

By: Zerwas

H.B. No. 3849

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 or the  
9 judicial branch of state government, has authority that is not  
10 limited to a geographical portion of the state, and was created by  
11 the constitution or a statute of this state. The term does not  
12 include an institution of higher education as defined by Section  
13 [61.003](#), 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 85th  
17 Legislature, Regular Session, 2017, that becomes law and all  
18 dedications or rededications of revenue collected by a state agency  
19 for a particular purpose by an Act of the 85th Legislature, Regular  
20 Session, 2017, that becomes law are abolished on the later of August  
21 31, 2017, or the date the Act creating or re-creating the fund or  
22 account or dedicating or rededicating revenue takes effect.

23 SECTION 3. PREVIOUSLY EXEMPT DEDICATIONS, FUNDS, AND  
24 ACCOUNTS. Section 2 of this Act does not apply to:

1           (1) statutory dedications, funds, and accounts that  
2 were enacted before the 85th Legislature convened to comply with  
3 requirements of state constitutional or federal law;

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

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

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

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

17          SECTION 5. TRUST FUNDS. Section 2 of this Act does not  
18 apply to trust funds or dedicated revenue deposited to trust funds  
19 created under an Act of the 85th Legislature, Regular Session,  
20 2017, except that the trust funds shall be held in the state  
21 treasury, with the comptroller in trust, or outside the state  
22 treasury with the comptroller's approval.

23          SECTION 6. BOND FUNDS. Section 2 of this Act does not apply  
24 to bond funds and pledged funds created or affected by an Act of the  
25 85th Legislature, Regular Session, 2017, except that the funds  
26 shall be held in the state treasury, with the comptroller in trust,  
27 or outside the state treasury with the comptroller's approval.

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

9           SECTION 8. ADDITIONAL USES FOR DEDICATED FUNDS, ACCOUNTS,  
10 OR REVENUE. Section 2 of this Act does not apply to a newly  
11 authorized dedication of or use of a dedicated fund, a dedicated  
12 account, or dedicated revenue as provided by an Act of the 85th  
13 Legislature, Regular Session, 2017, to the extent that Act affects  
14 a fund, an account, or revenue that was exempted from funds  
15 consolidation before January 1, 2017. A dedicated fund, a  
16 dedicated account, or dedicated revenue that was exempted from  
17 funds consolidation before January 1, 2017, may be used as an Act of  
18 the 85th Legislature, Regular Session, 2017, provides, and a change  
19 in the name or authorized use of a previously exempted dedicated  
20 fund or account does not affect the fund's or account's dedicated  
21 nature.

22           SECTION 9. AMENDMENT OF SECTION 403.095, GOVERNMENT CODE.  
23 Effective September 1, 2017, Sections 403.095(b), (d), and (f),  
24 Government Code, are amended to read as follows:

25           (b) Notwithstanding any law dedicating or setting aside  
26 revenue for a particular purpose or entity, dedicated revenues that  
27 on August 31, 2019 [~~2017~~], are estimated to exceed the amount

1 appropriated by the General Appropriations Act or other laws  
2 enacted by the 85th [~~84th~~] Legislature are available for general  
3 governmental purposes and are considered available for the purpose  
4 of certification under Section 403.121.

5 (d) Following certification of the General Appropriations  
6 Act and other appropriations measures enacted by the 85th [~~84th~~]  
7 Legislature, the comptroller shall reduce each dedicated account as  
8 directed by the legislature by an amount that may not exceed the  
9 amount by which estimated revenues and unobligated balances exceed  
10 appropriations. The reductions may be made in the amounts and at  
11 the times necessary for cash flow considerations to allow all the  
12 dedicated accounts to maintain adequate cash balances to transact  
13 routine business. The legislature may authorize, in the General  
14 Appropriations Act, the temporary delay of the excess balance  
15 reduction required under this subsection. This subsection does not  
16 apply to revenues or balances in:

- 17 (1) funds outside the treasury;
- 18 (2) trust funds, which for purposes of this section  
19 include funds that may or are required to be used in whole or in part  
20 for the acquisition, development, construction, or maintenance of  
21 state and local government infrastructures, recreational  
22 facilities, or natural resource conservation facilities;
- 23 (3) funds created by the constitution or a court; or
- 24 (4) funds for which separate accounting is required by  
25 federal law.

26 (f) This section expires September 1, 2019 [~~2017~~].

27 SECTION 10. EFFECT OF ACT. (a) This Act prevails over any

1 other Act of the 85th Legislature, Regular Session, 2017,  
2 regardless of the relative dates of enactment, that purports to  
3 create or re-create a special fund or account or to dedicate or  
4 rededicate revenue to a particular purpose, including any fund,  
5 account, or revenue dedication abolished under former Section  
6 403.094, Government Code.

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

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

16 SECTION 11. EFFECTIVE DATE. Except as otherwise provided  
17 by this Act:

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

22 (2) if this Act does not receive the vote necessary for  
23 immediate effect, this Act takes effect on the 91st day after the  
24 last day of the legislative session.