

BILL ANALYSIS

Senate Research Center

H.B. 855
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Finance
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The economic stabilization fund (ESF), commonly referred to as the "Rainy Day Fund," was approved by the voters in 1988. The fund receives 75 percent of any oil or natural gas production tax revenue that exceeds the amount collected in fiscal year 1987. In addition, the Texas comptroller of public accounts (comptroller) is required to transfer one-half of any unencumbered balance remaining in the general revenue fund at the end of a biennium to the ESF, and the amount in the ESF cannot exceed 10 percent of the total amount of general revenue income during the preceding biennium.

In 2015, the legislature authorized the comptroller to invest a portion of the ESF balance using the prudent investor standard. This change enabled the ESF to accrue a greater return through its investments. Since its inception in August 2015, the invested portion of the Rainy Day Fund has earned a return greater than that for the treasury pool.

Interested parties observe that the comptroller could be authorized to invest a greater portion of the ESF using the prudent investor standard. This change would enable the fund to accrue greater returns while preserving its purchasing power. H.B. 855 authorizes the comptroller to invest a greater portion of the Rainy Day Fund using the prudent investor standard. Specifically, H.B. 855 enables the comptroller to invest the balance of the fund that exceeds 30 percent of the maximum authorized balance for the applicable biennium.

H.B. 855 amends current law relating to the management and investment of the economic stabilization fund, including the determination of a sufficient balance within the economic stabilization fund.

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. Amends Sections 316.093(a), (b), and (f), Government Code, as follows:

(a) Requires the Texas comptroller of public accounts (comptroller), before the comptroller makes transfers for a state fiscal year, to determine whether certain amounts are less than the sufficient balance adopted under Section 404.074, rather than Section 316.092 (Determination of Sufficient Fund Balance).

(b) Requires the comptroller, if the sum described by Subsection (a) is less than the sufficient balance adopted under Section 404.074, rather than 316.092, to makes certain adjustments until the sufficient balance adopted under Section 404.074, rather than Section 316.092, is achieved.

(f) Provides that Subsections (a) and (b), rather than (a), (b), and (c) (relating to requiring the comptroller to adjust the allocation of amounts to be transferred to certain funds to maintain a sufficient balance) and this subsection expire December 31, 2024.

SECTION 2. Amends the heading to Section 404.0241, Government Code, to read as follows:

Sec. 404.0241. COMPUTATION OF ECONOMIC STABILIZATION FUND BALANCE.

SECTION 3. Amends Subchapter C, Chapter 404, Government Code, by adding Sections 404.0242 and 404.0243, as follows:

Sec. 404.0242. MANAGEMENT AND INVESTMENT OF ECONOMIC STABILIZATION FUND ACCOUNTS. (a) Requires the comptroller, to manage economic stabilization fund (ESF) investments, to establish the following accounts in the ESF:

- (1) the Texas stabilization account; and
- (2) the Texas legacy account.

(b) Authorizes the comptroller, through procedures and subject to restrictions the comptroller establishes for each account and in amounts the comptroller considers appropriate for each account, in managing the assets of an account established under this section, to acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor exercising reasonable care, skill, and caution would acquire, exchange, sell, supervise, manage, or retain in light of the purposes, terms, distribution requirements, and other circumstances then prevailing for the account, taking into consideration the investment of all the assets of the account rather than a single investment.

(c) Provides that Section 404.024 (Authorized Investments) does not apply to the investment of the assets of an account established under this section.

Sec. 404.0243. INVESTMENT OBJECTIVES AND PURPOSES OF ECONOMIC STABILIZATION FUND ACCOUNTS. (a) Provides that the investment objectives and purposes of the Texas stabilization account in the ESF are to preserve the account's principal; the purchasing power of the account's principal; and the liquidity of the account.

(b) Provides that the investment objectives and purposes of the Texas legacy account in the ESF are to generate earnings on the account's principal to provide certain purchasing power and provide for predictable and stable annual earnings.

SECTION 4. Amends Subchapter E, Chapter 404, Government Code, by adding Section 404.074, as follows:

Sec. 404.074. SUFFICIENT BALANCE OF TEXAS STABILIZATION ACCOUNT. (a) Provides that, for the purpose of making the transfers of money required by Section 49-g (Economic Stabilization Fund), Article III (Legislative Department), Texas Constitution, the amount of the sufficient balance of the ESF is equal to seven percent of the certified general revenue-related appropriations for the state fiscal biennium during which the transfers are to be made.

(b) Requires the comptroller, except as provided by Subsection (c), to allocate and, at the time and in the manner that minimizes losses and penalties, adjust the allocation of the ESF between the Texas stabilization account and the Texas legacy account to:

- (1) maintain a balance in the Texas stabilization account equal to the sufficient balance of the ESF; and
- (2) allocate the remainder of the ESF balance to the Texas legacy account.

(c) Prohibits the comptroller, if the legislature appropriates money from the Texas stabilization account and, as a result of that appropriation, the account balance is less than the sufficient balance of the ESF, from adjusting the allocation of the ESF balance to allocate an amount to the Texas stabilization account to achieve a balance in that account equal to the sufficient balance.

SECTION 5. Repealer: Section 316.091 (Definition), Government Code.

Repealer: Section 316.092 (Determination of Sufficient Fund Balance), Government Code.

Repealer: Section 316.093(c) (relating to requiring the comptroller to make certain adjustments to maintain a sufficient balance), Government Code.

Repealers: Sections 404.0241(a) (relating to requiring the comptroller to invest a certain percentage of the ESF balance in a state fiscal biennium), (b) (relating to requiring the comptroller to adjust the investment portfolio of ESF money on certain dates), and (d) (relating to the expiration date of the section), Government Code.

SECTION 6. Effective date: September 1, 2017.