

## **BILL ANALYSIS**

Senate Research Center

H.J.R. 4  
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Tax Reform & Public School Finance  
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Engrossed

### **DIGEST**

Recently, the Governor submitted a constitutional proposal to the legislature which provided for the creation of the Texas School Trust Fund, increased residential homestead exemptions on maintenance and operations of school districts, and excluded the business activity tax from Article VIII, Section 24 and Article VII, Section 3. The Select Committee on Revenue and Public Education Funding, after extensive examination, developed a plan to provide additional property tax relief and create a reliable stream of revenue for public education. H.J.R. 4 ensures a stable source of revenue for public education and provides property tax relief by establishing first priority spending for public education; dedicating lottery proceeds; creating a limited tax on non-residential property; authorizing a franchise tax on business entities other than sole proprietorships; and allowing portability of the school property tax freeze for the elderly. The constitutional amendment would be placed on the uniform election date in August, 1997.

### **PURPOSE**

As proposed, H.J.R. 4 requires the submission to the voters of a constitutional amendment providing financial support for elementary and secondary public education; dedicating revenue and authorizing priority allocations of certain revenue; authorizing a state property tax and certain taxes on entities; providing property tax relief and reduced school taxes on residential property, including certain homestead property; and making implementation and conforming amendments.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

**SECTION 1.** Adds Section 1, Article VII, Texas Constitution, to require the financial support of elementary and secondary public school education to be the first priority among state spending and appropriations, subject only to constitutional revenue dedications and the payments of lawfully incurred state debt. Sets forth the policy of the state regarding the provision of public education. Establishes the conditions under which the public school finance system of this state is required to adhere to a standard of neutrality that provides for substantially equal access to similar revenue per student at similar tax effort. Prohibits the legislature from appropriating, for any biennium, an amount of state funds for the maintenance and operation of public schools and their buildings that is less than the amount appropriated in the prior biennium, adjusted for student population growth. Makes a conforming change.

**SECTION 2.** Amends Section 1-e, Article VIII, Texas Constitution, to authorize the legislature to impose ad valorem taxes for public free school purposes, at a rate not to exceed \$1.05 per \$100 of taxable value, on property not subject to taxation for maintenance and operations purposes by a school district and not otherwise exempted by this constitution or by the legislature under the authority of this constitution. Authorizes the legislature to provide for the appraisal, equalization of value, and tax collection of property subject to state ad valorem taxes. Deletes obsolete language relating to the disposition of receipts from the previously authorized state ad valorem tax. Authorizes the legislature to exempt from ad valorem taxes property pursuant to a tax abatement agreement entered into before January 1, 1997, by the school district, or in certain reinvestment zones created on or before April 1, 1997. Requires state ad valorem taxes to be assessed on the valuation of

property subject to those taxes as determined by appraisal officials in the county in which the property is located until the end of the 1999 ad valorem tax year. Provides that the assessment on that valuation is valid if the appraisal and equalization process conform to accepted standards and practices. Authorizes the legislature by general law to authorize the state to use increases in ad valorem tax revenues imposed on property in a reinvestment zone to finance the development or redevelopment of property in the zone under certain circumstances. Makes a conforming change.

SECTION 3. Amends Section 3, Article VII, Texas Constitution, to require an annual ad valorem state tax to be levied and collected as provided by Subsection 2, Section 1-e, Article VIII, of this constitution to maintain and support the public schools of this state. Authorizes lottery proceeds, less prize money and administrative costs, to be spent only for elementary and secondary public free schools. Deletes obsolete references to poll taxes, the original state property tax, and school facilities taxes. Authorizes the deficit to be met by appropriation from the general fund of the state if taxation and revenue are insufficient. Authorizes the legislature, by general law, to provide for the management and control of the public schools of public school districts. Authorizes the legislature to provide for school districts to impose an ad valorem tax on all residential property. Authorizes the legislature to set a statutory cap on school district ad valorem tax rates, except that a school district may not impose a tax for maintenance and operations at a rate greater than \$1.05 on the \$100 valuation of taxable property. Authorizes the legislature to provide for school districts to impose an additional ad valorem tax on all otherwise nonexempt property for purposes of the erection and equipment of school buildings if approved by a majority of school district voters. Makes conforming changes.

