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: **HJR70** by Paxton (Proposing a constitutional amendment regarding the maximum rate of growth of appropriations and the use of unencumbered surplus general revenues to fund the state's rainy day fund and a public school property tax relief 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, regarding the maximum rate of growth of appropriations and the use of unencumbered surplus general revenues to fund the state's Economic Stabilization Fund (ESF) and the Property Tax Relief Fund (PTRF).

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. Appropriations for the sole purpose of providing ad valorem tax relief are currently subject to the limit to the extent that the appropriations are made from state tax revenue not dedicated by the constitution.

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 least of 1) a rate equal to the sum of the estimated rate of growth of Texas population and Texas monetary inflation, 2) the estimated rate of growth of Texas gross state product, or 3) the estimated rate of growth of Texas personal income. Appropriations made for the sole purpose of providing ad valorem tax relief would be excluded from this limitation.

The change from a limit applying the growth of personal income to one applying the growth of the lesser of the sum of population and inflation, gross state product, or personal income 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 and the language proposed in the related bill, the biennial estimate of the sum of population growth and monetary inflation growth for 2012-13 would be 7.25 percent and gross state product growth would be 9.84 percent.

The fiscal impact of expanding the application of the limit to all funds, except federal funds and excluding appropriations for ad valorem tax relief, 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 proposed amendment to Section 49a, Article III, would require all bills with appropriations passed by the Legislature to be certified by the Comptroller as not exceeding the proposed amendment's maximum permissible appropriations before the bill could be sent to the Governor. Should the Comptroller be unable to certify a bill, both houses of the Legislature would be notified and the bill would be returned to the originating house.

The proposed amendment to Section 49-g, Article III, would direct the Comptroller to transfer one-quarter, instead of the current one-half, of the unencumbered positive balance of general revenues on the last day of the preceding state fiscal biennium to the ESF. 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 Comptroller, not later than 91st day of each fiscal biennium, would be directed to transfer to the PTRF two-thirds of the unencumbered positive balance of general revenue that remained after the transfer to the ESF. Money transferred to the PTRF would be appropriated only for the purposes of reducing the rate of the school district maintenance and operation taxes. The Legislature would be directed to provide a method by which the school district maintenance and operation tax rate can be reduced. 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