

BILL ANALYSIS

Senate Research Center

H.J.R. 75
By: Mowery (Shapiro)
State Affairs
5/2/2001
Engrossed

DIGEST AND PURPOSE

The Texas Constitution contains provisions which are obsolete, archaic, redundant, or unnecessary. Numerous duplicate, executed, and archaic clauses could be repealed or amended without changing the substance of the document. H.J.R. 75 requires the submission to the voters of a constitutional amendment providing for the reformatting of the constitution to address those provisions.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

ARTICLE 1. CHANGES TO ARTICLE III

SECTION 1.01. Amends Section 25, Article III, Texas Constitution, to delete existing text regarding the number of qualified electors and the representation of a single county by more than one senator.

SECTION 1.02. Amends Section 28, Article III, Texas Constitution, to make conforming and nonsubstantive changes.

SECTION 1.03. Amends Section 56, Article III, Texas Constitution, to prohibit the legislature from passing, except as otherwise provided in this constitution, any local or special law, authorizing certain resulting conditions, including the relieving or discharging any person or set of persons from the performance of any public duty or service imposed by general law. Prohibits, in addition to those laws described by Subsection (a) of this section, a local or special law in all other cases where a general law can be made applicable, from being enacted; provided, that nothing herein contained shall be construed to prohibit the legislature from passing special laws for the preservation of the game and fish of this state in certain localities and fence laws applicable to any subdivision of this state or counties as may be needed to meet the wants of the people.

SECTION 1.04. Amends Section 59, Article III, Texas Constitution, to make a nonsubstantive change.

SECTION 1.05. Amends Section 60, Article III, Texas Constitution, to make nonsubstantive changes.

SECTION 1.06. Repealer: Section 61 (Workmen's Compensation Insurance for Municipal Employees), Article III, Texas Constitution; and

Section 63 (Consolidation of Governmental Functions of Political Subdivisions in Counties of 1,200,000 or More), Article III, Texas Constitution.

ARTICLE 2. CHANGES TO ARTICLE V

SECTION 2.01. Amends Sections 1-a(1) and (2), Article V, Texas Constitution, to make nonsubstantive changes.

SECTION 2.02. Amends Section 2, Article V, Texas Constitution, to delete existing text regarding vacancies in the office of chief justice or any justice of the supreme court.

SECTION 2.03. Amends Section 3, Article V, Texas Constitution, to delete existing text regarding the appointment of a clerk by the supreme court.

SECTION 2.04. Amends Section 4, Article V, Texas Constitution, to delete existing text regarding a vacancy in the office of a judge of the court of criminal appeals.

SECTION 2.05. Amends Section 5, Article V, Texas Constitution, to delete existing text regarding the court of criminal appeals sitting term and the appointment of a clerk of that court.

SECTION 2.06. Amends Article V, Texas Constitution, by adding Sections 5a and 5b, as follows:

Sec. 5a. Requires the supreme court, court of criminal appeals, and each court of appeals to each appoint a clerk of the court, who is required to give bond in the manner required by law, authorized to hold office for four years subject to removal by the appointing court for good cause entered of record on the minutes of the court, and required to receive such compensation as the legislature may provide.

Sec. 5b. Authorizes the supreme court and the court of criminal appeals to sit at any time during the year at the seat of government or, at the court's discretion, at any other location in this state for the transaction of business, and each term of either court is required to begin and end with each calendar year.

SECTION 2.07. Amends Section 6, Article V, Texas Constitution, to delete existing text regarding the appointment of a clerk by each court of appeals.

SECTION 2.08. Amends Section 11, Article V, Texas Constitution, to make nonsubstantive changes.

SECTION 2.09. Amends Section 13, Article V, Texas Constitution, to make nonsubstantive changes.

SECTION 2.10. Amends Article V, Texas Constitution, by adding Section 14, as follows:

Sec. 14. (a) Requires the legislature to prescribe by law the qualifications of grand jurors and petit jurors.

(b) Requires the legislature to enact laws to exclude from serving on juries persons who have been convicted of bribery, perjury, forgery, or other high crimes.

SECTION 2.11. Amends Section 17, Article V, Texas Constitution, to make nonsubstantive changes.

SECTION 2.12. Amends Sections 18(e), (f), and (g), Article V, Texas Constitution, to provide that the office of Constable is abolished in Mills County, Reagan County, and Roberts County. Deletes existing text of Subsection (f) regarding certain offices of constable and reletters existing text of Subsection (g) as Subsection (f).

