ENROLLED HOUSE BILL NO. 1249

ENACTED BY THE FIRST REGULAR SESSION OF THE

49TH LEGISLATURE OF THE STATE OF OKLAHOMA

NUMBERED BY THE SECRETARY OF STATE

STATE QUESTION NUMBER 708

LEGISLATIVE REFERENDUM NUMBER 333

RECEIVED: May 21, 2003

An Act

ENROLLED HOUSE
BILL NO. 1249

By: Mitchell, Bonny, Liotta, Smith (Hopper) and Wright of the House

and

Morgan and Robinson of the Senate

An Act directing the Secretary of State to refer to the people for their approval or rejection a proposed amendment to Section 23 of Article X of the Constitution of the State of Oklahoma; modifying provisions related to appropriations from the Constitutional Reserve Fund; prescribing procedures for determination of appropriation amounts; providing ballot title; and directing filing.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed amendment to Section 23 of Article X of the Constitution of the State of Oklahoma to read as follows:

Section 23. The state shall never create or authorize the creation of any debt or obligation, or fund or pay any deficit, against the state, or any department, institution or agency thereof, regardless of its form or the source of money from which it is to be paid, except as may be provided in this section and in Sections 24 and 25 of Article X of the Constitution of the State of Oklahoma.

To ensure a balanced annual budget, pursuant to the limitations contained in the foregoing, procedures are herewith established as follows:

1. Not more than forty-five (45) days or less than thirty-five (35) days prior to the convening of each regular session of the Legislature, the State Board of Equalization shall certify the total amount of revenue which accrued during the last preceding fiscal year to the General Revenue Fund and to each Special Revenue Fund appropriated directly by the Legislature, and shall further certify amounts available for appropriation which shall be based on a determination, in accordance with the procedure hereinafter provided, of the revenues to be received by the state under the laws in effect at the time such determination is made, for the next ensuing fiscal year, showing separately the revenues to accrue to the credit of each such fund of the state appropriated directly by the Legislature.

Amounts certified as available for appropriation from each fund, as hereinbefore provided, shall be ninety-five percent (95%) of an itemized estimate made by the State Board of Equalization, which shall include all sources of revenue to each fund for the next ensuing fiscal year; provided, however, appropriated federal funds shall be certified for the full amount of the estimate. Said estimate shall consider any increase or decline in revenues that would result from predictable changes in the economy.

Legislative appropriations for any fiscal year, except for special appropriations provided for in paragraph ~~4,~~ 6, 7 or 8 shall be limited to a sum not to exceed the total amount appropriated from all funds in the preceding fiscal year, plus twelve percent (12%), adjusted for inflation for the previous calendar year. Said limit shall be adjusted for funds not previously appropriated. The limit on the growth of appropriations shall be certified to by the State Board of Equalization.

2. Such certification shall be filed with the Governor, the President and President Pro Tempore of the Senate, and the Speaker of the House of Representatives. The Legislature shall not pass or enact any bill, act or measure making an appropriation of money for any purpose until such certification is made and filed, unless the State Board of Equalization has failed to file said certification at the time of convening of said Legislature. In such event, it shall be the duty of the Legislature to make such certification pursuant to the provisions of this section. All appropriations made in excess of such certification shall be null and void; provided, however, that the Legislature may at any regular session or special session, called for that purpose, enact laws to provide for additional revenues or a reduction in revenues, other than ad valorem taxes, or transferring the existing revenues or unappropriated cash on hand from one fund to another, or making provisions for appropriating funds not previously appropriated directly by the Legislature. Whereupon, it shall be the duty of the State Board of Equalization to make a determination of the revenues that will accrue under such laws and ninety-five percent (95%) of the amount of any increase or decrease resulting, for any reason, from such changes in laws shall be added to or deducted from the amount previously certified available for appropriation from each respective fund, as the case may be. The State Board of Equalization shall file the amount of such adjusted certification, or additional certification for funds not previously appropriated directly by the Legislature, with the Governor, with the President and President Pro Tempore of the Senate, and the Speaker of the House of Representatives, and such adjusted amount shall be the maximum amount which can be appropriated for all purposes from any such fund for the fiscal year being certified.

3. The State Board of Equalization shall meet within five (5) days after the monthly apportionment in February of each year, and at that time may adjust the certification, based upon the most current information available, and determine the amount of funds available for appropriation for that legislative session. At said meeting the Board shall determine the limit on the growth of appropriations as provided for in this section.

4. Surplus funds or monies shall be any amount accruing to the General Revenue Fund of the State of Oklahoma over and above the itemized estimate made by the State Board of Equalization.

5. Beginning July 1, 1985, all such surplus funds or monies accruing after said date shall be placed in a Constitutional Reserve Fund by the State Treasurer until such time that the amount of said Fund equals ten percent (10%) of the General Revenue Fund certification for the preceding fiscal year. Appropriations made from said Fund shall be considered special appropriations.

