

BILL ANALYSIS

Senate Research Center

S.B. 645
By: Armbrister
Finance
6-30-97
As Filed

DIGEST

Currently, areas of existing statute contain certain inconsistencies that have been identified by the comptroller. The comptroller has provided several recommendations with respect to these statutes which attempt to provide guidance about certain state fiscal issues, ensure that similarly situated state employees are treated similarly by state agencies, and improve the fiscal management of the state.

This bill provides additional detail for several employee benefit laws so that they will be interpreted and administered uniformly by state agencies. The comptroller is also provided with interpretive and rulemaking authority over several benefit programs that are not administered by any state agency under current law.

PURPOSE

As proposed, S.B. 645 sets forth provisions related to state fiscal matters, including holidays, employee compensation and deductions, reports, consultants, and the comptroller's powers.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the comptroller in SECTIONS 13-20, 32, 36, 37, and 67 (Sections 403.026(a), 403.071(h), 659.062(e), 659.110, 661.038, 661.068, 661.094, 662.012, 403.0165(h) and (i), 659.136(c), 659.137(a), and 403.031(c), Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 659.083(c), Government Code, to redefine "working day."

SECTION 2. Amends Section 465.008(b), Government Code, to provide that Chapter 2254B, Government Code, does not apply to use by the commission of a consultant, rather than private consultant, to provide certain services, except that in selecting the consultant the Texas National Research Laboratory Commission is required to give preference required by Section 2254.027(2), rather than Section 3(b)(2) of that chapter.

SECTION 3. Amends Section 2254.021, Government Code, to define "political subdivision" and "state governmental entity," and to redefine "consultant" and "state agency."

SECTION 4. Amends Section 2254.022, Government Code, to make conforming changes.

SECTION 5. Amends Sections 2254.025(a), (b), and (e), Government Code, to make conforming changes.

SECTION 6. Amends Section 2254.026, Government Code, to authorize a state agency to contract with a consultant only if the agency cannot adequately perform the services with its own personnel or obtain the consulting services through a contract with a state governmental agency, rather than another agency, among other exceptions. Makes conforming changes.

SECTION 7. Amends Section 2254.027, Government Code, to make conforming changes.

SECTION 8. Amends Section 2254.028(a), Government Code, to make a conforming change.

SECTION 9. Amends Section 2254.029, Government Code, to make conforming changes.

SECTION 10. Amends Section 2254.030, Government Code, to make conforming changes.

SECTION 11. Amends Sections 2254.036(a) and (b), Government Code, to make conforming changes.

SECTION 12. Amends Section 2254.037, Government Code, to make a conforming change.

SECTION 13. Amends Chapter 403B, Government Code, by adding Section 403.026, as follows:

Sec. 403.026. RULES. Authorizes the comptroller to adopt rules to interpret, implement, and administer a state statute under certain conditions. Provides that Subsection (a) does not apply to a state statute if the statute specifically authorizes the comptroller or a state agency to adopt rules to interpret, implement, and administer the statute.

SECTION 14. Amends Section 403.071(h), Government Code, to require the comptroller to audit claims after payment in the same way that the comptroller audits claims before payment under Subsection (a). Authorizes the comptroller to establish requirements and adopt rules concerning the time that a state agency must retain documentation in its files to enable a postpayment audit.

SECTION 15. Amends Section 659.062, Government Code, by adding Subsection (e) to authorize the comptroller to establish procedures and adopt rules to administer this section.

SECTION 16. Amends Chapter 659G, Government Code, by adding Section 659.110, as follows:

Sec. 659.110. RULES. Authorizes the comptroller to establish procedures and adopt rules to administer the credit union deduction program authorized by this subchapter.

SECTION 17. Amends Chapter 661B, Government Code, by adding Section 661.038, as follows:

Sec. 661.038. RULES. Authorizes the comptroller to establish procedures and adopt rules to administer this subchapter.

SECTION 18. Amends Chapter 661C, Government Code, by adding Section 661.038, as follows:

Sec. 661.038. RULES. Makes a conforming change.

SECTION 19. Amends Chapter 661D, Government Code, by adding Section 661.094, as follows:

Sec. 661.094. RULES. Makes a conforming change.