SECTION 2.13. Amends Section 28, Article V, Texas Constitution, to delete its title. Requires a vacancy in the office of chief justice, justice, or judge of the supreme court, the court of criminal appeals, the court of appeals, or, rather than and, the district courts to be filled by the governor until the

next succeeding general election for state officers, and at that election the voters are required to fill the vacancy for the unexpired term. Makes conforming and nonsubstantive changes.

SECTION 2.14. Amends Section 29, Article V, Texas Constitution, to delete existing text regarding prosecutions commenced in certain courts. Makes nonsubstantive changes.

SECTION 2.15. Repealer: Section 3a (Sessions of Court), Article V, Texas Constitution; and

Section 27 (Transfer of Cases Pending at Adoption of Constitution), Article V, Texas Constitution.

ARTICLE 3. CHANGES TO ARTICLE VI

SECTION 3.01. Amends Section 1, Article VI, Texas Constitution, to require the legislature to enact laws to exclude from the right of suffrage persons who have been convicted of bribery, perjury, forgery, or other high crimes. Makes nonsubstantive changes.

SECTION 3.02. Amends Section 2, Article VI, Texas Constitution, to require the privilege of free suffrage to be protected by laws regulating elections and prohibiting under adequate penalties all undue influence in elections from power, bribery, tumult, or other improper practice. Makes conforming and nonsubstantive changes.

ARTICLE 4. CHANGES TO ARTICLE VII

SECTION 4.01. Amends Section 6, Article VII, Texas Constitution, to delete existing text regarding the protection of certain settlers. Makes nonsubstantive changes.

SECTION 4.02. Amends Article VII, Texas Constitution, by adding Section 9-a, as follows:

Sec. 9-a. TEMPORARY PROVISION. (a) Requires all land and other property set apart under former Section 9 of this article to provide a permanent fund described by former Section 9 and constituting such a fund on the date former Section 9 of this article is repealed to be sold by the General Land Office as soon as practicable after that date and the proceeds are required to be deposited to the credit of the general revenue fund to be appropriated for the benefit of education.

(b) Requires all money remaining in the permanent funds established under former Section 9 of this article on the date that section is repealed to be transferred on that date to the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf, in equal shares. Requires all outstanding income accrued to the benefit of those permanent funds before that date that are collected after that date and before this section expires to be deposited to the credit of the general revenue fund.

(c) Provides that this section expires January 1, 2005.

SECTION 4.03. Repealer: Section 4A (Public Free School Fund Lands Held Fifty Years Under Color of Title; Application for Patent; Conditions; Excluded Land), Article VII, Texas Constitution; and

Section 9 (Lands for Benefit of Asylums; Permanent Fund; Sale and Investment of Proceeds), Article VII, Texas Constitution.

ARTICLE 5. CHANGES TO ARTICLE VIII

SECTION 5.01. Amends Section 1-a, Article VIII, Texas Constitution, to delete provisions regarding a state ad valorem tax. Makes nonsubstantive changes.

SECTION 5.02. Amends Section 1-e, Article VIII, Texas Constitution, to delete existing text regarding certain receipts from authorized state ad valorem taxes.

SECTION 5.03. Amends Section 14, Article VIII, Texas Constitution, as follows:

Sec. 14. (a) Requires the qualified voters of each county to elect an assessor-collector of taxes for the county, except as otherwise provided by this section.

(b) Requires the sheriff of the county, in any county having a population of less than 10,000 inhabitants, as determined by the most recent decennial census of the United States, in addition to that officer's other duties, to be the assessor-collector of taxes, except that the commissioners court of such a county is authorized to submit to the qualified voters of the county at an election the question of electing an assessor-collector of taxes as a county officer separate from the office of sheriff. Requires an assessor-collector approved by a majority of the voters voting in such an election to be elected at the next general election for the constitutional term of office as is provided for other tax assessor-collectors in this state.

(c) Requires an assessor-collector of taxes to hold office for four years and to perform all the duties with respect to assessing property for the purpose of taxation and of collecting taxes, as may be prescribed by the legislature. Makes nonsubstantive changes.

SECTION 5.04. Repealer: Section 16 (Assessor and Collector of Taxes; Counties Having 10,000 or More Inhabitants), Article VIII, Texas Constitution; and

Section 16a (Assessor-collector of Taxes; Counties Having less than 10,000 Inhabitants), Article VIII, Texas Constitution.

