

BILL ANALYSIS

Senate Research Center
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S.B. 695
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, Texans contribute billions of dollars through specific fees that are intended to go toward dedicated purposes. However, some of those fee proceeds are often left unappropriated, allowing large balances to accumulate in General Revenue-Dedicated funds. Those balances, in turn, are used to certify the budget.

S.B. 695 would require that when funds credited to a dedicated fund during a biennium equal 110 percent of the appropriations from that fund, the comptroller of public accounts (comptroller) would identify public and private entities that collect those funds and instruct them to stop collecting whatever portion of the fee would go into that dedicated fund.

The period in which the fee is suspended must begin on the first day of a calendar month, and not later than 45 days after the comptroller declares that collections have exceeded 110 percent of revenues. It ends on the date on which the comptroller determines that revenues from the accounts will cover appropriations to the accounts.

The suspension of the fee would not affect the service provided by the fee, and those collecting it would still be obligated to remit to the comptroller any fee proceeds that had not been remitted as well as delinquent fees that were subsequently collected. The comptroller would also need to maintain a current list of fees not being collected, and the time period during which those fees are not being collected, on the comptroller's Internet website. The comptroller would also establish rules for the refund of fees that a customer paid during the suspension period.

As proposed, S.B. 695 amends current law relating to a suspension of the imposition of certain fees under certain conditions.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 (Section 404.074, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter E, Chapter 404, Government Code, by adding Section 404.074, as follows:

Sec. 404.074. NOTICE OF EXCESS REVENUE CREDITED TO CERTAIN ACCOUNTS; SUSPENSION OF FEES. (a) Defines "fee" in this section.

(b) Provides that this section applies only to an account in the general revenue fund:

(1) the revenue credited to which is dedicated only by statute to a particular purpose or entity; and

(2) a portion of the revenue of which in excess of amounts appropriated by the General Appropriations Act or other law would, through the application of Section 403.095(b) (relating to dedicated revenues that are

estimated to exceed the amount appropriated by the General Appropriations Act) or a successor law providing that certain dedicated revenue is available for general governmental purposes, be available for those purposes and considered available for the purpose of certification under Section 403.121 (Contents of Estimate).

(c) Requires the comptroller of public accounts (comptroller), on the date amounts credited during a state fiscal biennium to an account to which this section applies equal at least 110 percent of the total amounts appropriated by the General Appropriations Act and other law for that biennium, to:

(1) identify each person who collects or remits revenue credited to that account; and

(2) notify each person identified under Subdivision (1) in writing that:

(A) the credited amounts exceed the appropriations for the biennium; and

(B) the imposition of the portion of the fee from which the revenue credited to the account is derived that the person would otherwise collect or remit to the comptroller is suspended during the period beginning on a date stated in the notice.

(d) Requires that the date on which the suspension period described by Subsection (c)(2)(B) begins be the first day of a calendar month and prohibits the date on which the suspension period begins from being later than the 45th day after the date the notice is sent. Provides that the period ends on a date determined by the comptroller after considering the account balance necessary to cover appropriations from the account to which the suspended fee would be deposited.

(e) Provides that the imposition of the portion of a fee that is the subject of a notice required by Subsection (c), notwithstanding any other law, including a law under which a fee is otherwise imposed, is suspended for the period specified in the notice. Prohibits a person who receives the notice from imposing or collecting the portion of the fee that is the subject of the notice during the specified period but requires the person to remit to the comptroller in accordance with applicable law:

(1) all fees collected before the beginning of the period that have not been remitted; and

(2) delinquent fees that were imposed and became due before the beginning of the period but are collected during the period.

(f) Provides that the suspension of the imposition of a fee under Subsection (e) does not affect the availability of or access to the benefit or service, or operation of the regulatory system, with respect to which the fee would be imposed if not suspended.

(g) Requires the comptroller to maintain in a conspicuous location on the comptroller's Internet website a current list of fees the imposition of which are suspended under this section. Requires that the list:

(1) contain information that clearly identifies each suspended fee; and

(2) specify the suspension period for each of those fees.

(h) Requires the comptroller by rule to establish procedures by which a person who pays a fee that was imposed on the person in violation of Subsection (e) is authorized to request a refund of the amount paid. Requires the comptroller to determine whether the fee was imposed in violation of Subsection (e).

(i) Requires the comptroller, if the comptroller determines through procedures established under Subsection (h) that a fee was imposed on the person requesting a refund in violation of Subsection (e), to refund the amount of the fee paid. Authorizes a person aggrieved by a determination of the comptroller under those procedures to appeal that determination. Provides that the appeal is a contested case under Chapter 2001 (Administrative Procedure).

SECTION 2. Effective date: September 1, 2011.