

BILL ANALYSIS

Senate Research Center
76R2355 JSA-D

S.J.R. 1
By: Ratliff
To Be Determined
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As Filed

DIGEST

The current Texas Constitution of 1876 is outmoded. An oversized, 90,000 word, and illogically arranged document has been the subject of many discussions seeking to revamp the constitution. In 1917, both houses of the legislature passed resolutions to convene a constitutional convention, but then-Governor James Ferguson never issued the necessary proclamations authorizing a convention. In 1973, the 63rd Legislature created the Constitutional Revisions Commission comprising 37 public officials, lawyers, scholars, and citizens, to assemble that same year and to submit recommendations on the constitutional question to the legislature. However, the recommendations were never passed by the subsequent constitutional convention of the legislature in 1974, because the members failed to garner the necessary votes for an approval; voters also rejected the proposal in 1975.

S.J.R. 1 employs many of the elements from the 1970s efforts, including concepts, and an organizational outline arranged more logically and numbered similarly to modern Texas codes, which facilitates expansion. If adopted by two thirds of both houses of the 76th Legislature, the proposal would be placed before the voters for approval, in a single ballot proposition, at the next general election on November 2, 1999. If adopted by the voters, the constitution would take effect September 1, 2001, allowing the 77th Legislature to meet in regular session, consider, and enact any necessary enabling legislation. S.J.R. 1 would replace the Texas Constitution of 1876 with a revised constitution.

PURPOSE

As proposed, S.J.R. 1 requires the submission to the voters of a constitutional amendment to revise the Texas Constitution.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Supreme Court of Texas in SECTION 1 (Article 5, Texas Constitution) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Revises the Texas Constitution, as follows:

CONSTITUTION OF THE STATE OF TEXAS

PREAMBLE

Ordains and establishes this constitution.

ARTICLE 1. BILL OF RIGHTS

Sec. 1.01. FREEDOM AND SOVEREIGNTY OF STATE. Provides that Texas, a state free and independent, is subject only to the Constitution of the United States.

Sec. 1.02. REPUBLICAN FORM OF GOVERNMENT. Provides that the power of the government resides with the people.

Sec. 1.03. EQUAL RIGHTS. Provides that all men have equal rights and that no one is entitled to exclusive rights.

Sec. 1.04. EQUALITY UNDER THE LAW. Prohibits the denial of equality, and that this amendment is self-operative.

Sec. 1.05. RELIGIOUS TESTS. Prohibits a religious test from being require for public office.

Sec. 1.06. OATHS AND AFFIRMATIONS OF WITNESSES. Prohibits a person from being disqualified from giving testimony on the basis of religious belief, but requires all oaths to be binding and subject to perjury.

Sec. 1.07. FREEDOM OF WORSHIP. Affirms the right to worship Almighty God. Prohibits anyone from being compelled to support religious activity. Prohibits any human authority from hindering or preferring any religious right of conscience. Requires the legislature to protect without prejudice peaceful worship.

Sec. 1.08. APPROPRIATIONS FOR SECTARIAN PURPOSES. Prohibits treasury money or state property from being appropriated to any sect, religious society, or theological or religious seminary.

Sec. 1.09. FREEDOM OF SPEECH AND PRESS. Requires that a person to have the freedom of speech and press. Authorizes the press to employ a truthful defense against prosecutions regarding public matters; authorizes a lawful jury the right to determine what is the truth and the law.

Sec. 1.10. SEARCHES AND SEIZURES. Requires the people to be secure from unlawful seizure or searches absent supporting testimony.

Sec. 1.11. RIGHTS OF ACCUSED. Requires an accused person to have the right to a speedy criminal trial; an impartial jury; criminal charge; his own testimony; counsel; confront his accuser; witness testimony; deposition, except for out-of-state residents; forthcoming criminal legislation; and from self-incrimination. Requires a person held for a charge to have an indictment from a grand jury, except for fines and certain criminal and military situations.

Sec. 1.12. BAIL. Requires all prisoners to be able to secure bail, except in certain capital offenses.

Sec. 1.13. MULTIPLE CONVICTIONS; DENIAL OF BAIL. Authorizes a state district judge to deny bail within a certain number of days of incarceration to a person charged with certain capital offenses and other violent felonies such as sexual offenses, unless there is neither a trial or an affirmed appeal. Defines "violent offense" and "sexual offense."

Sec. 1.14. HABEAS CORPUS. Provides that a writ of habeas corpus is a right and shall never be suspended. Requires the legislature to enact laws to render a speedy remedy.

Sec. 1.15. EXCESSIVE BAIL OR FINES; CRUEL AND UNUSUAL PUNISHMENT; REMEDY BY DUE COURSE OF LAW. Prohibits excessive bail, excessive fine, cruel and unusual punishment from being required. Requires all courts to be open and every person to have remedy by due course of law.

Sec. 1.16. DOUBLE JEOPARDY. Affirms protection for a person from multiple punishments for the same offense.

Sec. 1.17. RIGHT OF TRIAL BY JURY. Requires trial by jury to be a constant, unimpaired, pure, and efficient right. Provides that the right is regulated by the legislature, especially in certain cases of mentally ill patients.

Sec. 1.18. COMMITMENT OF PERSONS OF UNSOUND MIND. Prohibits a person from being committed or tried as a person of unsound mind, except as determined by the legislature on the testimony of a medical doctor or psychiatrist. Sets forth provisions regarding laws to provide for persons of unsound mind.

Sec. 1.19. BILLS OF ATTAINDER; RETROACTIVE LAWS; IMPAIRING OBLIGATION

OF CONTRACTS. Prohibits a bill of attainder, an ex post facto law, a retroactive law, or an impairment to contractual obligations from being made.

Sec. 1.20. PROPERTY TAKEN FOR PUBLIC USE; SPECIAL PRIVILEGES AND IMMUNITIES; CONTROL OF PRIVILEGES AND FRANCHISES. Prohibits the exercise of eminent domain without adequate compensation, requires compensation to be given without privilege to any one individual.

Sec. 1.21. IMPRISONMENT FOR DEBT. Prohibits a person from being imprisoned for debt.

Sec. 1.22. DUE COURSE OF LAW. Requires only the due course of law to deprive a person of life, liberty, property, privileges, or immunities.

Sec. 1.23. OUTLAWRY OR TRANSPORTATION FOR OFFENSE. Prohibits a citizen from being outlawed or extracted from this state to another state. Provides that this section does not prohibit interstate extradition of convicts.

Sec. 1.24. CORRUPTION OF BLOOD; FORFEITURE OF ESTATE; DESCENT IN CASE OF SUICIDE. Prohibits a conviction from working corruption or forfeiture of estate, and estate of suicide shall descend as in the case of natural death.

Sec. 1.25. TREASON. Requires treason to consist only in levying war against the state, with the testimony of two witnesses, or confession in open court.

Sec. 1.26. RIGHT TO KEEP AND BEAR ARMS. Requires a person to keep and bear arms to defend himself or the state. Empowers the legislature to regulate the wearing of arms with a view to prevent crime.

Sec. 1.27. MILITARY SUBORDINATE TO CIVIL AUTHORITY. Requires the military to be subordinate to civil authority.

Sec. 1.28. QUARTERING SOLDIERS IN HOUSES. Requires a soldier to obtain the consent of a citizen if residing in his house, even during war, unless prescribed by law.

