

By: Otto

H.J.R. No. 5

A JOINT RESOLUTION

1 proposing a constitutional amendment regarding an increase in the
2 maximum amount to be retained in the constitutional economic
3 stabilization fund and dedicating for deposit in that fund certain
4 sales and use tax revenues.

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

6 SECTION 1. Section 49-g, Article III, Texas Constitution,
7 is amended by amending Subsections (g) and (h) and adding
8 Subsections (p), (q), and (r) to read as follows:

9 (g) During each fiscal biennium, the amount in the economic
10 stabilization fund may not exceed an amount equal to 15 [~~10~~] percent
11 of the total amount, excluding investment income, interest income,
12 and amounts borrowed from special funds, deposited in general
13 revenue during the preceding biennium.

14 (h) In preparing an estimate of anticipated revenues for a
15 succeeding biennium as required by Article III, Section 49a, of
16 this constitution, the comptroller shall estimate the amount of the
17 transfers that will be made under Subsections (b), (d), [~~and~~] (e),
18 and (q) of this section. The comptroller shall deduct that amount
19 from the estimate of anticipated revenues as if the transfers were
20 made on August 31 of that fiscal year.

21 (p) Before the end of each fiscal year, the comptroller
22 shall determine a historical average of the annual rate of increase
23 or decrease in state sales and use tax revenues received, expressed
24 as a percentage rate. To determine the historical average rate, the

1 comptroller shall use information regarding state sales and use tax
2 revenues for the 20 previous fiscal years and disregard both the
3 greatest annual increase in those revenues and the least annual
4 increase or greatest annual decrease in those revenues, and derive
5 the arithmetic mean of the remaining 18 annual increases or
6 decreases. If that historical average rate is a positive growth
7 rate, the comptroller shall determine as a benchmark amount the
8 amount of state sales and use tax revenues that would have been
9 received during the preceding fiscal year had the amount of state
10 sales and use tax revenues received during the preceding fiscal
11 year increased over the amount received during the second preceding
12 fiscal year by that historical average growth rate.

13 (q) Before the end of each fiscal year, the comptroller
14 shall compare the amount the state received from sales and use taxes
15 in the preceding fiscal year with the amount of state sales and use
16 taxes the state received in the second preceding fiscal year as
17 provided by this subsection. For purposes of the comparison, the
18 comptroller shall determine whether any difference in the amount of
19 sales and use taxes received in those two fiscal years is a result,
20 at least in part, from a change in a tax rate or base adopted by the
21 legislature. If all or a portion of the difference in sales and use
22 tax revenue from one fiscal year to the next results, at least in
23 part, from a change in a tax rate or base adopted by the
24 legislature, the comptroller shall adjust for purposes of this
25 subsection the amount considered to have been received from sales
26 and use taxes in the preceding fiscal year to an amount that would
27 have been received had the rate or base not been changed. Amounts

1 to be transferred under Subdivision (1) of this subsection are
2 considered encumbered for purposes of Subsection (b) of this
3 section. If the amount, as adjusted under this subsection if
4 necessary, of sales and use taxes received in the preceding fiscal
5 year exceeds the benchmark amount for that year determined under
6 Subsection (p) of this section, the comptroller shall:

7 (1) not later than the 89th day of the next fiscal year
8 transfer to the economic stabilization fund an amount equal to 75
9 percent of the amount by which state sales and use tax revenues
10 collected during the preceding fiscal year exceed the benchmark
11 amount; and

12 (2) retain as general revenue the remaining amount of
13 state sales and use tax revenues collected during the preceding
14 fiscal year that exceed the benchmark amount.

15 (r) If necessary, the comptroller shall reduce the amount
16 transferred under Subsection (q)(1) of this section in proportion
17 to the other amounts prescribed by this section to prevent the
18 amount in the fund from exceeding the limit in effect for that
19 biennium under Subsection (g) of this section.

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

22 TEMPORARY PROVISION. (a) This temporary provision applies
23 to the constitutional amendment proposed by the 82nd Legislature,
24 Regular Session, 2011, regarding an increase in the maximum amount
25 to be retained in the constitutional economic stabilization fund
26 and dedicating for deposit in that fund certain sales and use tax
27 revenues.

1 (b) The amendments to Section 49-g, Article III, of this
2 constitution take effect September 1, 2013.

3 (c) This temporary provision expires January 1, 2014.

4 SECTION 3. (a) This proposed constitutional amendment shall
5 be submitted to the voters at an election to be held November 8,
6 2011.

7 (b) The ballot shall be printed to provide for voting for or
8 against the proposition: "The constitutional amendment increasing
9 the maximum amount to be retained in the constitutional rainy day
10 fund and dedicating for deposit in that fund certain sales and use
11 tax revenues."