

By: Pitts

H.B. No. 4583

A BILL TO BE ENTITLED

AN ACT

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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.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEFINITION. In any provision of this Act that does not amend current law, "state agency" means an office, institution, or other agency that is in the executive branch of state government, has authority that is not limited to a geographical portion of the state, and was created by the constitution or a statute of this state. The term does not include an institution of higher education as defined by Section 61.003, Education Code.

SECTION 2. ABOLITION OF FUNDS, ACCOUNTS, AND DEDICATIONS. 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 81st Legislature, Regular Session, 2009, 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 81st Legislature, Regular Session, 2009, that becomes law are abolished on the later of August 31, 2009, or the date the Act creating or re-creating the fund or account or dedicating or rededicating revenue takes effect.

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

3 (1) statutory dedications, funds, and accounts that
4 were enacted before the 81st Legislature convened to comply with
5 requirements of state constitutional or federal law;

6 (2) dedications, funds, or accounts that remained
7 exempt from former Section 403.094(h), Government Code, at the time
8 dedications, accounts, and funds were abolished under that
9 provision;

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

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

14 SECTION 4. ACCOUNTS IN GENERAL REVENUE FUND. Effective on
15 the later of August 31, 2009, or the date the Act creating or
16 re-creating the account takes effect, the following accounts and
17 the revenue deposited to the credit of the accounts are exempt from
18 Section 2 of this Act and are created in the general revenue fund,
19 if created or re-created by an Act of the 81st Legislature, Regular
20 Session, 2009, that becomes law:

21 (1) the honesty-in-premium account created in the
22 general revenue fund by House Bill No. 2750, Senate Bill No. 1257,
23 or similar legislation;

24 (2) the renewing our communities account created by
25 House Bill No. 492 or similar legislation;

26 (3) the account for conservation of marine resources
27 created by House Bill No. 1749, Senate Bill No. 735, or similar

1 legislation;

2 (4) the pretrial victim-offender mediation program
3 account created in the general revenue fund by House Bill No. 2139
4 or similar legislation;

5 (5) the fuel ethanol, renewable methane, and biodiesel
6 production account created in the general revenue fund by House
7 Bill No. 2318 or similar legislation;

8 (6) the emergency radio infrastructure account
9 created by House Bill No. 2507 or similar legislation;

10 (7) the Texas nursery and floral account created by
11 House Bill No. 3496 or similar legislation;

12 (8) the dedicated account for purchasing and
13 distributing child passenger safety seat systems to low-income
14 families created by House Bill No. 528, Senate Bill No. 61, or
15 similar legislation;

16 (9) the trafficking of persons investigation and
17 prosecution account created in the general revenue fund by House
18 Bill No. 639, Senate Bill No. 89, or similar legislation;

19 (10) the Texas Rural Development Fund account created
20 in the general revenue fund by House Bill No. 1715, Senate Bill No.
21 684, or similar legislation;

22 (11) the mathematics and science teacher investment
23 fund account created in the general revenue fund by House Bill No.
24 2773, Senate Bill No. 816, or similar legislation;

25 (12) the Texas Rural Investment Fund account created
26 in the general revenue fund by House Bill No. 1911, House Bill No.
27 3236, Senate Bill No. 1016, Senate Bill No. 1988, or similar

1 legislation;

2 (13) the hospital district airline fares account
3 created in the general revenue fund by House Bill No. 2899, Senate
4 Bill No. 1264, or similar legislation; and

5 (14) the commission advanced clean energy project
6 account created in the general revenue fund by House Bill No. 2811,
7 Senate Bill No. 2111, or similar legislation.

8 SECTION 5. REVENUE DEDICATION. Effective on the later of
9 August 31, 2009, or the date the Act dedicating or rededicating the
10 revenue takes effect, the following dedication or rededication of
11 revenue collected by a state agency for a particular purpose is
12 exempt from Section 2 of this Act, if dedicated or rededicated by an
13 Act of the 81st Legislature, Regular Session, 2009, that becomes
14 law:

15 (1) all dedications or rededications of revenue to the
16 Texas Department of Insurance operating account;

17 (2) the dedication of assessments and penalties by
18 House Bill No. 77, Senate Bill No. 638, or similar legislation;

19 (3) the dedication of tax revenue by House Bill No.
20 982, Senate Bill No. 2187, or similar legislation;

