

By: Isett

H.J.R. No. 2

A JOINT RESOLUTION

1 proposing a constitutional amendment to limit the rate of growth of
2 appropriations from all sources of revenue except the federal
3 government; to establish a disaster fund, managed by the governor,
4 for use to prepare for or respond to a natural disaster or
5 emergency; to fund the property tax relief fund; to require a
6 gubernatorial declaration before money may be appropriated from the
7 economic stabilization fund; and to authorize the legislature to
8 appropriate money for tax rebates; making a constitutional
9 appropriation.

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

11 SECTION 1. Section 22, Article VIII, Texas Constitution, is
12 amended to read as follows:

13 Sec. 22. (a) In no biennium shall the rate of growth of
14 appropriations from all sources of revenue except the federal
15 government [~~state tax revenues not dedicated by this constitution~~]
16 exceed the average [~~the estimated~~] rate of growth of the state's
17 population, adjusted for monetary inflation [~~economy~~].

18 (b) The legislature shall provide by general law procedures
19 to implement Subsection (a) of this section [~~subsection~~].

20 (c) [~~(b)~~] If the legislature by adoption of a resolution
21 approved by a record vote of a majority of the members of each house
22 finds that an emergency exists and identifies the nature of the
23 emergency, the legislature may provide for appropriations in excess
24 of the amount authorized by Subsection (a) of this section. The

1 excess authorized under this subsection may not exceed the amount
2 specified in the resolution.

3 (d) An appropriation for the sole purpose of reducing
4 property taxes imposed by a political subdivision of the state,
5 including a school district, or for the sole purpose of returning
6 money to taxpayers as authorized by Section 51h, Article III, of
7 this constitution is not counted in determining for the purposes of
8 this section whether the rate of growth in appropriations for a
9 biennium exceeds the average rate of growth of the state's
10 population, adjusted for monetary inflation.

11 (e) Appropriations may not ~~[(c) In no case shall~~
12 ~~appropriations]~~ exceed revenues as provided in Article III, Section
13 49a, of this constitution. Nothing in this section shall be
14 construed to alter, amend, or repeal Article III, Section 49a, of
15 this constitution.

16 SECTION 2. Section 49a, Article III, Texas Constitution, is
17 amended by adding Subsections (c) and (d) to read as follows:

18 (c) No bill containing an appropriation of money from any
19 source except the federal government, other than an appropriation
20 for the purpose of tax relief, shall be considered as passed or be
21 sent to the Governor for consideration until and unless the
22 Comptroller of Public Accounts endorses the Comptroller's
23 certificate thereon showing that the appropriation does not
24 contravene the limitation on the rate of growth of appropriations
25 imposed by Section 22, Article VIII, of this constitution. When the
26 Comptroller finds that a bill contains an appropriation that
27 contravenes the limitation on the rate of growth of appropriations,

1 the Comptroller shall endorse that finding on the bill, return the
2 bill to the House from which it originated, and immediately notify
3 the House of Representatives and the Senate of the finding.

4 (d) Not later than the 65th day after the date the
5 legislature adjourns a legislative session, the Comptroller shall
6 issue an estimate of the amount of anticipated general revenues for
7 the biennium that are unappropriated, unencumbered, and
8 undedicated at that time. If the legislative session is a regular
9 session or a special session that begins between final adjournment
10 of the regular session and the beginning of the subsequent state
11 fiscal biennium, the Comptroller's estimate must address that
12 subsequent biennium.

13 SECTION 3. Section 49-g, Article III, Texas Constitution,
14 is amended to read as follows:

15 Sec. 49-g. (a) There are established as special funds [The
16 economic stabilization fund is established as a special fund] in
17 the state treasury the economic stabilization fund and the disaster
18 fund.

19 (b) The disaster fund is managed by the governor, and the
20 balance of the fund may be spent by the governor without the
21 necessity of an appropriation. Money from the fund may be used only
22 in preparation for or in response to an emergency or natural
23 disaster that threatens the health, safety, or general welfare of
24 this state's residents [comptroller shall, not later than the 90th
25 day of each biennium, transfer to the economic stabilization fund
26 one-half of any unencumbered positive balance of general revenues
27 on the last day of the preceding biennium. If necessary, the

~~comptroller shall reduce the amount transferred in proportion to the other amounts prescribed by this section to prevent the amount in the fund from exceeding the limit in effect for that biennium under Subsection (g) of this section].~~

(c) Not later than the 90th day of each fiscal year, the comptroller of public accounts shall transfer from general revenue ~~[to the economic stabilization fund]~~ the amounts prescribed by Subsections (d) and (f) ~~[(e)]~~ of this section. ~~[However, if necessary, the comptroller shall reduce proportionately the amounts transferred to prevent the amount in the fund from exceeding the limit in effect for that biennium under Subsection (g) of this section.]~~

(d) If in the preceding year the state received from oil production taxes a net amount greater than the net amount of oil production taxes received by the state in the fiscal year ending August 31, 1987, the comptroller shall transfer:

(1) to the disaster fund an amount equal to five percent of the difference between those amounts, except that the comptroller may not transfer to the disaster fund:

(A) more than \$125 million under this subsection in any state fiscal year; and

(B) any money under this subdivision if the disaster fund has a balance of \$1 billion or more;

(2) to the economic stabilization fund an amount equal to ~~[75 percent of]~~ the difference between those amounts, less any amount transferred under Subdivision (1) of this subsection, except that if the economic stabilization fund has a balance of \$5 billion

1 or more, the comptroller may not transfer to the economic
 2 stabilization fund any money under this subdivision; and

3 (3) to a property tax relief fund established by
 4 general law an amount equal to the difference between those
 5 amounts, less any amounts transferred under Subdivision (1) or (2)
 6 of this subsection. [~~The comptroller shall retain the remaining 25~~
 7 percent of the difference as general revenue. In computing the net
 8 amount of oil production taxes received, the comptroller may not
 9 consider refunds paid as a result of oil overcharge litigation.]

10 (e) In computing under Subsection (d) the net amount of oil
 11 production taxes received, the comptroller may not consider refunds
 12 paid as a result of litigation concerning any oil overcharge. [~~If in~~
 13 the preceding year the state received from gas production taxes a
 14 net amount greater than the net amount of gas production taxes
 15 received by the state in the fiscal year ending August 31, 1987, the
 16 comptroller shall transfer to the economic stabilization fund an
 17 amount equal to 75 percent of the difference between those amounts.
 18 The comptroller shall retain the remaining 25 percent of the
 19 difference as general revenue. For the purposes of this
 20 subsection, the comptroller shall adjust his computation of
 21 revenues to reflect only 12 months of collection.]

22 (f) If the state received in the preceding year from gas
 23 production taxes a net amount greater than the net amount of gas
 24 production taxes received by the state in the fiscal year ending
 25 August 31, 1987, the comptroller shall transfer:

26 (1) to the disaster fund an amount equal to five
 27 percent of the difference between those amounts except that the

1 comptroller may not transfer to the disaster fund:

2 (A) more than \$125 million under this subsection
3 in any state fiscal year; and

4 (B) any money under this subdivision if the
5 disaster fund has a balance of \$1 billion or more;

6 (2) [The legislature may appropriate additional
7 amounts] to the economic stabilization fund an amount equal to the
8 difference between those amounts, less any amount transferred under
9 Subdivision (1) of this subsection, except that if the economic
10 stabilization fund has a balance of \$5 billion or more, the
11 comptroller may not transfer to the economic stabilization fund any
12 money under this subdivision; and

13 (3) to the property tax relief fund established by
14 general law an amount equal to the difference between those
15 amounts, less any amounts transferred under Subdivision (1) or (2)
16 of this subsection.

17 (g) For the purposes of Subsections (d) and (f) of this
18 section, the comptroller shall adjust the computation of revenues
19 to reflect 12 months of collection. [During each fiscal biennium,
20 the amount in the economic stabilization fund may not exceed an
21 amount equal to 10 percent of the total amount, excluding
22 investment income, interest income, and amounts borrowed from
23 special funds, deposited in general revenue during the preceding
24 biennium.]

25 (h) In preparing an estimate of anticipated revenues for a
26 succeeding biennium as required by Article III, Section 49a, of
27 this constitution, the comptroller shall estimate the amount of the

1 transfers that will be made under Subsections ~~[(b), (c)]~~ (d) ~~[(e)]~~ and (f)
2 ~~[(e)]~~ of this section. The comptroller shall deduct that amount
3 from the estimate of anticipated revenues as if the transfers were
4 made on August 31 of that fiscal year.

5 (i) ~~[(The comptroller shall credit to general revenue~~
6 ~~interest due to the economic stabilization fund that would result~~
7 ~~in an amount in the economic stabilization fund that exceeds the~~
8 ~~limit in effect under Subsection (g) of this section.]~~

9 ~~[(j)]~~ The comptroller may transfer money from the economic
10 stabilization fund to general revenue to prevent or eliminate a
11 temporary cash deficiency in general revenue. The comptroller
12 shall return the amount transferred to the economic stabilization
13 fund as soon as practicable, but not later than August 31 of each
14 odd-numbered year. The comptroller shall allocate the depository
15 interest as if the transfers had not been made. If the comptroller
16 submits a statement to the governor and the legislature under
17 Article III, Section 49a, of this constitution when money from the
18 economic stabilization fund is in general revenue, the comptroller
19 shall state that the transferred money is not available for
20 appropriation from general revenue.

