

By: Pitts

H.B. No. 3540

Substitute the following for H.B. No. 3540:

By: Pitts

C.S.H.B. No. 3540

A BILL TO BE ENTITLED

AN ACT

relating to certain fiscal matters affecting governmental entities.

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

ARTICLE 1. DELAYED ELIGIBILITY FOR MEMBERSHIP IN EMPLOYEES

RETIREMENT SYSTEM OF TEXAS

SECTION 1.01. Section 812.003(e), Government Code, is amended to read as follows:

(e) Membership [~~For persons whose employment or office holding begins before September 1, 2005, membership~~] in the employee class begins on the 91st day after the first day a person is employed or holds office.

SECTION 1.02. Sections 812.003(d) and (h), Government Code, are repealed.

ARTICLE 2. WAIVER OF AND SUPPLEMENTAL HEALTH COVERAGE

FOR STATE EMPLOYEES

SECTION 2.01. Section 1551.104(a), Insurance Code, is amended to read as follows:

(a) Subject to Sections 1551.101 and 1551.102, each full-time employee is covered automatically by the basic coverage plan for employees and each annuitant is covered by the basic coverage plan for annuitants unless:

(1) participation is specifically waived as provided by Section 1551.1045;

1 (2) the employee or annuitant is expelled from the
2 program under Section 1551.351; or

3 (3) eligibility is otherwise limited by this chapter.

4 SECTION 2.02. Subchapter C, Chapter 1551, Insurance Code,
5 is amended by adding Section 1551.1045 to read as follows:

6 Sec. 1551.1045. WAIVER. (a) Subject to Subsections (b) and
7 (c), an employee or annuitant may waive in writing any coverage
8 provided under this chapter.

9 (b) To waive coverage under the basic coverage plan for
10 employees, a full-time employee must demonstrate, in the manner
11 required by the board of trustees, that the employee is:

12 (1) covered by another health benefit plan that
13 provides substantially equivalent coverage, as determined by the
14 board of trustees, to the coverage provided to employees by the
15 basic coverage plan; or

16 (2) eligible for benefits under the TRICARE Military
17 Health System.

18 (c) To waive coverage under the basic coverage plan for
19 annuitants for the purpose of eligibility for an incentive payment
20 under Section 1551.222, an annuitant must demonstrate, in the
21 manner required by the board of trustees, that the annuitant is:

22 (1) covered by another health benefit plan that
23 provides substantially equivalent coverage, as determined by the
24 board of trustees, to the coverage provided to annuitants by the
25 basic coverage plan; or

26 (2) eligible for benefits under the TRICARE Military
27 Health System.

1 SECTION 2.03. Subchapter E, Chapter 1551, Insurance Code,
2 is amended by adding Sections 1551.221 and 1551.222 to read as
3 follows:

4 Sec. 1551.221. OPTIONAL SUPPLEMENTAL HEALTH COVERAGE FOR
5 INDIVIDUALS ELIGIBLE UNDER TRICARE MILITARY HEALTH SYSTEM. (a)
6 The board of trustees shall offer, as an optional coverage under the
7 group benefits program, a supplemental health coverage program.

8 (b) Under the supplemental health coverage program, an
9 employee or annuitant who is eligible to participate in the group
10 benefits program and who is also eligible for benefits under the
11 TRICARE Military Health System may elect to receive primary
12 coverage under the TRICARE Military Health System. An employee or
13 annuitant participating in the supplemental health coverage
14 program must waive basic coverage through the group benefits
15 program, but receives supplemental health coverage under this
16 section.

17 (c) The cost of supplemental health coverage provided under
18 this section may be paid in the same manner as the cost of other
19 optional coverage is paid under Subchapter G.

20 (d) The board of trustees shall contract to purchase the
21 supplemental health coverage in accordance with Sections
22 1551.213-1551.216.

23 (e) The board of trustees may adopt rules to implement this
24 section.

25 Sec. 1551.222. INCENTIVE PAYMENTS. (a) The board of
26 trustees may allow an incentive payment under this section to an
27 employee or annuitant who elects to waive coverage under the basic

1 coverage plan for employees or annuitants as provided by Section
2 1551.1045(b) or (c).

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

9 (c) The board of trustees, at the time of initial enrollment
10 in the group benefits program and during subsequent open-enrollment
11 periods, shall inform employees and annuitants that they may make
12 an election described by Subsection (a), if eligible, and receive
13 any authorized incentive payment.

14 SECTION 2.04. Subchapter G, Chapter 1551, Insurance Code,
15 is amended by adding Section 1551.324 to read as follows:

16 Sec. 1551.324. REDUCTION IN CONTRIBUTION FOR CERTAIN ACTIVE
17 EMPLOYEES AND ANNUITANTS; INCENTIVE PAYMENTS. (a) Notwithstanding
18 any other provision of this subchapter, the state contribution for
19 an employee's coverage or an annuitant's coverage under this
20 chapter may be reduced, as provided in the General Appropriations
21 Act, to reflect the reduced cost of coverage for an employee or
22 annuitant who elects to waive basic coverage as provided by Section
23 1551.1045(b) or (c).

24 (b) Instead of the full state contribution for an employee
25 or annuitant who makes an election described by Subsection (a), the
26 state may contribute, as specified by the General Appropriations
27 Act, an amount for the incentive payment authorized by Section

1 1551.222.

