

By: King of Parker

H.J.R. No. 38

A JOINT RESOLUTION

1 proposing a constitutional amendment regarding the rainy day fund
2 and dedicating certain surplus revenues to property tax reduction.

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

4 SECTION 1. Section 49-g, Article III, Texas Constitution,
5 is amended to read as follows:

6 Sec. 49-g. (a) The budget [~~economic~~] stabilization fund is
7 established as a special fund in the state treasury.

8 (b) For purposes of this section, general revenue is
9 encumbered on the last day of a fiscal biennium only to the extent
10 that the revenue is subject to payment for particular identifiable
11 and legally enforceable obligations of the state that were incurred
12 on or before that day and intended to be paid from appropriations
13 for that fiscal biennium.

14 (c) Not [~~The comptroller shall, not~~] later than the 90th day
15 of each fiscal biennium, the comptroller shall:

16 (1) transfer to the budget [~~economic~~] stabilization
17 fund one-half of any unencumbered positive balance of general
18 revenues on the last day of the preceding fiscal biennium; and

19 (2) transfer 25 percent of any unencumbered positive
20 balance of general revenues on the last day of the preceding fiscal
21 biennium to the property tax relief fund. [~~If necessary, the~~
22 ~~comptroller shall reduce the amount transferred in proportion to~~
23 ~~the other amounts prescribed by this section to prevent the amount~~
24 ~~in the fund from exceeding the limit in effect for that biennium~~

1 ~~under Subsection (g) of this section.]~~

2 (d) To the extent that the reports of payables and binding
3 encumbrances on which the transfers under Subsection (c) of this
4 section were based prove to have been underestimated, the
5 comptroller may reclaim money transferred under Subsection (c) of
6 this section in an amount that the comptroller determines is
7 necessary to pay a claim that is legally payable from an
8 appropriation that was encumbered to pay the claim before the
9 expiration of the appropriation but the balance of which is
10 insufficient to pay the claim.

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

19 (f) [(d)] If in the preceding year the state received from
20 oil production taxes a net amount greater than the net amount of oil
21 production taxes received by the state in the fiscal year ending
22 August 31, 1987, the comptroller shall transfer to the budget
23 [~~economic~~] stabilization fund an amount equal to 75 percent of the
24 difference between those amounts. The comptroller shall retain the
25 remaining 25 percent of the difference as general revenue. In
26 computing the net amount of oil production taxes received, the
27 comptroller may not consider refunds paid as a result of oil

1 overcharge litigation.

2 (g) [~~(e)~~] If in the preceding year the state received from
3 gas production taxes a net amount greater than the net amount of gas
4 production taxes received by the state in the fiscal year ending
5 August 31, 1987, the comptroller shall transfer to the budget
6 [~~economic~~] stabilization fund an amount equal to 75 percent of the
7 difference between those amounts. The comptroller shall retain the
8 remaining 25 percent of the difference as general revenue. For the
9 purposes of this subsection, the comptroller shall adjust the
10 comptroller's [~~his~~] computation of revenues to reflect only 12
11 months of collection.

12 (h) [~~(f)~~] The legislature by general law or in a general
13 appropriations act may transfer additional amounts of money to the
14 budget [~~appropriate additional amounts to the economic~~]
15 stabilization fund or to the property tax relief fund. A transfer
16 made under this subsection is not an appropriation for purposes of
17 Section 22, Article VIII, of this constitution.

18 (i) [~~(g)~~] ~~During each fiscal biennium, the amount in the~~
19 ~~economic stabilization fund may not exceed an amount equal to 10~~
20 ~~percent of the total amount, excluding investment income, interest~~
21 ~~income, and amounts borrowed from special funds, deposited in~~
22 ~~general revenue during the preceding biennium.~~

23 [~~(h)~~] In preparing an estimate of anticipated revenues for a
24 succeeding biennium as required by Article III, Section 49a, of
25 this constitution, the comptroller shall estimate the amount of the
26 transfers that will be made under Subsections (c), (f), and (g)
27 [~~(b), (d), and (e)~~] of this section. The comptroller shall deduct

1 that amount from the estimate of anticipated revenues as if the
2 transfers were made on August 31 of that fiscal year.

