

# CONSTITUTIONAL AMENDMENTS



# VOTER'S GUIDE

SENATOR STEVE OGDEN

77th Legislature

Senate District 5

## THE SENATE of THE STATE of TEXAS



P.O. Box 12068  
Austin, Texas 78711-2068  
Tel: (512) 463-0105  
Fax: (512) 463-5713  
TDD: 1-800-735-2989  
steve.ogden@senate.state.tx.us

Stephen E. Ogden  
District 5

7607 Eastmark Drive, Suite 241  
College Station, Texas 77840  
Tel: (979) 694-2609  
Fax: (979) 694-2709  
1-888-694-2609

Brushy Creek Professional Centre  
893 IH-35 North, Suite #220  
Round Rock, Texas 78664  
Tel: (512) 828-5224  
Fax: (512) 828-5229

Dear Neighbors:

It has been an honor serving as your state senator during the Legislature's 77th Regular Session.

During the session, the Legislature proposed 19 amendments to the Texas Constitution. On November 6, you will be asked to approve or reject these amendments. Some of the items on the ballot are quite significant and may greatly affect you. I hope you will study the propositions and the arguments for and against them included in this newsletter. Then, exercise your right to vote.

As always, if you need assistance on any state matter or would like a further explanation of any of the constitutional amendments, my office is available to help. You may contact my office at (512)463-0105 or toll-free at 1(888)694-2609.

Sincerely,

Stephen E. Ogden  
State Senator, District 5

Committees: Finance; Administration, Vice-Chairman; Criminal Justice

ELECTION DAY: TUESDAY, NOVEMBER 6, 2001

# Constitutional Amendments Voter's Guide

**Election Day: Tuesday, November 6, 2001**

**Early Voting: Tuesday, October 23 - Saturday, November 3, 2001**

Contact your county clerk's office for a list of voting times and locations in your area.



**#1** The constitutional amendment providing for clearing of land titles by the release of a state claim of its interest to the owners of certain land in Bastrop County.

**Background:** Proposition 1 would require the state to relinquish its surface interest in 20 disputed tracts in the A.P. Nance Survey in Bastrop County. It would give title to the land to the owners of the remaining interests in the survey who have occupied, fenced and paid taxes on the land without knowing that part of it was state-owned Permanent School Fund land.

#### Arguments For:

- This amendment would save the state money by avoiding the expense of prolonged litigation to address the title disputes.
- Similar amendments were approved by voters in 1981, 1991 and 1993.

#### Arguments Against:

- This amendment would not treat all claimants to the Nance Survey equally. Those with title insurance were able to make claims to clear their land titles, and the state received compensation for the land in the disputed tract.
- The value of the land affected by this amendment is estimated to be about \$383,000. Relinquishing claims to the land would represent a loss to the Permanent School Fund, which helps fund public education.



**#2** The constitutional amendment authorizing the issuance of state general obligation bonds and notes to provide financial assistance to counties for roadway projects to serve border counties.

**Background:** The proposition would allow the governor to authorize the Texas Public Finance Authority to issue up to \$175 million in general obligation bonds to assist border counties with road projects to connect colonias to existing public roads. Colonias are rural residential slums located in unincorporated areas of counties within 50 miles of the Texas-Mexico border.

#### Arguments For:

- Border counties do not have the resources to meet the huge infrastructure needs of the colonias. This amendment would provide counties with grants to develop solutions to these problems.
- It is estimated that as much as 2,000 miles of road could be built if this proposition passes, providing a significant improvement in making colonias more livable.

#### Arguments Against:

- The program proposed by this amendment would favor one area of the state over others and would neglect other needy Texans. Underserved areas with inadequate roads are not limited to the Texas-Mexico border.
- Interest and other costs make bonded roads more expensive and mortgage future funds that cannot be spent on other priorities. Like families and businesses, government should wait until it can afford projects and should not spend beyond its means.



**#3** The constitutional amendment to authorize the Legislature to exempt from ad valorem taxation raw cocoa and green coffee that is held in Harris County.

**Background:** Under the Texas Constitution, all tangible property, including inventories, held for the production of income is subject to ad valorem taxes unless specifically exempted. Proposition 3 would allow the Legislature to exempt from taxation raw cocoa and green coffee temporarily held in Harris County.

