board of Regents of The University of Texas System pursuant to the next section or its predecessor sections of prior constitutions, and the remainder of such two-thirds of the Available University Fund, plus the net income (that is, income less administrative expense) from grazing leases of Permanent University Fund land, shall be appropriated by the Legislature for the support and maintenance of The University of Texas at Austin.

Section 9. Texas A&M University System; The University of Texas System; Permanent University Fund Bonds or Notes

(a) The Board of Directors of the Texas A&M University System and the Board of Regents of The University of Texas System for the benefit of all the institutions now included in their respective systems are each hereby authorized to issue in amounts not to exceed for the Texas A&M System ten percent, and for The University of Texas System twenty percent, of the value of the Permanent University Fund exclusive of real estate at the time of any issuance, negotiable bonds and notes for the following purposes: (1) acquiring land either with or without permanent improvements; (2) constructing new buildings or other permanent improvements; (3) repairing and rehabilitating existing buildings or other permanent improvements; (4) acquiring library books and materials; (5) acquiring capital equipment; and (6) refunding any bonds heretofore or hereafter issued.

(b) Any bonds or notes issued pursuant to this Section shall be payable solely out of the Available University Fund. Bonds or notes so issued shall mature serially or otherwise not more than thirty years from their respective dates.

(c) Institutions now included in the Texas A&M University System and The University of Texas System, and entitled to participate in the Permanent University Fund, shall not receive any general revenue funds for acquiring land either with or without permanent improvements, or for constructing and equipping new buildings or other permanent improvements except in case of fire, flood, storm, or earthquake occurring at any such institution. In such an event an appropriation in an amount sufficient to replace the uninsured loss may be made by the Legislature from general revenue funds.

(d) For the purpose of securing the payment of the principal and interest of these bonds or notes, the Boards are severally authorized to pledge the whole or any part of the respective interests of the Texas A&M University System and The University of Texas System in the Available University Fund. The Permanent University Fund may be invested in these bonds or notes. All bonds or notes issued pursuant to this Section shall be approved by the Attorney General of Texas and when so approved shall be incontestable.

Section 10. State Higher Education Tax Fund for the Benefit of Certain Institutions of Higher Education

(a) The Legislature shall levy a State ad valorem tax on property at a rate not less than ten cents on the one hundred dollars valuation sufficient to provide a level of support necessary to promote the attainment of first class status for all State institutions of higher education except those institutions included in the Texas A&M University System and The University of Texas System, all public community colleges, and all State technical institutes.

(b) The proceeds of this tax shall comprise the Higher Education Tax Fund.

(c) The Higher Education Tax Fund may be pledged to secure or refund bonds issued heretofore or hereafter for acquiring land, either with or without permanent improvements thereon, constructing, equipping, repairing, rehabilitating buildings or other permanent improvements, and for acquiring capital equipment and library books and materials at the in-

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stitutions for which the Fund is created. After appropriating an annual sum sufficient to pay the principal and interest due on such bonds, the Legislature shall appropriate the remainder of the Fund for the support and maintenance of State institutions of higher education other than The University of Texas at Austin, Texas A&M University at College Station, the public community colleges, and the State technical institutes.

(d) The Legislature shall provide by law for each issue of bonds authorized by this Section and for equitable distribution of the proceeds on the basis of statewide needs. Responsibility for issuance of bonds and allocation of proceeds shall be vested as provided by law.

(e) From the date on which they became eligible to participate in the special tax fund established in this Section, the institutions participating in this fund shall not receive any general revenue funds for acquiring land or permanent improvements, or for constructing and equipping new buildings or other permanent improvements, except that in the case of fire or natural disaster the Legislature may appropriate from general revenue an amount sufficient to replace the uninsured loss.

(f) If for any reason the tax authorized by this Section is held invalid, the Legislature shall provide an equal amount of revenue from other sources.

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Finance

Section 1. Taxation

Taxes shall be levied and collected by general law.

Section 2. Property Tax Exemptions

(a) There shall be exempt from all ad valorem taxation:

- (1) The property of the State except as provided by law and all other public property used for public purposes;
- (2) All household goods and personal effects not used for the production of income; and
- (3) All farm products in the hands of the producer and family supplies for home and farm use.

(b) There shall be exempt from State ad valorem taxation:

- (1) Three thousand dollars of the assessed value of all residence homesteads; and
- (2) The property of political subdivisions of the State.