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

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

20 (k) Except as otherwise provided by this section, amounts
21 ~~[Amounts]~~ from the budget ~~[economic]~~ stabilization fund may be
22 appropriated during a regular legislative session for the
23 then-current biennium only for a purpose for which an appropriation
24 from general revenue was made by the preceding legislature and may
25 be appropriated in a special session only for a purpose for which an
26 appropriation from general revenue was made in a preceding
27 legislative session of the same legislature. An appropriation for

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

20 (1) If an estimate of anticipated revenues for a succeeding
21 biennium prepared by the comptroller pursuant to Article III,
22 Section 49a, of this constitution is less than the revenues that are
23 estimated at the same time by the comptroller to be available for
24 the then-current [~~current~~] biennium, the legislature may, by a
25 three-fifths vote of the members present in each house, appropriate
26 for the succeeding biennium from the budget [~~economic~~]
27 stabilization fund an amount not to exceed this difference.

1 Following each fiscal year, the actual amount of revenue shall be
2 computed, and if the estimated difference exceeds the actual
3 difference, the comptroller shall transfer the amount necessary
4 from general revenue to the budget [~~economic~~] stabilization fund so
5 that the actual difference shall not be exceeded. If all or a
6 portion of the difference in revenue from one biennium to the next
7 results, at least in part, from a change in a tax rate or base
8 adopted by the legislature, the computation of revenue difference
9 shall be adjusted to the amount that would have been available had
10 the rate or base not been changed.

11 ~~(m) [In addition to the appropriation authority provided by~~
12 ~~Subsections (k) and (l) of this section, the legislature may, by a~~
13 ~~two-thirds vote of the members present in each house, appropriate~~
14 ~~amounts from the economic stabilization fund at any time and for any~~
15 ~~purpose.~~

16 [~~(n)~~] Money appropriated from the budget [~~economic~~]
17 stabilization fund is subject to being withheld or transferred,
18 within any limits provided by statute, by any person or entity
19 authorized to exercise the power granted by Article XVI, Section
20 69, of this constitution.

21 (n) The comptroller of public accounts shall disburse
22 revenue deposited in the property tax relief fund under this
23 section to public school districts to reduce public school district
24 property tax rates as provided by rules of the comptroller adopted
25 to implement this subsection. The comptroller's rules adopted
26 under this subsection must be designed to provide for property tax
27 relief in accordance with any general law provisions for use of

1 money from the property tax relief fund. On the last day of each
2 fiscal biennium during which property tax rates for public schools
3 are set at zero percent as a result of property tax relief fund and
4 any other state disbursements, the comptroller shall transfer the
5 unencumbered balance of the property tax relief fund to the budget
6 stabilization fund.

7 (o) Notwithstanding Subsection (n) of this section, by a
8 vote of four-fifths of the members present in each house the
9 legislature may suspend for the then-current biennium or for the
10 next biennium any property tax relief disbursement under that
11 subsection or any transfer under that subsection and, to the extent
12 otherwise consistent with this constitution, may provide for the
13 money deposited in the property tax relief fund under this section
14 to be spent for any purpose or transferred to any account or fund
15 inside or outside of the treasury.

16 (p) In this section, "net" means the amount of money that is
17 equal to the difference between gross collections and refunds
18 before the comptroller allocates the receipts as provided by law.

19 SECTION 2. The following temporary provision is added to
20 the Texas Constitution:

21 TEMPORARY PROVISION. (a) This temporary provision applies
22 to the amendments to Section 49-g, Article III, of this
23 constitution, proposed by the 81st Legislature, Regular Session,
24 2009, regarding the budget stabilization fund and the application
25 of certain surplus revenues to property tax relief. This temporary
26 provision expires December 1, 2012.

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

1 constitution by the amendments apply only in relation to
2 appropriations made for the state fiscal biennium beginning
3 September 1, 2011, and subsequent state fiscal bienniums.
4 Appropriations for the state fiscal biennium that began September
5 1, 2009, are governed by Section 49-g, Article III, as it existed on
6 January 1, 2009.

7 (c) The changes made by the amendments to Section 49-g,
8 Article III, of this constitution apply beginning with any
9 unencumbered positive balance of general revenues on August 31,
10 2011.

11 SECTION 3. This proposed constitutional amendment shall be
12 submitted to the voters at an election to be held November 3, 2009.
13 The ballot shall be printed to provide for voting for or against the
14 proposition: "The constitutional amendment regarding the rainy day
15 fund and dedicating certain surplus revenues to property tax
16 relief."