

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1863  
By: Ogden  
Finance  
5/13/2005  
Committee Report (Substituted)

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

C.S.S.B. 1863 allows the legislature in its discretion to determine the amount of appropriation of state funds. This bill also provides for a \$700 increase in the registration fee for certain lobbyists, provides for fees to cover the cost of performing re-inspections of municipal or county jails, allows the comptroller to contract for recovery audits of payments made by state agencies, provides for fees to be collected for the administration of the state's oil and gas conservation laws, and allows for a waiver of health coverage by state employees.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 4.01 (Section 2115.003, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. AUTHORITY OF LEGISLATURE TO TAKE CERTAIN ACTIONS WITH RESPECT TO APPROPRIATED FUNDS

SECTION 1.01. Authorizes the legislature, notwithstanding any statute to the contrary, in its discretion, to determine the amount of each appropriation of state funds. Authorizes the amounts required by statute for entities that receive state funds under the General Appropriations Act, 79th Legislature, Regular Session, 2005, to be reduced or eliminated in order to achieve a balanced budget.

SECTION 1.02. Provides that this article expires September 1, 2007.

#### ARTICLE 2. REGISTRATION FEE FOR CERTAIN LOBBYISTS

SECTION 2.01. Amends Section 305.005(c), Government Code, to set forth the registration and renewal fees for certain registrants.

SECTION 2.02. Provides that this article takes effect December 1, 2005.

#### ARTICLE 3. FEES FOR CERTAIN INSPECTIONS CONDUCTED BY THE COMMISSION ON JAIL STANDARDS

SECTION 3.01. Amends Section 511.0091, Government Code, by adding Subsection (c-1) and amending Subsection (d), as follows:

(c-1) Authorizes the Commission on Jail Standards, in addition to the other fees authorized by this section, to set and collect a reasonable fee to cover the cost of performing any reinspection of a municipal or county jail that is conducted by the commission in a certain manner or at a certain time.

(d) Requires fees collected under Subsection (c-1) to be deposited to the credit of a special account in the general revenue fund to be appropriated only to pay costs incurred by the Commission on Jail Standards in performing services under this section.

SECTION 3.02. Provides that this article takes effect September 1, 2005.

## ARTICLE 4. CERTAIN AUDITS OF STATE AGENCY EXPENDITURES

SECTION 4.01. Amends Subtitle C, Title 10, Government Code, by adding Chapter 2115, as follows:

### CHAPTER 2115. RECOVERY OF CERTAIN STATE AGENCY OVERPAYMENTS

Sec. 2115.001. DEFINITIONS. Defines "overpayment" and "state agency."

Sec. 2115.002. CONTRACT CONSULTANTS FOR RECOVERY AUDITS FOR CERTAIN OVERPAYMENTS. (a) Requires the comptroller of public accounts (comptroller) to contract with one or more consultants to conduct recovery audits of payments made by state agencies to vendors. Requires the audits to be designed to detect and recover overpayments to the vendors and to recommend improved state agency accounting operations.

(b) Sets forth certain conditions applying to the functions of a contract under this section.

(c) Authorizes the comptroller or a state agency whose payments are being audited to provide a person acting under a contract authorized by this section with any confidential information in the custody of the comptroller or state agency that is necessary for the performance of the audit or the recovery of an overpayment, to the extent the comptroller and state agency are not prohibited from sharing the information under an agreement with another state or the federal government. Provides that a person acting under a contract authorized by this section, and each employee or agent of the person, is subject to all prohibitions against the disclosure of confidential information obtained from the state in connection with the contract that apply to the comptroller or applicable state agency or an employee of the comptroller or applicable state agency. Provides that a person acting under a contract authorized by this section or an employee or agent of the person who discloses confidential information in violation of a prohibition made applicable to the person under this subsection is subject to the same sanctions and penalties that would apply to the comptroller or applicable state agency or an employee of the comptroller or applicable state agency for that disclosure.

Sec. 2115.003. STATE AGENCIES SUBJECT TO MANDATORY RECOVERY AUDITS. (a) Requires the comptroller to require that recovery audits be performed on the payments to vendors made by each state agency that has total expenditures during a state fiscal biennium in an amount that exceeds \$100 million. Requires each state agency described by this subsection to provide the recovery audit consultant with all information necessary for the audit.

(b) Authorizes the comptroller to exempt from the mandatory recovery audit process a state agency that has a low proportion of its expenditures made to vendors, according to criteria the comptroller adopts by rule after consideration of the likely costs and benefits of performing recovery audits for agencies that make relatively few or small payments to vendors.

Sec. 2115.004. PAYMENT TO CONTRACTORS. (a) Requires a state agency to pay, from recovered money appropriated for the purpose, the recovery audit consultant responsible for obtaining for the agency a reimbursement from a vendor.

