

BILL ANALYSIS

Senate Research Center

S.B. 1588
By: Ogden
Finance
9/1/2011
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1588 amends current law relating to the creation and re-creation of funds and accounts, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. DEFINITION. Defines "state agency" in any provision of this Act that does not amend current law.

SECTION 2. ABOLITION OF FUNDS, ACCOUNTS, AND DEDICATIONS. Abolishes, except as otherwise specifically provided by this Act, all funds and accounts created or re-created by an Act of the 82nd Legislature, Regular Session, 2011, that becomes law and all dedications or rededications of revenue or otherwise collected by a state agency for a particular purpose by an Act of the 82nd Legislature, Regular Session, 2011, that becomes law, on the later of August 31, 2011, or the date the Act creating or re-creating the fund or account or dedicating or rededicating revenue takes effect.

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

- (1) statutory dedications, funds, and accounts that were enacted before the 82nd Legislature convened to comply with requirements of state constitutional or federal law;
- (2) dedications, funds, or accounts that remained exempt from former Section 403.094(h) [repealed], Government Code, at the time dedications, accounts, and funds were abolished under that provision;
- (3) increases in fees or in other revenue dedicated as described by this section; or
- (4) increases in fees or in other revenue required to be deposited in a fund or account described by this section.

SECTION 4. FEDERAL FUNDS. Provides that Section 2 of this Act does not apply to funds created pursuant to an Act of the 82nd Legislature, Regular Session, 2011, for which separate accounting is required by federal law, except that the funds shall be deposited in accounts in the general revenue fund unless otherwise required by federal law.

SECTION 5. TRUST FUNDS. Provides that Section 2 of this Act does not apply to trust funds or dedicated revenue deposited to trust funds created under an Act of the 82nd Legislature, Regular Session, 2011, except that the trust funds shall be held in the state treasury, with the comptroller of public accounts (comptroller) in trust, or outside the state treasury with the comptroller's approval.

SECTION 6. BOND FUNDS. Provides that Section 2 of this Act does not apply to bond funds and pledged funds created or affected by an Act of the 82nd Legislature, Regular Session, 2011, except that the funds shall be held in the state treasury, with the comptroller in trust, or outside the state treasury with the comptroller's approval.

SECTION 7. CONSTITUTIONAL FUNDS. Provides that Section 2 of this Act does not apply to funds or accounts that would be created or re-created by the Texas Constitution or revenue that would be dedicated or rededicated by the Texas Constitution under a constitutional amendment proposed by the 82nd Legislature, Regular Session, 2011, or to dedicated revenue deposited to funds or accounts that would be so created or re-created, if the constitutional amendment is approved by the voters.

SECTION 8. CREATION OF NEW ACCOUNTS FOR LICENSE PLATE FEES. Provides that Section 2 of this Act does not apply to a new account created in the general revenue fund for receipt of fees for special license plates or for receipt of related revenue, gifts, or grants as provided by an Act of the 82nd Legislature, Regular Session, 2011, or to the dedication of revenue to or contained in the new account.

SECTION 9. ADDITIONAL USES FOR DEDICATED FUNDS, ACCOUNTS, OR REVENUES. Provides that Section 2 of this Act does not apply to a newly authorized dedication of or use of a dedicated fund, a dedicated account, or dedicated revenues as provided by an Act of the 82nd Legislature, Regular Session, 2011, to the extent that Act affects a fund, an account, or revenues that were exempted from funds consolidation before January 1, 2011. Provides that a dedicated fund, a dedicated account, or dedicated revenues that were exempted from funds consolidation before January 1, 2011, may be used as an Act of the 82nd Legislature, Regular Session, 2011, provides, and a change in the name or authorized use of a previously exempted dedicated fund or account does not affect the fund's or account's dedicated nature.

SECTION 10. ACCOUNTS IN GENERAL REVENUE FUND. Provides that, effective on the later of the effective date of the Act creating or re-creating the account or August 31, 2011, the following accounts and the revenue deposited to the credit of the accounts are exempt from Section 2 of this Act and are created in the general revenue fund, if created or re-created by an Act of the 82nd Legislature, Regular Session, 2011, that becomes law:

