

BILL ANALYSIS

Senate Research Center

S.B. 495
By: Armbrister
State Affairs
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As Filed

DIGEST

Currently, the statute dealing with the payment and reimbursement of travel expenses is the Travel Regulations Act. The legislature enacted the Travel Regulations Act in 1959 to govern the travel of state officers and employees on official state business. Although the legislature had amended the Act numerous times, some aspects of it remain ambiguous and difficult to administer. This bill sets forth the provisions for the payment or reimbursement of travel expenses by state officers and employees in order to make these practices more uniform and updated.

PURPOSE

As proposed, S.B. 495 sets forth the provisions for the payment or reimbursement of travel expenses by state officers and employees.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the governing body of an institution of higher education in SECTION 3 (Sec. 660.004(b), Government Code) and to the comptroller in SECTIONS 5, 7, and 10 (Secs. 660.021, 660.025(a), and 660.092(d), Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 660.002, Government Code, to define "appropriated funds," "board," "cancellation charge," "commercial lodging establishment," "commercial transportation company," "designated headquarters," "disability," "duty point," "incidental expense," "institutional funds," "institution of higher education," "key official," "lease," "place of employment," "prospective state employee," "receipt," "rented or public conveyance," "state agency," "state employee," "travel expense," "unit of state government"; to redefine "chief administrator of a state agency"; and to delete "per diem allowance."

SECTION 2. Amends Section 660.003, Government Code, to provide that the General Appropriations Act, and the rules adopted by the comptroller under this chapter govern certain details concerning travel expense payments or reimbursements by a state agency. Provides that this chapter and the travel provisions of the General Appropriations Act apply to a travel expense only to the extent that appropriated funds are used to pay or reimburse the expense and to a travel expense paid or reimbursed by the Employees Retirement System of Texas or the Teacher Retirement System of Texas, regardless of whether the funds used to make the payment or reimbursement are appropriated funds. Provides that a law outside this chapter that states that this chapter, the travel provision of the General Appropriations Act, or both, apply to a travel expense prevails over a provision to the contrary of this chapter. Authorizes a state agency to pay or reimburse a travel expense under certain conditions. Authorizes a travel expense to be paid or reimbursed according to the requirements of an applicable federal law or regulation, and provides that this chapter does not apply to the extent necessary to avoid conflict with an applicable federal law or regulation. Deletes certain persons to which this chapter applies.

SECTION 3. Amends Section 660.004, Government Code, as follows:

Sec. 660.004. New heading: TRAVEL EXPENSES PAID OR REIMBURSED BY INSTITUTIONS OF HIGHER EDUCATION. Provides that this chapter does not apply to

a travel expense to the extent an institution of higher education pays or reimburses the expense from institutional funds. Requires the governing body of an institution of higher education to adopt rules as necessary to administer and control travel expense payments and reimbursements that are exempt from this chapter under Subsection (a), rather than rules for the administration and control of travel by an official or employee exempted by this chapter.

SECTION 4. Amends Chapter 660A, Government Code, by adding Sections 660.006 through 660.018, as follows:

Sec. 660.006. TRAVEL OF PROSPECTIVE STATE EMPLOYEES. Sets forth the provisions for the payment or reimbursement of travel expenses by a state agency for a prospective state employee.

Sec. 600.007. CONSERVATION OF FUNDS. Requires a state agency to minimize the amount of travel expenses paid or reimbursed by the agency. Requires the agency to ensure that each travel arrangement is the most cost effective considering all relevant circumstances. Authorizes the state agency to specify a travel expense payment or reimbursement rate that meets certain conditions. Provides that the lower rate applies only to a travel expense incurred after the agency has notified the affected individuals in writing about the rate. Provides that the agency is solely responsible for enforcing the rate.

Sec. 660.008. TRAVEL EXPENSES INCURRED WHILE ON LEAVE. Authorizes the state agency to pay or reimburse the state employee for a travel expense the employee incurs while using personal or compensatory leave in certain situations.

Sec. 660.009. INABILITY TO PERFORM OFFICIAL STATE BUSINESS. Authorizes the state agency to pay or reimburse the state employee for a travel expense the employee incurs as a result of attempting to conduct official state business in certain situations.