21 (4) the dedication of fee revenue by House Bill No.
22 1286, Senate Bill No. 924, or similar legislation;

23 (5) the dedication of fee revenue by House Bill No.
24 1965 or similar legislation;

25 (6) the dedication of revenue by House Bill No. 2259,
26 Senate Bill No. 1378, or similar legislation;

27 (7) the dedication of revenue by House Bill No. 2389 or

1 similar legislation;

2 (8) the dedication of fee revenue by House Bill No.
3 4064 or similar legislation;

4 (9) the dedication of revenue by House Bill No. 4110,
5 Senate Bill No. 2208, or similar legislation;

6 (10) the dedication of revenue by House Bill No. 1834,
7 Senate Bill No. 161, or similar legislation;

8 (11) the dedication of fee revenue by House Bill No.
9 1406, Senate Bill No. 862, or similar legislation;

10 (12) the dedication of fee revenue by House Bill No.
11 2203, Senate Bill No. 1007, or similar legislation;

12 (13) the dedication of proceeds by House Bill No.
13 4427, Senate Bill No. 1774, or similar legislation;

14 (14) the dedication of certain penalty proceeds by
15 House Bill No. 2517, Senate Bill No. 2279, or similar legislation;
16 and

17 (15) the dedication of revenue by House Bill No. 2774
18 or similar legislation.

19 SECTION 6. FEDERAL FUNDS. Section 2 of this Act does not
20 apply to funds created pursuant to an Act of the 81st Legislature,
21 Regular Session, 2009, for which separate accounting is required by
22 federal law, except that the funds shall be deposited in accounts in
23 the general revenue fund unless otherwise required by federal law.

24 SECTION 7. TRUST FUNDS. (a) Section 2 of this Act does not
25 apply to trust funds or dedicated revenue deposited to trust funds
26 created under an Act of the 81st Legislature, Regular Session,
27 2009, except that the trust funds shall be held in the state

1 treasury, with the comptroller in trust, or outside the state
2 treasury with the comptroller's approval.

3 (b) Section 2 of this Act does not apply to:

4 (1) the state-licensed residential mortgage loan
5 originator recovery fund created by House Bill No. 10 or similar
6 legislation, or to dedicated revenue deposited to that fund;

7 (2) the anthropogenic carbon dioxide storage trust
8 fund created as a special fund in the state treasury by House Bill
9 No. 2669, Senate Bill No. 1387, or similar legislation, or to
10 dedicated revenue deposited to that fund;

11 (3) the scholarship trust fund for fifth-year
12 accounting students created by House Bill No. 2440, Senate Bill No.
13 1412, or similar legislation, or to dedicated revenue deposited to
14 that fund; or

15 (4) the unauthorized insurance guaranty fund created
16 by House Bill No. 4339 or similar legislation, to the fund account
17 established for the deposit of money held by the fund, or to
18 dedicated revenue deposited to that fund or fund account.

19 SECTION 8. BOND FUNDS. Section 2 of this Act does not apply
20 to bond funds and pledged funds created or affected by an Act of the
21 81st Legislature, Regular Session, 2009, except that the funds
22 shall be held in the state treasury, with the comptroller in trust,
23 or outside the state treasury with the comptroller's approval.

24 SECTION 9. CONSTITUTIONAL FUNDS. (a) Section 2 of this Act
25 does not apply to funds or accounts that would be created or
26 re-created by the Texas Constitution or revenue that would be
27 dedicated or rededicated by the Texas Constitution under a

1 constitutional amendment proposed by the 81st Legislature, Regular
2 Session, 2009, or to dedicated revenue deposited to funds or
3 accounts that would be so created or re-created, if the
4 constitutional amendment is approved by the voters.

5 (b) Section 2 of this Act does not apply to the national
6 research university fund or any revenue transferred or deposited to
7 or dedicated to that fund under House Bill No. 51, House Bill No.
8 4453, Senate Bill No. 1560, or similar legislation that becomes
9 law.

10 SECTION 10. SEPARATE FUNDS IN THE TREASURY. Effective
11 September 1, 2009, the following fund in the state treasury and the
12 revenue deposited to the credit of the fund is exempt from Section 2
13 of this Act and is created as a separate fund in the state treasury,
14 if created by an Act of the 81st Legislature, Regular Session, 2009,
15 that becomes law:

16 (1) FLOODPLAIN MANAGEMENT fund created by House Bill
17 No. 2536 or similar legislation.

