

By: Isett

H.B. No. 2770

A BILL TO BE ENTITLED

AN ACT

relating to unexpected cash balances of the general revenue account.

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

SECTION 1. Subchapter F, Chapter 403, Government Code, is amended by adding Section 403.098 to read as follows:

Sec. 403.098. UNEXPECTED CASH BALANCE OF GENERAL REVENUE ACCOUNT. (a) The comptroller shall estimate the cash balance of the general revenue account that will exist at the end of a fiscal biennium. The comptroller shall provide the estimate to the governor and the legislature at the same time the comptroller provides the statement of financial condition for the remainder of that biennium and the next biennium.

(b) The comptroller shall exclude the estimated cash balance from the comptroller's estimate of the cash or revenues that will be available for the general revenue account during the next fiscal biennium.

(c) As soon as possible after the end of a fiscal biennium, the comptroller shall state the actual cash balance of the general revenue account as of the end of that biennium.

(d) Not later than October 1 following the end of a fiscal biennium, the comptroller shall transfer cash from the general revenue account to both the returning the favor fund and the economic stabilization fund. Except as provided in Subsection (j),

1 the amount transferred to each fund must be equal to half of the
2 estimated cash balance. This subsection applies only if the
3 estimated cash balance:

4 (1) is positive; and

5 (2) does not exceed the actual cash balance.

6 (e) Not later than October 1 following the end of a fiscal
7 biennium, the comptroller shall transfer cash from the general
8 revenue account to both the returning the favor fund and the
9 economic stabilization fund. Except as provided in Subsection (j),
10 the amount transferred to each fund must be equal to half of the
11 actual cash balance. This subsection applies only if the actual
12 cash balance is:

13 (1) positive; and

14 (2) less than the estimated cash balance.

15 (f) If the actual cash balance is not positive, then the
16 comptroller may not make a transfer under this section to either the
17 returning the favor fund or the economic stabilization fund.

18 (g) Not later than February 1 following the end of an
19 exemption period, the comptroller shall estimate the amount by
20 which the taxes imposed by Chapter 151, Tax Code, decreased during
21 the exemption period.

22 (h) Not later than March 1 following the end of an exemption
23 period, the comptroller shall transfer from the returning the favor
24 fund to the general revenue account an amount equal to the lesser
25 of:

26 (1) the amount estimated under Subsection (g); and

27 (2) half of the amount transferred to the returning

1 the favor fund under Subsection (d) or (e).

2 (i) This subsection applies if the amount transferred under
3 Subsection (h) is less than half of the amount transferred to the
4 returning the favor fund under Subsection (d) or (e). Except as
5 provided in Subsection (j), the comptroller shall transfer the
6 difference from the returning the favor fund to the economic
7 stabilization fund. The transfer must occur not later than March 1
8 following the end of the exemption period.

9 (j) The amount of a transfer to the economic stabilization
10 fund under Subsection (d), (e), or (i) shall be reduced as necessary
11 to ensure that the amount in the fund does not exceed the limit in
12 effect under Article III, Section 49-g(g), Texas Constitution. The
13 amount of any transfer to the economic stabilization fund under
14 Subsection (d) or (e) that does not occur because of this subsection
15 shall instead be transferred to the returning the favor fund. The
16 amount of any transfer of the economic stabilization fund under
17 Subsection (i) that does not occur because of this subsection shall
18 instead be transferred to the general revenue account.

19 (k) The returning the favor fund is a fund in the state
20 treasury.

21 (l) The comptroller may establish procedures and adopt
22 rules to administer this section.

23 (m) In this section:

24 (1) "Actual cash balance" means the amount of the
25 comptroller's statement of the actual cash balance of the general
26 revenue account as required by Subsection (c).

27 (2) "Estimated cash balance" means the amount of the

1 comptroller's estimate of the cash balance of the general revenue
2 account as required by Subsection (a).

3 (3) "Exemption period" means an exemption period
4 designated by the comptroller under Section 151.3261, Tax Code.

5 (4) "General revenue account" means the general
6 revenue fund, except the term does not include any dedicated
7 account maintained in that fund.

8 (5) "Statement of financial condition" means the
9 statement required by Article III, Section 49a(a), Texas
10 Constitution.

11 SECTION 2. The heading to Section 151.326, Tax Code, is
12 amended to read as follows:

13 Sec. 151.326. CLOTHING AND FOOTWEAR DURING AUGUST [~~FOR~~
14 ~~LIMITED PERIOD~~].

15 SECTION 3. Subchapter H, Chapter 151, Tax Code, is amended
16 by adding Section 151.3261 to read as follows:

17 Sec. 151.3261. CLOTHING AND FOOTWEAR DURING NOVEMBER OR
18 DECEMBER. (a) This section applies only if the comptroller has
19 transferred cash from the general revenue account to the fund under
20 Subsection (d) or (e) of Section 403.098, Government Code.

21 (b) An item described in Section 151.326 is exempt from the
22 taxes imposed by this chapter if the sale of the item takes place
23 during either of the exemption periods designated by the
24 comptroller.

25 (c) The first exemption period must begin not earlier than
26 November 1 and end not later than December 31 of the fiscal year
27 during which the transfer to the fund is made. The second exemption

1 period must begin not earlier than November 1 and end not later than
2 December 31 of the first fiscal year after the fiscal year during
3 which the transfer is made. The length of an exemption period may
4 not exceed the number of days that the comptroller projects would
5 result in a decrease in the amount of taxes imposed by this chapter
6 equal to half of the amount transferred. Not later than October 1
7 of the fiscal year during which the transfer occurs, the
8 comptroller shall designate the starting and ending dates of the
9 exemption period that must occur during that year. Not later than
10 October 1 of the next fiscal year, the comptroller shall designate
11 the starting and ending dates of the exemption period that must
12 occur during that year.

13 (d) In this section:

14 (1) "Fund" means the returning the favor fund.

15 (2) "General revenue account" has the meaning assigned
16 by Section 403.098, Government Code.

17 SECTION 4. This Act takes effect December 1, 2004.