- (1) the driver's license system improvement account created as a dedicated account in the general revenue fund by S.B. 9, S.B. 1583, or similar legislation;
- (2) the judicial and court personnel training fund created as dedicated account in the general revenue fund by S.B. 1582, S.B. 1811, H.B. 3648, or similar legislation;
- (3) the oil and gas regulation and cleanup fund created by S.B. 655, S.B. 1584, H.B. 3106, or similar legislation, except that, regardless of any provision of that legislation, the oil and gas regulation and cleanup fund is created as a dedicated account in the general revenue fund;
- (4) the fund for veterans' assistance re-created as a special fund in the state treasury outside the general revenue fund by S.B. 1635, S.B. 1739, H.B. 1172, H.B. 3179, or similar legislation;
- (5) the judicial access and improvement account created as a dedicated account in the general revenue fund by S.B. 1811, H.B. 2174, or similar legislation;
- (6) the low-level radioactive waste disposal compact commission account created as an account in the general revenue fund by H.B. 2694 or similar legislation;
- (7) the Alamo complex account created as a separate account in the general revenue fund by H.B. 3726, S.B. 1841, or similar legislation; and
- (8) the emergency radio infrastructure account created by H.B. 442 or similar legislation.

SECTION 11. REVENUE DEDICATION. Provides that, effective on the later of the effective date of the Act dedicating or rededicating the revenue or August 31, 2011, the following dedications or rededications of revenue collected by a state agency for a particular purpose are exempt from Section 2 of this Act, if dedicated or rededicated by an Act of the 82nd Legislature, Regular Session, 2011, that becomes law:

- (1) the dedication of all fees to be deposited to the credit of the driver's license system improvement account as provided by S.B. 9, S.B. 1583, or similar legislation;
- (2) the dedication of amounts to be deposited to the credit of the charter district bond guarantee reserve fund as provided by S.B. 597, H.B. 1437, or similar legislation;
- (3) the dedication of charges collected under Section 151.158(g) (relating to charging for expert stamps), Tax Code, as provided by S.B. 776, S.B. 1811, or similar legislation;
- (4) the dedication of the additional annual fee to be deposited to the credit of the scholarship trust fund for fifth-year accounting students as provided by S.B. 777, H.B. 1521, or similar legislation;
- (5) the dedication of fees imposed under Section 2054.380(a), Government Code, as provided by S.B. 1579, H.B. 3665, or similar legislation;
- (6) the dedication of fees to be charged for process server certification and renewal of certification as provided by S.B. 1582, S.B. 1811, H.B. 1614, H.B. 3648, or similar legislation;
- (7) all dedications of revenue for deposit to the credit of oil and gas regulation and cleanup fund as provided by S.B. 655, S.B. 1584, H.B. 3106, or similar legislation;
- (8) the dedication of the enrollment fees to be deposited to the credit of the employees life, accident, and health insurance and benefits fund under Section 1551.3076, Insurance Code, as provided by S.B. 1664, S.B. 1811, or similar legislation;
- (9) the dedication of contributions made under Section 502.1746 (Voluntary Contribution to Veterans' Assistance Fund), Transportation Code, as provided by S.B. 1635, H.B. 3179, or similar legislation;
- (10) the dedication of contributions, gifts, grants, and promotional campaign proceeds received by the Parks and Wildlife Department under Subchapter J-1, Chapter 11 (Parks and Wildlife Department), Parks and Wildlife Code, as provided by S.B. 1584, H.B. 1300, H.B. 3418, or similar legislation;
- (11) the dedication of licensing fees received under Section 13.0155, Parks and Wildlife Code, as provided by S.B. 1584, H.B. 1300, H.B. 3418, or similar legislation;
- (12) the dedication of contributions received under Section 502.1747, Transportation Code, as provided by S.B. 1584, H.B. 1301, H.B. 3418, or similar legislation;
- (13) the dedication of all fees to be deposited to the credit of the sexual assault program fund as provided by S.B. 23 or similar legislation;
- (14) the dedication of fees imposed under Subsection (b), Section 1104.052, Occupations Code, as provided by H.B. 1146, or similar legislation;
- (15) the dedication of the revenue generated under H.B. 442, or similar legislation, for the purpose of creating an interoperable statewide emergency radio infrastructure;
- (16) all dedications or rededications of revenue to an account of a Self-Directed, Semi-Independent Agency with the Texas Treasury Safekeeping Trust Company by any Act of the 82nd Legislature, Regular Session, 2011;

(17) all dedications or rededications of revenue to the Texas Department of Insurance Operating Account by any Act of the 82nd Legislature, Regular Session, 2011;

(18) all dedications or rededications of revenue to the State Highway Fund by any Act of the 82nd Legislature, Regular Session, 2011; and

(19) all dedications or rededications of revenue to the Game, Fish, and Water Safety Account by any Act of the 82nd Legislature, Regular Session, 2011.

