

GOVERNMENT CODE

CHAPTER 666. RECOVERING EXCESS COMPENSATION PAID TO A STATE OFFICER OR EMPLOYEE

Sec. 666.001. DEFINITIONS. In this chapter:

(1) "Compensation" includes:  
(A) base salary or wages;  
(B) longevity or hazardous duty pay;  
(C) benefit replacement pay;  
(D) a payment for the balance of vacation and sick leave under Subchapter B, Chapter 661;  
(E) a payment for the accrued balance of vacation time under Subchapter C, Chapter 661; and  
(F) an emolument provided in lieu of base salary or wages.

(2) "Indebtedness" means the amount of compensation paid to a state employee that exceeds the amount the employee is eligible to receive under law because at the time the compensation was paid:

(A) the employee was ineligible to receive the entire amount paid; or

(B) the employee's eligibility to receive the entire amount paid was conditioned on:

(i) the occurrence of an event that did not occur; or

(ii) the employee's fulfillment of a promise that the employee did not fulfill.

(3) "State agency" means a board, commission, council, committee, department, office, agency, or other governmental entity in the executive, legislative, or judicial branch of state government. The term includes:

(A) the Texas Guaranteed Student Loan Corporation; and

(B) an institution of higher education as defined by Section 61.003, Education Code, other than a public junior or community college.

(4) "State employee" means an officer or employee of a state agency.

(5) "Successor" means:

(A) the estate of a deceased state employee;

(B) the surviving spouse of a deceased state employee; or

(C) the distributees of the estate of a deceased state employee.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 1.27, eff. Jan. 1, 2000. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 39, eff. Sept. 1, 2001.

Sec. 666.002. RECOVERY AUTHORIZATION. (a) A state agency may recover in accordance with this chapter the amount of a state employee's indebtedness to the agency if:

(1) the agency provides a notice to the employee or successor that complies with Section 666.003;

(2) the agency provides the employee or successor with an opportunity to exercise any due process or other constitutional or statutory protection that must be accommodated before the agency may begin a collection action or procedure;

(3) the agency determines that the recovery would not violate any applicable law or rule of this state or the United States; and

(4) the comptroller is not responsible under Section 404.046, 404.069, or 2103.003 for paying the amount owed by the agency to the employee or successor through the issuance of a warrant or initiation of an electronic funds transfer.

(b) The comptroller may recover in accordance with this chapter the amount of a state employee's indebtedness to a state agency if:

(1) the agency provides a notice to the employee or successor that complies with Section 666.003;

(2) the agency's request for the comptroller to recover the indebtedness complies with Section 666.005; and

(3) the comptroller is responsible under Section 404.046, 404.069, or 2103.003 for paying the amount owed by the agency to the employee or the successor through the issuance of a warrant or initiation of an electronic funds transfer.

(c) A state agency may recover the amount of a state employee's indebtedness to the agency under this chapter by:

(1) deducting the amount of the indebtedness from any amount of compensation the agency owes the employee or the employee's successor; or

(2) reducing the gross amount of base salary or wages that the agency owes the employee or the employee's successor for services provided by the employee during any pay period after the pay period in which the indebtedness was incurred.

(d) The comptroller may recover the amount of a state employee's indebtedness to a state agency under this chapter by:

(1) deducting the amount of the indebtedness from any amount of compensation the agency owes the employee or the employee's successor; or

(2) reducing the gross amount of base salary or wages that the agency owes the employee or the employee's successor for services provided by the employee during any pay period after the pay period in which the indebtedness was incurred.

(e) For the purposes of Subsections (c)(2) and (d)(2), an indebtedness is incurred during the pay period the compensation is earned by the employee. For purposes of this subsection, compensation is earned without regard to whether the amount of that compensation exceeds the amount the employee was eligible to receive.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 1.27, eff. Jan. 1, 2000. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 39, eff. Sept. 1, 2001.

