

RESOLUTION ANALYSIS

H.J.R. 140
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Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

During the COVID-19 pandemic, Texas has diligently managed its fiscal resources and economy to ensure that the state legislature would not have to create new taxes or increase existing taxes to balance the state budget. Unfortunately, this is not the case for every state, as many across the nation are facing fiscal challenges. Some have proposed new taxes on financial transactions, which critics argue could pose a serious threat to anyone investing for retirement. It has been noted that many Texans depend on marginal returns from their investments to save for their retirements and also depend on the ability to buy or sell securities so that they are positioned to maximize returns and minimize losses. An additional tax on transactions would encroach on retirees' overall returns, making it more difficult for them to save for the future. Due to sound past stewardship of state spending, such a tax is not necessary to continue providing services to Texans and would have a detrimental effect on the state's economy. H.J.R. 140 seeks to ensure that Texans remain protected against burdensome financial taxes by proposing an amendment to the Texas Constitution to prohibit the enactment of any law that imposes an occupation tax upon certain securities market operators or securities transactions.

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

H.J.R 140 proposes an amendment to the Texas Constitution to prohibit the enactment of any law after January 1, 2022, that imposes an occupation tax upon a Registered Securities Market Operator or a tax upon a securities transaction of a Registered Securities Market Operator. The resolution expressly does not prohibit any of the following:

- the imposition of a general business tax measured by business activity;
- the imposition of a tax on the production of minerals;
- the imposition of a tax on insurance premiums;
- the imposition of a general sales tax on tangible personal property or services;
- the imposition of a fee based on the cost of processing documents; or
- the change of a rate of a tax in existence on January 1, 2022.

The resolution defines, among other terms, "Registered Securities Market Operator" as a self-regulatory organization, national securities exchange, financial institution, alternative trading system, trade reporting facility, broker, dealer, clearing agency, transfer agent, board of trade, commodities pool operator, derivatives clearing organization, electronic trading facility, organized exchange, or an affiliate, subsidiary, or facility thereof, to the extent that any such

entity is subject to registration with and regulation by the U.S. Securities and Exchange Commission or the U.S. Commodities Futures Trading Commission. The resolution defines "securities transaction" as the purchase or sale of securities by a Registered Securities Market Operator on behalf of a customer, any contract or agreement to do the same, and any service by a Registered Securities Market Operator to facilitate, match parties to, process, report, clear, or settle the purchase or sale of securities on behalf of a customer. The resolution provides for the meaning of "security" and "securities" by reference to federal law.

ELECTION DATE

The constitutional amendment proposed by this joint resolution will be submitted to the voters at an election to be held November 3, 2021.