



Legislative UPDATE

October 4, 2019
Number 38

City-Related Constitutional Amendment Propositions

Eight out of ten proposed amendments to the Texas Constitution on the November 5, 2019, ballot directly or indirectly affect Texas cities. The following information about the propositions is taken directly from the Texas secretary of state's website:

- **Proposition Number 1 (H.J.R. 72)** H.J.R. 72 proposes a constitutional amendment permitting an elected municipal judge to serve as a municipal judge in more than one municipality at the same time. Unlike an appointed municipal judge, an elected municipal judge may not concurrently hold another municipal judge office. This amendment would allow an elected municipal judge to serve as a municipal judge in more than one municipality at the same time, in the same manner as appointed municipal judges.

The proposed amendment will appear on the ballot as follows: **“The constitutional amendment permitting a person to hold more than one office as a municipal judge at the same time.”**

- **Proposition Number 2 (S.J.R. 79)** S.J.R. 79 proposes a constitutional amendment authorizing the Texas Water Development Board to issue additional general obligation bonds, in an amount that does not exceed \$200 million, for the economically distressed areas program. These bonds can be used only to provide financing for the development of

water supply and sewer service projects in those economically distressed areas as defined by law.

The proposed amendment will appear on the ballot as follows: **“The constitutional amendment providing for the issuance of additional general obligation bonds by the Texas Water Development Board in an amount not to exceed \$200 million to provide financial assistance for the development of certain projects in economically distressed areas.”**

- **Proposition Number 3 (H.J.R. 34)** H.J.R. 34 proposes a constitutional amendment allowing the legislature to temporarily exempt from ad valorem taxation a portion of certain property located in an area covered by a disaster declaration of the governor. The proposed amendment would allow the legislature to prescribe the method of determining the amount of the tax exemption and the duration of the exemption and also would allow the legislature to create any additional eligibility requirements for the tax exemption.

The proposed amendment will appear on the ballot as follows: **“The constitutional amendment authorizing the legislature to provide for a temporary exemption from ad valorem taxation of a portion of the appraised value of certain property damaged by a disaster.”**

- **Proposition Number 4 (H.J.R. 38)** H.J.R. 38 proposes a constitutional amendment prohibiting the state from imposing or collecting an individual income tax, including an individual’s share of partnership and unincorporated association income. There is no current constitutional bar on imposing or collecting an individual income tax.

The proposed amendment will appear on the ballot as follows: **“The constitutional amendment prohibiting the imposition of an individual income tax, including a tax on an individual’s share of partnership and unincorporated association income.”**

- **Proposition Number 5 (S.J.R. 24)** S.J.R. 24 proposes a constitutional amendment that would automatically appropriate the net revenue received from the portion of the state’s tax revenue received on sales of sporting goods to the Texas Parks and Wildlife Department (TPWD) and the Texas Historical Commission (THC). The legislature would maintain the authority to determine the specific uses of the funds and their allocation between TPWD and THC.

The proposed amendment will appear on the ballot as follows: **“The constitutional amendment dedicating the revenue received from the existing state sales and use taxes that are imposed on sporting goods to the Texas Parks and Wildlife Department and the Texas Historical Commission to protect Texas’ natural areas, water quality, and history by acquiring, managing, and improving state and local parks and historic sites while not increasing the rate of the state sales and use taxes.”**

- **Proposition Number 8 (H.J.R. 4)** H.J.R. 4 proposes a constitutional amendment creating the flood infrastructure fund as a special fund in the state treasury, using money appropriated from the economic stabilization fund. The flood infrastructure fund would provide additional resources to implement plans to mitigate flood damage. The proposed amendment would authorize the Texas Water Development Board to use money in the flood infrastructure fund for drainage, flood mitigation, or flood control projects. The proposed amendment also would authorize the creation of separate accounts in the flood infrastructure fund as necessary to administer the fund or authorized projects.

The proposed amendment will appear on the ballot as follows: **“The constitutional amendment providing for the creation of the flood infrastructure fund to assist in the financing of drainage, flood mitigation, and flood control projects.”**

- **Proposition Number 9 (H.J.R. 95)** H.J.R. 95 proposes a constitutional amendment authorizing the legislature to create a property tax exemption for precious metal held in a precious metal depository located in this state.

The proposed amendment will appear on the ballot as follows: **“The constitutional amendment authorizing the legislature to exempt from ad valorem taxation precious metal held in a precious metal depository located in this state.”**

- **Proposition Number 10 (S.J.R. 32)** S.J.R. 32 proposes a constitutional amendment authorizing the legislature to allow a state agency or political subdivision to transfer a law enforcement animal to the animal’s handler or another qualified caretaker in certain circumstances. Currently, the Texas Constitution prevents the transfer of certain public property, such as law enforcement animals, to a private person or organization at no cost. This amendment authorizes the legislature to allow the transfer of a law enforcement animal to the animal’s handler or another qualified caretaker at no cost, upon the animal’s retirement or at another time if the transfer is determined to be in the animal’s best interest.

The proposed amendment will appear on the ballot as follows: **“The constitutional amendment to allow the transfer of a law enforcement animal to a qualified caretaker in certain circumstances.”**

Additional information about all of the propositions is available in the constitutional amendment [“Focus Report”](#) prepared by the House Research Organization.

White House Creates Council on Affordable Housing

On June 25, 2019, the president signed an [executive order](#) establishing the White House Council on Eliminating Regulatory Barriers to Affordable Housing. The Council is chaired by U.S. Housing and Urban Development Secretary Ben Carson. The primary task of the Council is to

identify federal, state, and local regulations (e.g., zoning) that increase the cost of developing affordable housing.

The National League of Cities' Community and Economic Development Committee (CED) [recommended](#) that NLC engage with the Council. Recently, the [CED met with HUD](#) officials to: (1) provide feedback regarding the composition and direction of the newly-established Council; and (2) request that NLC be formally invited to testify before or participate in the work of the Council. The CED also took the opportunity to emphasize that cities are part of the solution to the broader housing affordability crisis, not part of the problem.

At this time, no action is required of Texas cities and no mandates have been placed upon them by the executive order. TML will continue to work with NLC to monitor the work of the Council and report on any important developments.

Department of Labor Adopts New Overtime Salary Rules

On September 24, 2019, the U.S. Department of Labor (DOL) published a [final rule](#) that will require an employer to increase the salary of an executive, administrative, or professional employee if the employer wants to continue treating such employee as exempt from overtime pay.

Under current law, an employee whose job primarily involves executive, administrative or professional duties must be paid at least \$455 per week (or \$23,660 annually) in order to be exempt from overtime pay. Effective January 1, 2020, if such employee's salary is less than \$684 per week (or \$35,568 annually), the employee will be eligible for overtime pay for any hours worked beyond 40 hours in a work week.

An employer will be allowed to count a certain portion of bonuses or incentive payments paid at least annually, up to 10 percent, to meet the salary threshold.

The DOL has also published a [fact sheet](#) with more detailed information.

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