

BILL ANALYSIS

Senate Research Center

H.B. 6
By: Otto et al. (Williams)
Finance
5/16/2013
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Historically, dedications of revenue for particular purposes have limited the legislature's flexibility in appropriating funds based on budgetary need and in using fund balances for other governmental purposes. Over 20 years ago, the legislature enacted provisions relating to the consolidation of funds in existence before the end of the fiscal biennium. These provisions provided for the abolition of dedications in existence prior to the end of the next fiscal biennium, unless otherwise expressly exempted. H.B. 6 seeks to enact a similar consolidation, as it relates to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

In addition, starting with the 2014-2015 budget, H.B. 6 seeks to cap the amounts the legislature can use for funds consolidation to begin the process of reducing the reliance on dedicated revenue for funds consolidation purposes.

H.B. 6 amends current law relating to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. DEFINITION. Defines "state agency" in any provision of this Act that does not amend current law. Provides that the term does not include an institution of higher education as defined by Section 61.003 (Definitions), Education Code.

SECTION 2. ABOLITION OF FUNDS, ACCOUNTS, AND DEDICATIONS. Provides that, except as otherwise specifically provided by this Act, all funds and accounts created or re-created in the state treasury by an Act of the 83rd Legislature, Regular Session, 2013, that becomes law and all dedications or rededications of revenue in the state treasury or otherwise collected by a state agency for a particular purpose by an Act of the 83rd Legislature, Regular Session, 2013, that becomes law are abolished on the later of August 31, 2013, or the date the Act creating or re-creating the fund or account or dedicating or rededicating revenue takes effect.

SECTION 3. PREVIOUSLY EXEMPT DEDICATIONS, FUNDS, AND ACCOUNTS. Provides that Section 2 of this Act does not apply to:

- (1) statutory dedications, funds, and accounts that were enacted before the 83rd Legislature convened to comply with requirements of state constitutional or federal law;
- (2) dedications, funds, or accounts that remained exempt from former Section 403.094(h) (relating to certain revenues), Government Code, at the time dedications, accounts, and funds were abolished under that provision;

(3) increases in fees or in other revenue dedicated as described by this section; or

(4) increases in fees or in other revenue required to be deposited in a fund or account described by this section.

SECTION 4. FEDERAL FUNDS. Provides that Section 2 of this Act does not apply to funds created pursuant to an Act of the 83rd Legislature, Regular Session, 2013, for which separate accounting is required by federal law, except that the funds are required to be deposited in accounts in the general revenue fund unless otherwise required by federal law.

SECTION 5. TRUST FUNDS. Provides that Section 2 of this Act does not apply to trust funds or dedicated revenue deposited to trust funds created under an Act of the 83rd Legislature, Regular Session, 2013, except that the trust funds are required to be held in the state treasury, with the comptroller of public accounts of the State of Texas (comptroller) in trust, or outside the state treasury with the comptroller's approval.

SECTION 6. BOND FUNDS. Provides that Section 2 of this Act does not apply to bond funds and pledged funds created or affected by an Act of the 83rd Legislature, Regular Session, 2013, except that the funds are required to be held in the state treasury, with the comptroller in trust, or outside the state treasury with the comptroller's approval.

SECTION 7. CONSTITUTIONAL FUNDS. Provides that Section 2 of this Act does not apply to funds or accounts that would be created or re-created by the Texas Constitution or revenue that would be dedicated or rededicated by the Texas Constitution under a constitutional amendment proposed by the 83rd Legislature, Regular Session, 2013, or to dedicated revenue deposited to funds or accounts that would be so created or re-created, if the constitutional amendment is approved by the voters.

SECTION 8. AMENDMENT OF SECTION 403.095, GOVERNMENT CODE. Amends Sections 403.095(b), (d) and (e), Government Code, effective September 1, 2013, as follows:

(b) Provides that, notwithstanding any law dedicating or setting aside revenue for a particular purpose or entity, dedicated revenues that on August 31, 2015 are estimated to exceed the amount appropriated by the General Appropriations Act or other laws enacted by the 83rd Legislature, rather than dedicated revenues that on August 31, 2013 are estimated to exceed the amount appropriated by the General Appropriations Act or other laws enacted by the 82nd Legislature, are available for general governmental purposes and are considered available for the purpose of certification under Section 403.121 (Contents of Estimate). Prohibits this amount from exceeding \$4 billion. Provides that is the intent of the legislature that dedicated revenues that exceed the total amount that this subsection makes available for general governmental purposes and for certification are required to be used for the purposes for which the revenues are dedicated. Makes a nonsubstantive change.

(d) Requires the comptroller, following certification of the General Appropriations Act and other appropriations measures enacted by the 83rd Legislature, rather than the 82nd Legislature, to reduce each dedicated account as directed by the legislature by an amount that is prohibited from exceeding the amount by which estimated revenues and unobligated balances exceed appropriations. Authorizes the reductions to be made in the amounts and at the times necessary for cash flow considerations to allow all the dedicated accounts to maintain adequate cash balances to transact routine business. Authorizes the legislature to authorize, in the General Appropriations Act, the temporary delay of the excess balance reduction required under this subsection. Provides that this subsection does not apply to revenues or balances in:

(1) funds outside the treasury;

(2) trust funds, which for purposes of this section include funds that may or are required to be used in whole or in part for the acquisition, development,

construction, or maintenance of state and local government infrastructures, recreational facilities, or natural resource conservation facilities;

(3) funds created by the constitution or a court; or

(4) funds for which separate accounting is required by federal law.

(e) Provides that this section expires September 1, 2015, rather than September 1, 2013. Makes a nonsubstantive change.

SECTION 9. EFFECT OF ACT. (a) Provides that this Act prevails over any other Act of the 83rd Legislature, Regular Session, 2013, regardless of the relative dates of enactment, that:

(1) purports to create or re-create a special fund or account in the state treasury;

(2) purports to dedicate or rededicate revenue to a particular purpose, including any fund, account, or revenue dedication abolished under former Section 403.094, Government Code; or

(3) amends Section 403.095 (Use of Dedicated Revenue), Government Code.

(b) Requires that revenue that would be deposited to the credit of a special account or fund, under the terms of another Act of the 83rd Legislature, Regular Session, 2013, be deposited to the credit of the undedicated portion of the general revenue fund unless the fund, account, or dedication is exempted under this Act.

SECTION 10. EFFECTIVE DATE. Effective date, except as otherwise provided by this Act: upon passage or the 91st day after the last day of the legislative session.