

GOVERNMENT CODE
CHAPTER 317. STATE BUDGET EXECUTION
SUBCHAPTER A. REGULAR APPROPRIATIONS

Sec. 317.001. DEFINITIONS. In this subchapter:

(1) "Appropriation" means a grant of money made by the legislature for a purpose other than the payment of a judgment or a preexisting debt incurred by the state.

(2) "State agency" means a public entity in the executive, judicial, or legislative branch of state government eligible under law to receive an appropriation.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1. Amended by Acts 1989, 71st Leg., ch. 786, Sec. 3, eff. Sept. 1, 1989.

Sec. 317.002. TYPES OF PROPOSALS TO AFFECT APPROPRIATIONS. (a) The governor or Legislative Budget Board may propose that a state agency be prohibited from spending, obligating the expenditure of, or distributing part or all of an appropriation made to the agency unless the amount is reappropriated by the legislature or is released, or expenditures are approved, as provided in the proposal.

(b) After finding that an emergency exists, the governor or Legislative Budget Board may propose that the authority to spend, obligate the expenditure of, or distribute part or all of an appropriation made to a state agency:

(1) be transferred to another state agency to be used for a specified purpose; or

(2) be retained by the agency to which the appropriation was made but used for a purpose different from or additional to the purpose for which the appropriation was made.

(c) The governor or Legislative Budget Board may propose a change in the time that an appropriation is distributed or otherwise made available to a state agency, whether the time of distribution or availability is set by appropriations act or general law.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 18.01, eff. Aug. 22, 1991.

Sec. 317.003. TIME AND SCOPE OF PROPOSAL. (a) The governor or Legislative Budget Board may make a proposal at any time except during a regular or special session of the legislature. A proposal may apply to an appropriation that has been made for any specified fiscal year that has not ended at the time the proposal is made.

(b) Except as provided by Section 317.005(f), a proposal may provide for the withholding of appropriations made from funds dedicated by statute to a specific state agency or for a specific purpose and may provide for the transfer of appropriations made from statutorily dedicated funds to an agency or for a purpose not authorized by the statute. Funds dedicated by the Texas Constitution are subject to being withheld under this chapter but are not subject to transfer except to another state agency entitled to receive appropriations from the funds under the terms of the constitution. Federal funds appropriated by the legislature are subject to being withheld under this chapter but may not be transferred except as permitted by federal law.

(c) The governor's authority to make proposals is independent of any authority to control expenditures of state agencies that is granted the governor under other law.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 18.02, 18.03, eff. Aug. 22, 1991.

Sec. 317.004. PUBLICATION OF PROPOSAL. The entity making a proposal shall specify the details of the proposal, including, for a proposal made under Section 317.002(b), a statement describing the emergency. The entity making a proposal shall direct the secretary of state to publish each proposal, including any accompanying statements, in the Texas Register.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 18.04, eff. Aug. 22, 1991.

Sec. 317.005. ACTION ON PROPOSAL. (a) After a governor's proposal under this chapter is published in the Texas Register, the Legislative Budget Board may conduct a public hearing on the proposal. The board shall give notice of a hearing under this section in the manner provided by law for notice of regular meetings of the board. The board also shall provide notice by mail of its meetings to each member of the Legislature. The notice of the

meeting must include a description of the nature of the proposal or order to be considered. If the agenda includes a public hearing on a proposal, the notice must so state.

After a hearing and at a meeting held not less than 10 days after the date notice of the meeting was given in the manner provided for regular board meetings, in response to a governor's proposal the board, subject to the restrictions provided by Subsection (e), may:

- (1) ratify the proposal by adopting an order changing the relevant appropriation in the manner specified in the proposal;
- (2) reject the proposal; or
- (3) recommend changes in the proposal.

(b) In response to a proposal by the board, the governor may take any action specified by Subsection (a) for board action on a governor's proposal.

(c) A recommended change in a proposal may include recommendations for a change in:

- (1) the proposed amount of money withheld or transferred;
- (2) the proposed purpose for which the appropriation may be used;
- (3) the proposed period for which an appropriation may not be expended, obligated, or distributed;
- (4) the source or recipient of a proposed transfer; or
- (5) a proposed time of distribution or availability of the appropriation that is the subject of the proposal.

(d) If the governor or the board recommends a change in a proposal by the other entity, the recommending entity may adopt a contingent order changing the relevant appropriation in the manner specified in the recommendations.

(e) Neither the governor nor the board may adopt an order under this section:

(1) expressly postponing the time, whether set by appropriations act or general law, that an appropriation is distributed or otherwise made available to a state agency, for a period that exceeds 180 days;

(2) reducing or eliminating an appropriation for the salary of an elected state official or a member of a board or commission appointed by the governor; or

(3) reducing or eliminating an appropriation to a state agency that receives appropriations under the article of the General Appropriations Act that makes appropriations to the legislative branch.

(f) The governor or board may adopt an order under this section withholding or transferring any portion of the total amount appropriated to finance the foundation school program for a fiscal year. The governor or board may not adopt such an order if it would result in an allocation of money between particular programs or statutory allotments under the foundation school program contrary to the statutory proration formula provided by Section 42.253(h), Education Code. The governor or board may transfer an amount to the total amount appropriated to finance the foundation school program for a fiscal year and may increase the basic allotment. The governor or board may adjust allocations of amounts between particular programs or statutory allotments under the foundation school program only for the purpose of conforming the allocations to actual pupil enrollments or attendance.

(g) The affirmative vote of a majority of the members of the board from each house is necessary for the adoption of an order by the board under this section.

