



# Constitutional Amendments:

## Pros and Cons for the November 3, 2009 Constitutional Amendment Election

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***Proposition 1 – "The constitutional amendment authorizing the financing, including through tax increment financing, of the acquisition by municipalities and counties of buffer areas or open spaces adjacent to a military installation for the prevention of encroachment or for the construction of roadways, utilities, or other infrastructure to protect or promote the mission of the military installation."***

Pro: Proposition 1 would allow cities and counties to shield military installations in their area from encroachment by development. Protecting military installations from encroachment would help ensure the safety and security of an installation's operations and training.

Con: Allowing cities and counties to build infrastructure under the broad justification of protecting or promoting the mission of a military installation could lead to higher property taxes at a time when property owners are already feeling an economic burden. Proposition 1 could also allow cities to infringe on private property rights. Lastly, the amendment authorizes cities and counties to perform a function that should be a federal obligation.

***Proposition 2 – "The constitutional amendment authorizing the legislature to provide for the ad valorem taxation of a residence homestead solely on the basis of the property's value as a residence homestead."***

Pro: Proposition 2 would provide an important check on property tax appraisal hikes. The proposition would require that the market value of a residence homestead be determined by its value as a residence homestead. This fixes the problem of "highest and best use" appraisals, where appraisal districts may appraise a home at a value based on its commercial potential rather than its actual use as a home. According to the House Select Committee on Property Tax Relief and Appraisal Reform, "appraisal values increased by 200-400 percent in one year as a result of the highest and best use standard." Proposition 2 ensures that residence homesteads will be appraised based strictly on their value as a residence homestead, rather than their value if they were put to their highest and best commercial use.

Con: According to the Legislative Budget Board (LBB), "allowing homestead residential property to be valued based solely on its residential use and exempted from a highest and best use valuation could reduce taxable property values and thereby reduce local tax revenue." Opponents to Proposition 2 note that it may lead to lower property tax revenues.

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

Pro: Proposition 3 allows the State Comptroller to establish uniform appraisal standards that must be followed by all appraisal districts. Since local appraisals have a significant impact on the amount of funding received by local school districts, it is important that the state puts all appraisal districts and school districts on a level playing field. Proposition 3 ensures that all property tax appraisals are performed in a consistent, objective, and fair manner.

Con: Implementation of statewide appraisal standards would eliminate the authority of local officials, including appraisers, to identify and use standards of their own design that may better reflect local economic realities.

**Proposition 4 – “The constitutional amendment establishing the national research university fund to enable emerging research universities in this state to achieve national prominence as major research universities and transferring the balance of the higher education fund to the national research university fund.”**

Pro: Proposition 4 will help more Texas universities reach nationally-recognized “tier one” research status. Texas, the second most populous state in the nation, only has three “tier one” universities. New York and California have nine and seven respectively. Tier one research universities typically prioritize research, award a significant number of doctoral degrees annually, and receive substantial amounts of state and federal research funding. These institutions conduct groundbreaking research across many fields, which can often lead to commercial applications.

The fund creates incentives for the emerging research universities to qualify for state assistance from the national research university fund. One incentive will provide matching grants based on the amount of donations from private sources; another provides funding incentives based on a point system to reward universities that meet critical benchmarks toward achieving national prominence as major research universities.

Research at The University of Texas and Texas A&M, as well as Rice University, Texas’ other tier one institution, has made Texas as a national leader in research fields as diverse as nanotechnology, energy research, nuclear power, medicine, transportation, and astronomy. Passage of Proposition 4 will expand Texas’ research efforts, create enhanced educational opportunities for Texans, and will strengthen our vibrant and innovative economy.

Con: Texas’ colleges should focus their efforts on teaching students, rather than funding research. Proposition 4 would create incentives for universities to prioritize research opportunities over teaching undergraduate and graduate courses. The amendment also creates funding opportunities for a small pool of just seven “emerging research universities” when Texas has an extensive network of universities and community colleges that would also benefit from additional funding.

**Proposition 5 – *"The constitutional amendment authorizing the legislature to authorize a single board of equalization for two or more adjoining appraisal entities that elect to provide for consolidated equalizations."***

Pro: The proposition allows appraisal districts to form consolidated appraisal review boards (ARBs) incorporating multiple counties. ARBs serve a vital role arbitrating contested appraisals, so it is important that they are staffed by highly qualified, experienced individuals. Since they will be able to draw from a wider pool of candidates, Proposition 5 will be particularly beneficial for rural counties which often have difficulty recruiting qualified candidates to serve on ARBs. According to the House Select Committee on Property Tax Relief and Appraisal Reform the proposition "would expand the pool of qualified people to serve on the boards."