2 ARTICLE 3. COMPENSATION FOR CERTAIN STATE EMPLOYEES WHO RETURN TO
3 STATE EMPLOYMENT

4 SECTION 3.01. Section 659.042, Government Code, is amended
5 to read as follows:

6 Sec. 659.042. EXCLUSIONS. The following are not entitled
7 to longevity pay under this subchapter:

8 (1) a member of the legislature;

9 (2) an individual who holds a statewide office that is
10 normally filled by vote of the people;

11 (3) an independent contractor or an employee of an
12 independent contractor;

13 (4) a temporary employee;

14 (5) an officer or employee of a public junior college;

15 [~~or~~]

16 (6) an academic employee of a state institution of
17 higher education; or

18 (7) a state employee who receives an annuity based
19 wholly or partly on service as a state officer or state employee in
20 a public retirement system, as defined by Section 802.001, that was
21 credited to the state employee.

22 SECTION 3.02. Section 659.126, Government Code, is amended
23 to read as follows:

24 Sec. 659.126. LOSS OF ELIGIBILITY TO RECEIVE BENEFIT
25 REPLACEMENT PAY. (a) An eligible state employee who leaves state
26 employment after August 31, 1995, for at least 30 consecutive days
27 [~~12 consecutive months~~], on returning to state employment or on

1 assuming a state office, is ineligible to receive benefit
2 replacement pay.

3 (b) An eligible state-paid judge who leaves office after
4 August 31, 1995, for at least 30 consecutive days [~~12 consecutive~~
5 ~~months~~], on return to state office or on accepting a state
6 employment, is ineligible to receive benefit replacement pay.

7 (c) For purposes of Subsection (a), a state employee is not
8 considered to have left state employment:

9 (1) while the state employee is on an unpaid leave of
10 absence as provided by Section 661.909; or

11 (2) during a period of time the employee is not working
12 for the state because the employee's employment with the state
13 customarily does not include that period of time, such as a teacher
14 whose employment does not invariably include the summer months.

15 (d) An eligible state employee who receives an annuity based
16 wholly or partly on service as a state officer or state employee in
17 a public retirement system, as defined by Section 802.001, that was
18 credited to the state employee is ineligible to receive benefit
19 replacement pay.

20 SECTION 3.03. Section 661.152, Government Code, is amended
21 by adding Subsection (l) to read as follows:

22 (l) For purposes of computing vacation leave under
23 Subsection (d) for a state employee who receives an annuity based
24 wholly or partly on service as a state officer or state employee in
25 a public retirement system, as defined by Section 802.001, that was
26 credited to the state employee, years of total state employment
27 includes only the length of state employment after the date the

1 state employee retired.

2 SECTION 3.04. This article takes effect September 1, 2005.

3 ARTICLE 4. EXTENDING STATE REIMBURSEMENT PROGRAM: PETROLEUM

4 STORAGE TANKS

5 SECTION 4.01. Section 26.351(f), Water Code, is amended to
6 read as follows:

7 (f) The person performing corrective action under this
8 section, if the release was reported to the commission on or before
9 December 22, 1998, shall meet the following deadlines:

10 (1) a complete site assessment and risk assessment
11 (including, but not limited to, risk-based criteria for
12 establishing target concentrations), as determined by the
13 executive director, must be received by the agency no later than
14 September 1, 2002;

15 (2) a complete corrective action plan, as determined
16 by the executive director and including, but not limited to,
17 completion of pilot studies and recommendation of a cost-effective
18 and technically appropriate remediation methodology, must be
19 received by the agency no later than September 1, 2003. The person
20 may, in lieu of this requirement, submit by this same deadline a
21 demonstration that a corrective action plan is not required for the
22 site in question under commission rules. Such demonstration must
23 be to the executive director's satisfaction;

24 (3) for those sites found under Subdivision (2) to
25 require a corrective action plan, that plan must be initiated and
26 proceeding according to the requirements and deadlines in the
27 approved plan no later than March 1, 2004;

1 (4) for sites which require either a corrective action
2 plan or groundwater monitoring, a comprehensive and accurate annual
3 status report concerning those activities must be submitted to the
4 agency;

5 (5) for sites which require either a corrective action
6 plan or groundwater monitoring, all deadlines set by the executive
7 director concerning the corrective action plan or approved
8 groundwater monitoring plan shall be met; and

9 (6) for sites that require either a corrective action
10 plan or groundwater monitoring, have met all other deadlines under
11 this subsection, and have submitted annual progress reports that
12 demonstrate progress toward meeting closure requirements, a site
13 closure request must be submitted to [~~requests for all sites where~~]
14 the executive director [~~agreed in writing that no corrective action~~
15 ~~plan was required must be received by the agency~~] no later than
16 September 1, 2007 [~~2005~~]. The request must be complete, as judged
17 by the executive director.

18 SECTION 4.02. Section 26.355(b), Water Code, is amended to
19 read as follows:

20 (b) An owner or operator of an underground or aboveground
21 storage tank from which a regulated substance is released is liable
22 to the state unless:

23 (1) the release was caused by:

24 (A) [~~(1)~~] an act of God;

25 (B) [~~(2)~~] an act of war;

26 (C) [~~(3)~~] the negligence of the State of

27 Texas or the United States; or

1 (D) [~~(4)~~] an act or omission of a third
2 party; or

3 (2) the site at which the release occurred has been
4 admitted into the petroleum storage tank state-lead program under
5 Section 26.3573(r-1).

