

BILL ANALYSIS

Senate Research Center

S.B. 1863
By: Ogden
Finance
8/26/2005
Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

S.B. 1863 allows the legislature in its discretion to determine the amount of appropriation of state funds. This bill also provides for a \$700 increase in the registration fee for certain lobbyists, provides for fees to cover the cost of performing re-inspections of municipal or county jails, allows the comptroller to contract for recovery audits of payments made by state agencies, provides for fees to be collected for the administration of the state's oil and gas conservation laws, and allows for a waiver of health coverage by state employees.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 2.01 (Section 2115.003, Government Code) of this bill.

Rulemaking authority is expressly granted to the board of trustees of the Employees Retirement System of Texas in SECTION 4.03 (Section 1551.221, Insurance Code) of this bill.

Rulemaking authority is expressly granted to the Texas Education Agency in SECTION 18.02 (Section 22.102, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. REGISTRATION FEE FOR CERTAIN LOBBYISTS

SECTION 1.01. Amends Section 305.005(c), Government Code, to increase the registration and renewal fees for certain registrants from \$300 to \$500.

SECTION 1.02. Effective date, this article: December 1, 2005.

ARTICLE 2. CERTAIN AUDITS OF STATE AGENCY EXPENDITURES

SECTION 2.01. Amends Subtitle C, Title 10, Government Code, by adding Chapter 2115, as follows:

CHAPTER 2115. RECOVERY OF CERTAIN STATE AGENCY OVERPAYMENTS

Sec. 2115.001. DEFINITIONS. Defines "overpayment" and "state agency."

Sec. 2115.002. CONTRACT CONSULTANTS FOR RECOVERY AUDITS FOR CERTAIN OVERPAYMENTS. (a) Requires the comptroller of public accounts (comptroller) to contract with one or more consultants to conduct recovery audits of payments made by state agencies to vendors. Requires the audits to be designed to detect and recover overpayments to the vendors and to recommend improved state agency accounting operations.

(b) Sets forth certain conditions applying to the functions of a contract under this section.

(c) Authorizes the comptroller or a state agency whose payments are being audited to provide a person acting under a contract authorized by this section with any confidential information in the custody of the comptroller or state agency that

is necessary for the performance of the audit or the recovery of an overpayment, to the extent the comptroller and state agency are not prohibited from sharing the information under an agreement with another state or the federal government. Provides that a person acting under a contract authorized by this section, and each employee or agent of the person, is subject to all prohibitions against the disclosure of confidential information obtained from the state in connection with the contract that apply to the comptroller or applicable state agency or an employee of the comptroller or applicable state agency. Provides that a person acting under a contract authorized by this section or an employee or agent of the person who discloses confidential information in violation of a prohibition made applicable to the person under this subsection is subject to the same sanctions and penalties that would apply to the comptroller or applicable state agency or an employee of the comptroller or applicable state agency for that disclosure.

Sec. 2115.003. STATE AGENCIES SUBJECT TO MANDATORY RECOVERY AUDITS. (a) Requires the comptroller to require that recovery audits be performed on the payments to vendors made by each state agency that has total expenditures during a state fiscal biennium in an amount that exceeds \$100 million. Requires each state agency described by this subsection to provide the recovery audit consultant with all information necessary for the audit.

(b) Authorizes the comptroller to exempt from the mandatory recovery audit process a state agency that has a low proportion of its expenditures made to vendors, according to criteria the comptroller adopts, by rule, after consideration of the likely costs and benefits of performing recovery audits for agencies that make relatively few or small payments to vendors.

Sec. 2115.004. PAYMENT TO CONTRACTORS. (a) Requires a state agency to pay, from recovered money appropriated for the purpose, the recovery audit consultant responsible for obtaining for the agency a reimbursement from a vendor.

(b) Requires a state agency to expend or return to the federal government any federal money that is recovered through a recovery audit conducted under this chapter. Requires the state agency to expend or return the federal money in accordance with the rules of the federal program through which the agency received the federal money.

Sec. 2115.005. FORWARDING REPORTS. (a) Requires the comptroller to provide copies, including electronic form copies, of any reports received from a consultant contracting under Section 2115.002, to certain governmental offices and entities.

(b) Requires the comptroller to provide the copies required by Subsection (a) not later than the seventh day after the date the comptroller receives the consultant's report.

(c) Requires the comptroller, not later than January 1 of each odd-numbered year, to issue a report to the legislature summarizing the contents of all reports received under this chapter during the state fiscal biennium ending August 31 of the previous year.

SECTION 2.02. Requires the comptroller to adopt rules under Chapter 2115, Government Code, as added by this article, in a timely manner so that the comptroller may begin contracting with a consultant under that chapter not later than January 1, 2006.

ARTICLE 3. ELIGIBILITY FOR MEDICAL ASSISTANCE AND CHILDREN'S HEALTH INSURANCE PROGRAMS

SECTION 3.01. Amends Section 62.102, Health and Safety Code, as follows:

Sec. 62.102. CONTINUOUS COVERAGE. Requires the Health and Human Services Commission (HHSC) to provide that an individual who is determined to be eligible for

coverage under the child health plan remains eligible for those benefits until the earlier of the end of a six-month, rather than 12 month, period following the date of the eligibility determination or the individual's 19th birthday. Deletes existing text from Subsection (b) relating to periods of continuous eligibility.