Con: According to the House Research Organization, "the proposition does not go far enough in allowing opportunities for appraisal districts to combine their efforts. Many rural counties have a difficult time staffing all levels and aspects of their central appraisal districts. The Legislature should allow and encourage these districts to consolidate functions by inter-local agreements. If the counties see benefits and want to form these agreements, the state should let them."

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

Pro: The purpose of the proposition is to grant ongoing bonding authority to the Veterans' Land Board (VLB) in the Texas constitution so that the Board does not need to repeatedly seek legislative reauthorization. As the amounts are equal to or less than the amounts authorized in previous years, the Legislative Budget Board (LBB) indicates that the change is not expected to have noteworthy financial implications for the state.

Con: No apparent cons.

**Proposition 7 – *"The constitutional amendment to allow an officer or enlisted member of the Texas State Guard or other state militia or military force to hold other civil offices."***

Pro: Proposition 7 would correct an oversight in the Texas Constitution by adding officers and enlisted members of the Texas State Guard and other Texas military forces to the list of offices civil officials could hold. Many civil officials are active or would like to become active in the Texas State Guard or other Texas military forces. Proposition 7 clarifies that these civil officials are allowed to hold elected office while serving in the Texas State Guard or other military forces.

Con: No apparent cons.

**Proposition 8 – "The constitutional amendment authorizing the state to contribute money, property, and other resources for the establishment, maintenance, and operation of veterans' hospitals in this state."**

Pro: Veterans have given a great deal of themselves to the benefit of the United States of America and the State of Texas. Proposition 8 would allow the state to contribute to the overall health and well-being of veterans who have served to protect our freedoms and liberties.

Con: Proposition 8 would allow the state to provide a service that remains an obligation of the federal government. If the federal government is providing insufficient health care to veterans, that problem should be redressed at the federal level rather than the state level.

**Proposition 9 – "The constitutional amendment to protect the right of the public, individually and collectively, to access and use the public beaches bordering the seaward shore of the Gulf of Mexico."**

Pro: Proposition 9 strengthens the 1959 Open Beaches Act by putting it in the Texas Constitution. Beaches have long been protected as public property, and developers cannot build properties along beaches, thus restricting the public's right to access. Proposition 9 would strengthen these existing protections.

Con: Proposition 9 locks into the Constitution a statute that is an affront to private property rights. The Open Beaches Act already provides too much authority to the state to restrict the right of private landowners to enjoy their property, and placing this authority in the Constitution would only compound the problem by making the law much more difficult to change in the future.

**Proposition 10 – "The constitutional amendment to provide that elected members of the governing boards of emergency services districts may serve terms not to exceed four years."**

Pro: Increasing the maximum term for emergency services district board members from two years to four years would promote stability and continuity on Emergency Service District (ESD) boards. This change would allow board members more time to acquire experience and provide emergency services to their communities.

Con: Proposition 10 would diminish public oversight over the members of the governing boards of emergency services districts. Emergency service districts have the authority to levy taxes. The power to tax should come only with the condition of accountability through direct election by voters every two years, just as with members of the Texas House of Representatives. Voters should be able to exercise the same level of local control over board members of emergency services districts as they currently do with other elected officials.

**Proposition 11 – "The constitutional amendment to prohibit the taking, damaging, or destroying of private property for public use unless the action is for the ownership, use, and enjoyment of the property by the State, a political subdivision of the State, the public at large, or entities granted the power of eminent domain under law or for the elimination of urban blight on a particular parcel of property, but not for certain economic development or enhancement of tax revenue purposes, and to limit the legislature's authority to grant the power of eminent domain to an entity."**

Pro: Proposition 11 makes several common sense changes to the Texas Constitution that place reasonable, landowner-friendly limitations on the power of eminent domain. First, and perhaps most important, is that private property cannot be condemned for economic development purposes or the enhancement of tax revenues. This change alone protects thousands of Texas homeowners from having their homes condemned to build shopping malls, industrial parks, or other types of lucrative private development.

Second, Proposition 11 requires any entity that condemns land to actually own and use that property. This fixes a loophole where a government may condemn private property and then sell that property, sometimes at a higher price, to another party. In addition, Proposition 11 also takes a needed step towards closing what is commonly known as the "blight loophole." Currently, whole neighborhoods can be condemned if some of the properties fit a vague concept of blight. Proposition 11 fixes this loophole, and requires that blighted properties be condemned on a parcel by parcel basis, protecting those who keep and care for their homes.

Con: Introducing vague language of "possession, occupation, and enjoyment" into the Constitution could give rise to a wide range of court interpretations. It would undermine decades of judicial precedent and introduce uncertainty that could cost taxpayer dollars in the future.