

By: Ogden

S.B. No. 1588

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation and re-creation of funds and accounts, the
3 dedication and rededication of revenue, and the exemption of
4 unappropriated money from use for general governmental purposes.

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

6 SECTION 1. DEFINITION. In any provision of this Act that
7 does not amend current law, "state agency" means an office,
8 institution, or other agency that is in the executive branch of
9 state government, has authority that is not limited to a
10 geographical portion of the state, and was created by the
11 constitution or a statute of this state. The term does not include
12 an institution of higher education as defined by Section 61.003,
13 Education Code.

14 SECTION 2. ABOLITION OF FUNDS, ACCOUNTS, AND DEDICATIONS.
15 Except as otherwise specifically provided by this Act, all funds
16 and accounts created or re-created by an Act of the 82nd
17 Legislature, Regular Session, 2011, that becomes law and all
18 dedications or rededications of revenue or otherwise collected by a
19 state agency for a particular purpose by an Act of the 82nd
20 Legislature, Regular Session, 2011, that becomes law are abolished
21 on the later of August 31, 2011, or the date the Act creating or
22 re-creating the fund or account or dedicating or rededicating
23 revenue takes effect.

24 SECTION 3. PREVIOUSLY EXEMPT DEDICATIONS, FUNDS, AND

1 ACCOUNTS. Section 2 of this Act does not apply to:

2 (1) statutory dedications, funds, and accounts that
3 were enacted before the 82nd Legislature convened to comply with
4 requirements of state constitutional or federal law;

5 (2) dedications, funds, or accounts that remained
6 exempt from former Subsection (h), Section 403.094, Government
7 Code, at the time dedications, accounts, and funds were abolished
8 under that provision;

9 (3) increases in fees or in other revenue dedicated as
10 described by this section; or

11 (4) increases in fees or in other revenue required to
12 be deposited in a fund or account described by this section.

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

18 SECTION 5. TRUST FUNDS. Section 2 of this Act does not
19 apply to trust funds or dedicated revenue deposited to trust funds
20 created under an Act of the 82nd Legislature, Regular Session,
21 2011, except that the trust funds shall be held in the state
22 treasury, with the comptroller of public accounts in trust, or
23 outside the state treasury with the comptroller's approval.

24 SECTION 6. BOND FUNDS. Section 2 of this Act does not apply
25 to bond funds and pledged funds created or affected by an Act of the
26 82nd Legislature, Regular Session, 2011, except that the funds
27 shall be held in the state treasury, with the comptroller of public

1 accounts in trust, or outside the state treasury with the
2 comptroller's approval.

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

11 SECTION 8. DEDICATIONS OF REVENUE TO STATE HIGHWAY FUND.
12 Section 2 of this Act does not apply to a dedication or rededication
13 of revenue to the credit of the state highway fund as provided by an
14 Act of the 82nd Legislature, Regular Session, 2011.

15 SECTION 9. DEDICATIONS OF REVENUE TO GAME, FISH, AND WATER
16 SAFETY ACCOUNT. Section 2 of this Act does not apply to a
17 dedication or rededication of revenue to the credit of the game,
18 fish, and water safety account in the general revenue fund as
19 provided by an Act of the 82nd Legislature, Regular Session, 2011.

20 SECTION 10. CREATION OF NEW ACCOUNTS FOR LICENSE PLATE
21 FEES. Section 2 of this Act does not apply to a new account created
22 in the general revenue fund for receipt of fees for special license
23 plates or for receipt of related revenue, gifts, or grants as
24 provided by an Act of the 82nd Legislature, Regular Session, 2011,
25 or to the dedication of revenue to or contained in the new account.

26 SECTION 11. ADDITIONAL USES FOR DEDICATED FUNDS, ACCOUNTS,
27 OR REVENUES. Section 2 of this Act does not apply to a newly

1 authorized dedication of or use of a dedicated fund, a dedicated
2 account, or dedicated revenues as provided by an Act of the 82nd
3 Legislature, Regular Session, 2011, to the extent that Act affects
4 a fund, an account, or revenues that were exempted from funds
5 consolidation before January 1, 2011. A dedicated fund, a
6 dedicated account, or dedicated revenues that were exempted from
7 funds consolidation before January 1, 2011, may be used as an Act of
8 the 82nd Legislature, Regular Session, 2011, provides, and a change
9 in the name or authorized use of a previously exempted dedicated
10 fund or account does not affect the fund's or account's dedicated
11 nature.