(b) Requires a state agency to expend or return to the federal government any federal money that is recovered through a recovery audit conducted under this chapter. Requires the state agency to expend or return the federal money in accordance with the rules of the federal program through which the agency received the federal money.

Sec. 2115.005. FORWARDING REPORTS. (a) Requires the comptroller to provide copies, including electronic form copies, of any reports received from a consultant contracting under Section 2115.002, to certain governmental offices and entities.

(b) Requires the comptroller to provide the copies required by Subsection (a) not later than the seventh day after the date the comptroller receives the consultant's report.

(c) Requires the comptroller, not later than January 1 of each odd-numbered year, to issue a report to the legislature summarizing the contents of all reports received under this chapter during the state fiscal biennium ending August 31 of the previous year.

SECTION 4.02. Requires the comptroller to adopt rules under Chapter 2115, Government Code, as added by this article, in a timely manner so that the comptroller may begin contracting with a consultant under that chapter not later than January 1, 2006.

#### ARTICLE 5. FISCAL MATTERS PERTAINING TO REGULATION OF OIL-RELATED AND GAS-RELATED ACTIVITIES

SECTION 5.01. Amends Section 40.152, Natural Resources Code, by adding Subsection (c) to authorize the legislature, notwithstanding Subsection (a)(9), to appropriate to the General Land Office for erosion response projects under Subchapter H (Coastal Erosion), Chapter 33, and for implementation of the coastal management program under Subchapter F (Coastal Coordination), Chapter 33, money from the coastal protection fund in an amount that exceeds the amount of interest accruing the fund annually.

SECTION 5.02. Amends Section 85.2021, Natural Resources Code, as follows:

Sec. 85.2021. DRILLING PERMIT FEE. (a) Requires the applicant, with each application or materially amended application for a permit to drill, deepen, plug back, or reenter a well, to submit to the Railroad Commission of Texas (commission) a certain amended nonrefundable fee, of which the commission is required to deposit into certain funds.

(b) Requires the commission to deposit the entire amount of the fee to the credit of the oil-field cleanup fund.

(c) Requires an applicant to submit an additional nonrefundable fee of \$225, rather than \$150, when requesting that the commission expedite the application for a permit to drill, deepen, plug back, or reenter a well. Requires the commission to deposit certain amounts in a certain manner.

(d) Provides that the deposit of fees to the credit of the general revenue fund under this section is subject to Section 91.111(b-1). Deletes existing text requiring the fees to be deposited in a certain fund.

SECTION 5.03. Amends Subchapter F, Chapter 85, Natural Resources Code, by adding Section 85.2022, as follows:

Sec. 85.2022. INACTIVE WELL FEE. (a) Requires an operator, if two-thirds or more of the wells of an operator with five or more wells have been inactive for three years or more, to submit to the commission a nonrefundable inactive well fee of \$100 for each well that has been inactive for three years or more.

(b) Requires the inactive well fee to be paid annually at the time an operator's organization report is due. Prohibits an organization report from being approved until any inactive well fee due under this section has been paid.

(c) Requires all fees collected under this section to be deposited in the oil-field cleanup fund.

SECTION 5.04. Amends Section 91.1013, Natural Resources Code, as follows:

Sec. 91.1013. APPLICATION FEES. (a)(1) Requires the applicant, with each application for a fluid injection well permit, to submit to the commission a nonrefundable fee of \$300, of which the commission is required to deposit certain amounts into certain funds.

(a)(2) Redesignates from existing Subsection (a).

(b) Requires the commission to deposit \$300 of the nonrefundable fee of \$500 addressed in this subsection into the oil-field cleanup fund and \$200 to the general revenue fund for certain purposes. Makes a conforming change.

Deletes existing text of Subsection (c).

SECTION 5.05. Amends Sections 91.111, Natural Resources Code, by amending Subsection (c) and adding Subsection (b-1), as follows:

(b-1) Requires the commission, notwithstanding Sections 85.2021, 91.1013, and 91.605 and notwithstanding Section 27.0321 (Application Fee), Water Code, when during a state fiscal year the commission deposits a total of \$2.9 million of fees collected under those sections to the credit of the general revenue fund for the administration of this state's oil and gas conservation laws, to deposit to the credit of the oil-field cleanup fund any additional amounts collected under those sections during the remainder of that state fiscal year that those sections direct to be deposited in the general revenue fund.

(c) Sets forth and amends the composition of the oil-field cleanup fund (fund).

SECTION 5.06. Amends Section 91.142, Natural Resources Code, by adding Subsections (i) and (j), as follows:

(i) Requires the commission, if an entity does not pay to the commission the fee required by Subsection (g) on or before the fifth business day after the due date as determined by the commission, to suspend the organization report of the entity until the entity pays to the commission the fee required by that subsection and a penalty in an amount equal to the fee.

