

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

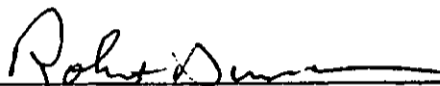
May ³¹~~20~~, 2009
Date

Honorable David Dewhurst
President of the Senate

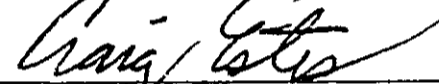
Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

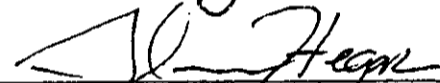
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HJR 14 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



Sen. Duncan



Sen. Estes



Sen. Hegar

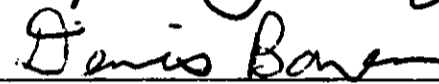
Sen. Van de Putte

On the part of the Senate

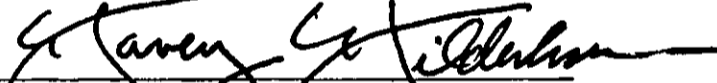
Sen. Whitmire



Rep. Cortez



Rep. Bonnen



Rep. Bildebran



Rep. Pena



On the part of the House

Rep. Woolley

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.J.R. No. 14

1 A JOINT RESOLUTION

2
3 proposing constitutional amendments limiting the public taking
4 of private property, establishing the national research
5 university fund to fund emerging research universities, and
6 eliminating the higher education fund.

7 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 ARTICLE 1.

9 SECTION 1.01. Section 17, Article I, Texas Constitution,
10 is amended to read as follows:

11 Sec. 17. (a) No person's property shall be taken, damaged,
12 or destroyed for or applied to public use without adequate
13 compensation being made, unless by the consent of such person,
14 and only if the taking, damage, or destruction is for:

15 (1) the ownership, ^{use,} and enjoyment of the property,
16 notwithstanding an incidental use, by:

17 (A) the State, a political subdivision of the
18 State, or the public at large; or

19 (B) an entity granted the power of
20 eminent domain under ~~general~~ law; or

21 (2) the elimination of urban blight on a particular
22 parcel of property.

23 (b) In this section, "public use" does not include the

1 taking of property under Subsection (a) of this section for
2 transfer to a private entity for the primary purpose of economic
3 development or enhancement of tax revenues.

4 (c) When a person's property is taken under Subsection (a)
5 of this section [~~and, when taken~~], except for the use of the
6 State, [~~such~~] compensation as described by Subsection (a) shall
7 be first made, or secured by a deposit of money; and no
8 irrevocable or uncontrollable grant of special privileges or
9 immunities[~~7~~] shall be made; but all privileges and franchises
10 granted by the Legislature, or created under its authority,
11 shall be subject to the control thereof.

12 SECTION 1.02. The constitutional amendment proposed in
13 this article shall be submitted to the voters at an election to
14 be held November 3, 2009. The ballot shall be printed to permit
15 voting for or against the proposition: "The constitutional
16 amendment to prohibit the taking, damaging, or destroying of
17 private property for public use unless the action is for the
18 ownership and enjoyment of the property by the State, a
19 political subdivision of the State, the public at large, or
20 entities granted the power of eminent domain under general law
21 or for the elimination of urban blight on a particular parcel of
22 property, but not for certain economic development or
23 enhancement of tax revenue purposes."

(c) On or after January 1, 2010, the legislature may enact a general, local, or special law granting the power of eminent domain to an entity only on a two-thirds vote of all the members elected to each house.



~~taking of property under Subsection (a) of this section for transfer to a private entity for the primary purpose of economic development or enhancement of tax revenues.~~

4 (A) When a person's property is taken under Subsection (a) of this section [~~and, when taken~~], except for the use of the State, [~~such~~] compensation as described by Subsection (a) shall be first made, or secured by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities[~~7~~] shall be made; but all privileges and franchises granted by the Legislature, or created under its authority, shall be subject to the control thereof.

12 SECTION 1.02. The constitutional amendment proposed in this article shall be submitted to the voters at an election to be held November 3, 2009. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to prohibit the taking, damaging, or destroying of private property for public use unless the action is for the ownership, ^{use,} and enjoyment of the property by the State, a political subdivision of the State, the public at large, or entities granted the power of eminent domain under ~~general~~ law or for the elimination of urban blight on a particular parcel of property, but not for certain economic development or enhancement of tax revenue purposes."



ADOPTED

3rd Reading

Robert Duncan

MAY 26 2009

FLOOR AMENDMENT NO. 1

Secretary of the Senate

1 Amend C.S.H.J.R. 14 (Senate Committee Printing) as follows:

2 (1) Designate the existing SECTIONS of the resolution as
3 ARTICLE 1 and renumber its SECTIONS as SECTION 1.01 and 1.02.

