

By: Keffer of Eastland

H.B. No. 2233

A BILL TO BE ENTITLED

AN ACT

relating to state fiscal matters.

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

SECTION 1. Article 103.0031(e), Code of Criminal Procedure, is amended to read as follows:

(e) If a county or municipality has entered into a contract under Subsection (a) and a person pays an amount that is less than the aggregate total to be collected under Subsections (a) and (b), the private attorney or vendor shall receive thirty percent of the aggregate amount collected and the remainder will be allocated in accordance with Chapter 133, Local Government Code and Article 103.003 [~~the allocation to the comptroller, the county or municipality, and the private attorney or vendor shall be reduced proportionately~~].

SECTION 2. (a) Section 43.001(b), Education Code, as amended by Chapter 328, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

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

(1) the distributions to the fund from the permanent school fund as provided by Section 5(a), Article VII, Texas Constitution;

(2) [~~one-fourth of all revenue derived from all state~~

1 ~~occupation taxes, exclusive of delinquencies and cost of~~
2 ~~collection,]~~

3 [~~3~~] one-fourth of revenue derived from state gasoline
4 and special fuels excise taxes as provided by law; and

5 (3) [~~4~~] all other appropriations to the available
6 school fund made by the legislature for public school purposes.

7 (b) Section 43.001(b), Education Code, as amended by
8 Chapter 201, Acts of the 78th Legislature, Regular Session, 2003,
9 is repealed.

10 SECTION 3. Section 43.002(a), Education Code, is amended to
11 read as follows:

12 (a) On the first working day of each month in a state fiscal
13 year, the Texas Education Agency [~~comptroller~~] shall transfer from
14 the permanent school fund to the available school fund an amount
15 equal to one-twelfth of the annual distribution from the permanent
16 school fund to the available school fund as provided by Section
17 5(a), Article VII, Texas Constitution, for the fiscal year.

18 SECTION 4. Section 63.202, Education Code, is amended by
19 amending Subsection (b) and adding Subsection (h) to read as
20 follows:

21 (b) Except as provided by Subsections (c), ~~and~~ (d), and
22 (h), money in the fund established under this subchapter may not be
23 used for any purpose.

24 (h) Expenses of managing and administering the assets of the
25 fund shall be paid from the fund.

26 SECTION 5. Section 63.302, Education Code, is amended by
27 amending Subsection (b) and adding Subsection (h) to read as

1 follows:

2 (b) Except as provided by Subsections (c), ~~[and]~~ (e), and
3 (h), money in the fund established under this subchapter may not be
4 used for any purpose.

5 (h) Expenses of managing and administering the assets of the
6 fund shall be paid from the fund.

7 SECTION 6. Section 25.0015(b)-(c), Government Code, is
8 amended to read as follows:

9 (b) For a county that participates under Section 51.702(f)
10 under a resolution adopted and filed with the comptroller before
11 September 1, 2003, the amount shall be paid to the county's salary
12 fund in equal quarterly ~~[monthly]~~ installments, and of each \$35,000
13 paid a county, \$30,000 shall be paid from funds appropriated from
14 the judicial fund, and \$5,000 shall be paid from funds appropriated
15 from the general revenue fund.

16 (c) For a county that participates under Section 51.702(f)
17 under a resolution adopted or filed with the comptroller on or after
18 September 1, 2003, the amount shall be paid to the county's salary
19 fund in equal quarterly ~~[monthly]~~ installments from funds
20 appropriated from the judicial fund.

21 SECTION 7. Section 25.00211(b), Government Code, is amended
22 to read as follows:

23 (b) The amount shall be paid to the county treasury for
24 deposit in the contributions fund created under Section 25.00213 in
25 equal quarterly ~~[monthly]~~ installments from funds appropriated
26 from the judicial fund.

