

By: Ellis

S.B. No. 206

A BILL TO BE ENTITLED

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AN ACT

relating to the composition of the permanent school fund and the available school fund and to transfers from the permanent school fund to the available school fund.

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

SECTION 1. Subsections (a) and (b), Section 43.001, Education Code, are amended to read as follows:

(a) Except as provided by Subsection (b), the ~~[The]~~ permanent school fund, which is a perpetual endowment for the public schools of this state, consists of:

(1) all land appropriated for the public schools by the constitution and laws of this state;

(2) all of the unappropriated public domain remaining in this state, including all land recovered by the state by suit or otherwise except pine forest land as defined by Section 88.111;

(3) all proceeds from the authorized sale of permanent school fund land;

(4) all proceeds from the lawful sale of any other properties belonging to the permanent school fund;

(5) all investments authorized by Section 43.003 of properties belonging to the permanent school fund; and

(6) all income from the mineral development of permanent school fund land, including income from mineral development of riverbeds and other submerged land.

1 (b) The available school fund, which shall be apportioned
2 annually to each county according to its scholastic population,
3 consists of:

4 (1) the distributions to the fund from the permanent
5 school fund as provided by Section 5(a), Article VII, Texas
6 Constitution [~~interest and dividends arising from any securities or~~
7 ~~funds belonging to the permanent school fund~~];

8 (2) [~~all interest derivable from the proceeds of the~~
9 ~~sale of land set apart for the permanent school fund~~];

10 [(3) ~~all money derived from the lease of land~~
11 ~~belonging to the permanent school fund~~];

12 [(4)] one-fourth of all revenue derived from all state
13 occupation taxes, exclusive of delinquencies and cost of
14 collection;

15 (3) [(5)] one-fourth of revenue derived from state
16 gasoline and special fuels excise taxes as provided by law; and

17 (4) [(6)] all other appropriations to the available
18 school fund made by the legislature for public school purposes.

19 SECTION 2. Section 43.002, Education Code, is amended to
20 read as follows:

21 Sec. 43.002. TRANSFERS FROM PERMANENT SCHOOL FUND AND
22 GENERAL REVENUE FUND TO AVAILABLE SCHOOL FUND. (a) On the first
23 working day of each month in a state fiscal year, the comptroller
24 shall transfer from the permanent school fund to the available
25 school fund an amount equal to one-twelfth of the annual
26 distribution from the permanent school fund to the available school
27 fund as provided by Section 5(a), Article VII, Texas Constitution,

1 for the fiscal year.

2 (a-1) Notwithstanding Subsection (a), for the fiscal year
3 beginning September 1, 2003, the comptroller shall transfer from
4 the permanent school fund to the available school fund:

5 (1) on January 2, 2004, an amount equal to
6 five-twelfths of the annual distribution from the permanent school
7 fund to the available school fund for that fiscal year as provided
8 by Section 5(g), Article VII, Texas Constitution; and

9 (2) on the first working day of each month after
10 January 2004, an amount equal to one-twelfth of the annual
11 distribution from the permanent school fund to the available school
12 fund for that fiscal year as provided by Section 5(g), Article VII,
13 Texas Constitution.

14 (a-2) Subsection (a-1) and this subsection expire September
15 1, 2004.

16 (b) Of the amounts available for transfer from the general
17 revenue fund to the available school fund for the months of January
18 and February of each fiscal year, no more than the amount necessary
19 to enable the comptroller to distribute from the available school
20 fund an amount equal to 9-1/2 percent of the estimated annual
21 available school fund apportionment to category 1 school districts,
22 as defined by Section 42.259, and 3-1/2 percent of the estimated
23 annual available school fund apportionment to category 2 school
24 districts, as defined by Section 42.259, may be transferred from
25 the general revenue fund to the available school fund. Any
26 remaining amount that would otherwise be available for transfer for
27 the months of January and February shall be transferred from the

1 general revenue fund to the available school fund in equal amounts
2 in June and in August of the same fiscal year.

3 SECTION 3. Subsection (e), Section 31.301, Natural
4 Resources Code, is amended to read as follows:

5 (e) Before approving the trade, the appropriate board shall
6 make a finding that no loss to the permanent [~~available~~] school fund
7 or the available university fund will occur as a result of the
8 trade.