21 ~~[(k) Amounts from the economic stabilization fund may be~~
22 ~~appropriated during a regular legislative session only for a~~
23 ~~purpose for which an appropriation from general revenue was made by~~
24 ~~the preceding legislature and may be appropriated in a special~~
25 ~~session only for a purpose for which an appropriation from general~~
26 ~~revenue was made in a preceding legislative session of the same~~
27 ~~legislature. An appropriation from the economic stabilization fund~~

1 ~~may be made only if the comptroller certifies that appropriations~~
2 ~~from general revenue made by the preceding legislature for the~~
3 ~~current biennium exceed available general revenues and cash~~
4 ~~balances for the remainder of that biennium. The amount of an~~
5 ~~appropriation from the economic stabilization fund may not exceed~~
6 ~~the difference between the comptroller's estimate of general~~
7 ~~revenue for the current biennium at the time the comptroller~~
8 ~~receives for certification the bill making the appropriation and~~
9 ~~the amount of general revenue appropriations for that biennium~~
10 ~~previously certified by the comptroller. Appropriations from the~~
11 ~~economic stabilization fund under this subsection may not extend~~
12 ~~beyond the last day of the current biennium. An appropriation from~~
13 ~~the economic stabilization fund must be approved by a three-fifths~~
14 ~~vote of the members present in each house of the legislature.~~

15 ~~[(1) If an estimate of anticipated revenues for a succeeding~~
16 ~~biennium prepared by the comptroller pursuant to Article III,~~
17 ~~Section 49a, of this constitution is less than the revenues that are~~
18 ~~estimated at the same time by the comptroller to be available for~~
19 ~~the current biennium, the legislature may, by a three-fifths vote~~
20 ~~of the members present in each house, appropriate for the~~
21 ~~succeeding biennium from the economic stabilization fund an amount~~
22 ~~not to exceed this difference. Following each fiscal year, the~~
23 ~~actual amount of revenue shall be computed, and if the estimated~~
24 ~~difference exceeds the actual difference, the comptroller shall~~
25 ~~transfer the amount necessary from general revenue to the economic~~
26 ~~stabilization fund so that the actual difference shall not be~~
27 ~~exceeded. If all or a portion of the difference in revenue from one~~

~~biennium to the next results, at least in part, from a change in a tax rate or base adopted by the legislature, the computation of revenue difference shall be adjusted to the amount that would have been available had the rate or base not been changed.]~~

(j) On receiving from the governor a declaration of an emergency, ~~[(m) In addition to the appropriation authority provided by Subsections (k) and (l) of this section,~~ the legislature may, by a two-thirds vote of the members present in each house, appropriate amounts from the economic stabilization fund at any time and for any purpose.

(k) ~~[(n)]~~ Money appropriated from the economic stabilization fund is subject to being withheld or transferred, within any limits provided by statute, by any person or entity authorized to exercise the power granted by Article XVI, Section 69, of this constitution.

(l) ~~[(o)]~~ In this section, "net" means the amount of money that is equal to the difference between gross collections and refunds before the comptroller allocates the receipts as provided by law.

SECTION 4. Article III, Texas Constitution, is amended by adding Section 51h to read as follows:

Sec. 51h. Notwithstanding any other provision of this constitution, the legislature by general law may provide for granting public money to natural persons in this state for the sole purpose of returning public money to residents or taxpayers. The legislature by general law may provide for any method to accomplish that purpose the legislature considers most efficient, including

1 direct cash payments to individual residents of this state or to a
2 class of residents or taxpayers of this state.

3 SECTION 5. The following temporary provision is added to
4 the Texas Constitution:

5 TEMPORARY PROVISION. (a) This temporary provision applies
6 to the amendments to Section 22, Article VIII, Section 49a, Article
7 III, and Section 49-g, Article III, of this constitution, proposed
8 by the 80th Legislature, Regular Session, 2007, restricting the
9 rate of growth of appropriations from all sources of revenue except
10 the federal government to a rate equal to the average rate of growth
11 of the state's population adjusted for inflation, limiting the
12 legislature's authority to appropriate from the economic
13 stabilization fund, and establishing a disaster fund. This
14 temporary provision expires December 1, 2009.

15 (b) On September 1, 2009, the comptroller shall transfer
16 \$125 million from the economic stabilization fund to the disaster
17 fund.

18 (c) The changes made to Section 22, Article VIII, Section
19 49a, Article III, and Section 49-g, Article III, of this
20 constitution by the amendments apply only in relation to
21 appropriations made for the state fiscal biennium beginning
22 September 1, 2009, and subsequent state fiscal bienniums.
23 Appropriations for the state fiscal biennium that began September
24 1, 2007, are governed by Section 22, Article VIII, Section 49a,
25 Article III, and Section 49-g, Article III, as they existed
26 immediately before the amendment was approved by the voters.

27 (d) The changes made to Section 49-g, Article III, of this

1 constitution by the amendments with regard to transferring money
2 into the disaster fund, the economic stabilization fund, and the
3 property tax relief fund apply beginning with oil or gas production
4 taxes received on or after September 1, 2009.

5 SECTION 6. This proposed constitutional amendment shall be
6 submitted to the voters at an election to be held November 6, 2007.
7 The ballot shall be printed to permit voting for or against the
8 proposition: "The constitutional amendment: (1) to limit the rate
9 of growth of appropriations from all sources of revenue except the
10 federal government; (2) to establish and fund a disaster fund to be
11 managed by the governor for use to prepare for or respond to a
12 natural disaster or emergency; (3) to fund the property tax relief
13 fund; (4) to require a declaration of an emergency by the governor
14 before money may be appropriated from the economic stabilization
15 fund (known as the "rainy day fund"); and (5) to authorize the
16 legislature to appropriate money for tax rebates to individual
17 taxpayers."