SECTION 3.02. Amends Section 32.0261, Human Resources Code, to require the rules [adopted by HHSC] to provide that the child remains eligible for medical assistance without addition review by HHSC or an agency operating part of the medical assistance program and regardless of changes in the child's resources or income until the earlier of the end of a six-month, rather than 12-month, period following the date of the eligibility determination or the individual's 19th birthday.

ARTICLE 4. WAIVER OF AND SUPPLEMENTAL HEALTH COVERAGE FOR STATE EMPLOYEES

SECTION 4.01. Amends Section 1551.104(a), Insurance Code, to provide an exception if participation in the basic coverage plan is specifically waived as provided by Section 1551.045.

SECTION 4.02. Amends Subchapter C, Chapter 1551, Insurance Code, by adding Section 1551.1045, as follows:

Sec. 1551.1045. WAIVER. (a) Authorizes an employee or annuitant, subject to Subsections (b) and (c), to waive in writing any coverage provided under this chapter.

(b) Requires a full-time employee, in order to waive coverage under the basic coverage plan for employees, to demonstrate, in the manner required by the board of trustees of the Employees Retirement System of Texas (board of trustees), that the employee is covered by another health benefit plan that provides substantially equivalent coverage, as determined by the board of trustees, to the coverage provided by the basic coverage plan or eligible for benefits under the TRICARE Military Health System.

(c) Requires an annuitant, to waive coverage under the basic coverage plan for annuitants for the purpose of eligibility for an incentive payment under Section 1551.222, to demonstrate, in the manner required by the board of trustees, that the employee is covered by another health benefit plan that provides substantially equivalent coverage, as determined by the board of trustees, to the coverage provided by the basic coverage plan or eligible for benefits under the TRICARE Military Health System.

SECTION 4.03. Amends Subchapter E, Chapter 1551, Insurance Code, by adding Sections 1551.221 and 1551.222, as follows:

Sec. 1551.221. OPTIONAL SUPPLEMENTAL HEALTH COVERAGE FOR INDIVIDUALS ELIGIBLE UNDER TRICARE MILITARY HEALTH SYSTEM.

(a) Requires the board of trustees to offer, as an optional coverage under the group benefits program, a supplemental health coverage program.

(b) Authorizes an employee or annuitant who is eligible to participate in the group benefits program and who is also eligible for benefits under the TRICARE Military Health System under the supplemental health coverage program, to elect to receive primary coverage under the TRICARE Military Health System. Requires an employee or annuitant participating in the supplemental health coverage program to waive basic coverage through the group benefits program, but provides that the employee or annuitant receives supplemental health coverage under this section.

(c) Authorizes the cost of supplemental health coverage provided under this section to be paid in the same manner as the cost of other optional coverage is paid under Subchapter G.

(d) Requires the board of trustees to contract to purchase the supplemental health coverage in accordance with Sections 1551.213-1551.216.

(e) Authorizes the board of trustees to adopt rules to implement this section.

Sec. 1551.222. INCENTIVE PAYMENTS. (a) Authorizes the board of trustees to allow an incentive payment under this section to an employee or annuitant who elects to waive coverage under the basic coverage plan for employees or annuitants as provided by Section 1551.1045(b) or (c).

(b) Provides that the incentive payment authorized by this section is in the amount authorized by the General Appropriations Act and is authorized to be used by the employee or annuitant, in the manner prescribed by the board of trustees, only to pay for other group coverage plans provided under the group benefits program, including the supplemental health coverage offered under Section 1551.221.

(c) Requires the board of trustees, at the time of initial enrollment in the group benefits program and during subsequent open-enrollment periods, to inform employees that they are authorized to make an election described by Subsection (a), if eligible, and receive any authorized incentive payment.

SECTION 4.04. Amends Subchapter G, Chapter 1551, Insurance Code, by adding Section 1551.324, as follows:

Sec. 1551.324. REDUCTION IN CONTRIBUTION FOR CERTAIN ACTIVE EMPLOYEES AND ANNUITANTS; INCENTIVE PAYMENTS. (a) Authorizes, notwithstanding any other provision of this subchapter, the state contribution for an employee's coverage or an annuitant's coverage under this chapter to be reduced, as provided in the General Appropriations Act, to reflect the reduced cost of coverage for an employee or annuitant who elects to waive basic coverage as provided by Section 1551.045(b) or (c).

(b) Authorizes the state, instead of the full state contribution for an employee or annuitant who makes an election described by Subsection (a), to contribute, as specified by the General Appropriations Act, an amount for the incentive payment authorized by Section 1551.222.