Sec. 1.29. PERPETUITIES AND MONOPOLIES; PRIMOGENITURE OR ENTAILMENTS. Provides that perpetuities and monopolies are contrary to the genius of free government, and are prohibited, nor shall the law of primogeniture or entailments be in force in the state.

Sec. 1.30. RIGHT OF ASSEMBLY; PETITION FOR REDRESS OF GRIEVANCES. Requires citizens to have the right to assemble peacefully in order to petition, address, or remonstrance to a public official their grievance or other purpose.

Sec. 1.31. SUSPENSION OF LAWS. Authorizes only the legislature to exercise the suspension of law in this state.

Sec. 1.32. BILL OF RIGHTS INVIOLETE. Removes and voids any power or law that attempts to nullify this "Bill of Rights."

Sec. 1.33. RIGHTS OF CRIME VICTIMS. Sets forth the rights of a crime victim and the rights that can be requested by a crime victim. Authorizes the legislature to define "victim" and to enforce laws regarding all rights of a crime victim. Authorizes the state to enforce rights of crime victims through its prosecuting attorney. Authorizes the legislature to enact laws exonerating various officers of the court and law enforcement agencies from the failure or inability to provide a right or service enumerated in this section. Prohibits a defendant from appealing his criminal case on the grounds that a person failed to provide a right or service enumerated in this section. Provides that a victim has a standing to a right enumerated in this section but does not have a standing to participate as a party in a criminal proceeding or to contest the disposition of any charge.

Sec. 1.34. COMPENSATION TO VICTIMS OF CRIME FUNDS. Establishes that there are two funds for victims of crime, the compensation to victims of crime fund and the compensation

to victims of crime auxiliary fund. Provides that the funds are dedicated as separate accounts in the general revenue fund and cannot be expended for any reason other than victim-related services, unless the legislature authorizes the funds to assist victims of mass violence when the appropriation for emergency assistance is depleted.

TEMPORARY TRANSITION PROVISION. Effective date of this article: September 1, 2001.

ARTICLE 2. POWERS OF GOVERNMENT

Sec. 2.01. LIMITATION OF POWERS. Provides that the enumeration of specified powers and functions does not limit the power of the government of this state, but the government of this state has all the power not denied to this state by this constitution or the U.S. Constitution.

Sec. 2.02. SEPARATION OF POWERS. Divides the power of government into exclusive appropriations of power residing in three branches of government called legislative, executive, and judicial.

TEMPORARY TRANSITION PROVISION. Effective date of this article: September 1, 2001.

ARTICLE 3. LEGISLATIVE BRANCH

Sec. 3.01. LEGISLATIVE POWER. Vests the legislative power of the state with a senate and a house of representatives, composing "The Legislature of the State of Texas."

Sec. 3.02. COMPOSITION. Provides that the Senate comprises 31 members, and the house of representatives comprises 150 members.

Sec. 3.03. QUALIFICATIONS OF MEMBERS. Sets forth the eligibility qualifications of the senate and house of representatives. Authorizes a resident of a new district to run for office in the legislature given that the person was eligible in the old district and other conditions.

Sec. 3.04. ELIGIBILITY TO HOLD OTHER OFFICES. Prohibits a member of the legislature from holding any other state, U.S., or foreign government office or position of profit, except as a member of the National Guard, National Guard Reserve, U.S. armed forces reserves, a notary public, or a retired member of the U.S. armed forces. Authorizes a member of the legislature to serve on a multimember governmental body exercising executive powers if the by-laws of the body expressly authorizes legislative membership. Prohibits a legislator from receiving additional compensation for that service.

Sec. 3.05. TERM LIMITS. Sets forth term limits for senators and house members.

Sec. 3.06. JUDGE OF QUALIFICATIONS; ELECTION CONTESTS. Provides that each house alone judges the qualifications and election of its own members, but contested elections are determined by law.

Sec. 3.07. ELECTION AND TERMS OF OFFICE. Provides that senators and representatives are elected by the qualified voters of their respective districts at a statewide general election. Provides that a senate term is six years and a representative term is four years, except following statewide redistricting when the members of the senate shall select by lot 15 senators for four years or house members shall select by lot 75 representatives for two years. Provides that the qualified voters elect a new senate and house of representatives after each statewide redistricting, respectively. Fills a vacancy in the senate or house of representation with a special election which is prescribed law. Begins a term of office for a member of the legislature on the prescribed date for convening the regular legislative session.

Sec. 3.08. REDISTRICTING. Requires the legislature, by the first August 15 following publication of the federal decennial census, to divide the state into single-member districts for senate, representative, and congressional representation. Provides that this subsection does not prohibit the legislature from altering those divisions at any other time, except as provided by Subsection (a) of this section. Requires the districts to be compact and contiguous, consisting of equal populations. Prohibits a county from being divided among senatorial, representative, or

congressional districts, except as necessary to prevent unlawful population variances. Requires the legislature to consider redistricting an area if an authorized court invalidates or restructures a redistricting plan. Sets forth time frames and manner, including a special session and a five-member joint judicial and executive redistricting board, for offering a new redistricting plan, and provides for the continuity of a legislative session in the event of a contested redistricted plan.

Sec. 3.09. COMPENSATION. Requires the Texas Salary Commission to set salary and other allowances of the members of the legislature as provided by Article 10, Texas Constitution, except the salary of the speaker of the house of representatives, whose pay is equal to not less than 90 percent of the salary of the governor and who may not engage in any other full-time, salaried employment.

Sec. 3.10. SESSIONS. Requires the legislature to convene a regular session in odd-numbered years that may not exceed 140 consecutive days. Prohibits a special session from exceeding 30 consecutive days and a veto session from exceeding 15 consecutive days. Requires each session to be open to the public and meet at the seat of government unless otherwise prescribed by law. Authorizes the legislature to convene for a veto session 50 days following a regular session by presentation of petition of three-fifths of the legislature's membership to consider certain bills, resolutions, or appropriation items. Authorizes concurrent meetings of a special session, veto session, and of impeachment, but does not extend a time limit for the concurrence of meetings.

Sec. 3.11. ORGANIZATION AND PROCEDURE. Authorizes both houses of the legislature to determine by a majority vote their own rules and joint rules, all of which remain in effect until amended or repealed. Authorizes the legislature to organize into an assembly, operating under adopted rules, within 45 days of a regular session, composed of members from the upcoming legislature. Requires the senate at the onset of an assembly to elect with no fewer than 16 votes a president pro tempore, who conducts duties of the president in the president's absence or disability, convenes the committee of the whole to elect with no fewer than 16 votes a new president from its membership when a presidential vacancy occurs and to repeat this process if there is another vacancy until a regular election occurs, and performs the presidential duties until the lieutenant governorship resumes. Requires the secretary of state to convene the house of representative to organize and elect a speaker. Requires the affirmative vote of at least 76 house members to elect a speaker. Authorizes term limits by rule or law on a speaker. Requires all elections held by either house of the legislature to be a public vote recorded in the journal. Provides that a quorum is two-thirds of the membership of each house. Authorizes fewer members than a quorum to recess, adjourn day to day, and compel absent members to attend. Requires each house to prepare and publish a journal of its proceedings and any three present members may record in the journal the votes on any question. Authorizes each house while in session to reprimand or punish a member for various reasons, or to expel a member by two-thirds vote, but not a second time for the same offense.

