

# ANALYSES OF PROPOSED CONSTITUTIONAL AMENDMENTS

88th Texas Legislature November 7, 2023, Election

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## 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,

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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.