

BILL ANALYSIS

Senate Research Center
79R13944 KEG/SMH-F

S.B. 1863
By: Ogden
Finance
4/25/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

As proposed, S.B. 1863 allows the legislature in its discretion to determine the amount of appropriation of state funds. This bill also provides for a \$200 increase in the registration fee for certain lobbyists, provides for fees to cover the cost of performing re-inspections of municipal or county jails, allows the comptroller to contract for recovery audits of payments made by state agencies, provides for fees to be collected for the administration of the state's oil and gas conservation laws, and allows for a waiver of health coverage by state employees.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 4.01 (Section 2115.003, Government Code) and the board of trustees of the Employees Retirement System of Texas in SECTION 6.03 (Section 1551.221, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

**ARTICLE 1. AUTHORITY OF LEGISLATURE TO TAKE
CERTAIN ACTIONS WITH RESPECT TO APPROPRIATED FUNDS**

SECTION 1.01. Authorizes the legislature, notwithstanding any statute to the contrary, in its discretion, to determine the amount of each appropriation of state funds. Authorizes the amounts required by statute for entities that receive state funds under the General Appropriations Act, 79th Legislature, Regular Session, 2005, to be reduced or eliminated in order to achieve a balanced budget.

SECTION 1.02. Provides that this article expires September 1, 2007.

ARTICLE 2. REGISTRATION FEE FOR CERTAIN LOBBYISTS

SECTION 2.01. Amends Section 305.005(c), Government Code, to set forth the registration and renewal fees for certain registrants.

SECTION 2.02. Provides that this article takes effect December 1, 2005.

**ARTICLE 3. FEES FOR CERTAIN INSPECTIONS CONDUCTED
BY THE COMMISSION ON JAIL STANDARDS**

SECTION 3.01. Amends Section 511.0091, Government Code, by adding Subsection (c-1) and amending Subsection (d), as follows:

(c-1) Authorizes the Commission on Jail Standards, in addition to the other fees authorized by this section, to set and collect a reasonable fee to cover the cost of performing any reinspection of a municipal or county jail that is conducted by the commission in a certain manner or at a certain time.

(d) Requires fees collected under Subsection (c-1) to be deposited to the credit of a special account in the general revenue fund to be appropriated only to pay costs incurred by the Commission on Jail Standards in performing services under this section.

SECTION 3.02. Provides that this article takes effect September 1, 2005.

ARTICLE 4. CERTAIN AUDITS OF STATE AGENCY EXPENDITURES

SECTION 4.01. Amends Subtitle C, Title 10, Government Code, by adding Chapter 2115, as follows:

CHAPTER 2115. RECOVERY OF CERTAIN STATE AGENCY OVERPAYMENTS

Sec. 2115.001. DEFINITIONS. Defines "overpayment" and "state agency."

Sec. 2115.002. CONTRACT CONSULTANTS FOR RECOVERY AUDITS FOR CERTAIN OVERPAYMENTS. (a) Requires the comptroller of public accounts (comptroller) to contract with one or more consultants to conduct recovery audits of payments made by state agencies to vendors. Requires the audits to be designed to detect and recover overpayments to the vendors and to recommend improved state agency accounting operations.

(b) Sets forth certain conditions applying to the functions of a contract under this section.

(c) Authorizes the comptroller or a state agency whose payments are being audited to provide a person acting under a contract authorized by this section with any confidential information in the custody of the comptroller or state agency that is necessary for the performance of the audit or the recovery of an overpayment, to the extent the comptroller and state agency are not prohibited from sharing the information under an agreement with another state or the federal government. Provides that a person acting under a contract authorized by this section, and each employee or agent of the person, is subject to all prohibitions against the disclosure of confidential information obtained from the state in connection with the contract that apply to the comptroller or applicable state agency or an employee of the comptroller or applicable state agency. Provides that a person acting under a contract authorized by this section or an employee or agent of the person who discloses confidential information in violation of a prohibition made applicable to the person under this subsection is subject to the same sanctions and penalties that would apply to the comptroller or applicable state agency or an employee of the comptroller or applicable state agency for that disclosure.

