

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 26, 2011

TO: Honorable David Dewhurst, Lieutenant Governor, Senate

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: SB1588 by Ogden (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.), **As Passed 2nd House**

The funds, accounts, and revenue dedications that would be abolished and become part of General Revenue Fund are not known at this time. Any net gain or loss from the re-creation of existing funds or accounts as exempted in this bill that are dependent upon the passage of another act of the 82nd Legislature, Regular Session (2011), are dependent upon appropriations made in the 2012-13 General Appropriations Act and cannot be estimated at this time.

There would be an indeterminate negative fiscal impact to the state from the provisions of this bill relating to the Department of Information Resources due to the unknown nature of current advertising demand, applicable fee schedules to be set, and the cost to evaluate and implement sufficient bandwidth and network security to allow advertising on state agency websites.

The bill would abolish all funds, accounts, and revenue dedications created or recreated by the 82nd Legislature, Regular Session (2011), unless specifically exempted under separate sections of this bill.

Any funds, accounts, or revenue dedications abolished under this bill would be deposited to the credit of the unobligated portion of the General Revenue Fund 0001. The bill would define the state agencies to which this act would apply.

The bill would exempt dedications, funds, and accounts that were enacted before the 82nd Legislature convened to comply with the State Constitution or federal requirements, or that remained exempt from the abolishment and removal of dedication provisions of the former Section 403.094(h) of the Government Code and increases in existing fees or in other revenue that were previously dedicated or required to be deposited in a fund or account exempted prior to the 82nd Legislature, Regular Session (2011).

The following funds, accounts, and dedications of revenue would be exempt from abolition by this bill, if created or re-created by Acts of the 82nd Legislature, Regular Session (2011): revenue to the credit of the State Highway Fund 0006 and GR Account 0009—Game, Fish, and Water Safety; GR Accounts for receipt of fees for special license plates or for receipt of related revenue, gifts, or grants; the Charter District Bond Guarantee Reserve Fund and the revenue deposited to the credit of the fund; the Scholarship Trust Fund for Fifth-Year Accounting Students; the Texas Department of Insurance Operating Account; all dedications or rededications of revenue to an account of a Self-Directed, Semi-Independent Agency with the Texas Safekeeping Trust Company; the Civil Justice Data Repository Fund; newly authorized dedication of or use of a dedicated fund, a dedicated account, or dedicated revenues, that were exempted from funds consolidation before January 1, 2011; GR Account—Driver's License System Improvement; GR Account—Judicial and Court Personnel Training Fund; GR Account—Oil and Gas Regulation and Cleanup Fund; GR Account—Fund for Veterans' Assistance; GR Account—Judicial Access and Improvement account; GR Account—Low-Level Radioactive Waste Disposal Compact Commission Account; GR Account—Alamo Complex

Account; GR Account— Emergency Radio Infrastructure Account; the Department of Insurance examination local account; and the dedication of taxes, charges, fees, contributions, amounts, or revenues created by the following legislation: SB 9, SB 23, SB 1583, SB 597, HB 1437, SB 776, SB 1811, SB 777, HB 1521, SB 1579, HB 3665, SB 1582, HB 1614, HB 3648, SB 665, SB 1584, HB 3106, SB 1664, SB 1635, HB 3179, HB 1300, HB 3418, SB 1584, HB 1301, SB 1843, HB 2694, HB 3726, SB 1841, SB 1291, HB 442 or HB 3746.

Federal funds, created by the 82nd Legislature, Regular Session (2011), for which separate accounting is required by federal law, would be exempt. These funds would be deposited into accounts within General Revenue Fund 0001, unless otherwise required by federal law.

The bill would exempt all trust funds and bond funds created by the 82nd Legislature, Regular Session (2011), except that all trust funds would have to be held in the State Treasury, with the Comptroller in trust, or outside the State Treasury with the Comptroller's approval.

