

BILL ANALYSIS

Senate Research Center

H.B. 4583
By: Pitts (Ogden)
Finance
5/20/2009
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 4583 relates to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general government purposes.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. DEFINITION. Defines "state agency" in any provision of this Act that does not amend current law. Provides that the term does not include an institution of higher education as defined by Section 61.003 (Definitions), Education Code.

SECTION 2. ABOLITION OF FUNDS, ACCOUNTS, AND DEDICATIONS. Abolishes all funds and accounts created or re-created in the state treasury by an Act of the 81st Legislature, Regular Session, 2009, that becomes law and all dedications or rededications of revenue in the state treasury or otherwise collected by a state agency for a particular purpose by an Act of the 81st Legislature, Regular Session, 2009, that becomes law, on the later of August 31, 2009, or the date the Act creating or re-creating the fund or account or dedicating or rededicating revenue takes effect, except as otherwise specifically provided by this Act.

SECTION 3. PREVIOUSLY EXEMPT DEDICATIONS, FUNDS, AND ACCOUNTS. Provides that Section 2 of this Act does not apply to statutory dedications, funds, and accounts that were enacted before the 81st Legislature convened to comply with requirements of state constitutional or federal law; dedications, funds, or accounts that remained exempt from former Section 403.094(h), Government Code, at the time dedications, accounts, and funds were abolished under that provision; increases in fees or in other revenue dedicated as described by this section; or increases in fees or in other revenue required to be deposited in a fund or account described by this section.

SECTION 4. ACCOUNTS IN GENERAL REVENUE FUND. Provides that certain accounts and the revenue deposited to the credit of the accounts are exempt from Section 2 of this Act and are created in the general revenue fund, effective on the later of August 31, 2009, or the date the Act creating or re-creating the account takes effect, if created or re-created by an Act of the 81st Legislature, Regular Session, 2009, that becomes law.

SECTION 5. REVENUE DEDICATION. Provides that certain dedication or rededication of revenue collected by a state agency for a particular purpose is exempt from Section 2 of this Act, effective on the later of August 31, 2009, or the date the Act dedicating or rededicating the revenue takes effect, if dedicated or rededicated by an Act of the 81st Legislature, Regular Session, 2009, that becomes law.

SECTION 6. FEDERAL FUNDS. Provides that Section 2 of this Act does not apply to funds created pursuant to an Act of the 81st Legislature, Regular Session, 2009, for which separate accounting is required by federal law, except that the funds are required to be deposited in accounts in the general revenue fund unless otherwise required by federal law.

SECTION 7. TRUST FUNDS. (a) Provides that Section 2 of this Act does not apply to trust funds or dedicated revenue deposited to trust funds created under an Act of the 81st Legislature, Regular Session, 2009, except that the trust funds shall be held in the state treasury, with the comptroller of public accounts (comptroller) in trust, or outside the state treasury with the comptroller's approval.

(b) Provides that Section 2 of this Act does not apply to certain funds and trust funds.

SECTION 8. BOND FUNDS. Provides that Section 2 of this Act does not apply to bond funds and pledged funds created or affected by an Act of the 81st Legislature, Regular Session, 2009, except that the funds shall be held in the state treasury, with the comptroller in trust, or outside the state treasury with the comptroller's approval.

SECTION 9. CONSTITUTIONAL FUNDS. (a) Provides that Section 2 of this Act does not apply to funds or accounts that would be created or re-created by the Texas Constitution or revenue that would be dedicated or rededicated by the Texas Constitution under a constitutional amendment proposed by the 81st Legislature, Regular Session, 2009, or to dedicated revenue deposited to funds or accounts that would be so created or re-created, if the constitutional amendment is approved by voters.

(b) Provides that Section 2 of this Act does not apply to the national research university fund or any revenue transferred or deposited to or dedicated to that fund under House Bill No. 51, House Bill No. 4453, Senate Bill No. 1560, or similar legislation that becomes law.

SECTION 10. SEPARATE FUNDS IN THE TREASURY. Provides that, effective September 1, 2009, the following fund in the state treasury and the revenue deposited to the credit of the fund is exempt from Section 2 of this Act and is created as a separate fund in the state treasury, if created by an Act of the 81st Legislature, Regular Session, 2009, that becomes law:

(1) FLOODPLAIN MANAGEMENT fund created by House Bill No. 2536 or similar legislation.