(h) If either the governor or the board adopts an order under this section, the entity adopting the order shall notify the proposing entity, the comptroller, and the affected state agencies. Unless the order is a contingent order, the entity adopting the order shall file a copy of the order with the secretary of state for publication in the Texas Register.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1. Amended by Acts 1989, 71st Leg., ch. 785, Sec. 2.01, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 18.04, eff. Aug. 22, 1991; Acts 1993, 73rd Leg., ch. 347, Sec. 4.03, eff. May 31, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 6.11, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.02, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.02, eff. Sept. 1, 1999.

Sec. 317.006. ACTION ON CONTINGENT ORDER. The governor or board shall approve or reject each contingent order adopted under

Section 317.005(d) by the other entity. The governor or board shall notify the other entity, the comptroller, and the affected state agencies of the approval or rejection and shall direct the secretary of state to publish notice of the action in the Texas Register.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 18.04, eff. Aug. 22, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 8.03, eff. Sept. 1, 1997.

Sec. 317.007. EXPIRATION OF PROPOSAL OR CONTINGENT ORDER. A proposal made by the governor or board under this chapter expires if the other entity does not adopt an order ratifying or changing the proposal before the 31st day after the date the proposal is published in the Texas Register. A contingent order adopted by the governor or board under this chapter expires if the other entity does not approve the order before the 31st day after the date the proposal on which the order is based is published in the Texas Register. A proposal or contingent order of either entity also expires if a regular or special session of the legislature begins before, respectively, the other entity has ratified the proposal or has approved the contingent order.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 18.04, eff. Aug. 22, 1991.

Sec. 317.008. EFFECTIVE AND EXPIRATION DATES OF ORDER. (a) An order adopted by the governor or the Legislative Budget Board under this chapter, other than a contingent order adopted under Section 317.005(d), takes effect on the date of adoption, unless the order specifies a later date. A contingent order adopted under Section 317.005(d) and approved under this chapter takes effect on the date of approval, unless the order specifies a later date.

(b) An order adopted under this chapter expires at the end of the fiscal year to which by its terms it applies, except that an order may specify an earlier expiration date or a later date that does not extend beyond the end of the biennium containing each fiscal year to which the order applies.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 18.05, eff. Aug. 22, 1991.

Sec. 317.009. ENFORCEMENT OF ORDER. During the period for which an order adopted under this chapter is effective, in regard to affected appropriations the comptroller may approve vouchers and may issue warrants only in accordance with the terms of the order.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.04, eff. Sept. 1, 1997.

Sec. 317.010. EFFECT ON UNEXPENDED BALANCES. Appropriations withheld under an order adopted and in effect under this chapter are not available for expenditure by a state agency in the second year of a biennium as unexpended balances from the preceding year's appropriation, unless the money is released as provided in the order, the order expires, or the money is reappropriated by the legislature.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1.

Sec. 317.011. SUPERSESSION OF ORDER. An unexpired order adopted under this chapter may be superseded by subsequent action of the governor and the Legislative Budget Board taken as provided by this chapter, by enactment of a law to the contrary by the legislature, or by adoption of a constitutional amendment having contradictory effect.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1.

SUBCHAPTER B. CONTINGENT APPROPRIATIONS FOR COMPUTER EQUIPMENT

Sec. 317.050. DEFINITIONS. In this subchapter:

(1) "Computer equipment" includes computers, telecommunications devices and systems, automated information systems, and the peripheral devices and hardware, software, and services that are necessary to the efficient installation and operation of that equipment.

(2) "Board" means the Legislative Budget Board.

Added by Acts 1989, 71st Leg., ch. 786, Sec. 4, eff. Sept. 1, 1989.

Sec. 317.051. AUTHORITY TO MAKE CONTINGENT APPROPRIATIONS. The legislature may appropriate money to a state agency on a contingency basis for the purpose of purchasing computer equipment. The only money that the legislature may appropriate under this subchapter consists of the proceeds from the issuance of obligations by the Texas Public Finance Authority.

Added by Acts 1989, 71st Leg., ch. 786, Sec. 4, eff. Sept. 1, 1989.

Sec. 317.052. EFFECTIVENESS OF A CONTINGENT APPROPRIATION. (a) Before a contingent appropriation for computer equipment may become effective, a state agency must submit an application to the board for review and approval. A state agency shall send a copy of the application to the governor and the comptroller. The board may determine the format and timing of and the method for submitting the application.

(b) After receiving an application, the board may hold a public hearing on the application.

(c) After the hearing, if any, the board shall determine whether the application shows to the satisfaction of the board that:

(1) the necessity of the computer equipment was reasonably unforeseen when the current General Appropriations Act was being considered and passed, or that sufficient appropriations to purchase the equipment were inadvertently or erroneously omitted from that Act;

(2) the applicant's current appropriations are inadequate or unavailable to purchase the equipment;

(3) the applicant has obtained the approvals required by law; and

(4) the applicant will not be required to make any payments during the current biennium on the interest and principal of the obligations issued by the Texas Public Finance Authority.

Added by Acts 1989, 71st Leg., ch. 786, Sec. 4, eff. Sept. 1, 1989.

Sec. 317.053. NOTIFICATION OF LEGISLATIVE BUDGET BOARD'S DECISION. (a) The board shall notify the comptroller, the governor, and the applying state agency in writing of the board's decision about an application.

(b) If the board approves the application, then the contingent appropriation becomes effective on the date that the comptroller receives the notification.

Added by Acts 1989, 71st Leg., ch. 786, Sec. 4, eff. Sept. 1, 1989.