SECTION 20. Amends Chapter 662A, Government Code, by adding Section 662.012, as follows:

Sec. 662.012. RULES. Authorizes the comptroller to establish procedures and adopt rules to administer Sections 662.001-662.010, Government Code.

SECTION 21. Amends Section 57.48(e), Education Code, to provide that this section does not prohibit the comptroller from issuing a warrant to pay the compensation of an individual whose compensation is being paid by a private person through a state agency.

SECTION 22. Amends Section 57.48(f)(4), Education Code, to provide that this section does not prohibit a state agency from paying the compensation of an individual whose compensation is

being paid by a private person through the agency.

SECTION 23. Amends Section 403.055(c), Government Code, to make a conforming change.

SECTION 24. Amends Section 403.055(e)(4), Government Code, to make a conforming change.

SECTION 25. Amends Section 481.0841(c), Government Code, to provide that this section does not prohibit the comptroller from issuing a warrant or initiating an electronic funds transfer to pay the compensation of an individual whose compensation is being paid by a private person through a state agency.

SECTION 26. Amends Sections 481.0841(d)(2) and (4), Government Code, to make conforming and nonsubstantive changes.

SECTION 27. Amends Section 662.001, Government Code, to define "workday" and to redefine "part-time state employee" and "state employee."

SECTION 28. Amends Section 662.005, Government Code, to provide that an individual who is a state employee on the last workday before or the first workday after a national or state holiday, or on both workdays, except as provided by Section 662.010, Government Code, is entitled to a paid day off from working for a state agency on the holiday under certain conditions. Redefines "state employee."

SECTION 29. Amends Sections 662.006(a) and (b), Government Code, to provide that an individual who is a state employee on the last workday before or the first workday after an optional holiday, or both workdays, is entitled, except as provided by Section 662.010, Government Code, to a paid day off from working for the state agency on the holiday under certain conditions. Provides that a state employee is entitled to a paid day off from working for a state agency on each day of an optional holiday that extends for more than one day under certain conditions.

SECTION 30. Amends Section 662.007(a), Government Code, to provide that a state employee who is required to work on a national or state holiday is entitled to compensatory time off during the 12 months after the holiday if the state employee is entitled to a paid day off from working for a state agency on the holiday under Section 662.005, Government Code.

SECTION 31. Amends Section 662.010, Government Code, to prohibit an individual who is not a state employee on the last workday before a state or national holiday but who is a state employee on the first workday after the holiday from being paid for the holiday under certain conditions. Prohibits an individual who is a state employee on the last workday before a state or national holiday but who is not a state employee on the first workday after the holiday from being paid for the holiday under certain conditions. Redefines "state employee." Deletes a definition of "workday."

SECTION 32. Amends Sections 403.0165(f), (h), and (i), Government Code, to authorize an organization not previously certified to submit an application for certification as an eligible state employee organization to the comptroller at any time except during the period after June 2 and before September 1, rather than within 90 days prior to the beginning of the fiscal year. Authorizes, rather than requires, the comptroller to charge an administrative fee to cover the costs incurred as a result of administering this section. Requires the administrative fees charged by the comptroller to be paid by each qualifying state employee organization in a certain manner. Authorizes the comptroller to adopt rules for the administration of this section. Makes conforming changes.

SECTION 33. Amends Section 659.041, Government Code, to define "appointment" and redefine "full-time state employee."

SECTION 34. Amends Chapter 659D, by adding Section 659.0411, as follows:

Sec. 659.0411. APPOINTMENTS AT STATE INSTITUTIONS OF HIGHER EDUCATION. Requires a state institution of higher learning to determine whether a state

employee who has more than one appointment with the institution holds only one position or holds one position for each appointment. Requires a board of regents to determine whether a state employee who has an appointment with at least two state institutions of higher education under the board's jurisdiction holds only one position or holds one position for each appointment. Provides that a state employee who has an appointment with at least two state institutions of higher education holds more than one position if those institutions are not governed by the same board of regents.

