

By: Swinford

H.B. No. 23

A BILL TO BE ENTITLED

AN ACT

relating to budgetary and other fiscal management matters affecting state government or certain regional entities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. PUBLIC INFORMATION AND STATE BUDGETARY WORKING PAPERS

SECTION 1.01. Subchapter C, Chapter 401, Government Code, is amended by adding Section 401.0446 to read as follows:

Sec. 401.0446. BUDGETARY WORKING PAPERS. (a) In this section, "budgetary working paper" means information, other than a uniform budget estimate form, that is created, received, considered, or otherwise used by a governmental body in estimating revenues or in considering or preparing a draft or final biennial state fiscal budget, including a draft, a working paper, supporting material, research material, or an internal or external communication relating to that budget.

(b) A budgetary working paper that is collected, assembled, or maintained by the governor, lieutenant governor, comptroller, speaker of the house of representatives, Legislative Budget Board, senate finance committee, senate state affairs committee, house appropriations committee, or house ways and means committee is excepted from required public disclosure under Chapter 552 or any other law of this state. Section 552.022 does not apply to information excepted from required public disclosure by this section.

1 ARTICLE 2. TELECONFERENCE MEETING OF LEGISLATIVE BUDGET BOARD

2 SECTION 2.01. Section 322.003, Government Code, is amended  
3 by adding Subsections (d) and (e) to read as follows:

4 (d) As an exception to Chapter 551 and other law, if the  
5 chairman and vice chairman of the board are physically present at a  
6 meeting, then any number of the other members of the board may  
7 attend a meeting of the board by use of telephone conference call,  
8 video conference call, or other similar telecommunication device.  
9 This subsection applies for purposes of constituting a quorum, for  
10 purposes of voting, and for any other purpose allowing a member of  
11 the board to otherwise fully participate in any meeting of the  
12 board. This subsection applies without exception with regard to  
13 the subject of the meeting or topics considered by the members.

14 (e) A meeting held by use of telephone conference call,  
15 video conference call, or other similar telecommunication device:

16 (1) is subject to the notice requirements applicable  
17 to other meetings;

18 (2) must specify in the notice of the meeting the  
19 location of the meeting;

20 (3) must be open to the public and shall be audible to  
21 the public at the location specified in the notice of the meeting as  
22 the location of the meeting; and

23 (4) must provide two-way audio communication between  
24 all parties attending the meeting during the entire meeting.

25 ARTICLE 3. GOVERNOR'S BUDGET AUTHORITY

26 SECTION 3.01. Section 401.0445(b), Government Code, is  
27 amended to read as follows:

1 (b) In the budget, the governor shall show:

2 (1) the list of appropriations for the current year  
3 preceding the biennium for which appropriations are sought and  
4 recommended;

5 (2) expenditures for [~~each of~~] the year [~~two full~~  
6 ~~years~~] preceding the current year; and

7 (3) the amounts requested by the various agencies and  
8 the amounts recommended by the governor for each of the years of the  
9 biennium.

10 SECTION 3.02. Section 401.046(a), Government Code, is  
11 amended to read as follows:

12 (a) The governor shall deliver a copy of the governor's  
13 budget to each member of the legislature before the governor gives  
14 the message to the legislature required by Section 9, Article IV,  
15 Texas Constitution, at the commencement [~~not later than the sixth~~  
16 ~~day~~] of each regular legislative session.

17 SECTION 3.03. Section 401.047 and Chapter 2053, Government  
18 Code, are repealed.

19 ARTICLE 4. OVERSIGHT OF REGIONAL  
20 PLANNING COMMISSIONS

21 SECTION 4.01. The heading to Section 391.009, Local  
22 Government Code, is amended to read as follows:

23 Sec. 391.009. ROLE OF STATE AUDITOR, GOVERNOR, AND STATE  
24 AGENCIES.

25 SECTION 4.02. Section 391.009, Local Government Code, is  
26 amended by amending Subsection (a) and adding Subsections (a-1) and  
27 (a-2) to read as follows:

1 (a) To protect the public interest and [~~or~~] promote the  
2 efficient use of public funds, the governor, with the technical  
3 assistance of the state auditor, may draft and [~~shall~~] adopt:

4 (1) rules relating to the operation and oversight of a  
5 commission;

6 (2) rules relating to the receipt or expenditure of  
7 funds by a commission, including:

8 (A) restrictions on the expenditure of any  
9 portion of commission funds for certain classes of expenses; and

10 (B) restrictions on the maximum amount of or  
11 percentage of commission funds that may be expended on a class of  
12 expenses, including indirect costs or travel expenses;

13 (3) annual reporting requirements for a commission;

14 (4) annual audit requirements on funds received or  
15 expended by a commission from any source;

16 (5) rules relating to the establishment and use of  
17 standards by which the productivity and performance of each  
18 commission can be evaluated; and

19 (6) guidelines that commissions and governmental  
20 units shall follow in carrying out the provisions of this chapter  
21 relating to review and comment procedures.

22 (a-1) The governor may draft and adopt rules under  
23 Subsection (a) using negotiated rulemaking procedures under  
24 Chapter 2008, Government Code.

25 (a-2) Based on a risk assessment performed by the state  
26 auditor and subject to the legislative audit committee's approval  
27 for inclusion in the audit plan under Section 321.013, Government

1 Code, the state auditor's office shall assist the governor as  
2 provided by Subsection (a).

3 SECTION 4.03. Section 391.0095, Local Government Code, as  
4 amended by Senate Bill No. 19, Acts of the 78th Legislature, Regular  
5 Session, 2003, is amended to read as follows:

6 Sec. 391.0095. AUDIT AND REPORTING REQUIREMENTS. (a) The  
7 audit and reporting requirements under Section 391.009(a) shall  
8 include a requirement that a commission annually report to the  
9 state auditor [~~governor~~]:

10 (1) the amount and source of funds received by the  
11 commission;

12 (2) the amount and source of funds expended by the  
13 commission;

14 (3) an explanation of any method used by the  
15 commission to compute an expense of the commission, including  
16 computation of any indirect cost of the commission;

17 (4) a report of the commission's productivity and  
18 performance during the annual reporting period;

19 (5) a projection of the commission's productivity and  
20 performance during the next annual reporting period;

21 (6) the results of an audit of the commission's affairs  
22 prepared by an independent certified public accountant; and

23 (7) a report of any assets disposed of by the  
24 commission.

25 (b) The annual audit of a commission may be commissioned [~~by~~  
26 ~~the governor's office or~~] by the commission or at the direction of  
27 the governor's office, as determined by the governor's office, and

1 shall be paid for from the commission's funds.

2 (c) A commission shall submit any other report or an audit  
3 to the state auditor and ~~[required by]~~ the governor.

4 (d) If a commission fails to submit a report or audit  
5 required under this section or is determined by the state auditor  
6 ~~[governor]~~ to have failed to comply with a rule, requirement, or  
7 guideline adopted under Section 391.009, the state auditor shall  
8 report the failure to the governor's office. The governor may,  
9 until the failure is corrected:

10 (1) appoint a receiver to operate or oversee the  
11 commission; or

12 (2) withhold any appropriated funds of the commission.

13 (e) A commission shall send to the governor, the state  
14 auditor, the comptroller, and the Legislative Budget Board a copy  
15 of each report and audit required under this section or under  
16 Section 391.009. The state auditor may review each audit and  
17 report, subject to a risk assessment performed by the state auditor  
18 and to the legislative audit committee's approval of including the  
19 review in the audit plan under Section 321.013, Government Code. If  
20 the state auditor reviews the audit or report, the state auditor  
21 must be given access to working papers and other supporting  
22 documentation that the state auditor determines is necessary to  
23 perform the review. If the state auditor finds significant issues  
24 involving the administration or operation of a commission or its  
25 programs, the state auditor shall report its findings and related  
26 recommendations to the legislative audit committee, the governor,  
27 and the commission. The governor and the legislative audit

1 committee may direct the commission to prepare a corrective action  
2 plan or other response to the state auditor's findings or  
3 recommendations. The legislative audit committee may direct the  
4 state auditor to perform any additional audit or investigative work  
5 that the committee determines is necessary.

