

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 10, 2007

TO: Honorable Warren Chisum, Chair, House Committee on Appropriations

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HJR2 by Isett, Carl (Proposing a constitutional amendment to limit the rate of growth of appropriations from all sources of revenue except the federal government; to establish a disaster fund, managed by the governor, for use to prepare for or respond to a natural disaster or emergency; to fund the property tax relief fund; to require a gubernatorial declaration before money may be appropriated from the economic stabilization fund; and to authorize the legislature to appropriate money for tax rebates; making a constitutional appropriation.), **As Introduced**

No fiscal implication to the State is anticipated in the upcoming biennium, other than the cost of publication.

The cost to the state for publication of the resolution is \$77,468.

The resolution would propose a constitutional amendment to limit the rate of growth of state appropriations, to establish a Disaster Fund, to fund the Property Tax Relief Fund 0304, to require a gubernatorial declaration before money could be appropriated from the Economic Stabilization Fund 0599, and to authorize the Legislature to appropriate money for tax rebates.

Currently, Article VIII, Section 22, Texas Constitution limits the biennial growth of appropriations from state tax revenue not dedicated by the constitution to the estimated rate of growth of the state's economy. Appropriations for the sole purpose of reducing property taxes are currently subject to the limit to the extent that the appropriations are from state tax revenue not dedicated by the constitution.

The resolution proposes a constitutional amendment which, if adopted, would limit the biennial growth of appropriations from all sources of state revenue except federal funds to the average rate of growth in population during the three previous fiscal biennia adjusted by the average rate of monetary inflation. An appropriation for the sole purpose of reducing property taxes, or for the sole purpose of returning money to taxpayers, would not be subject to the limit.

The change from a limit using the growth of personal income to one using the average rate of growth in population during the three previous fiscal biennia adjusted by the average rate of monetary inflation would likely reduce the allowable growth rate in appropriations for subsequent biennia. For the purpose of illustration, the estimated rate of growth of personal income used to set the 2008-09 limit was 13.11 percent, while the Comptroller's estimate of the average rate of growth in population during the three previous fiscal biennia adjusted by the average rate of monetary inflation for 2008-09 is estimated to be 9.56 percent. The fiscal impact of expanding the application of the limit to all funds, except federal funds, in subsequent biennia would depend on the composition of state revenue in those biennia.

The proposed amendment would require the Comptroller to certify all appropriation bills not exceeding the Section 22, Article VIII limit on appropriations. If the Comptroller determined that an appropriation bill exceeded the proposed constitutional limit, the Comptroller would have to endorse that finding, return the bill to the house from which it originated, and notify both houses of the Legislature. No later than the 65th day after the Legislature adjourned, the Comptroller would have to issue an estimate of the amount of anticipated general revenues for the biennium that were

unappropriated, unencumbered, and undedicated at the time. If the legislative session were a regular session or a special session that began between the final adjournment of the regular session and the beginning of the subsequent fiscal biennium, the Comptroller's estimate would have to address the subsequent biennium.

The proposed amendment would establish the Disaster Fund, a special fund in the State Treasury, which would be managed by the Governor and who could spend fund balances without appropriation. Money from the fund could be used only in preparation for or in response to an emergency or natural disaster that threatened the health, safety, or general welfare of the state's residents.

If, in the preceding year, the net oil production taxes exceeded fiscal 1987 net oil production taxes, the Comptroller, no later than 90 days after the end of the fiscal year, would have to transfer from Fund 0001: 1) to the Disaster Fund, an amount equal to 5 percent of the excess, not to exceed \$125,000,000 in any fiscal year, with a cap on the fund of \$1,000,000,000; 2) to the Economic Stabilization Fund 0599, an amount equal the difference between the excess net oil production taxes and the amount transferred to the Disaster Fund, with a cap on Fund 0599 of \$5,000,000,000; and 3) to the Property Tax Relief Fund 0304, an amount equal to any remaining excess net oil production taxes.

If, in the preceding year, the net gas production taxes exceeded fiscal 1987 net gas production taxes, the Comptroller, no later than 90 days after the end of the fiscal year, would have to transfer from Fund 0001:

(1) to the Disaster Fund, an amount equal to 5 percent of the excess, not to exceed \$125,000,000 in any fiscal year, with a cap on the fund of \$1,000,000,000;

(2) to Fund 0599, an amount equal the difference between the excess net gas production taxes and the amount transferred to the Disaster Fund, with a cap on Fund 0599 of \$5,000,000,000; and,

(3) and to Fund 0304, an amount equal to any remaining excess net gas production taxes.

For the purposes of calculating the net oil production taxes and net gas production taxes, the Comptroller would have to adjust the computation of revenues to reflect 12 months of collections.

For the purpose of illustration, if the resolution was effective in 2008-09, \$143 million would be transferred to the Disaster Relief Fund and an additional \$572 million would be transferred to the Economic Stabilization Fund. Because 25 percent of the excess collections remain in the General Revenue Fund under current law and all excess collections would be transferred out of the General Revenue Fund under the proposed resolution, the General Revenue Fund would lose \$715 million.

On receiving from the Governor a declaration of an emergency, the Legislature, by a two-thirds vote of the members present in each house, could appropriate amounts from Fund 0599 at any time and for any purpose.

Notwithstanding any other provision of the Constitution, the Legislature, by general law, could grant public money to natural persons in this state for the sole purpose of returning public money to residents or taxpayers.

The proposed amendment would include temporary provisions applying to the changes made to Section 22, Article VIII, Section 49a, Article III, and Section 49-g, Article III, restricting the rate of growth of appropriations from all sources of revenue except the federal government to a rate equal to the average rate of growth of the state's population adjusted for inflation, limiting the Legislature's authority to appropriate from Fund 0599, and establishing the Disaster Fund. The temporary provision would expire December 1, 2009.

On September 1, 2009, the Comptroller would be required to transfer \$125,000,000 from Fund 0599 to the Disaster Fund.

The changes made to Section 22, Article VIII, Section 49a, Article III, and Section 49-g, Article III, would apply only in relation to appropriations made for the 2010-11 biennium and subsequent biennia.

The changes made to Section 49-g, Article III with regard to transferring money into the Disaster Fund, Fund 0599, and Fund 0304, would apply beginning with oil or gas production taxes received on or after September 1, 2009.

The proposed constitutional amendment would be submitted to the voters on November 6, 2007.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, CT, SD, SJS