

By: Ogden

S.B. No. 1616

A BILL TO BE ENTITLED

AN ACT

relating to statutory authority for certain governmental entities to take certain actions to permit the legislature to reduce appropriations to those agencies.

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

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

(b) This section expires September 1, 2007.

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

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

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

(3) providing that any communication between the agency and another person and any document required to be delivered to or by the agency, including any application, notice, billing statement, receipt, or certificate, may be made or delivered by

1 electronic mail or through the Internet; and

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

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

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

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

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

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

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

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

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

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

1 follows:

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

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

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

17 (d) The board of trustees shall contract to purchase the  
18 supplemental health coverage in accordance with Sections  
19 1551.213-1551.216.

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

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

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

27 (2) participate in the supplemental health coverage

1 program under Section 1551.221.

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

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

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

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

21 (1) an employee who elects to receive supplemental  
22 health coverage under the program established under Section  
23 1551.221; or

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

26 (b) Instead of the full state contribution for an employee  
27 who makes an election described by Subsection (a), the state may

1 contribute, as specified by the General Appropriations Act, an  
2 amount for the incentive payment authorized by Section 1551.222.

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

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

7 (1) a member of the legislature;

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

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

12 (4) a temporary employee;

13 (5) an officer or employee of a public junior college;  
14 [~~or~~]

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

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

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

23 (c) An eligible 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 is ineligible to receive benefit  
27 replacement pay.

SECTION 9. Section 661.152, Government Code, is amended by adding Subsection (1) to read as follows:

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

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

CHAPTER 2115. RECOVERY OF CERTAIN STATE AGENCY OVERPAYMENTS

Sec. 2115.001. DEFINITIONS. In this chapter:

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

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

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

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

(D) for state sales tax; or

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

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

1 that:

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

4 (B) is created by statute; and

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

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

13 (b) A contract under this section:

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

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

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

26 (c) The comptroller or a state agency whose payments are  
27 being audited may provide a person acting under a contract

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

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

26 (b) The comptroller may exempt from the mandatory recovery  
27 audit process a state agency that has a low proportion of its



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

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

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

15 Sec. 2115.005. FORWARDING REPORTS. (a) The comptroller  
16 shall provide copies, including electronic form copies, of any  
17 reports received from a consultant contracting under Section  
18 2115.002 to:

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

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

25 (c) Not later than January 1 of each odd-numbered year, the  
26 comptroller shall issue a report to the legislature summarizing the  
27 contents of all reports received under this chapter during the

1 state fiscal biennium ending August 31 of the previous year.

2         SECTION 11. The comptroller shall adopt rules under Chapter  
3 2115, Government Code, as added by this Act, in a timely manner so  
4 that the comptroller may begin contracting with a consultant under  
5 that chapter not later than January 1, 2006.

6         SECTION 12. This Act takes effect September 1, 2005.