

BILL ANALYSIS

C.S.H.J.R. 77
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Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In January 2002, the State Board of Education voted unanimously to request a fiduciary review of the key governance and investment functions of the permanent school fund. The state auditor's office contracted with CORTEX Applied Research, Inc., to conduct the review, the purpose of which was to determine whether the fund's investment practices follow sound fiduciary principles and whether the fund's organizational structure and governance are designed in a manner that provides for the prudent, efficient, and ethical management of the fund. The report containing CORTEX's findings was released in March 2003.

A section of the report addresses the organizational structure of the fund and states that the current structure is inconsistent with those of a significant majority of institutions in the economy, including corporations, not-for-profit organizations, and government agencies. A recommendation outlined a proposal to create a governing board for a "state-sponsored, quasi-independent investment organization" to administer the fund.

C.S.H.J.R. 77 proposes an amendment to the Texas Constitution to create the Permanent School Fund Management Council to assume the duty of the State Board of Education in managing the fund.

RULEMAKING AUTHORITY

It is the committee's opinion that this resolution does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.J.R. 77 proposes an amendment to the Texas Constitution to require the legislature to provide by law for a Permanent School Fund Management Council to manage the permanent school fund, rather than requiring the State Board of Education (SBOE) to manage the fund. The resolution requires members of the council to have substantial institutional investment expertise or institutional financial management experience and establishes that members are appointed or elected as provided by the legislature for terms determined by the legislature. The resolution requires the council to perform the duties prescribed by law.

C.S.H.J.R. 77 specifies that the rate used in determining the amount to be distributed from the permanent school fund to the available school fund, relative to the permanent school fund's average market value, is a rate adopted by a vote of two-thirds of the total membership of the council, with the approval of a majority vote of the total membership of the SBOE, taken before the regular session of the legislature convenes or a rate adopted by the legislature by general law or appropriation if the council does not adopt a rate or the SBOE does not approve a rate.

C.S.H.J.R. 77 changes references to the Free Public School Fund, the perpetual public school fund, and the Public Free School fund in the constitution to references to the permanent school fund and makes conforming changes.

C.S.H.J.R. 77 sets forth the required language for the ballot.

ELECTION DATE

The constitutional amendment proposed by this joint resolution will be submitted to the voters at an election to be held November 3, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.J.R. 77 adds language not in the original requiring State Board of Education (SBOE) approval of the rate adopted by the Permanent School Fund Management Council that is used in determining the amount to be distributed from the permanent school fund to the available school fund and providing for the legislature to adopt a rate if either the council does not adopt a rate or the SBOE does not approve one.

C.S.H.J.R. 77 adds a provision not in the original requiring members of the council to have substantial institutional investment expertise or institutional financial management experience. The substitute differs from the original by adding to the language on the ballot of the proposition a description of the council's composition of members with such expertise or experience.