

By: Pitts

H.B. No. 3540

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain fiscal matters affecting governmental
3 entities.

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

5 SECTION 1. (a) Notwithstanding any statute to the
6 contrary, the legislature, in its discretion, may determine the
7 amount of each appropriation of state funds. The amounts required
8 by statute for entities that receive state funds under the General
9 Appropriations Act, 79th Legislature, Regular Session, 2005, may be
10 reduced or eliminated in order to achieve a balanced budget.

11 (b) This section expires September 1, 2007.

12 SECTION 2. Notwithstanding any other statute of this state,
13 each state agency is authorized to reduce expenditures by:

14 (1) consolidating any reports or publications the
15 agency is required to make and filing or delivering any of those
16 reports or publications exclusively by electronic means;

17 (2) entering into a contract with another governmental
18 entity or with a private vendor to carry out any of the agency's
19 duties;

20 (3) providing that any communication between the
21 agency and another person and any document required to be delivered
22 to or by the agency, including any application, notice, billing
23 statement, receipt, or certificate, may be made or delivered by
24 electronic mail or through the Internet; and

1 (4) adopting and collecting fees or charges to cover
2 any costs the agency incurs in performing its lawful functions.

3 SECTION 3. Section 1551.104(a), Insurance Code, is amended
4 to read as follows:

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

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

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

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

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

16 Sec. 1551.1045. WAIVER. (a) Subject to Subsection (b), an
17 employee or annuitant may waive in writing any coverage provided
18 under this chapter.

19 (b) To waive coverage under the basic coverage plan, a
20 full-time employee must demonstrate, in the manner required by the
21 board of trustees, that the employee is covered by another health
22 benefit plan that provides substantially equivalent coverage, as
23 determined by the board of trustees, to the coverage provided by the
24 basic coverage plan.

25 SECTION 5. Subchapter E, Chapter 1551, Insurance Code, is
26 amended by adding Sections 1551.221 and 1551.222 to read as
27 follows:

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

5 (b) Under the supplemental health coverage program, an
6 employee who is eligible to participate in the group benefits
7 program and who is also eligible for benefits under the TRICARE
8 Military Health System may elect to receive primary coverage under
9 the TRICARE Military Health System. An employee participating in
10 the supplemental health coverage program does not receive basic
11 coverage through the group benefits program, but receives
12 supplemental health coverage under this section.

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

16 (d) The board of trustees shall contract to purchase the
17 supplemental health coverage in accordance with Sections
18 1551.213-1551.216.

19 (e) The board of trustees may adopt rules to implement this
20 section.

21 Sec. 1551.222. INCENTIVE PAYMENTS. (a) The board of
22 trustees may allow an incentive payment under this section to an
23 employee who elects to:

24 (1) waive coverage under the basic coverage plan for
25 employees as provided by Section 1551.1045(b); or

26 (2) participate in the supplemental health coverage
27 program under Section 1551.221.

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

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

12 SECTION 6. Subchapter G, Chapter 1551, Insurance Code, is
13 amended by adding Section 1551.324 to read as follows:

14 Sec. 1551.324. REDUCTION IN CONTRIBUTION FOR CERTAIN ACTIVE
15 EMPLOYEES; INCENTIVE PAYMENTS. (a) Notwithstanding any other
16 provision of this subchapter, the state contribution for an
17 employee's coverage under this chapter may be reduced, as provided
18 in the General Appropriations Act, to reflect the reduced cost of
19 coverage for:

20 (1) an employee who elects to receive supplemental
21 health coverage under the program established under Section
22 1551.221; or

23 (2) an employee who elects to waive basic coverage as
24 provided by Section 1551.1045(b).

25 (b) Instead of the full state contribution for an employee
26 who makes an election described by Subsection (a), the state may
27 contribute, as specified by the General Appropriations Act, an

1 amount for the incentive payment authorized by Section 1551.222.

