

## CHAPTER 69

H.B. No. 955

An Act relating to the allocation and dedication of certain revenue to provide assistance for areas impacted by significant new naval military facilities, to the Texas home port trust fund, and to the taxation of sales of materials used in the construction of certain new significant naval military facilities.

*Be it enacted by the Legislature of the State of Texas:*

## ARTICLE 1. GENERAL PROVISIONS

**SECTION 1. SHORT TITLE.** This Act is the National Defense Impacted Region Assistance Act of 1985.

**SECTION 2. PURPOSE OF ACT.** The purpose of this Act is to provide significant state financial assistance to any region in this state that is affected by the new construction or expansion of a significant United States Navy facility in order that the state, cities, counties, school districts, and other governmental entities within the region may better serve the people of the region, including the assigned military personnel, by ensuring the adequate provision of governmental services.

**SECTION 3. LEGISLATIVE FINDINGS.** The legislature finds that the construction and operation of a significant new naval military facility in the state would provide substantial financial benefit to the state and that the state would be better protected in the event of enemy attack.

**SECTION 4. DEFINITIONS.** In this Act:

(1) "Significant new naval military facility" means a new United States Navy installation or an addition and expansion of an existing naval installation that involves the acquisition of not less than 60 acres of land, the construction of facilities and improvements having a cost of not less than \$65 million, and the stationing or the assignment of the facility as the home port of at least 2,000 additional active duty members of the armed forces.

(2) "Impacted region" means each county in this state in which a significant new naval military facility is located and each county that has a common boundary with a county in which the facility is located.

## ARTICLE 2. TAX RELIEF

**SECTION 1.** Section 151.311, Tax Code, is amended to read as follows:

Sec. 151.311. **PROPERTY USED FOR IMPROVEMENT OF REALTY OF AN EXEMPT ORGANIZATION.** (a) Tangible personal property purchased by a contractor for use in the performance of a contract for the improvement of realty for an organization exempted from the taxes imposed by this chapter by Section 151.309(4) or (5) or Section 151.310 of this code or for the Department of Defense of the United States in connection with a significant new naval military facility is exempted from the taxes imposed by this chapter to the extent of the value of the tangible personal property used or consumed or both in the performance of the contract.

(b) In this section "significant new naval military facility" has the meaning given that term by Section 4, Article 1, National Defense Impacted Region Assistance Act of 1985.

## ARTICLE 3. ROADS AND HIGHWAYS

**SECTION 1.** Section 2, Chapter 13, Acts of the 42nd Legislature, 3rd Called Session, 1932 (Article 6674q-2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec.2 By the expression "defined road districts" or "road districts" or "districts" used in this Act, is meant any defined road district of the state or any Justice or Commissioners Precinct acting as a road district or any road district located in one or more than one county.

By the expression "roads" or "road" as used in this Act, is meant roads, road beds, bridges, and culverts.

By the expression "highways," "State Highways" and "State Designated Highways" are meant roads which prior to January 2, 1939, had become a part of the System of designated State Highways, including roads still constituting a part of such system on said date and those which theretofore constituted a part of such system, but whose status had been lost through change, relocation or abandonment and including roads concerning which the State Highway Commission had prior to January 2, 1939, indicated its intention to designate, evidencing such intention in the official records or files.

All roads which prior to January 2, 1941, had not become a part of the system of State Designated Highways, for convenience in this Act, are called "lateral roads."

The term "Board" as used in this Act, when the contrary is not clearly indicated, shall mean the "Board of County and District Road Indebtedness."

The term "fund" as used in this Act, when the contrary is not clearly indicated, shall mean the "County and Road District Highway Fund."

The expression "eligible obligations" as used in this Act shall mean obligations, the proceeds of which were actually expended on State Designated Highways.

The terms "significant new naval military facility" and "impacted region" have the meanings assigned by Section 4, Article 1, National Defense Impacted Region Assistance Act of 1985.

**SECTION 2.** Section 3, Chapter 13, Acts of the 42nd Legislature, 3rd Called Session, 1932 (Article 6674q-4, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. All further improvement of said State Highway System shall be made under the exclusive and direct control of the State Highway Department and with appropriations made by the Legislature out of the State Highway Fund. Surveys, plans and specifications and estimates for all further construction and improvement of said system shall be made, prepared and paid for by the State Highway Department. No further improvement of said system shall be made with the aid of or with any moneys furnished by the counties except the acquisition of right-of-ways which may be furnished by the counties, their subdivisions or defined road districts. But this shall in nowise affect the carrying out of any binding contracts now existing between the State Highway Department and the Commissioners Court of any county, for such county, or for any defined road district. In the development of the System of State Highways and the maintenance thereof, the State Highway Commission shall from funds available to the State Highway Department, provide:

(a) For the efficient maintenance of all highways comprising the State System.