27 SECTION 8. Section 26.007(b), Government Code, is amended

1 to read as follows:

2 (b) The amount shall be paid to the county's salary fund in
3 equal quarterly [~~monthly~~] installments from funds appropriated
4 from the judicial fund.

5 SECTION 9. Section 74.061(d), Government Code, is amended
6 to read as follows:

7 (d) For services actually performed while assigned under
8 this chapter, a [~~retired or~~] former judge or justice shall receive
9 from county funds and money appropriated by the legislature the
10 same amount of salary, compensation, and expenses that the regular
11 judge is entitled to receive from the county and from the state for
12 those services. The presiding judge of the administrative region
13 shall certify to the county and the state the services rendered
14 under this chapter by a retired or former judge or justice and the
15 share to be paid by the state. The amount certified by the
16 presiding judge as the state's share shall be paid from an item in
17 the Judiciary Section, Comptroller's [~~Judicial~~
18 ~~Section--Comptroller's~~] Department of the General Appropriations
19 Act for the payment of salaries of district and criminal district
20 judges.

21 SECTION 10. Section 403.071(g)-(h), Government Code, is
22 amended to read as follows:

23 (g) Notwithstanding Subsection (a), the comptroller may
24 [~~and a state agency may contract in writing for the comptroller to~~]
25 audit claims presented by a [~~the~~] state agency after the
26 comptroller prepares warrants or uses the electronic funds transfer
27 system to pay the claims. The [~~If the comptroller and a state~~

1 ~~agency execute a contract, the]~~ comptroller may determine [~~decide~~]
2 the types of claims that will be audited after payment.

3 (h) [~~This subsection applies if the comptroller and a state~~
4 ~~agency have contracted in accordance with Subsection (g).~~] The
5 comptroller shall audit claims after payment under Subsection (g)
6 in the same manner [~~way~~] that the comptroller audits claims before
7 payment under Subsection (a). The comptroller may establish
8 requirements and adopt rules concerning the time that a state
9 agency must retain documentation in its files to enable a
10 postpayment audit. If a postpayment audit by the comptroller shows
11 that a claim presented by a state agency was invalid, the
12 comptroller may:

13 (1) implement procedures to ensure that similar
14 invalid claims from the state agency are not paid in the future;

15 (2) report to the governor, the lieutenant governor,
16 the speaker of the house of representatives, the state auditor, and
17 the Legislative Budget Board the results of the audit;

18 (3) require the state agency to obtain a refund of the
19 monies from the payee; and

20 (4) [~~cancel the contract with the state agency, and~~]

21 [~~(5)~~] reduce the state agency's remaining
22 appropriations by the amount of the claim.

23 SECTION 11. Section 404.024, Government Code, is amended by
24 adding Subsection (m) to read as follows:

25 (m) In entering into a direct security repurchase agreement
26 or a reverse security repurchase agreement, the comptroller may
27 agree to accept cash on an overnight basis in lieu of the

1 securities, obligations, or participation certificates identified
2 in Section 404.001(3). Cash held by the state under this subsection
3 is not a deposit of state or public funds for purposes of any
4 statute, including this subchapter or Subchapter D, that requires a
5 deposit of state or public funds to be collateralized by eligible
6 securities.

7 SECTION 12. Section 404.124(c), Government Code, is amended
8 to read as follows:

9 (c) The committee may determine whether the notes will be
10 sold on a negotiated or competitive bid basis. If the committee
11 determines that competitive bids are appropriate, the underwriter
12 of any notes issued under this section shall be selected by the
13 method of sale that is most advantageous to the state under the
14 circumstances, including a sale using an Internet auction site
15 [solicitation of sealed bids and an]. An appropriate bid notice
16 shall be published at least one time in one or more recognized
17 financial publications of general circulation published within the
18 state and one or more recognized financial publications of general
19 circulation published outside the state. Unless all bids are
20 rejected, the underwriter shall be selected from the bids received.
21 The comptroller may not sell the notes in a manner not approved.