6. Up to ~~one-half (1/2)~~ three-eighths (3/8) of the balance at the beginning of the current fiscal year in the ~~said~~ Constitutional Reserve Fund may be appropriated for the forthcoming fiscal year, when the certification by the State Board of Equalization for said forthcoming fiscal year General Revenue Fund is less than that of the current fiscal year certification. In no event shall the amount of monies appropriated from ~~said~~ the Constitutional Reserve Fund be in excess of the difference between the two said certifications.

7. Up to three-eighths (3/8) of the balance at the beginning of the current fiscal year in the Constitutional Reserve Fund may be appropriated for the current fiscal year if the State Board of Equalization determines that a revenue failure has occurred with respect to the General Revenue Fund of the State Treasury. In no event shall the amount of monies appropriated from the Constitutional Reserve Fund pursuant to this paragraph be in excess of the amount of the projected revenue failure in the General Revenue Fund, which total amount shall be computed by the State Board of Equalization, for the entire fiscal year. Monies appropriated to any state governmental entity from the Constitutional Reserve Fund pursuant to this paragraph may only be made in order to ensure that the monies actually received by the entity for the then current fiscal year are equal to or less than, but not in excess of, the total appropriation amount for such entity in effect at the beginning of the then current fiscal year.

8. Up to ~~one-half (1/2)~~ one-quarter (1/4) of the balance at the beginning of the current fiscal year in the ~~said~~ Constitutional Reserve Fund may be appropriated, upon a declaration by the Governor that emergency conditions exist, with concurrence of the Legislature by a two-thirds (2/3) vote of the House of Representatives and Senate for the appropriation; or said ~~one-half (1/2)~~ one-quarter (1/4) could be appropriated upon a joint declaration of emergency conditions by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, with a concurrence of a three-fourths (3/4) vote of the House of Representatives and Senate.

~~5.~~ 9. That portion of every appropriation, at the end of each fiscal year, in excess of actual revenues collected and allocated thereto, as hereinafter provided, shall be null and void. Revenues deposited in the State Treasury to the credit of the General Revenue Fund or of any special fund (which derives its revenue in whole or in part from state taxes or fees) shall, except as to principal and interest on the public debt, be allocated monthly to each department, institution, board, commission or special appropriation on a percentage basis, in that ratio that the total appropriation for such department, institution, board, commission or special appropriation from each fund for that fiscal year bears to the total of all appropriations from each fund for that fiscal year, and no warrant shall be issued in excess of said allocation. Any department, institution or agency of the state operating on revenues derived from any law or laws which allocate the revenues thereof to

such department, institution or agency shall not incur obligations in excess of the unencumbered balance of cash on hand. 'Nothing in this section shall prevent, under such conditions and limitations as shall be prescribed by law, the governing board of an institution of higher education within The Oklahoma State System of Higher Education from contracting with a president of such institution of higher education for periods extending more than one (1) year, but not to exceed three (3) years beyond the fiscal year in which the contract is signed.

~~6.~~ 10. The Legislature shall provide a method whereby appropriations shall be divided and set up on a monthly, quarterly or semiannual basis within each fiscal year to prevent obligations being incurred in excess of the revenue to be collected, and notwithstanding other provisions of this Constitution, the Legislature shall provide that all appropriations shall be reduced to bring them within revenues actually collected, but all such reductions shall apply to each department, institution, board, commission or special appropriation made by the State Legislature in the ratio that its total appropriation for that fiscal year bears to the total of all appropriations from that fund for that fiscal year; provided, however, that the Governor may in his discretion issue deficiency certificates to the State Treasurer for the benefit of any department, institution or agency of the state, if the amount of such deficiency certificates be within the limit of the current appropriation for that department, institution or agency, whereupon the State Treasurer shall issue warrants to the extent of such certificates for the payment of such claims as may be authorized by the Governor, and such warrants shall become a part of the public debt and shall be paid out of any money appropriated by the Legislature and made lawfully available therefor; provided further, that in no event shall said deficiency certificates exceed in the aggregate the sum of Five Hundred Thousand Dollars ($500,000.00) in any fiscal year.

