

BILL ANALYSIS

Senate Research Center

H.B. 3849
By: Zerwas (Nelson)
Finance
5/17/2017
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties note the legislature's need for flexibility to appropriate funds based on budgetary need and to use fund balances from revenue dedicated for a particular purpose for general governmental purposes. The parties further note legislative efforts to consolidate funds in existence before the end of a fiscal biennium, which provided for the abolition of dedications in existence prior to the end of the next fiscal biennium unless otherwise expressly exempted. H.B. 33849 seeks to enact a similar consolidation, as it relates 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.

H.B. 3849 amends current law 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.

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. DEFINITION. Defines "state agency."

SECTION 2. ABOLITION OF FUNDS, ACCOUNTS, AND DEDICATIONS. Provides that, except as otherwise specifically provided by this Act, all funds and accounts created or re-created by an Act of the 85th Legislature, Regular Session, 2017, that becomes law and all dedications or rededications of revenue collected by a state agency for a particular purpose by an Act of the 85th Legislature, Regular Session, 2017, that becomes law are abolished on the later of August 31, 2017, or the date the Act creating or re-creating the fund or account or dedicating or rededicating revenue takes effect.

SECTION 3. PREVIOUSLY EXEMPT DEDICATIONS, FUNDS, AND ACCOUNTS. Provides that Section 2 of this Act does not apply to certain funds, accounts, and fee and revenue increases.

SECTION 4. FEDERAL FUNDS. Provides that Section 2 of this Act does not apply to funds created under an Act of the 85th Legislature, Regular Session, 2017, for which separate accounting is required by federal law, except that the funds are required to be deposited in accounts in the general revenue fund unless otherwise required by federal law.

SECTION 5. TRUST FUNDS. Provides that Section 2 of this Act does not apply to trust funds or dedicated revenue deposited to trust funds created under an Act of the 85th Legislature, Regular Session, 2017, except that the trust funds are required to be held in the state treasury, with the Texas comptroller of public accounts (comptroller) in trust, or outside the state treasury with the comptroller's approval.

SECTION 6. BOND FUNDS. Provides that Section 2 of this Act does not apply to bond funds and pledged funds created or affected by an Act of the 85th Legislature, Regular Session, 2017,

except that the funds are required to be held in the state treasury, with the comptroller in trust, or outside the state treasury with the comptroller's approval.

SECTION 7. CONSTITUTIONAL FUNDS. Provides that Section 2 of this Act does not apply to funds or accounts that would be created or re-created by the Texas Constitution or revenue that would be dedicated or rededicated by the Texas Constitution under a constitutional amendment proposed by the 85th Legislature, Regular Session, 2017, or to dedicated revenue deposited to funds or accounts that would be so created or re-created, if the constitutional amendment is approved by the voters.

SECTION 8. ADDITIONAL USES FOR DEDICATED FUNDS, ACCOUNTS, OR REVENUE. Provides that Section 2 of this Act does not apply to a newly authorized dedication of or use of a dedicated fund, a dedicated account, or dedicated revenue as provided by an Act of the 85th Legislature, Regular Session, 2017, to the extent that Act affects a fund, an account, or revenue that was exempted from funds consolidation before January 1, 2017. Authorizes a dedicated fund, a dedicated account, or dedicated revenue that was exempted from funds consolidation before January 1, 2017, to be used as an Act of the 85th Legislature, Regular Session, 2017, provides, and provides that a change in the name or authorized use of a previously exempted dedicated fund or account does not affect the fund's or account's dedicated nature.

SECTION 9. AMENDMENT OF SECTION 403.095, GOVERNMENT CODE. Amends, effective September 1, 2017, Sections 403.095(b), (d), and (f), Government Code, as follows:

(b) Provides that, notwithstanding any law dedicating or setting aside revenue for a particular purpose or entity, dedicated revenues that on August 31, 2019, rather than August 31, 2017, are estimated to exceed the amount appropriated by the General Appropriations Act (GAA) or other laws enacted by the 85th Legislature, rather than the 84th Legislature, are available for general governmental purposes and are considered available for the purpose of certification under Section 403.121 (Contents of Estimate).