SECTION 11. AMENDMENT OF SECTION 403.095, GOVERNMENT CODE. Amends Sections 403.095(b), (d), and (e), Government Code, effective September 1, 2009, as follows:

(b) Provides that dedicated revenues that, on August 31, 2011, rather than 2009, are estimated to exceed the amount appropriated by the General Appropriations Act or other laws enacted by the 81st Legislature, rather than the 80th Legislature, are available for general governmental purposes and are considered available for the purpose of certification under Section 403.121 (Contents of Estimate), notwithstanding any law dedicating or setting aside revenue for a particular purpose or entity.

(d) Requires the comptroller to reduce each dedicated account as directed by the legislature by an amount that may not exceed the amount by which estimated revenues and unobligated balances exceed appropriations, following certification of the General Appropriations Act and other appropriations measures enacted by the 81st, rather than 80th, Legislature. Authorizes that the reductions be made in the amounts and at the times necessary for cash flow considerations to allow all the dedicated accounts to maintain adequate cash balances to transact routine business. Authorizes the legislature to authorize, in the General Appropriations Act, the temporary delay of the excess balance reduction required under this subsection. Provides that this subsection does not apply to revenues or balances in:

(1) funds outside the treasury;

(2) trust funds, which for purposes of this section include funds that may or are required to be used in whole or in part for the acquisition, development, construction, or maintenance of state and local government infrastructures, recreational facilities, or natural resource conservation facilities;

(3) funds created by the constitution or a court; or

(4) funds for which separate accounting is required by federal law.

(e) Provides that this section expires on September 1, 2011, rather than 2009.

SECTION 12. CERTAIN REVENUES DEDICATED TO COMPENSATION TO VICTIMS OF CRIME FUND. (a) Reenacts Section 495.025(c), Government Code, as added by Section 1, Chapter 100 (S.B. 1580), Acts of the 80th Legislature, Regular Session, 2007, as follows:

(c) Requires the Texas Department of Criminal Justice (TDCJ) to transfer 50 percent of all commissions paid to TDCJ by a vendor under this section to the compensation to victims of crime fund established by Subchapter B (Crime Victims' Compensation), Chapter 56 (Rights of Crime Victims), Code of Criminal Procedure, and the other 50 percent to the credit of the undedicated portion of the general revenue fund, except that the department is required to transfer the first \$10 million of the commissions collected in any given year under a contract awarded under this section to the compensation to victims of crime fund established by Subchapter B, Chapter 56, Code of Criminal Procedure. Provides that this section does not reduce any appropriation to TDCJ.

(b) Rededicates revenue dedicated to the compensation to victims of crime fund by Section 495.025(c), Government Code, as added by Section 1, Chapter 100 (S.B. 1580), Acts of the 80th Legislature, Regular Session, 2007, to that fund by this section and exempts that rededication from Section 2 of this Act.

SECTION 13. SPECIAL FUND FOR SPECIAL RANGERS. Provides that Section 2 of this Act does not apply to the special fund established for special rangers under House Bill No. 2062 (relating to the distribution of proceeds from the sale of forfeited property in a criminal case), Senate Bill No. 1683 (relating to the distribution of proceeds from the sale of forfeited property in a criminal case), or similar legislation of the 81st Legislature, Regular Session, 2009, that becomes law, or to proceeds transferred to the fund.

SECTION 14. CHRIS KYKER ENDOWMENT FOR SENIORS FUND. Provides that Section 2 of this Act does not apply to the Chris Kyker Endowment for Seniors Fund created as a special fund outside the state treasury by House Bill No. 610 (relating to the establishment of the Legislative Committee on Aging and other initiatives relating to the aging population of this state), Senate Bill No. 1230 (relating to the establishment of the Legislative Committee on Aging and other initiatives relating to the aging population of this state), or similar legislation of the 81st Legislature, Regular Session, 2009, that becomes law, or to revenue deposited to the fund.

SECTION 15. HEALTHY TEXAS SMALL EMPLOYER PREMIUM STABILIZATION FUND. Provides that Sections 2 and 7 of this Act do not apply to the healthy Texas small employer premium stabilization fund created by Senate Bill No. 6 (relating to the creation of the Healthy Texas Program) or similar legislation, or to dedicated revenue deposited to that account.

