

By: Callegari

H.J.R. No. 101

A JOINT RESOLUTION

1 proposing a constitutional amendment concerning the limitation on
2 the rate of growth of state appropriations and the use of
3 unencumbered surplus state revenues to provide a rebate of state
4 franchise taxes, to reduce public school district property taxes,
5 and to fund the state's rainy day fund.

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

7 SECTION 1. Section 22, Article VIII, Texas Constitution, is
8 amended to read as follows:

9 Sec. 22. (a) In no biennium shall the rate of growth of
10 appropriations from all sources of revenue other than the federal
11 government [~~state tax revenues not dedicated by this constitution~~]
12 exceed a rate equal to the sum of the estimated rates [~~rate~~] of
13 increase or decrease, during the biennium preceding the biennium
14 for which the appropriations are made, [growth] of:

15 (1) the state's population; and
16 (2) inflation or deflation in this state in the prices
17 of goods.

18 (b) The rates described by Subsection (a) of this section
19 shall be estimated in the manner provided by general law [~~economy~~].
20 If the sum of those estimated rates is a negative number,
21 appropriations for the biennium from all sources of revenue other
22 than the federal government must decrease by a rate at least equal
23 to the sum of those estimated rates.

24 (c) In this section, the rate of change of appropriations

1 from all sources of revenue other than the federal government is the
2 percentage difference between:

3 (1) the amount of money appropriated for the current
4 biennium from those sources as estimated in the manner prescribed
5 by law at or near the time the legislature convenes in regular
6 session during the current biennium; and

7 (2) the amount of money appropriated for the next
8 biennium from those sources as finally estimated by the comptroller
9 at the times the Acts making appropriations are considered by the
10 comptroller under Article III, Section 49a, of this constitution.

11 (d) The legislature shall provide by general law procedures
12 to implement Subsections (a), (b), and (c) of this section
13 [subsection].

14 (e) [~~(b)~~] If the legislature by adoption of a resolution
15 approved by a record vote of two-thirds [~~a majority~~] of the members
16 of each house finds that an emergency exists and identifies the
17 nature of the emergency, the legislature may provide for
18 appropriations in excess of the amount authorized by Subsection (a)
19 of this section. The excess authorized under this subsection may
20 not exceed the amount specified in the resolution.

21 (f) [~~(c)~~] In no case shall appropriations exceed revenues
22 as provided in Article III, Section 49a, of this constitution.
23 Nothing in this section shall be construed to alter, amend, or
24 repeal Article III, Section 49a, of this constitution.

25 SECTION 2. Section 49a, Article III, Texas Constitution, is
26 amended by adding Subsections (c) and (d) to read as follows:

27 (c) A bill containing an appropriation may not be considered

1 as passed and may not be sent to the Governor for consideration
2 until the Comptroller of Public Accounts endorses on the bill the
3 comptroller's certificate showing that the amount appropriated
4 does not exceed the limitation on the rate of growth of
5 appropriations imposed by Section 22, Article VIII, of this
6 constitution.

7 (d) When the Comptroller of Public Accounts finds that a
8 bill containing an appropriation exceeds the limitation on the rate
9 of growth of appropriations imposed by Section 22, Article VIII, of
10 this constitution, the comptroller shall endorse that finding on
11 the bill, return the bill to the House in which it originated, and
12 immediately notify the House of Representatives and the Senate of
13 the finding.

14 SECTION 3. Subsection (b), Section 49-g, Article III, Texas
15 Constitution, is amended to read as follows:

16 (b) The comptroller shall, not later than the 90th day of
17 each biennium, transfer to the economic stabilization fund 25
18 percent [~~one-half~~] of any unencumbered positive balance of general
19 revenues on the last day of the preceding biennium. If necessary,
20 the comptroller shall reduce the amount transferred in proportion
21 to the other amounts prescribed by this section to prevent the
22 amount in the fund from exceeding the limit in effect for that
23 biennium under Subsection (g) of this section. For purposes of this
24 subsection, general revenues are considered encumbered on the last
25 day of a biennium only to the extent that general revenues are
26 subject to payment for particular identifiable and legally
27 enforceable obligations of this state that were incurred on or

1 before that day and intended to be paid out of appropriations for
2 that biennium.

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

5 Sec. 49-g-1. (a) Not later than the 90th day of each state
6 fiscal biennium, the comptroller shall ascertain the amount of the
7 unencumbered positive balance of general revenues on the last day
8 of the preceding state fiscal biennium that remains after the
9 transfer of revenues to the economic stabilization fund under
10 Subsection (b), Section 49-g, Article III, of this constitution.
11 For purposes of this subsection, general revenues are considered
12 encumbered on the last day of a state fiscal biennium only to the
13 extent that general revenues are subject to payment for particular
14 identifiable and legally enforceable obligations of this state that
15 were incurred on or before that day and intended to be paid out of
16 appropriations for that state fiscal biennium.

17 (b) The legislature by general law shall provide a procedure
18 by which the comptroller shall issue to payers of this state's
19 franchise tax a rebate of franchise taxes paid during the preceding
20 state fiscal biennium such that:

21 (1) the total amount of rebates issued equals
22 one-third of the amount of the remaining unencumbered positive
23 balance of general revenues ascertained under Subsection (a) of
24 this section, not to exceed the total amount of state franchise
25 taxes collected during that preceding state fiscal biennium; and

26 (2) each payer of the franchise tax during that
27 preceding state fiscal biennium receives a share of the total

1 amount of rebates issued that is directly proportionate to the
2 share that the amount of that taxpayer's franchise taxes paid
3 during that preceding state fiscal biennium bears to the total
4 amount of franchise taxes collected during that preceding state
5 fiscal biennium.

6 (c) Not later than the 91st day of each state fiscal
7 biennium, the comptroller shall transfer to the property tax relief
8 fund established by general law two-thirds of the amount of the
9 unencumbered positive balance of general revenues ascertained
10 under Subsection (a) of this section to be used for reducing public
11 school district property taxes as provided by general law.

12 SECTION 5. (a) This proposed constitutional amendment
13 shall be submitted to the voters at an election to be held November
14 2, 2010.

15 (b) The ballot shall be printed to permit voting for or
16 against the proposition: "The constitutional amendment regarding
17 the limitation on the rate of growth in appropriations and the use
18 of unencumbered surplus state revenues to provide for a rebate of
19 state franchise taxes, to reduce public school district property
20 taxes, and to fund the state's rainy day fund."