Texas Constitution

PSCI 1040 – U.S. & Texas Government
Functions of State Constitutions

- Set forth the structure and organization of the government
- Limit the powers of government and protect the rights of citizens
U.S. Constitution Compared to State Constitutions

- **U.S.**
  - Brief
  - Broad and general
  - Bill of rights added as set of amendments

- **State Constitutions**
  - Long
  - Specific & detailed
  - Bill of rights often comes first
State Constitutions Tend the Reflect the Problems of the Time When They Were Written

- If there was a problem that concerned people in the period, the state constitution would be written to try to prevent its recurrence
Early National Period

- Predominate problem was fear of the executive
- Constitutions tended to set up a system of legislative supremacy.
Post-Civil War Period

- Corruption and abuse of power were common in state governments.
- Constitutions written in this period were designed to limit the power of government and the potential for officials to abuse their power.
Interest Groups and Constitutional Detail

- Interest groups may contribute to constitutional detail by seeking to place provisions that benefit them in the constitution.
- Benefits written into the constitution are harder to abolish than those in statutes.
Six Constitutions Over Texas

- 1836 – Constitution of the Republic of Texas
- 1845 – Constitution adopted when Texas joined the union and became a state
- 1861 – Constitution adopted when Texas became a member of the Confederate States
- 1866 – First Reconstruction Constitution (rejected by U.S. Congress)
- 1868 – Second Reconstruction Constitution
- 1876 – End of Reconstruction Constitution (still in effect)
Texas Constitution of 1876 Has Problems Typical of Post-Civil War Constitutions

- Long and detailed, to limit the options available to officials.
- Weak powers for governors
- Limits on legislatures
- Tendency to make offices elective, rather than appointive
- Detailed judicial provisions
- Overly specific provisions for local government, especially county governments
Overview of the Texas Constitution

• Article I – Bill of Rights
• Article II – Powers of Government (separation of powers)
• Article III – Legislative Department
• Article IV – Executive Department
• Article V – Judicial Department
• Article VI – Suffrage
Overview of the Texas Constitution

- Article VII – Education
- Article VIII – Taxation and Revenue
- Article IX – Counties
- Article X – Railroads
- Article XI – Municipal Corporations
- Article XII – Private Corporations
- Article XIII – Spanish & Mexican Land (repealed August, 1969)
Overview of the Texas Constitution

- Article XIV – Public Land and Land Office
- Article XV – Impeachment
- Article XVI – General Provisions
- Article XVII – Mode of Amending the Constitution
Consequences of Long, Detailed Constitution

- Detailed constitutions cause judges to follow a strict constructionist approach to interpretation
- Constitution changes little by judicial interpretation
- Amendments come regularly
Amendments to Texas Constitution of 1876

- As of 2007 (80th Legislature), the Texas Legislature has passed a total of 632 amendments
- 440 have been adopted
- 176 have been defeated by Texas voters
- Thus, the Texas Constitution has been amended 440 times since its adoption in 1876.
Criticisms of Texas Constitution of 1876

- Remains a 19th century constitution that does provide adequate foundation for governing in the 21st century.
- The numerous amendments have added to the disorganization in the constitution
- Makes it difficult for any of the three branches to function effectively
- Antiquated provisions for local government (especially county government)
Comprehensive Constitutional Change Is Difficult

- Fear of unknown
- Vested interests in existing constitution
Comprehensive Change Usually Requires Some Triggering Device

- Scandal
- Substantial government breakdown
- Advocacy by a strong political figure
Methods of Comprehensive Revision

- Legislative action
- Citizen Convention
- Revision Commission
Comprehensive Legislative Revision

- Legislatures don’t routinely have this power.
- Usually requires some special authorization.
Problems with Legislative Revision

- Competes with regular work of legislature
- Legislators have standing to commitments to various political interests and interest groups
- Legislators may have vested interests in existing constitution
Constitutional Conventions

- Must be called by someone, usually the legislature.
- The effectiveness of citizen conventions depends on support services provided.
- Delegates to citizen conventions may have fewer standing political obligations.
Constitutional Commissions

- Must be authorized by constitution or by statute.
- Usually serve as study groups to make recommendations to legislature or convention.
- Rarely are used as group to propose new constitution.
Getting Proposed New Constitutions Accepted is Difficult

- Fear of new, unknown, and untried provisions.
- May be undermined by a few controversial provisions that may be exploited by opponents.
- Hard to overcome voter apathy.
- Need a champion to sell them.
Last Major Revision Effort in Texas Came in the 1970s

- Sharpstown banking scandal in early 1970s led to disgrace of major government officials and to conviction of Speaker of Texas House of Representatives.
- In 1971, Legislature proposed a constitutional amendment setting up a revision process.
- Voters ratified that process in 1972
Steps Toward Revisions of Texas Constitution

- Constitutional Revision Commission in 1973
- Legislature meeting as Constitutional Convention in 1974 failed to propose new constitution
- Legislature proposed new constitution during its regular session in 1975
- Voters rejected all proposals in 1975.
Reasons for Texas Failure

- Governor refused to provide leadership and opposed the legislature’s finished product.
- No champion emerged to sell it to the voters.
- Interest groups frightened voters about specific provisions.
Revisions Don’t Always Fail

- Louisiana managed to adopt a new constitution in 1974
- Its 1921 constitution had previously held the record for being the longest state constitution.
- Largely succeeded because of the governor’s role as champion.
Junell-Ratliff Constitutional Revision Effort

- Rob Junell was a member of the House
- Bill Ratliff was a state Senator
- Solicited help from Angelo State University, since San Angelo was Junell’s home town.
- Introduced proposed new constitution in 1999 legislative session
Key Elements of Junell-Ratliff Proposal: Legislative Branch

- Lengthen terms of office for House and Senate members to four and six years respectively
- Impose term limits on members
- Create veto session to allow legislature to respond to gubernatorial vetoes.
Key Elements of Junell-Ratliff Proposal: Executive Branch

- Created nine department heads to be appointed by the governor, and to serve at the governor’s pleasure
- Lieutenant Governor, Comptroller, and Attorney General would continue to independently elected
Key Elements of Junell-Ratliff Proposal: Judicial Branch

- Simplified into fewer courts.
- Merit system for choosing judges would be used to select judges for district courts, courts of appeals
- A single supreme court would replace two courts of last resort
Fate of Junell-Ratliff Proposal

- Speaker referred to a Select Committee on Constitutional Revision
- Never reported out for consideration by the legislature
- Constitutional revision too big an issue for a regular session of the Legislature.
Texas Still Operates Under the Constitution of 1876

- Constitution makes it difficult to govern effectively.
- Constitutional Revision not likely in immediate future of Texas.