The bill would exempt funds or accounts created or re-created or revenue dedicated or rededicated under a constitutional amendment proposed by an act of the 82nd Legislature, Regular Session (2011), if approved by the voters.

The bill would amend Sections 403.095(b), (d), and (e) of the Government Code to allow the Comptroller as directed by the Legislature, to make reductions in dedicated accounts in the amounts by which estimated revenues and unobligated balances exceeded appropriations following certification of all appropriations enacted by the 82nd Legislature. Dedicated revenues exceeding amounts appropriated by the 82nd Legislature are available for certification through August 31, 2013. Funds outside of the State Treasury, trust funds, funds created by the State Constitution or a court, and funds for which separate accounting was required by federal law would be exempt from this section. These provisions would expire September 1, 2013.

The provisions of this bill would prevail over any other act of the 82nd Legislature, Regular Session (2011)—regardless of the date of enactment—purporting to dedicate or rededicate a fund, account, or revenue in the State Treasury.

The bill would amend Subchapter C, Chapter 2054, Government Code to require executive branch state agencies, excepting institutions of higher education, to lease advertising space on official state internet websites. The bill would require the Department of Information Resources (DIR) to: adopt rules and to contract with a private entity for a 10 year license to lease advertising space on the state's official electronic internet portal, commonly known as TexasOnline or Texas.gov; develop a standard contract governing the application of the provision of the bill, including a schedule of fees for the lease of advertising space; and adopt policies that require the clear labeling of advertisements and the use of disclaimers that the state does not endorse the products or services advertised.

The bill would require that the private entity administering the lease, collect the fees due from entities leasing advertising space; and deposit fees collected, less the private entities' administrative fees, to the comptroller with 50 percent to be credited to the foundation school fund. Of the remaining 50 percent, an unknown amount would be credited to the optometry career program account to be used by the University of Houston and the remainder would be credited to the general revenue fund.

The bill would require DIR or a state agency to evaluate the effect of the advertising contract on bandwidth required by the agency for official duties; determine risk to the web site or to computer network security; develop and implement a plan to manage and reduce the amount of bandwidth used by the agency or DIR; and to ensure the continued security and integrity of electronic internet portals, computer networks, and confidential and sensitive data associated with the state.

Federal General Service Administration guidelines prohibit advertising on .gov internet domains. In the past year several state websites have been migrated from the state's domain (.state.tx.us) to a .gov domain, including the state's electronic internet portal (www.texas.gov) and the internet addresses for the Texas Department of Transportation (www.txdot.texas.gov). DIR estimates an additional 50 state agencies are in the process of migrating to .gov domains and, under current federal guidelines, would not be able to participate in an internet advertising program. Therefore, no revenue gain is anticipated from any texas.gov websites.

According to analysis by the Department of Information Resources, an outside consultant would be required to determine the risk to web sites or computer network security to evaluate and develop a plan that manages bandwidth and ensures security. DIR estimates that 1.0 security consultant and 1.0 high-level technical expert would be hired for 1,920 hours at \$167.51 per hour for a total of \$321,619 in fiscal year 2012.

Due to the number of state agencies transitioning to the texas.gov domain and absent of any information about fees that would be set by DIR under the provision of the bill, the revenue gain cannot be estimated. However, it is estimated that statewide start-up costs could be approximately \$4.5 million depending on the number of agencies that would be eligible to advertise on its website, and would be required to manage bandwidth and assess computer network security as required under the provisions of the bill.

The Comptroller of Public Accounts cannot estimate a fiscal impact to the state because the demand for website advertising space and the fee schedules for leasing state advertising space (which would be set by rule) are currently unknown.

The bill would add Section 111.43 to the Education Code which would allow the University of Houston to operate a summer program that prepares certain students for advanced studies and a career in the field of optometry. The fiscal impacts of this section cannot be determined.

The bill would add Section 63.104 to the Education Code requiring the governing board of the University of Texas at El Paso to adopt an investment and distribution policy for the institutions' endowment fund.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2011.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

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