SECTION 2. The Ballot Title for the proposed Constitutional amendment as set forth in SECTION 1 of this act shall be in the following form:

BALLOT TITLE

Legislative Referendum No. ____ State Question No. ____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure amends the Oklahoma Constitution. It amends Section 23 of Article 10. This section involves the Constitutional Reserve Fund also known as the Rainy Day Fund. This measure changes the amount which could be spent from the Rainy Day Fund. The State Board of Equalization would decide if the taxes the state collects each fiscal year will be less than predicted. This is called revenue failure. If this happens, up to three-eighths (3/8) of the Rainy Day Fund could be spent. The total amount spent from the Rainy Day Fund for revenue failure could not exceed the amount of the funds shortage predicted by the State Board of Equalization. The Rainy Day Fund can be used now if the prediction about state tax collections for the current year is less than the prediction made the year before. One-half (1/2) of the Fund can be spent now if this occurs. If this measure passes, that amount would change to three-eighths

(3/8). Money can now be spent from the Fund for certain emergencies. One-half (1/2) of the Fund can now be spent for these emergencies. This measure would change that amount to one quarter (1/4).

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

☐ YES, FOR THE AMENDMENT

☐ NO, AGAINST THE AMENDMENT

SECTION 3. The Chief Clerk of the House of Representatives, immediately after the passage of this act, shall prepare and file one copy thereof, including the Ballot Title set forth in SECTION 2 hereof, with the Secretary of State and one copy with the Attorney General.

Passed the House of Representatives the 16th day of May, 2003.

Larry D Roberts

Presiding Officer of the House of Representatives

Passed the Senate the 20th day of May, 2003.

Kent Rogers

Presiding Officer of the Senate

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 21ST **day of** MAY **20** 03, **at** 4:35, **o'clock** P. **M.**

By: M. Susan Savage

OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

FILED
MAY 28 2003
OKLAHOMA SECRETARY OF STATE

May 28, 2003

M. Susan Savage, Secretary of State
Office of the Secretary of State
101 State Capitol Building
Oklahoma City, Oklahoma 73105

The Honorable Cal Hobson
President Pro Tempore
422 State Capitol Building
Oklahoma City, OK 73105

The Honorable Larry E. Adair
Speaker of the House of Representatives
401 State Capitol Building
Oklahoma City, OK 73105

Re: Ballot Title for State Question No. 708, Legislative Referendum No. 333

Dear Speaker Adair, President Pro Tempore Hobson, and Secretary Savage:

We have, in accordance with provisions of 34 O.S.2001, § 9(C), reviewed the Ballot Title for the above-referenced State Question and conclude that it is in harmony with the law. We point out, however, that the bold language following the actual language of the Ballot Title does not fully comply with the requirements of 26 O.S.2001, § 6-113, which requires the following language to follow the substantive language of the Ballot Title:

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL—YES _____

AGAINST THE PROPOSAL—NO _____

2300 N. LINCOLN BLVD., SUITE 112, OKLAHOMA CITY, OK 73105-4894 (405) 521-3921 • FAX: (405) 521-6246
recycled paper

As a Title 34 Ballot Title review, this letter does not constitute an Attorney General Opinion on the merits or constitutionally of the underlying proposed changes in the law.

Respectfully submitted,

W.A. DREW EDMONDSON
ATTORNEY GENERAL

WAE:rjs

FILED
AUG 13 2004
OKLAHOMA SECRETARY OF STATE

Brad Henry
Governor
EXECUTIVE DEPARTMENT

EXECUTIVE PROCLAMATION

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the provisions of Section 3 of Article V and Section 1 of Article XXIV of the Oklahoma Constitution, and Section 12 of Title 34 of the Oklahoma Statutes, and the referral by the Secretary of State do hereby declare that Legislative Referendum Number 333, State Question 708, be submitted to qualified electors of the State of Oklahoma for their approval or rejection at the general election to be held statewide on November 2, 2004.

The substance of the measure is as follows:

This measure amends the Oklahoma Constitution. It amends Section 23 of Article 10. This section involves the Constitutional Reserve Fund also known as the Rainy Day Fund. This measure changes the amount which could be spent from the Rainy Day Fund. The State Board of Equalization would decide if the taxes the state collects each fiscal year will be less than predicted. This is called revenue failure. If this happens, up to three-eighths (3/8) of the Rainy Day Fund could be spent. The total amount spent from the Rainy Day Fund for revenue failure could not exceed the amount of the funds shortage predicted by the State Board of Equalization. The Rainy Day Fund can be used now if the prediction about state tax collections for the current year is less than the prediction made the year before. One-half (1/2) of the Fund can be spent now if this occurs. If this measure passes, that amount would change to three-eighths (3/8). Money can now be spent from the Fund for certain emergencies. One-half (1/2) of the Fund can now be spent for these emergencies. This measure would change that amount to one quarter (1/4).

Copies of this Executive Proclamation shall be delivered to the Secretary of State, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Secretary of the State Election Board.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 13TH day of August, 2004.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

Brad Henry

ATTEST:

SECRETARY OF STATE

STATE CAPITOL BUILDING • 2300 N. LINCOLN BOULEVARD, SUITE 212 • OKLAHOMA CITY, OKLAHOMA 73105 • (405) 521-2342 • FAX: (405) 521-3353