

By: Harless

H.B. No. 3618

A BILL TO BE ENTITLED

AN ACT

relating to the use and management of dedicated funds by the state.

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

SECTION 1. The heading to Subchapter D, Chapter 316, Government Code, is amended to read as follows:

SUBCHAPTER D. RETENTION [~~APPROPRIATION~~] OF UNOBLIGATED FUND
BALANCES IN [~~TO GENERAL REVENUE~~] FUND

SECTION 2. Sections 316.031(a) and (b), Government Code, are amended to read as follows:

(a) The legislature finds that [~~, to ensure the efficient operation of state agencies and to provide for the necessary costs of state government operation,~~] it is in the public interest to ensure that revenues collected and dedicated for a specific purpose are used exclusively for that purpose [~~provide a means for periodic legislative review and control of unobligated cash balances and income held by state agencies in funds other than the general revenue fund~~].

(b) It is the intent of the legislature that:

(1) dedicated funds with an unobligated balance at the end of a fiscal year in excess of that amount necessary to fulfill an agency's statutory duties shall be identified within the General Appropriations Act by fund; and

(2) the amounts of unobligated actual or projected balances held in those funds in excess of the amounts determined by

1 the legislature to be sufficient to fulfill statutory requirements
2 shall be retained as balances in those funds [~~appropriated to the~~
3 ~~general revenue fund~~].

4 SECTION 3. Section 316.032, Government Code, is amended to
5 read as follows:

6 Sec. 316.032. PROHIBITION ON APPROPRIATION OF UNOBLIGATED
7 FUND BALANCES [~~CONFLICTING LAWS SUSPENDED~~]. A [~~(a)~~ Any law that
8 ~~provides specific purposes for which a fund or revenue source may be~~
9 ~~used and expended and that restricts the use of revenues and~~
10 ~~balances is suspended to the extent that it conflicts with the~~
11 ~~provisions and intent of appropriations made under this subchapter~~
12 ~~in the General Appropriations Act.~~

13 [~~(b)~~ If the] General Appropriations Act may [~~does~~] not
14 provide for the appropriation of unobligated fund balances to the
15 general revenue fund[, ~~any transfer or appropriation of fund~~
16 ~~balances shall occur as specified by law~~].

17 SECTION 4. Section 316.033, Government Code, is amended to
18 read as follows:

19 Sec. 316.033. FUNDS EXCLUDED. This subchapter applies to
20 funds established by state law and the Texas Constitution, but does
21 not apply to any portion of a fund derived from constitutionally
22 dedicated revenues or to funds or fund balances that are:

23 (1) [~~dedicated by the Texas Constitution,~~
24 [~~(2)~~] held in trust or escrow for the benefit of any
25 person or entity other than a state agency;

26 (2) [~~(3)~~] pledged to the payment of bonds, notes, or
27 other debts;

1 (3) [~~(4)~~] derived from gifts, donations, or
2 endowments made to state agencies or institutions of higher
3 education;

4 (4) [~~(5)~~] pledged to the capital trust fund to be used
5 for construction; or

6 (5) [~~(6)~~] maintained by institutions of higher
7 education, including the Texas State Technical College System.

8 SECTION 5. Sections 403.095(a), (b), and (d), Government
9 Code, are amended to read as follows:

10 (a) Revenue that has been set aside by law for a particular
11 purpose or entity is available only for that purpose or entity [~~to~~
12 ~~the extent money is appropriated for that purpose or entity~~].
13 Expenditures made in furtherance of the dedicated purpose or entity
14 shall be made from money received from the dedicated revenue source
15 to the extent those funds are available [~~appropriated~~].

16 (b) Dedicated [~~Notwithstanding any law dedicating or~~
17 ~~setting aside revenue for a particular purpose or entity,~~
18 ~~dedicated~~] revenues that [~~, on August 31, 2009,~~] are estimated to
19 exceed the amount appropriated by the General Appropriations Act or
20 other laws [~~enacted by the 80th Legislature~~] are not available for
21 general governmental purposes and are not considered available for
22 the purpose of certification under Section 403.121.

23 (d) [~~Following certification of the General Appropriations~~
24 ~~Act and other appropriations measures enacted by the 80th~~
25 ~~Legislature, the comptroller shall reduce each dedicated account as~~
26 ~~directed by the legislature by an amount that may not exceed the~~
27 ~~amount by which estimated revenues and unobligated balances exceed~~

1 ~~appropriations. The reductions may be made in the amounts and at~~
2 ~~the times necessary for cash flow considerations to allow all the~~
3 ~~dedicated accounts to maintain adequate cash balances to transact~~
4 ~~routine business. The legislature may authorize, in the General~~
5 ~~Appropriations Act, the temporary delay of the excess balance~~
6 ~~reduction required under this subsection.] This section~~

7 [~~subsection~~] does not apply to revenues or balances in:

8 (1) funds outside the treasury;

9 (2) trust funds, which for purposes of this section
10 include funds that may or are required to be used in whole or in part
11 for the acquisition, development, construction, or maintenance of
12 state and local government infrastructures, recreational
13 facilities, or natural resource conservation facilities;

14 (3) funds created by the constitution or a court; or

15 (4) funds for which separate accounting is required by
16 federal law.

17 SECTION 6. Sections 316.031(c) and 403.095(e), Government
18 Code, are repealed.

19 SECTION 7. This Act takes effect September 1, 2009.