#### Arguments For:

- Exempting coffee and cocoa inventories from ad valorem taxation in Harris County would make the county eligible to be designated an exchange port for coffee by the New York Board of Trade. Certification of Houston as a coffee port would spur long-term investment in warehouse facilities, create jobs and bring additional business to trucking and distribution companies across the state.

#### Arguments Against:

- Exempting coffee and cocoa from ad valorem taxation would decrease tax revenue for local governments and some school districts in Harris County. As a consequence, others will bear more of the burden of funding government services.
- An exemption would set a bad precedent by encouraging other types of businesses to try to carve out similar exemptions for their benefit. Taxes should be equal and uniform.



**#4** The constitutional amendment providing for a four-year term of office for the fire fighters' pension commissioner.

**Background:** The Office of the Fire Fighters' Pension Commissioner supervises the Texas Statewide Emergency Services Personnel Retirement Fund and the Texas Local Fire Fighters' Retirement Program. The commission collects revenues and distributes benefit payments for the statewide plan and offers technical assistance to locally administered fire fighters' pension boards. Currently, the commissioner is appointed by the governor and serves a two-year term. This proposed amendment would change the term of the commissioner from two to four years.

#### Arguments For:

- The term should change to conform with the governor's term. This would improve the link and accountability between the governor and the commissioner.
- Lengthening the term would be less disrupting to the functions of the Texas Statewide Emergency Services Personnel Retirement Fund.

#### Arguments Against:

- Changing the commissioner's term is not justified. There are other state officials that are appointed by the governor that serve two-year terms, including the health and human services commissioner and the adjutant general.
- The Senate confirms the governor's appointees. By extending the term for the commissioner, it would reduce the Senate's oversight authority through the confirmation process.



**#5** The constitutional amendment authorizing municipalities to donate outdated or surplus firefighting equipment or supplies to underdeveloped countries.

**Background:** This amendment would authorize municipalities to donate outdated or surplus firefighting equipment, supplies or other materials to an underdeveloped country. Currently, the Texas Constitution prohibits any political subdivision from lending its credit or granting public money or anything of value to another country.

#### Arguments For:

- The amendment would be a helpful goodwill gesture toward Mexico, a country that is in desperate need of firefighting equipment.
- Donating equipment to border areas could help protect Texas cities and parklands and would be a good investment in border safety.

**Arguments Against:**

- Current law allows municipalities and other political subdivisions to donate used or obsolete firefighting equipment to the Texas Forest Service for its use or for distribution to volunteer fire departments around the state. The “Helping Hands” program currently has 2,950 outstanding requests from Texas volunteer fire departments. Volunteer fire departments should be given priority when equipment is ready to be donated before it is sent to a foreign country.



**# 6** The constitutional amendment requiring the governor to call a special session for the appointment of presidential electors under certain circumstances.

**Background:** The controversy surrounding last year’s presidential election caused Texas and most other states to reexamine their voting procedures. During the election contest, the Florida Legislature convened a special session in order to appoint the state’s representatives to the Electoral College. Many disputed whether the Legislature had the authority to convene for that purpose. A similar situation could occur in Texas.

**Arguments For:**

- The proposition would provide clear guidelines for the governor to call a special session to appoint representatives to the Electoral College in the event of a contested presidential election. Currently, it is not absolutely clear that the governor has the authority to call a special session for this purpose.

**Arguments Against:**

- The proposition is not needed because current statutory and constitutional law authorizes the governor to call special sessions of the Legislature.



**#7** The constitutional amendment authorizing the Veterans’ Land Board to issue up to \$500 million in general obligation bonds payable from the general revenues of the state for veterans’ housing assistance and to use assets in certain veterans’ land and veterans’ housing assistance funds to provide for veterans’ cemeteries.

**Background:** This amendment authorizes the sale of up to \$500 million in general obligation bonds to provide additional funding for the veterans’ home mortgage loan programs. It would also permit the Veterans Land Board to use some of the proceeds of the fund for veterans’ cemeteries.

**Arguments For:**

- This amendment would help meet the increasing demand for veterans’ home mortgage loans and provide the Veterans’ Land Board with the flexibility to develop a state veterans’ cemetery program.
- The \$500 million would not count toward the constitutional ceiling on state debt. Prudent loan and investment practices have made the veterans’ programs self-sufficient, and veterans using this program, rather than the taxpayers of Texas, would be responsible for retiring the debt and paying the interest.

**Arguments Against:**

- The proposed amendment would increase state debt obligations that could possibly drain future state revenues.
- Some profits from the program would be used to build veterans’ cemeteries rather than retire debt or reduce the cost of borrowing. Veterans can already obtain federally subsidized mortgages through a government program that is not based on need.



