By:  Seliger S.J.R. No. 21

SENATE JOINT RESOLUTION

proposing a constitutional amendment to provide for foregoing the transfer of oil and gas production tax revenue to the economic stabilization fund if the ending fund balance for the preceding fiscal year is greater than 10 percent of the prior fiscal year's total net general revenue related collections and for reducing the rates of oil and gas production taxes by amounts sufficient to equal the foregone transfer.

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

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

(c)  Not later than the 90th day of each fiscal year, the comptroller of public accounts shall transfer from the general revenue fund to the economic stabilization fund and the state highway fund the sum of the amounts described by Subsections (d) and (e) of this section, to be allocated as provided by Subsection [Subsections] (c-1) [and (c-2)] of this section. However, if necessary and notwithstanding the allocation [allocations] prescribed by Subsection [Subsections] (c-1) [and (c-2)] of this section, the comptroller shall reduce proportionately the amounts described by Subsections (d) and (e) of this section to be transferred and allocated to the economic stabilization fund to prevent the amount in that fund from exceeding the limit in effect for that biennium under Subsection (g) of this section. Revenue transferred to the state highway fund under this subsection may be used only for constructing, maintaining, and acquiring rights-of-way for public roadways other than toll roads.

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

(c-2)  If the ending balance in the economic stabilization fund for the preceding fiscal year was not greater than 10 percent of the prior fiscal year's total net general revenue related collections, the rate of tax imposed on oil production and the rate of tax imposed on gas production in the current fiscal year shall be as provided by the legislature under general law [The legislature by general law shall provide for a procedure by which the allocation of the sum of the amounts described by Subsections (d) and (e) of this section may be adjusted to provide for a transfer to the economic stabilization fund of an amount greater than the allocation provided for under Subsection (c-1) of this section with the remainder of that sum, if any, allocated for transfer to the state highway fund. The allocation made as provided by that general law is binding on the comptroller for the purposes of the transfers required by Subsection (c) of this section].

(c-3)  If the ending balance in the economic stabilization fund for the preceding fiscal year was greater than 10 percent of the prior fiscal year's total net general revenue related collections, the comptroller shall not transfer any general revenue to the economic stabilization fund during the current fiscal year but shall transfer to the state highway fund under Subsection (c) of this section and retain as general revenue under Subsections (d) and (e) of this section the amounts that would have been transferred or retained had the ending balance been less than 10 percent of the prior fiscal year's total net general revenue related collections.

(c-4)  In this section:

(1)  "Tax relief set-aside" means the net amount of general revenue, as appropriate, that would have been transferred to the economic stabilization fund in the preceding fiscal year under Subsection (c) of this section had the ending balance in the fund for that fiscal year been not greater than 10 percent of the prior fiscal year's total net general revenue related collections.

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

(c-5)  If the ending balance in the economic stabilization fund for the preceding fiscal year was greater than 10 percent of the prior fiscal year's total net general revenue related collections, the rate of tax imposed on oil production for the current fiscal year shall be calculated by subtracting the tax-rate-cut factor from one and multiplying the remainder by the tax rate for oil production provided by the legislature under general law. The comptroller shall establish the rate of oil production tax not later than the 90th day of each fiscal year.

(c-6)  If the ending balance in the economic stabilization fund for the preceding fiscal year was greater than 10 percent of the prior fiscal year's total net general revenue related collections, the rate of tax imposed on gas production for the current fiscal year shall be calculated by subtracting the tax-rate-cut factor from one and multiplying the remainder by the tax rate for gas production provide by the legislature under general law. The comptroller shall establish the rate of gas production tax not later than the 90th day of each fiscal year.

(d)  If in the preceding fiscal 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, and the ending balance in the economic stabilization fund for the preceding fiscal year was not greater than 10 percent of the prior fiscal year's total net general revenue related collections, the comptroller shall transfer under Subsection (c) of this section and allocate in accordance with Subsection [Subsections] (c-1) [and (c-2)] of this section an amount equal to 75 percent of the difference between those amounts. The comptroller shall 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 fiscal 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, and the ending balance in the economic stabilization fund for the preceding fiscal year was not greater than 10 percent of the prior fiscal year's total net general revenue related collections, the comptroller shall transfer under Subsection (c) of this section and allocate in accordance with Subsection [Subsections] (c-1) [and (c-2)] of this section an amount equal to 75 percent of the difference between those amounts. The comptroller shall retain the remaining 25 percent of the difference as general revenue. For the purposes of this subsection, the comptroller shall adjust the computation of revenues to reflect only 12 months of collection.

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

TEMPORARY PROVISION.  (a)  This temporary provision applies to the constitutional amendment proposed by the 86th Legislature, Regular Session, 2019, providing for foregoing the transfer of oil and gas production tax revenue to the economic stabilization fund if the ending fund balance for the preceding fiscal year is greater than 10 percent of the prior fiscal year's total net general revenue related collections and for reducing the rates of oil and gas production taxes by amounts sufficient to equal the foregone transfer.

(b)  The amendments to Section 49-g, Article III, of this constitution take effect January 1, 2020, and apply only to oil production taxes and gas production taxes imposed for a fiscal year beginning after that date.

(c)  This temporary provision expires January 1, 2020.

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