12 SECTION 12. ACCOUNTS IN GENERAL REVENUE FUND. Effective on
13 the later of the effective date of the Act creating or re-creating
14 the account or August 31, 2011, the following accounts and the
15 revenue deposited to the credit of the accounts are exempt from
16 Section 2 of this Act and are created in the general revenue fund,
17 if created or re-created by an Act of the 82nd Legislature, Regular
18 Session, 2011, that becomes law:

19 (1) the driver's license system improvement account
20 created as a dedicated account in the general revenue fund by Senate
21 Bill No. 9, Senate Bill No. 1583, or similar legislation;

22 (2) the poison control services account created as a
23 dedicated account in the general revenue fund by Senate Bill No.
24 435, Senate Bill No. 1579, House Bill No. 1015, or similar
25 legislation;

26 (3) the judicial and court personnel training fund
27 created as a dedicated account in the general revenue fund by Senate

1 Bill No. 1582, Senate Bill No. 1811, House Bill No. 3648, or similar
2 legislation;

3 (4) the oil and gas regulation and cleanup fund
4 created by Senate Bill No. 655, Senate Bill No. 1584, House Bill No.
5 3106, or similar legislation, except that, regardless of any
6 provision of that legislation, the oil and gas regulation and
7 cleanup fund is created as a dedicated account in the general
8 revenue fund; and

9 (5) the fund for veterans' assistance re-created as a
10 special fund in the state treasury outside the general revenue fund
11 by Senate Bill No. 1635, Senate Bill No. 1739, House Bill No. 1172,
12 House Bill No. 3179, or similar legislation.

13 SECTION 13. REVENUE DEDICATION. Effective on the later of
14 the effective date of the Act dedicating or rededicating the
15 revenue or August 31, 2011, the following dedications or
16 rededications of revenue collected by a state agency for a
17 particular purpose are exempt from Section 2 of this Act, if
18 dedicated or rededicated by an Act of the 82nd Legislature, Regular
19 Session, 2011, that becomes law:

20 (1) the dedication of all fees to be deposited to the
21 credit of the driver's license system improvement account as
22 provided by Senate Bill No. 9, Senate Bill No. 1583, or similar
23 legislation;

24 (2) the dedication of amounts to be deposited to the
25 credit of the charter district bond guarantee reserve fund as
26 provided by Senate Bill No. 597, House Bill No. 1437, or similar
27 legislation;

1 (3) the dedication of charges collected under
2 Subsection (g), Section 151.158, Tax Code, as provided by Senate
3 Bill No. 776, Senate Bill No. 1811, or similar legislation;

4 (4) the dedication of the additional annual fee to be
5 deposited to the credit of the scholarship trust fund for
6 fifth-year accounting students as provided by Senate Bill No. 777,
7 House Bill No. 1521, or similar legislation;

8 (5) the dedication of all revenue to be deposited to
9 the credit of the poison control services account as provided by
10 Senate Bill No. 435, Senate Bill No. 1579, House Bill No. 1015, or
11 similar legislation;

12 (6) the dedication of fees imposed under Subsection
13 (a), Section 2054.380, Government Code, as provided by Senate Bill
14 No. 1579, House Bill No. 3665, or similar legislation;

15 (7) the dedication of the handling fee for processing
16 unclaimed property as provided by Senate Bill No. 1579 or similar
17 legislation;

18 (8) the dedication of fees to be charged for process
19 server certification and renewal of certification as provided by
20 Senate Bill No. 1582, Senate Bill No. 1811, House Bill No. 1614,
21 House Bill No. 3648, or similar legislation;

22 (9) the dedication of certain tax revenue to the
23 property tax relief fund under Section 155.2415, Tax Code, as
24 provided by Senate Bill No. 1811 or similar legislation;

25 (10) all dedications of revenue for deposit to the
26 credit of the oil and gas regulation and cleanup fund as provided by
27 Senate Bill No. 655, Senate Bill No. 1584, House Bill No. 3106, or

1 similar legislation;

2 (11) the dedication of the enrollment fees to be
3 deposited to the credit of the employees life, accident, and health
4 insurance and benefits fund under Section 1551.3076, Insurance
5 Code, as provided by Senate Bill No. 1664, Senate Bill No. 1811, or
6 similar legislation;

7 (12) the dedication of contributions made under
8 Section 502.1746, Transportation Code, as provided by Senate Bill
9 No. 1635, House Bill No. 3179, or similar legislation;

10 (13) the dedication of contributions, gifts, grants,
11 and promotional campaign proceeds received by the Parks and
12 Wildlife Department under Subchapter J-1, Chapter 11, Parks and
13 Wildlife Code, as provided by Senate Bill No. 1584, House Bill No.
14 1300, House Bill No. 3418, or similar legislation;

15 (14) the dedication of licensing fees received under
16 Section 13.0155, Parks and Wildlife Code, as provided by Senate
17 Bill No. 1584, House Bill No. 1300, House Bill No. 3418, or similar
18 legislation;

19 (15) the dedication of contributions received under
20 Section 502.1747, Transportation Code, as provided by Senate Bill
21 No. 1584, House Bill No. 1301, House Bill No. 3418, or similar
22 legislation; and

23 (16) the dedication of all fees to be deposited to the
24 credit of the sexual assault program fund as provided by Senate Bill
25 No. 23 or similar legislation.