6 SECTION 4.03. Section 26.3573, Water Code, is amended by
7 amending Subsections (d), (r), and (s) and adding Subsection (r-1)
8 to read as follows:

9 (d) The commission may use the money in the petroleum
10 storage tank remediation account to pay:

11 (1) necessary expenses associated with the
12 administration of the petroleum storage tank remediation account
13 and the groundwater protection cleanup program[, ~~not to exceed an~~
14 ~~amount equal to: 11.8 percent of the gross receipts of that account~~
15 ~~for FY02/03; 16.40 percent of the gross receipts of that account for~~
16 ~~FY04/05; and 21.1 percent of the gross receipts of that account for~~
17 ~~FY06/07]~~;

18 (2) expenses associated with investigation, cleanup,
19 or corrective action measures performed in response to a release or
20 threatened release from a petroleum storage tank, whether those
21 expenses are incurred by the commission or pursuant to a contract
22 between a contractor and an eligible owner or operator as
23 authorized by this subchapter; and

24 (3) subject to the conditions of Subsection (e) [~~of~~
25 ~~this section~~], expenses associated with investigation, cleanup, or
26 corrective action measures performed in response to a release or
27 threatened release of hydraulic fluid or spent oil from hydraulic

1 lift systems or tanks located at a vehicle service and fueling
2 facility and used as part of the operations of that facility.

3 (r) Except as provided by Subsection (r-1), the [The]
4 petroleum storage tank remediation account may not be used to
5 reimburse any person for corrective action performed after
6 September 1, 2005.

7 (r-1) In this subsection, "state-lead program" means the
8 petroleum storage tank state-lead program administered by the
9 commission. The executive director shall grant an extension for
10 corrective action reimbursement to a person who is an eligible
11 owner or operator under Section 26.3571. The petroleum storage
12 tank remediation account may be used to reimburse an eligible owner
13 or operator for corrective action performed under an extension
14 before August 31, 2007. Not later than July 1, 2007, an eligible
15 owner or operator who is granted an extension under this subsection
16 may apply to the commission in writing using a form provided by the
17 commission to have the site subject to corrective action placed in
18 the state-lead program. The eligible owner or operator must agree
19 in the application to allow site access to state personnel and state
20 contractors as a condition of placement in the state-lead program
21 under this subsection. On receiving the application for placement
22 in the state-lead program under this subsection, the executive
23 director by order shall place the site in the state-lead program
24 until the corrective action is completed to the satisfaction of the
25 commission. An eligible owner or operator of a site that is placed
26 in the state-lead program under this subsection is not liable to the
27 commission for any costs related to the corrective action.

1 (s) The petroleum storage tank remediation account may not
2 be used to reimburse any person for corrective action contained in a
3 reimbursement claim filed with the commission after March 1, 2008
4 [~~2006~~].

5 SECTION 4.04. Section 26.3574(b), Water Code, is amended to
6 read as follows:

7 (b) A fee is imposed on the delivery of a petroleum product
8 on withdrawal from bulk of that product as provided by this
9 subsection. Each operator of a bulk facility on withdrawal from
10 bulk of a petroleum product shall collect from the person who orders
11 the withdrawal a fee in an amount determined as follows:

12 (1) \$12.50 for each delivery into a cargo tank having a
13 capacity of less than 2,500 gallons for the state fiscal year
14 beginning September 1, 2001, and the state fiscal year beginning
15 September 1, 2002 [~~FY 02 and FY 03~~]; and \$10.00 for each delivery
16 into a cargo tank having a capacity of less than 2,500 gallons for
17 the state fiscal year beginning September 1, 2003, through the
18 state fiscal year ending August 31, 2007 [~~FY 04 and FY 05, \$5.00 for~~
19 ~~each delivery into a cargo tank having a capacity of less than 2,500~~
20 ~~gallons for FY 06, and \$2.00 for each delivery into a cargo tank~~
21 ~~having a capacity of less than 2,500 gallons for FY 07~~];

22 (2) \$25.00 for each delivery into a cargo tank having a
23 capacity of 2,500 gallons or more but less than 5,000 gallons for
24 the state fiscal year beginning September 1, 2001, and the state
25 fiscal year beginning September 1, 2002 [~~FY 02 and FY 03~~]; and
26 \$20.00 for each delivery into a cargo tank having a capacity of
27 2,500 gallons or more but less than 5,000 gallons for the state

1 fiscal year beginning September 1, 2003, through the state fiscal
2 year ending August 31, 2007 [~~FY 04 and FY 05, \$10.00 for each~~
3 ~~delivery into a cargo tank having a capacity of 2,500 gallons or~~
4 ~~more but less than 5,000 gallons for FY 06, and \$4.00 for each~~
5 ~~delivery into a cargo tank having a capacity of 2,500 gallons or~~
6 ~~more but less than 5,000 gallons for FY 07];~~

7 (3) \$37.50 for each delivery into a cargo tank having a
8 capacity of 5,000 gallons or more but less than 8,000 gallons for
9 the state fiscal year beginning September 1, 2001, and the state
10 fiscal year beginning September 1, 2002 [~~FY 02 and FY 03]; and~~
11 \$30.00 for each delivery into a cargo tank having a capacity of
12 5,000 gallons or more but less than 8,000 gallons for the state
13 fiscal year beginning September 1, 2003, through the state fiscal
14 year ending August 31, 2007 [~~FY 04 and FY 05, \$15.00 for each~~
15 ~~delivery into a cargo tank having a capacity of 5,000 gallons or~~
16 ~~more but less than 8,000 gallons for FY 06, and \$6.00 for each~~
17 ~~delivery into a cargo tank having a capacity of 5,000 gallons or~~
18 ~~more but less than 8,000 gallons for FY 07];~~

