

By: Bonnen, González of El Paso, Capriglione,
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H.B. No. 2021

Substitute the following for H.B. No. 2021:

By: Walle

C.S.H.B. No. 2021

A BILL TO BE ENTITLED

AN ACT

relating to the acceptance, rejection, and uses of certain money
provided by the federal government to this state.

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

SECTION 1. Chapter 317, Government Code, is amended by
adding Subchapter C to read as follows:

SUBCHAPTER C. DISPOSITION OF CERTAIN FEDERAL MONEY

Sec. 317.101. PURPOSE. The purpose of this subchapter is to
exercise the legislature's constitutional authority under Section
69, Article XVI, Texas Constitution, to safeguard the power of the
purse and protect public money by providing a mechanism for the
appropriate allocation and transfer of certain federal money.

Sec. 317.102. DEFINITION. In this subchapter, "board"
means the board on administration of federal funds established by
this subchapter.

Sec. 317.103. APPLICABILITY. (a) Except as provided by
Subsection (b), this subchapter applies only to:

(1) federal contract or grant money made available to
the state as a result of the public health emergency declared by the
United States secretary of health and human services under Section
319, Public Health Service Act (42 U.S.C. Section 247d), on January
31, 2020, including money made available under:

(A) Section 5001, Coronavirus Aid, Relief, and
Economic Security Act (CARES Act) (42 U.S.C. Section 801);

1 (B) Section 313, Coronavirus Response and Relief
2 Supplemental Appropriations Act, 2021 (Div. M, Pub. L. No. 116-260,
3 134 Stat. 1182 (2020), reprinted in note, 20 U.S.C. Section 3401);

4 (C) Section 2001, American Rescue Plan Act of
5 2021 (Pub. L. No. 117-2, 135 Stat. 4 (2021), reprinted in note, 20
6 U.S.C. Section 3401); or

7 (D) 42 U.S.C. Sections 602 and 604;

8 (2) any additional federal funding appropriated to the
9 state for federal fiscal years 2022 and 2023 that is designated as
10 being an emergency requirement pursuant to Section 251(b)(2)(A),
11 Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C.
12 Section 901(b)(2)(A)); and

13 (3) federal money made available under federal
14 legislation enacted after the 87th Legislature, Regular Session,
15 2021, adjourns that addresses investments in infrastructure,
16 capital projects, and economic and workforce development.

17 (b) This subchapter does not apply to:

18 (1) current and future allocations made to the state
19 under Section 302(b), Congressional Budget and Impoundment Control
20 Act of 1974 (2 U.S.C. Section 633(b)); or

21 (2) a federal grant of \$10 million or less in total
22 allocation from a single grant source in a single award.

23 Sec. 317.104. BOARD ON ADMINISTRATION OF FEDERAL FUNDS.

24 (a) The board on administration of federal funds consists of:

25 (1) the lieutenant governor;

26 (2) the speaker of the house of representatives;

27 (3) the chair and vice chair of the standing committee

1 of the senate with jurisdiction over appropriations;

2 (4) the chair and vice chair of the standing committee
3 of the house of representatives with jurisdiction over
4 appropriations;

5 (5) two members of the senate, appointed by the
6 lieutenant governor; and

7 (6) two members of the house of representatives,
8 appointed by the speaker of the house of representatives.

9 (b) The lieutenant governor and the speaker of the house of
10 representatives are joint chairs of the board.

11 (c) A majority of the board members described by Subsections
12 (a)(2), (4), and (6), plus a majority of the board members described
13 by Subsections (a)(3) and (5), constitutes a quorum to transact
14 business. Except as provided by this subchapter, if a quorum is
15 present, the board may act by a majority vote on any matter that is
16 within the board's jurisdiction.

17 (d) A board member appointed under Subsection (a)(5) serves
18 at the pleasure of the lieutenant governor. A board member
19 appointed under Subsection (a)(6) serves at the pleasure of the
20 speaker of the house of representatives.

21 Sec. 317.105. VACANCY. A vacancy on the board is filled in
22 the same manner as the original appointment.

23 Sec. 317.106. BOARD MEETINGS. (a) The board shall meet as
24 often as necessary to perform the board's duties.

25 (b) A meeting may be held at any time at the request of
26 either of the joint chairs of the board.

27 (c) For any meeting held in person, the board must meet in

1 Austin, except that if a majority of the board members described by
2 Sections 317.104(a)(2), (4), and (6), plus a majority of the board
3 members described by Sections 317.104(a)(3) and (5), agree, the
4 board may meet in any location determined by the board. The board
5 may hold any meeting by videoconference.

6 (d) The board shall provide notice of each meeting:

7 (1) in the manner provided by the rules of both the
8 house of representatives and the senate for providing notice of a
9 legislative committee hearing; and

10 (2) by mail to each member of the legislature not later
11 than the seventh day before the date of the meeting.

12 (e) The notice provided under Subsection (d) must include:

13 (1) the date and time of the meeting;

14 (2) the location of the meeting or, if the meeting is
15 to be held by videoconference, the means by which the meeting may be
16 accessed;

17 (3) a description of any proposal under Section
18 317.107 that will be considered at the meeting; and

19 (4) if applicable, an indication that the board
20 intends to hold a public hearing on a proposal at the meeting.

