

BILL ANALYSIS

Senate Research Center
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S.B. 69
By: Nelson
Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Purpose

- To streamline and maximize the investment returns on the economic stabilization fund (ESF), and to create an avenue to pay for state needs.

Background

- Proposition 1 from 2013 created a mechanism by which a portion of revenue that would otherwise go into the ESF would automatically transfer to the State Highway Fund, as long as a sufficient balance is met. Under current law, that figure is determined by the Committee to Establish the Sufficient Balance in the Economic Stabilization Fund.
- Until 2013, the comptroller of public accounts of the State of Texas (comptroller) could only deposit ESF funds in the treasury pool—which yields less than the rate of inflation. Under current law, the comptroller is only able to invest the portion of the ESF above the sufficient balance.

Bill Provisions

- Abolishes the ESF sufficient balance committee;
- Sets 7 percent of general revenue as the sufficient balance;
- Restores the ESF cap to its original formula by removing federal dollars from the calculation;
- Allows 75 percent of the ESF balance to be invested under prudent investor standards;
- Directs ESF investment revenue into a newly established Legacy Fund to address long-term needs as authorized by the legislature.
- There is an accompanying Joint Resolution authorizing the comptroller to transfer ESF investment income to the Legacy Fund.

As proposed, S.B. 69 amends current law relating to the authority of the comptroller regarding the management of the general revenue fund and the economic stabilization fund.

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. Amends the heading to Subchapter H, Chapter 316, Government Code, to read as follows:

SUBCHAPTER H. ALLOCATION OF TRANSFERS TO ECONOMIC STABILIZATION FUND AND STATE HIGHWAY FUND

SECTION 2. Amends Sections 316.092 and 316.093, Government Code, as follows:

Sec. 316.092. New heading: DETERMINATION OF THRESHOLD FOR CONSTITUTIONAL TRANSFER TO STATE HIGHWAY. (a) Requires the comptroller of public accounts of the State of Texas (comptroller), rather than the select committee, for the purposes of adjusting the allocations of transfers in accordance with Section

49-g(c-2), Article III, Texas Constitution, and Section 316.093, to determine and adopt for the next state fiscal biennium an amount equal to seven one-hundredths of the most recent estimate of anticipated revenue under Section 49a(a), Article III, Texas Constitution, not later than December 1 of each even-numbered year preceding the year in which this section expires. Deletes existing text requiring the speaker of the house of representatives and the lieutenant governor to appoint to a select committee and for the select committee to determine a sufficient balance of the fund using certain considerations. Deletes existing text requiring the comptroller to provide the select committee with a projection of the fund. Deletes existing text requiring approval of the sufficient balance of the fund through a concurrent resolution.

(b) Redesignates existing Subsection (e) as Subsection (b).

Sec. 316.093. ADJUSTMENT OF CONSTITUTIONAL ALLOCATIONS TO FUND AND STATE HIGHWAY FUND. (a) Requires the comptroller, before making transfers for a state fiscal year in accordance with Section 49-g(c), Article III, Texas Constitution, to determine whether the sum of the balance of the fund on the preceding August 31, any projected transfer to the fund under Section 49-g(b) of that article, and any projected transfer to the fund under Section 49-g(c) of that article in accordance with the allocations for the transfer as provided by Section 49-g(c-1) of that article is less than the amount determined under, rather than less than the sufficient balance adopted under, Section 316.092 for that state fiscal biennium.

(b) Requires the comptroller, if the sum described by Subsection (a) is less than the amount determined under, rather than less than the sufficient balance adopted under, Section 316.092 for that state fiscal biennium, to reduce the allocation to the state highway fund provided by Section 49-g(c), Article III, Texas Constitution, and increase the allocation to the economic stabilization fund, in an equal amount, until the amount determined under Section 316.092 for that state fiscal biennium would be achieved by the transfer to the fund or the total amount of the sum described by Section 49-g(c), Article III, Texas Constitution, is allocated to the fund, whichever occurs first. Makes a conforming change.

(c) Deletes existing text relating to instances where a sufficient balance has not been adopted. Creates this subsection from text of existing Subsection (e).

(d) Redesignates text of existing Subsection (f) as Subsection (d). Provides that Subsections (a) and (b), rather than (a)-(b) and (c), and this subsection expire December 31, 2024.

