

RESOLUTION ANALYSIS

C.S.H.J.R. 10
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Appropriations
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been noted that the balance of the economic stabilization fund, also known as the rainy day fund, is at an all-time high due to increases in severance tax collections. It is additionally noted that the comptroller of public accounts has suggested that, in addition to depositing severance tax revenue into the state highway fund, the remaining severance tax revenues could be deposited into a new, special fund called the Texas legacy fund (TLF) to be invested in a manner designed to safeguard a portion of the revenue the state enjoys today. C.S.H.J.R. 10 proposes a constitutional amendment to establish the TLF and the related Texas legacy distribution fund, provide for the reallocation of certain severance tax revenue to the TLF if the rainy day fund balance is equal to or exceeds its established sufficient balance, and make a one-time transfer of \$500 million to the TLF.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this resolution does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this resolution does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.J.R. 10 proposes an amendment to the Texas Constitution to establish the Texas legacy fund (TLF) and the Texas legacy distribution fund (TLDF) as special funds in the state treasury. The resolution requires the comptroller of public accounts to invest the TLF, the TLDF, and the economic stabilization fund, also known as the rainy day fund, as provided by general law and to credit to the funds the interest and other earnings attributable to the investment of money in the respective funds, subject to the applicable constitutional limits and transfer requirements. The expenses of managing the investments of the rainy day fund, the TLF, and the TLDF are paid from the respective funds without appropriation.

C.S.H.J.R. 10 requires the legislature by general law to determine a sufficient rainy day fund balance, or a method to determine that sufficient balance, for purposes of allocating certain amounts to be transferred to the rainy day fund, the TLF, and the state highway fund. The resolution revises the requirement for the comptroller to transfer to the rainy day fund, not later than the 90th day of each biennium, one-half of any unencumbered positive balance of general revenues on the last day of the preceding biennium by specifying that the transfer comes from the general revenue fund and by including the TLF as a recipient of the transfer. The resolution requires the comptroller to allocate to the TLF the total amount required to be transferred if the unappropriated rainy day fund balance at the time the comptroller makes the transfer is equal to or greater than the sufficient rainy day fund balance. The resolution requires the comptroller, if

the unappropriated rainy day fund balance at the time the comptroller makes the transfer from general revenue is less than the sufficient rainy day fund balance, to allocate to the rainy day fund an amount equal to the lesser of the amount necessary to make the unappropriated rainy day fund balance equal to the sufficient balance and the total amount required to be transferred and to allocate to the TLF an amount equal to the remainder, if any, of that total amount after making the allocation to ensure a sufficient rainy day fund balance.

C.S.H.J.R. 10 revises the requirement for the comptroller to transfer from the general revenue fund to the rainy day fund and the state highway fund, not later than the 90th day of each state fiscal year, the sum of certain net amounts of oil and gas production taxes received by the state in the preceding year by including the TLF as a recipient of that fund transfer. The resolution replaces the rainy day fund with the TLF as the recipient of one-half of the sum of those oil and gas production tax revenues. The resolution revises the requirement for the legislature to provide for a procedure by which the allocation of the sum of those oil and gas production tax revenues may be adjusted to provide for an allocation for transfer to the rainy day fund of an amount greater than one-half of the sum of those revenues with the remainder of that sum, if any, allocated for transfer to the state highway fund by changing the amount of the transfer to the rainy day fund for which such an adjustment may be made to an amount determined under general law and by including the TLF among the recipients of the transfer of any remaining amount. The resolution changes the fund to which the comptroller is required to credit interest due to the rainy day fund that would result in an amount in the rainy day fund that exceeds the constitutional limit from the general revenue fund to the TLF.

C.S.H.J.R. 10 requires the comptroller, each fiscal year, to transfer a portion of the accumulated interest and other earnings credited to the TLF from the TLF to the TLDF. The resolution requires the comptroller, in making a transfer, to determine the amount of the transfer in a manner to provide a stable and predictable stream of annual transfers while preserving over time the purchasing power of the principal amount of the TLF. The resolution authorizes the comptroller, if the comptroller determines that the purchasing power of the principal amount of the TLF has diminished when computed for any 10-year period, to reduce the amount of the annual transfers from the TLF to the TLDF and to retain a greater portion of the interest and earnings on the principal in the TLF so that the purchasing power of the TLF's principal is restored.

C.S.H.J.R. 10 authorizes the legislature to appropriate money to the TLF and the TLDF in addition to money transferred to the respective funds under the resolution's provisions. The resolution prohibits the legislature from appropriating money from the TLF and limits the purposes for which the legislature may appropriate money from the TLDF to paying for the following:

- redemption or defeasance in advance of scheduled maturity of state debt obligations that depend on general revenue for debt service;
- unfunded actuarial liabilities of the Employees Retirement System of Texas (ERS) or the Teacher Retirement System of Texas (TRS), notwithstanding the constitutional limitation on state contributions to those systems;
- projects to repair, renovate, rehabilitate, or construct state infrastructure other than transportation infrastructure and higher education facilities; or
- other state obligations that are recognized as long-term obligations according to generally accepted accounting principles and that are approved by the legislature by general law, by a vote of two-thirds of the members present in each house, to be paid for from appropriations made from the TLDF.

The resolution excludes an appropriation of money from the TLDF for paying for the unfunded actuarial liabilities of ERS or TRS, regardless of the source of the revenues appropriated, from the calculation of the rate of growth of appropriations from state tax revenues not dedicated by the constitution.

C.S.H.J.R. 10 adds a temporary provision set to expire January 1, 2021, making the resolution's provisions effective January 1, 2020; requiring the comptroller, as soon as practicable after January 1, 2020, to establish the TLF and the TLDF and to invest the rainy day fund, the TLF, and the TLDF as provided by general law; and requiring the comptroller to transfer from the rainy day fund the amount of \$500 million as the principal balance of the TLF.

ELECTION DATE

The constitutional amendment proposed by this joint resolution will be submitted to the voters at an election to be held November 5, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.J.R. 10 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the resolution.

The substitute revises the authorization for the legislature to appropriate money from the TLDF to pay for state debt service obligations that depend on general revenue for debt service to require such an appropriation to pay for redemption or defeasance in advance of scheduled maturity of such state debt obligations.

The substitute limits the applicability of the provision excluding appropriations from the TLDF from the calculation of the rate of growth of appropriations from state tax revenues not dedicated by the constitution to appropriations from the TLDF to pay for the unfunded actuarial liabilities of ERS or TRS.

The substitute reduces the amount transferred from the rainy day fund as the principal balance of the TLF from \$3.5 billion to \$500 million.