(c) The Legislature by general law may exempt from ad valorem taxation:

- (1) Property used exclusively for educational or charitable purposes or places of burial not held for profit,
- (2) Up to three thousand dollars of the assessed value of property owned by a disabled veteran of the armed services of the United States or by the surviving spouse and surviving minor children of a disabled veteran of the armed services of the United States;
- (3) Up to three thousand dollars of the assessed value of property owned by the surviving spouse or surviving minor children of any member of the armed services of the United States whose life was lost while on active duty;
- (4) Actual places of religious worship;
- (5) Any property owned by a church or by a strictly religious society for the exclusive use as a dwelling place for the ministry of such church or religious society if the property yields no revenue to the church or religious society, but such exemption shall not extend to more property than is reasonably necessary for a dwelling place and in no event more than one acre of land; and
- (6) Any other property validly exempt at the time of adoption of this Constitution.

(d) The governing body of any political subdivision may exempt from ad valorem taxes not less than three thousand dollars of the assessed value of a residence owned and occupied by persons sixty-five years of age or over. If no exemption has been granted, the governing body,

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upon a petition signed by qualified voters equal in number to at least twenty percent of those voting in the last preceding election held by the political subdivision, shall call an election to determine by majority vote whether to grant such an exemption in the amount, not less than three thousand dollars, specified in the petition.

(e) The Legislature by general law may provide relief from residential ad valorem taxes for persons determined to be in need of such relief because of age, disability, or economic circumstances. Any such law shall provide for the reimbursement of political subdivisions for revenue losses caused by such relief.

(f) No exemptions from ad valorem taxation shall be granted except as authorized under this Section.

Section 3. Highway-User Revenues

Subject to legislative appropriation, allocation, and direction, all net revenues from motor vehicle registration fees and three-fourths of net revenues from all taxes on fuels and lubricants used to propel motor vehicles over public roadways, except gross production and ad valorem taxes, shall be deposited in the State Highway Fund. Such revenues shall be used solely for acquiring rights-of-way, constructing and maintaining a State highway system; for policing public roadways; and for administering laws pertaining to the supervision of traffic and safety on public roadways. One-fourth of net revenues from these taxes shall be allocated to the Available School Fund. The net revenue derived by counties from motor vehicle registration fees shall never be less than the maximum amounts allowed to be retained by each county, or less than the percentage allowed to be retained, under the laws in effect at the time of adoption of this Constitution.

Section 4. State Taxes on Income

If a law is enacted levying an income tax, the tax may be on personal or corporate income, or both, and may be graduated or otherwise. The law may define income by reference to the laws of the United States as they then exist or may thereafter be changed.

Section 5. State Debt

(a) State debt shall mean bonds or other evidences of indebtedness which are secured by the general credit of the State or are to be repaid, directly or indirectly, from tax revenue and are incurred for the State or for an agency of the State.

(b) No State debt shall be authorized or incurred except as provided in this Constitution.

(c) State debt may be authorized by general law to refund outstanding State debt.

(d) State debt may be incurred if approved by two-thirds vote of the membership of each house of the Legislature and submitted to and approved by a majority of the qualified electors voting on the question.

Section 6. Appropriations

(a) Money may not be drawn from the State Treasury except in accordance with specific appropriations made by law.

(b) Any appropriation from the State Treasury expires two years after its effective date.

(c) No bill containing an appropriation may be considered as passed or be sent to the Governor for consideration until and unless the Comptroller of Public Accounts certifies that the amount appropriated is within the estimated revenue for the applicable fiscal period.

(d) No appropriation in excess of the estimated revenue shall be valid unless it is made in response to imperative public necessity and approved by four-fifths vote of the membership of each house of the Legislature.

Section 7. Public Funds

Public money and public credit shall be used for public purposes only.

Section 8. Public Purposes

Public purposes, as that term is used in this Constitution, include, but are not limited to, purposes for which taxes could be levied or public money or public credit could be used before the adoption of this Constitution.

Article IX

Local Government

Section 1. Counties

The counties of the State are those that exist on the date of adoption of this Constitution. Changes in county boundaries, the merger and division of counties, and the removal of county seats shall be subject to the approval of a majority of the qualified voters voting on the question in each county affected.

Section 2. Powers of County Government

The powers of counties shall be those granted by this Constitution and by general law.

Section 3. County and District Officials

(a) The governing body of each county, to be known as the County Commission, shall consist of a County Judge elected by the qualified voters of the county and four County Commissioners, each elected by the qualified voters from separate and compact precincts containing as nearly as practicable an equal number of inhabitants. The County Judge shall serve as presiding officer.

(b) A Sheriff, Treasurer, Tax Assessor-Collector, County Clerk, and District Clerk shall be elected for each county, except that a single County Clerk may be elected to perform the duties of county and district clerk as provided by law.

(c) County Attorneys, District Attorneys, and Criminal District Attorneys shall be elected in such numbers and for such counties as provided by law.

(d) The County Commission may provide for the election of one or more Constables.

(e) The qualifications, duties, and functions of county officials and the grounds and procedure for disqualification, suspension, and removal shall be as provided by law.

