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H.J.R. No. 77

A JOINT RESOLUTION

1 proposing a constitutional amendment to create the Permanent School
2 Fund Management Council to assume the duty of the State Board of
3 Education to manage the permanent school fund and to allow the
4 School Land Board to transfer funds from the permanent school fund
5 to the available school fund.

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

7 SECTION 1. Section 49-b(h), Article III, Texas
8 Constitution, is amended to read as follows:

9 (h) Lands purchased and comprising a part of the Veterans'
10 Land Fund are declared to be held for a governmental purpose, but
11 the individual purchasers of those lands shall be subject to
12 taxation to the same extent and in the same manner as are purchasers
13 of lands dedicated to the Permanent [~~Free Public~~] School Fund. The
14 lands shall be sold to veterans in quantities, on terms, at prices,
15 and at fixed, variable, floating, or other rates of interest,
16 determined by the Board and in accordance with rules of the Board.
17 Notwithstanding any provisions of this section to the contrary,
18 lands in the Veterans' Land Fund that are offered for sale to
19 veterans and that are not sold may be sold or resold to the
20 purchasers in quantities, on terms, at prices, and at rates of
21 interest determined by the Board and in accordance with rules of the
22 Board.

23 SECTION 2. Sections 2 and 4, Article VII, Texas
24 Constitution, are amended to read as follows:

1 Sec. 2. All funds, lands and other property heretofore set
2 apart and appropriated for the support of public schools; all the
3 alternate sections of land reserved by the State out of grants
4 heretofore made or that may hereafter be made to railroads or other
5 corporations of any nature whatsoever; one half of the public
6 domain of the State; and all sums of money that may come to the State
7 from the sale of any portion of the same, shall constitute a
8 permanent [~~perpetual-public~~] school fund.

9 Sec. 4. The lands herein set apart to the Permanent [~~Public~~
10 ~~Free~~] School fund, shall be sold under such regulations, at such
11 times, and on such terms as may be prescribed by law; and the
12 Legislature shall not have power to grant any relief to purchasers
13 thereof. The proceeds of such sales must be used to acquire other
14 land for the Permanent [~~Public-Free~~] School fund as provided by law
15 or the proceeds shall be invested by the comptroller of public
16 accounts, as may be directed by the Permanent School Fund
17 Management Council [~~Board of Education~~] herein provided for, in the
18 bonds of the United States, the State of Texas, or counties in said
19 State, or in such other securities, and under such restrictions as
20 may be prescribed by law; and the State shall be responsible for all
21 investments.

22 SECTION 3. Section 5, Article VII, Texas Constitution, is
23 amended by amending Subsections (a) and (f) and adding Subsection
24 (a-1) to read as follows:

25 (a) The permanent school fund consists of all land
26 appropriated for public schools by this constitution or the other
27 laws of this state, other properties belonging to the permanent

1 school fund, and all revenue derived from the land or other
2 properties. The available school fund consists of the
3 distributions made to it from the total return on all investment
4 assets of the permanent school fund, the taxes authorized by this
5 constitution or general law to be part of the available school fund,
6 funds described by Subsection (a-1), and appropriations made to the
7 available school fund by the legislature. The total amount
8 distributed from the permanent school fund to the available school
9 fund:

10 (1) in each year of a state fiscal biennium must be an
11 amount that is not more than six percent of the average of the
12 market value of the permanent school fund, excluding real property
13 belonging to the fund that is managed, sold, or acquired under
14 Section 4 of this article, on the last day of each of the 16 state
15 fiscal quarters preceding the regular session of the legislature
16 that begins before that state fiscal biennium, in accordance with
17 the rate adopted by:

18 (A) a vote of two-thirds of the total membership
19 of the Permanent School Fund Management Council, with the approval
20 of a majority vote of the total membership of the State Board of
21 Education, taken before the regular session of the legislature
22 convenes; or

23 (B) the legislature by general law or
24 appropriation, if the Permanent School Fund Management Council
25 [~~State Board of Education~~] does not adopt a rate or the State Board
26 of Education does not approve a rate as provided by Paragraph (A) of
27 this subdivision; and

1 (2) over the 10-year period consisting of the current
2 state fiscal year and the nine preceding state fiscal years may not
3 exceed the total return on all investment assets of the permanent
4 school fund over the same 10-year period.

5 (a-1) If the permanent school fund is not able to make a
6 distribution for a fiscal year under Subsection (a)(1) or (2), the
7 School Land Board may distribute to the available school fund for
8 the fiscal year an amount not to exceed the five-year annual average
9 of funds released by the School Land Board for use by the permanent
10 school fund. A vote to transfer funds to the available school fund
11 by the School Land Board under this section must be unanimous.

12 (f) Notwithstanding any other provision of this
13 constitution, in managing the assets of the permanent school fund,
14 the Permanent School Fund Management Council [~~State Board of~~
15 ~~Education~~] may acquire, exchange, sell, supervise, manage, or
16 retain, through procedures and subject to restrictions it
17 establishes and in amounts it considers appropriate, any kind of
18 investment, including investments in the Texas growth fund created
19 by Article XVI, Section 70, of this constitution, that persons of
20 ordinary prudence, discretion, and intelligence, exercising the
21 judgment and care under the circumstances then prevailing, acquire
22 or retain for their own account in the management of their affairs,
23 not in regard to speculation but in regard to the permanent
24 disposition of their funds, considering the probable income as well
25 as the probable safety of their capital.

26 SECTION 4. Article VII, Texas Constitution, is amended by
27 adding Section 5a to read as follows:

1 Sec. 5a. The legislature shall provide by law for a
2 Permanent School Fund Management Council to manage the permanent
3 school fund. Members of the council must have substantial
4 institutional investment expertise or institutional financial
5 management experience. Members of the council are appointed or
6 elected as provided by the legislature for terms determined by the
7 legislature. The council shall perform the duties prescribed by
8 law.

9 SECTION 5. This proposed constitutional amendment shall be
10 submitted to the voters at an election to be held November 3, 2009.
11 The ballot shall be printed to permit voting for or against the
12 proposition: "The constitutional amendment to create the Permanent
13 School Fund Management Council, composed of members with
14 substantial institutional investment expertise or institutional
15 financial management experience, to assume the duty of the State
16 Board of Education to manage the permanent school fund."