ARTICLE 5. EXTENDING STATE REIMBURSEMENT PROGRAM: PETROLEUM STORAGE TANKS

SECTION 5.01. Amends Section 26.351(f), Water Code, to require the person performing corrective action under this section, if the release of regulated substances was reported to the Texas Commission on Environmental Quality (TCEQ) on or before December 22, 1998, to meet certain guidelines, including for sites that require either corrective action plan or groundwater monitoring, have met all other deadlines under this subsection, and have submitted annual progress reports that demonstrate progress toward meeting closure requirements, and requires a site closure request to be submitted to the executive director of TCEQ no later than September 1, 2007, rather than 2005. Deletes existing text requiring a site closure request be submitted for all sites and agreed to in writing by the executive director of TCEQ that no corrective action plan was required.

SECTION 5.02. Amends Section 26.355(b), Water Code, to provide that an owner or operator of an underground or aboveground storage tank from which a regulated substance is release is liable to the state unless the site at which the release occurred has been admitted into the petroleum storage tank state-lead program under Section 26.3573(r-1).

SECTION 5.03. Amends Section 26.35731(b), Water Code, to provide, rather than prohibiting, that TCEQ has discretion whether to postpone considering, processing, or paying a claim for reimbursement from the petroleum storage tank remediation account for corrective action work begun without prior TCEQ approval after September 1, 1993, and filed prior to January 1, 2005.

Deletes existing text prohibiting TCEQ from considering, processing, or paying a claim without prior TCEQ approval until all claims for reimbursement for corrective action work have been considered, processed, and paid.

SECTION 5.04. Amends Section 26.3573, Water Code, by amending Subsections (d), (r), and (s), and adding Subsection (r-1), as follows:

(d) Deletes existing formulas for determining the amount of money to pay for necessary expenses associated with the administration of the petroleum storage tank remediation account.

(r) Prohibits the petroleum storage tank remediation account, except as provided by Subsection (r-1), from being used to reimburse any person for corrective action performed after September 1, 2005.

(r-1) Defines "state-lead program." Requires the executive director of TCEQ to grant an extension for corrective action reimbursement to a person who is an eligible owner or operator under Section 26.3571. Authorizes the petroleum storage tank remediation account to be used to reimburse an eligible owner or operator for corrective action performed under an extension before August 31, 2007. Authorizes an eligible owner or operator who is granted an extension under this subsection, not later than July 1, 2007, to apply to TCEQ in writing using a form provided by TCEQ to have the site subject to corrective action placed in the state-lead program. Requires the eligible owner or operator to agree to allow site access to state personnel and state contractors as a condition of placement in the state-lead program in the application under this subsection. Requires the executive director of TCEQ, by order, to place the site in the state-lead program until the corrective action is completed to the satisfaction of TCEQ, upon receiving the application for placement in the state-lead program under this subsection. Provides that an eligible owner or operator of a site that is placed in the state-lead program under this subsection is not liable to TCEQ for any costs related to the corrective action.

(s) Prohibits the petroleum storage tank remediation account from being used to reimburse any person for corrective action contained in a reimbursement claim filed with TCEQ after March 1, 2008, rather than 2006.

SECTION 5.05. Amends Section 26.3574(b), Water Code, to require each operator of a bulk facility on withdrawal from bulk of a petroleum product to collect from the person who orders a withdrawal fee in certain predetermined amounts.

SECTION 5.06. Amends Section 26.361, Water Code, to provide that notwithstanding any other provision of this subchapter, the reimbursement program established under this subchapter expires September 1, 2008, rather than 2006. Makes conforming changes.

SECTION 5.07. Effective date, this article: September 1, 2005.

ARTICLE 6. DRUG PURCHASING FOR STATE AGENCIES

SECTION 6.01. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.080, as follows:

Sec. 531.080. JOINT PURCHASING OF PRESCRIPTION DRUGS AND OTHER MEDICATIONS. (a) Authorizes HHSC and each health and human services agency authorized by the executive commissioner, subject to Subsection (b), to enter into an agreement with one or more other state for the joint bulk purchasing of prescription drugs and other medications to be used in the Medicaid program, the state child health plan, or another program under the authority of HHSC.

(b) Prohibits an agreement under this section from being entered into until certain procedures have been completed.

(c) Requires HHSC, if an agreement is entered into, to adopt procedures applicable to an agreement and joint purchase required by this section. Requires the procedures to ensure that this state receives certain benefits from the agreement.

(d) Requires HHSC to identify certain criteria in determining the feasibility and cost-effectiveness of entering into an agreement under this section.

SECTION 6.02. Requires HHSC, not later than January 15, 2006, to determine the feasibility and cost-effectiveness of entering into an agreement under Section 531.080, Government Code, as added by this article. Requires TCEQ to take action to enter into an agreement that takes effect March 1, 2006, upon determining that such action is feasible and cost-effective.

SECTION 6.03. Requires the agency affected by the provision, if before implementing any provision of this article, a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, to request the waiver or authorization and authorizes the agency to delay implementing that provision until the waiver or authorization is granted.

ARTICLE 7. CONTINUATION OF QUALITY ASSURANCE FEES

SECTION 7.01 Repealer: Section 252.209 (Legislative Review; Expiration), Health and Safety Code.