(f) Notwithstanding any of the foregoing provisions, the qualified electors of a county, as provided by general law, may by charter, or by a majority vote of those voting on the question, alter the governing body, create additional offices, eliminate offices, combine the duties and functions of offices, and change the method of selection of any one or more county officials. In such an event the county shall provide for the performance of all duties and functions required by State law.

(g) Vacancies in county offices shall be filled as provided by general law or charter. Vacancies in district offices shall be filled as provided by law.

Section 4. County Charters and Ordinances

(a) The Legislature shall by law provide procedures by which any county with a population of not less than twenty-five thousand may adopt, amend, or repeal a charter with the approval of a majority of qualified voters voting on the question. A charter election may be initiated by petition of the qualified voters of the county or by resolution of the governing body as provided by law. No charter or ordinance shall be inconsistent with the Constitution or laws of the State.

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(b) The qualified voters of a county without a charter may by a majority of those voting on the question grant the county governing body the power to enact ordinances as authorized by law.

(c) If a county ordinance conflicts with an ordinance of an incorporated city or town, the municipal ordinance shall prevail within its jurisdiction as defined by law.

(d) Neither county charters nor ordinances shall affect jurisdiction or venue or the duties of personnel of courts which are part of the State unified judicial system.

Section 5. General Law Cities

Cities and towns having a population of one thousand five hundred or less may be chartered only by general law. They may levy, assess, and collect such taxes as may be authorized by law.

Section 6. City Charters

Cities and towns having more than one thousand five hundred inhabitants may, by a majority vote of the qualified voters voting on the question, adopt, amend, or repeal their charters as provided by law. No charter or ordinance shall be inconsistent with the Constitution or general laws of the State. Cities which adopt charters under this Section may levy, assess, and collect any taxes authorized by law or charter. No city shall lose the power to amend or repeal its charter because its population drops below one thousand five hundred.

Section 7. Special Districts and Authorities

The Legislature shall provide by general law for establishing, financing, consolidating, and abolishing special districts and authorities and shall define their powers by general law. No special district or authority shall be created if the service it is to provide can be provided by an existing political subdivision. The provisions of this Section shall not be applicable to school and community college districts.

Section 8. Terms of Office

The terms of office for all elected officials of political subdivisions shall be as provided by law or charter.

Section 9. Compensation of Officials

Elected officials of political subdivisions shall be compensated only on a salary or per diem basis.

Section 10. Local Redistricting

Within the calendar year following that in which each federal decennial census is published, and at such other times as the governing body of any political subdivision may deem necessary, each governing body not entirely elected at large shall divide its geographical area into districts for the election of those representatives to the governing body not elected at large. The districts shall be composed of contiguous territory and shall be as compact and as nearly equal in population as practicable.

Section 11. Local Debt

Political subdivisions shall not issue general obligation bonds, except refunding bonds, unless approved by a majority of qualified voters voting on the question. No debt shall be

created by a political subdivision unless at the same time provision is made for paying the interest and principal when due.

Section 12. Intergovernmental Cooperation

A political subdivision may, by act of its governing body, cooperate or contract with one or more other political subdivisions, the State, or the United States with respect to the exercise of any function, power, or responsibility, or the use of public funds and credit in the public interest.

Article X

General Provisions

Section 1. Official Oath

All State and local officials shall take the following oath before they enter upon the duties of their office:

"I, _____, do solemnly swear that I will faithfully execute the duties of the office of _____ and will to the best of my ability preserve, protect, and defend the Constitutions and laws of the United States and of the State of Texas, so help me God."

Section 2. Residence of Civil Officials

All elected and appointed officials shall reside within the State. All elected and appointed officials of a political subdivision shall reside within the political subdivision which they serve, and shall keep their offices at such places as required by law. Failure to comply with these conditions shall vacate the office.

Section 3. Officials to Serve Until Successor Qualified

All officials may continue to perform the duties of their offices until their successors shall be duly qualified.

Section 4. Forfeiture of Residence by Absence on Public Business

No person shall forfeit the right of suffrage, or of election or appointment to any office because of absence from the State or a political subdivision on business of the United States, this State, or a political subdivision.

Section 5. Vacancies Filled for Unexpired Term

Except as otherwise provided in this Constitution, elections to fill vacancies in office shall be for the remainder of the term only.

Section 6. Disqualification from Constitutional Office

In addition to the grounds and procedures provided in this Constitution, the disqualification, suspension and removal from any constitutional office, withholding of salary, and temporary filling of vacancies shall be as provided by law, but no statute enacted under the authority of this Section may be applicable to conduct committed before its enactment.

Section 7. Qualification for and Disqualification from Statutory Office

Unless otherwise provided in this Constitution, the qualifications, grounds for disqualification, suspension and removal from office, withholding of salary, and temporary filling of vacancies for statutory officials shall be as provided by law.