22 SECTION 13. Subchapter A, Chapter 659, Government Code, is
23 amended by adding Section 659.007 to read as follows:

24 Sec. 659.007. EARNINGS STATEMENTS. (a) A state agency may
25 provide a written or electronic earnings statement to an officer or
26 employee of the agency.

27 (b) The comptroller may adopt rules and establish

1 procedures concerning the earnings statements provided by state
2 agencies that are required by Subchapter C, Chapter 2101 to use the
3 uniform statewide payroll system.

4 (c) In this section, "state agency" has the meaning assigned
5 by Section 403.013.

6 SECTION 14. Subsections (a) and (d), Section 659.044,
7 Government Code, as amended by Sections 32 and 104, Chapter 1158,
8 Acts of the 77th Legislature, Regular Session, 2001, are reenacted
9 to read as follows:

10 (a) Except as provided by Subsection (e), the monthly amount
11 of longevity pay is \$20 for every three years of lifetime service
12 credit.

13 (d) An employee may not receive from the state as longevity
14 pay more than the amount determined under Subsection (a) or (e), as
15 applicable, regardless of the number of positions the employee
16 holds or the number of hours the employee works each week.

17 SECTION 15. Section 659.044(e), Government Code, is amended
18 to read as follows:

19 (e) This subsection applies only to an employee of the Texas
20 Youth Commission who is receiving less than the maximum amount of
21 hazardous duty pay that the commission may pay to the employee under
22 Section 659.303. The employee's monthly amount of longevity pay is
23 the sum of:

24 (1) \$20 [~~\$4~~] for every three years [~~each year~~] of
25 lifetime service credit, which may not include any period served in
26 a hazardous duty position; and

27 (2) the lesser of:

1 (A) \$20 [~~\$4~~] for every three years [~~each year~~]
2 served in a hazardous duty position; or

3 (B) the difference between:

4 (i) \$7 for each year served in a hazardous
5 duty position; and

6 (ii) the amount paid by the commission for
7 each year served in a hazardous duty position.

8 SECTION 16. Section 659.255(a)(3), Government Code, is
9 amended to read as follows:

10 (3) "Merit salary increase" means an increase in
11 compensation to:

12 (A) a higher step rate in the same classified
13 salary group, if the classified employee is compensated under a
14 salary group that is divided into steps [~~Salary Schedule A of the~~
15 ~~General Appropriations Act~~]; or

16 (B) a higher rate within the range of the same
17 classified salary group, if the classified employee is compensated
18 under a salary group that is not divided into steps [~~Salary Schedule~~
19 ~~B of the General Appropriations Act~~].

20 SECTION 17. Subsections (c) and (f), Section 659.256,
21 Government Code, are amended to read as follows:

22 (c) When an employee is promoted [~~to a position in a higher~~
23 ~~salary group~~] in Salary Schedule A of the General Appropriations
24 Act or from Salary Schedule B or C of the General Appropriations Act
25 to Salary Schedule A of the General Appropriations Act, the
26 employee shall receive a salary rate that is at least 3.4 percent
27 [~~one step~~] higher than the employee's salary rate before promotion

1 or the minimum rate of the new salary range, whichever is higher,
2 and may, at the discretion of the state agency administrator,
3 receive an annual salary rate up to and including the maximum rate
4 of the new salary range. [~~When an employee is promoted from a
5 position in Salary Schedule B or C of the General Appropriations Act
6 to a position in Salary Schedule A of the General Appropriations
7 Act, the employee shall receive a step rate that is at least one
8 step above the rate the employee received before promotion or the
9 minimum rate of the new salary range, whichever is higher, and may,
10 at the discretion of the state agency administrator, receive an
11 annual rate up to and including the maximum rate of the new salary
12 range.~~]

13 (f) Notwithstanding the other provisions of this section,
14 an employee whose salary prior to promotion exceeds the maximum
15 rate of the employee's assigned salary group may not receive more
16 than the maximum rate of the new salary group, even if the increase
17 is less than one step in a salary group that is divided into steps
18 [~~Salary Schedule A of the General Appropriations Act~~] or 3.4
19 percent in a salary group that is not divided into steps [~~Salary
20 Schedule B of the General Appropriations Act~~].