**#8** The constitutional amendment authorizing the issuance of up to \$850 million in bonds payable from the general revenues of the state for construction and repair projects and for the purchase of needed equipment.

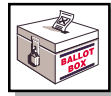
**Background:** This amendment will allow the Legislature to authorize the Texas Public Finance Authority to issue and sell up to \$850 million in general obligation bonds. The Legislature would authorize the issuance of the bonds and appropriate the bond proceeds.

**Arguments For:**

- Using bonds for capital improvements would be an appropriate way to pay for long-term capital projects.
- Many state agencies such as the Department of Mental Health and Mental Retardation, Texas Parks and Wildlife and Texas Youth Commission have important construction projects that would be funded if this amendment passes.

**Arguments Against:**

- Bonds should not be issued to finance repair projects. Repairs are a predictable cost for which the agencies can and should budget.
- The wording of this constitutional amendment is too open and would allow the bond proceeds to be used for almost anything.



**#9** The constitutional amendment authorizing the filling of a vacancy in the Legislature without an election if a candidate is running unopposed in an election to fill the vacancy.

**Background:** This amendment would allow a special election to be canceled if a candidate were running unopposed in an election to fill a vacancy in the Legislature.

**Arguments For:**

- This proposed amendment would spare the state and counties the unnecessary expense of holding a special election to fill a vacancy in the Legislature when a candidate is unopposed.

**Arguments Against:**

- Canceling a special election and restricting write-in candidates would deprive voters of their right to vote for candidates of their choice.



**# 10** The constitutional amendment to promote equal tax treatment for products produced, acquired and distributed in the State of Texas by authorizing the Legislature to exempt from ad valorem taxation tangible personal property held at certain locations only temporarily for assembling, manufacturing, processing or other commercial purposes.

**Background:** Currently, the state allows certain political subdivisions to offer a “freeport exemption” on goods that are brought into and transported out of the state within 175 days. This amendment would provide a similar type of exemption for goods in transit that never leave the state.

**Arguments For:**

- Because the freeport exemption only applies to interstate freight, it discriminates against goods produced and shipped within the state’s boundaries.
- The current freeport exemption has penalized the Texas warehouse industry, causing the state to lose jobs. Approval of the proposition would help Texas regain that business while not significantly impacting state and local tax revenues.

**Arguments Against:**

- Any measure that further erodes local tax bases should be avoided.
- Creating a new exemption would result in substantial costs to the state and local governments. It is estimated that if all taxing entities granted the exemption, it could cost the state \$36 million in reimbursements to schools to compensate for revenue losses in 2004.



**#11** The constitutional amendment to allow current and retired public school teachers and retired public school administrators to receive compensation for serving on the governing bodies of school districts, cities, towns or other local government districts.

**Background:** With some exceptions, the Texas Constitution prohibits a person from holding more than one civil office for compensation. It further specifies that current or retired public school teachers, who receive part of their compensation indirectly from state funds, may serve as members of governing bodies of school boards, cities or other local entities so long as they receive no salary for the service. Proposition 11 would change this policy by allowing current and retired schoolteachers and retired school administrators to receive compensation for their service on local government bodies.

**Arguments For:**

- Public school teachers are currently not prohibited from serving in office, but they may not be compensated for their service. This is not fair.
- In smaller communities especially, the talent pool for government service is limited and government could improve at all levels if teachers were encouraged to serve.

**Arguments Against:**

- Taxpayers expect a full-time effort from teachers who are paid with tax dollars. The constitutional principle that a person can only hold one civil office for compensation is good and prevents taxpayer abuse. This amendment would erode this principle.
- Texas voters clearly rejected a similar proposition in 1999 that included all state employees. They should not be asked to vote again on a similar proposal.



**# 12** The constitutional amendment to eliminate obsolete, archaic, redundant and unnecessary provisions and to clarify, update and harmonize certain provisions of the Texas Constitution.

**Background:** The Texas Constitution was originally adopted in 1876. Since then, the Legislature has proposed 567 amendments, and Texas voters have approved 390 of them. The amendment would remove or reword numerous obsolete, duplicative and ineffective provisions, such as making various references gender neutral and deleting a provision that only “property taxpayers” are qualified to vote.

**Arguments For:**

- The proposition would help streamline the constitution by deleting obsolete provisions and renumbering others. The changes would not be substantive.

