

## **BILL ANALYSIS**

C.S.H.J.R. 2  
By: Pickett  
Appropriations  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties observe that Texas faces a substantial gap between the funding that is currently available for highway improvements and the amount that is needed over the next 25 years to maintain current levels of service. At current levels of funding, it is projected that there will be significant increases in congestion and declines in pavement quality, bridge conditions, and intercity connectivity. C.S.H.J.R. 2 seeks to address this gap by adjusting the allocation of oil and gas production tax revenue and revenue from motor vehicle registration fees and taxes on motor fuels and lubricants used to propel motor vehicles over public roadways.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this resolution does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.J.R. 2 proposes an amendment to the Texas Constitution to require the comptroller of public accounts to transfer to the available school fund, from the amount of oil and gas production tax revenue the comptroller otherwise would transfer to the economic stabilization fund under current constitutional provisions, an amount equal to the lesser of 25 percent of the net revenue derived in the preceding year from all taxes, except gross production and property taxes, imposed on motor fuels used to propel motor vehicles over public roadways that remains after payment of refunds and collection costs or the total amount to be transferred from the oil and gas production tax revenue under these provisions, with the remainder to be transferred to the economic stabilization fund, subject to any reduction required to maintain the amount in the economic stabilization fund within the relative cap imposed on that fund. The resolution adds a temporary provision, set to expire January 1, 2015, to make these provisions effective immediately on the final canvass of the election on the amendment and to require the comptroller to transfer the applicable amount to the available school fund from the economic stabilization fund if, between September 1, 2013, and that effective date, the comptroller has transferred from general revenue to the economic stabilization fund the total amounts as provided by the constitution before its amendment.

C.S.H.J.R. 2 removes the requirement that one-fourth of certain net revenue from the motor fuel tax be allocated to the available school fund and instead limits the use of that amount to the acquisition of rights-of-way for and the construction and maintenance of public roadways other than toll roads. The resolution also removes the payment of the principal and interest on county and road district bonds or warrants voted or issued before January 2, 1939, and declared eligible before January 2, 1945, for payment out of the County and Road District Highway Fund from the exclusive purposes for which the net revenues derived from motor vehicle registration fees and all taxes, except gross production and property taxes, on motor vehicle fuels and lubricants are to be used. The resolution adds a temporary provision, set to expire January 1, 2015, to make these provisions effective January 1, 2014, and applicable only to the collection and allocation of tax revenue derived from tax liability accruing on and after that date.

## ELECTION DATE

The constitutional amendment proposed by this joint resolution will be submitted to the voters at an election to be held November 5, 2013.

## COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.J.R. 2 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the resolution.

### INTRODUCED

SECTION 1. Sections 49-g(c), (d), and (e), Article III, Texas Constitution, are amended to read as follows:

(c) Not later than the 90th day of each fiscal year, the comptroller of public accounts shall transfer from general revenue to the economic stabilization fund and to the available school fund the amounts prescribed by Subsections (d) and (e) of this section. However, if necessary, the comptroller shall reduce proportionately the amounts transferred to the economic stabilization fund to prevent the amount in the fund from exceeding the limit in effect for that biennium under Subsection (g) of this section.

(d) If in the preceding year the state received from oil production taxes a net amount greater than the net amount of oil production taxes received by the state in the fiscal year ending August 31, 1987, the comptroller shall retain [~~transfer to the economic stabilization fund~~] an amount equal to 25 [~~75~~] percent of the difference between those amounts as general revenue. Of the remaining 75 percent of the difference between those amounts, the [~~The~~] comptroller shall transfer an amount equal to one-half to the economic stabilization fund and transfer an amount equal to one-half to the available school fund [~~retain the remaining 25 percent of the difference as general revenue~~]. In computing the net amount of oil production taxes received, the comptroller may not consider refunds paid as a result of oil overcharge litigation.