21 SECTION 18. Section 659.257(c), Government Code, is amended
22 to read as follows:

23 (c) When an employee is demoted within [~~to a position in a
24 lower salary group in~~] Salary Schedule A of the General
25 Appropriations Act or from Salary Schedule B or C of the General
26 Appropriations Act to Salary Schedule A of the General
27 Appropriations Act, the employee will receive a salary rate of at

1 least 3.4 percent [~~one step~~] below the rate the employee received
2 before demotion. [~~When an employee is demoted from a position in
3 Salary Schedule B or C of the General Appropriations Act to a
4 position in Salary Schedule A of the General Appropriations Act,
5 the employee shall receive a step rate that is at least 3.4 percent
6 below the rate the employee received before demotion.~~]

7 SECTION 19. Section 660.024(a), Government Code, is amended
8 to read as follows:

9 (a) The chief administrator of a state agency must give
10 advance written or electronic approval for any travel related to
11 official state business for which a reimbursement for travel
12 expenses is claimed or for which an advance for travel expenses to
13 be incurred is sought. [~~A copy of the written approval shall be
14 submitted with the travel voucher to the comptroller in accordance
15 with Section 660.027.~~]

16 SECTION 20. Subsections (b), (d), and (e), Section 660.027,
17 Government Code, are amended to read as follows:

18 (b) A voucher submitted under Subsection (a) is valid only
19 if:

20 (1) the state agency submitting the voucher approves
21 it in accordance with Chapter 2103 and, if required by law,
22 certifies the voucher; and

23 (2) the state employee who incurred the travel expense
24 or, if the employee is unavailable, another individual acceptable
25 to the comptroller approves the description, information, and
26 documentation required by Subsection (d) [~~voucher~~] in writing or
27 electronically, except that the employee's approval is not required

1 if another person is required by law to provide the approval.

2 (d) A voucher must be supported by:

3 (1) a description of [~~describe~~] the official state
4 business performed; and

5 (2) [~~be accompanied by~~] the information and
6 documentation that the comptroller considers necessary for the
7 comptroller to determine compliance with this chapter, the travel
8 provisions of the General Appropriations Act, and the rules adopted
9 by the comptroller under this chapter.

10 (e) The comptroller may require a state agency to provide to
11 the comptroller the description, information, and documentation
12 required under [~~by~~] Subsection (d):

13 (1) on the form adopted by the comptroller under
14 Subsection (c);

15 (2) electronically;

16 (3) [~~(2)~~] by submitting receipts or other documents;

17 or

18 (4) [~~(3)~~] by any [~~a~~] combination of Subdivisions (1),
19 [~~and~~] (2), and (3).

20 SECTION 21. Section 660.028, Government Code, is amended by
21 amending Subsections (b)-(d) and adding Subsection (e) to read as
22 follows:

23 (b) If the comptroller audits a state agency's voucher after
24 the comptroller issues a warrant or initiates an electronic funds
25 transfer in response to the voucher, the comptroller may require
26 the agency to maintain in its files the descriptions, information,
27 and documentation [~~receipts~~] relating to the travel expense paid or

1 reimbursed by the voucher until the comptroller audits the voucher.

2 (c) If a state agency pays or reimburses a travel expense
3 without first submitting a voucher to the comptroller, the
4 comptroller may audit the payment or reimbursement for compliance
5 with this chapter and the travel provisions of the General
6 Appropriations Act. The comptroller may report the results of the
7 audit to the governor, the lieutenant governor, the speaker of the
8 house of representatives, the state auditor, and the Legislative
9 Budget Board. The state agency shall cooperate with the
10 comptroller and make available the descriptions, information, and
11 documentation [~~receipts~~] required by the comptroller at the time
12 and in the manner required by the comptroller.