Sec. 660.010. TRAVEL EXPENSES INCURRED TO OBTAIN MEDICAL CARE. Authorizes a state agency to pay or reimburse the employee for a travel expense the employee incurs while obtaining medical care in certain situations.

Sec. 660.011. TRAVEL EXPENSES INCURRED TO ATTEND A FUNERAL. Authorizes the state agency to reimburse the employee for or pay a travel expense the employee incurs while attending the funeral of an individual who was a state employee, a board member, or a member of the legislature, in certain situations.

Sec. 660.012. TRAVEL EXPENSES INCURRED RETURNING TO DESIGNATED HEADQUARTERS. Authorizes a state agency that requires a state employee on personal or compensatory leave to return to the employee's designated headquarters from another location to pay or reimburse the employee for a travel expense incurred by the employee while traveling to the headquarters. Authorizes the agency to pay or reimburse a travel expense incurred by the employee while traveling back to the location at which the employee was staying while on leave or, when appropriate, to the proper location on the employee's itinerary, if the employee resumes the leave. Authorizes the state agency to pay or reimburse a state employee for a travel expense incurred when the employee returns, before official state business is completed, from a duty point to the employee's designated headquarters because of an illness or a personal emergency.

Sec. 660.013. TRAVEL EXPENSES INCURRED BY EMPLOYEES OF OTHER AGENCIES. Authorizes a state agency to pay or reimburse a travel expense incurred by another state agency's employee if the employee incurred the expense while providing services to the paying or reimbursing agency.

Sec. 660.014. PAYMENTS TO CREDIT CARD ISSUERS AND TRAVEL AGENTS. Authorizes a state agency, if the agency may directly pay a commercial lodging establishment or transportation company, to instead pay a credit card issuer or a travel agency for the lodging or transportation. Provides that the documentation required for direct payment to

a commercial lodging establishment or commercial transportation company is also required for payment to a credit card issuer or a travel agency.

Sec. 660.015. CANCELLATION CHARGES. Authorizes a state agency to reimburse a state employee for a cancellation charge in certain situations.

Sec. 660.016. PROHIBITION AGAINST ACCEPTING MONEY OR TRAVEL EXPENSE REIMBURSEMENTS FROM CERTAIN PERSONS. Prohibits a state employee from accepting money for wages or a travel expense reimbursement from a person that the employee's employing state agency intends to audit, examine, or investigate or is auditing, examining, or investigating. Requires a state employee who violated Subsection (a) to forfeit the money or travel expense reimbursement to the state. Provides that Subsections (a) and (b) are in addition to any other prohibitions, penalties, and forfeitures imposed or required by other law.

Sec. 660.017. EXCESS REIMBURSEMENTS. Requires a state employee who receives a reimbursement for a travel expense that exceeds the amount the employee is authorized to receive to immediately return the amount of the excess.

Sec. 660.018. MULTIPLE ADVANCES OR REIMBURSEMENTS FOR A TRAVEL EXPENSE. Prohibits a state employee from accepting a reimbursement or advance for a travel expense from more than one source. Authorizes a state employee who anticipates receiving or actually receives a reimbursement or advance for a travel expense from a person other than a state agency to seek an advance or reimbursement for the expense from a state agency only to a certain extent.

SECTION 5. Amends Section 660.021, Government Code, to require the comptroller to adopt rules for the effective and efficient administration of this chapter and the travel provisions of the General Appropriations Act.

SECTION 6. Amends Section 660.024, Government Code, to prohibit a state agency from paying or reimbursing a travel expense incurred by a state employee that is related to travel to, in, or from a foreign nation unless the governor provides written approval of the travel before it begins. Authorizes the governor to specify the maximum amount of travel expenses that may be reimbursed. Provides that Subsection (a) applies to a travel expense only if it is incurred while traveling to, in, or from a destination that is not in the United States, a possession of the United States, Mexico, or Canada. Authorizes the governor to give general approval, rather than blanket authority, for international travel by certain personnel. Authorizes the comptroller to require proof of the governor's approval if required by this section. Authorizes the governor to designate an employee of the governor's office to provide the approval required by this section.

SECTION 7. Amends Section 660.025, Government Code, to require the comptroller, by rule, to establish a procedure by which travel expense money may be advanced to a state employee. Requires the procedures to be consistent with Section 403.248, Government Code. Prohibits the money from being advanced to a state employee for a travel expense unless the expense is payable or reimbursable under this chapter, the travel provisions of the General Appropriations Act, and the rules adopted by the comptroller under this chapter. Deletes text requiring the comptroller to require a final accounting.