19 (4) \$50.00 for each delivery into a cargo tank having a
20 capacity of 8,000 gallons or more but less than 10,000 gallons for
21 the state fiscal year beginning September 1, 2001, and the state
22 fiscal year beginning September 1, 2002 [~~FY 02 and FY 03]; and~~
23 \$40.00 for each delivery into a cargo tank having a capacity of
24 8,000 gallons or more but less than 10,000 gallons for the state
25 fiscal year beginning September 1, 2003, through the state fiscal
26 year ending August 31, 2007 [~~FY 04 and FY 05, \$20.00 for each~~
27 ~~delivery into a cargo tank having a capacity of 8,000 gallons or~~

1 ~~more but less than 10,000 gallons for FY 06; and \$8.00 for each~~
2 ~~delivery into a cargo tank having a capacity of 8,000 gallons or~~
3 ~~more but less than 10,000 gallons for FY 07]; and~~

4 (5) a \$25.00 fee for each increment of 5,000 gallons or
5 any part thereof delivered into a cargo tank having a capacity of
6 10,000 gallons or more for the state fiscal year beginning
7 September 1, 2001, and the state fiscal year beginning September 1,
8 2002 [FY 02 and FY 03]; and \$20.00 for each increment of 5,000
9 gallons or any part thereof delivered into a cargo tank having a
10 capacity of 10,000 gallons or more for the state fiscal year
11 beginning September 1, 2003, through the state fiscal year ending
12 August 31, 2007 [FY 04 and FY 05; \$10.00 for each increment of 5,000
13 gallons or any part thereof delivered into a cargo tank having a
14 capacity of 10,000 gallons or more for FY 06; and \$4.00 for each
15 increment of 5,000 gallons or any part thereof delivered into a
16 cargo tank having a capacity of 10,000 gallons or more for FY 07].

17 SECTION 4.05. Section 26.361, Water Code, is amended to
18 read as follows:

19 Sec. 26.361. EXPIRATION OF REIMBURSEMENT PROGRAM.
20 Notwithstanding any other provision of this subchapter, the
21 reimbursement program established under this subchapter expires
22 September 1, 2008 ~~[2006]~~. On or after September 1, 2008 ~~[2006]~~, the
23 commission may not use money from the petroleum storage tank
24 remediation account to reimburse an eligible owner or operator for
25 any expenses of corrective action or to pay the claim of a person
26 who has contracted with an eligible owner or operator to perform
27 corrective action.

1 SECTION 4.06. This article takes effect September 1, 2005.

2 ARTICLE 5. RESTRICTIONS ON PROPERTY

3 VALUATION AND STATE AID TO

4 SCHOOL DISTRICTS

5 SECTION 5.01. Section 11.431(a), Tax Code, is amended to
6 read as follows:

7 (a) The chief appraiser shall accept and approve or deny an
8 application for a residence homestead exemption after the deadline
9 for filing the application ~~[it]~~ has passed if the application ~~[it]~~
10 is filed not later than ~~[one year after]~~ the delinquency date for
11 the taxes on the homestead.

12 SECTION 5.02. Section 22.23(b), Tax Code, is amended to
13 read as follows:

14 (b) On written request by the property owner, the chief
15 appraiser ~~[shall extend a deadline for filing a rendition statement~~
16 ~~or property report to May 15. The chief appraiser]~~ may ~~[further]~~
17 extend a deadline for filing a rendition statement or property
18 report for a single period not to exceed ~~[the deadline an~~
19 ~~additional]~~ 15 days upon good cause shown in writing by the property
20 owner.

21 SECTION 5.03. Section 25.25, Tax Code, is amended by
22 amending Subsections (c), (e), (l), and (m) and adding Subsection
23 (c-1) to read as follows:

24 (c) The appraisal review board, on motion of the chief
25 appraiser or of a property owner, may direct by written order
26 changes in the appraisal roll for any of the five preceding years to
27 correct:

1 (1) clerical errors relating to the qualification of
2 property for an exemption under Section 11.13 that affect a
3 property owner's liability for a tax imposed in that tax year;

4 (2) multiple appraisals of a property in that tax
5 year; or

6 (3) the inclusion of property that does not exist in
7 the form or at the location described in the appraisal roll.

8 (c-1) The appraisal review board, on motion of the chief
9 appraiser or of a property owner, may direct by written order
10 changes in the appraisal roll to correct clerical errors that
11 affect a property owner's liability for a tax imposed on the owner's
12 residence homestead other than clerical errors described by
13 Subsection (c)(1). A motion under this subsection must be filed
14 before the first anniversary of the deadline under Section 41.12(a)
15 for approval by the appraisal review board of the appraisal records
16 for the year in which the tax is imposed.

17 (e) If the chief appraiser and the property owner do not
18 agree to the correction before the 15th day after the date the
19 motion is filed, a party bringing a motion under Subsection (c),
20 (c-1), or (d) is entitled on request to a hearing on and a
21 determination of the motion by the appraisal review board. A party
22 bringing a motion under this section must describe the error or
23 errors that the motion is seeking to correct. Not later than 15
24 days before the date of the hearing, the board shall deliver written
25 notice of the date, time, and place of the hearing to the chief
26 appraiser, the property owner, and the presiding officer of the
27 governing body of each taxing unit in which the property is located.

1 The chief appraiser, the property owner, and each taxing unit are
2 entitled to present evidence and argument at the hearing and to
3 receive written notice of the board's determination of the motion.
4 A property owner who files the motion must comply with the payment
5 requirements of Section 42.08 or forfeit the right to a final
6 determination of the motion.