4 (2) In renumbered SECTION 1.02, strike "This proposed
5 constitutional amendment" and substitute "The constitutional
6 amendment proposed by this article".

~~(3) Insert the following ARTICLE 2 to the resolution.~~

8 ARTICLE 2.

9 SECTION 2.01. Article VII, Texas Constitution, is amended
10 by adding Section 20 to read as follows:

11 Sec. 20. (a) There is established the national research
12 university fund for the purpose of providing a dedicated,
13 independent, and equitable source of funding to enable emerging
14 research universities in this state to achieve national
15 prominence as major research universities.

16 (b) The fund consists of money transferred or deposited to
17 the credit of the fund and any interest or other return on the
18 investment assets of the fund. The legislature may dedicate
19 state revenue to the credit of the fund.

20 (c) The legislature shall provide for administration of
21 the fund, which shall be invested in the manner and according to
22 the standards provided for investment of the permanent
23 university fund. The expenses of managing the investments of
24 the fund shall be paid from the fund.

25 (d) In each state fiscal biennium, the legislature may
26 appropriate as provided by Subsection (f) of this section all or
27 a portion of the total return on all investment assets of the
28 fund to carry out the purposes for which the fund is
29 established.

1 (e) The legislature biennially shall allocate the amounts
2 appropriated under this section, or shall provide for a biennial
3 allocation of those amounts, to eligible state universities to
4 carry out the purposes of the fund. The money shall be
5 allocated based on an equitable formula established by the
6 legislature or an agency designated by the legislature. The
7 legislature shall review and as appropriate adjust, or provide
8 for a review and adjustment, of the allocation formula at the
9 end of each state fiscal biennium.

10 (f) The portion of the total return on investment assets
11 of the fund that is available for appropriation in a state
12 fiscal biennium under this section is the portion determined by
13 the legislature, or an agency designated by the legislature, as
14 necessary to provide as nearly as practicable a stable and
15 predictable stream of annual distributions to eligible state
16 universities and to maintain over time the purchasing power of
17 fund investment assets. If the purchasing power of fund
18 investment assets for any rolling 10-year period is not
19 preserved, the distributions may not be increased until the
20 purchasing power of the fund investment assets is restored. The
21 amount appropriated from the fund in any fiscal year may not
22 exceed an amount equal to seven percent of the average net fair
23 market value of the investment assets of the fund, as determined
24 by law. Until the fund has been invested for a period of time
25 sufficient to determine the purchasing power over a 10-year
26 period, the legislature may provide by law for means of
27 preserving the purchasing power of the fund.

28 (g) The legislature shall establish criteria by which a
29 state university may become eligible to receive a portion of the
30 distributions from the fund. A state university that becomes
31 eligible to receive a portion of the distributions from the fund



1 in a state fiscal biennium remains eligible to receive
2 additional distributions from the fund in any subsequent state
3 fiscal biennium. The University of Texas at Austin and Texas
4 A&M University are not eligible to receive money from the fund.

5 (h) An eligible state university may use distributions
6 from the fund only for the support and maintenance of
7 educational and general activities that promote increased
8 research capacity at the university.

9 SECTION 2.02. Subsection (i), Section 17, Article VII,
10 Texas Constitution, is repealed.

11 SECTION 2.03. The following temporary provision is added
12 to the Texas Constitution:

13 TEMPORARY PROVISION. (a) This temporary provision applies
14 to the constitutional amendment proposed by the 81st
15 Legislature, Regular Session, 2009, establishing the national
16 research university fund to enable emerging research
17 universities in this state to achieve national prominence as
18 major research universities and transferring the balance of the
19 higher education fund to the national research university fund.

20 (b) The amendment to add Section 20 to Article VII of this
21 constitution and to repeal Section 17(i), Article VII, of this
22 constitution takes effect January 1, 2010.

23 (c) On January 1, 2010, any amount in or payable to the
24 credit of the higher education fund established by Section
25 17(i), Article VII, Texas Constitution, shall be transferred to
26 the credit of the national research university fund.

27 (d) This temporary provision expires January 1, 2011.

28 SECTION 2.04. The constitutional amendment proposed by
29 this Article shall be submitted to the voters at an election to
30 be held November 3, 2009. The ballot shall be printed to permit
31 voting for or against the proposition: "The constitutional

1 amendment establishing the national research university fund to
2 enable emerging research universities in this state to achieve
3 national prominence as major research universities and
4 transferring the balance of the higher education fund to the
5 national research university fund."

