

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.