2 SECTION 7. Section 659.042, Government Code, is amended to
3 read as follows:

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

6 (1) a member of the legislature;

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

9 (3) an independent contractor or an employee of an
10 independent contractor;

11 (4) a temporary employee;

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

13 [~~or~~]

14 (6) an academic employee of a state institution of
15 higher education; or

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

20 SECTION 8. Section 659.126, Government Code, is amended by
21 adding Subsection (c) to read as follows:

22 (c) An eligible state employee who receives an annuity based
23 wholly or partly on service as a state officer or state employee in
24 a public retirement system, as defined by Section 802.001, that was
25 credited to the state employee is ineligible to receive benefit
26 replacement pay.

27 SECTION 9. Section 661.152, Government Code, is amended by

1 adding Subsection (1) to read as follows:

2 (1) For purposes of computing vacation leave under
3 Subsection (d) for a state employee who receives an annuity based
4 wholly or partly on service as a state officer or state employee in
5 a public retirement system, as defined by Section 802.001, that was
6 credited to the state employee, years of total state employment
7 includes only the length of state employment after the date the
8 state employee retired.

9 SECTION 10. Subtitle C, Title 10, Government Code, is
10 amended by adding Chapter 2115 to read as follows:

11 CHAPTER 2115. RECOVERY OF CERTAIN STATE AGENCY OVERPAYMENTS

12 Sec. 2115.001. DEFINITIONS. In this chapter:

13 (1) "Overpayment" includes a duplicate payment made to
14 a vendor for a single invoice and a payment made to a vendor:

15 (A) when an available discount from the vendor
16 was not applied;

17 (B) for a late payment penalty that was
18 improperly applied by the vendor;

19 (C) for shipping costs that were computed
20 incorrectly or incorrectly included in an invoice;

21 (D) for state sales tax; or

22 (E) for a good or service the vendor did not
23 provide.

24 (2) "State agency" means a department, commission,
25 board, office, or other agency, including a university system or an
26 institution of higher education other than a public junior college,
27 that:

1 (A) is in the executive branch of state
2 government;

3 (B) is created by statute; and

4 (C) does not have statutory geographical
5 boundaries limited to a part of the state.

6 Sec. 2115.002. CONTRACT CONSULTANTS FOR RECOVERY AUDITS FOR
7 CERTAIN OVERPAYMENTS. (a) The comptroller shall contract with one
8 or more consultants to conduct recovery audits of payments made by
9 state agencies to vendors. The audits must be designed to detect
10 and recover overpayments to the vendors and to recommend improved
11 state agency accounting operations.

12 (b) A contract under this section:

13 (1) may provide for reasonable compensation for
14 services provided under the contract, including compensation
15 determined by the application of a specified percentage of the
16 total amount recovered because of the consultant's audit activities
17 or recommendations as a fee for services;

18 (2) may permit or require the consultant to pursue a
19 judicial action in a court inside or outside this state to recover
20 an overpaid amount; and

21 (3) to allow time for the performance of existing
22 state payment auditing procedures, may not allow a recovery audit
23 of a payment during the 180-day period after the date the payment
24 was made.

25 (c) The comptroller or a state agency whose payments are
26 being audited may provide a person acting under a contract
27 authorized by this section with any confidential information in the

1 custody of the comptroller or state agency that is necessary for the
2 performance of the audit or the recovery of an overpayment, to the
3 extent the comptroller and state agency are not prohibited from
4 sharing the information under an agreement with another state or
5 the federal government. A person acting under a contract
6 authorized by this section, and each employee or agent of the
7 person, is subject to all prohibitions against the disclosure of
8 confidential information obtained from the state in connection with
9 the contract that apply to the comptroller or applicable state
10 agency or an employee of the comptroller or applicable state
11 agency. A person acting under a contract authorized by this section
12 or an employee or agent of the person who discloses confidential
13 information in violation of a prohibition made applicable to the
14 person under this subsection is subject to the same sanctions and
15 penalties that would apply to the comptroller or applicable state
16 agency or an employee of the comptroller or applicable state agency
17 for that disclosure.

