

By: Taylor

S.J.R. No. 78

1 A JOINT RESOLUTION

2 proposing a constitutional amendment relating to the permanent
3 school fund.

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

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

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

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

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

20 Sec. 4. SALE OF PERMANENT SCHOOL FUND LANDS; INVESTMENT OF
21 PROCEEDS. The lands herein set apart to the Permanent School fund,
22 shall be sold under such regulations, at such times, and on such
23 terms as may be prescribed by law; and the Legislature shall not
24 have power to grant any relief to purchasers thereof. The proceeds

1 of such sales must be used to acquire other land for the Permanent
2 School fund as provided by law or the proceeds shall be invested by
3 the comptroller of public accounts, as ~~[may be]~~ directed by the
4 entity designated by the Legislature to manage the assets of the
5 Permanent School fund ~~[Board of Education herein provided for]~~, in
6 the bonds of the United States, the State of Texas, or counties in
7 said State, or in such other securities, and under such
8 restrictions as may be prescribed by law; and the State shall be
9 responsible for all investments.

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

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

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

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

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

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

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

24 (a-2) The bicentennial education fund consists of the
25 distributions made to it from the total return on select investment
26 assets of and net revenue deposits into the permanent school fund as
27 directed by the entity designated by the legislature to manage the

1 assets of the permanent school fund, the taxes authorized by this
2 constitution or general law to be part of the bicentennial
3 education fund, and appropriations made to the bicentennial
4 education fund by the legislature.

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

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

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

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

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

22 (f) Notwithstanding any other provision of this
23 constitution, in managing the assets of the permanent school fund,
24 the entity designated by the legislature to manage the assets of the
25 permanent school fund [~~State Board of Education~~] may acquire,
26 exchange, sell, supervise, manage, or retain, through procedures
27 and subject to restrictions it establishes and in amounts it

1 considers appropriate, any kind of investment [~~, including~~
2 ~~investments in the Texas growth fund created by Article XVI,~~
3 ~~Section 70, of this constitution,~~] that persons of ordinary
4 prudence, discretion, and intelligence, exercising the judgment
5 and care under the circumstances then prevailing, acquire or retain
6 for their own account in the management of their affairs, not in
7 regard to speculation but in regard to the permanent disposition of
8 their funds, considering the probable income as well as the
9 probable safety of their capital.

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

17 SECTION 4. This proposed constitutional amendment shall be
18 submitted to the voters at an election to be held November 5, 2019.
19 The ballot shall be printed to permit voting for or against the
20 proposition: "The constitutional amendment relating to the
21 creation of the Bicentennial Education Fund, the dedication of
22 funds for teacher pay and historically underperforming student
23 groups, and the transfer of the management and investment of the
24 permanent school fund to an entity designated by the legislature."