Sec. 3.12. LEGISLATIVE IMMUNITY. Prohibits members from being questioned for speech or actions in any other place during a legislative proceeding or the performance of their official legislative duties.

Sec. 3.13. CONFLICT OF INTEREST. Requires a member to disclose private financial interests and recuse themselves from voting on the matter in which the member has a private pecuniary interest. Prohibits a member from having a direct or indirect interest in any contract with the state, or with a country, that was authorized by law passed during the term for which the member was elected. Prohibits a member from dealing with any unit of state government for compensation or sharing in any fee paid to a person for dealing with government other than the emoluments of office.

Sec. 3.14. ENACTING CLAUSE OF LAW. Requires the enacting clause to be "Be it enacted by the Legislature of the State of Texas."

Sec. 3.15. BILLS AND RESOLUTIONS. Establishes that a law is enacted only by bill. Authorizes a bill to originate in either house, except for a bill raising revenue, which must originate in the house of representatives. Authorizes a house to amend or rejected a bill after engrossment. Prohibits either a house from amending a bill from its original purpose. Requires a bill to contain only one subject which must be obvious in the bill's title. Requires a general appropriations bill to limit itself to one appropriation subject. Requires a bill, amendatory in form to set out the

complete units as amended. Requires a house, before hearing a bill, to refer the bill to a committee, and to report a bill to committee at least five days prior to the session's adjournment; however, four-fifths of the membership may suspend the reporting requirement. Requires any bill prior to becoming law to be read on three separate days in both houses, however, four-fifths of the membership may suspend the reading requirement. Prohibits a bill or resolution's substance to be re-considered during the same session if that bill or resolution is defeated in either house. Requires each house's presiding officer to be present in order to certify final passage of a bill or any concurring resolution. Requires the fact of certificate to be recorded in the journal. Prohibits a law from becoming effective earlier than the 90th day after session adjournment; however, two-thirds of each house may suspend the prohibition. Provides that only the legislature may determine compliance with this section, and any law or resolution may not be voided on the basis of insufficiency under this section or the corresponding provisions of the Constitution of 1876.

Sec. 3.16. LOCAL AND SPECIAL LAWS. Prohibits the legislature from enacting a local or special law without express authorization in this constitution, including certain provisions to create districts and authorities, regulate outdoor sporting, create courts, create juvenile boards, grant tax releases, consolidate governmental offices, and regulate livestock or fences. Requires public notice to be given in the event a local law is passed.

Sec. 3.17. IMPEACHMENT. Authorizes the house to impeach with a majority vote any executive branch officer or supreme court justice. Authorizes the house to petition a majority of its members to convene out of session for impeachment proceedings. Establishes that an officer with pending impeachment proceedings is suspended from duty throughout the proceedings. Provides that a lieutenant governor acts as governor when the governor is suspended, at which time the senate's president pro tempore acts as lieutenant governor. Authorizes the governor to temporarily appoint an individual to perform the duties of office in other suspension cases. Establishes that an officer who is impeached is tried by the senate. Requires the senate to convene to receive the articles of impeachment. Requires the senators to pledge to conduct an impartial trial. Requires the chief justice of the supreme court to preside when either the governor or lieutenant governor are tried. Requires a two-thirds vote of the senate to convict a person of the impeachment charges. Requires the convicted officer to vacate office. Prohibits a conviction to extend beyond the removal from office, disqualification from office, or profit of this state. Subjects an impeached officer to punishment by law.

Sec. 3.18. ADVICE AND CONSENT OF SENATE. Requires a two-thirds vote to consent to any constitutional or general law appointment. Authorizes the legislature to regulate appointments made when the senate is not in session.

TEMPORARY TRANSITION PROVISIONS. (a) Effective date of this article: September 1, 2001.

(b) Establishes that a member's legislative powers are still valid under Section 3.04 of this constitution.

(c) Establishes that Section 3.05 term limits apply only to the years of service beginning after the effective date of this article.

(d) Establishes that member are compensated under current law until the Texas Salary Commission determines otherwise.

(e) Establishes that Section 3.07 applies only to new members elected after enactment of this article and the redistricting plan.

(f) Establishes that Section 3.09(b) applies only to a person elected after enactment of this article.

(g) Establishes that Section 3.08 redistricting applies after the effective date of this article.

(h) Authorizes a member serving concurrently with passage of this article to maintain a contract prohibited by Section 3.13, if the contract does not violate Section 18, Article III, Constitution of 1876.

- (i) Authorizes a member serving concurrently with passage of this article to fulfill a written contract for representation prohibited by Section 3.13(b), until the member's term expires.
- (j) Authorizes Section 12, Article IV, Constitution of 1876 appointments by the governor to govern until the legislature provides otherwise.
- (k) Provides that the adoption of this article does not impair any bond or note obligation, validity, enforcement, or binding in accordance with prior law and the Constitution of 1876. Authorizes debt not issued at the time of this article's adoption, but authorized under the Constitution of 1876, to comply with the prior law. Authorizes the legislature to enact laws implementing this provision.

ARTICLE 4. EXECUTIVE BRANCH

Sec. 4.01. EXECUTIVE POWER. Vests the executive power of the state with the executive branch comprising the governor's executive department and other executive branch officers and agencies.

Sec. 4.02. EXECUTIVE DEPARTMENT OFFICERS. Establishes that the governor is the chief executive officer of the state. Establishes that the secretary of the state, other executive officers of the cabinet, and other executive officers prescribed by law compose the executive officers of the governor's executive department.

Sec. 4.03. EXECUTIVE BRANCH ELECTIVE OFFICERS. Establishes that other officers within the executive branch, but not in the governor's executive department, are the lieutenant governor, comptroller of public accounts (comptroller), and attorney general.

Sec. 4.04. STATE AGENCIES. Establishes that an administrative unit, such as an agency or commission, not part of the legislative or judicial branch is part of the governor's executive department. Provides that the legislature is not restricted by this article to establish an agency within or outside of the executive department. Authorizes executive branch agencies to reside outside of the governor's executive department while under the governance of appointed officers.

Sec. 4.05. SELECTION AND TERM OF OFFICERS. Establishes that the qualified voters elect for a four-year term separately the governor, lieutenant governor, comptroller, and attorney general. Establishes that the governor appoints nonelective officers to the governor's executive department, including the secretary of state, all of whom serve at the governor's pleasure. Establishes that all other officers in the executive branch are elected or appointed in the manner provided by law. Requires the governor's appointments to receive the advice and consent of the senate.

Sec. 4.06. GOVERNOR'S ELIGIBILITY AND INSTALLATION. Sets forth candidacy requirements for the governor, including age, residency, term limit. Requires the legislature to appropriate money to assist a governor-elect. Entitles the governor-elect to receive any information to incumbent governor is entitled to receive. Establishes that the governor is inaugurated on the first Tuesday following the organization of the next regular session following the election, or as soon thereafter as practicable.

Sec. 4.07. GUBERNATORIAL SUCCESSION. Establishes that the lieutenant governor-elect becomes governor if the governor-elect fails to assume office prior to inauguration. Establishes that the lieutenant governor acts as governor during an impeachment trial of the governor, and assumes office if convicted by the senate. Establishes that the lieutenant governor becomes governor if the office of the governor becomes vacant. Establishes that the lieutenant governor acts as governor while the governor leaves the state or is temporarily disabled. Provides that the president pro tempore of the senate acts as governor if the lieutenant governor is absent or disabled. Provides that while a person serves or acts as governor, that person receives only the governor's salary while serving or acting as governor.