ARTICLE 8. TEXAS MOBILITY FUND

SECTION 8.01. Amends Subchapter M, Chapter 201, Transportation Code, by adding Section 201.9471, as follows:

Sec. 201.9471. TEMPORARY DISPOSITION OF MONEY ALLOCATED TO FUND.

(a) Requires the comptroller, notwithstanding Sections 521.058, 521.313, 521.3466, 521.427, 522.029, 524.051, and 724.046, to the extent that those sections allocate money to the Texas mobility fund, to deposit that money to the credit of the general revenue fund instead of to the credit of the Texas mobility fund in state fiscal year 2006.

(b) Requires the comptroller, notwithstanding Sections 521.313, 521.3466, 521.427, 522.029, 524.051, and 724.046, to the extent that those sections allocate money to the Texas mobility fund, to deposit that money to the credit of the general revenue fund instead of to the credit of the Texas mobility fund in state fiscal year 2007.

(c) Provides that this section expires January 1, 2008.

SECTION 8.02. Effective date, this article: September 1, 2005.

ARTICLE 9. TELECOMMUNICATIONS INFRASTRUCTURE FUND

SECTION 9.01. Amends Section 57.048, Utilities Code, by adding Subsections (f) through (i), as follows:

(f) Authorizes a certificated telecommunications utility, notwithstanding any other provision of this title, to recover an assessment imposed on the utility under this subchapter after the total amount deposited to the credit of the fund, excluding interest and loan repayments, is equal to \$1.5 billion, as determined by the comptroller from the utility's customers. Authorizes a certificated telecommunications utility to recover only the amount of the assessment imposed after the total amount deposited to the credit of the fund, excluding interest and loan repayments, is equal to \$1.5 billion, as determined by the comptroller. Authorizes the utility to recover the assessment through a monthly billing process.

(g) Requires the comptroller to publish in the Texas Register the date on which the total amount deposited to the credit of the fund, excluding interest and loan repayments, is equal to \$1.5 billion.

(h) Requires a certificated telecommunications utility that wants to recover the assessment under Subsection (f), not later than February 15 of each year, to file with the Public Utility Commission of Texas (PUC), an affidavit or affirmation stating the amount that the utility paid to the comptroller under this section during the previous calendar year and the amount the utility recovered from its customers in cumulative payments during that year.

(i) Requires PUC to maintain the confidentiality of information the commission receives under this section that is claimed to be confidential for competitive purposes. Provides that the confidential information is exempt from disclosure under Chapter 552 (Public Information), Government Code.

SECTION 9.02. Amends Section 57.0485, Utilities Code, as follows:

Sec. 57.0485. New heading: ALLOCATION OF REVENUE. Requires the comptroller to deposit the money, rather than 50 percent of the money, collected by the comptroller under Section 7.048 to the credit of the general revenue fund, rather than the public schools account in the fund. Deletes existing text requiring the comptroller to deposit the remainder of the money in a certain account and requiring interest earned on money in the account to be deposited to the credit of that account.

SECTION 9.03. Amends Section 57.051, Utilities Code, to create the telecommunications infrastructure fund, rather than the telecommunications infrastructure fund board. Deletes existing text abolishing the board and extends the expiration of this subchapter to September 1, 2011, rather than 2005.

SECTION 9.04. Repealer: Section 57.043 (Telecommunications Infrastructure Fund and Accounts), and Sections 57.048(c) (relating to the maximum amount of funds to be deposited into the fund) and (d) (relating to the comptroller collecting certain assessments), Utilities Code.

SECTION 9.05. Requires the comptroller of public accounts, if, on the day before the effective date of this article, the assessment prescribed by Section 57.048, Utilities Code, is imposed at a rate of less than 1.25 percent, to, on the effective date of this article, reset the rate of the assessment to 1.25 percent.

SECTION 9.06. Effective date, this article: July 1, 2005, or September 1, 2005.

ARTICLE 10. COLLECTION OF CERTAIN COSTS, FEES, AND FINES IN CRIMINAL CASES

SECTION 10.01. Amends Chapter 103, Code of Criminal Procedure, by adding Article 103.0033, as follows:

Art. 103.0033. COLLECTION IMPROVEMENT PROGRAM. (a) Defines "office" and "program."

(b) Sets forth the political subdivision to which this article applies.

(c) Requires each county and municipality, unless granted a waiver under Subsection (h), to develop and implement a program that complies with the prioritized implementation schedule under Subsection (h). Requires a county program to include district, county, and justice courts.

(d) Sets forth requirements for the program.

(e) Requires the Office of Court Administration of the Texas Judicial System (office), not later than June 1 of each year, to identify certain counties and municipalities that have not completed specific requirements.

(f) Requires the comptroller, in cooperation with the office, to develop a methodology for determining the collection rate of counties and municipalities described by Subsection (e) before implementation of a program. Requires the comptroller to determine the rate for each county and municipality not later than the first anniversary of the county's or municipality's adoption of a program.

(g) Sets forth requirements for the office.

(h) Authorizes the office, in consultation with the comptroller, to perform certain functions.

