86R3247 KJE-F

By:  Capriglione H.B. No. 20

A BILL TO BE ENTITLED

AN ACT

relating to the allocation of certain constitutional transfers of money to the economic stabilization fund, the Texas legacy fund, and the state highway fund and to the management and investment of the economic stabilization fund, the Texas legacy fund, and the Texas legacy distribution fund.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  The heading to Subchapter H, Chapter 316, Government Code, is amended to read as follows:

SUBCHAPTER H. ALLOCATIONS OF CERTAIN CONSTITUTIONAL TRANSFERS OF MONEY [~~PRESERVATION OF SUFFICIENT BALANCE IN ECONOMIC STABILIZATION FUND~~]

SECTION 2.  Section 316.093, Government Code, is amended by amending Subsections (a), (b), (e), and (f) and adding Subsections (e-1) and (e-2) to read as follows:

(a)  Before the comptroller makes transfers for a state fiscal year in accordance with Section 49-g(c), Article III, Texas Constitution, the comptroller shall determine whether the sum of the unappropriated balance of the fund on the preceding August 31 and[~~,~~] any projected transfer to the fund under Section 49-g(b) of that article[~~, and any projected transfer to the fund under Section 49-g(c) of that article~~] in accordance with the allocations for the transfer as provided by Section 49-g(b-2) [~~49-g(c-1)~~] of that article is less than the sufficient balance determined as provided by [~~adopted under~~] Section 404.074 [~~316.092~~].

(b)  If the sum described by Subsection (a) is less than the sufficient balance determined as provided by [~~adopted under~~] Section 404.074 [~~316.092~~], the comptroller shall reduce in equal amounts the allocations [~~allocation~~] to the Texas legacy fund and the state highway fund provided by Section 49-g(c), Article III, Texas Constitution, and increase the allocation to the economic stabilization fund, in an [~~equal~~] amount equal to the reduction in the allocations, until the sufficient balance determined as provided by [~~adopted under~~] Section 404.074 [~~316.092~~] is achieved.

(e)  For the purposes of Section 49-g(c-2), Article III, Texas Constitution, the comptroller shall adjust the allocation provided by Section 49-g(c-1) of that article of amounts to be transferred to the fund, the Texas legacy fund, and [~~to~~] the state highway fund under Section 49-g(c) of that article in a state fiscal year beginning on or after September 1, 2025, as provided by Subsections (e-1) and (e-2) of this section [~~so that the total of those amounts is transferred to the economic stabilization fund~~], except that the comptroller shall reduce a transfer made under Subsection (e-2) of this section to the economic stabilization fund [~~this subsection~~] as necessary to prevent the amount in the fund from exceeding the limit in effect for that biennium under Section 49-g(g), Article III, Texas Constitution [~~of that article~~].

(e-1)  If at the time the comptroller makes the transfer under Section 49-g(c), Article III, Texas Constitution, the sum described by Subsection (a) of this section is equal to or greater than the sufficient balance determined as provided by Section 404.074, the comptroller shall allocate to the Texas legacy fund the total of the amounts required to be transferred as provided by Section 49-g(c), Article III, Texas Constitution.

(e-2)  If at the time the comptroller makes the transfer under Section 49-g(c), Article III, Texas Constitution, the sum described by Subsection (a) of this section is less than the sufficient balance determined as provided by Section 404.074, the comptroller shall allocate:

(1)  to the fund an amount equal to the lesser of:

(A)  the amount that, when added to the sum described by Subsection (a), is necessary to make the unappropriated balance of the fund equal to the sufficient balance; and

(B)  the total of the amounts required to be transferred as provided by Section 49-g(c), Article III, Texas Constitution; and

(2)  to the Texas legacy fund an amount equal to the remainder, if any, of the total of the amounts required to be transferred as provided by Section 49-g(c), Article III, Texas Constitution.

(f)  Subsection [~~Subsections (a),~~] (b)[~~, and (c)~~] and this subsection expire December 31, 2024.

SECTION 3.  The heading to Section 404.0241, Government Code, is amended to read as follows:

Sec. 404.0241.  COMPUTATION [~~INVESTMENT~~] OF [~~CERTAIN~~] ECONOMIC STABILIZATION FUND BALANCE [~~BALANCES~~].

SECTION 4.  Subchapter C, Chapter 404, Government Code, is amended by adding Sections 404.02411, 404.02412, 404.02413, and 404.02414 to read as follows:

Sec. 404.02411.  MANAGEMENT AND INVESTMENT OF ECONOMIC STABILIZATION FUND, TEXAS LEGACY FUND, AND TEXAS LEGACY DISTRIBUTION FUND. (a) This section applies only to the following funds:

(1)  the economic stabilization fund;

(2)  the Texas legacy fund; and

(3)  the Texas legacy distribution fund.

(b)  Notwithstanding Section 404.024, in managing the assets of a fund to which this section applies, the comptroller, through procedures and subject to restrictions the comptroller establishes for each fund and in amounts the comptroller considers appropriate for each fund, may 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 fund, taking into consideration the investment of all the assets of the fund rather than a single investment.

(c)  The comptroller may pool assets of a fund to which this section applies with other state funds for purposes of investment under Section 404.024(b).

Sec. 404.02412.  INVESTMENT OBJECTIVES AND PURPOSES OF ECONOMIC STABILIZATION FUND. The investment objectives and purposes of the economic stabilization fund are to preserve:

(1)  the fund's principal;

(2)  the purchasing power of the fund's principal; and

(3)  the liquidity of the fund.

Sec. 404.02413.  INVESTMENT OBJECTIVES AND PURPOSES OF TEXAS LEGACY FUND. The investment objectives and purposes of the Texas legacy fund are to generate earnings on the fund's principal to:

(1)  maintain the purchasing power of that principal and if possible, increase that purchasing power; and

(2)  provide for predictable and stable annual earnings transfers to the Texas legacy distribution fund.

Sec. 404.02414.  INVESTMENT OBJECTIVE AND PURPOSE OF TEXAS LEGACY DISTRIBUTION FUND. The investment objective and purpose of the Texas legacy distribution fund is to maintain sufficient liquidity to meet the needs of the fund.

SECTION 5.  Subchapter E, Chapter 404, Government Code, is amended by adding Section 404.074 to read as follows:

Sec. 404.074.  SUFFICIENT BALANCE OF ECONOMIC STABILIZATION FUND. For the purpose of making the transfers of money required by Section 49-g, Article III, Texas Constitution, on or after the first day but before the 90th day of a state fiscal year, the comptroller shall determine for that fiscal year the amount of the sufficient balance of the economic stabilization fund. The amount of the sufficient balance is equal to seven percent of the certified general revenue-related appropriations for the state fiscal biennium during which the determination is made.

SECTION 6.  The following provisions of the Government Code are repealed:

(1)  Section 316.092;

(2)  Section 316.093(c); and

(3)  Sections 404.0241(a), (b), and (d).

SECTION 7.  This Act takes effect January 1, 2020, but only if the constitutional amendment providing for the creation of the Texas legacy fund and the Texas legacy distribution fund, dedicating earnings on the Texas legacy distribution fund to certain state infrastructure projects or the reduction of certain long-term obligations, and providing for the transfer of certain general revenues to the economic stabilization fund, the Texas legacy fund, and the state highway fund, proposed by \_\_.J.R. No. \_\_\_, 86th Legislature, Regular Session, 2019, is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.