Sec. 2115.003. STATE AGENCIES SUBJECT TO MANDATORY RECOVERY AUDITS. (a) Requires the comptroller to require that recovery audits be performed on the payments to vendors made by each state agency that has total expenditures during a state fiscal biennium in an amount that exceeds \$100 million. Requires each state agency described by this subsection to provide the recovery audit consultant with all information necessary for the audit.

(b) Authorizes the comptroller to exempt from the mandatory recovery audit process a state agency that has a low proportion of its expenditures made to vendors, according to criteria the comptroller adopts by rule after consideration of the likely costs and benefits of performing recovery audits for agencies that make relatively few or small payments to vendors.

Sec. 2115.004. PAYMENT TO CONTRACTORS. (a) Requires a state agency to pay, from recovered money appropriated for the purpose, the recovery audit consultant responsible for obtaining for the agency a reimbursement from a vendor.

(b) Requires a state agency to expend or return to the federal government any federal money that is recovered through a recovery audit conducted under this chapter. Requires the state agency to expend or return the federal money in accordance with the rules of the federal program through which the agency received the federal money.

Sec. 2115.005. FORWARDING REPORTS. (a) Requires the comptroller to provide copies, including electronic form copies, of any reports received from a consultant contracting under Section 2115.002, to certain governmental offices and entities.

(b) Requires the comptroller to provide the copies required by Subsection (a) not later than the seventh day after the date the comptroller receives the consultant's report.

(c) Requires the comptroller, not later than January 1 of each odd-numbered year, to issue a report to the legislature summarizing the contents of all reports received under this chapter during the state fiscal biennium ending August 31 of the previous year.

SECTION 4.02. Requires the comptroller to adopt rules under Chapter 2115, Government Code, as added by this article, in a timely manner so that the comptroller may begin contracting with a consultant under that chapter not later than January 1, 2006.

ARTICLE 5. FISCAL MATTERS PERTAINING TO REGULATION OF OIL-RELATED AND GAS-RELATED ACTIVITIES

SECTION 5.01. Amends Section 81.0521(c), Natural Resources Code, as follows:

(c) Requires the proceeds from this fee, rather than two-thirds of the proceeds from this fee, including any penalties collected in connection with the fee, to be deposited to the General Revenue Fund to be used for the administration of the state's oil and gas conservation laws, rather than the oil-field cleanup fund as provided by Section 91.111. Makes a conforming change.

SECTION 5.02. Amends Section 81.0531(e), Natural Resources Code, to make a conforming change.

SECTION 5.03. Amends the heading to Subchapter E, Chapter 81, Natural Resources Code, to read as follows:

SUBCHAPTER E. FEES AND PENALTIES

SECTION 5.04. Amends Section 81.112, Natural Resources Code, as follows:

Sec. 81.112. New heading: DISPOSITION OF FEE AND PENALTY PROCEEDS.
(a) Requires the fees and penalties collected or deposited under Sections 81.0521 (Fee for Application for Exception to Railroad Commission Rule), 81.0531 (Administrative Penalty), 85.167 (Fee for Reissued Certificate), 85.2021 (Drilling Permit Fee), 85.381 (Penalty for Violation of Laws, Rules, and Orders), 89.121 (Enforcement by Commission), 91.1013 (Application Fees), 91.261 (Administrative Penalty), 91.262 (Administrative Penalty Assessment Procedure), 91.263 (Payment of Administrative Penalty), 91.264 (Judicial Review of Administrative Penalty), and 91.459 (Civil Penalty) of this code and under Section 27.0321 (Application Fee), Water Code, to be deposited in the General Revenue Fund to be used for the administration of the state's oil and gas conservation laws.

(b) Requires, when the sum of the fees collected under Sections 85.2021(a) and (c) and 91.1013 of this code and under Section 27.0321, Water Code, exceeds \$7.5 million in a state fiscal year, the amount in excess of \$7.5 million to be transferred to the oil-field cleanup fund.