(b) For the construction, in co-operation with the Federal Government to the extent of Federal Aid to the state, of highways of durable type of the greatest public necessity.

(c) For the construction of highways, perfecting and extending a correlated system of State Highways, independently from state funds.

(d) For the construction of highways from appropriations from the State Highway Fund to provide access to significant new naval military facilities and to provide for the state highway system in impacted regions.

**SECTION 3. BIENNIAL ALLOCATION.** For the fiscal year ending August 31, 1986, not less than \$30 million, and for the fiscal year ending August 31, 1987, not less than \$31 million, shall be used for the purposes provided by Paragraph (d) of Section 3, Chapter 13, Acts of the 42nd Legislature, 3rd Called Session, 1932 (Article 6674q-4, Vernon's Texas Civil Statutes). Thereafter such amounts as may be required are authorized for appropriation.

#### ARTICLE 4. PUBLIC SCHOOLS

**SECTION 1.** Subchapter E, Education Code, is amended by adding Section 16.180 to read as follows:

**Sec. 16.180. NAVAL MILITARY FACILITY IMPACT.** (a) The econometric model on which the price differential index is based must specifically consider the impact of a significant new naval military facility on each district in an impacted region.

(b) If the construction or operation of a significant new naval military facility begins during a school year, the State Board of Education by rule shall provide for the adjustment of the basic allotment during that school year to consider any impact of the facility on the price differential index of the districts in the impacted region.

(c) In this section, "significant new naval military facility" and "impacted region" have the meanings assigned by Section 4, Article 1, National Defense Impacted Region Assistance Act of 1985.

## ARTICLE 5. HIGHER EDUCATION

**SECTION 1.** Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.075 to read as follows:

**Sec. 61.075. COURSES BENEFITTING MILITARY INSTALLATIONS.** (a) *The coordinating board by rule shall provide for the offering of courses and degree programs on military installations, including significant new naval military facilities.*

(b) *Any institution of higher education may cooperate with a military installation in providing degree programs and courses of particular benefit to military personnel and civilian employees stationed at or employed by the military installation, including a significant new naval military facility.*

(c) *In this section, "significant new naval military facility" has the meaning assigned by Section 4, Article 1, National Defense Impacted Region Assistance Act of 1985.*

## ARTICLE 6. LAW ENFORCEMENT

**SECTION 1.** Section 9, Chapter 935, Acts of the 62nd Legislature, Regular Session, 1971 (Article 1083, Vernon's Texas Code of Criminal Procedure, Part II), is amended to read as follows:

Sec. 9. (a) *The legislature shall determine and appropriate the necessary amount from the Criminal Justice Planning Fund to the Criminal Justice Division of the Governor's Office for expenditure for state and local criminal justice projects and for costs of administering the funds for such projects. The Criminal Justice Division shall allocate not less than 20 percent of these funds to juvenile justice programs. The distribution of the funds to local units of government shall be in an amount equal at least to the same percentage as local expenditures for criminal justice activities are to total state and local expenditures for criminal justice activities for the preceding state fiscal year. Funds shall be allocated among combinations of local units of government taking into consideration the population of the combination of local units of government as compared to the population of the state and the incidence of crime of the combination of local units of government as compared to the incidence of crime of the state. All funds collected shall be subject to audit by the comptroller of public accounts. All funds expended shall be subject to audit by the state auditor. Additionally, all funds collected or expended shall be subject to audit by the Governor's Division of Planning Coordination.*

(b) *Notwithstanding any other provision of this section, the criminal justice division shall allocate to a local unit of government or combination of local units of government located in an impacted region occurring as the result of the establishment of a significant new naval military facility an amount that exceeds by 10 percent the amount it would otherwise receive under this section.*

(c) *In this section, "significant new naval military facility" and "impacted region" have the meanings assigned by Section 4, Article 1, National Defense Impacted Region Assistance Act of 1985.*

## ARTICLE 7. PARKS

**SECTION 1.** Chapter 13, Parks and Wildlife Code, is amended by adding Sections 13.0011 and 13.0012 to read as follows:

**Sec. 13.0011. PARKS IN REGIONS IMPACTED BY NAVAL MILITARY FACILITY.** (a) *In this section, "significant new naval military facility" has the meaning assigned by Section 4, Article 1, National Defense Impacted Region Assistance Act of 1985.*

(b) *The department shall develop, operate, maintain, and improve state parks within the parks use region of the location of a significant new naval military facility in order to provide recreational areas and facilities for active duty members of the armed forces stationed at the facility or assigned to the facility as a home port and for their families and associated personnel.*

(c) *For the purpose of this section and Section 13.0012 of this code, "parks use region" means the counties lying wholly or partly within a 100-mile radius of a significant new naval military facility.*

**Sec. 13.0012. BIENNIAL ALLOCATION.** *The following amounts shall be used for the purposes provided by Section 13.0011 of this code:*

(1) *for a park use region having a population of more than 2,799,999:*

(A) *not less than \$3 million for the fiscal year ending August 31, 1986; and*

(B) *not less than \$3.1 million for the fiscal year ending August 31, 1987; and*

(2) *for a park use region having a population of less than 2,800,000:*

(A) *not less than \$2 million for the fiscal year ending August 31, 1986; and*

(B) *not less than \$2.1 million for the fiscal year ending August 31, 1987.*

## ARTICLE 8. GOVERNOR'S CONTINGENCY FUNDS

**SECTION 1.** Section 2, Chapter 6, Acts of the 62nd Legislature, 4th Called Session, 1972 (Article 689a-4c, Vernon's Texas Civil Statutes), is amended to read as follows:

**Sec. 2. PROCEDURE.** When, in the judgment of the Governor, a situation arises that presents an emergency and an imperative public necessity requiring the use of the funds hereby authorized, the Governor shall certify such facts to said Comptroller, stating in the certification the facts presenting the emergency and imperative public necessity and why the facts present an emergency and an imperative public necessity. *In making determinations relating to the expenditure and allocation of funds under this Act, the defense of the nation and this state and the safety and economic prosperity of the people of this state require that the Governor give preference to impacted regions of significant new naval military facilities, as those terms are defined by Section 4, Article 1, National Defense Impacted Region Assistance Act of 1985.* The Comptroller shall endorse on the Governor's Certificate the availability or unavailability of other funds setting forth their source and amount, if any, and must return said certificate to the Governor's Office within two (2) working days of receipt of said certificate. No expenditures shall be made by the Governor prior to receipt by the Governor of a return of his certificate from the Comptroller showing that no other funds are available. Copies of the Governor's Certificate, and the returned certificate containing the endorsement by the Comptroller, shall be filed with the Secretary of State and with the Legislative Budget Board.

## ARTICLE 9. TEXAS HOME PORT TRUST FUND

**SECTION 1. TEXAS HOME PORT TRUST FUND.** The Texas home port trust fund is created. The fund shall be administered by the state treasurer, but the fund may be paid only on written authorization of the governor and may be paid to a navigation district or to any other political subdivision of the state as determined by the governor to be appropriate to be used only for the purpose of making public works improvements, including docks, dredging, bulkheads, and utilities, related to the naval facility. Before authorizing the use of money under this section, the governor shall notify the speaker of the house, the lieutenant governor, and the comptroller of public accounts of the proposed authorizations and shall consider their recommendations and requests. The improvements must be of a nature that would benefit the state if the facility were no longer used as a military installation. Interest earned by the fund shall be deposited to the credit of the general revenue fund.

**SECTION 2. TRANSFER AND APPROPRIATION.** Seventeen million dollars is transferred and appropriated from the water assistance fund to the Texas home port trust fund to be used for the purposes authorized by this article.

**SECTION 3.** Effective September 1, 1986, Section 154.603, Tax Code, is amended to read as follows:

**Sec. 154.603. DISPOSITION OF REVENUE.** (a) After the deduction for the enforcement fund, the revenue remaining of the first \$2 of tax received per 1,000 cigarettes for cigarettes weighing three pounds or less per thousand and the first \$4.10 per 1,000 cigarettes of the tax received for cigarettes weighing more than three pounds per thousand is allocated:

- (1) 18.75 percent to the foundation school fund; and
- (2) 81.25 percent to the general revenue fund.