18 SECTION 11. AMENDMENT OF SECTION 403.095, GOVERNMENT CODE.
19 Effective September 1, 2009, Sections 403.095(b), (d), and (e),
20 Government Code, are amended to read as follows:

21 (b) Notwithstanding any law dedicating or setting aside
22 revenue for a particular purpose or entity, dedicated revenues
23 that, on August 31, 2011 [~~2009~~], are estimated to exceed the amount
24 appropriated by the General Appropriations Act or other laws
25 enacted by the 81st [~~80th~~] Legislature are available for general
26 governmental purposes and are considered available for the purpose
27 of certification under Section 403.121.

1 (d) Following certification of the General Appropriations
2 Act and other appropriations measures enacted by the 81st [~~80th~~]
3 Legislature, the comptroller shall reduce each dedicated account as
4 directed by the legislature by an amount that may not exceed the
5 amount by which estimated revenues and unobligated balances exceed
6 appropriations. The reductions may be made in the amounts and at
7 the times necessary for cash flow considerations to allow all the
8 dedicated accounts to maintain adequate cash balances to transact
9 routine business. The legislature may authorize, in the General
10 Appropriations Act, the temporary delay of the excess balance
11 reduction required under this subsection. This subsection does not
12 apply to revenues or balances in:

- 13 (1) funds outside the treasury;
- 14 (2) trust funds, which for purposes of this section
15 include funds that may or are required to be used in whole or in part
16 for the acquisition, development, construction, or maintenance of
17 state and local government infrastructures, recreational
18 facilities, or natural resource conservation facilities;
- 19 (3) funds created by the constitution or a court; or
- 20 (4) funds for which separate accounting is required by
21 federal law.

22 (e) This section expires on September 1, 2011 [~~2009~~].

23 SECTION 12. CERTAIN REVENUES DEDICATED TO COMPENSATION TO
24 VICTIMS OF CRIME FUND. (a) Section 495.025(c), Government Code, as
25 added by Section 1, Chapter 100 (S.B. 1580), Acts of the 80th
26 Legislature, Regular Session, 2007, is reenacted to read as
27 follows:

1 (c) The department shall transfer 50 percent of all
2 commissions paid to the department by a vendor under this section to
3 the compensation to victims of crime fund established by Subchapter
4 B, Chapter 56, Code of Criminal Procedure, and the other 50 percent
5 to the credit of the undedicated portion of the general revenue
6 fund, except that the department shall transfer the first \$10
7 million of the commissions collected in any given year under a
8 contract awarded under this section to the compensation to victims
9 of crime fund established by Subchapter B, Chapter 56, Code of
10 Criminal Procedure. This section does not reduce any appropriation
11 to the department.

12 (b) Revenue dedicated to the compensation to victims of
13 crime fund by Section 495.025(c), Government Code, as added by
14 Section 1, Chapter 100 (S.B. 1580), Acts of the 80th Legislature,
15 Regular Session, 2007, is rededicated to that fund by this section
16 and that rededication is exempt from Section 2 of this Act.

17 SECTION 13. SPECIAL FUND FOR SPECIAL RANGERS. Section 2 of
18 this Act does not apply to the special fund established for special
19 rangers under House Bill No. 2062, Senate Bill No. 1683, or similar
20 legislation of the 81st Legislature, Regular Session, 2009, that
21 becomes law, or to proceeds transferred to the fund.

22 SECTION 14. CHRIS KYKER ENDOWMENT FOR SENIORS FUND.
23 Section 2 of this Act does not apply to the Chris Kyker Endowment
24 for Seniors Fund created as a special fund outside the state
25 treasury by House Bill No. 610, Senate Bill No. 1230, or similar
26 legislation of the 81st Legislature, Regular Session, 2009, that
27 becomes law, or to revenue deposited to the fund.

1 SECTION 15. HEALTHY TEXAS SMALL EMPLOYER PREMIUM
2 STABILIZATION FUND. Sections 2 and 7 of this Act do not apply to the
3 healthy Texas small employer premium stabilization fund created by
4 Senate Bill No. 6 or similar legislation, or to dedicated revenue
5 deposited to that account.

6 SECTION 16. AMERICAN RECOVERY AND REINVESTMENT ACT FUND.
7 (a) Section 2 of this Act does not apply to the American Recovery
8 and Reinvestment Act fund created by Subsection (b) of this
9 section, or to revenue deposited to the fund.