(e) If in the preceding year the state received from gas production taxes a net amount greater than the net amount of gas

### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 49-g, Article III, Texas Constitution, is amended by amending Subsections (c), (d), and (e) and adding Subsection (e-1) to read as follows:

(c) Not later than the 90th day of each fiscal year, the comptroller of public accounts shall transfer from general revenue to the economic stabilization fund and to the available school fund the amounts prescribed by Subsections (d) and (e) of this section. However, if necessary, the comptroller shall reduce proportionately the amounts to be transferred to the economic stabilization fund to prevent the amount in the fund from exceeding the limit in effect for that biennium under Subsection (g) of this section.

(d) If in the preceding year the state received from oil production taxes a net amount greater than the net amount of oil production taxes received by the state in the fiscal year ending August 31, 1987, the comptroller shall retain [~~transfer to the economic stabilization fund~~] an amount equal to 25 [~~75~~] percent of the difference between those amounts as general revenue. The comptroller shall transfer the remaining 75 percent of the difference between those amounts to the economic stabilization fund and the available school fund, as allocated in accordance with Subsection (e-1) of this section [~~retain the remaining 25 percent of the difference as general revenue~~]. In computing the net amount of oil production taxes received, the comptroller may not consider refunds paid as a result of oil overcharge litigation.

(e) If in the preceding year the state received from gas production taxes a net amount greater than the net amount of gas

production taxes received by the state in the fiscal year ending August 31, 1987, the comptroller shall retain [~~transfer to the economic stabilization fund~~] an amount equal to 25 [~~75~~] percent of the difference between those amounts as general revenue. Of the remaining 75 percent of the difference between those amounts, the [~~The~~] comptroller shall transfer an amount equal to one-half to the economic stabilization fund and transfer an amount equal to one-half to the available school fund [~~retain the remaining 25 percent of the difference as general revenue~~]. For the purposes of this subsection, the comptroller shall adjust the [~~his~~] computation of revenues to reflect only 12 months of collection.

production taxes received by the state in the fiscal year ending August 31, 1987, the comptroller shall retain [~~transfer to the economic stabilization fund~~] an amount equal to 25 [~~75~~] percent of the difference between those amounts as general revenue. The comptroller shall transfer the remaining 75 percent of the difference between those amounts to the economic stabilization fund and the available school fund, as allocated in accordance with Subsection (e-1) of this section [~~retain the remaining 25 percent of the difference as general revenue~~]. For the purposes of this subsection, the comptroller shall adjust the [~~his~~] computation of revenues to reflect only 12 months of collection.

(e-1) Of the sum of the amounts to be transferred to the economic stabilization fund and the available school fund under Subsections (d) and (e) of this section, the comptroller shall transfer:

(1) to the available school fund an amount equal to the lesser of:

(A) 25 percent of the net revenue derived in the preceding year from all taxes, except gross production and ad valorem taxes, imposed on motor fuels used to propel motor vehicles over public roadways that remains after payment of all refunds allowed by law and expenses of collection;  
or

(B) the total of the sum of the amounts to be transferred under Subsections (d) and (e) of this section; and

(2) any remainder to the economic stabilization fund, subject to any reduction required by Subsection (c) of this section.

SECTION 2. Section 7-a, Article VIII, Texas Constitution, is amended to read as follows:

Sec. 7-a. (a) Subject to legislative appropriation, allocation and direction, all net revenues remaining after payment of all refunds allowed by law and expenses of collection derived from motor vehicle registration fees, and all taxes, except gross production and ad valorem taxes, on ~~motor fuels and~~ lubricants used to propel motor vehicles over public roadways, shall be used for the sole purpose of acquiring rights-of-way, constructing, maintaining, and policing such public roadways, and for the

SECTION 2. Section 7-a, Article VIII, Texas Constitution, is amended to read as follows:

Sec. 7-a. Subject to legislative appropriation, allocation and direction, all net revenues remaining after payment of all refunds allowed by law and expenses of collection derived from motor vehicle registration fees, and all taxes, except gross production and ad valorem taxes, on ~~motor fuels and~~ lubricants used to propel motor vehicles over public roadways, shall be used for the sole purpose of acquiring rights-of-way, constructing, maintaining, and policing such public roadways, and for the

administration of such laws as may be prescribed by the Legislature pertaining to the supervision of traffic and safety on such roads; ~~[and for the payment of the principal and interest on county and road district bonds or warrants voted or issued prior to January 2, 1939, and declared eligible prior to January 2, 1945, for payment out of the County and Road District Highway Fund under existing law; provided, however, that one-fourth (1/4) of such net revenue from the motor fuel tax shall be allocated to the Available School Fund; and,]~~ provided, however, that the net revenue derived by counties from motor vehicle registration fees shall never be less than the maximum amounts allowed to be retained by each County and the percentage allowed to be retained by each County under the laws in effect on January 1, 1945.

