

By: Luna

H.B. No. 2884

A BILL TO BE ENTITLED

AN ACT

relating to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

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

SECTION 1. DEFINITION. In any provision of this Act that does not amend current law, "state agency" means an office, institution, or other agency that is in the executive branch of state government, has authority that is not limited to a geographical portion of the state, and was created by the constitution or a statute of this state. The term does not include an institution of higher education as defined by Section 61.003, Education Code.

SECTION 2. ABOLITION OF FUNDS, ACCOUNTS, AND DEDICATIONS. Except as otherwise specifically provided by this Act, all funds and accounts created or re-created in the state treasury by an Act of the 79th Legislature, Regular Session, 2005, that becomes law and all dedications or rededications of revenue in the state treasury or otherwise collected by a state agency for a particular purpose by an Act of the 79th Legislature, Regular Session, 2005, that becomes law are abolished on the later of August 29, 2005, or the date the Act creating or re-creating the fund or account or dedicating or rededicating revenue takes effect.

1 SECTION 3. PREVIOUSLY EXEMPT DEDICATIONS, FUNDS, AND
2 ACCOUNTS. Section 2 of this Act does not apply to:

3 (1) statutory dedications, funds, and accounts that
4 were enacted before the 79th Legislature convened to comply with
5 requirements of state constitutional or federal law;

6 (2) dedications, funds, or accounts that remained
7 exempt from former Section 403.094(h), Government Code, at the time
8 dedications, accounts, and funds were abolished under that
9 provision;

10 (3) increases in fees or in other revenue dedicated as
11 described by this section; or

12 (4) increases in fees or in other revenue required to
13 be deposited in a fund or account described by this section.

14 SECTION 4. ACCOUNTS IN GENERAL REVENUE FUND. Effective on
15 the later of August 29, 2005, or the date the Act creating or
16 re-creating the account takes effect, the following accounts and
17 the revenue deposited to the credit of the accounts are exempt from
18 Section 2 of this Act and are created in the general revenue fund,
19 if created or re-created by an Act of the 79th Legislature, Regular
20 Session, 2005, that becomes law:

21 (1) Quality Assurance Account No. 5080.

22 SECTION 5. FUNDS TO BECOME ACCOUNTS. Effective on the later
23 of August 29, 2005, or the date the Act creating or re-creating the
24 fund takes effect, the following funds in the state treasury or
25 funds otherwise with the comptroller are re-created as accounts in
26 the general revenue fund and the accounts and the revenue deposited
27 to the credit of the accounts are exempt from Section 2 of this Act,

1 if created or re-created by an Act of the 79th Legislature, Regular
2 Session, 2005, that becomes law:

- 3 (1) Felony Prosecutor Supplement Fund No. 303;
- 4 (2) Water Assistance Fund No. 480;
- 5 (3) Judicial and Court Personnel Training Fund No.
6 540; and
- 7 (4) Judicial Fund No. 573.

8 SECTION 6. REVENUE DEDICATION. Effective on the later of
9 August 29, 2005, or the date the Act dedicating or rededicating the
10 revenue takes effect, the following dedication or rededication of
11 revenue collected by a state agency for a particular purpose is
12 exempt from Section 2 of this Act, if dedicated or rededicated by an
13 Act of the 79th Legislature, Regular Session, 2005, that becomes
14 law:

15 SECTION 7. FEDERAL FUNDS. Section 2 of this Act does not
16 apply to funds created pursuant to an Act of the 79th Legislature,
17 Regular Session, 2005, for which separate accounting is required by
18 federal law, except that the funds shall be deposited in accounts in
19 the general revenue fund unless otherwise required by federal law.

20 SECTION 8. TRUST FUNDS. Section 2 of this Act does not
21 apply to trust funds or dedicated revenue deposited to trust funds
22 created under an Act of the 79th Legislature, Regular Session,
23 2005, except that the trust funds shall be held in the state
24 treasury, with the comptroller in trust, or outside the state
25 treasury with the comptroller's approval.

26 SECTION 9. BOND FUNDS. Section 2 of this Act does not apply
27 to bond funds and pledged funds created or affected by an Act of the

1 79th Legislature, Regular Session, 2005, except that the funds
2 shall be held in the state treasury, with the comptroller in trust,
3 or outside the state treasury with the comptroller's approval.

4 SECTION 10. CONSTITUTIONAL FUNDS. Section 2 of this Act
5 does not apply to funds or accounts that would be created or
6 re-created by the Texas Constitution or revenue that would be
7 dedicated or rededicated by the Texas Constitution under a
8 constitutional amendment proposed by the 79th Legislature, Regular
9 Session, 2005, or to dedicated revenue deposited to funds or
10 accounts that would be so created or re-created, if the
11 constitutional amendment is approved by the voters.

12 SECTION 11. SEPARATE FUNDS IN THE TREASURY. Effective
13 September 1, 2005, the following funds in the state treasury and the
14 revenue deposited to the credit of the funds are exempt from Section
15 2 of this Act and are created as separate funds in the state
16 treasury, if created by an Act of the 79th Legislature, Regular
17 Session, 2005, that becomes law:

18 SECTION 12. AMENDMENT OF SECTION 403.095, GOVERNMENT CODE.
19 Effective September 1, 2005, Sections 403.095(b), (d), and (e),
20 Government Code, are amended to read as follows:

21 (b) Notwithstanding any law dedicating or setting aside
22 revenue for a particular purpose or entity, dedicated revenues
23 that, on August 31, 2007 [~~2005~~], are estimated to exceed the amount
24 appropriated by the General Appropriations Act or other laws
25 enacted by the 79th [~~78th~~] Legislature are available for general
26 governmental purposes and are considered available for the purpose
27 of certification under Section 403.121.

(d) Following certification of the General Appropriations Act and other appropriations measures enacted by the 79th [~~78th~~] Legislature, the comptroller shall reduce each dedicated account as directed by the legislature by an amount that may not exceed the amount by which estimated revenues and unobligated balances exceed appropriations. The reductions may be made in the amounts and at the times necessary for cash flow considerations to allow all the dedicated accounts to maintain adequate cash balances to transact routine business. The legislature may authorize, in the General Appropriations Act, the temporary delay of the excess balance reduction required under this subsection. This subsection does not apply to revenues or balances in:

- (1) funds outside the treasury;
- (2) trust funds, which for purposes of this section include funds that may or are required to be used in whole or in part for the acquisition, development, construction, or maintenance of state and local government infrastructures, recreational facilities, or natural resource conservation facilities;
- (3) funds created by the constitution or a court; or
- (4) funds for which separate accounting is required by federal law.

(e) This section expires on September 1, 2007 [~~2005~~].

SECTION 13. EFFECT OF ACT. (a) This Act prevails over any other Act of the 79th Legislature, Regular Session, 2005, regardless of the relative dates of enactment, that purports to create or re-create a special fund or account in the state treasury or to dedicate or rededicate revenue to a particular purpose,

1 including any fund, account, or revenue dedication abolished under
2 former Section 403.094, Government Code.

3 (b) Revenues that, under the terms of another Act of the
4 79th Legislature, Regular Session, 2005, would be deposited to the
5 credit of a special account or fund shall be deposited to the credit
6 of the unobligated portion of the general revenue fund unless the
7 fund, account, or dedication is exempted under this Act.

8 SECTION 14. EFFECTIVE DATE. This Act takes effect
9 immediately if it receives a vote of two-thirds of all the members
10 elected to each house, as provided by Section 39, Article III, Texas
11 Constitution. If this Act does not receive the vote necessary for
12 immediate effect, this Act takes effect on the 91st day after the
13 last day of the legislative session.