7 (l) A motion may be filed under Subsection (c) or (c-1)
8 regardless of whether, for a tax year to which the motion relates,
9 the owner of the property protested under Chapter 41 an action
10 relating to the value of the property that is the subject of the
11 motion.

12 (m) The hearing on a motion under Subsection (c), (c-1), or
13 (d) shall be conducted in the manner provided by Subchapter C,
14 Chapter 41.

15 SECTION 5.04. Section 42.29, Tax Code, is amended by
16 amending Subsection (b) and adding Subsection (c) to read as
17 follows:

18 (b) Notwithstanding Subsection (a), the amount of an award
19 of attorney's fees to a property owner may not exceed the lesser of:

20 (1) \$100,000; or

21 (2) the total amount by which the property owner's tax
22 liability is reduced as a result of the appeal.

23 (c) An appraisal district, an appraisal review board, or a
24 chief appraiser that substantially prevails in an appeal by a
25 property owner based on a claim of excessive appraisal or unequal
26 appraisal of property that the owner does not claim as the owner's
27 residence homestead and that has an appraised value of more than \$1

1 million according to the appraisal roll shall be awarded reasonable
2 attorney's fees in an amount to be determined by the court.

3 SECTION 5.05. Section 42.253(i), Education Code, is amended
4 to read as follows:

5 (i) Not later than March 1 each year, the commissioner shall
6 determine the actual amount of state funds to which each school
7 district is entitled under the allocation formulas in this chapter
8 for the current school year and shall compare that amount with the
9 amount of the warrants issued to each district for that year.
10 Except as provided by Section 42.257(b), if [~~I~~] the amount of the
11 warrants differs from the amount to which a district is entitled
12 because of variations in the district's tax rate, student
13 enrollment, or taxable value of property, the commissioner shall
14 adjust the district's entitlement for the next fiscal year
15 accordingly.

16 SECTION 5.06. Section 42.257(b), Education Code, is amended
17 to read as follows:

18 (b) If the district would have received a greater amount
19 from the foundation school fund for the applicable school year
20 using the adjusted value, the commissioner shall add the difference
21 to subsequent distributions to the district from the foundation
22 school fund. If the final determination is made after the last day
23 of the state fiscal year corresponding to the tax year for which the
24 determination is made, the commissioner shall add one-fifth of the
25 difference to the September payment to the district of the current
26 year entitlement from the foundation school fund for each of the
27 next five years. An adjustment does not affect the local fund

1 assignment of any other district.

2 SECTION 5.07. Section 42.259(f), Education Code, is amended
3 to read as follows:

4 (f) Except as provided by Section 42.257(b) or by Subsection
5 (c)(8) or (d)(3) of this section, any previously unpaid additional
6 funds from prior years owed to a district shall be paid to the
7 district together with the September payment of the current year
8 entitlement.

9 SECTION 5.08. Section 403.302(h), Government Code, is
10 amended to read as follows:

11 (h) On request of the commissioner of education or a school
12 district, the comptroller may audit the total taxable value of
13 property in a school district and may revise the annual study
14 findings. The request for audit is limited to corrections and
15 changes in a school district's appraisal roll that occurred after
16 preliminary certification of the annual study findings by the
17 comptroller. ~~The [Except as otherwise provided by this subsection,~~
18 ~~the]~~ request for audit must be filed with the comptroller not later
19 than the first ~~[third]~~ anniversary of the date of the final
20 certification of the annual study findings. ~~[The request for audit~~
21 ~~may be filed not later than the first anniversary of the date the~~
22 ~~chief appraiser certifies a change to the appraisal roll if the~~
23 ~~chief appraiser corrects the appraisal roll under Section 25.25 or~~
24 ~~42.41, Tax Code, and the change results in a material reduction in~~
25 ~~the total taxable value of property in the school district.]~~ The
26 comptroller shall certify the findings of the audit to the
27 commissioner of education.

1 SECTION 5.09. (a) The change in law made by this Act to
2 Section 11.431, Tax Code, applies only to an application for a
3 residence homestead exemption for the 2005 and subsequent tax
4 years. Section 11.431, Tax Code, as that section existed
5 immediately before the effective date of this Act, applies to an
6 application for a residence homestead exemption for the 2004 tax
7 year and is continued in effect for that purpose.

8 (b) The change in law made by this Act to Section 25.25, Tax
9 Code, does not affect a motion filed under that section before the
10 effective date of this Act.

11 (c) The change in law made by this Act to Section 42.29, Tax
12 Code, applies only to an appeal filed under Chapter 42, Tax Code, on
13 or after the effective date of this Act. An appeal filed under
14 Chapter 42, Tax Code, before the effective date of this Act is
15 governed by the law in effect when the appeal was filed, and the
16 former law is continued in effect for that purpose.

17 ARTICLE 6. LOTTERY TICKET SALES

18 SECTION 6.01. The Texas Lottery Commission shall study and
19 recommend to the legislature methods by which lottery tickets may
20 be sold in a more cost-effective and convenient manner than the
21 methods currently in use.

22 ARTICLE 7. JOINT PRESCRIPTION DRUG PURCHASING FOR STATE AGENCIES

23 SECTION 7.01. Subchapter B, Chapter 531, Government Code,
24 is amended by adding Section 531.080 to read as follows:

25 Sec. 531.080. JOINT PURCHASING OF PRESCRIPTION DRUGS AND
26 OTHER MEDICATIONS. (a) Subject to Subsection (b), the commission
27 and each health and human services agency authorized by the

1 executive commissioner shall enter into an agreement with one or
2 more other states for the joint bulk purchasing of prescription
3 drugs and other medications to be used in the Medicaid program, the
4 state child health plan, or another program under the authority of
5 the commission.

