

1-1 By: Ogden S.B. No. 1588
1-2 (In the Senate - Filed March 11, 2011; March 23, 2011, read
1-3 first time and referred to Committee on Finance; May 6, 2011,
1-4 reported adversely, with favorable Committee Substitute by the
1-5 following vote: Yeas 15, Nays 0; May 6, 2011, sent to printer.)

1-6 COMMITTEE SUBSTITUTE FOR S.B. No. 1588 By: Ogden

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the creation and re-creation of funds and accounts, the
1-10 dedication and rededication of revenue, and the exemption of
1-11 unappropriated money from use for general governmental purposes.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. DEFINITION. In any provision of this Act that
1-14 does not amend current law, "state agency" means an office,
1-15 institution, or other agency that is in the executive branch of
1-16 state government, has authority that is not limited to a
1-17 geographical portion of the state, and was created by the
1-18 constitution or a statute of this state. The term does not include
1-19 an institution of higher education as defined by Section 61.003,
1-20 Education Code.

1-21 SECTION 2. ABOLITION OF FUNDS, ACCOUNTS, AND DEDICATIONS.
1-22 Except as otherwise specifically provided by this Act, all funds
1-23 and accounts created or re-created by an Act of the 82nd
1-24 Legislature, Regular Session, 2011, that becomes law and all
1-25 dedications or rededications of revenue or otherwise collected by a
1-26 state agency for a particular purpose by an Act of the 82nd
1-27 Legislature, Regular Session, 2011, that becomes law are abolished
1-28 on the later of August 31, 2011, or the date the Act creating or
1-29 re-creating the fund or account or dedicating or rededicating
1-30 revenue takes effect.

1-31 SECTION 3. PREVIOUSLY EXEMPT DEDICATIONS, FUNDS, AND
1-32 ACCOUNTS. Section 2 of this Act does not apply to:

1-33 (1) statutory dedications, funds, and accounts that
1-34 were enacted before the 82nd Legislature convened to comply with
1-35 requirements of state constitutional or federal law;

1-36 (2) dedications, funds, or accounts that remained
1-37 exempt from former Subsection (h), Section 403.094, Government
1-38 Code, at the time dedications, accounts, and funds were abolished
1-39 under that provision;

1-40 (3) increases in fees or in other revenue dedicated as
1-41 described by this section; or

1-42 (4) increases in fees or in other revenue required to
1-43 be deposited in a fund or account described by this section.

1-44 SECTION 4. FEDERAL FUNDS. Section 2 of this Act does not
1-45 apply to funds created pursuant to an Act of the 82nd Legislature,
1-46 Regular Session, 2011, for which separate accounting is required by
1-47 federal law, except that the funds shall be deposited in accounts in
1-48 the general revenue fund unless otherwise required by federal law.

1-49 SECTION 5. TRUST FUNDS. Section 2 of this Act does not
1-50 apply to trust funds or dedicated revenue deposited to trust funds
1-51 created under an Act of the 82nd Legislature, Regular Session,
1-52 2011, except that the trust funds shall be held in the state
1-53 treasury, with the comptroller of public accounts in trust, or
1-54 outside the state treasury with the comptroller's approval.

1-55 SECTION 6. BOND FUNDS. Section 2 of this Act does not apply
1-56 to bond funds and pledged funds created or affected by an Act of the
1-57 82nd Legislature, Regular Session, 2011, except that the funds
1-58 shall be held in the state treasury, with the comptroller of public
1-59 accounts in trust, or outside the state treasury with the
1-60 comptroller's approval.

1-61 SECTION 7. CONSTITUTIONAL FUNDS. Section 2 of this Act does
1-62 not apply to funds or accounts that would be created or re-created
1-63 by the Texas Constitution or revenue that would be dedicated or

2-1 rededicated by the Texas Constitution under a constitutional
 2-2 amendment proposed by the 82nd Legislature, Regular Session, 2011,
 2-3 or to dedicated revenue deposited to funds or accounts that would be
 2-4 so created or re-created, if the constitutional amendment is
 2-5 approved by the voters.