Section 8. Appointments to State Agencies

The authority responsible for appointing the members or filling vacancies for State gov-

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ernmental agencies shall make appointments that fairly and equitably represent the sexes, ethnic groups, economic groups, and geographical regions of the State.

Section 9. Salary Commission

(a) A salary commission shall be established to recommend rates of compensation for members of the Legislature, judges in the State unified judicial system, and officials of the executive branch, and to perform such other duties pertaining to compensation as may be provided by law. Compensation paid by the State shall not exceed the rates recommended by the commission.

(b) The salary commission shall consist of nine members appointed by the Governor with the advice and consent of the Senate. Members of the commission shall serve six-year terms. Vacancies shall be filled by the Governor for the remainder of the term with the advice and consent of the Senate. No member of the commission may hold another public office at the same time.

Section 10. Environment

The State and each person shall maintain and improve a clean and healthful environment in Texas for present and future generations. The Legislature shall provide for the administration and enforcement of this duty. The Legislature shall provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources.

Section 11. Separate and Community Property of Husband and Wife

All property owned or claimed by each spouse before marriage, and that acquired afterward by gift, devise, or descent, shall be the separate property of that spouse; and laws shall be passed more clearly defining the rights of each spouse in relation to separate property as well as that held in common with one another. A husband and wife may from time to time and by written instrument partition between themselves in severalty or into equal undivided interests all or any part of their existing community property. In like manner, they may exchange between themselves the community interest of one in any property for the community interest of the other in other community property. The portion or interest set aside to each by partition or exchange shall be and constitute a part of the separate property of such spouse. A partition or exchange under this Section shall not prejudice the rights of preexisting creditors. This provision is self-operative, but laws may be passed prescribing reasonable requirements not inconsistent herewith.

Section 12. Homestead

(a) The homestead of a family and of such other persons as may be designated by law is protected from forced sale for the payment of all debts, except for purchase money therefor, taxes due thereon, and for work and material used in constructing improvements thereon when the work and material are contracted for in writing by the owner but, in the case of married persons, only if both spouses consent to the contract in the manner required when a homestead is sold. A homestead of married persons may be sold only with the consent of both spouses, except that when the homestead is the community property or the separate property of the spouse desiring to sell, it may be sold as provided by law without the consent of the other spouse if the latter is incompetent, has disappeared, or has abandoned the homestead, as provided by law. No mortgage, trust deed, or other lien on a residential homestead shall be valid except for the purchase money therefor or for improvements made thereon, as provided above. Liens may be created on non-residential homesteads but only in the manner required for a conveyance thereof. All pretended sales of the homestead involving any condition of defeasance shall be void.

(b) The homestead not in a city, town, or village shall consist of not more than two hundred acres of land, which may be in one or more parcels with the improvements thereon. Of the two hundred acres, only fifty acres on which the home is located shall be classified as residential and the remainder shall be classified as non-residential. The homestead in a city, town, or village shall consist of land valued at the time of establishment thereof, and without reference to the value of any improvements thereon, at no more than ten thousand dollars or any larger sum as may be provided by law. A homestead in a city, town, or village is a residential homestead if used as a home and is non-residential if used as a place for the exercise of the calling or business of the head of a family or such other person as may be designated by law. A home remains a homestead while temporarily rented only so long as no other homestead is acquired.

(c) The homestead of married persons shall descend and vest like any other real property, except that the homestead shall not be partitioned so long as it is used and occupied as a home either by the surviving spouse, or by minor children if the use and occupancy have been granted by the court.

Section 13. Protection of Personal Property from Forced Sale

The Legislature shall provide by law for the protection from forced sale of certain portions of the personal property of all adults and heads of families.

Section 14. Wages Not Subject to Garnishment

No current wages for personal service shall be subject to garnishment.

Section 15. Private Corporations

No private corporation shall be created except by general laws.

Section 16. Foreign Corporations with Banking and Discounting Privileges

No foreign corporation, other than national banks of the United States, shall be permitted to exercise banking or discounting privileges in this State.

Section 17. Alcoholic Beverages

(a) The Legislature shall regulate the manufacture, sale, possession, and transportation of alcoholic beverages, and shall preserve the right of any county, justice precinct, or incorporated town or city to exercise local option by election to legalize or to prohibit the sale of alcoholic beverages of various types and various alcoholic content.

(b) In any county, justice precinct, or incorporated town or city in which the manufacture, sale, barter, or exchange of alcoholic beverages of any of various types and various alcoholic content was prohibited at the time of the adoption of this Constitution, the same shall continue to be unlawful unless and until a majority of the qualified voters in such political subdivision voting on the question in an election shall determine such to be lawful.

Section 18. Practitioners of Medicine

The Legislature may pass laws prescribing the qualifications of practitioners of medicine in this State, and to punish persons for malpractice, but no preference shall ever be given by law to any schools of medicine.

