

By: Williams

S.J.R. No. 66

A JOINT RESOLUTION

1 proposing a constitutional amendment to create real estate and
2 investment special fund accounts within the permanent school fund
3 and to allow for transfers between those accounts, to authorize the
4 Commissioner of the General Land Office or another statutorily
5 designated entity to manage real estate portfolio investments of
6 the permanent school fund, and to allow the returns from permanent
7 school fund real estate portfolio investments to be added to the
8 available school fund for the support of public schools.

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

10 SECTION 1. Section 4, Article VII, Texas Constitution, is
11 amended to read as follows:

12 Sec. 4. (a) The real estate special fund account is part of
13 the permanent school fund and is managed and controlled by the
14 Commissioner of the General Land Office or another entity as
15 designated by general law. The lands and other interests in real
16 estate herein set apart to the permanent school [~~Public Free~~
17 ~~School~~] fund[~~7~~] shall be managed, leased, or sold by the
18 Commissioner or other designated entity under such regulations, at
19 such times, and on such terms as may be prescribed by law. The [~~7~~ ~~and~~
20 ~~the~~] Legislature shall not have power to grant any relief to
21 purchasers of permanent school fund lands [~~thereof~~].

22 (b) The proceeds of [~~such~~] sales of permanent school fund
23 lands, together with the proceeds of mineral leases and royalties
24 generated from leases of permanent school fund mineral interests

1 and all income arising from lands and other interests in real estate
2 dedicated to the permanent school fund, are dedicated to the real
3 estate special fund account of the permanent school fund. The total
4 amount distributed from the real estate special fund account of the
5 permanent school fund to the available school fund:

6 (1) in each year of a state fiscal biennium must be an
7 amount that is not more than eight percent of the average of the
8 market value of the real estate special fund account of the
9 permanent school fund on the last day of each of the 16 state fiscal
10 quarters preceding the regular session of the Legislature that
11 begins before that state fiscal biennium, in accordance with:

12 (A) as applicable under a general law enacted in
13 compliance with Subsection (a) of this section, the rate adopted
14 before the regular session of the Legislature convenes by:

15 (i) the Commissioner of the General Land
16 Office or another designated officer; or

17 (ii) a vote of a designated board,
18 commission, or other entity with more than one member; or

19 (B) the rate adopted by the Legislature by
20 general law or appropriation, if the Commissioner or other
21 designated officer or entity does not adopt a rate as provided by
22 Paragraph (A) of this subdivision; and

23 (2) over the 10-year period consisting of the current
24 state fiscal year and the nine preceding state fiscal years may not
25 exceed the total return on all investment assets of the real estate
26 special fund account over the same 10-year period.

27 (c) Notwithstanding any other provision of this

1 constitution, in managing the assets of the real estate special
2 fund account of the permanent school fund, the Commissioner of the
3 General Land Office or other designated entity may acquire,
4 exchange, sell, supervise, manage, or retain, through procedures
5 and subject to restrictions the Commissioner or other designated
6 entity establishes and in amounts the Commissioner or other
7 designated entity considers appropriate, any kind of real estate
8 investment that persons of ordinary prudence, discretion, and
9 intelligence, exercising the judgment and care under the
10 circumstances then prevailing, acquire or retain for their own
11 account in the management of their affairs, not in regard to
12 speculation but in regard to the permanent disposition of their
13 funds, considering the probable income as well as the probable
14 safety of their capital.

15 (d) The Commissioner of the General Land Office or other
16 designated entity may transfer funds from the real estate special
17 fund account of the permanent school fund to the investment special
18 fund account of the permanent school fund established under Section
19 5(a-1) of this article if the Commissioner or other entity
20 determines, using the standard of care set forth in Subsection (c)
21 of this section, that such transfer is in the best interest of the
22 permanent school fund.

23 (e) Notwithstanding Subsection (b) of this section, the
24 total amount distributed from the real estate special fund account
25 of the permanent school fund to the available school fund for each
26 state fiscal year before the state fiscal year beginning September
27 1, 2017, may not exceed the total return on all real estate

1 investment assets belonging to the real estate special fund account
2 of the permanent school fund in the preceding state fiscal year.

3 (f) Subsection (e) of this section and this subsection
4 expire December 1, 2017. [must be used to acquire other land for the
5 Public Free School fund as provided by law or the proceeds shall be
6 invested by the comptroller of public accounts, as may be directed
7 by the Board of Education herein provided for, in the bonds of the
8 United States, the State of Texas, or counties in said State, or in
9 such other securities, and under such restrictions as may be
10 prescribed by law; and the State shall be responsible for all
11 investments.]