SECTION 16. AMERICAN RECOVERY AND REINVESTMENT ACT FUND. (a) Provides that Section 2 of this Act does not apply to the American Recovery and Reinvestment Act fund created by Subsection (b) of this section, or to revenue deposited to the fund.

(b) Amends Subchapter B, Chapter 403, Government Code by adding Section 403.0122, as follows:

Sec. 403.0122. DEPOSIT OF AMERICAN RECOVERY AND REINVESTMENT ACT MONEY. (a) Defines "fund" and "recovery act" in this section.

(b) Creates the American Recovery and Reinvestment Act fund as a special fund in the state treasury outside the general revenue fund.

(c) Requires state agencies that receive money under the recovery act to deposit the money to the credit of the fund as the comptroller determines

is necessary to hold and account for money received under the recovery act, notwithstanding any other law of this state and except as otherwise provided by federal law.

(d) Authorizes other money to be deposited to the credit of the fund as appropriated by the legislature, as required by federal law, or as necessary to account for money related to the recovery act. Authorizes money deposited to the credit of the fund to only be used for the purposes identified in the recovery act to stimulate the economy, including aid for unemployment, welfare, education, health, and infrastructure.

(e) Requires agencies to transfer amounts between the fund and other accounts and funds in the treasury as necessary to properly account for money received under the recovery act as directed by the comptroller. Provides that this section does not affect the authority of the comptroller to establish and use accounts necessary to manage and account for revenues and expenditures.

(f) Provides that interest earned on money deposited to the credit of the fund is exempt from Section 404.071 (Disposition of Interest on Investments). Requires that interest earned on money in the fund be retained in the fund.

(g) Authorizes the comptroller to issue guidelines for state agencies regarding the implementation of this section.

SECTION 17. DESIGNATED TRAUMA FACILITY AND EMS ACCOUNT. Provides that Section 2 of this Act does not apply to general revenue account no. 5111 established in the general revenue fund, the fund for emergency medical services, trauma facilities, and trauma care systems.

SECTION 18. SYSTEM BENEFIT FUND. Provides that Section 2 of this Act does not apply to general revenue account no. 5100, the system benefit fund account.

SECTION 19. LARGE COUNTY AND MUNICIPALITY RECREATION AND PARKS ACCOUNT. (a) Recreates the large county and municipality recreation and parks account, established by Section 39, Chapter 1159 (relating to the funding, powers, duties, and responsibilities of the Texas Parks and Wildlife Department and the Texas Historical Commission) (H.B. 12), Acts of the 80th Legislature, Regular Session, 2007, by this section as an account in the general revenue fund, on the effective date of this Act.

(b) Exempts the large county and municipality recreation and parks account and the revenue deposited to the credit of the account from Section 2 of this Act.

SECTION 20. HEALTH CARE ACCESS FUND IN THE TREASURY. Provides that the health care access fund created by House Bill No. 2154 (relating to the physician education loan repayment program), House Bill No. 1876 (relating to creating the health care access fund to recruit health care providers in health professional shortage areas and to support federally-qualified health centers and to using for those purposes revenue from a tax imposed on certain tobacco products), Senate Bill No. 2527 (relating to creating the health care access fund to recruit health care providers in health professional shortage areas and to support federally-qualified health centers and to using for those purposes revenue from a tax imposed on certain tobacco products), or similar legislation, and the revenue deposited to the credit of the health care access fund, are exempt from Section 2 of this Act and the health care access fund is created as a separate fund in the state treasury outside the general revenue fund, effective September 1, 2009.

SECTION 21. EFFECT OF ACT. (a) Provides that this Act prevails over any other Act of the 81st Legislature, Regular Session, 2009, regardless of the relative dates of enactment, that purports to create or re-create a special fund or account in the state treasury or to dedicate or

rededicate revenue to a particular purpose, including any fund, account, or revenue dedication abolished under former Section 403.094, Government Code.

(b) Requires that revenue that, under the terms of another Act of the 81st Legislature, Regular Session, 2009, would be deposited to the credit of a special account or fund, be deposited to the credit of the undedicated portion of the general revenue fund unless the fund, account, or dedication is exempted under this Act.

SECTION 22. EFFECTIVE DATE. Effective date: upon passage or on the 91st day after the last day of the legislative session.