

BILL ANALYSIS

Senate Research Center

S.B. 69
By: Nelson
Finance
6/14/2019
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Purpose

- To streamline and maximize the investment returns on the economic stabilization fund (ESF), and to create an avenue to pay for state needs.

Background

- Proposition 1 from 2013 created a mechanism by which a portion of revenue that would otherwise go into the ESF would automatically transfer to the State Highway Fund, as long as a sufficient balance is met. Under current law, that figure is determined by the Committee to Establish the Sufficient Balance in the Economic Stabilization Fund.
- Until 2013, the comptroller of public accounts of the State of Texas (comptroller) could only deposit ESF funds in the treasury pool—which yields less than the rate of inflation. Under current law, the comptroller is only able to invest the portion of the ESF above the sufficient balance.

Bill Provisions

- Abolishes the ESF sufficient balance committee;
- Sets 7 percent of general revenue as the sufficient balance;
- Restores the ESF cap to its original formula by removing federal dollars from the calculation;
- Allows 75 percent of the ESF balance to be invested under prudent investor standards;
- Directs ESF investment revenue into a newly established Legacy Fund to address long-term needs as authorized by the legislature.
- There is an accompanying Joint Resolution authorizing the comptroller to transfer ESF investment income to the Legacy Fund. (Original Author's/Sponsor's Statement of Intent)

S.B. 69 amends current law relating to the allocations of money for transfer to the state highway fund and the economic stabilization fund and the investment of money in the economic stabilization fund.

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. Amends the heading to Subchapter H, Chapter 316, Government Code, to read as follows:

SUBCHAPTER H. ALLOCATION OF TRANSFERS TO ECONOMIC STABILIZATION FUND AND STATE HIGHWAY FUND

SECTION 2. Amends Sections 316.092 and 316.093, Government Code, as follows:

Sec. 316.092. New heading: DETERMINATION OF THRESHOLD FOR CONSTITUTIONAL TRANSFER TO STATE HIGHWAY FUND. (a) Requires the comptroller of public accounts of the State of Texas (comptroller), for the purposes of

adjusting the allocations of transfers in accordance with Section 49-g(c-2) (relating to a procedure for allocation of certain oil and gas tax revenues), Article III, Texas Constitution, and Section 316.093 for a state fiscal biennium, to determine and adopt for the next state fiscal biennium an amount equal to seven percent of the certified general revenue-related appropriations made for that state fiscal biennium. Deletes existing text requiring the speaker of the house of representatives and the lieutenant governor to appoint a select committee and for the select committee to determine a sufficient balance of the fund using certain considerations. Deletes existing text of Subsection (c) requiring the comptroller to provide the select committee with a projection of the amounts to be transferred to the fund not later than December 1 of each even-numbered year preceding the year in which this section expires. Deletes existing text of Subsection (d) requiring approval of the sufficient balance of the fund through a concurrent resolution.

(b) Redesignates existing Subsection (e) as this subsection. Provides that this section expires December 31, 2034, rather than December 31, 2024.

Sec. 316.093. ADJUSTMENT OF CONSTITUTIONAL ALLOCATIONS TO FUND AND STATE HIGHWAY FUND. (a) Requires the comptroller, before making transfers for a state fiscal year in accordance with Section 49-g(c) (relating to a requirement to transfer certain and oil gas tax revenue), Article III, Texas Constitution, to determine whether the sum of the balance of the fund on the preceding August 31, any projected transfer to the fund under Section 49-g(b) (relating to a procedure for allocating a certain amount of general revenue) of that article, and any projected transfer to the fund under Section 49-g(c) of that article in accordance with the allocations for the transfer as provided by Section 49-g(c-1) (relating to proportional allocation of certain transferred funds) of that article is less than the amount determined under Section 316.092 for that state fiscal biennium, rather than less than the sufficient balance adopted under Section 316.092.

(b) Requires the comptroller, if the sum described by Subsection (a) is less than the amount determined under Section 316.092 for that state fiscal biennium, rather than less than the sufficient balance adopted under Section 316.092, to reduce the allocation to the state highway fund provided by Section 49-g(c), Article III, Texas Constitution, and increase the allocation to the economic stabilization fund, in an equal amount, until the amount determined under Section 316.092 for that state fiscal biennium would be achieved by the transfer to the fund or the total amount of the sum described by Section 49-g(c), Article III, Texas Constitution, is allocated to the fund, whichever occurs first. Makes a conforming change.

(c) Deletes existing text relating to instances in which a sufficient balance has not been adopted. Creates this subsection from text of existing Subsection (e) and requires the comptroller, for purposes of Section 49-g(c-2), Article III, Texas Constitution, to adjust the allocation provided by Section 49-g(c-2) of that article of amounts to be transferred to the fund and to the state highway fund under Section 49-g(c) of that article in a state fiscal year beginning on or after September 1, 2035, rather than September 1, 2025, so that a certain amount is transferred to the economic stabilization fund.

(d) Redesignates text of existing Subsection (f) as this subsection. Provides that Subsections (a) and (b) and this subsection expire December 31, 2034, rather than providing that Subsections (a)-(c) and this subsection expire December 31, 2024.

SECTION 3. Amends Section 404.0241, Government Code, as follows:

Sec. 404.0241. INVESTMENT OF CERTAIN ECONOMIC STABILIZATION FUND BALANCES. (a) Authorizes the comptroller, subject to Subsection (b) and notwithstanding Section 404.024 (Authorized Investments), for the purpose of investing the assets of the economic stabilization fund, to acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor exercising reasonable

care, skill, and caution would acquire, exchange, sell, supervise, manage, or retain in light of the purposes, terms, distribution requirements, and other circumstances then prevailing for the fund, taking into consideration the investment of all the assets of the fund rather than a single investment. Deletes existing text requiring the comptroller to invest a percentage of the balance of the economic stabilization fund in an investment portfolio managed in accordance with certain investment standards and providing that such investment is not subject to certain limitations.

(b) Requires at least one-quarter of the economic stabilization fund balance to be invested in a manner that ensures the liquidity of that amount.

(c) Authorizes the comptroller to pool assets of the economic stabilization fund with other state assets for purposes of investment under Section 404.024(b).

(d) Creates this subsection from existing text. Requires the comptroller to adjust the investment of economic stabilization fund money, rather than the investment portfolio of economic stabilization fund money, periodically as necessary to ensure that:

(1) at all times at least one-quarter of the balance of the economic stabilization fund is invested in a manner that ensures the liquidity of that amount; and

(2) the balance of the economic stabilization fund is sufficient to meet the cash flow requirements of the fund.

(e) Redesignates existing Subsection (c) as this subsection and makes a conforming change.

Deletes existing Subsection (d) providing that this section expires on the date Section 316.092 expires.

SECTION 4. Provides that Sections 316.093(a) and (b), Government Code, as amended by this Act, apply only to the allocation of money to the economic stabilization fund and the state highway fund under Section 49-g(c-1), Article III, Texas Constitution, beginning with the state fiscal year beginning September 1, 2021. Provides that the allocation of money to the economic stabilization fund and the state highway fund under Section 49-g(c-1), Article III, Texas Constitution, for the state fiscal years beginning September 1, 2019, and September 1, 2020, is governed by Sections 316.093(a) and (b), Government Code, as those sections existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 5. Effective date: September 1, 2019.