SECTION 8. Amends Chapter 660B, Government Code, by adding Sections 660.027 through 660.029, as follows:

Sec. 660.027. VOUCHERS. Authorizes the comptroller to issue a warrant to initiate an electronic funds transfer to pay or reimburse a travel expense only if a state agency submits to the comptroller a voucher that requests the payment or reimbursement. Provides that a voucher submitted under Subsection (a) is only valid under certain conditions. Requires a voucher to be submitted in the manner required and on the form adopted by the comptroller. Authorizes the comptroller to require the voucher to be submitted electronically as authorized by Chapter 2103, Government Code. Requires a voucher to describe the official state

business performed and be accompanied by the information necessary for the comptroller to determine compliance with this chapter, the travel provision of the General Appropriations Act, and the rules adopted by the comptroller. Authorizes the comptroller to require a state agency to provide the information required by Subsection (d) in a certain manner.

Sec. 660.028. AUDITS. Requires the comptroller to audit a voucher either before or after the comptroller issues a warrant or initiates an electronic funds transfer in response to a voucher. Requires the audit to be conducted in accordance with Sections 403.011(12), 403.071, and 403.079, Government Code. Authorizes the comptroller to require the agency to maintain in its files the receipts relating to the voucher until the comptroller audits the voucher. Authorizes the comptroller to audit the payment or reimbursement for compliance with this chapter and the travel provision of the General Appropriations Act, if the state agency pays or reimburses a travel expense without first submitting a voucher to the comptroller. Authorizes the comptroller to report the results of the audit to certain officials. Requires the state agency to cooperate and make available the receipts required by the comptroller at the time and in the manner required by the comptroller. Authorizes the comptroller to require a state agency to maintain in its files receipts regarding a travel expense payment or reimbursement for the period required by the comptroller.

Sec. 660.029. KNOWLEDGE OF TRAVEL PROCEDURES. Requires a state agency to instruct its state employees about this chapter, the travel provisions of the General Appropriations Act, and the rules adopted by the comptroller under this section. Provides that a state agency's failure or inability to instruct a state employee as required by Subsection (a) does not excuse or justify the employee's failure to comply with applicable laws or rules.

SECTION 9. Amends Chapter 660C, Government Code, as follows:

SUBCHAPTER C. New heading: TRANSPORTATION BY PERSONAL MOTOR VEHICLE

Sec. 660.041. New heading: REIMBURSEMENT REQUIREMENT. Provides that a state employee is entitled to be reimbursed for the employee's use of a personally owned or leased motor vehicle. Prohibits a state employee from being reimbursed for an expense other than mileage, tolls, and parking. Deletes existing text of Section 660.041.

Sec. 660.042. New heading: AMOUNT OF REIMBURSEMENT. Prohibits a mileage reimbursement from exceeding the product of certain amounts. Deletes existing text of Section 660.042.

Sec. 660.043. New heading: DETERMINATION OF REIMBURSABLE MILEAGE. Prohibits the number of miles traveled that are eligible for reimbursement from exceeding a certain amount. Requires the final duty point to include the intermediate duty points in certain circumstances. Provides that the shortest route between two points is presumed to be the most cost-effective route for the purposes of Subsection (a). Authorizes a longer route to be considered the most cost-effective route only under certain conditions. Requires the comptroller to periodically issue and update a mileage guide that includes a chart showing the number of miles for the shortest route between points. Authorizes the guide to include certain information. Provides that if the number of miles between points is not shown in the guide, the mileage incurred while traveling between those points is not reimbursable unless certain conditions prevail. Deletes existing text of Section 660.043.

Sec. 660.044. New heading: USE OF SINGLE MOTOR VEHICLE BY MULTIPLE EMPLOYEES. Authorizes only one of the employees to be reimbursed for mileage if two, three, or four state employees who are employed by the same state agency and travel under certain conditions. Authorizes a state agency to reimburse for mileage only on the basis of one motor vehicle for each four employees and for any fraction in excess of a multiple of four employees. Provides that Subsections (a) and (b) do not apply to a group of state employees under certain conditions as determined by the chief administrative officer. Deletes existing Sections 660.045 through 660.055.