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Section 19. Gambling Enterprises

Neither the State nor any political subdivision thereof shall sponsor or operate lotteries or any other gambling enterprises.

Section 20. Liens of Mechanics, Artisans, and Materialmen

Mechanics, artisans, and materialmen of every class shall have a lien upon the buildings and articles made or repaired by them for the value of their labor done thereon, or material furnished therefor; and the Legislature shall provide by law for the speedy and efficient enforcement of said liens.

Section 21. Pension and Retirement Systems

Any pension or retirement system of this State, or of any political subdivision thereof, or of any governmental agency of either, now in effect shall be continued. No funds held pursuant to any such system shall be used for any purposes inconsistent therewith.

Article XI

Mode of Amending the Constitution of the State

Section 1. Amendments to the Constitution

(a) Amendments to this Constitution may be proposed to the qualified voters of the State by a record vote of two-thirds of the membership of each house. Before either house votes, a proposed amendment shall be submitted to the Attorney General who shall within twenty days of receipt of a request render an opinion on its effect on other provisions of this Constitution and on whether the proposal can be enacted without a constitutional amendment.

(b) A proposed amendment shall be submitted at the next general election following the expiration of ninety days after it is proposed by the Legislature. Procedures shall be provided by law for publicizing proposed amendments.

(c) A proposed amendment shall become a part of this Constitution on approval by a majority of the qualified voters voting on the question.

Section 2. Constitutional Convention

(a) The Legislature by a record vote of a majority of the membership of each house may submit to the qualified voters of the State the question of whether to call a constitutional convention. The question shall be submitted at the first general election occurring at least six months after the Legislature proposes the question. A constitutional convention shall be called if approved by a majority of the qualified voters voting on the question.

(b) The question of whether to call a constitutional convention shall be submitted to the qualified voters at least once every twenty years.

(c) The Legislature shall, at the next legislative session following approval of a constitutional convention by the qualified voters, provide by law for the time, place, and duration of the convention; fix and provide for the pay, allowances, and expenses of delegates and officers; and provide for the expenses of the convention. The first meeting of the convention shall be within three months after the election of delegates.

(d) One delegate shall be elected from each representative district and shall have the same qualifications for office as a member of the House of Representatives. Delegates shall be elected and vacancies filled as provided by law, except that no justice or judge, no member of the Legislature, and no elective official of the executive branch may serve as a delegate.

(e) The constitutional convention may, by a majority vote of its membership, propose any revision or amendments to the Constitution. The convention shall determine the manner of submission, the date of the election, which shall be not less than two nor more than six months after the convention adjourns, and the manner of publicizing the proposals to be voted on.

(f) Any proposed revision or amendments shall become effective, as the convention provides, if approved by a majority of qualified voters voting on the question.

Transition Schedule

The following schedule provisions shall remain part of this Constitution until they have been executed. Once each year the Attorney General shall review this Schedule and certify to the Secretary of State which remaining provisions have been executed. Any provisions so certified shall be removed and no longer published as part of this Constitution.

Section 1. Accelerated Effective Date

- (a) Sections 14 and 15 of Article IV shall become effective on January 1, 1975.
- (b) Section 10 of this Transition Schedule shall become effective on January 1, 1975.

Section 2. Existing Laws, Rights, and Proceedings

All laws not inconsistent with this Constitution shall continue in force until they expire by their own limitation or until amended or repealed, and all existing writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles, and rights shall continue unaffected except as modified in accordance with the provisions of this Constitution.

Section 3. Validity of Issued and Unissued Bonds

(a) All bonds or other evidences of indebtedness validly issued by or on behalf of the State or any agency or political subdivision thereof under authority previously granted by the Constitution of 1876, as amended, remain valid and enforceable in accordance with their terms and subject to all applicable terms and conditions notwithstanding the repeal of such authority by virtue of the adoption of this Constitution. The State and any such agency or political subdivision, as the case may be, shall continue to provide for source or sources of payment in accordance with the terms of such bonds or other evidences of indebtedness, whether from taxes or otherwise, until such bonds or other evidences of indebtedness are paid in full.

(b) Any bonds or other evidences of indebtedness previously authorized to be issued by or on behalf of the State or any agency or political subdivision thereof but unissued on the effective date of this Constitution may be validly issued subject to all applicable terms and conditions under the authority previously granted by the Constitution of 1876, as amended, notwithstanding the repeal of such authority by virtue of the adoption of this Constitution. Any such unissued bonds or other evidences of indebtedness may be issued bearing any rate of interest within the limits permitted by the Constitution of 1876, as amended, until the Legislature, by law, hereafter removes such limits or authorizes new limits.

Section 4. Continuation of Grants of Power to Counties

The powers directly granted by the following designated provisions of the Constitution of 1876, as amended, are continued in force and effect until the effective date of a general law that continues the power or by its terms diminishes or discontinues the power.