SECTION 3. Amends Subchapter B, Chapter 403, Government Code, by adding Section 403.0125, as follows:

Sec. 403.0125. FEDERAL MONEY DEPOSITED TO TREASURY. (a) Prohibits the comptroller from depositing to the credit of the general revenue fund money received from the federal government or accrued interest or other earnings on money received from the federal government. Requires the comptroller to account for and administer federal money separately from money in the general revenue fund in a manner that ensures federal money and earnings on federal money are used for the purposes for which federal money is received.

(b) Authorizes the comptroller, in order to facilitate the administration of federal money under this section or other law, to:

(1) designate or create a fund or account in the treasury for the deposit of federal money and any interest or other earnings on the federal money;

(2) merge, consolidate, or segregate funds or accounts or money deposited to funds or accounts; or

(3) abolish a fund, or an account in the general revenue fund, to which federal money has been deposited in accordance with other law.

(c) Provides that this section prevails over other general law that provides for money received from the federal government, or earnings on money received from the federal government, to be deposited to the credit of the general revenue fund or to the credit of an account in the general revenue fund. Provides that to the extent of any other conflict between this section and other law, this section controls.

SECTION 4. Amends Section 404.0241, Government Code, as follows:

Sec. 404.0241. INVESTMENT OF CERTAIN ECONOMIC STABILIZATION FUND BALANCES. (a) Authorizes the comptroller to invest a percentage of the balance of the economic stabilization fund in an investment portfolio managed in accordance with the investment standard described by Section 404.024(j) (relating to the comptroller's judgement in the management of funds), rather than requiring the comptroller to invest a percentage of the economic stabilization fund balance in a state fiscal biennium that exceeds the amount of the sufficient balance of the fund adopted under Section 316.092 for that biennium in accordance with the investment standard described by Section 404.024(j). Provides that the comptroller's investment of that percentage of the fund balance, rather than that percentage of excess balance, is not subject to any other limitation or other requirement provided by Section 404.024 (Authorized Investments).

(b) Prohibits the balance of the investment portfolio from exceeding three-quarters of the balance of the economic stabilization fund.

(c) Creates this subsection from existing text. Requires the comptroller to adjust the investment portfolio, rather than the economic stabilization fund money, periodically as necessary to ensure that:

(1) at all times at least one-quarter of the balance of the economic stabilization fund is invested in a manner that ensures the liquidity of that amount; and

(2) the balance of the economic stabilization fund is sufficient to meet the cash flow requirements of the fund.

(d) Authorizes the comptroller to transfer to the credit of the endowment principal account of the state endowment fund any part of the accrued earnings attributable to the investment portfolio.

(e) Redesignates existing Subsection (c) as Subsection (e).

Deletes existing text providing that this section expires on the date Section 316.092 expires.

SECTION 5. Amends Subchapter C, Chapter 404, Government Code, by adding Section 404.0242, as follows:

Sec. 404.0242. STATE ENDOWMENT FUND. (a) Provides the state endowment fund is a special fund in the state treasury outside the general revenue fund that consists of principal deposited or transferred to the credit of the fund in accordance with law and the accrued earnings on the balance of the fund.

(b) Requires the comptroller to maintain the principal of the fund in an endowment principal account and the accrued earnings in an accrued earnings account.

(c) Prohibits money deposited or transferred to the credit of the endowment principal account from being appropriated for any purpose.

(d) Prohibits accrued earnings on the fund's principal maintained in the accrued earnings account and the accrued earnings on the balance of that account from being appropriated for any general governmental purpose.

(e) Authorizes the comptroller to invest all or any part of the balance of the endowment principal account or the accrued earnings account in accordance with the investment standard described by Section 404.024(j). Provides that the comptroller's investment of those amounts is not subject to any other limitation or other requirement provided by Section 404.024.

SECTION 6. (a) Effective date, except as provided by Subsection (b) of this section: September 1, 2019.

(b) Makes application of Section 404.0241(d), Government Code, as added by this Act, contingent upon the passage of the constitutional amendment proposed by the 86th Legislature, Regular Session, 2019, to authorize the legislature to provide for a transfer of economic stabilization fund investment earnings to a special endowment fund in the state treasury.