6 (b) An agreement under this section may not be entered into
7 until:

8 (1) the commission determines that entering into the
9 agreement would be feasible and cost-effective; and

10 (2) if appropriated money would be spent under the
11 proposed agreement, the governor and the Legislative Budget Board
12 grant prior approval to expend appropriated money under the
13 proposed agreement.

14 (c) The commission shall adopt procedures applicable to an
15 agreement and joint purchase required by this section. The
16 procedures must ensure that this state receives:

17 (1) all prescription drugs and other medications
18 purchased with money provided by this state; and

19 (2) an equitable share of any price benefits resulting
20 from the joint bulk purchase.

21 (d) In determining the feasibility and cost-effectiveness
22 of entering into an agreement under this section, the commission
23 shall identify:

24 (1) the most cost-effective existing joint bulk
25 purchasing agreement; and

26 (2) any potential groups of states with which this
27 state could enter into a new cost-effective joint bulk purchasing

1 agreement.

2 SECTION 7.02. Not later than January 15, 2006, the Health
3 and Human Services Commission shall determine the feasibility and
4 cost-effectiveness of entering into an agreement under Section
5 531.080, Government Code, as added by this article. If the
6 commission determines that such action is feasible and
7 cost-effective, the commission shall take action to enter into an
8 agreement that takes effect March 1, 2006.

9 SECTION 7.03. If before implementing any provision of this
10 article a state agency determines that a waiver or authorization
11 from a federal agency is necessary for implementation of that
12 provision, the agency affected by the provision shall request the
13 waiver or authorization and may delay implementing that provision
14 until the waiver or authorization is granted.

15 ARTICLE 8. QUALITY ASSURANCE FEES

16 SECTION 8.01. Chapter 242, Health and Safety Code, is
17 amended by adding Subchapter P to read as follows:

18 SUBCHAPTER P. QUALITY ASSURANCE FEE

19 Sec. 242.801. DEFINITIONS. In this subchapter:

20 (1) "Commission" means the Health and Human Services
21 Commission.

22 (2) "Department" means the Department of Aging and
23 Disability Services.

24 (3) "Executive commissioner" means the executive
25 commissioner of the Health and Human Services Commission.

26 (4) "Gross receipts" means money paid as compensation
27 for services provided to residents, including client

1 participation. The term does not include charitable contributions
2 to an institution.

3 Sec. 242.802. APPLICABILITY. This subchapter does not
4 apply to:

5 (1) a state-owned veterans' nursing facility; or

6 (2) a continuing care retirement community.

7 Sec. 242.803. COMPUTING QUALITY ASSURANCE FEE. (a) A
8 quality assurance fee is imposed on each institution subject to
9 this subchapter for which a license fee must be paid under Section
10 242.034. The quality assurance fee:

11 (1) is an amount established under Subsection (b)
12 multiplied by the number of patient days as determined in
13 accordance with Section 242.804;

14 (2) is payable monthly; and

15 (3) is in addition to other fees imposed under this
16 chapter.

17 (b) The commission shall establish a quality assurance fee
18 for each patient day in an amount that will produce annual revenues
19 of not more than six percent of the institution's total annual gross
20 receipts in this state. The fee is subject to adjustment as
21 necessary. The amount of the quality assurance fee may vary
22 according to the number of patient days provided by an institution
23 as necessary to obtain a waiver under federal regulations at 42
24 C.F.R. Section 433.68(e).

25 (c) The amount of the quality assurance fee must be
26 determined using patient days and gross receipts:

27 (1) reported to the commission or to the department at

1 the direction of the commission; and

2 (2) covering a period of at least six months.

3 (d) The quality assurance fee is an allowable cost for
4 reimbursement under the state Medicaid program.

5 (e) A nursing facility may not list the quality assurance
6 fee as a separate charge on a patient's or resident's billing
7 statement or otherwise directly or indirectly attempt to charge the
8 quality assurance fee to a patient or resident.

9 Sec. 242.804. PATIENT DAYS. For each calendar day, an
10 institution shall determine the number of patient days by adding
11 the following:

12 (1) the number of patients occupying an institution
13 bed immediately before midnight of that day plus the number of
14 patients admitted that day less the number of patients discharged
15 that day, except that a patient is included in the count under this
16 subdivision if:

17 (A) the patient is admitted and discharged on the
18 same day; or

19 (B) the patient is discharged that day because of
20 the patient's death; and

21 (2) the number of beds that are on hold that day and
22 that have been placed on hold for a period not to exceed three
23 consecutive calendar days during which a patient is:

24 (A) in the hospital; or

25 (B) on therapeutic home leave.

26 Sec. 242.805. REPORTING AND COLLECTION. (a) The
27 commission or the department as directed by the executive

1 commissioner shall collect the quality assurance fee.

2 (b) Each institution shall, not later than the 25th day
3 after the last day of a month:

4 (1) file with the commission a report stating the
5 total patient days for the month; and

6 (2) pay the quality assurance fee.

7 Sec. 242.806. RULES; ADMINISTRATIVE PENALTY. (a) The
8 executive commissioner shall adopt rules for the administration of
9 this subchapter, including rules related to the imposition and
10 collection of the quality assurance fee.