(j) Requires all fees and penalties collected under this section to be deposited in the fund.

SECTION 5.07. Amends Section 91.605(e), Natural Resources Code, to require fees collected under this section to be deposited to the credit of the general revenue fund to be used only for the administration of this state's oil and gas conservation laws, except as provided by Section 91.111(b-1). Makes a conforming change.

SECTION 5.08. Amends Section 27.0321, Water Code, as follows:

Sec. 27.0321. APPLICATION FEE. Requires the applicant, with each application for an oil and gas waste disposal well permit, to submit to the commission a nonrefundable fee of \$300, rather than \$100, of which the commission is required to deposit certain amounts into certain funds.

SECTION 5.09. Effective date for this article: September 1, 2005.

#### ARTICLE 6. WAIVER OF AND SUPPLEMENTAL HEALTH COVERAGE FOR STATE EMPLOYEES

SECTION 6.01. Amends Section 1551.104(a), Insurance Code, to provide an exception if participation in the basic coverage plan is specifically waived as provided by Section 1551.045.

SECTION 6.02. Amends Subchapter C, Chapter 1551, Insurance Code, by adding Section 1551.1045, as follows:

Sec. 1551.1045. WAIVER. (a) Authorizes an employee or annuitant, subject to Subsection (b), to waive in writing any coverage provided under this chapter.

(b) Requires a full-time employee, in order to waive coverage under the basic coverage plan, to demonstrate, in the manner required by the board of trustees of the Employees Retirement System of Texas (board of trustees), that the employee is covered by another health benefit plan that provides substantially equivalent coverage, as determined by the board of trustees, to the coverage provided by the basic coverage plan.

SECTION 6.03. Amends Subchapter E, Chapter 1551, Insurance Code, by adding Section 1551.222, as follows:

Sec. 1551.222. INCENTIVE PAYMENTS. (a) Authorizes the board of trustees to allow an incentive payment under this section to an employee who elects to waive coverage under the basic coverage plan for employees as provided by Section 1551.1045(b).

(b) Provides that the incentive payment authorized by this section is in the amount authorized by the General Appropriations Act and is authorized to be used by the employee, in the manner prescribed by the board of trustees, only to pay for other group coverage plans provided under the group benefits program.

(c) Requires the board of trustees, at the time of initial enrollment in the group benefits program and during subsequent open-enrollment periods, to inform employees that they are authorized to make an election described by Subsection (a), if eligible, and receive any authorized incentive payment.

SECTION 6.04. Amends Subchapter G, Chapter 1551, Insurance Code, by adding Section 1551.324, as follows:

Sec. 1551.324. REDUCTION IN CONTRIBUTION FOR CERTAIN ACTIVE EMPLOYEES; INCENTIVE PAYMENTS. (a) Authorizes, notwithstanding any other provision of this subchapter, the state contribution for an employee's coverage under this subchapter to be reduced, as provided in the General Appropriations Act, to reflect the reduced cost of coverage for an employee who elects to waive basic coverage as provided by Section 1551.045(b).

(b) Authorizes the state, instead of the full state contribution for an employee who makes an election described by Subsection (a), to contribute, as specified by the General Appropriations Act, an amount for the incentive payment authorized by Section 1551.222.

## ARTICLE 7. COLLECTION OF MOTOR FUELS TAXES

SECTION 7.01. Amends Sections 162.001(20) and (43), Tax Code, to redefine "distributor" and "motor fuel transporter."

SECTION 7.02. Amends Section 162.004(b), Tax Code, to delete existing text requiring a license number of the purchaser to be included in the shipping document issued by the terminal operator or operator of a bulk plant.

SECTION 7.03. Amends Section 162.016(a), Tax Code, to delete existing text relating to information required to be included in the shipping document. Makes a conforming change.

SECTION 7.04. Amends Section 162.113(d), Tax Code, to require, rather than authorize, the supplier or permissive supplier to terminate the ability of the licensed distributor or licensed

importer to defer the payment of gasoline tax after the notifying the comptroller of the licensed distributor's or licensed importer's failure to remit taxes under this section.

SECTION 7.05. Amends Section 162.115, Tax Code, by adding Subsection (m-1) to require a license holder, in addition to the records specifically required by this section, to keep any other record required by the comptroller.

SECTION 7.06. Amends Sections 162.116(a) and (d), Tax Code, as follows:

(a) Deletes existing text relating to information required to be contained in the monthly return and supplements of each supplier and permissive supplier. Makes conforming changes.

(d) Prohibits the comptroller from requiring a supplier or permissive supplier to remit from a payment or credit in reduction of a customer's account any tax for which the supplier or permissive supplier was allowed to take credit.

SECTION 7.07. Amends Section 162.118, Tax Code, to delete existing text relating to the information required to be contained in the monthly return and supplements of each distributor. Makes conforming changes.

