

By: Menendez

H.J.R. No. 91

A JOINT RESOLUTION

1 proposing a constitutional amendment dissolving the State Board of
2 Education and creating the Texas Education Commission.

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

4 SECTION 1. Article VII, Texas Constitution, is amended by
5 adding Sections 8a and 8b to read as follows:

6 Sec. 8a. (a) The State Board of Education is dissolved and
7 the members of the board are relieved of board duties on the
8 effective date of this section.

9 (b) The commissioner of education shall assume the powers
10 and duties of the State Board of Education from the date the board
11 is dissolved until the date the Texas Education Commission created
12 under Section 8b of this article holds its first meeting.

13 (c) This section expires September 1, 2013.

14 Sec. 8b. (a) The Texas Education Commission is composed of
15 15 members appointed by the governor with the advice and consent of
16 the senate as follows:

17 (1) nine members who reside one each in the nine
18 counties of this state with the greatest population, according to
19 the last preceding federal decennial census;

20 (2) four members who reside in areas of this state
21 designated as rural communities by the United States Department of
22 Agriculture; and

23 (3) two members who reside in this state.

24 (a-1) The governor may begin to nominate the initial members

1 of the commission beginning October 1, 2012. The governor shall
2 nominate all 15 initial members not later than January 1, 2013.
3 After nominees are confirmed by the senate, the initial members
4 shall determine by lot which members serve two-year terms and which
5 serve four-year terms, with as close to one-half of the total number
6 of members as possible serving terms of each length. This
7 subsection expires September 1, 2013.

8 (b) To be eligible to serve as a member of the commission, a
9 person must have:

10 (1) 10 or more years' experience as a public school
11 educator, school board member, chief executive officer, or
12 investment banker;

13 (2) 10 or more years' experience working in a financial
14 institution or the field of securities and exchange; or

15 (3) a professional background that the senate
16 determines is equivalent to the experience described by Subdivision
17 (1) or (2) of this subsection.

18 (c) Members of the commission serve staggered four-year
19 terms with the terms of seven or eight members, as applicable,
20 expiring December 31 of each even-numbered year. A person may not
21 serve more than two terms as a member of the commission.

22 (d) The governor shall nominate for confirmation by the
23 senate a person to fill each regularly occurring vacancy on the
24 commission not later than January 1 of each odd-numbered year. If
25 the senate fails to confirm the person during the regular
26 legislative session that immediately follows the date of
27 appointment, the position remains vacant until the person or an

1 alternate person nominated by the governor is confirmed by the
2 senate during a subsequent regular or called legislative session.
3 The governor may also nominate for confirmation by the senate a
4 person to fill any vacancy on the commission not later than the
5 fifth day of a called legislative session. If the senate fails to
6 confirm the person during that session, the position remains vacant
7 as described above. A person may not in any circumstance act as a
8 member of the commission until the person has been confirmed by the
9 senate and may not serve beyond the expiration of the term for which
10 appointed unless the person is reappointed and reconfirmed. To the
11 extent this subsection conflicts with Section 12, Article IV, or
12 Section 17, Article XVI, of this constitution, this subsection
13 prevails.

14 (e) If, following a federal decennial census, a county that
15 was among the nine counties with the greatest population under the
16 preceding census ceases to rank among the nine largest counties:

17 (1) the member representing the county vacates the
18 member's office on the date the secretary of state receives the
19 official census data;

20 (2) as soon as practicable after the date the
21 secretary of state receives the official census data, the governor
22 shall nominate to serve on the commission a person who resides in
23 the county that is newly among the nine largest counties; and

24 (3) if confirmed by the senate, the person nominated
25 under Subdivision (2) of this subsection serves for the remainder
26 of the term for which the member described by Subdivision (1) of
27 this subsection was appointed.

1 (f) Not later than January 1 of each odd-numbered year, the
2 governor, with the advice and consent of the senate, shall appoint
3 the chair from among the membership of the commission. The chair
4 serves a term of two years.

5 (g) Not later than January 1 of each odd-numbered year, the
6 members of the commission shall elect from among the membership of
7 the commission a person to serve as vice chair for a term of two
8 years.

9 (h) The members of the commission shall appoint an executive
10 director to exercise the powers and perform the duties previously
11 exercised and performed by the commissioner of education. A
12 reference in general law to the commissioner of education means the
13 executive director appointed under this subsection. The executive
14 director serves at the pleasure of the commission.

15 (i) The commission shall carry out the commission's powers
16 and duties with the advice and assistance of the executive
17 director.

18 (j) The commission may perform only those duties assigned to
19 the commission by this constitution or as provided by the
20 legislature. A reference in general law to the State Board of
21 Education means the commission created under this section.

22 (k) The commission shall hold four meetings a year in
23 Austin, Texas, on dates determined by the chair and may hold other
24 meetings as may be called by the chair. At the commission's first
25 regular meeting after March 1 of an odd-numbered year, the
26 commission shall organize, adopt rules of procedure, and elect a
27 secretary.

1 (1) The commission shall develop and implement policies
2 that provide the public with a reasonable opportunity to appear
3 before the commission and to speak on any issue under the
4 jurisdiction of the commission.

5 SECTION 2. Section 3(b), Article VII, Texas Constitution,
6 is amended to read as follows:

7 (b) It shall be the duty of the Texas Education Commission
8 [~~State Board of Education~~] to set aside a sufficient amount of
9 available funds to provide free text books for the use of children
10 attending the public free schools of this State.

11 SECTION 3. Section 4, Article VII, Texas Constitution, is
12 amended to read as follows:

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

25 SECTION 4. Sections 5(a) and (f), Article VII, Texas
26 Constitution, are amended to read as follows:

27 (a) The permanent school fund consists of all land

1 appropriated for public schools by this constitution or the other
2 laws of this state, other properties belonging to the permanent
3 school fund, and all revenue derived from the land or other
4 properties. The available school fund consists of the distributions
5 made to it from the total return on all investment assets of the
6 permanent school fund, the taxes authorized by this constitution or
7 general law to be part of the available school fund, and
8 appropriations made to the available school fund by the
9 legislature. The total amount distributed from the permanent school
10 fund to the available school fund:

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

19 (A) the Texas Education Commission [~~a vote of~~
20 ~~two-thirds of the total membership of the State Board of Education,~~
21 ~~taken~~] before the regular session of the legislature convenes; or

22 (B) the legislature by general law or
23 appropriation, if the Texas Education Commission [~~State Board of~~
24 ~~Education~~] does not adopt a rate as provided by Paragraph (A) of
25 this subdivision; and

26 (2) over the 10-year period consisting of the current
27 state fiscal year and the nine preceding state fiscal years may not

1 exceed the total return on all investment assets of the permanent
2 school fund over the same 10-year period.

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

17 SECTION 5. Section 8, Article VII, Texas Constitution, is
18 repealed.

19 SECTION 6. This proposed constitutional amendment shall be
20 submitted to the voters at an election to be held November 8, 2011.
21 The ballot shall be printed to permit voting for or against the
22 proposition: "The constitutional amendment dissolving the elected
23 State Board of Education and creating an appointed Texas Education
24 Commission."