2-6 SECTION 8. DEDICATIONS OF REVENUE TO STATE HIGHWAY FUND.
 2-7 Section 2 of this Act does not apply to a dedication or rededication
 2-8 of revenue to the credit of the state highway fund as provided by an
 2-9 Act of the 82nd Legislature, Regular Session, 2011.

2-10 SECTION 9. DEDICATIONS OF REVENUE TO GAME, FISH, AND WATER
 2-11 SAFETY ACCOUNT. Section 2 of this Act does not apply to a
 2-12 dedication or rededication of revenue to the credit of the game,
 2-13 fish, and water safety account in the general revenue fund as
 2-14 provided by an Act of the 82nd Legislature, Regular Session, 2011.

2-15 SECTION 10. CREATION OF NEW ACCOUNTS FOR LICENSE PLATE
 2-16 FEES. Section 2 of this Act does not apply to a new account created
 2-17 in the general revenue fund for receipt of fees for special license
 2-18 plates or for receipt of related revenue, gifts, or grants as
 2-19 provided by an Act of the 82nd Legislature, Regular Session, 2011,
 2-20 or to the dedication of revenue to or contained in the new account.

2-21 SECTION 11. ADDITIONAL USES FOR DEDICATED FUNDS, ACCOUNTS,
 2-22 OR REVENUES. Section 2 of this Act does not apply to a newly
 2-23 authorized dedication of or use of a dedicated fund, a dedicated
 2-24 account, or dedicated revenues as provided by an Act of the 82nd
 2-25 Legislature, Regular Session, 2011, to the extent that Act affects
 2-26 a fund, an account, or revenues that were exempted from funds
 2-27 consolidation before January 1, 2011. A dedicated fund, a
 2-28 dedicated account, or dedicated revenues that were exempted from
 2-29 funds consolidation before January 1, 2011, may be used as an Act of
 2-30 the 82nd Legislature, Regular Session, 2011, provides, and a change
 2-31 in the name or authorized use of a previously exempted dedicated
 2-32 fund or account does not affect the fund's or account's dedicated
 2-33 nature.

2-34 SECTION 12. ACCOUNTS IN GENERAL REVENUE FUND. Effective on
 2-35 the later of the effective date of the Act creating or re-creating
 2-36 the account or August 31, 2011, the following accounts and the
 2-37 revenue deposited to the credit of the accounts are exempt from
 2-38 Section 2 of this Act and are created in the general revenue fund,
 2-39 if created or re-created by an Act of the 82nd Legislature, Regular
 2-40 Session, 2011, that becomes law:

2-41 (1) the driver's license system improvement account
 2-42 created as a dedicated account in the general revenue fund by Senate
 2-43 Bill No. 9, Senate Bill No. 1583, or similar legislation;

2-44 (2) the poison control services account created as a
 2-45 dedicated account in the general revenue fund by Senate Bill No.
 2-46 435, Senate Bill No. 1579, House Bill No. 1015, or similar
 2-47 legislation;

2-48 (3) the judicial and court personnel training fund
 2-49 created as a dedicated account in the general revenue fund by Senate
 2-50 Bill No. 1582, Senate Bill No. 1811, House Bill No. 3648, or similar
 2-51 legislation;

2-52 (4) the oil and gas regulation and cleanup fund
 2-53 created by Senate Bill No. 655, Senate Bill No. 1584, House Bill No.
 2-54 3106, or similar legislation, except that, regardless of any
 2-55 provision of that legislation, the oil and gas regulation and
 2-56 cleanup fund is created as a dedicated account in the general
 2-57 revenue fund; and

2-58 (5) the fund for veterans' assistance re-created as a
 2-59 special fund in the state treasury outside the general revenue fund
 2-60 by Senate Bill No. 1635, Senate Bill No. 1739, House Bill No. 1172,
 2-61 House Bill No. 3179, or similar legislation.