ARTICLE 6. CHANGES TO ARTICLE IX

SECTION 6.01. Redesignates Section 8 (County Poor House and Farm), Article XVI, Texas Constitution, as Section 14 (County Poor House and Farm), Article IX, Texas Constitution.

ARTICLE 7. CHANGES TO ARTICLE XI

SECTION 7.01. Amends Section 7, Article XI, Texas Constitution, to provide that all counties and cities bordering on the coast of the Gulf of Mexico are hereby authorized upon a vote of the majority of the qualified voters, rather than resident property taxpayers, voting thereon at an election called for such purpose to levy and collect such tax for construction of sea walls, breakwaters, or sanitary purposes, as may now or may hereafter be authorized by law, and are authorized to create a debt for such works and issue bonds in evidence thereof.

SECTION 7.02. Amends Section 11, Article XI, Texas Constitution, to authorize a home rule city to provide by charter or charter amendment, and a city, town or village operating under the general laws is authorized to provide by majority vote of the qualified voters voting at an election called for that purpose, for a longer term of office than two years for its officers, either elective or appointive, or both, but not to exceed four years; provided, however, that tenure under civil service is prohibited from being affected hereby; provided, however, that such officers, elective or appointive, are subject to Section 65(b), Article XVI, of this constitution, providing for automatic resignation in certain circumstances, in the same manner as a county or district officer to which that section applies. Makes nonsubstantive changes.

ARTICLE 8. CHANGES TO ARTICLE XVI

SECTION 8.01. Amends Section 1, Article XVI, Texas Constitution, to require all elected and appointed officers, before they enter upon the duties of their offices, to take a certain oath or affirmation. Deletes existing text regarding certain oaths or affirmations. Requires members of the Legislature, the Secretary of State, and all other elected and appointed state officers to file the signed statement required by Subsection (b) of this section with the secretary of state before taking the oath or affirmation of office prescribed by Subsection (a) of this section. Makes conforming and nonsubstantive changes.

SECTION 8.02. Amends Section 2, Article XVI, Texas Constitution, to require laws to be made to exclude from office persons who have been convicted of bribery, perjury, forgery, or other high crimes. Deletes existing text regarding certain civil services and rights. Deletes existing text regarding the protection of the privilege of free suffrage.

SECTION 8.03. Amends Section 11, Article XVI, Texas Constitution, to delete existing text regarding the classification of loans and lenders and the licensure and regulation of lenders. Deletes existing text regarding certain rights of an applicant of any permit canceled or refused under any law passed by the legislature.

SECTION 8.04. Amends Section 23, Article XVI, Texas Constitution, to authorize the legislature to pass laws for the regulation of live stock and the protection of stock raisers in the stock raising portion of the state, and exempt from the operation of such laws other portions, sections, or counties. Requires the legislature to have power to pass general and special laws for the inspection of cattle, stock and hides and for the regulation of brands; provided, that any local law thus passed is required to be submitted to the qualified voters, rather than freeholders, of the section to be affected thereby, and approved by them, before it shall go into effect.

SECTION 8.05. Repealer: Section 19 (Qualifications of Jurors), Article XVI, Texas Constitution;

Section 22 (Fence Laws), Article XVI, Texas Constitution;

Section 43 (Exemptions from Public Duty or Service), Article XVI, Texas Constitution;

Section 56 (Appropriations for Development and Dissemination of Information Concerning Texas Resources), Article XVI, Texas Constitution; and

Section 65A (Fort Bend County District Attorney), Article XVI, Texas Constitution.

ARTICLE 9. TEMPORARY TRANSITION PROVISION; ELECTION

SECTION 9.01. Adds the following temporary provision to the Texas Constitution:

TEMPORARY TRANSITION PROVISION. (a) Provides that this section applies to the amendments to this constitution proposed by H.J.R. No. ____, 77th Legislature, Regular Session, 2001.

(b) Provides that the reenactment of any provision of this constitution for purposes of amendment does not revive a provision that may have been impliedly repealed by the adoption of a later amendment.

(c) Provides that the amendment of any provision of this constitution does not affect vested rights.

SECTION 9.02. Requires this proposed constitutional amendment to be submitted to the voters at an election to be held November 6, 2001. Requires the ballot to be printed to permit voting for or against a certain proposition.