(b) The revenue remaining after deduction for the enforcement fund and allocation under Subsection (a) of this section is allocated:

- (1) 50 cents per 1,000 cigarettes to the state parks fund;
- (2) 50 cents per 1,000 cigarettes to the *Texas home port trust fund until a total of \$8 million has been allocated to that fund in the 1987 fiscal year, after which, for the balance of the fiscal year, 50 cents per 1,000 cigarettes to the local parks, recreation and open space fund* [~~this allocation expires on August 31, 1983~~]; and
- (3) the remainder to the general revenue fund.

(c) The Parks and Wildlife Department may use the money allocated under Subsection (b)(1) of this section to plan, develop, acquire, maintain, and operate state parks and historic sites. The department may not use more than 25 percent of the revenue credited to the state parks fund under Subsection (b)(1) to operate and maintain state parks and historic sites.

(d) Revenues allocated under Subsection (b) of this section shall be credited to the general revenue fund and then transferred from the general revenue fund to the appropriate funds as designated in Subsection (b) of this section.

(e) *If the United States Navy does not receive congressional approval and appropriations for construction of a significant new naval facility to be located in Texas or the activation of ships, the allocation to the Texas home port trust fund authorized under Subsection (b)(2) of this section is not effective and those funds which would otherwise be allocated to the Texas home port trust fund shall be allocated to the local parks, recreation and open space fund.*

**SECTION 4.** Effective September 1, 1987, Section 154.603, Tax Code, is amended to read as follows:

**Sec. 154.603. DISPOSITION OF REVENUE.** (a) After the deduction for the enforcement fund, the revenue remaining of the first \$2 of tax received per 1,000 cigarettes for cigarettes weighing three pounds or less per thousand and the first \$4.10 per 1,000 cigarettes of the tax received for cigarettes weighing more than three pounds per thousand is allocated:

- (1) 18.75 percent to the foundation school fund; and
- (2) 81.25 percent to the general revenue fund.

(b) The revenue remaining after deduction for the enforcement fund and allocation under Subsection (a) of this section is allocated:

- (1) 50 cents per 1,000 cigarettes to the state parks fund;
- (2) 50 cents per 1,000 cigarettes to the local parks, recreation and open space fund [~~this allocation expires on August 31, 1989~~]; and
- (3) the remainder to the general revenue fund.

(c) The Parks and Wildlife Department may use the money allocated under Subsection (b)(1) of this section to plan, develop, acquire, maintain, and operate state parks and historic sites. The department may not use more than 25 percent of the revenue credited to the state parks fund under Subsection (b)(1) to operate and maintain state parks and historic sites.

(d) Revenues allocated under Subsection (b) of this section shall be credited to the general revenue fund and then transferred from the general revenue fund to the appropriate funds as designated in Subsection (b) of this section.

**SECTION 5. LAPSE OF TRUST FUND.** The Texas home port trust fund expires on the fourth anniversary of the date on which construction commences. At that time, the unexpended balance of the fund shall be deposited in the general revenue fund.

**SECTION 6. LIMITATION ON FUND.** Improvements made with the use of funds appropriated by this article may be leased to the United States government, but ownership of the improvements shall remain in the state, the navigation district, or the political subdivision. If the United States Navy does not receive congressional approval for construction of the base or the activation of ships, additional money may not be used from the fund.

#### ARTICLE 10. EFFECTIVE DATE AND DECLARATION OF EMERGENCY

**SECTION 1. GOVERNOR'S PROCLAMATION.** When the Department of the Navy of the Department of Defense of the United States makes a final determination to locate a significant new naval military facility in this state, the governor shall issue an official proclamation declaring that determination.

**SECTION 2. EFFECTIVE DATE.** Except as otherwise provided by individual sections, this Act takes effect on the date the governor issues the proclamation referred to in Section 1 of this article. If the governor does not issue the proclamation on or before January 1, 1986, this Act expires.

**SECTION 3. EMERGENCY.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 3, 1985, by a non-record vote; House concurred in Senate amendments to H.B. No. 955 on April 30, 1985, by the following vote: Yeas 121, Nays 9, 2 present, not voting; passed subject to the provisions of Article III, Section 49a, of the Constitution of the State of Texas; passed by the Senate, with amendments, on April 30, 1985, by the following vote: Yeas 23, Nays 1; passed subject to the provisions of Article III, Section 49a, of the Constitution of the State of Texas.

Certified by Comptroller of Public Accounts, May 2, 1985, that the amounts appropriated herein are within amounts estimated to be available in the affected fund.

Approved: May 2, 1985

Effective: Upon issuance of a proclamation by the Governor.