SECTION 12. SEPARATE FUNDS IN THE TREASURY. Provides that, effective September 1, 2011, the following funds in the state treasury and the revenue deposited to the credit of the funds, if created by an Act of the 82nd Legislature, Regular Session, 2011, are exempt from Section 2 of this Act and the funds are created as separate funds in the state treasury:

(1) the charter district bond guarantee reserve fund, created as a special fund in the state treasury outside the general revenue fund by S.B. 597, H.B. 1437, or similar legislation; and

(2) the Internet crimes against children account created as a special fund by S.B. 1843, H.B. 3746, or similar legislation.

SECTION 13. CERTAIN OTHER FUNDS HELD OUTSIDE THE TREASURY. Provides that each of the following funds, if created as a fund held outside the treasury by an Act of the 82nd Legislature, Regular Session, 2011, that becomes law, and revenue deposited to the credit of the funds are exempt from this Act:

The Texas Department of Insurance examination local account created in the Texas Treasury Safekeeping Trust Company by S.B. 1291 or similar legislation.

SECTION 14. TRANSFER OF CERTAIN FUNDS. (a) Requires the comptroller to hold the revenue that under Section 133.102(e)(11) (relating to the fugitive apprehension account), Local Government Code, would be deposited to the credit of the fugitive apprehension account until the effective date of H.B. 442, Acts of the 82nd Legislature, Regular Session, 2011, or similar legislation creating the emergency radio infrastructure account, and deposit that revenue into the emergency radio infrastructure account on that date.

(b) Provides that if H.B. 442, Acts of the 82nd Legislature, Regular Session, 2011, or similar legislation creating the emergency radio infrastructure account is not enacted, this section has no effect.

SECTION 15. SCHOLARSHIP TRUST FUND FOR FIFTH-YEAR ACCOUNTING STUDENTS. (a) Provides that Section 2 of this Act does not apply to the scholarship trust fund for fifth-year accounting students re-created as a trust fund outside the state treasury by S.B. 777, H.B. 1521, or similar legislation.

(b) Provides that the scholarship trust fund for fifth-year accounting students described by Subsection (a) of this section is subject to Section 5 of this Act.

SECTION 16. CIVIL JUSTICE DATA REPOSITORY FUND. Provides that, effective on the later of August 31, 2011, or the date the Act creating or re-creating the fund takes effect, the Civil Justice Data Repository fund and the revenue deposited to the credit of the fund are exempt from Section 2 of this Act and that fund is created as an account in the general revenue fund, if created or re-created by an Act of the 82nd Legislature, Regular Session, 2011, that becomes law.

SECTION 17. AMENDMENT OF SECTION 403.095, GOVERNMENT CODE. Amends Sections 403.095(b), (d), and (e), Government Code, effective September 1, 2011, as follows:

(b) Provides that, notwithstanding any law dedicating or setting aside revenue for a particular purpose or entity, dedicated revenues that, on August 31, 2013, rather than August 31, 2011, are estimated to exceed the amount appropriated by the General Appropriations Act or other laws enacted by the 82nd Legislature, rather than the 81st Legislature, are available for general governmental purposes and are considered available for the purpose of certification under Section 403.121 (Contents of Estimate).

(d) Requires the comptroller, following certification of the General Appropriations Act and other appropriations measures enacted by the 82nd Legislature, rather than the 81st Legislature, to 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.

(e) Provides that this section expires on September 1, 2013, rather than September 1, 2011.

SECTION 18. EFFECT OF ACT. (a) Provides that this Act prevails over any other Act of the 82nd Legislature, Regular Session, 2011, regardless of the relative dates of enactment, that purports to create or re-create a special fund or account or to dedicate or rededicate revenue to a particular purpose, including any fund, account, or revenue dedication abolished under former Section 403.094, Government Code.

(b) Provides that an exemption from the application of Section 403.095 (Use of Dedicated Revenue), Government Code, contained in another Act of the 82nd Legislature, Regular Session, 2011, that is exempted from the application of Section 2 of this Act has no effect.

(c) Requires that revenues that, under the terms of another Act of the 82nd Legislature, Regular Session, 2011, would be deposited to the credit of a special account or fund be deposited to the credit of the undedicated portion of the general revenue fund unless the fund, account, or dedication is exempted under this Act.

SECTION 19. EFFECTIVE DATE. Effective date, except as otherwise provided by this Act: upon passage or on the 91st day after the last day of the legislative session.