13 (d) The comptroller may require a state agency to maintain
14 in its files the descriptions, information, and documentation
15 [~~receipts~~] regarding a travel expense payment or reimbursement for
16 the period required by the comptroller.

17 (e) The comptroller may require or authorize the
18 descriptions, information, and documentation relating to a travel
19 expense payment or reimbursement to be maintained in paper form or
20 electronically.

21 SECTION 22. Section 662.010, Government Code, is amended to
22 read as follows:

23 Sec. 662.010. HOLIDAY BEFORE WORK BEGINS OR AFTER WORK
24 ENDS. (a) An individual who is [~~must be~~] a state employee on the
25 first workday [~~before and~~] after a state or national holiday [~~in~~
26 ~~order to~~] may not be paid for that holiday[~~7~~] if [~~unless~~]:

27 (1) the individual is not a state employee on the last

1 workday before the holiday; and

2 (2) the holiday [~~falls on the employee's~~] and the
3 first [~~or last~~] workday after the holiday occur during different
4 months [~~of the month~~].

5 (b) An individual who is a state employee on the last
6 workday before a state or national holiday may not be paid for that
7 holiday if:

8 (1) the individual is not a state employee on the first
9 workday after the holiday; and

10 (2) the holiday and the last workday before the
11 holiday occur during different months.

12 (c) [~~(b)~~] In this section, "state employee":

13 (1) includes an individual who uses paid leave from a
14 state agency; and

15 (2) does not include an individual who uses unpaid
16 leave from a state agency.

17 SECTION 23. Section 2256.011, Government Code, is amended
18 by adding Subsection (e) to read as follows:

19 (e) For purposes of this section, an entity may agree to
20 accept cash on an overnight basis in lieu of the obligations
21 identified in Section 2256.009(a)(1). Cash held by an entity under
22 this subsection is not a deposit of public funds for purposes of any
23 statute, including Chapter 2257, that requires a deposit of public
24 funds to be collateralized by eligible securities.

25 SECTION 24. Section 117.002, Local Government Code, is
26 amended to read as follows:

27 Sec. 117.002. TRANSFER OF UNCLAIMED FUNDS TO

1 COMPTROLLER. Any funds deposited under this chapter [~~7, except cash~~
2 ~~bail bonds,~~] that are presumed abandoned under Chapter 72, 73, or
3 75, Property Code, shall be reported and delivered by the county or
4 district clerk to the comptroller without further action by any
5 court. The dormancy period for funds deposited under this chapter
6 begins on the later of:

7 (1) the date of entry of final judgment or order of
8 dismissal in the action in which the funds were deposited;

9 (2) the 18th birthday of the minor for whom the funds
10 were deposited; or

11 (3) a reasonable date established by rule by the
12 comptroller to promote the public interest in disposing of
13 unclaimed funds.

14 SECTION 25. Section 433(a), Probate Code, is amended to
15 read as follows:

16 (a) Mode of Recovery. When funds of an estate have been paid
17 to the comptroller, any heir, devisee, or legatee of the estate, or
18 their assigns, or any of them, may recover the portion of funds to
19 which he, she, or they are entitled. The person claiming such funds
20 shall institute suit on or before the fourth anniversary of the date
21 of the order requiring payment to the comptroller, by petition
22 filed in the district court of Travis County, against the
23 comptroller, setting forth the plaintiff's right to such funds, and
24 the amount claimed by him. Any heir, devisee, legatee, or their
25 assigns of an estate whose funds were paid to the comptroller under
26 this chapter before September 1, 1991, must institute suit under
27 this section not later than September 1, 2009.