(b) Subject to legislative appropriation, allocation, and direction, all net revenues remaining after payment of all refunds allowed by law and expenses of collection derived from all taxes on motor fuels used to propel motor vehicles over public roadways may be used only for constructing, maintaining, and acquiring rights-of-way for public roadways other than toll roads.

(c) Nothing in this section [contained herein] shall be construed as authorizing the pledging of the State's credit for any purpose.

SECTION 3. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 83rd Legislature, 2nd Called Session, 2013, to provide for revenue from motor fuel taxes to be used solely for constructing, maintaining, and acquiring rights-of-way for certain public roadways and to provide for the transfer of certain general revenue to the available school fund and the economic stabilization fund.

(b) The amendment to Section 49-g, Article III, of this constitution takes effect January 1, 2014, and applies only to a transfer of

administration of such laws as may be prescribed by the Legislature pertaining to the supervision of traffic and safety on such roads; ~~[and for the payment of the principal and interest on county and road district bonds or warrants voted or issued prior to January 2, 1939, and declared eligible prior to January 2, 1945, for payment out of the County and Road District Highway Fund under existing law;]~~ provided, however, that one-fourth (1/4) of such net revenue from the motor fuel tax may be used for the sole purpose of acquiring rights-of-way, constructing, and maintaining such public roadways, other than toll roads ~~[shall be allocated to the Available School Fund];~~ and, provided, however, that the net revenue derived by counties from motor vehicle registration fees shall never be less than the maximum amounts allowed to be retained by each County and the percentage allowed to be retained by each County under the laws in effect on January 1, 1945.

Nothing contained herein shall be construed as authorizing the pledging of the State's credit for any purpose.

SECTION 3. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 83rd Legislature, 2nd Called Session, 2013, to provide for certain revenue from motor fuel taxes to be used solely for constructing, maintaining, and acquiring rights-of-way for certain public roadways and to provide for the transfer of certain general revenue to the economic stabilization fund and the available school fund.

(b) The amendment to Section 49-g, Article III, of this constitution takes effect immediately on the final canvass of the

revenue made by the comptroller of public accounts as provided by Subsection (d) or (e) of that section on or after that date.

(c) The amendment to Section 7-a, Article VIII, of this constitution takes effect January 1, 2014, and applies only to the collection and allocation of tax revenue derived from tax liability accruing on and after that date.

(d) This temporary provision expires January 1, 2015.

SECTION 4. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 2013. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to provide for revenue from motor fuel taxes to be used solely for constructing, maintaining, and acquiring rights-of-way for certain public roadways and to provide for the transfer of certain general revenue to the available school fund and the economic stabilization fund."

election on the amendment. If, between September 1, 2013, and the effective date of the amendment to Section 49-g, Article III, of this constitution, the comptroller of public accounts has transferred from general revenue to the economic stabilization fund amounts in accordance with Subsections (c), (d), and (e) of that section as those subsections provided at the time of the transfer, as soon as practicable after the effective date of the amendment the comptroller shall transfer from the economic stabilization fund to the available school fund an amount as described by Subsection (e-1) of that section.

(c) The amendment to Section 7-a, Article VIII, of this constitution takes effect January 1, 2014, and applies only to the collection and allocation of tax revenue derived from tax liability accruing on and after that date.

(d) This temporary provision expires January 1, 2015.

SECTION 4. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 2013. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to provide for **certain** revenue from motor fuel taxes to be used solely for constructing, maintaining, and acquiring rights-of-way for certain public roadways and to provide for the transfer of certain general revenue to the economic stabilization fund and the available school fund."