**Arguments Against:**

- Rather than amend an out-of-date constitution, it would make more sense to completely overhaul it.



**# 13** The constitutional amendment to allow the Legislature to authorize the board of trustees of an independent school district to donate surplus district property of historical significance in order to preserve the property.

**Background:** The proposition would allow the Legislature to authorize a school district’s board of trustees to donate real property formerly used as a school campus for the purpose of preserving it. The goal is to preserve one-room schoolhouses still held as real property by school districts. As a condition of approval from the Legislature, school boards would be required to determine that the district did not need the property for educational purposes, the property was historically significant, and that the transfer would help preserve it.

**Arguments For:**

- The proposition would allow local school boards to preserve one-room schoolhouses or other surplus property of historical significance.

**Arguments Against:**

- This proposition would dilute the constitutional principle that prohibits the giving of public property to private

organizations. In some cases, this constitutional amendment could become a loophole for individuals to privately gain at public expense.



**# 14** The constitutional amendment to authorize the Legislature to authorize taxing units other than school districts to exempt from ad valorem taxation travel trailers that are not held or used for the production of income.

**Background:** Proposition 14 would allow the Legislature to authorize taxing units other than school districts to grant property tax exemptions to owners of registered, non-income-producing travel trailers, regardless of whether they are real or personal property.

**Arguments For:**

- Travel trailers have become increasingly popular in Texas as recreational vehicles and winter homes. Travel trailer owners already pay sales taxes when they purchase their trailers. They must also pay annual registration fees in order to move or sell them. Taxing them again as property would be excessive.
- Allowing local tax exemptions for certain travel trailers would bring uniformity to the appraisal process. Some appraisers do not appraise travel trailers as taxable property at all; some tax them as real property, especially if they have erected carports or attached rooms; some tax them as monthly tenants; some tax them as personal property.

**Arguments Against:**

- Allowing the exemptions provided by this proposition would create a special class of homeowner. Travel trailers may be occupied indefinitely. If owners live in them, they should be taxed as real property, like manufactured homes.
- The problem is in the statutes not the constitution. The Legislature should better define what constitutes a taxable residence, as it has with manufactured homes.



**# 15** The constitutional amendment creating the Texas Mobility Fund and authorizing grants and loans of money and issuance of obligations for financing the construction, reconstruction, acquisition, operation and expansion of state highways, turnpikes, toll roads, toll bridges and other mobility projects.

**Background:** Proposition 15 creates two new funding mechanisms for transportation projects known as the Texas Mobility Fund and Toll Equity. The Texas Mobility Fund is a special account that would allow the state to pay interest on money the state borrows for projects. Toll Equity would allow the state to subsidize the construction of toll road projects with non-toll revenue.

**Arguments For:**

- Highways are the only major capital projects for which the state does not borrow money. This policy is no longer defensible in light of spiraling needs, lost economic opportunities and reduced quality of life and safety.
- Proposition 15 would allow the state to build desperately needed toll projects faster without raising taxes.

**Arguments Against:**

- Borrowing money by issuing bonds would make highways more expensive because of debt service, underwriting and issuance costs. Bonding would not generate new money for projects; it would merely reallocate it and commit future funds to pay off today’s spending.
- The constitutional prohibition against paying for toll roads with non-toll revenue remains sound. If tolls are not sufficient to finance and sustain a road, the road should not be built as a toll road.



**# 16** The constitutional amendment prescribing requirements for imposing a lien for work and material used in the construction, repair or renovation of improvements on residential homestead property and including the conversion and refinance of a personal property lien secured by a manufactured home to a lien on real property as a debt on homestead property protected from a forced sale.

**Background:** Several years ago, Texas voters approved a constitutional amendment that permitted home equity lending. To protect homeowners from unscrupulous contractors, the constitutional amendment required a 12-day waiting period before a contract may be signed for work and a lien affixed to the property. This proposition would reduce the period of time to five days. It also would authorize the conversion and refinance of a personal property lien secured by a manufactured home to a lien on a homestead. A lien is a claim on property to secure a debt.

**Arguments For:**

- Under current law, a homeowner is inconvenienced by the requirement to wait 12 days before beginning needed home renovations or repairs. A waiting period of 5 days is a sufficient “cooling off” period to protect homeowners without unduly inconveniencing them.
- Proposition 16 would allow owners of manufactured homes to convert their titles when they permanently attach their manufactured homes to land and obtain a home equity loan. Converting personal property liens to liens on their homestead property could save these homeowners substantial amounts of money in lower borrowing costs.

