

By: Turner

H.B. No. 1590

A BILL TO BE ENTITLED

AN ACT

relating to a suspension of the imposition of certain fees under certain conditions.

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

SECTION 1. Subchapter E, Chapter 404, Government Code, is amended by adding Section 404.074 to read as follows:

Sec. 404.074. NOTICE OF EXCESS REVENUE CREDITED TO CERTAIN ACCOUNTS; SUSPENSION OF FEES. (a) In this section, "fee" means an amount required to be paid in exchange for a service or other benefit or as part of a regulatory system. The term includes an amount charged in exchange for a direct personal benefit, such as an amount charged to engage in a regulated occupation or activity, to enter a state park, museum, or other facility, or for the issuance of specialty license plates. The term does not include a tax imposed under the Tax Code or other law.

(b) This section applies only to an account in the general revenue fund:

(1) the revenue credited to which is dedicated only by statute to a particular purpose or entity; and

(2) a portion of the revenue of which in excess of amounts appropriated by the General Appropriations Act or other law would, through the application of Section 403.095(b) or a successor law providing that certain dedicated revenue is available for general governmental purposes, be available for those purposes and

1 considered available for the purpose of certification under Section
2 403.121.

3 (c) On the date amounts credited during a state fiscal
4 biennium to an account to which this section applies equal at least
5 110 percent of the total amounts appropriated by the General
6 Appropriations Act and other law for that biennium, the comptroller
7 shall:

8 (1) identify each person who collects or remits
9 revenue credited to that account; and

10 (2) notify each person identified under Subdivision
11 (1) in writing that:

12 (A) the credited amounts exceed the
13 appropriations for the biennium; and

14 (B) the imposition of the portion of the fee from
15 which the revenue credited to the account is derived that the person
16 would otherwise collect or remit to the comptroller is suspended
17 during the period beginning on a date stated in the notice.

18 (d) The date on which the suspension period described by
19 Subsection (c)(2)(B) begins must be the first day of a calendar
20 month and may not be later than the 45th day after the date the
21 notice is sent. The period ends on a date determined by the
22 comptroller after considering the account balance necessary to
23 cover appropriations from the account to which the suspended fee
24 would be deposited.

25 (e) Notwithstanding any other law, including a law under
26 which a fee is otherwise imposed, the imposition of the portion of a
27 fee that is the subject of a notice required by Subsection (c) is

1 suspended for the period specified in the notice. A person who
2 receives the notice may not impose or collect the portion of the fee
3 that is the subject of the notice during the specified period but
4 shall remit to the comptroller in accordance with applicable law:

5 (1) all fees collected before the beginning of the
6 period that have not been remitted; and

7 (2) delinquent fees that were imposed and became due
8 before the beginning of the period but are collected during the
9 period.

10 (f) The suspension of the imposition of a fee under
11 Subsection (e) does not affect the availability of or access to the
12 benefit or service, or operation of the regulatory system, with
13 respect to which the fee would be imposed if not suspended.

14 (g) The comptroller shall maintain in a conspicuous
15 location on the comptroller's Internet website a current list of
16 fees the imposition of which are suspended under this section. The
17 list must:

18 (1) contain information that clearly identifies each
19 suspended fee; and

20 (2) specify the suspension period for each of those
21 fees.

22 (h) The comptroller by rule shall establish procedures by
23 which a person who pays a fee that was imposed on the person in
24 violation of Subsection (e) may request a refund of the amount paid.
25 The comptroller shall determine whether the fee was imposed in
26 violation of Subsection (e).

27 (i) If the comptroller determines through procedures

1 established under Subsection (h) that a fee was imposed on the
2 person requesting a refund in violation of Subsection (e), the
3 comptroller shall refund the amount of the fee paid. A person
4 aggrieved by a determination of the comptroller under those
5 procedures may appeal that determination. The appeal is a
6 contested case under Chapter 2001.

7 SECTION 2. This Act takes effect September 1, 2011.