Sec. 4.08. ACTION ON BILLS AND RESOLUTIONS. Requires the governor to receive all bills passed by the legislature. Requires the governor to approve a bill with his signature, which then becomes law and is filed with the secretary of state. Requires the governor to veto a bill by

returning it with objection to the originating house. Requires each house to enter the objections in their journal if applicable. Requires a two-thirds vote by the legislature to pass over the veto, when it then becomes law and is filed with the secretary of the state. Requires a bill to become law if the governor does not approve or veto a presented bill within 10 days excluding Sundays, and to be filed with the secretary of state. Requires a bill not presented to the governor when the legislature adjourns to become a law automatically, unless the governor vetoes the bill, after which that legislature may still meet in veto session. Authorizes the governor to veto any appropriation item on a bill; however the remainder of the bill still becomes law, while the vetoed appropriation items and any accompanying objections return to the originating house for consideration. Authorizes the governor to receive any concurring resolution not regarding certain constitutional questions, calls for removal, and legislative procedures.

Sec. 4.09. **COMMANDER IN CHIEF.** Establishes that the governor is the commander in chief of the military forces of the state, except when those forces are called into federal service.

Sec. 4.10. **EXECUTION OF LAWS; CONDUCT OF BUSINESS WITH OTHER GOVERNMENTS.** Requires the governor to faithfully execute the laws and conduct all business of the state with other states, the United States, and foreign nations.

Sec. 4.11. **CONVENING LEGISLATURE IN SPECIAL SESSION.** Authorizes the governor to call the legislature into special session to consider only matters specified by the governor.

Sec. 4.12. **GOVERNOR'S AUTHORITY BEFORE COURTS.** Authorizes the governor to take legal action on behalf of the state, notwithstanding the attorney general's constitutional authority.

Sec. 4.13. **ADMINISTRATIVE REORGANIZATION.** Authorizes the governor to propose to the legislature a plan to reorganize, consolidate, or abolish any executive branch agency, other than agencies established by this constitution or agencies led by a constitutional elected officer. Authorizes either house within 60 days to reject the plan with a resolution, otherwise the plan becomes effective.

Sec. 4.14. **REPRIEVES, COMMUTATIONS, AND PARDONS; REMISSION OF FINE AND FORFEITURES.** Authorizes the governor to grant reprieves, commutations, pardons, and remission of fines and forfeitures.

Sec. 4.15. **LIEUTENANT GOVERNOR.** Requires the qualifications for a person to serve as lieutenant governor, to be the same as for the governor. Establishes that the lieutenant governor is president of the senate, shall vote only to break ties, and may debate and vote on all questions before the committee of the whole.

Sec. 4.16. **COMPTROLLER OF PUBLIC ACCOUNTS.** Establishes that the comptroller is the executive officer of the department of the treasury and shall perform all duties prescribed by the constitution and law.

Sec. 4.17. **ATTORNEY GENERAL.** Provides that the attorney general is the executive officer of the department of justice, represents the state in all civil suits, has all powers from common law, and all other duties provided by law. Requires the attorney general to be qualified to practice before the Supreme Court of Texas.

Sec. 4.18. **SECRETARY OF STATE.** Provides that the secretary of state is the executive officer of the department of state and the chief elections officer of the state. Requires the secretary of state to perform all duties prescribed by the constitution and law. Requires the secretary to keep the state seal and to use the seal for official purposes as directed by the governor.

Sec. 4.19. **OTHER OFFICERS OF EXECUTIVE BRANCH.** Provides that other officers of the executive branch have the powers and duties as provided by this constitution and by law.

Sec. 4.20. **COMPENSATION OF OFFICERS OF EXECUTIVE BRANCH.** Requires the law to compensate the governor and other executive branch constitutional officers, subject to Section 10.08 of this constitution. Prohibits the compensation of an executive branch officer from diminishing. Provides that the governor is entitled to the use of the Governor's Mansion, in

addition to other legal perquisites and compensation.

Sec. 4.21. DUAL OFFICE-HOLDING AND EMPLOYMENT. Prohibits a constitutional elected officer of the executive branch from holding any other civil or corporate office, for any compensation, or practicing another profession or employment. Provides that this section does not apply to the president pro tempore of the senate under certain circumstances.

Sec. 4.22. VACANCIES IN ELECTED OFFICES OF EXECUTIVE BRANCH. Provides that an executive office vacancy is filled for the remaining term by a governor's appointment that is confirmed by the senate, excepted as provided by this constitution.

TEMPORARY TRANSITION PROVISIONS. (a) Effective date of this article: September 1, 2001.

(b) Provides that each agency and term of office of each officer continues in effect as provided by law, on the effective date of this article, until otherwise provided by law.

(c) Authorizes the governor to adopt a Section 4.13 reorganization plan and appoint member for the governor's cabinet immediately on or after the effective date of this article.

(d) Provides that the provisions regarding prohibition of other employment do not apply until a member of the cabinet begins to receive compensation.

(e) Establishes that the person serving as general land commissioner and commissioner of agriculture continue their lawful duties until their term expires. Authorizes the offices to either become abolished or consolidated with another entity. Sets forth further provisions regarding the restructuring of the two offices.

(f) Continues the Constitution of 1876 provision that requires the executive offices to reside at the seat of government, until otherwise provided by law.

ARTICLE 5. JUDICIAL BRANCH

Sec. 5.01. JUDICIAL POWER. Vests the judicial power of the state with the judicial branch comprising the supreme court, courts of appeals, district courts, and other courts provided by law. Requires the legislature to establish the jurisdiction of the courts, subject to this constitution, which are uniform statewide.

Sec. 5.02. SUPREME COURT. Provides that the Supreme Court of Texas (supreme court) consists of a chief justice, 14 justices, and such other officials provided by law. Provides that seven justices compose the civil division, another seven compose the criminal division, and each division has a presiding justice. Provides that seven members of each division constitute a quorum and decide the necessary concurrence for a decision in a case. Authorizes a division to sit en banc, hear arguments, and consider petitions. Authorizes the chief justice to sit in either or both divisions, as provided by rule. Authorizes the supreme court to determine, by rule, how conflicts between divisions are resolved and under what circumstance the chief justice may call the full court to sit en banc. Sets forth qualifications for serving as both a justice and chief justice.

Sec. 5.03. JURISDICTION OF SUPREME COURT. Provides that the supreme court is the highest court of the state and shall exercise coextensively judicial power for the state, make final determinations, and extend final appeal to all cases, unless provided by law. Requires death penalty cases to appeal directly to the supreme court. Authorizes the supreme court to review a decision of a court of appeals, as provided by motion and law. Requires all other cases to appeal to the courts of appeals. Authorizes the supreme court to issue writs of habeas corpus, mandamus, procedendo, certiorari, and other writs, and to retain sole discretion over all writs of quo warranto and mandamus, except against the governor, if the legislature grants the jurisdiction. Authorizes the supreme court to ascertain matters of fact, and answer questions of state law from federal appellate courts. Authorizes the legislature to provide a direct appeal to the supreme court regarding constitutionality or validity of an interlocutory or a permanent injunction, a statute, or an administrative order. Authorizes the supreme court to sit at any time during the year anywhere in the state, and shall begin its terms with the start of the calendar year. Authorizes the supreme

court to establish various procedures, by rule, to administer justice in the courts, notwithstanding limitations by law.