**Arguments Against:**

- A 12-day “cooling off” period is needed to prevent homeowners from being rushed into using their most valuable asset – their home – as collateral for improvement contracts.
- Allowing conversion or refinancing of debt on manufactured housing to become a lien on homestead land could influence homeowners to put their homesteads at risk of foreclosure and erode laws that currently protect homesteads.



**# 17** The constitutional amendment authorizing the Legislature to settle land title disputes between the state and a private party.

**Background:** Proposition 17 would allow the state to relinquish claim to certain lands subject to a disputed title, except for mineral rights, and to clear title defects for the owners of those lands. Those claiming title to the land would have to show that they acquired the land without knowing it belonged to the state and must show that they paid their property taxes, in addition to other requirements.

**Arguments For:**

- Proposition 17 would create a permanent mechanism to settle land title disputes involving public school lands without the expense and trouble of a constitutional amendment, such as Proposition 1, for each case in dispute. The state needs a way to clear title to land held by innocent parties, resolve inequities and save the state expensive court fights.

**Arguments Against:**

- Texas voters should retain the right to review specific decisions made to relinquish the state’s interests and to resolve title problems involving individual landowners. Some of these lands could be very valuable, and adequate checks and balances should be in place to protect the state’s interests in its public lands.



**# 18** The constitutional amendment to promote uniformity in the collection, deposit, reporting and remitting of civil and criminal fees.

**Background:** City, county and district courts, justice courts and correctional programs collect court fees and costs in both civil and criminal cases. Over the past ten years, the number of court fees that cities and counties must track and maintain has doubled. Proposition 18 would invalidate a court fee in a criminal and civil matter that was required to be collected by local government personnel and remitted to the comptroller unless the requirements for collecting, depositing, reporting and remitting that fee conformed to a program enacted by the Legislature.

**Arguments For:**

- This proposition would make it easier to simplify the fee collection process so that local governments could use a smaller portion of their limited resources in identifying, collecting and remitting fees.

**Arguments Against:**

- The requirements of this proposition would be too inflexible and would tie the hands of future Legislatures by invalidating any court fee that did not follow the consolidation and standardization program.
- A constitutional amendment to consolidate and standardize court fees is unnecessary. All the desired changes to court fee administration could be accomplished through statutory changes.



**# 19** The constitutional amendment providing for the issuance of additional general obligation bonds by the Texas Water Development Board in an amount not to exceed \$2 billion.

**Background:** The Texas Water Development Board (TWDB) issues low interest bonds to fund loans to communities to finance water supply, water quality and flood control projects.

**Arguments For:**

- If the amendment is not approved, the agency will exhaust its remaining bond authorization of \$500 million by early 2005 and will not be able to help finance additional water infrastructure needs across the state.

**Arguments Against:**

- Because TWDB has not yet reached its limit, it would be premature to increase its bond authorization.
- The \$2 billion request is based on the assumption that all of the proposed projects are necessary. Many of these have not been through a rigorous environmental and cost-benefit analysis. These should be carefully studied before additional bonds are authorized.





# Senator Steve Ogden

Senate District 5  
P.O. Box 12068 • Austin, Texas 78711

PRSR STD  
U.S. Postage  
PAID  
Permit No. 2468  
Austin, Texas

## CONSTITUTIONAL AMENDMENTS



# VOTER'S GUIDE



SENATOR STEVE OGDEN

77th Legislature

Senate District 5

## How to Contact Senator Ogden

### Capitol Office

Room 3S.3, State Capitol  
P.O. Box 12068  
Austin, Texas 78711-2068  
(512) 463-0105  
(512) 463-5713 fax • TDD: 1-800-735-2989

### District Offices

7607 Eastmark Drive, Suite 241 College Station, Texas 77840 (409) 694-2609 (409) 694-2709 fax • 1-888-694-2609	Brushy Creek Professional Centre 893 IH-35 North, Suite 220 Round Rock, Texas 78664 (512) 828-5224 • (512) 828-5229 fax)
---	---

### E-Mail

[steve.ogden@senate.state.tx.us](mailto:steve.ogden@senate.state.tx.us)

Texas Legislature Online: [www.capitol.state.tx.us](http://www.capitol.state.tx.us)

The Texas Senate is an Equal Opportunity Employer and does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.