2-62 SECTION 13. REVENUE DEDICATION. Effective on the later of
 2-63 the effective date of the Act dedicating or rededicating the
 2-64 revenue or August 31, 2011, the following dedications or
 2-65 rededications of revenue collected by a state agency for a
 2-66 particular purpose are exempt from Section 2 of this Act, if
 2-67 dedicated or rededicated by an Act of the 82nd Legislature, Regular
 2-68 Session, 2011, that becomes law:

2-69 (1) the dedication of all fees to be deposited to the

3-1 credit of the driver's license system improvement account as
3-2 provided by Senate Bill No. 9, Senate Bill No. 1583, or similar
3-3 legislation;

3-4 (2) the dedication of amounts to be deposited to the
3-5 credit of the charter district bond guarantee reserve fund as
3-6 provided by Senate Bill No. 597, House Bill No. 1437, or similar
3-7 legislation;

3-8 (3) the dedication of charges collected under
3-9 Subsection (g), Section 151.158, Tax Code, as provided by Senate
3-10 Bill No. 776, Senate Bill No. 1811, or similar legislation;

3-11 (4) the dedication of the additional annual fee to be
3-12 deposited to the credit of the scholarship trust fund for
3-13 fifth-year accounting students as provided by Senate Bill No. 777,
3-14 House Bill No. 1521, or similar legislation;

3-15 (5) the dedication of all revenue to be deposited to
3-16 the credit of the poison control services account as provided by
3-17 Senate Bill No. 435, Senate Bill No. 1579, House Bill No. 1015, or
3-18 similar legislation;

3-19 (6) the dedication of fees imposed under Subsection
3-20 (a), Section 2054.380, Government Code, as provided by Senate Bill
3-21 No. 1579, House Bill No. 3665, or similar legislation;

3-22 (7) the dedication of the handling fee for processing
3-23 unclaimed property as provided by Senate Bill No. 1579 or similar
3-24 legislation;

3-25 (8) the dedication of fees to be charged for process
3-26 server certification and renewal of certification as provided by
3-27 Senate Bill No. 1582, Senate Bill No. 1811, House Bill No. 1614,
3-28 House Bill No. 3648, or similar legislation;

3-29 (9) the dedication of certain tax revenue to the
3-30 property tax relief fund under Section 155.2415, Tax Code, as
3-31 provided by Senate Bill No. 1811 or similar legislation;

3-32 (10) all dedications of revenue for deposit to the
3-33 credit of the oil and gas regulation and cleanup fund as provided by
3-34 Senate Bill No. 655, Senate Bill No. 1584, House Bill No. 3106, or
3-35 similar legislation;

3-36 (11) the dedication of the enrollment fees to be
3-37 deposited to the credit of the employees life, accident, and health
3-38 insurance and benefits fund under Section 1551.3076, Insurance
3-39 Code, as provided by Senate Bill No. 1664, Senate Bill No. 1811, or
3-40 similar legislation;

3-41 (12) the dedication of contributions made under
3-42 Section 502.1746, Transportation Code, as provided by Senate Bill
3-43 No. 1635, House Bill No. 3179, or similar legislation;

3-44 (13) the dedication of contributions, gifts, grants,
3-45 and promotional campaign proceeds received by the Parks and
3-46 Wildlife Department under Subchapter J-1, Chapter 11, Parks and
3-47 Wildlife Code, as provided by Senate Bill No. 1584, House Bill No.
3-48 1300, House Bill No. 3418, or similar legislation;

3-49 (14) the dedication of licensing fees received under
3-50 Section 13.0155, Parks and Wildlife Code, as provided by Senate
3-51 Bill No. 1584, House Bill No. 1300, House Bill No. 3418, or similar
3-52 legislation; and

3-53 (15) the dedication of contributions received under
3-54 Section 502.1747, Transportation Code, as provided by Senate Bill
3-55 No. 1584, House Bill No. 1301, House Bill No. 3418, or similar
3-56 legislation.

3-57 SECTION 14. SEPARATE FUNDS IN THE TREASURY. Effective
3-58 September 1, 2011:

3-59 (1) the charter district bond guarantee reserve fund,
3-60 created as a special fund in the state treasury outside the general
3-61 revenue fund by Senate Bill No. 597, House Bill No. 1437, or similar
3-62 legislation of the 82nd Legislature, Regular Session, 2011, is
3-63 exempt from Section 2 of this Act and the fund is created as a
3-64 separate fund in the state treasury; and

3-65 (2) revenue deposited to the credit of the fund
3-66 described by Subdivision (1) of this section is exempt from Section
3-67 2 of this Act.