Sec. 5.04. COURTS OF APPEALS. Requires the legislature to establish, by law, one or more districts and to provide for each district a court of appeals consisting of a chief judge and two or more other judges. Authorizes the court of appeals to sit in sections and to decide cases by majority of the section, if authorized by law.

Sec. 5.05. DISTRICT COURTS. Requires the legislature to divide the state into discrete non-overlapping, geographic judicial districts that are no smaller than an entire county, to provide one or more judges per district court to create a district, in the event of a multi-county district with compact and contiguous counties, and to determine the number and location for each district. Establishes that a district court has original jurisdiction over all actions and matters not exclusive to another court.

Sec. 5.06. COUNTY AND JUSTICE COURTS. Provides that there is a county court for every county in the state with legal jurisdiction, and a county judge to head the court with judicial functions, who is elected for four years. Requires the county governing body to divide the county into precincts and to provide at least one justice for each precinct. Provides that the justice is elected for four years. Provides that the county governing body appoints a replacement in the event of a vacancy.

Sec. 5.07. MUNICIPAL COURTS. Authorizes a municipal governing body to charter municipal courts with a municipal court judge.

Sec. 5.08. JUDICIAL QUALIFICATIONS. Sets forth qualifications for an appeals court judge, a district court judge, a county judge, and justice of the peace. Authorizes the legislature to establish further qualifications for these judges and other judges.

Sec. 5.09. JUDICIAL SELECTION AND TERMS. Requires the governor to appoint, with the senate's advice and consent, judges on the supreme court, court of appeals, and district courts. Requires the governor to appoint five supreme court justices each two years. Authorizes the legislature to create a nominating committee, to establish criteria for appointing a person to a judgeship, and to require appointment of a nominee from a nominating authority. Establishes that the term of office for any justice or appeals court judge is six years, while the district judge serves for four years. Requires the governor to fill, with the advice and consent of the senate, the remaining vacant term in the supreme court or appeals court. Requires a retention election at the expiration of each term of office of each justice, appeals court judge, or district court consisting of a statewide ballot market with "yes" or "no" on the proposition of an additional term for the judge. Requires a majority of the cast ballots to retain or remove the appointed judge. Requires the governor to fill any subsequent vacancy via appointment. Authorizes the legislature to cap the acceptable service age for the supreme court, appellate court, or district court.

Sec. 5.10. REMOVAL AND DISCIPLINE OF JUDGES. Requires the removal of a supreme court justice or chief justice by the governor if two-thirds of the legislature vote to remove the justice for reasonable causes. Provides that the legislature shall establish a commission on judicial conduct and may discipline any justice, justice of the peace, or court master.

Sec. 5.11. REMOVAL OF COUNTY OFFICERS. Authorizes a petition of certain local attorneys to request the removal of any county officer for incompetency, misconduct, drunkenness, or other causes defined by law. Provides that the officer in question has the right to a trial by jury.

Sec. 5.12. CLERKS. Requires the appointment of a clerk by the supreme court, appeals court, district court, and other courts to a term of six years for the former court and four years for the latter two courts, subject to removal and other election provisions applicable under state law regarding local elections.

Sec. 5.13. JURIES. Sets forth the number of jury members for a grand jury, and for civil and criminal cases, and the necessary number for deciding a verdict, and the right of a party to a civil trial by jury. Prohibits a jury from being impaneled in any cause until a jury fee is paid if required

by law. Authorizes the legislature to adjust juries and the number required to reach a verdict, to provide qualifications for serving as a grand juror or a trial juror, and to expand the sentencing options available to jurors.

Sec. 5.14. APPEAL OF ACCUSED. Establishes that a convicted criminal has a right to an appeal. Provides that the supreme court has discretion over hearing criminal cases, unless otherwise provided by law.

Sec. 5.15. STATE'S RIGHT TO APPEAL IN CRIMINAL CASES. Provides that the state is entitled to appeal a criminal case.

Sec. 5.16. SUSPENSION OF SENTENCE AND PROBATION. Authorizes a court to suspend sentence, place a defendant on probation, or reimpose sentence, if the court has original jurisdiction in the criminal case.

TEMPORARY TRANSITION PROVISIONS. (a) Effective date of this article: September 1, 1999.

(b) Provides that all judges currently serving on the supreme court and court of criminal appeals continue in office after this article takes effect. Provides that those judges may finish out their terms when this article is passed, but must serve on their respective division of the new supreme court. Requires the current justices to become the presiding justice of their division. Requires the justices to be subject to retention elections at the conclusion of their term. Requires the governor to fill vacant positions on the supreme court in the manner set forth in Section 5.09, but only after less than seven members of one of the supreme court divisions remain. Requires the governor on the effective date of this article to appoint a chief justice of the supreme court for a term that expires January 1, 2007.

(c) Provides that all other courts and judges continue to exist and serve as established by current law. Authorizes the legislature to implement this article by reorganizing the current court system. Requires new judicial appointment to take effect after the current round of terms expire, and may be subject by legislative action to retention by election if the term expires on the effective date of this article.

(d) Provides that matters pending before any court on passage of this article are automatically assumed by the new court, and may be protected by provisions established, by rule, by the supreme court.

(e) Provides that current rules adopted by a court remain in effect until decided otherwise by that court.

(f) Provides that office members of the State Judicial Qualifications Commission continue their service on the passage of this article, and exist pursuant to Section 1-a, Article V, Constitution of 1876, unless otherwise provided by law.

(g) Provides that clerks continue to serve their courts, until their terms expire or another clerk is selected.

(h) Authorizes the supreme court to adopt rules to implement this article fairly and efficiently; however, the legislature by statute may supersede these rules.

ARTICLE 6. VOTER QUALIFICATIONS AND ELECTIONS.

Sec. 6.01. QUALIFICATIONS FOR VOTING. Sets forth the qualifications for a qualified voter.

Sec. 6.02. ELECTIONS. Requires all elections to be by secret ballot. Requires the legislature to provide for the administration and conduct, and integrity of elections, including residence, registration, and early voting requirements.

TEMPORARY TRANSITION PROVISION. Effective date of this article: September 1, 1999.

ARTICLE 7. EDUCATION

Sec. 7.01. **EQUITABLE SUPPORT OF PUBLIC FREE SCHOOLS.** Requires the legislature to establish and make suitable provision for the support and maintenance of an efficient system of public free schools. Sets forth requirements for an efficient and suitable state school system.

Sec. 7.02. **SCHOOL AND COMMUNITY COLLEGE DISTRICTS.** Requires the legislature to establish or perform otherwise to provide for community colleges and other schools.

Sec. 7.03. **PERMANENT AND AVAILABLE SCHOOL FUNDS.** Establishes that the permanent school fund (PSF) exists for the support of public free schools. Sets forth the property to support the PSF. Holds the permanent school fund in perpetual trust. Prohibits the PSF from paying for anything other than Subsection (d) or (e) provisions. Authorizes PSF lands to be traded, as provided by law. Provides that the available school fund consists of the income from the PSF and the state taxes dedicated to the PSF. Authorizes PSF proceeds to support only the state's public free schools. Authorizes the legislature to allocate to the available school fund not more than one-half of the capital gains on investment of the permanent school fund. Authorizes the legislature to guarantee bonds for school districts through support of the PSF and PSF income. Requires the legislature to provide for recovery of money to be expended as a result of the bond guarantees. Provides that the State Board of Education shall manage the PSF and may trade in reasonable investments using the PSF.