11 (b) The executive commissioner may adopt rules granting
12 exceptions from the quality assurance fee, including an exception
13 for units of service reimbursed through Medicare Part A, if the
14 commission obtains all waivers necessary under federal law,
15 including 42 C.F.R. Section 433.68(e).

16 (c) An administrative penalty assessed under this
17 subchapter in accordance with Section 242.066 may not exceed
18 one-half of the amount of the outstanding quality assurance fee or
19 \$20,000, whichever is greater.

20 Sec. 242.807. NURSING HOME QUALITY ASSURANCE FEE ACCOUNT.

21 (a) The nursing home quality assurance fee account is a dedicated
22 account in the general revenue fund. Interest earned on money in
23 the account shall be credited to the account.

24 (b) The comptroller shall deposit money collected under
25 this subchapter to the credit of the account.

26 (c) Subject to legislative appropriation and this
27 subchapter, money in the account together with federal matching

1 money shall be used to support or maintain an increase in Medicaid
2 reimbursement for institutions.

3 Sec. 242.808. REIMBURSEMENT OF INSTITUTIONS. (a) Subject
4 to legislative appropriation, the commission may use money in the
5 nursing home quality assurance fee account, together with any
6 federal money available to match that money, to:

7 (1) offset allowable expenses under the state Medicaid
8 program; or

9 (2) increase reimbursement rates paid under the
10 Medicaid program to institutions.

11 (b) The commission shall devise the formula by which amounts
12 received under this subchapter increase the reimbursement rates
13 paid to institutions under the state Medicaid program.

14 Sec. 242.809. INVALIDITY; FEDERAL FUNDS. If any portion of
15 this subchapter is held invalid by a final order of a court that is
16 not subject to appeal, or if the commission determines that the
17 imposition of the fee and the expenditure as prescribed by this
18 subchapter of amounts collected will not entitle the state to
19 receive additional federal funds under the Medicaid program, the
20 commission shall stop collection of the quality assurance fee and,
21 not later than the 30th day after the date collection is stopped,
22 shall return to the institutions that paid the fees, in proportion
23 to the total amount paid by those institutions, any money deposited
24 to the credit of the nursing home quality assurance fee account but
25 not spent.

26 Sec. 242.810. REVISION IN CASE OF DISAPPROVAL. If the
27 Centers for Medicare and Medicaid Services disapproves the quality

1 assurance fee plan established under this subchapter, the
2 commission shall revise the associated state plan amendments and
3 waiver requests as necessary to comply with federal regulations
4 provided by 42 C.F.R. Section 433.68(e). The revisions must be
5 completed as soon as practicable after the date the commission
6 receives notice of the disapproval.

7 Sec. 242.811. AUTHORITY TO ACCOMPLISH PURPOSES OF
8 SUBCHAPTER. The executive commissioner by rule may adopt a
9 definition, a method of computation, or a rate that differs from
10 those expressly provided by or expressly authorized by this
11 subchapter to the extent the difference is necessary to accomplish
12 the purposes of this subchapter.

13 SECTION 8.02. Subchapter B, Chapter 531, Government Code,
14 is amended by adding Section 531.078 to read as follows:

15 Sec. 531.078. QUALITY ASSURANCE FEES; GENERAL AUTHORITY.
16 (a) The executive commissioner by rule may impose a quality
17 assurance fee on any health care provider or facility providing
18 health care services. The executive commissioner may determine the
19 amount and manner of payment of the fee and the revenues of the
20 provider or facility subject to the fee. The executive
21 commissioner may require recordkeeping and reports related to the
22 imposition or collection of the fee. Fee money collected must be
23 used in accordance with commission rules.

24 (b) The executive commissioner shall seek federal approval
25 of a quality assurance fee for the home and community-based
26 services waiver program.

27 SECTION 8.03. Section 252.202(b), Health and Safety Code,

1 is amended to read as follows:

2 (b) The Health and Human Services Commission or the
3 department at the direction of the commission shall set the quality
4 assurance fee for each day in an ~~[the]~~ amount that will produce
5 ~~[necessary to produce]~~ annual revenues of ~~[equal to an amount that~~
6 ~~is]~~ not more than six percent of the facility's total annual gross
7 receipts in this state. The fee is subject to a prospective
8 adjustment as necessary.

9 SECTION 8.04. Section 252.209, Health and Safety Code, is
10 repealed.

11 SECTION 8.05. (a) Notwithstanding Section 242.803, Health
12 and Safety Code, as added by this article, the executive
13 commissioner of the Health and Human Services Commission shall
14 establish the initial quality assurance fee imposed under
15 Subchapter P, Chapter 242, Health and Safety Code, as added by this
16 article, based on available revenue and patient day information.
17 The initial quality assurance fee established under this section
18 remains in effect until the Health and Human Services Commission
19 obtains the information necessary to set the fee under Section
20 242.803, Health and Safety Code, as added by this article.

21 (b) As soon as practicable after the effective date of this
22 Act, the executive commissioner of the Health and Human Services
23 Commission shall adopt rules as necessary to implement Subchapter
24 P, Chapter 242, Health and Safety Code, and Section 531.078,
25 Government Code, as added by this article.

26 (c) If before implementing any provision of this article a
27 state agency determines a waiver or authorization from a federal

1 agency is necessary for implementation of that provision, the
2 agency affected by the provision shall request the waiver or
3 authorization and may delay implementing that provision until the
4 waiver or authorization is granted.