9 SECTION 4. Sections 33.016, 51.069, and 51.300, Natural
10 Resources Code, are amended to read as follows:

11 Sec. 33.016. DISPOSITION OF OTHER FUNDS. Money received by
12 the board for the grant of any interest not under Section [~~33.014~~
13 ~~or~~] 33.015 of this code shall be deposited in the State Treasury to
14 the credit of the permanent [~~available~~] school fund.

15 Sec. 51.069. DISPOSITION OF PAYMENTS ON PUBLIC SCHOOL LAND.
16 [~~(a)~~] Payments on public school land received by the commissioner,
17 including payments received as interest on the purchase of public
18 school land, shall be transmitted to the comptroller to be credited
19 to the [~~proper fund~~].

20 [~~(b) The comptroller shall credit payments received on the~~
21 ~~purchase price of public school land to the~~] permanent school fund
22 [~~and payments received as interest on the purchase of public school~~
23 ~~land to the available school fund~~].

24 Sec. 51.300. DISPOSITION OF INCOME. Income received by the
25 commissioner under this subchapter from public school land shall be
26 credited to the permanent [~~available~~] school fund, and income
27 received from university land shall be credited to the available

1 university fund. Other income received by the commissioner on
2 other land under this subchapter shall be credited to the General
3 Revenue Fund.

4 SECTION 5. Subsection (b), Section 51.401, Natural
5 Resources Code, is amended to read as follows:

6 (b) The special fund account must be an interest-bearing
7 account, and the interest received on the account shall be
8 deposited in the State Treasury to the credit of the permanent
9 ~~[available]~~ school fund.

10 SECTION 6. Subsection (b), Section 52.137, Natural
11 Resources Code, is amended to read as follows:

12 (b) The commissioner, upon receipt of such payment made
13 under protest as authorized by this section, shall send to the
14 comptroller the payment and a written statement that the payment
15 was made under protest. Immediately upon receipt, the comptroller
16 shall:

17 (1) place the payment in state depositories bearing
18 interest in the same manner that other funds are required to be
19 placed in state depositories at interest;

20 (2) allocate the interest earned on these funds;

21 (3) credit the amount allocated to an account
22 established for this purpose until the status of the protest is
23 finally determined; and

24 (4) upon final determination that some or all of the
25 protested funds belong to the state, deposit the principal and the
26 allocated interest to the ~~[proper funds as provided by law. All~~
27 ~~protest payments finally determined to belong to the]~~ permanent

1 school fund [~~shall be deposited to that fund upon such~~
2 ~~determination, and interest earned and allocated on those funds~~
3 ~~shall be deposited to the available school fund~~].

4 SECTION 7. Subsection (d), Section 52.297, Natural
5 Resources Code, is amended to read as follows:

6 (d) The special fund account must be an interest-bearing
7 account, and the interest received on the account shall be
8 deposited in the State Treasury to the credit of the permanent
9 [~~available~~] school fund.

10 SECTION 8. Subsection (d), Section 53.155, Natural
11 Resources Code, is amended to read as follows:

12 (d) The special fund account must be an interest-bearing
13 account, and the interest received on the account shall be
14 deposited in the State Treasury to the credit of the permanent
15 [~~available~~] school fund.

16 SECTION 9. Section 5, Chapter 314, Acts of the 56th
17 Legislature, Regular Session, 1959 (Article 5337-2, Vernon's Texas
18 Civil Statutes), is amended to read as follows:

19 Sec. 5. All income received by the Land Commissioner under
20 this Act from Public School Lands shall be credited to the Permanent
21 [~~Available~~] School Fund.

22 SECTION 10. Section 43.008, Education Code, is repealed.

23 SECTION 11. This Act takes effect January 1, 2004, but only
24 if the constitutional amendment proposed by H.J.R. No. 66 or S.J.R.
25 No. 13, 78th Legislature, Regular Session, 2003, is approved by the
26 voters. If the proposed constitutional amendment is not approved
27 by the voters, this Act has no effect.