Sec. 7.04. **STATE BOARD OF EDUCATION.** Requires the legislature to provide for a state board of education whose members serve for six years as provided by law.

Sec. 7.05. **HIGHER EDUCATION SYSTEM.** Requires the legislature to provide a state higher education system, including institutions of higher education, university systems, university components, community colleges, and other institutions.

Sec. 7.06. **PERMANENT UNIVERSITY FUND.** Establishes the permanent university fund (PUF) for the purpose of creating and maintaining world-class research universities in the state. Sets forth the property to support PUF. Holds PUF in perpetual trust for the people of the state, and for the use and benefit by the University of Texas at Austin (UTA), Texas A&M University at College Station (TAMUCS), and Prairie View A&M University (PVAMU). Prohibits the principal from being spent. Authorizes the board of regents of the University of Texas System (UT board) to trade and reasonably invest PUF. Sets forth the composition of the available university fund. Requires the various universities to receive their apportioned amount from the available university fund. Authorizes the UT board and the board of regents of the Texas A&M University System to pledge their respective shares of the PUF to secure indebtedness for capital improvement projects and refunding other indebtedness in this section. Requires the indebtedness to benefit the institutions described by Subsection (b).

Sec. 7.07. **HIGHER EDUCATION CAPITAL FUND.** Establishes a higher education capital fund consisting of \$250 million from the treasury. Requires the capital fund to benefit capital improvement projects for any institution of higher education not UTA, TAMUCS, PVAMU, or a junior college. Authorizes certain institutions to issue indebtedness, but not to exceed 50 percent of the value of the funds appropriated to the qualified institutions, for authorized purposes. Authorizes the legislature to adjust the allocation in the general appropriations bill for the next biennium, but not enough to impair an obligation under debt. Permits the legislature from regulating indebtedness. Prohibits expending the funds in the section for student housing, intercollegiate athletics, or auxiliary enterprises. Authorizes the legislature to establish a fund for Subsection (a) purposes which requires a two-thirds vote by each house to spend the principal. Sets forth other spending provisions. Requires this fund to cease after it reaches a fund balance of \$2 billion. Prohibits an allocation under this section to the Texas State Technical College System from exceeding 2.2 percent of all allocations.

TEMPORARY TRANSITION PROVISIONS. (a) Effective date of this article: September 1, 1999.

(b) Provides that all Section 3-b, Article VII, Constitution of 1876 powers to school districts and junior college districts continue until otherwise provided by law.

- (c) Provides that no obligation of a bond or note is impaired by this article and the legislature may implement law for this provision.
- (d) Transfers the money in the higher education fund by way of Section 17(i), Article VII, Constitution of 1876 into the fund created under Section 7.07(e), at the time this article becomes effective.
- (e) Authorizes the legislature to reduce a university's available university fund amount appropriated under Section 7.07(a).
- (f) Continues the Texas tomorrow fund for its established purposes under the Constitution of 1876.

ARTICLE 8. FINANCE

Sec. 8.01. STATE TAXATION. Authorizes the levy and collection of state taxes but only through general law. Prohibits a state ad valorem tax on real property, unless the legislature levies that tax to support public free schools.

Sec. 8.02. AD VALOREM TAXATION. Requires a tax authority to tax equally real property in accordance to its market value. Prohibits a political subdivision from imposing an ad valorem tax not approved by the subdivision's voters.

Sec. 8.03. APPRAISAL OF TAXABLE PROPERTY; EQUALIZATION. Requires the legislature to provide for ad valorem appraisal standards and to include certain criteria. Authorizes a taxing authority to seek countywide enforcement for levying an ad valorem tax on property. Requires the legislature to provide a single ad valorem appraisal for each county. Authorizes the legislature to impose an outside county appraisal authority given certain qualifications. Authorizes the legislature to provide each county an appraisal board which meets certain qualifications. Requires the taxing authority to maintain the cost of an appraisal board. Requires the legislature to provide for the implementation of this section as necessary.

Sec. 8.04. AD VALOREM TAXATION OF RAILROAD ROLLING STOCK. Authorizes appraisal of railroad rolling stock in gross according to the proportion of the length of the railroad bed.

Sec. 8.05. AUTHORITY FOR AD VALOREM TAX EXEMPTIONS. Authorizes the legislature to provide exemptions to ad valorem taxation.

Sec. 8.06. AD VALOREM TAX RELIEF FOR RESIDENCE HOMESTEADS. Creates a statewide ad valorem homestead exemption of \$3,000 for married couples plus \$15,000 against elementary and secondary public schools for any adult. Authorizes the legislature to void any part of the exemption against a taxing authority that is not the principal school district providing elementary and secondary education. Creates a statewide ad valorem homestead exemption of the complete value of the real property for a person above 65 years of age, and other circumstances regarding age. Authorizes taxes regarding this subsection to increase in proportion to the market value increase on property. Authorizes the legislature to define "residence homestead."

Sec. 8.07. APPRAISAL FOR TAXATION OF AGRICULTURE AND OTHER OPEN-SPACE LAND. Provides that the legislature shall provide for the ad valorem taxation of certain open-space lands, and may provide eligibility requirements for taxation. Defines "agricultural use." Authorizes the legislature to provide eligibility limitations and impose sanctions in furtherance of this section.

Sec. 8.08. OTHER AD VALOREM TAX EXEMPTIONS. Exempts from ad valorem taxes certain public property, household goods and personal effects, farm products, and implements of husbandry.

Sec. 8.09. AD VALOREM TAX EXEMPTION FOR FREEPORT GOODS. Exempts from ad valorem taxation certain tangible personal property. Sets forth requirements for a tangible personal property. Provides that all non-exempt personal property qualifies for taxation by a taxing

authority directive before January 1, 1990, unless the authority exempts the property, in which case the property may not be taxed again.

Sec. 8.10. SALE OF PROPERTY FOR DELINQUENT TAXES. Authorizes the legislature to provide for the sale of land or other property for delinquent ad valorem taxes.

Sec. 8.11. PERSONAL INCOME TAX. Prohibits a statewide tax on the net incomes of natural persons, unless approved by a statewide referendum on the question, and taxing conditions may not be changed unless approved by a referendum.

Sec. 8.12. PUBLIC FUNDS. Requires a public fund and public credit to be used for public purposes. Prohibits the legislature from granting public funds to a political subdivision except for a governmental purpose or as authorized in this constitution. Prohibits the use of public funds to influence an election of public offices.

Sec. 8.13. REVENUE FROM MOTOR VEHICLE REGISTRATION FEES AND TAXES ON MOTOR FUELS AND LUBRICANTS. Requires the express use of taxes on motor vehicles on certain items. Sets forth the items on which a motor tax may be expended. Requires the use of federal transportation and highway construction for only Subsection (a) purposes. Prohibits state debt from being incurred except in certain cases.