6 SECTION 4.04. Section 391.0117(e), Local Government Code,  
7 is amended to read as follows:

8 (e) A commission shall submit to the state auditor  
9 ~~[governor]~~ the commission's salary schedule, including the  
10 salaries of all exempt positions, not later than the 45th day before  
11 the date of the beginning of the commission's fiscal year. If the  
12 state auditor, subject to the legislative audit committee's  
13 approval for inclusion in the audit plan under Section 321.013,  
14 Government Code, has recommendations to improve ~~[governor objects~~  
15 ~~to]~~ a commission's salary schedule or a portion of the schedule, the  
16 state auditor shall report the recommendations to the governor's  
17 office. The governor's office may not allow the portion of the  
18 schedule for which ~~[that]~~ the state auditor has recommendations to  
19 ~~[governor objects to may not]~~ go into effect until revisions or  
20 explanations are given that are satisfactory to the governor based  
21 on recommendations from the state auditor ~~[and the governor~~  
22 ~~approves that portion of the schedule]~~.

23 SECTION 4.05. On the effective date of this article, a rule,  
24 requirement, or guideline adopted by the governor relating to the  
25 oversight of regional planning commissions remains in effect until  
26 amended or repealed by the governor.

1 ARTICLE 5. ABANDONMENT OF PROCEEDS ON DEMUTUALIZATION

2 SECTION 5.01. Section 72.101, Property Code, is amended by  
3 adding Subsections (c) and (d) to read as follows:

4 (c) Property distributable in the course of a  
5 demutualization, rehabilitation, or related reorganization of an  
6 insurance company is presumed abandoned on the first anniversary of  
7 the date the property becomes distributable if, on that date:

8 (1) the last known address of the owner according to  
9 the records of the holder of the property is known to be incorrect  
10 or the distribution or statements related to the distribution are  
11 returned by the post office as undeliverable; and

12 (2) the owner has not:

13 (A) communicated in writing with the holder of  
14 the property or the holder's agent regarding the interest; or

15 (B) otherwise communicated with the holder  
16 regarding the interest as evidenced by a memorandum or other record  
17 on file with the holder or its agents.

18 (d) Property distributable in the course of a  
19 demutualization, rehabilitation, or related reorganization of an  
20 insurance company that is not subject to Subsection (c) is presumed  
21 abandoned as otherwise provided by this section.

22 SECTION 5.02. Section 74.301, Property Code, is amended by  
23 amending Subsection (a), as amended by House Bill No. 826, Acts of  
24 the 78th Legislature, Regular Session, 2003, and adding Subsection  
25 (d) to read as follows:

26 (a) Except as provided by Subsection (c) or (d), each holder  
27 who on June 30 holds property that is presumed abandoned under



1 Chapter 72, 73, or 75 of this code or Subchapter G, Chapter 61,  
2 Labor Code, shall deliver the property to the comptroller on or  
3 before the following November 1 accompanied by the report required  
4 to be filed under Section 74.101.

5 (d) If the property subject to delivery under Subsection (a)  
6 is proceeds from the demutualization, rehabilitation, or related  
7 reorganization of an insurance company, the holder shall deliver  
8 the property and required report to the comptroller on or before the  
9 following August 1.

10 SECTION 5.03. This article takes effect September 1, 2003,  
11 if this Act receives a vote of two-thirds of all the members elected  
12 to each house, as provided by Section 39, Article III, Texas  
13 Constitution. If this Act does not receive the vote necessary for  
14 this article to take effect on that date, this article takes effect  
15 November 1, 2003.

16 ARTICLE 6. EFFECTIVE DATE

17 SECTION 6.01. Except as otherwise provided by this Act,  
18 this Act takes effect November 1, 2003.