- (a) Subsection (c) of Section 52 of Article III;
- (b) Section 52d of Article III;
- (c) That Section 52e of Article III that was added in 1967;

Transition Schedule

- (d) That Section 52e of Article III that was added in 1968; and
- (e) Section 6b of Article VII.

Section 5. Ten Cent State Ad Valorem Tax

The State ad valorem tax of ten cents on the one hundred dollars valuation levied by Section 17 of Article VII of the Constitution of 1876, as amended, is hereby levied until the Legislature levies an ad valorem tax pursuant to Section 10 of Article VII. The proceeds of such levies shall be used for the purposes specified in that Section.

Section 6. County Ad Valorem Tax

Counties may continue to levy an ad valorem tax of not more than eighty cents on the one hundred dollars valuation as provided by Article VIII, Section 9 of the Constitution of 1876 until the Legislature by general law grants to counties power to levy an ad valorem tax of a different amount.

Section 7. Assessment of Agricultural Lands

Until otherwise provided by law, Section 1d of Article VIII of the Constitution of 1876, as amended, shall continue in force and effect.

Section 8. Continuation of Power Granted to Independent School Districts and Community College Districts

The powers directly granted to independent school districts and community college districts by Section 3b of Article VII of the Constitution of 1876, as amended, are continued in force and effect until the effective date of a general law that continues the powers or by its terms diminishes or discontinues the powers in whole or in part.

Section 9. Compensation of Legislature and Lieutenant Governor

Members of the Legislature and the Lieutenant Governor shall receive the compensation provided for in the Constitution of 1876, as amended, until otherwise provided by law.

Section 10. Anticipatory Legislation

Laws may be enacted in 1975 in anticipation of the effective date of this Constitution but such laws shall not become effective prior to September 1, 1975.

Section 11. Retirement Systems

The provisions of the following sections of the Constitution of 1876 pertaining to retirement systems shall continue in force and effect unless and until changed by law:

- (a) Article III, Section 48a; Fund for Retirement, Disability and Death Benefits for Employees of Public Schools, Colleges and Universities;
- (b) Article III, Section 48b; Teacher Retirement System of Texas;
- (c) Article III, Section 51-e; Municipal Retirement Systems and Disability Pensions;
- (d) Article III, Section 51-f; State-wide Retirement and Disability System for Municipal Officers and Employees;

(e) Article V, Section 1-a; Retirement, Censure, and Removal of Justices and Judges; State Judicial Qualifications Commission;

(f) Article XVI, Section 62; State and County Retirement, Disability and Death Compensation Funds;

(g) Article XVI, Section 63; Teachers and Employees Retirement Systems, Service Credit; and

(h) Article XVI, Section 66; Texas Rangers; Retirement and Disability Pension System for Rangers Ineligible for Membership in Employees Retirement System.

Section 12. Special Elections for Members of the Legislature

Until otherwise provided by law, the Governor shall issue writs of election to fill vacancies in either house of the Legislature.

Section 13. Terms of Office

(a) The terms of all offices affected by Section 25 of Article IV are hereby extended to February 1, 1977, 1979 and 1981, if they expire prior to those dates but after January 31, 1976, 1978 and 1980, respectively, and are shortened to March 31, 1977, 1979 and 1981, if they expire subsequent to those dates but prior to February 1, 1978, 1980 and 1982, respectively. The foregoing adjustments are applicable only to offices that are not abolished.

(b) The Commissioner of the General Land Office and the Treasurer elected at the general election held in 1974 shall serve for the terms for which they are elected.

(c) Except as otherwise provided in this Transition Schedule, all elected officers in this State shall continue in office until the end of their terms unless their offices are sooner abolished in accordance with this Constitution or laws enacted pursuant thereto.

(d) Until otherwise provided by law, general law cities and towns, by majority vote of the qualified voters voting at an election called for the purpose, may provide for terms of office of its elected officers not exceeding four years.

(e) Until otherwise provided by law, the terms of office and system of staggered terms created by Sections 64 and 65 of Article XVI of the Constitution of 1876 shall remain in effect.

(f) Until otherwise provided by law, the requirement of Article XVI, Section 65 of the Constitution of 1876 that the candidacy of district, county, and precinct officers for any office other than the office held shall constitute an automatic resignation, if the unexpired term of the office then held shall exceed one year, shall remain in effect.

Section 14. Commissioner of the General Land Office and State Treasurer

The Commissioner of the General Land Office and the State Treasurer shall continue to be elected officials until the Legislature otherwise provides by law.

Section 15. Board of Pardons and Paroles

Until otherwise provided by law, the Board of Pardons and Paroles shall continue to be chosen and shall continue to operate as provided in Section 11 of Article IV of the Constitution of 1876, as amended.