Sec. 8.14. STATE DEBT. Defines "state debt." Prohibits the state debt from being incurred except in certain cases. Authorizes the legislature to incur state debt by submitting a joint resolution passed by two-thirds of each house membership to the majority approval of voters. Requires all elections and propositions to conform to Subsection (d) and (e) requirements. Authorizes the legislature to call an election under Subsection (c) during any regular session or on a special session called by the governor, but must conform to all manners prescribed by law and other statewide elections. Requires the debt to set forth in a proposition, the amount, purpose, and source for the payment of debt, and to not renew or surpass the given amount unless the proposition clearly provides for the change or meets Subsection (g) provisions. Authorizes the legislature to enact laws supported by Subsection (c) propositions. Provides that state debt may be refunded with the conditions provided by law and cannot be contested unless authorized by the attorney general.

Sec. 8.15. LIMIT ON STATE DEBT. Prohibits any annual debt serviced out of general revenue from exceeding five percent of the average of general revenue fund revenues, excluding certain constitutional payments, from the three preceding fiscal years. Defines "state debt payable from the general revenue fund."

Sec. 8.16. APPROPRIATIONS. Authorizes all money received or collected by the state, including proceeds from a judgment, to be spent only as provided by appropriation. Provides that this subsection does not apply to money received in trust by law for a specific beneficiary. Requires an appropriation to be made in law, specifically for a lawful purpose, and for no more than two years. Requires the comptroller to submit a report to the governor when the legislature convenes a regular or special session. Sets forth criteria for the comptroller's reports. Requires the comptroller to certify that an appropriation bill does not exceed estimated revenues, does respond to a public necessity, and did pass with a four-fifths vote of each house's membership. Requires the comptroller to endorse a finding that the appropriation bill exceeded estimated revenues, return the bill to the house, and notify the legislature of the bill's return.

Sec. 8.17. RESTRICTION ON APPROPRIATIONS. Prohibits an appropriation's biennial rate of growth from state tax revenues from exceeding the anticipated rate of growth of the state's economy, unless the legislature resolves to find an emergency exists. Requires these appropriations to have procedures, by law, to implement this subsection, and may not exceed an emergency amount, and are subject to Section 8.16 of this constitution.

Sec. 8.18. BUDGET EXECUTION. Authorizes the legislature to direct the governor to exercise fiscal control over the expenditure of appropriated money. Authorizes the legislature to authorize, by rider or statute, any state officer or agency to make an expenditure or emergency transfer of appropriated money, subject to certain conditions.

Sec. 8.19. LIMITS ON CERTAIN APPROPRIATIONS. Prohibits an appropriation to needy children and their caretakers from exceeding one percent of the state's biennium budget. Requires the legislature to provide the means to determine the state budget to be used in establishing the biennial limit. Authorizes the legislature to establish limitations, restrictions, and enact laws to bring Subsection (a) into conformity with federal law that provides federal matching money.

Sec. 8.20. TEXAS GROWTH FUND. Creates the Texas growth fund as a trust fund that invests in certain start-up businesses or applied research. Authorizes an investing fund or system of the state to invest up to one percent of the book value of the fund in the Texas growth fund, given certain provisions are met. Sets forth criteria that require the legislature to provide and establish the Texas growth fund.

TEMPORARY TRANSITION PROVISIONS. (a) Effective date of this article: September 1, 1999.

(b) Authorizes a political subdivision to continue imposing an ad valorem tax, subject to any legal restrictions.

(c) Provides that any relief from ad valorem taxes established in the Constitution of 1876 or other law remain in effect.

ARTICLE 9. LOCAL GOVERNMENT

Sec. 9.01. COUNTIES. Provides that the counties of this state are those that exist on the date of adoption of this article. Authorizes only a majority of the qualified voters of a county to change the boundary of a county, merge counties, or relocate a county seat.

Sec. 9.02. POWERS OF COUNTY GOVERNMENT. Provides that only the powers granted under this constitution and by law does a county possess.

Sec. 9.03. COUNTY OFFICERS. Establishes that the governing body of the county is the county commission consisting of the county judge and four county commissioners. Provides that the county voters elect each county commissioner from a separate and compact precinct, a sheriff, a treasurer, a tax assessor-collector, and a requisite number of county attorneys, district attorneys, and criminal district attorneys. Authorizes the legislature to provide for other county officers. Establishes that the district attorney and the county attorney as provided by law, represent the state in all criminal matters below the level of court of appeals, other than municipal courts and justice courts, and perform other duties as prescribed by law. Authorizes the county commission to provide for the election of one or more constables. Establishes that county officers are subject to all the procedures for disqualification, suspension, and removal from office as provided by this constitution or general law. Requires a county attorney, district attorney, or criminal district attorney to be licensed to practice law in this state. Provides that the county clerk is the county recorder and clerk of county commission. Authorizes the voters of a county by majority vote to reorganize county offices, as provided by law and ensured by the county commission. Fills county office vacancies in the manner provided by law.

Sec. 9.04. GENERAL-LAW AND HOME-RULE MUNICIPALITIES. Requires the legislature to provide, by law, charters for municipalities, including general-law and home-rule, which are classified according to population. Authorizes both a general-law municipality and a home-rule municipality to levy, assess, and collect taxes, as provided by law. Authorizes qualified municipal voters to amend their municipal charter, as provided by law.

Sec. 9.05. SPECIAL DISTRICTS AND AUTHORITIES. Requires the legislature to provide for establishing, financing, consolidating, and abolishing special districts and authorities, and to establish a special district's powers.

Sec. 9.06. COMPENSATION OF OFFICIALS. Authorizes an elected official to receive compensation and per diem payments only in amounts established by law or charter.

Sec. 9.07. LOCAL DEBT. Prohibits a county, municipality, special district or authority, or other political subdivision from issuing general obligation bonds, except refunding bonds, unless a

majority of the voters approve the bond. Prohibits a political subdivision from creating a debt, unless a provision is made at the time for paying the interest and principal of the debt.

Sec. 9.08. INTERGOVERNMENTAL COOPERATION. Authorizes any political subdivision to share in the costs and responsibilities, to provide a service or function, with any one or more political subdivisions.

Sec. 9.09. CONSOLIDATION OF OFFICES AND TRANSFER OF FUNCTIONS AMONG POLITICAL SUBDIVISIONS. Authorizes a political subdivision to consolidate offices, transfer functions of government, or modify or cancel a consolidation or transfer. Prohibits a law from consolidating or transferring political subdivisions among more than one county. Prohibits a consolidation or transfer from occurring without the majority approval of the affected voters, including voters in an unincorporated area when county offices are in question. Authorizes the legislature by general or local law to provide for the consolidation of tax collection in a county, notwithstanding Subsection (a) requirements. Provides that this subsection does not apply to the annexation of territory by a municipality or other political subdivision.

Sec. 9.10. LOCAL OPTION ON SALE OF ALCOHOLIC BEVERAGES. Requires the legislature to enact general laws to authorize the voters of a county to determine whether intoxicating liquors shall be prohibited from sale or legalization. Requires such laws to contain provisions for voting on the various types of alcohol. Provides that dry counties continue to be dry counties at the time this article takes effect.

Sec. 9.11. GOVERNMENTAL AND PROPRIETARY FUNCTIONS. Authorizes the legislature to define and redefine governmental and proprietary functions of a municipality or other political subdivision.

TEMPORARY TRANSITION PROVISIONS. (a) Effective date of this bill: September 1, 1999.

(b) Continues any power directly granted by the Constitution of 1876 to a county, municipality, or special district.

(c) Continues any term of office of a county, municipality, special district or authority, or other political subdivision when the term of office began as provided by law, or charter.