1 SECTION 26. Section 74.101(a), Property Code, is amended to
2 read as follows:

3 (a) Each holder who on June 30 holds property that is
4 presumed abandoned under Chapter 72, 73, or 75 of this code or under
5 Chapter 154, Finance Code, shall file a report of that property on
6 or before the following November 1. The comptroller may require the
7 report to be in a particular format, including ~~[a]~~ an electronic
8 format that can be read by a computer if the holder is reporting ten
9 or more properties.

10 SECTION 27. Subsections (a) and (c), Section 74.401,
11 Property Code, are amended to read as follows:

12 (a) Except as provided by Subsection (c) or Section 74.404,
13 the comptroller shall sell at public sale all personal property,
14 other than money and ~~[marketable]~~ securities, delivered to the
15 comptroller in accordance with Section 74.301. The comptroller
16 shall conduct the sale in the city in this state that the
17 comptroller determines affords the most favorable market for the
18 particular property.

19 (c) The comptroller is not required to offer property for
20 sale if the property belongs to a person with an address outside
21 this state or the comptroller determines that the probable cost of
22 the sale of the property exceeds its value. A stock, bond,
23 certificate, or similar instrument that is non-redeemable and
24 non-transferable because it has been either cancelled or issued by
25 a now-dissolved or defunct company may be sold by the comptroller as
26 a gift, novelty, or collectible item at public sale or as otherwise
27 determined suitable by the comptroller.

1 SECTION 28. Section 74.501, Property Code, is amended by
2 adding Subsection (f) to read as follows:

3 (f) The comptroller may require the posting of a lost
4 instrument bond or surety bond in its favor by any claimant seeking
5 payment for unclaimed property that involves a check, cashier's
6 check, money order, stock certificate, stock shares, or other
7 negotiable instrument if the original document is either lost or
8 unavailable for presentment. Any lost instrument bond or surety
9 bond posted by a claimant under this subsection must be effective
10 for a period of five years.

11 SECTION 29. Section 74.507(b), Property Code, is amended to
12 read as follows:

13 (b) The person who informs a potential claimant and by
14 contract or other written agreement is to receive a percentage of
15 the value of the property may not file or receive a [~~form to~~] claim
16 form on behalf of a claimant.

17 SECTION 30. Section 74.601, Property Code, is amended by
18 adding Subsection (g) to read as follows:

19 (g) If an owner does not otherwise assert a claim for
20 unclaimed funds reported to the comptroller and the owner is
21 reported to be the state or state agency, then the comptroller may
22 deposit the unclaimed funds to unappropriated general revenue. The
23 comptroller may establish procedures and adopt rules to implement
24 this section.

25 SECTION 31. Section 623.052(b), Transportation Code, is
26 amended to read as follows:

27 (b) Before a person may operate a vehicle under this

1 section, the person must:

2 (1) contract with the department to indemnify the
3 department for the cost of the maintenance and repair for damage
4 caused by a vehicle crossing that part of the highway; and

5 (2) execute an adequate surety bond to compensate for
6 the cost of maintenance and repair, approved by [~~the comptroller~~
7 ~~and~~] the attorney general, with a corporate surety authorized to do
8 business in this state, conditioned on the person fulfilling each
9 obligation of the agreement.

10 SECTION 32. (a) Except as provided in Subsection (d) of
11 this section, this Act takes effect immediately if it receives a
12 vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution.

14 (b) If this Act does not receive the vote necessary for
15 immediate effect, this section and Sections 4, 5, 12, 13, 14, 15,
16 and 22 of this Act take effect on the 91st day after the last day of
17 the legislative session.

18 (c) If this Act does not receive the vote necessary for
19 immediate effect, Sections 1, 6, 7, 8, 9, 10, 11, 19, 20, 21, 23, 24,
20 25, 26, 27, 28, 29, 30, and 31 of this Act take effect September 1,
21 2005.

22 (d) Sections 2, 3, 16, 17, and 18 of this Act take effect
23 September 1, 2005.