

By: Seliger

S.J.R. No. 41

1 JOINT RESOLUTION

2 proposing a constitutional amendment to provide for foregoing the
3 transfer of oil and gas production tax revenue to the economic
4 stabilization fund if the ending fund balance for the preceding
5 fiscal year is greater than \$5 billion and for reducing the rates of
6 oil and gas production taxes by amounts sufficient to equal the
7 foregone transfer.

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

9 SECTION 1. Section 49-g, Article III, Texas Constitution,
10 is amended by amending Subsections (c), (c-1), (c-2), (d), and (e)
11 and adding Subsections (c-3), (c-4), (c-5), and (c-6) to read as
12 follows:

13 (c) Not later than the 90th day of each fiscal year, the
14 comptroller of public accounts shall transfer from the general
15 revenue fund to the economic stabilization fund and the state
16 highway fund the sum of the amounts described by Subsections (d) and
17 (e) of this section, to be allocated as provided by Subsection
18 [~~Subsections~~] (c-1) [~~and (c-2)~~] of this section. However, if
19 necessary and notwithstanding the allocation [~~allocations~~]
20 prescribed by Subsection [~~Subsections~~] (c-1) [~~and (c-2)~~] of this
21 section, the comptroller shall reduce proportionately the amounts
22 described by Subsections (d) and (e) of this section to be
23 transferred and allocated to the economic stabilization fund to
24 prevent the amount in that fund from exceeding the limit in effect

1 for that biennium under Subsection (g) of this section. Revenue
2 transferred to the state highway fund under this subsection may be
3 used only for constructing, maintaining, and acquiring
4 rights-of-way for public roadways other than toll roads.

5 (c-1) Of the sum of the amounts described by Subsections (d)
6 and (e) of this section and required to be transferred from the
7 general revenue fund under Subsection (c) of this section, the
8 comptroller shall allocate one-half to the economic stabilization
9 fund and the remainder to the state highway fund~~[, except as~~
10 ~~provided by Subsection (c-2) of this section]~~.

11 (c-2) If the ending balance in the economic stabilization
12 fund for the preceding fiscal year was not greater than \$5 billion,
13 the rate of tax imposed on oil production and the rate of tax
14 imposed on gas production in the current fiscal year shall be as
15 provided by the legislature under general law ~~[The legislature by~~
16 ~~general law shall provide for a procedure by which the allocation of~~
17 ~~the sum of the amounts described by Subsections (d) and (e) of this~~
18 ~~section may be adjusted to provide for a transfer to the economic~~
19 ~~stabilization fund of an amount greater than the allocation~~
20 ~~provided for under Subsection (c-1) of this section with the~~
21 ~~remainder of that sum, if any, allocated for transfer to the state~~
22 ~~highway fund. The allocation made as provided by that general law~~
23 ~~is binding on the comptroller for the purposes of the transfers~~
24 ~~required by Subsection (c) of this section]~~.

25 (c-3) If the ending balance in the economic stabilization
26 fund for the preceding fiscal year was greater than \$5 billion, the
27 comptroller shall not transfer any amount collected from oil

1 production tax or gas production tax to the economic stabilization
2 fund during the current fiscal year but shall transfer to the state
3 highway fund under Subsection (c) of this section and retain as
4 general revenue under Subsections (d) and (e) of this section the
5 amounts that would have been transferred or retained had the ending
6 balance been \$5 billion or less. The amount that would have been
7 transferred to the economic stabilization fund shall be deposited
8 to the credit of the tax relief set-aside account in the general
9 revenue fund.

10 (c-4) In this section:

11 (1) "Tax relief set-aside" means the net amount of oil
12 production tax or gas production tax, as appropriate, that would
13 have been transferred to the economic stabilization fund in the
14 preceding fiscal year under Subsection (c) of this section had the
15 ending balance in the fund for that fiscal year been not greater
16 than \$5 billion.