SECTION 5.05. Amends Section 81.113, Natural Resources Code, as follows:

Sec. 81.113. New heading: USE OF FEE AND PENALTY PROCEEDS. Requires proceeds from the fees and penalties collected or deposited under Sections 81.0521, 81.0531, 85.167, 85.2021, 85.381, 89.121, 91.1013, 91.261-91.264, and 91.459 of this

code and under Section 27.0321, Water Code, to be used for the administration of the state's oil and gas conservation laws.

SECTION 5.06. Amends the heading to Section 81.116, Natural Resources Code, to read as follows:

Sec. 81.116. OIL-FIELD CLEANUP FEE ON OIL.

SECTION 5.07. Amends Sections 81.116(a) and (b), Natural Resources Code, as follows:

(a) Provides that an oil-field cleanup fee is imposed on crude petroleum produced in this state in the amount of thirteen-sixteenths, rather than five-eighths, of one cent on each barrel of 42 standard gallons. Makes conforming changes.

(b) Deletes existing text specifying a provision of this code that applies to taxes mentioned in this subsection.

SECTION 5.08. Amends the heading to Section 81.117, Natural Resources Code, to read as follows:

Sec. 81.117. OIL-FIELD CLEANUP FEE ON GAS.

SECTION 5.09. Amends Section 81.117(a), Natural Resources Code, to make a conforming change.

SECTION 5.10. Amends Section 85.167(b), Natural Resources Code, to make a conforming change.

SECTION 5.11. Amends Sections 85.2021(a), (c), and (d), Natural Resources Code, as follows:

(a) and (c) Increases the amounts of the nonrefundable fees mentioned in these subsections.

(d) Makes a conforming change.

SECTION 5.12. Amends Subchapter F, Chapter 85, Natural Resources Code, by adding Section 85.2022, as follows:

Sec. 85.2022. INACTIVE WELL FEE. (a) Requires an operator, if two-thirds or more of the wells of an operator with five or more wells have been inactive for three years or more, to submit to the Railroad Commission of Texas (commission) a nonrefundable inactive well fee of \$100 for each well that has been inactive for three years or more.

(b) Requires the inactive well fee to be paid annually at the time an operator's organization report is due. Prohibits an organization report from being approved until any inactive well fee due under this section has been paid.

(c) Requires all fees collected under this section to be deposited in the oil-field cleanup fund.

SECTION 5.13. Amends Section 85.381, Natural Resources Code, by adding Subsection (c), to require penalties collected under this section to be deposited in the General Revenue Fund to be used for the administration of the state's oil and gas conservation laws.

SECTION 5.14. Amends Section 89.121(b), Natural Resources Code, to make a conforming change.

SECTION 5.15. Amends Section 91.1013, Natural Resources Code, as follows:

Sec. 91.1013. APPLICATION FEES. (a) and (b) Increases the nonrefundable fees mentioned in these subsections.

(c) Makes a conforming change.

SECTION 5.16. Amends Sections 91.111(b) and (c), Natural Resources Code, as follows:

(b) Makes a conforming change.

(c) Sets forth and amends the composition of the oil-field cleanup fund (fund).

SECTION 5.17. Amends Section 91.112, Natural Resources Code, by adding Subsection (c), to prohibit more than 10 percent of the money expended from the fund in any state fiscal year from being used to pay the expenses of administering the fund during that state fiscal year.

SECTION 5.18. Amends Section 91.142, Natural Resources Code, by adding Subsections (i) and (j), as follows:

(i) Requires the commission, if an entity does not pay to the commission the fee required by Subsection (g) on or before the fifth business day after the due date as determined by the commission, to suspend the organization report of the entity until the entity pays to the commission the fee required by that subsection and a penalty in an amount equal to the fee.

(j) Requires all fees and penalties collected under this section to be deposited in the fund.

SECTION 5.19. Amends Section 91.264(c), Natural Resources Code, to require a penalty collected under this section to be deposited in the General Revenue Fund to be used for the administration of the state's oil and gas conservation laws. Makes a conforming change.

SECTION 5.20. Amends Section 91.459(c), Natural Resources Code, to make a conforming change.

SECTION 5.21. Amends Section 27.0321, Water Code, as follows:

Sec. 27.0321. APPLICATION FEE. (a) Creates this subsection from existing text and increases the amount of the nonrefundable fee mentioned in this subsection.