5 ARTICLE 9. REDUCTION IN NUMBER OF LICENSE PLATES ISSUED

6 SECTION 9.01. Subchapter A, Chapter 502, Transportation
7 Code, is amended by adding Section 502.010 to read as follows:

8 Sec. 502.010. ISSUANCE AND DISPLAY OF LICENSE PLATE. (a)
9 Notwithstanding anything in this code to the contrary, including
10 Section 502.180, the department shall issue only one license plate
11 for attachment at the rear of the vehicle for which the plate is
12 issued.

13 (b) Notwithstanding anything in this code to the contrary,
14 including Section 502.404(a), a person is entitled to operate on a
15 public highway a vehicle that displays only one license plate if the
16 plate is attached at the rear of the vehicle. A person may operate
17 on a public highway a vehicle that displays two license plates if
18 both plates were assigned by the department for the registration
19 period as a set of plates.

20 (c) In any provision of this code that relates to the
21 issuance or display of "license plates," "plates," or a "set of
22 plates," the term means only one license plate.

23 SECTION 9.02. The change in law made by this article
24 regarding the issuance of license plates by the Texas Department of
25 Transportation applies only to the issuance of license plates by
26 the department for a registration period beginning on or after the
27 effective date of this article. For a registration period that

1 begins before the effective date of this article, the department
2 shall issue license plates as required by the law in effect
3 immediately before the effective date of this article, and the
4 former law is continued in effect for that purpose.

5 SECTION 9.03. This article takes effect September 1, 2005.

6 ARTICLE 10. TRANSPORTATION FEES AND FISCAL MATTERS

7 SECTION 10.01. Subchapter A, Chapter 222, Transportation
8 Code, is amended by adding Section 222.0021 to read as follows:

9 Sec. 222.0021. TRANSFERS TO GENERAL REVENUE FUND. Each
10 month, out of money in the state highway fund that is not dedicated
11 by the Texas Constitution, the comptroller shall transfer the
12 amount of \$5,666,667 from the state highway fund to the general
13 revenue fund.

14 SECTION 10.02. Section 502.161(a), Transportation Code, is
15 amended to read as follows:

16 (a) The fee for a registration year for registration of a
17 passenger car, a municipal bus, or a private bus that weighs 6,000
18 pounds or less is[+]

19 [~~(1) \$40.50 for a vehicle the model year of which is~~
20 ~~more than six years before the year in which the registration year~~
21 ~~begins,~~

22 [~~(2) \$50.50 for a vehicle the model year of which is~~
23 ~~more than three years but is six years or less before the year in~~
24 ~~which the registration year begins, or~~

25 [~~(3) \$58.50 [for a vehicle the model year of which is~~
26 ~~three years or less before the year in which the registration year~~
27 ~~begins].~~

1 SECTION 10.03. Section 502.162(a), Transportation Code, is
 2 amended to read as follows:

3 (a) The fee for a registration year for registration of a
 4 commercial motor vehicle or truck-tractor that weighs 6,000 pounds
 5 or less is \$58.50. The fee for a registration year for registration
 6 of all other commercial motor vehicles or truck-tractors is \$25
 7 plus an amount determined according to the vehicle's total gross
 8 weight and tire equipment, as follows:

9 10 11 12	Gross weight in pounds	Fee for each 100 pounds or	
		Equipped with pneumatic tires	Equipped with solid tires
13	[1-6,000]	[\$0.44]	[\$0.55]
14	6,001-8,000	<u>\$0.56</u> [0.495]	<u>\$0.66</u>
15	8,001-10,000	0.605	0.77
16	10,001-17,000	0.715	0.88
17	17,001-24,000	0.77	0.99
18	24,001-31,000	0.88	1.10
19	31,001 and over	0.99	1.32

20 SECTION 10.04. Section 502.168, Transportation Code, is
 21 amended to read as follows:

22 Sec. 502.168. FEE: MOTOR BUS. The fee for a registration
 23 year for registration of a motor bus that weighs 6,000 pounds or
 24 less is \$58.50. The fee for a registration year for registration of
 25 all other motor buses is \$25 plus an amount determined according to
 26 the vehicle's total gross weight, as follows:

1	Gross weight	Fee for each 100 pounds or
2	in pounds	fraction of 100 pounds
3	[1-6,000]	[\$0.44]
4	6,001-8,000	<u>\$0.56</u> [0.495]
5	8,001-10,000	0.605
6	10,001-17,000	0.715
7	17,001-24,000	0.77
8	24,001-31,000	0.88
9	31,001 and over	0.99

10 SECTION 10.05. Section 548.508, Transportation Code, is
 11 amended to read as follows:

12 Sec. 548.508. DISPOSITION OF FEES. Except as provided by
 13 Sections 382.037 and 382.0622, Health and Safety Code, and Section
 14 548.5055, fees ~~[each fee]~~ collected by the department under this
 15 subchapter shall be deposited as follows:

16 (1) during each state fiscal year the comptroller
 17 shall deposit the first \$68 million of money received from the fees
 18 to the credit of the general revenue fund; and

19 (2) if during a state fiscal year the amount of money
 20 received from the fees exceeds \$68 million, the comptroller shall
 21 deposit the additional amount to the credit of the Texas mobility
 22 fund.

23 ARTICLE 11. EFFECTIVE DATE

24 SECTION 11.01. Except as otherwise provided by this Act,
 25 this Act takes effect immediately if it receives a vote of
 26 two-thirds of all the members elected to each house, as provided by
 27 Section 39, Article III, Texas Constitution. If this Act does not

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1 receive the vote necessary for immediate effect, except as
2 otherwise provided by this Act, this Act takes effect on the 91st
3 day after the last day of the legislative session.