SECTION 35. Amends Section 659.132, Government Code, to authorize a state employee to authorize a deduction only during a state employee charitable campaign, except as provided by Subsections (c), (d), and (e). Authorizes a state employee who begins working for the state when a campaign is not being conducted to authorize a deduction according to the comptroller's requirements. Authorizes a state employee who works for a state agency that does not allow deduction authorizations under Subsection (i) to authorize a deduction that is effective with the first full payroll period after the agency is converted to a system in which uniform statewide payroll procedures are followed. Authorizes a state employee who works for a state agency that does not allow deduction authorizations under Subsection (i) to authorize a deduction after transferring from that agency to certain other state agencies. Authorizes a state employee who authorized a deduction while working for a state agency to continue the deduction after transferring to another state agency if the comptroller's rules for continuing the deduction are followed.

SECTION 36. Amends Sections 659.136 (a) and (c), Government Code, to prohibit a state employee from changing the eligible charitable organization designated to receive the employee's deductions. Provides that a revocation or change takes effect on the date designated by the comptroller, by rule.

SECTION 37. Amends Section 659.137, Government Code, to provide that a deduction under this subchapter begins on the date designated by the comptroller, by rule, and is effective for a maximum of one campaign year and, unless revoked or changed under Section 659.139, Government Code, ends on the date designated by the comptroller, by rule.

SECTION 38. Amends Section 659.148(d), Government Code, to authorize the comptroller to decline to charge an administrative fee if the comptroller determines the costs that would be covered by the fee are insignificant.

SECTION 39. Amends Section 659.109, Government Code, to delete a provision authorizing an administrative fee withheld under this subchapter to be used, without further appropriation, by the comptroller and the state agencies incurring costs in administering this subchapter.

SECTION 40. Amends Section 659.146(a), Government Code, to provide that a charitable organization, to be eligible to participate in a state employee charitable campaign, must be governed by a voluntary board of citizens to set policy and manage the organization's affairs, if the organization meets certain budgetary requirements.

SECTION 41. Amends Sections 661.061(1) and (3), Government Code, to redefine "national holiday" and "state holiday."

SECTION 42. Amends Section 661.062(b), Government Code, to provide that a separation from state employment includes a separation in which the employee moves from a position in a state agency that does not accrue vacation time, if the other state agency is not authorized or refuses to credit the employee for the balance of the employee's vacation time as of the date of the move, among other exceptions. Makes conforming changes.

SECTION 43. Amends Section 661.063, Government Code, to require payment under this subchapter to a state employee who separates from state employment while holding a position that does not accrue vacation time to be computed according to this subsection. Requires the employee's final rate of compensation in the last position held that accrues vacation time to be multiplied by the employee's total number of hours of vacation time determined under Section 661.064, Government Code. Makes conforming changes.

SECTION 44. Amends Section 661.064, Government Code, to provide that no hours may be added to a state employee's accrued vacation time for a state or national holiday that is scheduled to fall within the period after the date of separation and during which the employee could have used the time, for an employee who is paid under this subchapter because the separation from state employment involves a move to an agency that does not accrue vacation hours.

SECTION 45. Amends Chapter 662A, Government Code, by adding Section 662.0071, as follows:

Sec. 662.0071. TRANSFERS OF COMPENSATORY TIME BALANCES. Requires a state agency to accept the balance of compensatory time accrued under Section 662.007, Government Code, by a state employee who transfers to that agency from another state agency if the employee transfers as a direct result of certain factors. Provides that Subsection (a) does not apply if the transferring state employee is required to apply for the new position. Defines "bid."

SECTION 46. Amends Sections 403.016(e) and (f), Government Code, to authorize the comptroller to use the electronic funds transfer system to transfer directly a portion of an employee's net state salary to the employee's account at a credit union under certain conditions. Authorizes the comptroller to use the electronic funds transfer system to deposit payments only to one or more accounts of a payee at one or more financial institutions, except as provided by Subsection (e) and subject to any limitation in rules adopted by the comptroller, an automated clearinghouse, or the federal government.

SECTION 47. Amends Section 403.248(c), Government Code, to define "final accounting."

SECTION 48. Amends Section 5, Article 3.50-2, V.T.C.S. (Texas Employees Uniform Group Insurance Benefits Act), by adding Subsection (k), to authorize the trustee to use an employee's annual salary in the calculation of the amount of the employee's premium or coverage, or both, under the plan, under certain conditions. Provides that an employee's annual salary includes the benefit replacement pay the employee would be earning annually under Chapter 659H, Government Code (as added by Section 3, Chapter 417, Acts of the 75th Legislature, Regular Session, 1995), if Section 659.121(1), Government Code, defined "compensation" to include base salary or wages, longevity pay, hazardous duty pay, and night differential pay.

