

Proposition 11

(S.J.R. 32, 88th Leg., R.S.)

The constitutional amendment authorizing the legislature to permit conservation and reclamation districts in El Paso County to issue bonds supported by ad valorem taxes to fund the development and maintenance of parks and recreational facilities.

SUMMARY ANALYSIS

The constitutional amendment proposed by S.J.R. 32, 88th Legislature, Regular Session, 2023, would amend Section 59(c-1), Article XVI, Texas Constitution, to add El Paso County to the list of counties in Section 59(c-1) in which the legislature may authorize conservation and reclamation districts (special districts such as water control and improvement districts, municipal management districts, and special utility districts) to develop and finance parks and other purely recreational facilities with taxes. The amendment, without limiting any power to finance parks and recreational facilities in El Paso County that currently exists, provides for the issuance of bonds financed by taxes in districts located wholly or partly in El Paso County.

BACKGROUND AND DETAILED ANALYSIS

The constitutional amendment proposed by S.J.R. 32, 88th Legislature, Regular Session, 2023, provides specific authority to the legislature regarding parks and recreational facilities developed by conservation and reclamation districts in El Paso County. The legislature's general authority to create conservation and reclamation districts is granted by Section 59, Article XVI, Texas Constitution. Section 59(a) provides that the conservation and development of natural resources, and the development of parks and recreational facilities, are public rights and duties and further requires the legislature to pass laws appropriate to achieve those goals. Section 59(b) authorizes the creation of conservation and reclamation districts to accomplish the purposes of Section 59. Section 59 also contains provisions authorizing the incursion of debt and the imposition of taxes by conservation and reclamation districts. One of those provisions, Section 59(c-1), added to the constitution in 2003, is the subject of the proposed amendment.

In 2003, voters approved a constitutional amendment to resolve issues surrounding the development and financing of parks and recreational facilities by conservation and reclamation districts. Before the 2003 amendment, it was unclear whether a conservation and reclamation district could use property taxes and issue bonds supported by property taxes to pay for the development and maintenance of parks and recreational facilities. The 2003 amendment clarified in Section 59(a), Article XVI, Texas Constitution, that conservation and reclamation districts may develop parks and recreational facilities and in Section 59(c-1) allowed the legislature to authorize conservation and reclamation districts to develop and finance with taxes those types and categories of parks and recreational facilities that were not previously authorized to be developed and financed with taxes. The 2003 amendment also prohibited the legislature from authorizing the issuance of those bonds unless a bond proposition is first submitted to the qualified voters of the district and the proposition is approved by the voters.

Section 59(c-1), Article XVI, Texas Constitution, applies only to conservation and reclamation districts located in one of 10 listed populous counties (Bexar, Bastrop, Waller, Travis, Williamson, Harris, Galveston, Brazoria, Fort Bend, and Montgomery Counties) and to the Tarrant County Regional Water District. Because Section 59(c-1) currently applies only to conservation and reclamation districts located in those counties, the legislature does not have specific constitutional authority to authorize a conservation and reclamation district in El Paso County to develop and finance parks and recreational facilities with taxes. The constitutional amendment proposed by S.J.R. 32, 88th Legislature, Regular Session, 2023, amends Section 59(c-1), Article XVI, Texas Constitution, to add El Paso County to the list of counties in which the legislature may authorize conservation and reclamation districts to develop and finance with taxes the types and categories of parks and recreational facilities that were not authorized before September 13, 2003, to be developed and financed with taxes. The amendment expands the existing powers of the legislature without limiting any existing powers of a conservation and recreation district in El Paso County with respect to parks and recreational facilities.

The legislature previously adopted S.J.R. 28, 82nd Legislature, Regular Session, 2011, which would have amended the Texas Constitution to make the same change in law regarding districts in El Paso County as is proposed by S.J.R. 32, but that amendment was not approved by the voters at the election held on November 8, 2011.