(b) Requires all fees collected under this section to be deposited in the General Revenue Fund to be used for the administration of the state's oil and gas conservation laws.

SECTION 5.22. Repealer: Section 81.111 (Tax Levy), Natural Resources Code.

SECTION 5.23. Amends Section 112.155(a), Tax Code, to make a conforming change.

SECTION 5.24. Amends Section 322, Texas Probate Code, to make a conforming change.

SECTION 5.25. Provides that this article takes effect September 1, 2005.

ARTICLE 6. WAIVER OF AND SUPPLEMENTAL HEALTH COVERAGE FOR STATE EMPLOYEES

SECTION 6.01. Amends Section 1551.104(a), Insurance Code, to provide an exception if participation in the basic coverage plan is specifically waived as provided by Section 1551.045.

SECTION 6.02. Amends Subchapter C, Chapter 1551, Insurance Code, by adding Section 1551.1045, as follows:

Sec. 1551.1045. WAIVER. (a) Authorizes an employee or annuitant, subject to Subsection (b), to waive in writing any coverage provided under this chapter.

(b) Requires a full-time employee, in order to waive coverage under the basic coverage plan, to demonstrate, in the manner required by the board of trustees of the Employees Retirement System of Texas (board of trustees), that the employee is covered by another health benefit plan that provides substantially equivalent coverage, as determined by the board of trustees, to the coverage provided by the basic coverage plan.

SECTION 6.03. Amends Subchapter E, Chapter 1551, Insurance Code, by adding Sections 1551.221 and 1551.222, as follows:

Sec. 1551.221. OPTIONAL SUPPLEMENTAL HEALTH COVERAGE FOR INDIVIDUALS ELIGIBLE UNDER TRICARE MILITARY HEALTH SYSTEM. (a) Requires the board of trustees to offer, as an optional coverage under the group benefits program, a supplemental health coverage program.

(b) Authorizes, under the supplemental health coverage program, an employee who is eligible to participate in the group benefits program and who is also eligible for benefits under the TRICARE Military Health System to elect to receive primary coverage under the TRICARE Military Health System. Provides that an employee participating in the supplemental health coverage program does not receive basic coverage through the group benefits program, but receives supplemental health coverage under this section.

(c) Authorizes the cost of supplemental health coverage provided under this section to be paid in the same manner as the cost of other optional coverage is paid under Subchapter G.

(d) Requires the board of trustees to contract to purchase the supplemental health coverage in accordance with Sections 1551.213-1551.216.

(e) Authorizes the board of trustees to adopt rules to implement this section.

Sec. 1551.222. INCENTIVE PAYMENTS. (a) Authorizes the board of trustees to allow an incentive payment under this section to an employee who elects to take certain actions regarding a health coverage program.

(b) Provides that the incentive payment authorized by this section is in the amount authorized by the General Appropriations Act and is authorized to be used by the employee, in the manner prescribed by the board of trustees, only to pay for other group coverage plans provided under the group benefits program, including the supplemental health coverage offered under Section 1551.221.

(c) Requires the board of trustees, at the time of initial enrollment in the group benefits program and during subsequent open-enrollment periods, to inform employees that they are authorized to make an election described by Subsection (a), if eligible, and receive any authorized incentive payment.

SECTION 6.04. Amends Subchapter G, Chapter 1551, Insurance Code, by adding Section 1551.324, as follows:

Sec. 1551.324. REDUCTION IN CONTRIBUTION FOR CERTAIN ACTIVE EMPLOYEES; INCENTIVE PAYMENTS. (a) Authorizes, notwithstanding any other provision of this subchapter, the state contribution for an employee's coverage under this chapter to be reduced, as provided in the General Appropriations Act, to reflect the reduced cost of coverage for certain employees.

(b) Authorizes the state, instead of the full state contribution for an employee who makes an election described by Subsection (a), to contribute, as specified by the General Appropriations Act, an amount for the incentive payment authorized by Section 1551.222.

ARTICLE 7. EFFECTIVE DATE

SECTION 7.01. Effective date: upon passage or the 91st day after adjournment.