(d) Requires the comptroller, following certification of the GAA and other appropriations measures enacted by the 85th Legislature, rather than the 84th Legislature, to reduce each dedicated account as directed by the legislature by an amount prohibited from exceeding the amount by which estimated revenues and unobligated balances exceed appropriations.

(f) Provides that this section expires September 1, 2019, rather than September 1, 2017.

SECTION 10. CANCER PREVENTION AND RESEARCH INTEREST AND SINKING FUND. (a) Requires the comptroller to establish the cancer prevention and research interest and sinking fund in accordance with Section 102.270 (Establishment of Fund), Health and Safety Code, as if the cancer prevention and research interest and sinking fund had not been abolished by operation of Section 2, Chapter 839 (H.B. 6), Acts of the 83rd Legislature, Regular Session, 2013. Provides that the cancer prevention and research interest and sinking fund is re-created by this Act. Provides that the dedication of revenue to the fund made by Section 102.270(b) (relating to a certain fund), Health and Safety Code, for the purposes specified by Section 102.270(c) (relating to the use of the fund to pay for certain debt service on bonds), Health and Safety Code, that was abolished by operation of Section 2, Chapter 839 (H.B. 6), Acts of the 83rd Legislature, Regular Session, 2013, is rededicated by this Act for the same purposes.

(b) Provides that Section 2 of this Act does not apply to the re-creation of the cancer prevention and research interest and sinking fund and rededication of revenue to that fund made by Subsection (a) of this section.

SECTION 11. NATIONAL MUSEUM OF THE PACIFIC WAR MUSEUM FUND; DEDICATION OF REVENUE. Provides that Section 2 of this Act does not apply to the National Museum of the Pacific War museum fund created as a fund outside the state treasury, or to the dedication of revenue made to that fund, by H.B. 1492, S.B. 694, or other similar legislation of the 85th Legislature, Regular Session, 2017, that becomes law.

SECTION 12. ALAMO COMPLEX ACCOUNT; DEDICATION OF REVENUE. Provides that Section 2 of this Act does not apply to the Alamo complex account created as an account outside the state treasury by H.B. 1831, S.B. 1156, or other similar legislation of the 85th Legislature, Regular Session, 2017, that becomes law, or to the dedication of revenue made to that account by Section 31.454 (The Alamo Complex Account), Natural Resources Code, for the purposes specified by that section.

SECTION 13. DEDICATION OF REVENUE TO WATER RESOURCE MANAGEMENT ACCOUNT. Provides that Section 2 of this Act does not apply to the dedication of fees, interest and penalties, and other amounts described by Section 371.061 (Used Oil Recycling Account), Health and Safety Code, to the water resource management account as provided by S.B. 1105, H.B. 3026, or similar legislation of the 85th Legislature, Regular Session, 2017, that becomes law.

SECTION 14. EFFECT OF ACT. (a) Provides that this Act prevails over any other Act of the 85th Legislature, Regular Session, 2017, regardless of the relative dates of enactment, that purports to create or re-create a special fund or account or to dedicate or rededicate revenue to a particular purpose, including any fund, account, or revenue dedication abolished under former Section 403.094, Government Code.

(b) Provides that an exemption from the application of Section 403.095, Government Code, contained in another Act of the 85th Legislature, Regular Session, 2017, that is exempted from the application of Section 2 of this Act has no effect.

(c) Requires revenue that, under the terms of another Act of the 85th Legislature, Regular Session, 2017, would be deposited to the credit of a special account or fund to be deposited to the credit of the undedicated portion of the general revenue fund unless the fund, account, or dedication is exempted under this Act.

SECTION 15. EFFECTIVE DATE. Effective date, except as otherwise provided by this Act: upon passage or on the 91st day after the last day of the legislative session.