Transition Schedule

Section 16. Constitutional Powers Omitted from Implementing Statutes

Any power directly granted to any of the following designated boards by the applicable designated section of the Constitution of 1876, as amended, not also granted by statute shall remain in force and effect until the effective date of a statute either granting such power or otherwise specifically superseding the power hereby continued. No statute may supersede any power the continuation of which is made necessary by the provisions of Section 3 of this Schedule.

- (a) State Board of Trustees of the Teacher Retirement System of Texas—Section 48b of Article III.
- (b) Veterans' Land Board—Section 49b of Article III.
- (c) Texas Water Development Board—Sections 49c, 49d and 49d-1 of Article III.
- (d) Texas Water Quality Board or any successor agency—Section 49d-1 of Article III.
- (e) State Board of Trustees of the Employees Retirement System of Texas—Section 62 of Article XVI.

Section 17. Dual Officeholding

Until otherwise provided by law, the prohibitions and exceptions thereto contained in Sections 12, 33 and 40 of Article XVI of the Constitution of 1876, as amended, shall continue in force and effect as to all persons except members of the Legislature.

Section 18. Conflict of Interest

No member of the Legislature on the effective date of this Constitution shall be in violation of Section 10(d) of Article III if on that date the member has a pecuniary interest in a contract with the State and that interest would not have violated Section 18 of Article III of the Constitution of 1876, as amended. This preservation of a pecuniary interest shall not extend beyond the term for which the member was elected.

Section 19. The Judiciary

(a) All courts, except those authorized by Article V and the Court of Criminal Appeals, are hereby abolished and all matters pending therein transferred to the courts created by or pursuant to this Article. The Court of Criminal Appeals shall be merged with the Supreme Court as provided by Section 19(d) of this Transition Schedule. The courts into which the matters are transferred shall assume full jurisdiction of the matters and shall have full power and authority to dispose of them and to execute or otherwise give effect to all orders, judgments, and decrees issued by the predecessor courts. The courts created pursuant to Article V shall succeed to all records and property of the courts abolished hereby.

(b) Except to the extent inconsistent with the provisions of Article V, all laws and rules of court in force on the effective date of this Constitution shall continue in effect until superseded as authorized by law.

(c) All appeals docketed but not heard by the Court of Criminal Appeals on the effective date of this Constitution are hereby transferred to that Court of Appeals, formerly the Court of Civil Appeals, in which the appeal would have been docketed if it had been an appeal in a civil case. Until such time as the Supreme Court promulgates specific rules

for appeals of criminal cases from the courts of appeal, the rules presently in force for appeals from courts of civil appeals shall be used in criminal cases.

(d) Two alternative methods for selection of appellate judges are proposed in Article V, Section 8.

(1) If the merit plan for selection of appellate judges is adopted, the following provision will govern.

On the effective date of this Constitution, the Chief Justice of the Supreme Court shall become the Chief Justice of Texas. After the effective date of this Constitution, the offices of the first five justices of the Supreme Court and judges of the Court of Criminal Appeals, other than the Chief Justice of Texas and the Presiding Judge of the Court of Criminal Appeals, who cease to be members of the Supreme Court or Court of Criminal Appeals shall cease to exist. The Supreme Court and Court of Criminal Appeals, after the effective date of this Constitution, shall continue to function separately until a majority of each court determines that the number has been reduced sufficiently for the total membership of the two courts to function properly as one court, but no later than when the total membership has been reduced to nine. Thereupon, the Chief Justice of Texas and the Presiding Judge of the Court of Criminal Appeals shall immediately file with the Secretary of State a statement certifying that such determinations have been made and that the courts have been merged. Whereupon, the Presiding Judge and other judges of the Court of Criminal Appeals shall become justices of the Supreme Court of Texas. At the same time each commissioner of the Court of Criminal Appeals shall become a commissioner of the Supreme Court of Texas, but when he ceases to hold that position, the position shall cease to exist. Upon the filing with the Secretary of State of the statement certifying that the courts have been merged, the Supreme Court of Texas shall assume all authority and jurisdiction of the Court of Criminal Appeals.

(2) If the nonpartisan election method for selection of appellate judges is adopted, the following provision will govern.

