

BILL ANALYSIS

Senate Research Center
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S.J.R. 66
By: Williams
Finance
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 4, Article VII, Texas Constitution, currently provides that proceeds from real estate investments of the permanent school fund (PSF) may be used to acquire additional real estate assets or transferred to the State Board of Education (SBOE) for investment in securities. Section 5, Article VII, Texas Constitution, requires SBOE to make a distribution of a percentage of the total return on PSF monies invested in securities to the available school fund (ASF). There is no corresponding provision for payment of a distribution of returns from real estate investments of the PSF directly to the ASF.

S.J.R. 66 proposes a constitutional amendment that creates the real estate special fund account of the PSF, which contains all real estate assets of the PSF and designates the remaining investment assets, which are still managed by SBOE, as the investment special fund account of the PSF. The proposed amendment further provides for a distribution from the real estate special fund account of the PSF directly to the ASF. In addition, the amendment provides that the legislature will designate the commissioner of the General Land Office or another statutorily designated entity to manage the real estate special fund account of the PSF. The amendment also allows for transfers of funds from the real estate special fund account to the investment special fund account of the PSF and for transfers of funds from the investment special fund account of the PSF to the real estate special fund account of the PSF.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to any state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 4, Article VII, Texas Constitution, as follows:

Sec. 4. (a) Provides that the real estate special fund account (account) is part of the permanent school fund (PSF) and is managed and controlled by the Commissioner of the General Land Office or another entity as designated by general law (commissioner). Requires the lands and other interests in real estate herein set apart to the PSF, rather than the Public Free School fund, to be managed, leased, or sold by the commissioner under such regulations, at such times, and on such terms as may be prescribed by law. Prohibits the legislature from having power to grant any relief to purchasers of PSF lands. Makes conforming changes.

(b) Provides that the proceeds of sales of PSF lands, together with the proceeds of mineral leases and royalties generated from leases of PSF mineral interests and all income arising from lands and other interests in real estate dedicated to the PSF, are dedicated to the account of the PSF. Requires the total amount distributed from the account of the PSF to the available school fund (ASF) (total amount distributed) in each year of a state fiscal biennium to be not more than eight percent of the average of the market value of the account of the PSF on the last day of each of the 16 state fiscal quarters preceding the regular session of the legislature that begins before the state fiscal biennium in accordance with certain rates, and prohibits the total amount distributed over the 10-year period consisting of the current state fiscal year and the nine preceding state fiscal years from

exceeding the total return on all investment assets of the account over the same 10-year period.

(c) Authorizes the commissioner to acquire, exchange, sell, supervise, manage, or retain, through procedures established and subject to certain restrictions, and in amounts deemed appropriate by the commissioner or other designated entity, any kind of real estate investment 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.

(d) Authorizes the commissioner to transfer funds from the account of the PSF to the investment special fund account of the PSF established under Section 5(a-1) of this article if the commissioner determines, using the standard of care set forth in Subsection (c), that such transfer is in the best interest of the PSF.

(e) Prohibits the total amount distributed for each state fiscal year before the state fiscal year beginning September 1, 2017, notwithstanding Subsection (b), from exceeding the total return on all real estate investment assets belonging to the account of the PSF in the preceding state fiscal year.

(f) Provides that Subsection (e) and this subsection expire December 1, 2017. Deletes existing text requiring the proceeds of sale of certain lands to be used to acquire other land for the Public Free School fund as provided by law or the proceeds to be invested by the comptroller of public accounts, as may be directed by the State Board of Education (SBOE), 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. Deletes existing text requiring the state to be responsible for all investments.

SECTION 2. Amends Section 5, Article VII, Texas Constitution, by amending Subsections (a), (d), and (f) and adding Subsections (a-1) and (g), as follows:

(a) Provides that the PSF consists of, among other things, interests belonging to the PSF. Provides that the ASF consists of the distributions made to it from the total return on all investment assets of the investment special fund account of the PSF and the account established under Section 4(a) of this article.

(a-1) Provides that the investment special fund account is part of the PSF and is managed and controlled by SBOE. Makes conforming changes.

(d) Authorizes the legislature to provide for using the investment special fund account of the PSF, rather than using the PSF, to guarantee certain bonds. Makes conforming changes.

(f) Makes conforming changes.

(g) Authorizes SBOE to transfer funds from the investment special fund account of the PSF to the account of the PSF established under Section 4(a) of this article if SBOE determines, using the standard of care set forth in Subsection (f), that such transfer is in the best interest of the PSF.

SECTION 3. Requires this proposed constitutional amendment to be submitted to the voters at an election to be held November 6, 2007. Sets forth the required language for the ballot.