

By: Howard of Travis

H.J.R. No. 85

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.

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

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

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

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

23 Sec. 2. All funds, lands and other property heretofore set  
24 apart and appropriated for the support of public schools; all the

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

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

20       SECTION 3. Sections 5(a) and (f), Article VII, Texas  
21 Constitution, are amended to read as follows:

22       (a) The permanent school fund consists of all land  
23 appropriated for public schools by this constitution or the other  
24 laws of this state, other properties belonging to the permanent  
25 school fund, and all revenue derived from the land or other  
26 properties. The available school fund consists of the distributions  
27 made to it from the total return on all investment assets of the

1 permanent school fund, the taxes authorized by this constitution or  
2 general law to be part of the available school fund, and  
3 appropriations made to the available school fund by the  
4 legislature. The total amount distributed from the permanent school  
5 fund to the available school fund:

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

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

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

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

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

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

17 Sec. 5a. The legislature shall provide by law for a  
18 Permanent School Fund Management Council to manage the permanent  
19 school fund. Members of the council must have substantial  
20 institutional investment expertise or institutional financial  
21 management experience. Members of the council are appointed or  
22 elected as provided by the legislature for terms determined by the  
23 legislature. The council shall perform the duties prescribed by  
24 law.

25 SECTION 5. This proposed constitutional amendment shall be  
26 submitted to the voters at an election to be held November 8, 2011.  
27 The ballot shall be printed to permit voting for or against the

1 proposition: "The constitutional amendment to create the Permanent  
2 School Fund Management Council, composed of members with  
3 substantial institutional investment expertise or institutional  
4 financial management experience, to assume the duty of the State  
5 Board of Education to manage the permanent school fund."