(i) Requires each county and municipality to at least annually submit to the office and the comptroller a written report that includes updated information regarding the program, as determined by the office in cooperation with the comptroller. Requires the report to be in a form approved by the office in cooperation with the comptroller.

(j) Requires the comptroller to periodically audit counties and municipalities to verify information reported under Subsection (i) and confirm that the county or municipality is conforming with requirements relating to the program. Requires the comptroller to consult with the office in determining how frequently to conduct audits under this section.

SECTION 10.02. Amends Section 133.058, Local Government Code, by adding Subsection (e), as follows:

(e) Prohibits a municipality or county from retaining a service fee if, during an audit under Section 133.059 of this code or Article 103.0033(j), Code of Criminal Procedure, the comptroller determines that the municipality or county is not in compliance with Article 103.0033, Code of Criminal Procedure. Authorizes the municipality or county to continue to retain a service fee under this section on receipt of a written confirmation from the comptroller that the municipality or county is in compliance with Article 103.0033, Code of Criminal Procedure.

SECTION 10.03. Amends Section 133.103, Local Government Code, by amending Subsection (b) and (c) and adding Subsection (c-1), as follows:

(b)-(c) Makes conforming changes.

(c-1) Requires the treasurer to send 100 percent of the fees collected under this section to the comptroller if, during an audit under Section 133.059 of this code or Article 103.0033(j), Code of Criminal Procedure, the comptroller determines that the municipality or county is not in compliance with Article 103.0033, Code of Criminal Procedure. Requires the municipality or county to continue to dispose of fees as otherwise provided by this section on receipt of a written confirmation from the comptroller that the municipality or county is in compliance with Article 103.0033, Code of Criminal Procedure.

SECTION 10.04. (a) Requires the office, notwithstanding Article 103.0033(e), Code of Criminal Procedure, as added by this article, not later than September 1, 2005, to identify those counties and municipalities that are able to implement a collection improvement program under Article 103.0033, Code of Criminal Procedure, as added by this article, before April 1, 2006. Requires the office, beginning June 1, 2006, to comply with Article 103.0033(e), Code of Criminal Procedure, as added by this article.

(b) Requires the office, not later than September 1, 2005, to make available on the office's Internet website requirements for a program under Article 103.0033, Code of Criminal Procedure, as added by this article, in accordance with Article 103.0033(g).

ARTICLE 11. INTEREST ON CERTAIN TAX REFUNDS

SECTION 11.01. Amends Section 111.064, Tax Code, by amending Subsections (a), (c), and (f) and adding Subsection (c-1) as follows:

(a) Provides that except as otherwise provided by this section, rather than Subsections (b) and (c), for a refund under this chapter interest is at the rate that is the lesser of the annual rate of interest earned on deposits in the state treasury during December of the previous calendar year, as determined by the comptroller, or the rate set in Section 111.060, and accrues on the amount found to be erroneously paid for a certain period.

(c) Provides that for a refund claimed before September 1, 2005, and granted for a report period due on or after January 1, 2000, the rate of interest is the rate set in Section 111.060.

(c-1) Provides that a refund, without regard to the date claimed, for a report period due before January 1, 2000, does not accrue interest.

(f) A local revenue fund is not subject to Subsections (a)-(c-1), rather than Subsections (a)-(c). Defines "local revenue fund."

SECTION 11.02. Effective date, this article: September 1, 2005.

ARTICLE 12. PUBLIC SCHOOL FACILITIES

SECTION 12.01. Amends Section 46.033, Education Code, to provide that bonds are eligible to be paid with state and local funds under this subchapter if the district made payments on the bonds during the 2004-2005, rather than 2002-2003, school year.

SECTION 12.02. Amends Section 46.034(c), Education Code, to prohibit a school district from receiving aid in excess of the amount that, when added to the district's local revenue for the school year, equals the amount required to pay the principal of and interest on the bonds, if the amount required to pay the principal of and interest on eligible bonds in a school year is less than the amount of payments made by the district on the bonds during the 2004-2005, rather than 2002-2003, school year or the district's audited debt service collections for that school year.

ARTICLE 13. COMPENSATION FOR CERTAIN STATE EMPLOYEES WHO RETURN TO STATE EMPLOYMENT

SECTION 13.01. Amends Section 659.042, Government Code, to provide that a state employee who retired from state employment on or after June 1, 2005, and who receives an annuity based wholly or partly on service as a state officer or state employee in a public retirement system, as defined by Section 802.001, that was credited to the state employee is not entitled to longevity pay under this subchapter.

SECTION 13.02. Amends Section 659.043(a), Government Code, to provide that a state employee is entitled to longevity pay to be included in the employee's monthly compensation if the employee has accrued at least two, rather than three, years of lifetime service credit not later than the last day of the preceding month.

SECTION 13.03. Reenacts and amends Section 659.044, Government Code, as amended by Section 32, Chapter 1158, Acts of the 77th Legislature, Regular Session, 2001, and Section 104, Chapter 1158, Acts of the 77th Legislature, Regular Session, 2001, as follows:

Sec. 659.044. AMOUNT. (a) Provides that except as provided by Subsections (e) and (f), the monthly amount of longevity pay is \$20 for every two, rather than three, years of lifetime service credit.