17 (2) "Tax-rate-cut factor" means the quotient of the
18 tax relief set-aside divided by the net amount of oil production tax
19 or gas production tax, as appropriate, that the comptroller
20 estimates under Article III, Section 49a(a), of this constitution
21 will be collected in the current fiscal year.

22 (c-5) If the ending balance in the economic stabilization
23 fund for the preceding fiscal year was greater than \$5 billion, the
24 rate of tax imposed on oil production for the current fiscal year
25 shall be calculated by subtracting the tax-rate-cut factor from one
26 and multiplying the remainder by the tax rate for oil production
27 provided by the legislature under general law. The comptroller

1 shall establish the rate of oil production tax not later than the
2 90th day of each fiscal year.

3 (c-6) If the ending balance in the economic stabilization
4 fund for the preceding fiscal year was greater than \$5 billion, the
5 rate of tax imposed on gas production for the current fiscal year
6 shall be calculated by subtracting the tax-rate-cut factor from one
7 and multiplying the remainder by the tax rate for gas production
8 provided by the legislature under general law. The comptroller
9 shall establish the rate of gas production tax not later than the
10 90th day of each fiscal year.

11 (d) If in the preceding fiscal year the state received from
12 oil production taxes a net amount greater than the net amount of oil
13 production taxes received by the state in the fiscal year ending
14 August 31, 1987, and the ending balance in the economic
15 stabilization fund for the preceding fiscal year was not greater
16 than \$5 billion, the comptroller shall transfer under Subsection
17 (c) of this section and allocate in accordance with Subsection
18 ~~[Subsections]~~ (c-1) ~~[and (c-2)]~~ of this section an amount equal to
19 75 percent of the difference between those amounts. The
20 comptroller shall retain the remaining 25 percent of the difference
21 as general revenue. In computing the net amount of oil production
22 taxes received, the comptroller may not consider refunds paid as a
23 result of oil overcharge litigation.

24 (e) If in the preceding fiscal year the state received from
25 gas production taxes a net amount greater than the net amount of gas
26 production taxes received by the state in the fiscal year ending
27 August 31, 1987, and the ending balance in the economic

1 stabilization fund for the preceding fiscal year was not greater
2 than \$5 billion, the comptroller shall transfer under Subsection
3 (c) of this section and allocate in accordance with Subsection
4 [Subsections] (c-1) [~~and (c-2)~~] of this section an amount equal to
5 75 percent of the difference between those amounts. The
6 comptroller shall retain the remaining 25 percent of the difference
7 as general revenue. For the purposes of this subsection, the
8 comptroller shall adjust the computation of revenues to reflect
9 only 12 months of collection.

10 SECTION 2. The following temporary provision is added to
11 the Texas Constitution:

12 TEMPORARY PROVISION. (a) This temporary provision applies
13 to the constitutional amendment proposed by the 85th Legislature,
14 Regular Session, 2017, providing for foregoing the transfer of oil
15 and gas production tax revenue to the economic stabilization fund
16 if the ending fund balance for the preceding fiscal year is greater
17 than \$5 billion and for reducing the rates of oil and gas production
18 taxes by amounts sufficient to equal the foregone transfer.

19 (b) The amendments to Section 49-g, Article III, of this
20 constitution take effect January 1, 2018, and apply only to oil
21 production taxes and gas production taxes imposed for a fiscal year
22 beginning after that date.

23 (c) This temporary provision expires January 1, 2018.

24 SECTION 3. This proposed constitutional amendment shall be
25 submitted to the voters at an election to be held November 7, 2017.
26 The ballot shall be printed to permit voting for or against the
27 proposition: "The constitutional amendment providing for

1 foregoing the transfer of oil and gas production tax revenue to the
2 economic stabilization fund if the ending fund balance for the
3 preceding fiscal year is greater than \$5 billion and for reducing
4 the rates of oil and gas production taxes by amounts sufficient to
5 equal the foregone transfer."