On the effective date of this Constitution, the Chief Justice of the Supreme Court shall become the Chief Justice of Texas. After the effective date of this Constitution, the offices of the first five justices of the Supreme Court and judges of the Court of Criminal Appeals, other than the Chief Justice of Texas and the Presiding Judge of the Court of Criminal Appeals, who die, resign, retire, or who are removed or fail to file for reelection shall cease to exist. The Supreme Court and Court of Criminal Appeals, after the effective date of this Constitution, shall continue to function separately until a majority of each court determines that the number has been reduced sufficiently for the total membership of the two courts to function properly as one court, but no later than when the total membership has been reduced to nine. Thereupon, the Chief Justice of Texas and the Presiding Judge of the Court of Criminal Appeals shall immediately file with the Secretary of State a statement certifying that such determinations have been made and that the courts have been merged. Whereupon, the Presiding Judge and other judges of the Court of Criminal Appeals shall become justices of the Supreme Court of Texas. At the same time each commissioner of the Court of Criminal Appeals shall become a commissioner of the Supreme Court of Texas, but when he ceases to hold that position, the position shall cease to exist. Upon the filing with the Secretary of State of the statement certifying that the courts have been merged, the Supreme Court of Texas shall assume all authority and jurisdiction of the Court of Criminal Appeals.

(e) Chief Justices of the courts of civil appeals shall become chief judges of the courts of appeals; justices of the courts of civil appeals shall become judges of the courts of appeals.

Transition Schedule

(f) Each district judge or judge of a criminal district court, domestic relations court, special juvenile court, or special designated probate court shall become a judge of a district court.

(g) Each judge of a county court at law, county civil court at law, county court for criminal cases, county criminal court, or county court of criminal appeals shall become a judge of a county court.

(h) Judges of the county court elected pursuant to Article V, Section 15 of the Constitution of 1876 shall remain as presiding officers of the County Commission as provided by Article IX, Section 3(a) of this Constitution. Any judge of the county court who is licensed to practice law may elect to preside over the County Commission or may, by written notice to the Governor filed with the Secretary of State within thirty days after the effective date of this Constitution, elect to become a judge of the county court provided by Article V, Section 5 of this Constitution. In the latter event, the office of county judge shall be vacant and shall be filled by the County Commission until the next general election.

(i) No judicial office shall be abolished by the adoption of this Constitution until the expiration of the term of the person who held the office on the effective date of this Constitution or until that person ceases to hold the office, whichever occurs first.

(j) The members of the Judicial Nominating Commission first selected under the provisions of Section 7 of Article V shall serve for the following terms of years: four for two years, four for four years, and three for six years. The holders of the foregoing respective terms shall be determined by lot.

(k) If the merit plan is adopted for selection of appellate judges, the Chief Justice, each justice of the Supreme Court, and each judge of the courts of appeals now in office shall be subject, in the manner provided by law, to approval or rejection at the general election preceding the expiration of the term for which each was elected. Until the merger of the Supreme Court and the Court of Criminal Appeals is accomplished pursuant to Section 19(d) of this Transition Schedule, the Presiding Judge and each judge of the Court of Criminal Appeals now in office shall be subject, in the manner provided by law, to approval or rejection at the general election preceding the expiration of the term for which each was elected.

(l) The terms of all district judges in office on the effective date of this Constitution are hereby extended two years.

(m) Members of the Judicial Qualifications Commission on the effective date of this Constitution shall continue in office and serve as a commission under Section 11(c) of Article V until a commission is established by law pursuant to that Section.

(n) In the event a transfer or transition has not been provided for by this Section or by law, the Supreme Court shall provide by rule for the required orderly transfer or transition.

Section 20. Publicizing Proposed Amendments

Until otherwise provided by law, the Secretary of State and the Attorney General shall follow the procedure prescribed in Section 1 of Article XVII of the Constitution of 1876, as amended, for publicizing proposed amendments to this Constitution.

Adoption Schedule

These Schedule provisions are part of this Constitution only for the limited purposes of determining whether this Constitution has been adopted and establishing the general effec-

tive date of this Constitution. No provision of this Schedule shall be published as a part of this Constitution.

Section 1. Effective Date

Except as otherwise provided in Section 1 of the Transition Schedule, this Constitution, if approved by the qualified voters as provided by the Constitution of 1876, as amended, shall take effect on September 1, 1975. The Constitution of 1876, as amended, shall thereafter be of no effect.

Note: Subsequent sections of the Adoption Schedule should spell out the details for adoption of alternative provisions (if submitted), the form of the ballot, and the like.

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COMPILED BY
MALINDA ALLISON
AND
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MANUSCRIPT BY
KATHERINE LUSCOMBE

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PREFACE

This bibliography on state constitutional revision and the Texas constitution has been prepared for the delegates to the 1974 Texas Constitutional Convention as a guide to the materials in the Legislative Reference Library. In addition to the items listed here, the Library also contains copies of all state constitutions and a newspaper clipping file on the Texas constitution and Texas constitutional revision.

Although this publication is a guide to one library collection, we are making the bibliography available to libraries throughout the state in the hope that it will encourage and aid citizen study of the constitutional revision process.

Malinda Allison
Assistant Director

Legislative Reference Library
Austin, Texas
Mr. James R. Sanders, Director

December 1973

PART A - STATE CONSTITUTIONAL REVISION

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