SECTION 7.08. Amends Section 162.123, Tax Code, to delete existing text regarding information required to be contained in the monthly return and supplements of each blender. Makes conforming changes.

SECTION 7.09. Amends Section 162.127, Tax Code, by adding Subsection (g), as follows:

(g) Requires the comptroller to issue a refund warrant to a distributor not later than the 60th day after the date the comptroller receives a valid refund claim from the distributor. Provides that, if the comptroller does not issue the refund warrant by that date, the amount of the refund draws interest at the rate provided by Section 111.060 beginning on the 61st day after the date the comptroller receives the valid refund claim and ending on the date the comptroller issues the refund warrant.

SECTION 7.10. Amends Section 162.206, Tax Code, by amending Subsection (c) and adding Sections (c-1) and (h-1), as follows:

(c) Deletes existing text relating to prohibited actions. Makes conforming changes.

(c-1) Provides that the monthly limitations prescribed by Subsection (c) apply regardless of whether the dyed diesel fuel is purchased in a single transaction during that month or in multiple transactions during that month.

(h-1) Provides that, for purposes of this section, the purchaser is considered to have furnished the signed statement to the licensed supplier or distributor if the supplier or distributor verifies that the purchaser has an end user number issued by the comptroller. Requires the licensed supplier or distributor to use the comptroller's Internet website or other materials provided or produced by the comptroller to verify this information.

SECTION 7.11. Amends Section 162.214(d), Tax Code, to require, rather than authorize, the supplier or permissive supplier to terminate the ability of the licensed distributor or licensed importer to defer the payment fuel tax after notifying the comptroller of the licensed distributor's or licensed importer's failure to remit taxes under this section.

SECTION 7.12. Amends Section 162.216, Tax Code, by adding Subsection (m-1), to require a license holder, in addition to the records specifically required by this section, to keep any other record required by the comptroller.

SECTION 7.13. Amends Sections 162.217(a) and (d), Tax Code, as follows:

(a) Deletes existing text relating to information required to be contained in the monthly return and supplements of each supplier and permissive supplier. Makes conforming changes.

(d) Prohibits the comptroller from requiring a supplier or permissive supplier to remit from a payment or credit in reduction of a customer's account any tax for which the supplier or permissive supplier was allowed to take a credit.

SECTION 7.14. Amends Section 162.219, Tax Code, to delete existing text relating to the information required to be contained in the monthly return and supplements of each distributor and amend the information required to be contained in the monthly return and supplements of each distributor. Makes conforming changes.

SECTION 7.15. Amends Section 162.224, Tax Code, to delete existing text required to be contained in the monthly return and supplements of each blender. Makes conforming changes.

SECTION 7.16. Amends Section 162.227, Tax Code, by adding Subsection (c-1), to authorize a license holder to take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license to file a refund claim with the comptroller, if the license holder or person paid tax on diesel fuel and the diesel fuel is used in this state for certain purposes.

SECTION 7.17. Amends Section 162.229, Tax Code, by adding Subsection (g), as follows:

(g) Requires the comptroller to issue a refund warrant to a distributor not later than the 60th day after the date the comptroller receives a valid refund claim from the distributor. Provides that, if the comptroller does not issue the refund warrant by that date, the amount of the refund draws interest at the rate provided by Section 111.060 beginning on the 61st day after the date the comptroller receives the valid refund claim and ending on the date the comptroller issues the refund warrant.

SECTION 7.18. Amends Section 162.230(d), Tax Code, to make a conforming change.

SECTION 7.19. Amends Sections 162.404(c) and (d), Tax Code, to make conforming changes.

SECTION 7.20. Repealer: Section 162.016(h) (requiring an importer to obtain a import verification number for the importation of motor fuel), Tax Code.

SECTION 7.21. Makes application of this article prospective.

SECTION 7.22. Effective date for this article: September 1, 2005.

#### ARTICLE 8. ELIGIBILITY FOR MEDICAL ASSISTANCE AND CHILDREN'S HEALTH INSURANCE PROGRAMS

SECTION 8.01. Authorizes the executive commissioner of the Health and Human Services Commission (executive commissioner), notwithstanding any other law, during the state fiscal biennium beginning September 1, 2005, to provide for periods of continuous eligibility under the state Medicaid program and the children's health insurance program that are designed to provide savings to the state without imposing unreasonably onerous burdens on persons who are eligible to receive services or coverage under those programs.

SECTION 8.02. Authorizes the executive commissioner to seek a waiver or authorization if the executive commissioner determines that under federal law or as a condition of receiving federal funding a waiver or authorization from a federal agency is necessary to provide for a desired period of continuous eligibility.

#### ARTICLE 9. EFFECTIVE DATE

SECTION 9.01. Effective date: upon passage or the 91st day after adjournment.