Sec. 666.003. NOTICE. (a) A state agency shall provide notice to a state employee or the employee's successor before the agency:

(1) recovers the amount of the employee's indebtedness to the agency under Section 666.002(a); or

(2) requests the comptroller to recover the amount of the employee's indebtedness to the agency under Section 666.002(b).

(b) The notice must:

(1) be given in a manner reasonably calculated to give actual notice to the employee or successor;

(2) state the:

(A) amount of the indebtedness; and

(B) name of the indebted employee;

(3) specify the date by which the indebtedness must be paid; and

(4) inform the employee or successor that unless the indebtedness is paid on or before the date specified, the amount of the indebtedness may be recovered by:

(A) deducting it from any amount of compensation the agency owes the employee or successor; or

(B) reducing the gross amount of base salary or wages that the agency owes the employee or successor for services provided by the employee during any pay period after the pay period in which the indebtedness was incurred.

(c) For purposes of Subsection (b)(4)(B), an indebtedness is incurred during the pay period the compensation is earned by the employee. For purposes of this subsection, compensation is earned without regard to whether the amount of that compensation exceeds the amount the employee was eligible to receive.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 1.27, eff. Jan. 1, 2000. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 39, eff. Sept. 1, 2001.

Sec. 666.004. PAYMENT OF AMOUNT REMAINING. Any amount that remains owed after a recovery under Section 666.002 shall be paid to the state employee or successor.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 1.27, eff. Jan. 1, 2000. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 39, eff. Sept. 1, 2001.

Sec. 666.005. RECOVERY REQUESTS TO THE COMPTROLLER. (a) A state agency may not request the comptroller to make a recovery under Section 666.002(b) before the agency:

(1) provides the employee or successor the opportunity to exercise any due process or other constitutional or statutory protection that must be accommodated before a collection action or procedure may begin; and

(2) determines that the recovery would not violate any applicable law or rule of this state or the United States.

(b) The comptroller may not investigate or determine whether the agency has complied with Subsection (a)(1). The comptroller may rely on a determination made under Subsection

(a)(2).

(c) A state agency's request to the comptroller to make a recovery under Section 666.002(b) must comply with the comptroller's requirements for format, content, and frequency. Added by Acts 1999, 76th Leg., ch. 1467, Sec. 1.27, eff. Jan. 1, 2000. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 39, eff. Sept. 1, 2001.

Sec. 666.006. ASSIGNEES. (a) The assignee of a state employee or the employee's successor is considered to be a successor for the purposes of this chapter, except that a recovery under this chapter from the compensation or base salary or wages owed to the assignee of a state employee or the employee's successor may not be made if the assignment became effective before the employee incurred the indebtedness.

(b) For purposes of Subsection (a), an indebtedness is incurred on:

(1) the date the compensation is paid, if eligibility to receive the entire amount of the compensation was not conditioned on a state employee fulfilling a promise; or

(2) the day after the deadline for a state employee to fulfill a promise, if eligibility to receive the entire amount of the compensation was conditioned on the employee fulfilling the promise.

(c) This chapter neither authorizes nor prohibits a state employee or the employee's successor from assigning the employee's or successor's right or eligibility to receive compensation.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 1.27, eff. Jan. 1, 2000. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 39, eff. Sept. 1, 2001.

Sec. 666.007. OTHER METHODS OF RECOVERY NOT PROHIBITED. This chapter does not prohibit the comptroller or a state agency from recovering an indebtedness in any manner authorized by a law other than this chapter.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 39, eff. Sept. 1, 2001.

Sec. 666.008. ADMINISTRATION. The comptroller may adopt rules and establish procedures to administer this chapter.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 1.27, eff. Jan 1, 2000. Renumbered from V.T.C.A., Government Code Sec. 666.007 by Acts 2001, 77th Leg., ch. 1158, Sec. 39, eff. Sept. 1, 2001.