SECTION 49. Amends Section 11, Article 3.50-2, V.T.C.S., by adding Subsection (d), to provide that for the purpose of determining the amount of an employee's optional term life insurance coverage, an employee's annual salary includes the benefit replacement pay the employee would be earning annually under Chapter 659H, Government Code (as added by Section 3, Chapter 417, Acts of the 74th Legislature, Regular Session, 1995), if Section 569.121(1), Government Code, defined "compensation" to include base salary or wages, longevity pay, hazardous duty pay, and night differential pay.

SECTION 50. Amends Section 811.001(7), Government Code, to redefine "compensation."

SECTION 51. Amends Sections 822.201(b) and (c), to redefine "salary and wages" and to provide that the benefit replacement pay a person earns as a result of a payment made under Chapter 661B, C, or D, Government Code, is excluded from this definition.

SECTION 52. Amends Section 47.09(a), Penal Code, to provide that it is a defense to prosecution under this chapter that the conduct was a necessary incident to the operation of the state lottery and was directly or indirectly authorized by the lottery division of the Texas Lottery Commission, rather than the comptroller's office, or the Lottery Commission, rather than the comptroller, among other conditions. Makes a conforming change.

SECTION 53. Amends Section 2054.007(a), Government Code, to provide that the lottery division of the Texas Lottery Commission is not subject to the planning and procurement requirements of this chapter.

SECTION 54. Amends Section 2103.003, Government Code, to authorize a state agency to spend appropriated funds only by a warrant drawn by the comptroller, a state agency to which the comptroller has delegated authority to print warrants under Section 403.060, Government Code, or an electronic funds transfer initiated by the comptroller.

SECTION 55. Amends Chapter 2103A, Government Code, by adding Section 2103.0035, as follows:

Sec. 2103.0035. STATE AGENCY SPENDING OF UNAPPROPRIATED FUNDS. Authorizes a state agency to spend unappropriated funds only by a warrant drawn by certain entities, or an electronic funds transfer initiated by the comptroller.. Provides that Subsection (a) applies only to funds that Section 404.046 or 404.069, Government Code, or other law requires to be spent on warrants drawn or electronic funds transfers initiated by the comptroller.

SECTION 56. Amends Section 2103.004, Government Code, as follows:

Sec. 2103.004. New heading: WARRANTS AND ELECTRONIC FUNDS TRANSFERS. Prohibits a warrant from being drawn or an electronic funds transfer initiated until the state agency from whose appropriated or unappropriated funds the warrant or electronic funds transfer is payable has submitted a voucher to the comptroller, among other conditions.

SECTION 57. Amends Section 2151.002, Government Code, to redefine "state agency."

SECTION 58. Amends Section 2155.001, Government Code, to make a nonsubstantive change.

SECTION 59. Amends Section 2155.321, Government Code, to define "service" and "state agency."

SECTION 60. Amends Section 2155.322(b), Government Code, to require a state agency to send to the comptroller the certification, together with the financial information and purchase information provided by the invoice and purchase voucher, on a form or in the manner agreed to by the comptroller and the General Services Commission (commission) if state law requires that a payment for the goods or services be made on a warrant drawn or an electronic funds transfer initiated by the comptroller or a state agency with delegated authority under Section 403.060, Government Code.

SECTION 61. Amends Section 2155.325(c), Government Code, to require the comptroller to send the certification and purchase information received by the comptroller under Section 2155.322(b), Government Code, to the commission under commission rules.

SECTION 62. Amends Section 2101.011, Government Code, as follows:

Sec. 2101.011. New heading: FINANCIAL INFORMATION REQUIRED OF STATE AGENCIES. Requires a state agency to submit the financial information requested by the comptroller and such other information requested by the legislature in the General Appropriations Act, including information and state funds held outside the state treasury to certain governmental entities, including the Legislative Reference Library, rather than the state treasurer. Requires a state agency to submit the information to the listed officials by the date or dates provided in the General Appropriations Act. Authorizes the comptroller to require the reporting of the financial information for any entity that the comptroller determines is a component unit of a statewide reporting entity in accordance with generally accepted accounting principles as prescribed or modified by the Governmental Accounting Standards Board or its successors.

