

Proposals

Prop 3 would extend land credit

If voters Tuesday approve Proposition 3, the Texas Legislature will be allowed to pass legislation that would extend credit to property owners for the purpose of replacing or relocating water laterals.

When water laterals, which connect individual properties to main water lines, are under private property the property owner must pay any maintenance costs.

Proposition 3, if passed, will

enable city governments to loan money to those who cannot afford to pay for repairs upfront.

After the property owner submits a written request to the city for a loan, the city would assess the cost of the relocation or replacement of laterals. The owner would have five years to pay the city.

The amount of money owed would be subject to a simple interest rate of 10 percent per year. In

addition, the city would hold a lien against the property until the debt is paid.

In November 1984, a constitutional amendment was approved which created an identical provision for sewer lines. Proposition 3 simply would add water lines to the existing amendment.

If the proposition passes, the individual cities still will have the authority to decide whether or not to act on the provisions.

Prop 11 would clarify indictments

By FRANK SMITH
Staff Writer

Voter approval of Proposition 11 on Tuesday would allow the rewriting of a portion of the state code on criminal charge requirements.

The Texas constitution requires that written charging instruments contain specific language saying the prosecution is being carried out "in the name and by the authority of the State of Texas."

Also, each charge must conclude with the words "against the peace and dignity of the State."

The proposition would eliminate these specific words and add definitions of an indictment and an information.

Indictments are used to begin felony prosecutions. Informations start criminal proceedings in misdemeanor cases.

Proposition 11 would define an indictment as a criminal charge presented by a grand jury. An information would be defined as a



criminal charge presented by a prosecutor. The presentation of either instrument to a court would automatically give that court jurisdiction over the case.

In addition, the Texas Legislature would be given the power to provide by law for "the practice and procedures relating to the use of indictments and informations, including their contents, amendment, sufficiency and requisites."

Steve Collins, assistant director of the legal division of the Texas Legislative Council, said the intent of the proposition is to allow for the correction of defective indictments.

"The most significant point in terms of Proposition 11 is how you cure a defect in an indictment and the time of correcting the indictment," Collins said.

For instance, under current case law a substantive defect in an indictment cannot be corrected by a prosecutor, Collins said. Instead, such a defect requires the charging process to start all over again.

A misspelled name is considered to be a substantive defect, Collins said.

He said a statute has been passed in the Legislature contingent on approval of Proposition 11 which would make two changes in the law related to indictments and informations.

One change would require a defendant to object to defects in the charging instrument before trial or waive the right to object on appeal, Collins said.

The other change would allow prosecutors to amend indictments or informations in order to correct defects before trial, he said.

Prop 12 to widen law interpretation

By TAMARA BELL
Staff Writer

If Proposition 12 passes Tuesday, it would give the Texas Supreme Court and the Court of Criminal Appeals more control over the way state statutes are interpreted by the federal court, says Paul Warr, a political science faculty member at Texas A&M.

Frequently a federal court will have cases brought before it that deal with state laws, Warr says. If the state law has never been interpreted by a state court, then the federal court will ask the highest state court for its interpretation of that law.

"This is called certifying state law questions," Warr says. "The federal court says it will not resolve the case until it hears from the state court on how it should

interpret the provisions of the statute."

After the highest state court has interpreted the statute, then the federal court decides if the interpretation of the law is constitutional or not, he says.

"The federal court is reluctant to interpret state laws unless the state court has ruled on the statute," Warr says. "It's a way for the federal court to provide the state courts some deference."

But in Texas, neither the Supreme Court nor the Court of Criminal Appeals is allowed to interpret statutes for the federal courts unless the court has jurisdiction, Warr says.

"Because both appellate courts in Texas are prohibited from answering questions unless the two parties are fighting it out in front of one of the courts, there's no

way for the federal courts to know how to interpret a brand-new state law," Warr says.

"In the past the federal courts have had to fly blind. The judges don't know how the state courts would have interpreted a law and they just have to say, 'We think this is how the state court would interpret this law,' and then make a decision based only on their understanding of the law."

Warr says the proposed amendment would provide the state appellate courts with a tool to insure the proper interpretation of a law.

The proposed amendment wouldn't effect the residents of Bryan-College Station unless they file a law suit in a federal court that requires the interpretation of a state law, he says.

Prop 13 may simplify court system

By CYNTHIA GAY
Staff Writer

On Tuesday Texas voters will issue a verdict on the merits of Proposition 13, which is designed to make it easier for the state to reapportion judicial districts. It will create a Judicial Districts Board to point out district areas that are too small or too large.

If Proposition 13's luck holds out at the polls, it also will broaden the courts' jurisdiction and entrust the Supreme Court with more specific provisions in overseeing the courts.

Hoping to somewhat simplify Texas' complex court system, the Senate-House Select Committee on the Judiciary made a series of recommendations to the last Legislature. Proposition 13 will test whether the public wants to change a system which has remained virtually untouched since the Texas Constitution of 1876 was put into effect.

The Texas Constitution empowers the Legislature to divide Texas into judicial districts and adjust their sizes to meet population changes. Each of the state's 374 district courts represents an area no smaller than a county. However, more than one court may serve a single district, such as in Harris County which needs 59

district courts for its growing population.

If the proposition passes, the task of making reapportionment plans would belong to the Judicial Districts Board along with the Legislature. If the Legislature fails to reapportion districts within three years after each federal census, the board will step in to make necessary changes. In addition, the board may convene between legislative sessions to draw new district lines. But, all its plans must be approved by a majority vote of both legislative houses.

The chief justice of the Texas Supreme Court would chair the 13-member board, which would include the presiding judge of the Court of Criminal Appeals, the presiding judges of each of the nine administrative judicial districts, the presidents of the Texas Judicial Council, and one person licensed to practice law appointed by the governor for a four-year term.

The constitution currently designates the specific, limited jurisdiction of state trial courts. Proposition 13 would replace these guidelines with a general grant to county and district courts.

District courts now hear criminal felony cases, civil cases in which \$500 or more is involved,

suits on behalf of the state, divorce cases and official misconduct misdemeanors. They also handle slander and defamation suits, suits involving land titles and liens, levies on property valued at \$500 and over, contested elections and certain probate matters.

With this proposition, district courts would have exclusive, appellate and original jurisdiction over all actions and remedies except those conferred by the constitution or by law on some other court or administrative body. District judges would enforce this broad jurisdiction with their power to issue writs.

In addition, each judicial district would be allowed to have more than one district judge.

Constitutional grants for county courts currently give the courts jurisdiction over misdemeanor cases with a fine over \$200, concurrent jurisdiction with justice courts in civil cases with more than \$200 and less than \$500 at stake, and with district courts in civil cases involving more than \$500 and less than \$1,000, and general probate jurisdiction.

The amendment would cancel these specific grants with a general grant to county courts of "jurisdiction provided by law."

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