(b) Sets forth the years in which the amount increases and the years of lifetime service credit are accrued.

(c) Provides that an increase is effective beginning with the month following the month in which certain years of lifetime service credit are accrued.

(d)-(e) Makes no changes to these subsections.

(f) Provides that a state employee who retired from state employment before June 1, 2005, and who returned to state employment before September 1, 2005, is entitled to receive longevity pay. Provides that the monthly amount of longevity pay the employee is entitled to receive equals the amount of longevity pay the employee was entitled to receive immediately before September 1, 2005. Provides that a state employee who retired from state employment before June 1, 2005, and who returns to state employment on or after September 1, 2005, is not entitled to receive longevity pay.

SECTION 13.04. Amends Section 659.126, Government Code, as follows:

Sec. 629.126. LOSS OF ELIGIBILITY TO RECEIVE BENEFIT REPLACEMENT PAY. (a) Provides that an eligible state employee who leaves state employment after August 31, 1995, for at least 30 consecutive days, rather than 12 consecutive months, on returning to state employment or on assuming a state office, is ineligible to receive benefit replacement pay.

(b) Provides that an eligible state-paid judge who leaves office after August 31, 1995, for at least 30 consecutive days, rather than 12 consecutive months, on return to state office or on accepting a state employment, is ineligible to receive benefit replacement pay.

(c) Provides that for the purposes of Subsection (a), a state employee is not considered to have left state employment under certain circumstances.

(d) Provides that an eligible state employee who retired from state employment on or after June 1, 2005, and who receives an annuity based wholly or partly on service as a state officer or state employee in a public retirement system, as defined by Section 802.001, that was credited to the state employee is ineligible to receive benefit replacement pay.

SECTION 13.05. Amends Section 661.152, Government Code, by adding Subsection (l), as follows:

(l) Provides that for purposes of computing vacation leave under Subsection (d) for a state employee who retired from state employment on or after June 1, 2005, and who receives an annuity based wholly or partly on service as a state officer or state employee in a public retirement system, as defined by Section 802.001, that was credited to the state employee, years of total state employment includes only the length of state employment after the date the state employee retired.

SECTION 13.06. Amends Sections 659.305(a), (b), (c), and (g), Government Code, as follows:

(a) Provides that except as provided by Subsection (b), the amount of a full-time state employee's hazardous duty pay for a particular month is the lesser of \$10, rather than \$7, for each 12-month period of lifetime service credit accrued by the employee or \$300, rather than \$210.

(b) Provides that the amount of a full-time state employee's hazardous duty pay for a particular month is the sum of \$10, rather than \$7, for each 12-month period of state service credit the employee finished accruing before May 29, 1987, and \$10, rather than \$7, for each 12-month period of lifetime service credit that the employee accrued after

the date, which must be before May 29, 1987, on which the employee finished accruing the last 12-month period of state service credit.

(c) Prohibits the amount determined under Subsection (b)(2) from exceeding \$300, rather than \$210.

(g) Prohibits a state employee from receiving more than \$10, rather than \$7, for each 12-month period of lifetime service credit, regardless of the number of positions the employee holds or the number of hours the employee works each week.

SECTION 13.07. (a) Makes application of Section 659.126, Government Code, except as provided by Subsection (b) of this section, prospective.

(b) Provides that a state employee who leaves state employment before the effective date of this article is ineligible to receive benefit replacement pay unless the employee returns to state employment before September 30, 2005.

SECTION 13.08. Effective date, this article: September 1, 2005.

ARTICLE 14. SYSTEM BENEFIT FUND

SECTION 14.01. Amends Section 39.903(h), Utilities Code, to authorize PUC to reduce the rate reduction for electric services to less than 10 percent, if the nonbypassable fee is set at 65 cents per megawatt hour or if appropriations are insufficient to fund the 10 percent rate reduction.

ARTICLE 15. FUNDING OF THE COASTAL PROTECTION FUND AND THE USE OF MONEY IN THE FUND

SECTION 15.01. Amends Section 40.152, Natural Resources Code, by adding Subsection (c), as follows:

(c) Authorizes the legislature, notwithstanding Subsection (a)(9) and the other provisions of this subchapter, to appropriate to the General Land Office for implementation of the coastal management program under Subchapter F, Chapter 33, and for erosion response projects under Subchapter H, Chapter 33, money from the fund in an amount that exceeds the amount of interest accruing to the fund annually. Provides that this subsection expires September 1, 2007.

SECTION 15.02. Amends Sections 40.155(a) through (d), Natural Resources Code, as follows:

(a) Provides that except as otherwise provided in this section, the rate of the coastal protection fee shall be 1-1/3 cents, rather than two cents, per barrel of crude oil until the commissioner of the General Land Office (commissioner) certifies that the unencumbered balance in the fund has reached \$20 million. Requires the commissioner to certify to the comptroller the date on which the unencumbered balance in the fund exceeds \$20, rather than \$25, million. Prohibits the fee from being collected or required to be paid on or after the first day of the second month following the commissioner's certification to the comptroller that the unencumbered balance in the fund exceeds \$20, rather than \$25, million.