SECTION 10. Amends Chapter 660, Government Code, by adding Subchapters D, E, F, and G, as follows:

SUBCHAPTER D. TRANSPORTATION BY PERSONAL AIRCRAFT

Sec. 660.071. REIMBURSEMENT REQUIREMENT. Provides that a state employee, a key official, or a member of a board is entitled to be reimbursed for the use of an aircraft owned or leased by the employee, official, or member.

Sec. 660.072. AMOUNT OF REIMBURSEMENT. Prohibits a reimbursement from exceeding the product of certain mileage calculations.

Sec. 660.073. AIRCRAFT MILEAGE REIMBURSEMENT RATE. Authorizes the travel provisions of the General Appropriations Act to establish different aircraft mileage rates for travel in certain aircraft by certain persons.

Sec. 660.074. GROUP TRAVEL. Provides that this section applies only if a key official or member of a board travels with another official or member in an aircraft owned and leased by the other official or member. Provides that the key official or member of the board who owns or leases the aircraft is entitled to an amount equal to the amount that would have been paid or reimbursed to each passenger had the passenger incurred the average economy or coach airfare instead of traveling on the aircraft. Prohibits the total reimbursement from exceeding the total cost of the trip. Authorizes the lessee of the aircraft to require the reimbursement to be paid to the vendor providing the leased aircraft instead of the lessee.

Sec. 660.075. AIRCRAFT LEASED FROM CERTAIN PERSONS. Entitles a key official or a member of a board to be reimbursed for use of an aircraft leased from certain types of businesses in which the official or member has an interest.

SUBCHAPTER E. TRANSPORTATION BY RENTED OR PUBLIC CONVEYANCE

Sec. 660.091. GENERAL PROVISION. Requires a state agency to pay the expense of transporting a state employee by rented or public conveyance in the course of conducting state business.

Sec. 660.092. PAYMENT AND REIMBURSEMENT METHODS. Authorizes a state agency to pay an expense under this chapter by a certain method. Requires a state agency to submit receipts to the comptroller on request in the manner required by the comptroller, except receipts for mass transit, taxi, or limousine fares. Authorizes a state agency to request a commercial transportation company to furnish transportation to the agency's state employees and to bill the agency monthly for transportation. Requires the state agency to require the company to submit an invoice to the agency listing certain information. Requires the agency to submit those invoices to the comptroller on request and in the manner required by the comptroller. Authorizes a state agency to directly pay a commercial transportation company before the travel of a state employee if the payment would result in a lower transportation expense. Authorizes the comptroller to adopt rules that authorize advance payments in other circumstances. Prohibits a direct payment to a commercial transportation company for the same expense if a reimbursement to a state employee for a transportation expense would not be authorized. Prohibits a state agency from paying or reimbursing the expense of transporting a state employee by rented or public conveyance under certain conditions.

Sec. 660.093. COMMERCIAL AIR TRANSPORTATION. Prohibits the amount that a state agency pays or reimburses for a state employee to travel between points by commercial airline from exceeding the lowest rate available. Authorizes first class airfare to be paid or reimbursed only if it is the only available airfare and business class airfare to be paid or reimbursed only if a lower airfare is not available.

SUBCHAPTER F. MEAL, LODGING, AND INCIDENTAL EXPENSES

Sec. 660.111. REIMBURSEMENT REQUIRED. Entitles a state employee to be reimbursed for meal, lodging, or incidental expense incurred by the employee.

Sec. 660.112. AMOUNT OF REIMBURSEMENT. Prohibits a reimbursement from exceeding a certain amount.

Sec. 660.113. RESTRICTED REIMBURSEMENTS. Prohibits a state agency from reimbursing a state employee for a lodging expense incurred at a place that is not a commercial lodging establishment, for a meal or lodging expense the employee incurs while traveling outside the employee's designated headquarters for a certain period of time, with exceptions, and for a meal expense incurred within the employee's designated headquarters unless the expense meets certain conditions. Authorizes a state agency to reimburse a state employee for a meal expense incurred while traveling without an overnight stay away from the employee's designated headquarters only if the chief administrator of the agency authorizes the reimbursement. Prohibits a state agency from reimbursing a state employee for the purchase of an alcoholic beverage, unless the employee is a peace officer who purchased the beverage as a purchase of evidence in an administrative or criminal case.