SECTION 63. Amends Section 466.017(a), Government Code, to require the certified public accountant to present an audit report to the comptroller and certain other governmental entities not later than the 30th day after the submission date for the annual financial report by the General

Appropriations Act.

SECTION 64. Amends Section 2306.074(a), Government Code, to require the state auditor or a certified public accountant to audit the department's books and accounts each fiscal year and file a copy of the audit with the governor, the comptroller, and the legislature not later than the 30th day after the submission date for the annual financial report as required by the General Appropriations Act. Makes a conforming change.

SECTION 65. Amends Section 17(a), Article 5.76-3, Insurance Code, to require the board of directors of the fund (board) to publish an independently audited report analyzing certain information about the fund. Requires the board to file the audited report with the Texas Department of Insurance for inclusion in its annual financial report. Requires the annual financial report to be submitted by the Texas Department of Insurance by the date provided for in the General Appropriations Act.

SECTION 66. Amends Sections 403.021(a), (b), (c), and (d), Government Code, to require a state agency that expends appropriated funds to report into the uniform statewide accounting system (USAS) all payables and binding encumbrances for the first three quarters of the current appropriation year within 30 days after the close of each quarter. Requires binding encumbrances for all appropriation years to be reported annually not later than September 30 of each fiscal year. Requires payable and binding encumbrances to be reported for all appropriations in the format that the comptroller prescribes. Requires the comptroller to lapse all unencumbered nonconstruction appropriation balances for all prior appropriated years based on the payables and binding encumbrances reported, on October 1, rather than 31, of each fiscal year. Authorizes the comptroller to reinstate the agency's appropriations to the extent of the claim if an agency submits a valid claim against a prior year appropriation 30 days or more after the reporting due date.

SECTION 67. Amends Section 403.031, Government Code, by adding Subsection (c), as follows:

(c) Authorizes the comptroller in consultation with the state auditor to develop standards and criteria to account for or to reclassify receivables determined to be uncollectible. Requires the standards and criteria developed by the comptroller to comply with generally accepted principles prescribed or modified by the Governmental Accounting Standards Board or its successors and must provide proper accounting controls to protect state finances. Requires the state auditor to review and approve the standards and criteria for classifications of receivables. Authorizes receivables to be reclassified as collectible or uncollectible according to the process approved by the state auditor or on a case-by-case basis as determined or approved by that office. Provides that the classification of receivables as uncollectible under this subsection does not constitute forgiveness of the debt, and any indebted person to the state remains subject to Section 403.055, Government Code.

SECTION 68. Amends Section 183.023, Tax Code, to require the comptroller to deposit the revenue in the general revenue fund, rather than the mixed beverage tax clearance fund.

SECTION 69. Amends Section 183.051(b), Tax Code, to authorize the legislature to appropriate for payment to each county or incorporated municipality an amount equal to a percentage of revenues received from permittees within each county or incorporated municipality based on percentages or specific amounts provided for in the General Appropriations Act.

SECTION 70. Amends Section 74.006(d), Human Resource Code, to provide that in the trust fund may be invested and require the money be accounted for separately from other funds in the treasury. Authorizes the council to direct the investment of funds consistent with the comptroller's authority to invest funds under Section 404.024, Government Code. Requires net income and interest earned on money in the trust fund to be deposited to the credit of the trust fund after the deduction of investment related expenses.

SECTION 71. (a) Repealers: Section 403.005, 403.016(e), 403.0165(j), and 2103.032(c), Government Code (Approval of Accounts, Electronic Funds Transfer, Payroll Deduction for State

Employee Organization, Approval and Submission of Vouchers).

(b) Repealer: Section 403.021(f), Government Code (Encumbrance Reports).

SECTION 72. Effective date: upon passage.

Effective date for SECTIONS 1, 26, 41-45, 62-70, and 71(b): September 1, 1997.

SECTION 73. Makes application of this Act prospective.

SECTION 74. Emergency clause.