(b) Requires the commissioner to certify such fact to the comptroller, if the unencumbered balance in the fund falls below \$10, rather than \$14, million.

(c)-(d) Makes conforming changes.

ARTICLE 16. REIMBURSEMENT OF EXCESSIVE OR UNFAIRLY DISCRIMINATORY RATES CHANGED BY CERTAIN INSURERS

SECTION 16.01. Amends Article 5.144, Insurance Code, by amending Subsection (b), and adding Subsections (b-1) and (b-2), as follows:

(b) Authorizes the commissioner of insurance to order an insurer to follow certain actions, except as provided by Subsection (d) of this article, upon determining that the insurer has charged a rate for personal automobile insurance or residential property insurance that is excessive or unfairly discriminatory, as described by Article 5.13-2 of this code.

(b-1) Sets forth the method for determining the rate for interest assessed under Subsection (b). Prohibits an insurer from being required to pay any interest penalty or refund if the insurer prevails in a final appeal of the commissioner's order under Subchapter D, Chapter 36 of this code.

(b-2) Prohibits an insurer from claiming a premium tax credit to which the insurer is otherwise entitled unless the insurer has complied with this article.

ARTICLE 17. CERTAIN PROVISIONS RELATING TO RETIREMENT SYSTEM CONTRIBUTIONS AND BENEFITS FOR RETIRED SCHOOL EMPLOYEES

SECTION 17.01. Amends Section 825.404(a), Government Code, to require the state to contribute an amount equal to at least six and not more than 10, rather than eight, percent of the aggregate annual compensation of all members of the retirement system during that fiscal year.

SECTION 17.02. Amends Section 1575.203(a), Insurance Code, to require each active employee, each state fiscal year, as a condition of employment, to contribute an amount equal to 0.65, rather than 0.5, percent of the employee's salary to the retired school employees group insurance fund.

SECTION 17.03. Makes application of Section 1575.203, Insurance Code, as amended by this article, prospective to September 1, 2005.

ARTICLE 18. COMPENSATION SUPPLEMENTATION FOR CERTAIN SCHOOL EMPLOYEES

SECTION 18.01. Amends Sections 22.004(a), (b), (c), (i), and (j), Education Code, as follows:

(a) Requires a school district to participate in the uniform group coverage program established under Chapter 1579, rather than Article 3.50-7, Insurance Code, as provided by Subchapter D, rather than Section 5, of that chapter. Makes a nonsubstantive change.

(b) Requires the coverage to meet the substantive coverage requirements of Chapter 1251, Subchapter A, Chapter 1364, and Subchapter A, Chapter 1366, Insurance Code, and any other law applicable to group health insurance policies or contracts issued in this state.

(c) Requires the cost of the coverage provided under the program described by Subsection (a) to be paid by the state, the district, and the employees in the manner provided by Subchapter F, Chapter 1579, rather than Article 3.50-7, Insurance Code. Requires the cost of coverage provided under a plan adopted under Subsection (b) to be shared by the employees and the district using the contributions by the state described by Subchapter F, Chapter 1579, rather than Section 9, Article 3.50-7, Insurance Code, or Subchapter D, rather than by Article 3.50-8, Insurance Code.

(i) Prohibits a district participating in the uniform group coverage program established under Chapter 1579, rather than Article 3.50-7, Insurance Code, notwithstanding any other provision of this section, from making group health coverage available to its employees under this section after the date on which the program of coverages provided under Chapter 1579, rather than Article 3.50-7, Insurance Code, is implemented.

(j) Makes a conforming change.

SECTION 18.02. Amends Chapter 22, Education Code, by adding Subchapter D, as follows:

SUBCHAPTER D. COMPENSATION SUPPLEMENTATION

Sec. 22.101. DEFINITIONS. Defines "cafeteria plan," "employee," "participating charter school," and "regional education service center."

Sec. 22.102. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY. Authorizes the Texas Education Agency (TEA) to adopt rules to implement this subchapter. Authorizes TEA to enter into interagency contracts with any other agency of this state for the purpose of assistance in implementing this subchapter.

Sec. 22.103. ELIGIBILITY; WAITING PERIOD. Provides that a person is not eligible for a monthly distribution under this subchapter before the 91st day after the first day the person becomes an employee.

Sec. 22.104. DISTRIBUTION BY AGENCY. Requires TEA, subject to the availability of funds, each month, to deliver to each district, including a district that is ineligible for state aid under Chapter 42, each other educational district that is a member of the Teacher Retirement System of Texas, each participating charter school, and each regional education service center state funds in an amount, as determined by the agency, equal to the product of the number of eligible employees employed by the district, school, or service center multiplied by the amount specified in the General Appropriations Act for purposes of this subchapter and divided by 12. Requires TEA to distribute funding to only one entity for employees who are employed by more than one entity listed in this section.