S.B. 938, 88th Legislature, Regular Session, 2023, is the enabling legislation for S.J.R. 32. The bill amends Section 49.4645(a), Water Code, to add El Paso County to the list of counties in which districts may be located that are authorized to issue bonds supported by taxes to pay for the development and maintenance of recreational facilities. S.B. 938 takes effect only if this proposed constitutional amendment is approved by the voters.

SUMMARY OF COMMENTS

The following comments supporting or opposing the proposed amendment reflect positions that were presented in committee proceedings, during house or senate floor debate, or in the analysis of the resolution prepared by the House Research Organization (HRO) when the resolution was considered by the House of Representatives.

Comments by Supporters

- In 2003, the Texas Constitution was amended to allow conservation and reclamation districts in certain counties to issue bonds supported by property taxes to fund the development and maintenance of parks and recreational facilities if approved by district voters, but El Paso County was not among the counties included at that time. The proposed amendment would extend this beneficial authority to conservation and reclamation districts in El Paso County.
- The issuance of bonds to fund parks and recreational facilities in these districts in El Paso County would help to address the need for more parks and open spaces in the county and improve the quality of life for county residents. It could also make the county more competitive for Texans considering moving to El Paso.
- The decision to assess property taxes to support the issuance of bonds for that purpose is left to the discretion of each district and its voters. The assessment of property taxes would not be mandatory.

- The proposed amendment would not impair any district's contract with the federal government regarding per-acre assessments since it does not create a mandate.

Comments by Opponents

- The proposed amendment would give certain conservation and reclamation districts in El Paso County the unnecessary authority to assess property taxes.
- Under Section 55.364, Water Code, certain conservation and reclamation districts in the county have federal contracts that require that any land within the districts be assessed on a per-acre basis. These districts should be excluded from the applicability of the resolution's property tax provisions to avoid additional tax burdens.

Text of S.J.R. 32

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the authority of the legislature to permit conservation and reclamation districts in El Paso County to issue bonds supported by ad valorem taxes to fund the development and maintenance of parks and recreational facilities.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (c-1), Section 59, Article XVI, Texas Constitution, is amended to read as follows:

(c-1) In addition and only as provided by this subsection, the Legislature may authorize conservation and reclamation districts to develop and finance with taxes those types and categories of parks and recreational facilities that were not authorized by this section to be developed and financed with taxes before September 13, 2003. For development of such parks and recreational facilities, the Legislature may authorize indebtedness payable from taxes as may be necessary to provide for improvements and maintenance only for a conservation and reclamation district all or part of which is located in Bexar County, Bastrop County, Waller County, Travis County, Williamson County, Harris County, Galveston County, Brazoria County, Fort Bend County, ~~or~~ Montgomery County, or El Paso County, or for the Tarrant Regional Water District, a water control and improvement district located in whole or in part in Tarrant County. All the indebtedness may be evidenced by bonds of the conservation and reclamation district, to be issued under regulations as may be prescribed by law. The Legislature may also authorize the levy and collection within such district of all taxes, equitably distributed, as may be necessary for the payment of the interest and the creation of a sinking fund for the payment of the bonds and for maintenance of and improvements to such parks and recreational facilities. The indebtedness shall be a lien on the property assessed for the payment of the bonds. The Legislature may not authorize the issuance of bonds or provide for indebtedness under this subsection against a conservation and reclamation district unless a proposition is first submitted to the qualified voters of the district and the proposition is adopted. This subsection expands the authority of the Legislature with respect to certain conservation and reclamation districts and is not a limitation on the authority of the Legislature with respect to conservation and reclamation

districts and parks and recreational facilities pursuant to this section as that authority existed before September 13, 2003.

SECTION 2. The legislature intends by the amendment proposed by Section 1 of this resolution to expand the authority of the legislature with regard to conservation and reclamation districts in El Paso County. The proposed amendment should not be construed as a limitation on the powers of the legislature or of a district with respect to parks and recreational facilities as those powers exist immediately before the amendment takes effect.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2023. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment authorizing the legislature to permit conservation and reclamation districts in El Paso County to issue bonds supported by ad valorem taxes to fund the development and maintenance of parks and recreational facilities."

Senate Author: Blanco

House Sponsor: Moody