26 SECTION 14. SEPARATE FUNDS IN THE TREASURY. (a) Effective
27 September 1, 2011:

1 (1) the charter district bond guarantee reserve fund,
2 created as a special fund in the state treasury outside the general
3 revenue fund by Senate Bill No. 597, House Bill No. 1437, or similar
4 legislation of the 82nd Legislature, Regular Session, 2011, is
5 exempt from Section 2 of this Act and the fund is created as a
6 separate fund in the state treasury; and

7 (2) revenue deposited to the credit of the fund
8 described by Subdivision (1) of this section is exempt from Section
9 2 of this Act.

10 (b) Section 2 of this Act does not apply to the Internet
11 crimes against children account created as a special fund by Senate
12 Bill No. 1843, House Bill No. 3746, or similar legislation of the
13 82nd Legislature, Regular Session, 2011, or to the revenue
14 dedicated to that fund by that legislation.

15 SECTION 15. SCHOLARSHIP TRUST FUND FOR FIFTH-YEAR
16 ACCOUNTING STUDENTS. (a) Section 2 of this Act does not apply to
17 the scholarship trust fund for fifth-year accounting students
18 re-created as a trust fund outside the state treasury by Senate Bill
19 No. 777, House Bill No. 1521, or similar legislation.

20 (b) The scholarship trust fund for fifth-year accounting
21 students described by Subsection (a) of this section is subject to
22 Section 5 of this Act.

23 SECTION 16. CIVIL JUSTICE DATA REPOSITORY FUND. Effective
24 on the later of August 31, 2011, or the date the Act creating or
25 re-creating the fund takes effect, the Civil Justice Data
26 Repository fund and the revenue deposited to the credit of the fund
27 are exempt from Section 2 of this Act and that fund is created as an

1 account in the general revenue fund, if created or re-created by an
2 Act of the 82nd Legislature, Regular Session, 2011, that becomes
3 law.

4 SECTION 17. AMENDMENT OF SECTION 403.095, GOVERNMENT CODE.
5 Effective September 1, 2011, Subsections (b), (d), and (e), Section
6 403.095, Government Code, are amended to read as follows:

7 (b) Notwithstanding any law dedicating or setting aside
8 revenue for a particular purpose or entity, dedicated revenues
9 that, on August 31, 2013 [~~2011~~], are estimated to exceed the amount
10 appropriated by the General Appropriations Act or other laws
11 enacted by the 82nd [~~81st~~] Legislature are available for general
12 governmental purposes and are considered available for the purpose
13 of certification under Section 403.121.

14 (d) Following certification of the General Appropriations
15 Act and other appropriations measures enacted by the 82nd [~~81st~~]
16 Legislature, the comptroller shall reduce each dedicated account as
17 directed by the legislature by an amount that may not exceed the
18 amount by which estimated revenues and unobligated balances exceed
19 appropriations. The reductions may be made in the amounts and at
20 the times necessary for cash flow considerations to allow all the
21 dedicated accounts to maintain adequate cash balances to transact
22 routine business. The legislature may authorize, in the General
23 Appropriations Act, the temporary delay of the excess balance
24 reduction required under this subsection. This subsection does not
25 apply to revenues or balances in:

- 26 (1) funds outside the treasury;
27 (2) trust funds, which for purposes of this section

1 include funds that may or are required to be used in whole or in part
2 for the acquisition, development, construction, or maintenance of
3 state and local government infrastructures, recreational
4 facilities, or natural resource conservation facilities;

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

6 (4) funds for which separate accounting is required by
7 federal law.

8 (e) This section expires on September 1, 2013 [~~2011~~].

9 SECTION 18. EFFECT OF ACT. (a) This Act prevails over any
10 other Act of the 82nd Legislature, Regular Session, 2011,
11 regardless of the relative dates of enactment, that purports to
12 create or re-create a special fund or account or to dedicate or
13 rededicate revenue to a particular purpose, including any fund,
14 account, or revenue dedication abolished under former Section
15 403.094, Government Code.

16 (b) Revenues that, under the terms of another Act of the
17 82nd Legislature, Regular Session, 2011, would be deposited to the
18 credit of a special account or fund shall be deposited to the credit
19 of the undedicated portion of the general revenue fund unless the
20 fund, account, or dedication is exempted under this Act.

21 SECTION 19. EFFECTIVE DATE. Except as otherwise provided
22 by this Act:

23 (1) this Act takes effect immediately if it receives a
24 vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution; and

26 (2) if this Act does not receive the vote necessary for
27 immediate effect, this Act takes effect on the 91st day after the

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1 last day of the legislative session.