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By:  Metcalf H.J.R. No. 42

A JOINT RESOLUTION

proposing a constitutional amendment for the creation of an endowment fund for this state and for the retention, transfer, or appropriation of fund assets, including investment earnings received on fund assets.

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

SECTION 1.  Article III, Texas Constitution, is amended by adding Section 49-g-1 to read as follows:

Sec. 49-g-1. (a) In this section:

(1)  "Investment earnings" includes interest earned on assets.

(2)  "Texas-based business entity" means a business entity:

(A)  incorporated or otherwise formed under the laws of this state; or

(B)  the headquarters or other principal office of which is located in this state.

(b)  The endowment fund is created as a special fund in the state treasury outside the general revenue fund to generate investment earnings on endowment fund assets for transfer to other state funds, accounts, and purposes.

(c)  The endowment fund consists of:

(1)  money or other assets deposited to or otherwise transferred to the credit of the fund as provided by law; and

(2)  investment earnings received on fund assets, except to the extent amounts of those earnings are transferred from the fund in accordance with this section.

(d)  The comptroller shall invest the endowment fund assets separately from other treasury assets and funds. In managing the endowment fund assets, on behalf of the fund the comptroller:

(1)  shall ensure that at least 10 percent of the amount of invested fund assets is invested in Texas-based business entities; and

(2)  may acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration:

(A)  the investment of all the fund assets rather than a single investment; and

(B)  the goal of preserving the aggregate purchasing power of the fund assets.

(e)  In each state fiscal year beginning on or after September 1, 2040, and at the same time the comptroller makes the transfers to the economic stabilization fund as required by Section 49-g of this article, the comptroller shall transfer from the endowment fund the following amounts of the average amount of yearly investment earnings received in the five preceding state fiscal years from the investment of endowment fund assets:

(1)  an amount equal to 25 percent of those earnings to the general revenue fund;

(2)  an amount equal to five percent of those earnings to the economic stabilization fund, except as provided by Subsection (h) of this section;

(3)  an amount equal to 10 percent of those earnings to the foundation school fund or a successor fund or account from which grants are provided to school districts in this state to guarantee that each school district in this state has:

(A)  adequate resources to provide each eligible student a basic instructional program and facilities suitable to the student's educational needs; and

(B)  access to a substantially equalized program of financing in excess of basic costs for certain services; and

(4)  an amount equal to 10 percent of those earnings to the property tax relief fund or a successor fund or account the primary purpose of which is to reduce school district ad valorem maintenance and operations tax rates.

(e-1)  In each state fiscal year beginning on or after September 1, 2030, and at the same time the comptroller makes the transfers to the economic stabilization fund as required by Section 49-g of this article, the comptroller shall transfer from the endowment fund to the general revenue fund an amount equal to 15 percent of the average amount of yearly investment earnings received in the five preceding state fiscal years from the investment of endowment fund assets, and the comptroller shall transfer from the endowment fund to the economic stabilization fund five percent of the average amount of those yearly investment earnings, except as provided by Subsection (h) of this section. This subsection expires August 31, 2040.

(e-2)  Not later than the 90th day of each state fiscal year beginning on or after September 1, 2020, the comptroller shall transfer from the endowment fund to the general revenue fund an amount equal to 10 percent of:

(1)  in the state fiscal year beginning September 1, 2020, the total amount of investment earnings received in the preceding state fiscal year from the investment of endowment fund assets;

(2)  in the state fiscal year beginning September 1, 2021, the average amount of yearly investment earnings received in the two preceding state fiscal years from the investment of endowment fund assets;

(3)  in the state fiscal year beginning September 1, 2022, the average amount of yearly investment earnings received in the three preceding state fiscal years from the investment of endowment fund assets;

(4)  in the state fiscal year beginning September 1, 2023, the average amount of yearly investment earnings received in the four preceding state fiscal years from the investment of endowment fund assets; and

(5)  in each subsequent state fiscal year, the average amount of yearly investment earnings received in the five preceding state fiscal years from the investment of endowment fund assets.

(e-3)  Subsection (e-2) and this subsection expire August 31, 2030.

(f)  If a fund or account described by Subsection (e)(4) of this section does not exist, the comptroller shall transfer to the general revenue fund the amount otherwise required by Subsection (e)(4) of this section to be transferred. The transferred amount may be appropriated only to provide for the support of primary and secondary public education in this state.

(g)  The comptroller shall invest in the manner prescribed by Subsection (d) of this section the amounts of investment earnings on endowment fund assets that are not transferred from the fund in accordance with this section, subject to Subsection (i) of this section.

(h)  In the manner required by Section 49-g(c) of this article, the comptroller shall reduce the amounts of the transfers to the economic stabilization fund otherwise required by Section 49-g of this article if making all of the transfers to that fund otherwise required by this section and Section 49-g of this article in a state fiscal year would result in the balance of that fund exceeding the limit under Section 49-g(g) of this article. If after making those reductions the transfer otherwise required by this section would result in an amount in that fund that exceeds the limit under Section 49-g(g) of this article, the comptroller shall:

(1)  reduce the amount of the transfer under this section by the amount necessary to avoid exceeding the limit; and

(2)  retain the amount of the reduction in the endowment fund.

(i)  The legislature may, by a two-thirds vote of the members of each house, appropriate money from the endowment fund at any time for any purpose.

(j)  On November 30, 2019, the comptroller shall transfer $1 billion from the economic stabilization fund to the endowment fund. This subsection expires January 1, 2021.

SECTION 2.  This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 2019. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment for the creation of an endowment fund for this state and for the retention, transfer, or appropriation of fund assets, including investment earnings received on fund assets."