21 Sec. 317.107. PROPOSALS RELATED TO CERTAIN FEDERAL MONEY.

22 (a) Subject to Subsection (b), the board may propose to:

23 (1) accept or reject, allocate to one or more state
24 agencies, and establish uses for money provided by the federal
25 government and appropriated by the legislature; or

26 (2) reject money provided by the federal government
27 that has been appropriated to a state agency contingent on the

1 receipt of the money from the federal government, or accept that
2 money and:

3 (A) transfer the authority to spend, obligate the
4 expenditure of, or distribute the money to a different state
5 agency; or

6 (B) instruct the state agency to use the money
7 for a purpose different from or in addition to the purpose for which
8 the appropriation to the state agency was made.

9 (b) The board may not make a proposal under this section:

10 (1) during a regular or special session of the
11 legislature; or

12 (2) with respect to an appropriation made for a period
13 during a state fiscal year that ended before the date the proposal
14 is made.

15 (c) To the extent of a conflict between the provisions of
16 this subchapter relating to a proposal to accept or reject federal
17 money under Subsection (a) and any other state law, including
18 Sections 401.041, 403.012, and 403.0121, the provisions of this
19 subchapter prevail.

20 Sec. 317.108. CONTENTS OF PROPOSAL. A proposal made under
21 Section 317.107 must provide sufficient detail to allow for a
22 public hearing on the proposal.

23 Sec. 317.109. REQUIRED PUBLICATION AND HEARING. (a) The
24 board shall direct the secretary of state to publish in the Texas
25 Register:

26 (1) each proposal the board makes, including any
27 accompanying statements; and

1 (2) the methods and opportunities for submitting
2 public comment on the proposal.

3 (b) The board shall hold a public hearing on each proposal
4 after the proposal is published in the Texas Register.

5 Sec. 317.110. ADOPTION, AMENDMENT, OR REJECTION OF
6 PROPOSAL. (a) Not later than the 10th day after the date the board
7 holds a public hearing on a proposal, the board may:

8 (1) adopt the proposal;

9 (2) amend the proposal;

10 (3) amend and adopt the proposal; or

11 (4) reject the proposal.

12 (b) An amendment to a proposal may change:

13 (1) the proposed amount of money accepted, rejected,
14 allocated, transferred, or used for a specific purpose;

15 (2) the proposed purpose for which money may be used;

16 (3) the proposed period for which money may be
17 expended, obligated, or distributed;

18 (4) the source or recipient of a proposed transfer or
19 allocation; or

20 (5) a proposed time of distribution or availability of
21 the money that is the subject of the proposal.

22 (c) The board may not adopt a proposal:

23 (1) expressly postponing the time set by law that an
24 appropriation is distributed or otherwise made available to a state
25 agency for a period that exceeds 180 days;

26 (2) reducing or eliminating an appropriation for the
27 salary of an elected state official or a member of a board or

1 commission appointed by the governor; or
2 (3) reducing or eliminating an appropriation to a
3 state agency that receives appropriations under a provision of a
4 General Appropriations Act that makes an appropriation to the
5 legislative branch.

6 (d) The board may adopt a proposal under this section only
7 if the proposal receives an affirmative vote of the majority of the
8 board members described by Sections 317.104(a)(2), (4), and (6),
9 plus a majority of the board members described by Sections
10 317.104(a)(3) and (5).

11 Sec. 317.111. APPROVAL OF PROPOSAL BY GOVERNOR. (a) Upon
12 adoption of a proposal under Section 317.110, the board shall
13 submit the proposal to the governor.

14 (b) Not later than the 10th day after the date the board
15 submits an adopted proposal to the governor, the governor shall
16 approve or reject the proposal.

17 (c) If the governor does not approve or reject an adopted
18 proposal during the period described by Subsection (b), the
19 proposal is considered approved.

20 (d) A proposal adopted by the board takes effect only if
21 approved by the governor under this section. A proposal approved by
22 the governor takes effect on the date of approval, unless the
23 proposal specifies a later effective date.

24 (e) If the governor approves a proposal adopted by the
25 board, the board shall:

26 (1) notify the comptroller and the affected state
27 agencies of the proposal; and

1 (2) file a copy of the approved proposal with the
2 secretary of state for publication in the Texas Register.

3 Sec. 317.112. EXPIRATION OF APPROVED PROPOSAL. A proposal
4 approved by the governor under Section 317.111 expires on the
5 earlier of:

6 (1) the date the next regular or special session of the
7 legislature begins; or

8 (2) the last day of the state fiscal year to which the
9 proposal applies, except that a proposal may specify an earlier or
10 later expiration date so long as the expiration date is not later
11 than the last day of the state fiscal biennium that includes each
12 state fiscal year to which the proposal applies.

13 Sec. 317.113. ENFORCEMENT OF APPROVED PROPOSAL. During the
14 period in which a proposal approved under this subchapter is in
15 effect, the comptroller may approve vouchers and issue warrants
16 regarding any affected appropriations only in accordance with the
17 terms of the proposal.

18 Sec. 317.114. SUPERSESSSION OF APPROVED PROPOSAL. An
19 unexpired proposal approved under Section 317.111 may be superseded
20 by subsequent action of the board, law, or adoption of a
21 constitutional amendment.

22 SECTION 2. As soon as practicable after the effective date
23 of this Act, the lieutenant governor and the speaker of the house of
24 representatives shall make the appointments to the board on
25 administration of federal funds as required by Section 317.104(a),
26 Government Code, as added by this Act.

27 SECTION 3. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2021.