ARTICLE 10. GENERAL PROVISIONS

Sec. 10.01. SEAL OF THE STATE. Describes the seal of the state as a five-pointed star encircled by olive and live oak branches and the words "The State of Texas."

Sec. 10.02. OFFICIAL OATH. Requires each state and local officer to take a specific oath before entering the duties of public office. Sets forth the oath of office.

Sec. 10.03. RESIDENCE OF PUBLIC OFFICERS. Requires each state and local officer to reside within the state, reside within a political subdivision if applicable, and vacate the office if the officer does not comply with these residency requirements.

Sec. 10.04. CONTINUATION IN OFFICE. Requires each state and local officer to continue performing the duties of office until a successor is qualified for office.

Sec. 10.05. VACANCY IN OFFICE. Requires the governor to appoint with the advice and consent of the senate a vacancy in a state or district office, unless this constitution or law provides other means for filling the vacancy.

Sec. 10.06. DISQUALIFICATION, SUSPENSION, AND REMOVAL OF OFFICER; DISABILITY OF OFFICER. Authorizes the legislature by general law to establish grounds and procedures for the disqualification, suspension, removal, and temporary replacement of an officer for whom a mode of removal is not provided in this constitution. Requires the legislature to establish procedures for the temporary suspension or replacement of an executive branch officer who becomes disabled or otherwise unable to discharge the duties of office.

Sec. 10.07. TEXAS ETHICS COMMISSION. Establishes the Texas Ethics Commission and its eight members. Sets forth membership, terms, and replacement requirements for the Texas Ethics Commission.

Sec. 10.08. TEXAS SALARY COMMISSION. Establishes the Texas Salary Commission (salary commission) and its nine members. Sets forth membership, terms, and replacement requirements for the salary commission. Requires the salary commission to recommend the rate of compensation for elected and appointed officers of the executive branch, for judges of state district courts, including the supreme court and court of criminal appeals, and the legislature in accordance to Section 3.09 of this constitution. Prohibits an officer from receiving a compensation in excess of the amount determined by the commission. Provides that the compensation paid is determined by law and is subject to limits established by general law or appropriation. Provides that an officer is not entitled to the compensation rate recommended by the commission. Defines “compensation.”

Sec. 10.09. SEPARATE AND COMMUNITY PROPERTY OF SPOUSES. Defines “marriage” and “spouse.” Authorizes the legislature to define the rights of spouses in relation to separate and community property. Establishes that a property owned or claimed prior to marriage and acquired afterward remains the separate property of that spouse. Authorizes a person to partition his or her property during marriage, without the intention to defraud preexisting creditors. Provides that the portion or interest set aside to each spouse is the separate property of that spouse or any future spouse. Authorizes spouses to agree between themselves that income or property from partitioned property remains separate property of that spouse. Provides that gifts or income from one spouse to another includes future income or property from that gift. Authorizes spouses to agree that all or part of the community property becomes the property of the surviving spouse. Requires Subsections (d)-(g) provisions to be in writing.

Sec. 10.10. HOMESTEAD. Sets forth the various definitions and aspects of a homestead, including homestead, rural homestead, and urban homestead. Prohibits a rural homestead from changing into an urban homestead without the claimant’s consent that the land may be used for non-agricultural purposes. Protects the homestead of a family or a single person, or an agricultural homestead from forced sale, except under certain circumstances and notwithstanding Subsection (d)(4) and (d)(6). Requires the legislature to provide for the protection of beneficiaries from proceeds of an indebted homestead, including a waiting period, rescission period, regulation of liens, authorized institutions, and location and mechanisms of the closing.

Sec. 10.11. PROTECTION OF PERSONAL PROPERTY FROM FORCED SALE. Requires the legislature to provide for the protection from forced sale of certain personal property belonging to each adult and family.

Sec. 10.12. PROTECTION OF WAGES FROM GARNISHMENT. Provides that current wages for personal service are not subject to garnishment, except court-ordered child-support payments. Authorizes the legislature to garner the salary of a public officer who neglects the performance of a duty assigned by law.

Sec. 10.13. LIENS OF MECHANICS, ARTISANS, AND MATERIALMEN. Establishes that mechanics, artisans, and materialman have liens on the work they perform for the value of the labor or material furnished. Requires the legislature to provide for the efficient enforcement of liens.

Sec. 10.14. BANKING. Prohibits a foreign corporation not chartered by the United States from operating a bank or discounting privileges in this state.

Sec. 10.15. PENSION AND RETIREMENT SYSTEMS. Continues to subject public pensions or retirement systems to the provisions of the Constitution of 1876, on the effective date of this article, until changed by law. Prohibits funds used for public or retirement system from being used for any purpose inconsistent with the system. Prohibits a contribution of less than six percent by a participating member of the Employees Retirement System of Texas or the Teacher Retirement System of Texas. Prohibits a contribution of less than six percent and more than ten percent by the state to either system. Authorizes the legislature in an emergency determined by the governor to appropriate additional sums to fund benefits.

Sec. 10.16. GAMBLING. Prohibits lotteries and gift enterprises, except charitable bingo games or raffles, state-sponsored lotteries, or other enterprises approved by two-thirds of each house of the legislature and a majority of the voters in a referendum. Authorizes the legislature to regulate lotteries and gift enterprises.

Sec. 10.17. AMENDMENTS TO CONSTITUTION. Authorizes the legislature by a two-thirds vote of each house to propose amendments to this constitution. Requires the legislature to submit the amendment to the voters within 90 days of its proposal, to publicize the amendment in English and any other language prescribed by law, and adopt the amendment, if approved by a majority of the voters in a statewide election, on the date of the canvassed election returns.

Sec. 10.18. CONSTITUTIONAL CONVENTION. Authorizes the legislature by two-thirds vote of each house to submit to the people the question of whether to call a constitutional convention and to stipulate the question in articles that the convention may consider. Requires a constitutional convention to convene if a majority of the voters approve the question. Requires the legislature at the next legislature session to provide for the logistics of the convention, following the approval of the question. Provides that a public officer is not prohibited from serving as a delegate by this constitution. Authorizes the convention, by a two-thirds vote of its membership, to propose any revision of or amendments to the constitution, in an unlimited call, or propose any revision of or amendment to the articles stipulated in a limited call. Requires the convention to determine the manner of submitting and publicizing its proposals and fix the date of the election. Requires convention to submit the proposals in English and any other language specified by the convention. Requires the proposal to become effective on the date the majority of voters approve the question.

TEMPORARY TRANSITION PROVISIONS. (a) Effective date of this article: September 1, 1999.

(b) Provides that the salaries of elected and appointed officers of the executive branch and the judicial branch remain unchanged, until the salary commission or legislative law determines a different compensation.

(c) Continues to subject lotteries and gift enterprises to the restrictions of the Constitution of 1876, until regulated by general law in accordance with Section 10.16(b) of this constitution.

(d) Continues any law in effect at the time this constitution becomes effective provided that it is not in conflict with this constitution, the Constitution of 1876, or the U.S. Constitution, until amended or repealed by the legislature.

(e) Provides that this article does not affect the validity or enforceability of a lien against a homestead that was valid under the terms of Section 50, Article XVI, Constitution of 1876.

SECTION 2. Requires this proposed constitutional amendment to be submitted to the voters at an election to be held on November 2, 1999. Sets forth required language for the ballot.