12 SECTION 2. Section 5, Article VII, Texas Constitution, is
13 amended by amending Subsections (a), (d), and (f) and adding
14 Subsections (a-1) and (g) to read as follows:

15 (a) The permanent school fund consists of all land
16 appropriated for public schools by this constitution or the other
17 laws of this state, other properties and interests belonging to the
18 permanent school fund, and all revenue derived from the land or
19 other properties. The available school fund consists of the
20 distributions made to it from the total return on all investment
21 assets of the investment special fund account of the permanent
22 school fund, the real estate special fund account established under
23 Section 4(a) of this article, the taxes authorized by this
24 constitution or general law to be part of the available school fund,
25 and appropriations made to the available school fund by the
26 legislature.

27 (a-1) The investment special fund account is part of the

1 permanent school fund and is managed and controlled by the State
2 Board of Education. The total amount distributed from the
3 investment special fund account of the permanent school fund to the
4 available school fund:

5 (1) in each year of a state fiscal biennium must be an
6 amount that is not more than six percent of the average of the
7 market value of the investment special fund account of the
8 permanent school fund, excluding real property and other interests
9 belonging to the fund that are [~~is~~] managed, sold, or acquired under
10 Section 4 of this article, on the last day of each of the 16 state
11 fiscal quarters preceding the regular session of the legislature
12 that begins before that state fiscal biennium, in accordance with
13 the rate adopted by:

14 (A) a vote of two-thirds of the total membership
15 of the State Board of Education, taken before the regular session of
16 the legislature convenes; or

17 (B) the legislature by general law or
18 appropriation, if the State Board of Education does not adopt a rate
19 as provided by Paragraph (A) of this subdivision; and

20 (2) over the 10-year period consisting of the current
21 state fiscal year and the nine preceding state fiscal years may not
22 exceed the total return on all investment assets of the investment
23 special fund account of the permanent school fund over the same
24 10-year period.

25 (d) The legislature by law may provide for using the
26 investment special fund account of the permanent school fund to
27 guarantee bonds issued by school districts or by the state for the

1 purpose of making loans to or purchasing the bonds of school
2 districts for the purpose of acquisition, construction, or
3 improvement of instructional facilities including all furnishings
4 thereto. If any payment is required to be made by the investment
5 special fund account [~~permanent school fund~~] as a result of its
6 guarantee of bonds issued by the state, an amount equal to this
7 payment shall be immediately paid by the state from the treasury to
8 the investment special fund account [~~permanent school fund~~]. An
9 amount owed by the state to the investment special fund account
10 [~~permanent school fund~~] under this section shall be a general
11 obligation of the state until paid. The amount of bonds authorized
12 hereunder shall not exceed \$750 million or a higher amount
13 authorized by a two-thirds record vote of both houses of the
14 legislature. If the proceeds of bonds issued by the state are used
15 to provide a loan to a school district and the district becomes
16 delinquent on the loan payments, the amount of the delinquent
17 payments shall be offset against state aid to which the district is
18 otherwise entitled.

19 (f) Notwithstanding any other provision of this
20 constitution, in managing the assets of the investment special fund
21 account of the permanent school fund, the State Board of Education
22 may acquire, exchange, sell, supervise, manage, or retain, through
23 procedures and subject to restrictions it establishes and in
24 amounts it considers appropriate, any kind of investment, including
25 investments in the Texas growth fund created by Article XVI,
26 Section 70, of this constitution, but not including investments in
27 real estate, that persons of ordinary prudence, discretion, and

1 intelligence, exercising the judgment and care under the
2 circumstances then prevailing, acquire or retain for their own
3 account in the management of their affairs, not in regard to
4 speculation but in regard to the permanent disposition of their
5 funds, considering the probable income as well as the probable
6 safety of their capital.

7 (g) The State Board of Education may transfer funds from the
8 investment special fund account of the permanent school fund to the
9 real estate special fund account of the permanent school fund
10 established under Section 4(a) of this article if the board
11 determines, using the standard of care set forth in Subsection (f)
12 of this section, that such transfer is in the best interest of the
13 permanent school fund.

14 SECTION 3. This proposed constitutional amendment shall be
15 submitted to the voters at an election to be held November 6, 2007.
16 The ballot shall be printed to permit voting for or against the
17 proposition: "The constitutional amendment to create real estate
18 and investment special fund accounts within the permanent school
19 fund and to allow for transfers between those accounts, to
20 authorize the Commissioner of the General Land Office or another
21 statutorily designated entity to manage real estate portfolio
22 investments of the permanent school fund, and to allow the returns
23 from permanent school fund real estate portfolio investments to be
24 added to the available school fund for the support of public
25 schools."