House Joint Resolution 14
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 17, Article I, Texas Constitution, amended to read as follows:

Sec. 17. (a) No person's property shall be taken, damaged, or destroyed for or applied to public use without adequate and just compensation being made, unless by the consent of such person, and only if the taking, damage, or destruction is necessary for the elimination of urban blight on a particular parcel of property or the possession, occupation, and enjoyment of the property by a common carrier, by an entity providing utility service, by an entity that provides telecommunications service, video service, or cable service to which the law grants eminent domain authority, by the public at large, by the State, or by a political subdivision of the State; and, when taken, except for the use of the State, such compensation shall be first made, or secured by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities[;] shall be made; but all privileges and franchises granted by the Legislature, or created under its authority, shall be subject to the control thereof.

(b) For the purposes of this section, adequate compensation for the taking of property that is a homestead or farm, if the taking makes relocation of the homestead or farm necessary, includes the cost of relocation from the condemned property to another

SENATE VERSION

SECTION 1. Section 17, Article I, Texas Constitution, is amended to read as follows:

Sec. 17. (a) No person's property shall be taken, damaged or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person;

and, when taken, except for the use of the State, such compensation shall be first made, or secured by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities, shall be made; but all privileges and franchises granted by the Legislature, or created under its authority shall be subject to the control thereof.

No equivalent provision.

CONFERENCE

ARTICLE 1

SECTION 1.01. Section 17, Article I, Texas Constitution, is amended to read as follows:

Sec. 17. (a) No person's property shall be taken, damaged, or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person, and only if the taking, damage, or destruction is for:

(1) the ownership, use, and enjoyment of the property, notwithstanding an incidental use, by:

(A) the State, a political subdivision of the State, or the public at large; or

(B) an entity granted the power of eminent domain under law; or

(2) the elimination of urban blight on a particular parcel of property.

Same as Senate version.

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property that allows the property owner, without the necessity of incurring an amount of debt, debt service, or total projected interest obligation that is higher than the property owner was subject to immediately before the taking to:

- (1) have a standard of living comparable to the property owner's standard of living immediately before the taking, if the property taken is a homestead, or
- (2) operate a comparable farm, if the property taken is a farm.

No equivalent provision.

No equivalent provision.

(b) In this section, "public use" does not include the taking of property by the State or a political subdivision of the State for transfer to a private entity for the primary purpose of economic development or enhancement of tax revenues.

No equivalent provision.

No equivalent provision.

(b) In this section, "public use" does not include the taking of property under Subsection (a) of this section for transfer to a private entity for the primary purpose of economic development or enhancement of tax revenues.

(c) On or after January 1, 2010, the legislature may enact a general, local, or special law granting the power of eminent domain to an entity only on a two-thirds vote of all the members elected to each house.

(d) When a person's property is taken under Subsection (a) of this section [; and, when taken], except for the use of the State, [such] compensation as described by Subsection (a) shall be first made, or secured by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities[,] shall be made; but all privileges and franchises granted by the

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SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 3, 2009. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to prohibit the taking, damaging, or destroying of private property for public use unless the action is necessary for the elimination of urban blight on a particular parcel of property or the possession, occupation, and enjoyment of the property by a common carrier, an entity providing utility service, an entity that provides telecommunications service, video service, or cable service to which the law grants eminent domain authority, the public, the state, or a political subdivision, and to require compensation for homesteads and farms taken in certain circumstances where the use is public and necessary to include the cost of relocating to a comparable property."

No equivalent provision.

No equivalent provision.

SENATE VERSION

SECTION 2. The constitutional amendment proposed by this article shall be submitted to the voters at an election to be held November 3, 2009. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to prohibit the taking of property for transfer to a private entity for the primary purpose of economic development or enhancement of tax revenues."

ARTICLE 2

SECTION 2.01. Article VII, Texas Constitution, is amended by adding Section 20 to read as follows:
Sec. 20. (a) There is established the national research university fund for the purpose of providing a dedicated, independent, and equitable source of funding to enable emerging research universities in this state to achieve

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Legislature, or created under its authority, shall be subject to the control thereof.

SECTION 1.02. SECTION 1.02. The constitutional amendment proposed in this article shall be submitted to the voters at an election to be held November 3, 2009. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to prohibit the taking, damaging, or destroying of private property for public use unless the action is for the ownership, use, and enjoyment of the property by the State, a political subdivision of the State, the public at large, or entities granted the power of eminent domain under law or for the elimination of urban blight on a particular parcel of property, but not for certain economic development or enhancement of tax revenue purposes."

ARTICLE 2

SECTION 2.01. Same as Senate version.

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national prominence as major research universities.

(b) The fund consists of money transferred or deposited to the credit of the fund and any interest or other return on the investment assets of the fund. The legislature may dedicate state revenue to the credit of the fund.