Sec. 660.114. DIRECT PAYMENTS TO COMMERCIAL LODGING ESTABLISHMENTS. Authorizes a state agency to request that a commercial lodging establishment bill the agency directly for a lodging expense. Requires a state agency to submit receipts regarding the expense to the comptroller on request in the manner required by the comptroller. Authorizes any meal expenses incurred at a commercial lodging establishment to be paid directly to the establishment. Requires a state agency to submit receipts regarding the expense to the comptroller on request in the manner required by the comptroller. Provides that if a reimbursement to a state employee for a lodging or meal expense would not be authorized, a direct payment to a commercial lodging establishment for the expense is prohibited.

Sec. 660.115. RECEIPTS. Requires a state employee who requests reimbursement for a lodging expense to submit a lodging receipt to the comptroller at the time and in the manner required by the comptroller, with exceptions.

Sec. 660.116. HOTEL OCCUPANCY AND SIMILAR TAXES. Entitles a state employee to be reimbursed for a state, county, or local hotel occupancy tax or any similar tax imposed by a law of this state, another state, or a foreign nation. Entitles a state employee to be reimbursed for a hotel occupancy or similar tax from which the employee is legally exempt under certain conditions. Authorizes the agency to directly pay a hotel occupancy or similar tax to a commercial lodging establishment.

Sec. 660.117. APARTMENT OR HOUSE RENTAL EXPENSES. Authorizes an apartment or house rental expense to be reimbursed or paid only under certain circumstances.

Sec. 660.118. INCIDENTAL EXPENSES. Authorizes a state agency to reimburse a state employee for an incidental expense incurred by the employee only in accordance with rules adopted by the comptroller.

SUBCHAPTER G. SPECIAL TRAVEL EXPENSE PROVISIONS

Sec. 660.141. TRAVEL BY CERTAIN INDIVIDUALS. Entitles an individual to be reimbursed for the actual expense of meals and lodging incurred while performing the duties of the individual's office or employment if the individual meets certain conditions. Entitles the governor's spouse to be reimbursed for actual travel expenses while performing certain duties. Provides that a member of a board whose membership is not elected by vote of the people is not a chief administrator.

Sec. 660.142. BOARD MEMBERS. Provides that this chapter applies to a payment or reimbursement of a travel expense incurred by a member of a board only if Chapter 659C, Government Code, or other applicable law authorizes the payment or reimbursement.

Sec. 660.143. TRAVEL BY PERSONS WITH DISABILITIES. Sets forth the provisions for payment and reimbursement of travel expenses incurred for state employees with disabilities. Provides that if this chapter, the travel provisions of the General Appropriations Act, or a rule adopted by the comptroller under this chapter conflicts with a requirement of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.), a federal regulation adopted under that Act, or another applicable federal law or regulation, the federal law or regulation controls to the extent of the conflict.

Sec. 660.144. DEATH OF STATE EMPLOYEES. Sets forth provisions for a state agency to pay or reimburse the expense of preparing and transporting the remains and personal property of a state employee who dies while conducting official state business outside the employee's designated headquarters.

Sec. 660.145. TRAVEL EXPENSES OF THREATENED STATE EMPLOYEES AND THEIR FAMILIES. Authorizes a state agency to pay or reimburse a travel expense incurred by a state employee or the family of a state employee who served in certain law enforcement positions if the employee is threatened as a result of the employee's official duties. Provides that a travel expense is payable or reimbursable even if it is incurred within a state employee's designated headquarters.

Sec. 660.146. CONFLICTS WITH OTHER SUBCHAPTERS. Provides that in the event of a conflict between this subchapter and another provision of this chapter, this subchapter controls.

SECTION 11. Amends Section 659.031, Government Code, to redefine "state board."

SECTION 12. Repealer: Sections 660.005, 660.022, 660.023, and 660.026, Government Code (Travel By Public Conveyance, Approval of Rules By Attorney General, Filing Of Rules, and Revolving Petty Cash Fund).

SECTION 13. (a) Defines "travel expense."

(b) and (c) Makes application of this Act prospective.

SECTION 14. Effective date: September 1, 1997.

SECTION 15. Emergency clause.