10 (b) Subchapter B, Chapter 403, Government Code, is amended
11 by adding Section 403.0122 to read as follows:

12 Sec. 403.0122. DEPOSIT OF AMERICAN RECOVERY AND
13 REINVESTMENT ACT MONEY. (a) In this section:

14 (1) "Fund" means the American Recovery and
15 Reinvestment Act fund.

16 (2) "Recovery act" means the federal American Recovery
17 and Reinvestment Act of 2009 (Pub. L. No. 111-5).

18 (b) The American Recovery and Reinvestment Act fund is
19 created as a special fund in the state treasury outside the general
20 revenue fund.

21 (c) Notwithstanding any other law of this state and except
22 as otherwise provided by federal law, state agencies that receive
23 money under the recovery act shall deposit the money to the credit
24 of the fund as the comptroller determines is necessary to hold and
25 account for money received under the recovery act.

26 (d) Other money may be deposited to the credit of the fund as
27 appropriated by the legislature, as required by federal law, or as

1 necessary to account for money related to the recovery act. Money
2 deposited to the credit of the fund may only be used for the
3 purposes identified in the recovery act to stimulate the economy,
4 including aid for unemployment, welfare, education, health, and
5 infrastructure.

6 (e) Agencies shall transfer amounts between the fund and
7 other accounts and funds in the treasury as necessary to properly
8 account for money received under the recovery act as directed by the
9 comptroller. This section does not affect the authority of the
10 comptroller to establish and use accounts necessary to manage and
11 account for revenues and expenditures.

12 (f) Interest earned on money deposited to the credit of the
13 fund is exempt from Section 404.071. Interest earned on money in
14 the fund shall be retained in the fund.

15 (g) The comptroller may issue guidelines for state agencies
16 regarding the implementation of this section.

17 SECTION 17. DESIGNATED TRAUMA FACILITY AND EMS ACCOUNT.
18 Section 2 of this Act does not apply to general revenue account no.
19 5111 established in the general revenue fund, the fund for
20 emergency medical services, trauma facilities, and trauma care
21 systems.

22 SECTION 18. SYSTEM BENEFIT FUND. Section 2 of this Act
23 does not apply to general revenue account no. 5100, the system
24 benefit fund account.

25 SECTION 19. LARGE COUNTY AND MUNICIPALITY RECREATION AND
26 PARKS ACCOUNT. (a) On the effective date of this Act, the large
27 county and municipality recreation and parks account, established

1 by Section 39, Chapter 1159 (H.B. 12), Acts of the 80th Legislature,
2 Regular Session, 2007, is re-created by this section as an account
3 in the general revenue fund.

4 (b) The large county and municipality recreation and parks
5 account and the revenue deposited to the credit of the account are
6 exempt from Section 2 of this Act.

7 SECTION 20. HEALTH CARE ACCESS FUND IN THE TREASURY.
8 Effective September 1, 2009, the health care access fund created by
9 House Bill No. 2154, House Bill No. 1876, Senate Bill No. 2527, or
10 similar legislation, and the revenue deposited to the credit of the
11 health care access fund, are exempt from Section 2 of this Act and
12 the health care access fund is created as a separate fund in the
13 state treasury outside the general revenue fund.

14 SECTION 21. EFFECT OF ACT. (a) This Act prevails over any
15 other Act of the 81st Legislature, Regular Session, 2009,
16 regardless of the relative dates of enactment, that purports to
17 create or re-create a special fund or account in the state treasury
18 or to dedicate or rededicate revenue to a particular purpose,
19 including any fund, account, or revenue dedication abolished under
20 former Section 403.094, Government Code.

21 (b) Revenue that, under the terms of another Act of the 81st
22 Legislature, Regular Session, 2009, would be deposited to the
23 credit of a special account or fund shall be deposited to the credit
24 of the undedicated portion of the general revenue fund unless the
25 fund, account, or dedication is exempted under this Act.

26 SECTION 22. EFFECTIVE DATE. This Act takes effect
27 immediately if it receives a vote of two-thirds of all the members

H.B. No. 4583

1 elected to each house, as provided by Section 39, Article III, Texas
2 Constitution. If this Act does not receive the vote necessary for
3 immediate effect, this Act takes effect on the 91st day after the
4 last day of the legislative session.