



Representative

Desk

LSG Floor Report—July 15, 2013

HB 16 and HJR 2 (Transportation Funding)

Author: Rep. Pickett

Recommendation: Will of the House with Concerns

Committee: Appropriations

Background on Transportation Funding

Governor Perry added transportation funding to the call of the special session. Specifically, the call reads:

Legislation relating to the funding of transportation infrastructure projects.

During the 83rd Regular Session, the Texas Department of Transportation (TxDot) stated that it needs an extra \$4 billion annually for transportation just to maintain existing levels of congestion on Texas' roads. An additional \$1.6 billion was requested to address road repairs in rural areas of the state under heavy use due to energy development. Of the \$5.6 billion requested, the Legislature appropriated \$850 million – \$450 million for roads in booming shale areas, and \$400 million for general transportation for the two-year budget cycle. Additionally, lawmakers passed several bills to allow for local communities to build roads with tolls and debt.

In response to Governor Perry's call, during the 1st Called Session of the 83rd Legislature, the Senate proposed a constitutional amendment that would create a permanent redirection of half of all future Rainy Day Fund dollars to the State Highway fund. This legislation passed the Senate and the House, but failed to finally pass before the special session expired.

During this 2nd Called Session of the 83rd Legislature, the Senate once again passed out a joint resolution, SJR 1, which would address some of the funding issues for TxDot with future Rainy Day Fund dollars. However, the House Appropriations Committee declined to pass SJR 1 and in its place passed HJR 2 and HB 16. Instead of redirecting funds away from the Rainy Day Fund, this legislation would end the constitutional allocation of 25 percent of motor fuels taxes that currently go towards the Available School Fund.

Under the Senate's proposal, of the existing dollars currently transferred to the Rainy Day Fund, 50% would go to the Rainy Day Fund as it traditionally does, while the other 50% would automatically be redirected to the State Highway Fund. This would generate approximately \$889 million more for the 2014-2015 biennium, with none of those dollars available until September 1, 2014 – at the end of the 2014 fiscal year. The Senate also included a provision to create a floor in the Rainy Day Fund. Specifically, the language says that if the amount available in the Rainy Day Fund dips below a certain amount, the dollars redirected to the State Highway Fund would be returned to the Rainy Day Fund. The push to create a minimum amount in the Rainy Day Fund is based on unfounded concerns by some lawmakers that a specific amount must be kept in the Rainy Day Fund to protect the state's credit ratings. However, neither the Texas Comptroller nor any credit agency has stated what such an amount may be, and the state has completely depleted the Rainy Day Fund in past legislative sessions without any threat to the state's credit ratings.

The Senate's proposal is concerning because it would limit the legislature's ability to stabilize economic services wherever it is needed most in the future. By forever removing half of the money available to lawmakers for future emergency appropriations, the state would be forfeiting significant control of a major appropriation tool without any guarantee that the dollars spent from the Rainy Day Fund would not merely supplant general revenue investments.



Conversely, HJR 1 and its companion legislation would generate a similar amount of revenue by ending the public education allocation from the motor fuels tax. The Texas Constitution requires three quarters of the tax to go to Fund 6, the State Highway Fund. The other quarter goes to the Available School Fund to support public education. Additionally, it directs the Comptroller, when sweeping unencumbered balances from certain accounts at the end of session, to direct those dollars towards the Available School Fund instead of the Rainy Day Fund.

While this proposal is better because it does not handcuff the Rainy Day Fund, it would result in a net loss for the Available School Fund that would have to be offset by General Revenue and/or the Rainy Day Fund. This furthers the Legislature's movement away from dedicated funds for Public Education, thus requiring more and more General Revenue to maintain operations for public schools. This is an unfavorable funding mechanism for public education and merits a responsible policy solution.

Ultimately, the legislation proposed by the House and Senate both fail to address the core issues with financing infrastructure in the state. Texas does not collect enough revenue to maintain investments in education, health care, water, transportation, and other crucial state services. Neither HJR 2 nor SJR 1 creates new revenue for the state; instead, they redirect existing state dollars to provide a temporary solution to the state's long term issues.

HJR 2

The proposed ballot language for HJR 2 would read:

"The constitutional amendment to provide for certain revenue from motor fuel taxes to be used solely for constructing, maintaining, and acquiring rights-of-way for certain public roadways and to provide for the transfer of certain general revenue to the economic stabilization fund and the available school fund."

If approved by voters in November, HJR 2 would end the 25 percent allocation from the motor fuels tax for the Available School Fund. These dollars would then flow to Fund 6 to help cover transportation needs. It is expected to generate \$819 million in fiscal 2015 and \$858 million in fiscal 2018.

To help offset the loss of revenue for the Available School Fund, HJR 2 directs the comptroller to allocate certain general revenue funds that would normally go towards the Rainy Day Fund. From net motor fuels tax revenue, the Comptroller is instructed to allocate the lesser of:

- 25 percent of the net revenue derived in the preceding year from all taxes, except gross production and ad valorem taxes, imposed on motor fuels used to propel motor vehicles over public roadways that remains after payment of all refunds allowed by law and expenses of collection; OR
- The total amount currently required to be transferred to the Rainy Day Fund.

HB 16

HB 16 is the companion legislation for HJR 2. If HJR 2 is approved by voters, HB 16 would make conforming changes to statute to end the 25 percent of the motor fuels tax that goes to the Available School Fund. Further, it would direct the comptroller to transfer a third of revenue exceeding \$2.8 billion from motor vehicle sales and other taxes.