

## **BILL ANALYSIS**

C.S.H.B. 2425  
By: McCall  
Ways & Means  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

As the sole administrator of the treasury and the state's many financial resources, the comptroller's office relies on statutory authority and rulemaking power to manage those resources. As the dynamics of financial markets and our economic systems continue to evolve, the tools available to the comptroller often require adjustment to maximize the effectiveness of the agency's resource control. Being the sole administrator of the state's financial resources also places the comptroller in the unique position of working in concert with other state governmental entities that rely on the comptroller's expertise to adequately provide the necessary financial support. C.S.H.B. 2425 makes adjustments in various portions of the Texas Statutes to facilitate the administration of the state's financial resources.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 21 of this bill.

### **ANALYSIS**

SECTION 1. Amends Section 103.051(a), Civil Practice and Remedies Code, adding to the list of items that must be submitted to the comptroller for wrongful imprisonment compensation. The addition consists of a certification of the claimant's actual innocence signed by the current prosecuting attorney of the county in which the sentence was rendered.

SECTION 2. Amends Section 14(e), Article 42.12, Code of Criminal Procedure, clarifying when a county must remit Substance Abuse court fees. The reporting requirement is eliminated in the event that no fees are collected.

SECTION 3. Amends Section 19(f), Article 42.12, Code of Criminal Procedure, clarifying when a community corrections and supervision department must remit Substance Abuse court fees. The reporting requirement is eliminated in the event that no fees are collected.

SECTION 4. Amends Section 44.901, Education Code, authorizing school district boards of trustees to enter into energy savings performance contracts. The Section also requires payment of a performance bond. Methods of finance for energy savings performance contracts may include lease-purchase, bond proceeds, and vendor financing.

SECTION 5. Amends Section 51.927, Education Code, authorizing higher education boards to enter into energy savings performance contracts. The Section also requires payment of a performance bond. Methods of finance for energy savings performance contracts may include lease-purchase, bonds proceeds, and vendor financing. Contracts under this Section must be let as professional services.

SECTION 6. Amends Section 54.619, Education Code, allowing the Prepaid Higher Education Tuition Board to suspend new enrollment in the program to ensure actuarial soundness of the fund.

SECTION 7. Amends Section 54.622, Education Code, making permissive the Prepaid Higher Education

Tuition Board's authority to make prepaid tuition contracts available.

SECTION 8. Amends Section 54.624, Education Code, establishing that a university must accept as payment in full of a person's tuition and fees the lesser of 1) the amount of tuition and required fees charged by the institution or 2) an amount paid by the Prepaid Higher Education Tuition Board under the contract equal to the weighted average or tuition and required fees of all public senior colleges and universities for that semester or other academic period as determined by the Prepaid Higher Education Tuition Board.

SECTION 9. Amends Section 403.027(g), Government Code, placing the definition of "digital signature" in the Government Code and deleting cross-references to portions of the Business & Commerce Code that no longer exist.

SECTION 10. Amends Section 403.054, Government Code, giving a state agency permissive, discretionary authority to issue a replacement warrant from operating funds if the agency can show proper documentation that recovery of initial funds has been initiated and the agency has filed a proper report with the Treasury.

SECTION 11. Amends Section 403.092, Subsection (a) and (b), Government Code, expanding the comptroller's authority to borrow available cash from funds outside the treasury being managed by the comptroller.

SECTION 12. Amends Sections 403.1042(b), (c), (e), and (f), Government Code, by changing the way persons are appointed to the tobacco settlement permanent trust account investment advisory committee.

SECTION 13. Amends Section 404.024, Government Code, allowing the comptroller to invest state monies in pooled funds established by the Texas Treasury Safekeeping Trust Company and operated like mutual funds and whose portfolios consist only of dollar-denominated securities. This Section also makes explicit the comptroller's authority to lend securities as an investment option.

SECTION 14. Amends Section 404.102, Government Code, making explicit the trust company's authority to pool funds and lend securities in order to manage funds and securities more efficiently and economically.

SECTION 15. Amends Section 404.107(b), stating that a participant having funds deposited with the trust company is required to pay fees developed under Section 404.103(f). The trust company may deduct fees from the principal or earning of a participant on deposit with the trust company or require a participant to pay a fee from an amount not on deposit with the trust company.

SECTION 16. Amends Section 404.123(b), Government Code, allowing the cash management committee to set the cap on outstanding notes and eliminating the 25 percent cap.

SECTION 17. Amends Chapter 447, Government Code, as amended by Chapters 573, 1158, and 1983, 77<sup>th</sup> Legislature, Regular Session, 2001, consolidating three bills amended to State Energy Conservation Office statutes and eliminating conflicting provisions.

SECTION 18. Amends Section 659.253, Government Code, allowing an employee moved from an exempt to a classified position to become eligible for a merit increase or promotion once returned to the classified position.

SECTION 19. Amends Subchapter K, Chapter 659, Government Code:

- Allowing an agency to post a position for competitive applicants and allow the agency to select an internal applicant willing to move to a different job classification with an increase in pay;
- Allowing internal applicants to apply for posting that are in the same salary group, although a different job classification and achieve an increase in pay; and

- Allowing an internal applicant the same opportunity at earning a higher salary as an external applicant.

SECTION 20. Amends Section 659.255, Government Code, allowing an employee who is employed in two different job classifications—positions defined by the Position Classification Act—to be eligible for a merit increase or a one-time merit payment in each position if 1) the employee had worked for the agency for six months and 2) the employee had not had a merit increase, promotion, enhanced compensation award or one-time merit payment in that particular position within six months prior to the effective date of the merit increase or one-time merit payment for that classified position.