(c) The legislature shall provide for administration of the fund, which shall be invested in the manner and according to the standards provided for investment of the permanent university fund. The expenses of managing the investments of the fund shall be paid from the fund.

(d) In each state fiscal biennium, the legislature may appropriate as provided by Subsection (f) of this section all or a portion of the total return on all investment assets of the fund to carry out the purposes for which the fund is established.

(e) The legislature biennially shall allocate the amounts appropriated under this section, or shall provide for a biennial allocation of those amounts, to eligible state universities to carry out the purposes of the fund. The money shall be allocated based on an equitable formula established by the legislature or an agency designated by the legislature. The legislature shall review and as appropriate adjust, or provide for a review and adjustment, of the allocation formula at the end of each state fiscal biennium.

(f) The portion of the total return on investment assets of the fund that is available for appropriation in a state fiscal biennium under this section is the portion determined by the legislature, or an agency designated by

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the legislature, as necessary to provide as nearly as practicable a stable and predictable stream of annual distributions to eligible state universities and to maintain over time the purchasing power of fund investment assets. If the purchasing power of fund investment assets for any rolling 10-year period is not preserved, the distributions may not be increased until the purchasing power of the fund investment assets is restored. The amount appropriated from the fund in any fiscal year may not exceed an amount equal to seven percent of the average net fair market value of the investment assets of the fund, as determined by law. Until the fund has been invested for a period of time sufficient to determine the purchasing power over a 10-year period, the legislature may provide by law for means of preserving the purchasing power of the fund.

(g) The legislature shall establish criteria by which a state university may become eligible to receive a portion of the distributions from the fund. A state university that becomes eligible to receive a portion of the distributions from the fund in a state fiscal biennium remains eligible to receive additional distributions from the fund in any subsequent state fiscal biennium. The University of Texas at Austin and Texas A&M University are not eligible to receive money from the fund.

(h) An eligible state university may use distributions from the fund only for the support and maintenance of educational and general activities that promote increased research capacity at the university.

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No equivalent provision.

SECTION 2.02. Subsection (i), Section 17, Article VII, Texas Constitution, is repealed.

SECTION 2.02. Same as Senate version.

No equivalent provision.

SECTION 2.03. The following temporary provision is added to the Texas Constitution:

SECTION 2.03. Same as Senate version.

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 81st Legislature, Regular Session, 2009, establishing the national research university fund to enable emerging research universities in this state to achieve national prominence as major research universities and transferring the balance of the higher education fund to the national research university fund.
(b) The amendment to add Section 20 to Article VII of this constitution and to repeal Section 17(i), Article VII, of this constitution takes effect January 1, 2010.
(c) On January 1, 2010, any amount in or payable to the credit of the higher education fund established by Section 17(i), Article VII, Texas Constitution, shall be transferred to the credit of the national research university fund.
(d) This temporary provision expires January 1, 2011.

No equivalent provision.

SECTION 2.04. This constitutional amendment proposed by this Article shall be submitted to the voters at an election to be held November 3, 2009. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment establishing

SECTION 2.04. Same as Senate version.

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the national research university fund to enable emerging research universities in this state to achieve national prominence as major research universities and transferring the balance of the higher education fund to the national research university fund."

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 31, 2009

**TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives**

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HJR14 by Corte (proposing constitutional amendments limiting the public taking of private property, establishing the national research university fund to fund emerging research universities, and eliminating the higher education fund.), Conference Committee Report

No significant fiscal implication to the State is anticipated, other than the cost of publication.

The cost to the state for publication of the resolution is \$90,882.

The resolution would propose an amendment to Article I of the Texas Constitution to specify that the taking of private property is authorized only if it is necessary for: the ownership, use, and enjoyment of the state, a political subdivision of the state, the public at large, or an entity granted the power of eminent domain under the law; or the elimination of urban blight on a particular parcel of property.

The definition of term "public use" would be modified to not include the taking of property by the state or a political subdivision of the state for transfer to a private entity for the purpose of economic development or enhancement of tax revenues. On or after January 1, 2010, the legislature would be allowed to enact a general, local, or special law granting the power of eminent domain to an entity only on a two-thirds vote of all the members elected to each house.

Additionally, the resolution propose an amendment to Article VII of the Texas Constitution to create a new source of funding to enhance research capacity at certain public general academic institutions using the investment earnings of an existing but rededicated fund corpus (i.e., the Permanent Higher Education Fund, which would become the corpus for the National Research University Fund).

The proposed constitutional amendment would be submitted to the voters at an election to be held November 3, 2009.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JOB, KJG, SD, KK, MN, SZ, RT, TG, JM, JAW