

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**April 28, 2011**

**TO:** Honorable Jim Pitts, Chair, House Committee on Appropriations

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HJR42** by Callegari (Proposing a constitutional amendment concerning the limitation on the rate of growth of state appropriations and the use of unencumbered surplus state revenues to provide for a rebate of state franchise taxes, to reduce public school district property taxes, and to fund the state's rainy day fund.), **As Introduced**

**No fiscal implication to the State is anticipated in the upcoming biennium**, other than the cost of publication.

The cost to the state for publication of the resolution is \$105,495.

The resolution would propose amendments to the Texas Constitution concerning the limitation on the rate of growth of state appropriations and the use of unencumbered surplus state revenue to provide for a rebate of state franchise taxes, to reduce public school district property taxes, and to fund the state's rainy day fund.

Currently, Article VIII, Section 22 of the Texas Constitution limits the biennial growth of appropriations from state tax revenue not dedicated by the constitution to the estimated rate of growth of the state's economy. Section 316.002 of the Government Code, instructs the Legislative Budget Board to determine the growth of the state's economy by estimating the growth in Texas personal income.

The resolution proposes a constitutional amendment which, if adopted, would limit the biennial growth of appropriations from all sources of state revenue except federal funds to the sum of the estimated rate of growth of the state's population and the estimated rate of inflation in the state during the preceding biennium.

The change from a limit using the growth of personal income to one using population and inflation would likely reduce the allowable growth rate in appropriations for subsequent biennia. For the purpose of illustration, the estimated rate of growth of personal income used to set the 2012-13 limit was 8.92 percent. Based on the Comptroller's economic forecast, the biennial estimate of the sum of population growth and inflation growth for the previous biennia as proposed by the bill for 2012-13 would be 6.07 percent. The fiscal impact of expanding the application of the limit to all funds, except federal funds, in subsequent biennia would depend on the composition of state revenue in those biennia.

Also under current law, the legislature, after adopting a resolution to exceed the limit by a majority vote in each house, may make appropriations in excess of the limit. The proposed amendment would require that a resolution to exceed the limit receive a two-thirds vote of the membership of each house.

The resolution would propose an amendment to Section 49a, Article III, of the Texas Constitution, to require the Comptroller to certify that the amount appropriated by the Legislature does not exceed the limitation on the rate of growth imposed by Section 22 of Article VIII, as amended, before the bill containing the appropriations is sent to the Governor. If the Comptroller determined an appropriation bill exceeded the limitations, the Comptroller would endorse that finding and return the bill to the House from which it originated, and notify both houses of the Legislature.

The resolution would propose an amendment to Section 49-g, Article III, of the Texas Constitution, to reduce the transfer to the economic stabilization fund from the current 50 percent to 25 percent of any unencumbered positive balance of general revenues on the last day of a fiscal biennium. To the extent that transfers to the economic stabilization fund from unencumbered positive balances are reduced, available revenue in the economic stabilization fund will correspondingly be reduced.

The resolution would propose an amendment to Article III of the Texas Constitution to add new Section 49-g-1, to require that no later than the 90th day of each state fiscal biennium the Comptroller ascertain the amount of the unencumbered positive balance of general revenues on the last day of the preceding state fiscal biennium that remained after the transfer of revenues to the economic stabilization fund. The Legislature by general law would provide a procedure for the Comptroller to issue to payers of the franchise tax a rebate of franchise taxes paid during the preceding state fiscal biennium in an amount as prescribed by the proposed amendment. Not later than 91st day of each fiscal biennium the Comptroller would transfer to the Property Tax Relief Fund 0304 two-thirds of the amount of the unencumbered positive balance of general revenues for reducing public school district property taxes. To the extent that additional unencumbered positive balances are transferred from general revenue, there would be a corresponding loss of available revenue to general revenue.

The proposed amendment only would apply to appropriations made for the 2014-15 biennium and subsequent biennia.

The proposed constitutional amendment would be submitted to the voters at an election to be held November 6, 2012.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, KK, SD, SJS