SECTION 4. Amends Section 1, Article VIII, Texas Constitution, by amending Subsection (c), and adding Subsections (c-1), (i), and (j), to authorize the legislature to impose privilege or franchise taxes, measured by the income or taxable capital of a corporation, partnership, or business entity other than a sole proprietorship. Establishes that a sole proprietorship, rather than persons, engaged in mechanical or agricultural pursuits shall never be required to pay an occupation tax. Provides that this subsection does not prohibit the imposition of taxes on municipally-incorporated gas, electric, or water utilities. Provides that the use of income earned or receipts after December 31, 1996, to measure or apportion to this state a privilege or franchise tax, is not prohibited. Provides that this section expires January 1, 2000. Sets forth the terms by which, notwithstanding Subsections (a) and (b), the legislature by general law is authorized to limit the maximum annual increase in the appraised value of residence homesteads for ad valorem tax purposes; and is authorized to limit the frequency with which increases in the appraised value of real property may be recognized.

SECTION 5. Amends Section 1-b(d), Article VIII, Texas Constitution, to authorize the legislature, by general law, to provide for the transfer of a frozen property tax rate for persons 65 or older if the qualified person establishes a different residence homestead. Prohibits a school district, if the total amount of a school district's taxes imposed in 1997 for elementary and secondary public school purposes on a residence homestead subject to a limitation is less than the total amount of the school district's taxes on that homestead in the first year that the homestead qualified for the limitation, from imposing taxes in a subsequent tax year which exceed the amount of the 1997 school district taxes, with certain exceptions. Makes conforming changes.

SECTION 6. Amends Article VIII, Texas Constitution, by adding Section 1-b-2, as follows:

Sec. 1-b-2. NOTICE OF PROPERTY TAX DECREASE. Establishes the conditions under which the person controlling an escrow account maintained on September 1, 1997, in connection with a real property mortgage, is required to deliver to the person who pays money into the account a notice of property tax decrease. Sets forth the language of the notice. Provides that this section expires December 31, 1998.

SECTION 7. Amends Article VIII, Texas Constitution, by adding Section 1-b-3, as follows:

Sec. 1-b-3. NOTICE OF PROPERTY TAX REDUCTION. Requires the chief appraiser of each appraisal district, not later than October 1, 1997, to send to each owner of a residence homestead in the appraisal district a notice of property tax reduction. Sets forth the language

of the notice. Provides that this section expires December 31, 1998.

SECTION 8. Amends Section 1-j, Article VIII, Texas Constitution, by amending Subsection (a), and adding Subsection (a-1), to provide that property described by Subsection (a) of this section, regarding goods, wares, merchandise, other tangible property, and certain ores, is not exempt from ad valorem taxes imposed under Section 1-e of this article if the property is located in a school district that taxes it for the tax year. Make a conforming change.

SECTION 9. Amends Article VIII, Texas Constitution, by adding Section 1-m, as follows:

Sec. 1-m. Establishes the conditions under which the legislature is authorized by general law to provide that the owner of property consisting of a separate interest in oil or gas, in lieu of ad valorem taxes on the property, may elect to pay a gross wellhead receipts tax.

SECTION 10. Amends Article VIII, Texas Constitution, by adding Section 1-n, as follows:

Sec. 1-n. Authorizes the legislature, by general law, to make a river authority that owns or operates one or more steam generating plants subject to a franchise tax. Authorizes the legislature to impose such franchise taxes only upon the portion of the authority's business that is directly related to the generation, transmission, or distribution of electricity, and at a rate not to exceed that of similar private entities engaged in the electric business.

SECTION 11. Amends Section 22, Article VIII, Texas Constitution, by adding Subsection (d), to establish that the appropriation of state tax revenue for public education, generated from the increase in revenue from H.B. 4, does not apply to the constitutional spending limit for the biennium ending August 31, 2001. Provides that this subsection expires September 1, 2001.

SECTION 12. Amends Section 24, Article VIII, Texas Constitution, by adding Subsection (k), to provide that the restrictions on imposition of a personal income tax does not apply to a privilege or franchise tax measured by the income of a corporation, partnership, or other taxable business entity, other than a sole proprietorship.

SECTION 13. Amends Article III, Texas Constitution, by adding Section 31a, as follows:

Sec. 31a. Authorizes the legislature, by general law, to create a Texas Grace Commission (TGC) to study state agencies, institutions, and programs in the executive department of state government and recommend that any of those entities be abolished, reduced in size, or otherwise modified to make them more cost-effective. Requires the legislature to accept or reject, but may not amend, notwithstanding Sections 1, 11, and 31 of this article, each substantive recommendation presented to the legislature by TGC. Provides that this section is repealed on September 1, 1999.

SECTION 14. Establishes an election date of August 9, 1997, for the constitutional amendment proposed by the joint resolution. Establishes the ballot language for the amendment proposition.