LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 2, 2019

TO: Honorable John Zerwas, Chair, House Committee on Appropriations

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HJR10** by Capriglione (Proposing a constitutional amendment providing for the creation of the Texas legacy fund and the Texas legacy distribution fund, dedicating earnings on the Texas legacy distribution fund to certain state infrastructure projects or the reduction of certain long-term obligations, and providing for the transfer of certain general revenues to the economic stabilization fund, the Texas legacy fund, and the state highway fund.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HJR10, As Introduced: a negative impact of ($177,289) through the biennium ending August 31, 2021.

Additionally, the joint resolution will create a net positive impact of $389,647,000 to Other Funds during the 2020-21 biennium.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	($177,289)
2021	$0
2022	$0
2023	$0
2024	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from *General Revenue Fund* 1	Probable Revenue (Loss) from *Economic Stabilization Fund* 599	Probable Revenue Gain from *Texas Legacy Fund*	Probable Revenue Gain from *Texas Legacy Distribution Fund*
2020	($177,289)	($3,554,651,000)	$3,619,700,000	$0
2021	$0	($1,470,153,000)	$1,670,156,000	$124,595,000
2022	$0	($1,764,512,000)	$2,038,369,000	$144,777,000
2023	$0	($2,167,515,000)	$2,522,894,000	$172,704,000
2024	$0	($2,375,612,000)	$2,835,498,000	$207,122,000

Fiscal Analysis

The resolution would propose amendments to Article III of the Texas Constitution providing for creation of the Texas Legacy Fund (TLF) and the Texas Legacy Distribution Fund (TLDF) and dedicating earnings of the TLDF to certain state infrastructure projects or reduction of certain long-term obligations.

The resolution would amend Section 49-g, Article III of the Texas Constitution relating to the Economic Stabilization Fund (ESF). Under the provisions of the resolution, the Comptroller would be required to invest the ESF as provided by general law and the expenses of managing the ESF would be paid from the ESF without appropriation. In a circumstance where the ESF's unappropriated balance is equal to or greater than its sufficient balance, the Comptroller would be required to transfer to the TLF the full amount of any unencumbered positive balance of the General Revenue Fund generally required to be transferred to the TLF. However, if the ESF's unappropriated balance is less than its sufficient balance, the Comptroller would be required to transfer to the ESF the amount necessary to make its unappropriated balance equal to the sufficient balance; the remainder would be transferred to the TLF. If the ESF's unappropriated balance is equal to or greater than its sufficient balance, the Comptroller would be required to transfer the ESF's current portion of oil and gas severance tax revenue (one-half) to the TLF instead of to the ESF. If the ESF's unappropriated balance is less than its sufficient balance, the Comptroller would be required to reduce oil and gas tax allocations to the TLF and the State Highway Fund in equal shares until the ESF's sufficient balance would be reached, or would be required to allocate the entire oil and gas transfer amount to the ESF if the transfer is too small to achieve the sufficient balance. The Comptroller would be required to credit to the TLF instead of to general revenue any interest due to the ESF that would result in an amount in the ESF that would exceed the ESF's allowable cap.

The amendment would create the TLF as a special fund in the state treasury. The Comptroller would be required to invest money in the TLF as provided by general law; the expenses of managing fund investments would be paid from the fund without an appropriation. The Comptroller would credit to the fund interest and earnings attributable to fund investments. The Legislature could appropriate money to the TLF and appropriations would be made from the TLDF, not the TLF. Each fiscal year the Comptroller would be required to transfer a portion of the accumulated interest and other earnings of the TLF to the credit of the TLDF. The Comptroller would determine the amount of the transfer in a manner that would provide a stable and predictable stream of annual transfers, while preserving the purchasing power of the principal amount of the TLF.

The amendment would create the TLDF as a special fund in the state treasury. The Comptroller would be required to invest money in the TLDF as provided by general law and the expenses of managing fund investments would be paid from the fund without an appropriation. The Comptroller would credit to the fund interest and earnings attributable to fund investments. Money in the fund would be used to pay for: (1) state debt service obligations that currently depend on general revenue for debt service; (2) unfunded actuarial liabilities of the Employees Retirement System of Texas or the Teacher Retirement System of Texas, notwithstanding the limitation on contributions otherwise provide by Section 67(b), Article XVI of the Texas Constitution; (3) projects to repair, renovate, rehabilitate or construct state infrastructure excluding transportation infrastructure, or (4) certain other long-term obligations of this state. Appropriations from the fund would not be considered an appropriation of state tax revenue for the purposes of calculating the spending limit.

The amendment would require the Comptroller, as soon as practicable, to transfer $3.5 billion from the ESF to the TLF.

This proposed constitutional amendment would be submitted to voters at an election to be held November 5, 2019.

Methodology

The fiscal impact analysis is based on the 2020-21 Biennial Revenue Estimate. The fiscal 2020 ESF revenue reduction is a result of the $3.5 billion transfer to the new TLF and the associated implications to interest and earnings. In subsequent years, revenue losses are the sum of discontinued transfers of revenue associated with oil and gas tax collections that would be redirected to the TLF plus increased interest and earnings resulting from the ESF investments that would be made in accordance with prudent investor standards.

The gain to the TLF in fiscal 2020 consists of the $3.5 billion that would be transferred from the ESF and interest and earnings on the fund's balance. In subsequent years, gains are the sum of oil and gas tax-related transfers plus net interest and income earnings inflows on the fund's balance and the fund's outflows to the TLDF. This estimate assumes a 6.84% 10-Year Rate of Return for the TLF.

The gains to the TLDF are the yearly distribution amounts calculated in a manner to provide a stable and predictable stream of annual transfers while preserving the purchasing power of the principal amount of the TLF.

The cost to the state for publication of the resolution is $177,289 in fiscal year 2020.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: WP, KK, SD