3-68 SECTION 15. SCHOLARSHIP TRUST FUND FOR FIFTH-YEAR
3-69 ACCOUNTING STUDENTS. (a) Section 2 of this Act does not apply to

4-1 the scholarship trust fund for fifth-year accounting students
4-2 re-created as a trust fund outside the state treasury by Senate Bill
4-3 No. 777, House Bill No. 1521, or similar legislation.

4-4 (b) The scholarship trust fund for fifth-year accounting
4-5 students described by Subsection (a) of this section is subject to
4-6 Section 5 of this Act.

4-7 SECTION 16. CIVIL JUSTICE DATA REPOSITORY FUND. Effective
4-8 on the later of August 31, 2011, or the date the Act creating or
4-9 re-creating the fund takes effect, the Civil Justice Data
4-10 Repository fund and the revenue deposited to the credit of the fund
4-11 are exempt from Section 2 of this Act and that fund is created as an
4-12 account in the general revenue fund, if created or re-created by an
4-13 Act of the 82nd Legislature, Regular Session, 2011, that becomes
4-14 law.

4-15 SECTION 17. AMENDMENT OF SECTION 403.095, GOVERNMENT CODE.
4-16 Effective September 1, 2011, Subsections (b), (d), and (e), Section
4-17 403.095, Government Code, are amended to read as follows:

4-18 (b) Notwithstanding any law dedicating or setting aside
4-19 revenue for a particular purpose or entity, dedicated revenues
4-20 that, on August 31, 2013 [~~2011~~], are estimated to exceed the amount
4-21 appropriated by the General Appropriations Act or other laws
4-22 enacted by the 82nd [~~81st~~] Legislature are available for general
4-23 governmental purposes and are considered available for the purpose
4-24 of certification under Section 403.121.

4-25 (d) Following certification of the General Appropriations
4-26 Act and other appropriations measures enacted by the 82nd [~~81st~~]
4-27 Legislature, the comptroller shall reduce each dedicated account as
4-28 directed by the legislature by an amount that may not exceed the
4-29 amount by which estimated revenues and unobligated balances exceed
4-30 appropriations. The reductions may be made in the amounts and at
4-31 the times necessary for cash flow considerations to allow all the
4-32 dedicated accounts to maintain adequate cash balances to transact
4-33 routine business. The legislature may authorize, in the General
4-34 Appropriations Act, the temporary delay of the excess balance
4-35 reduction required under this subsection. This subsection does not
4-36 apply to revenues or balances in:

- 4-37 (1) funds outside the treasury;
- 4-38 (2) trust funds, which for purposes of this section
4-39 include funds that may or are required to be used in whole or in part
4-40 for the acquisition, development, construction, or maintenance of
4-41 state and local government infrastructures, recreational
4-42 facilities, or natural resource conservation facilities;
- 4-43 (3) funds created by the constitution or a court; or
- 4-44 (4) funds for which separate accounting is required by
4-45 federal law.

4-46 (e) This section expires on September 1, 2013 [~~2011~~].

4-47 SECTION 18. EFFECT OF ACT. (a) This Act prevails over any
4-48 other Act of the 82nd Legislature, Regular Session, 2011,
4-49 regardless of the relative dates of enactment, that purports to
4-50 create or re-create a special fund or account or to dedicate or
4-51 rededicate revenue to a particular purpose, including any fund,
4-52 account, or revenue dedication abolished under former Section
4-53 403.094, Government Code.

4-54 (b) Revenues that, under the terms of another Act of the
4-55 82nd Legislature, Regular Session, 2011, would be deposited to the
4-56 credit of a special account or fund shall be deposited to the credit
4-57 of the undedicated portion of the general revenue fund unless the
4-58 fund, account, or dedication is exempted under this Act.

4-59 SECTION 19. EFFECTIVE DATE. Except as otherwise provided
4-60 by this Act:

- 4-61 (1) this Act takes effect immediately if it receives a
4-62 vote of two-thirds of all the members elected to each house, as
4-63 provided by Section 39, Article III, Texas Constitution; and
- 4-64 (2) if this Act does not receive the vote necessary for
4-65 immediate effect, this Act takes effect on the 91st day after the
4-66 last day of the legislative session.

4-67 * * * * *