SECTION 21. Amends Subchapter K, Chapter 659, Government Code, adding administrative rulemaking authority to the comptroller to determine policy on salary administration, including portions, reclassifications and other salary adjustments.

SECTION 22. Amends Section 832.002, Government Code, providing the authority to make a payroll deduction for the \$10 annual fee for the Judicial Retirement System Plan One fee.

SECTION 23. Amends Section 2101.0115, Subsections (a) and (b), Government Code, so that the comptroller no longer receives a copy of the non-financial information submitted to be a part of the comptroller's annual financial report.

SECTION 24. Amends Section 2113.205(b), Government Code, allowing the comptroller to approve the use of money appropriated for a fiscal year to pay for other costs of a similar nature that may cross fiscal years.

SECTION 25. Amends Section 2162.001, Government Code, providing a definition for "local government" in the portion of the Government Code dealing with the State Council on Competitive Government.

SECTION 26. Amends Section 2162.102, Government Code, allowing local governments to participate in the State Council on Competitive Government contracts.

SECTION 27. Amends Chapter 2166.406, Government Code, authorizing state agencies to enter into energy performance contracts. Requires the payment of a performance bond. Methods of finance for energy saving performance contracts may include lease-purchase, bond proceeds, and vendor financing. Requires contracts to be let as professional services.

SECTION 28. Amends Section 2251.025(b), Government Code, adjusting the interest rate on late payments by state agencies to vendors to the prime rate plus one percent. This would represent a reduction in payments by state agencies from 12 percent to 5.75 percent.

SECTION 29. Amends Section 2252.903(e), Government Code, eliminating verification of warrant hold within seven days prior to letting a contract if the contract will be paid using funds held in the treasury.

SECTION 30. Amends Section 2305.012, Government Code, revising the statutory language for the State Energy Conservation Office. Many of the original programs have run their course or all available funding has been used.

SECTION 31. Amends Section 2305.032(a), Government Code, revising the statutory language for the State Energy Conservation Office. Many of the original programs have run their course or all available funding has been used.

SECTION 32. Amends Section 2305.033, Subsections (b) and (d), Government Code, revising the statutory language for the State Energy Conservation Office. Many of the original programs have run their course or all available funding has been used.

SECTION 33. Amends Section 2305.034, Government Code, revising the statutory language for the State Energy Conservation Office. Many of the original programs have run their course or all available funding has been used.

SECTION 34. Amends Section 2305.039(b), Government Code, revising the statutory language for the State Energy Conservation Office. Many of the original programs have run their course or all available funding has been used.

SECTION 35. Amends Section 2306.783(a), Government Code, removing the comptroller from the membership list of the Texas Interagency Council for the Homeless.

SECTION 36. Amends the heading of Chapter 302, Local Government, by deleting the references to water conservation measures so that the Chapter applies strictly to energy savings performance contracts.

SECTION 37. Amends Section 302.001, Local Government Code, clarifying that this section of the code applies specifically to energy savings performance contracts, not energy conservation measures in general.

SECTION 38. Amends Section 302.002, Local Government Code, clarifying that this section of the code applies specifically to energy savings performance contracts, not energy conservation measures in general.

SECTION 39. Amends Chapter 302.003, Local Government Code, clarifying that this section of the code applies specifically to energy savings performance contracts, not energy conservation measures in general.

SECTION 40. Amends Section 302.004, Local Government Code, clarifying that this section of the code applies specifically to energy savings performance contracts, not energy conservation measures in general.

SECTION 41. Amends Chapter 302.005, Local Government Code, clarifying that this section of the code applies specifically to energy savings performance contracts, not energy conservation measures in general.

SECTION 42. Amends Section 74.103, Property Code, giving the comptroller the authority to estimate an unclaimed property audit if records are incomplete or unavailable.

SECTION 43. Amends Section 74.501, Property Code, clarifying which individuals are eligible to receive direct payment of unclaimed property proceeds, and codifies current policy of not making direct payments to creditors, heir finders, assignees, and other persons with power of attorney.

SECTION 44. Amends Section 112.058(a), Tax Code, deleting references to the Department of Insurance as the receiver of protest payments since the comptroller is responsible for those transactions.

SECTION 45. Amends Section 256.009, Transportation Code, providing that the county auditor, rather than the county judge, must submit a report regarding the county and road district highway fund.

SECTION 46. List of sections of statute to be repealed by this bill.

SECTION 47. Provides an additional appropriation for 2004-2005 to back funds outside the treasury from which General Revenue borrowed cash. Clarifies legislative intent.

#### **EFFECTIVE DATE**

SECTION 48. Effective dates.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 2425 makes several substantive changes to the text in the introduced version. The substitute accomplishes the following:

- Clarifies the ability to appropriate funds to repay interfund borrowing.
- Gives the Prepaid Higher Education Tuition Board latitude to cap enrollment in the program as necessary to ensure the financial viability of the fund.
- Strikes language that would have expanded the comptroller's performance review authority over institutions of higher education.
- Clarifies how interest is allocated on protested funds.
- Repeals the Product Development & Small Business Incubator Fund Program, which has never received direct funding.
- Changes how persons are appointed to the tobacco settlement permanent trust account investment advisory committee, whereas the existing structure creates quorum problems.
- Clarifies the statute governing the fees recovered by the Texas Treasury Safekeeping Trust Company.