By:  Taylor S.J.R. No. 78

A JOINT RESOLUTION

proposing a constitutional amendment relating to the permanent school fund.

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

SECTION 1.  Section 2, Article VII, Texas Constitution, is amended to read as follows:

Sec. 2.  PERMANENT SCHOOL FUND. (a) All funds, lands and other property heretofore set apart and appropriated for the support of public schools; all the alternate sections of land reserved by the State out of grants heretofore made or that may hereafter be made to railroads or other corporations of any nature whatsoever; one half of the public domain of the State; and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a permanent school fund.

(b)  The purpose of the permanent school fund is to maximize available revenue distributions for the education of students enrolled in the state's public education system.

SECTION 2.  Section 4, Article VII, Texas Constitution, is amended to read as follows:

Sec. 4.  SALE OF PERMANENT SCHOOL FUND LANDS; INVESTMENT OF PROCEEDS. The lands herein set apart to the Permanent School fund, shall be sold under such regulations, at such times, and on such terms as may be prescribed by law; and the Legislature shall not have power to grant any relief to purchasers thereof. The proceeds of such sales must be used to acquire other land for the Permanent School fund as provided by law or the proceeds shall be invested by the comptroller of public accounts, as [~~may be~~] directed by the entity designated by the Legislature to manage the assets of the Permanent School fund [~~Board of Education herein provided for~~], in the bonds of the United States, the State of Texas, or counties in said State, or in such other securities, and under such restrictions as may be prescribed by law; and the State shall be responsible for all investments.

SECTION 3.  Section 5, Article VII, Texas Constitution, is amended to read as follows:

Sec. 5.  PERMANENT SCHOOL FUND, [~~AND~~] AVAILABLE SCHOOL FUND, AND BICENTENNIAL EDUCATION FUND: COMPOSITION, MANAGEMENT, USE, AND DISTRIBUTION. (a) The permanent school fund consists of all land appropriated for public schools by this constitution or the other laws of this state, other properties belonging to the permanent school fund, [~~and~~] all revenue derived from the land or other properties, and all revenue otherwise deposited into the fund.

(a-1)  The available school fund consists of the distributions made to it from the total return on select [~~all~~] investment assets of and net revenue deposits into the permanent school fund as directed by the entity designated by the legislature to manage the assets of the permanent school fund, the taxes authorized by this constitution or general law to be part of the available school fund, and appropriations made to the available school fund by the legislature. The total amount distributed from the permanent school fund to the available school fund:

(1)  in each year of a state fiscal biennium must be an amount that is not more than six percent of the average of the market value of the permanent school fund, excluding real property belonging to the fund that is managed, sold, or acquired under Section 4 of this article, but including discretionary real assets investments and cash in the state treasury derived from property belonging to the fund, on the last day of each of the 16 state fiscal quarters preceding the regular session of the legislature that begins before that state fiscal biennium, in accordance with the rate adopted by:

(A)  a vote of two-thirds of the total membership of the entity designated by the legislature to manage the assets of the permanent school fund [~~State Board of Education]~~, taken before the regular session of the legislature convenes; or

(B)  the legislature by general law or appropriation, if the entity designated by the legislature to manage the assets of the permanent school fund [~~State Board of Education~~] does not adopt a rate as provided by Paragraph (A) of this subdivision; and

(2)  over the 10-year period consisting of the current state fiscal year and the nine preceding state fiscal years may not exceed the total return on all investment assets of the permanent school fund over the same 10-year period.

(a-2)  The bicentennial education fund consists of the distributions made to it from the total return on select investment assets of and net revenue deposits into the permanent school fund as directed by the entity designated by the legislature to manage the assets of the permanent school fund, the taxes authorized by this constitution or general law to be part of the bicentennial education fund, and appropriations made to the bicentennial education fund by the legislature.

(a-3)  The entity designated by the legislature to manage the assets of the permanent school fund shall coordinate distributions under subsections (a-1) and (a-2) as necessary to ensure sufficient funding is available to guarantee bonds issued under subsection (d).

(b)  The expenses of managing permanent school fund land and investments shall be paid by appropriation from the permanent school fund.

(c)  The available school fund and bicentennial education fund shall be applied annually to the support of the public free schools. Except as provided by this section, the legislature may not enact a law appropriating any part of the permanent school fund, [~~or~~] available school fund, or bicentennial education fund to any other purpose. The permanent school fund, [~~and~~] the available school fund, and the bicentennial education fund may not be appropriated to or used for the support of any sectarian school. The available school fund shall be distributed to the several counties according to their scholastic population and applied in the manner provided by law. The bicentennial education fund shall be distributed to school districts for the purposes of providing funding for merit-based teacher pay and for incentivizing scholastic achievement among historically underperforming student groups in the manner provided by law.

(d)  The legislature by law may provide for using the permanent school fund to guarantee bonds issued by school districts or by the state for the purpose of making loans to or purchasing the bonds of school districts for the purpose of acquisition, construction, or improvement of instructional facilities including all furnishings thereto. If any payment is required to be made by the permanent school fund as a result of its guarantee of bonds issued by the state, an amount equal to this payment shall be immediately paid by the state from the treasury to the permanent school fund. An amount owed by the state to the permanent school fund under this section shall be a general obligation of the state until paid. The amount of bonds authorized hereunder shall not exceed $750 million or a higher amount authorized by a two-thirds record vote of both houses of the legislature. If the proceeds of bonds issued by the state are used to provide a loan to a school district and the district becomes delinquent on the loan payments, the amount of the delinquent payments shall be offset against state aid to which the district is otherwise entitled.

(e)  The legislature may appropriate part of the available school fund for administration of a bond guarantee program established under this section.

(f)  Notwithstanding any other provision of this constitution, in managing the assets of the permanent school fund, the entity designated by the legislature to manage the assets of the permanent school fund [~~State Board of Education~~] may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions it establishes and in amounts it considers appropriate, any kind of investment [~~, including investments in the Texas growth fund created by Article XVI, Section 70, of this constitution,~~] that persons of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the circumstances then prevailing, acquire or retain for their own account in the management of their affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

[~~(g)  Notwithstanding any other provision of this constitution or of a statute, the General Land Office or an entity other than the State Board of Education that has responsibility for the management of permanent school fund land or other properties may in its sole discretion distribute to the available school fund each year revenue derived during that year from the land or properties, not to exceed $300 million each year.~~]

SECTION 4.  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 relating to the creation of the Bicentennial Education Fund, the dedication of funds for teacher pay and historically underperforming student groups, and the transfer of the management and investment of the permanent school fund to an entity designated by the legislature."