Sec. 22.105. FUNDS HELD IN TRUST. Provides that all funds received by a district, other educational district, participating charter school, or regional education service center under this subchapter are held in trust for the benefit of the employees on whose behalf the district, school, or service center received the funds.

Sec. 22.106. RECOVERY OF DISTRIBUTIONS. Entitles TEA to recover from a district, other educational district, participating charter school, or regional education service center any amount distributed under this subchapter to which the district, school, or service center was not entitled.

Sec. 22.107. DETERMINATION BY AGENCY FINAL. Provides that a determination by TEA under this subchapter is final and may not be appealed.

Sec. 22.108. DISTRIBUTION BY SCHOOL. Requires each district, other educational district that is a member of the Teacher Retirement System of Texas, participating charter school, and regional education service center to distribute the funding received under this subchapter to its eligible employees each month. Requires an individual to meet the definition of an employee under Section 22.101 for that month to receive the monthly distribution.

Sec. 22.109. USE OF SUPPLEMENTAL COMPENSATION. Authorizes an employee to use a monthly distribution received under this subchapter for any employee benefit, including depositing the amount of the distribution into a cafeteria plan, if the employee is enrolled in a cafeteria plan, or using the amount of the distribution for health care premiums through a premium conversion plan. Authorizes the employee to take the amount of the distribution as supplemental compensation.

Sec. 22.110. SUPPLEMENTAL COMPENSATION. Requires an amount distributed to an employee under this subchapter to be in addition to certain rates of compensation.

SECTION 18.03. Amends Section 822.201(c), Government Code, to set forth those items which are excluded from salary and wages.

SECTION 18.04. Amends Section 1579.253(b), Insurance Code, to authorize the employee to pay the employee's contribution under this subsection from the amount distributed to the employee under Subchapter D, Chapter 22, Education Code.

SECTION 18.05. Amends Section 1581.702, Insurance Code, to make a conforming change.

SECTION 18.06. Repealer: (1) Chapter 1580 (Active Employee Health Coverage or Compensation Supplementation), Insurance Code;

(2) Section 57 (relating to sum of funds to be delivered to school districts participating in the Teacher Retirement System of Texas), Chapter 201, Acts of the 78th Legislature, Regular Session, 2003;

(3) Chapter 313 (relating to a health reimbursement arrangement program for active school employees), Acts of the 78th Legislature, Regular Session, 2003; and

(4) Section 1.01 (relating to sum of funds to be delivered to school districts participating in the Teacher Retirement System of Texas), Chapter 366, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 18.07. Transfers the functions and duties of the Teacher Retirement System of Texas with respect to the compensation supplementation program established under Chapter 1580, Insurance Code, and other applicable law, and any appropriation relating to that program to TEA. Provides that a reference in law to the Teacher Retirement System of Texas with respect to the compensation supplementation program means TEA.

SECTION 18.08. Effective date, this article: September 1, 2005.

ARTICLE 19. RETIREMENT SYSTEM CONTRIBUTIONS FOR CERTAIN MEMBERS OF THE TEACHER RETIREMENT SYSTEM OF TEXAS

SECTION 19.01. Amends Subchapter E, Chapter 825, Government Code, by adding Section 825.4041, as follows:

Sec. 825.4041. EMPLOYER PAYMENTS. (a) Provides that for purposes of this section, a new member is a person first employed on or after September 1, 2005, including a former member who withdrew retirement contributions under Section 822.003 and is reemployed on or after September 1, 2005.

(b) Requires an employer, during each fiscal year, to pay an amount equal to the state contribution rate, as established by the General Appropriations Act for the fiscal year, applied to the aggregate compensation of new members of the retirement system, as described by Subsection (a), during their first 90 days of employment.

(c) Sets forth requirements for employers to fulfill on a monthly basis.

(d) Provides that a person who was hired before September 1, 2005, and was subject to a 90-day waiting period for membership in the retirement system becomes eligible to participate in the retirement system as a member starting September 1, 2005. Requires the member to be treated as a new member for the remainder of the waiting period for the purpose of this section.

(e) Requires the employer to remit the amount required under this section to the retirement system at the same time the employer remits the member's contribution. Requires the employer, in computing the amount required to be remitted, to include compensation paid to an employee for the entire pay period that contains the 90th calendar day of new employment.

(f) Sets forth requirements for the retirement system to certify to the commissioner of education and to the state auditor at the end of each school year.

(g) Requires the commissioner of education or the state auditor, upon receiving a certification under Subsection (f), to direct the comptroller to withhold the amount

certified, plus interest computed at the rate and in the manner provided by Section 825.408, from the first state money payable to the employer. Requires the amount withheld to be deposited to the credit of the appropriate accounts of the retirement system.

(h) Requires the board of trustees of the Teacher Retirement System of Texas to take this section into consideration in adopting the biennial estimate of the amount necessary to pay the state's contributions to the retirement system.

SECTION 19.02. Effective date, this article: September 1, 2005.

ARTICLE 20. EFFECTIVE DATE

SECTION 20.01. Effective date: upon passage or the 91st day after adjournment, except as otherwise provided by this Act.