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

25 (b) The comptroller may exempt from the mandatory recovery
26 audit process a state agency that has a low proportion of its
27 expenditures made to vendors, according to criteria the comptroller

1 adopts by rule after consideration of the likely costs and benefits
2 of performing recovery audits for agencies that make relatively few
3 or small payments to vendors.

4 Sec. 2115.004. PAYMENT TO CONTRACTORS. (a) A state agency
5 shall pay, from recovered money appropriated for the purpose, the
6 recovery audit consultant responsible for obtaining for the agency
7 a reimbursement from a vendor.

8 (b) A state agency shall expend or return to the federal
9 government any federal money that is recovered through a recovery
10 audit conducted under this chapter. The state agency shall expend
11 or return the federal money in accordance with the rules of the
12 federal program through which the agency received the federal
13 money.

14 Sec. 2115.005. FORWARDING REPORTS. (a) The comptroller
15 shall provide copies, including electronic form copies, of any
16 reports received from a consultant contracting under Section
17 2115.002 to:

- 18 (1) the governor;
19 (2) the state auditor's office; and
20 (3) the Legislative Budget Board.

21 (b) The comptroller shall provide the copies required by
22 Subsection (a) not later than the seventh day after the date the
23 comptroller receives the consultant's report.

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

1 SECTION 11. (a) Notwithstanding other law, the executive
2 commissioner of the Health and Human Services Commission may take
3 necessary actions with respect to the state's operation and
4 oversight of the Medicaid managed care delivery system to ensure
5 that the state achieves significant reductions in the cost of the
6 state Medicaid program without substantially impairing the quality
7 of services provided to recipients of care under the program.

8 (b) If the executive commissioner determines that under
9 federal law or as a condition of receiving federal funding a waiver
10 or authorization from a federal agency is necessary to take an
11 action, the executive commissioner may seek the waiver or
12 authorization.

13 SECTION 12. (a) Notwithstanding other law, during the
14 state fiscal biennium beginning September 1, 2005, the executive
15 commissioner of the Health and Human Services Commission may
16 provide for periods of continuous eligibility under the state
17 Medicaid program and the children's health insurance program that
18 are designed to provide savings to the state without imposing
19 unreasonably onerous burdens on persons who are eligible to receive
20 services or coverage under those programs.

21 (b) If the executive commissioner determines that under
22 federal law or as a condition of receiving federal funding a waiver
23 or authorization from a federal agency is necessary to provide for a
24 desired period of continuous eligibility, the executive
25 commissioner may seek the waiver or authorization.

26 SECTION 13. (a) The executive commissioner of the Health
27 and Human Services Commission may impose fees on any long-term care

1 facility or intermediate care facility for persons with mental
2 retardation that is regulated by or receives services or funding
3 provided by the state in an amount designed to recover the state's
4 direct and indirect costs in regulating or providing services to
5 the facility or the state's direct and indirect administrative
6 costs in providing the funding, as applicable.

7 (b) If the executive commissioner determines that under
8 federal law or as a condition of receiving federal funding a waiver
9 or authorization from a federal agency is necessary to set a fee at
10 a level described by Subsection (a) of this section, the executive
11 commissioner may seek the waiver or authorization.

12 SECTION 14. Notwithstanding other law, each state agency
13 that regulates an industry or occupation may charge a fee to the
14 industries or persons regulated in an amount designed to recover
15 the state's direct and indirect costs in regulating the industry or
16 occupation.

17 SECTION 15. The Texas Lottery Commission shall study and
18 recommend to the legislature methods by which lottery tickets may
19 be sold in a more cost-effective and convenient manner than the
20 methods currently in use.

21 SECTION 16. The comptroller shall adopt rules under Chapter
22 2115, Government Code, as added by this Act, in a timely manner so
23 that the comptroller may begin contracting with a consultant under
24 that chapter not later than January 1, 2006.

25 SECTION 17. This Act takes effect September 1, 2005.