

CHAPTER 533

S.B. No. 1243

AN ACT

relating to the receipt, management, and expenditure of funds in the state treasury and the petroleum storage tank remediation fund.

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

SECTION 1. Section 403.092, Government Code, is amended to read as follows:

Sec. 403.092. **TEMPORARY TRANSFER OF SURPLUS AND OTHER CASH.** (a) To allow efficient management of the cash flow of the general revenue fund and to avoid temporary cash deficiency in that fund, the comptroller, with the consent of the state treasurer, may transfer surplus cash, except constitutionally dedicated revenues, between funds in the state treasury. As soon as practicable the comptroller shall return the surplus cash to the fund from which it was transferred. The comptroller shall preserve the fund equity and the state treasurer shall allocate the depository interest as if the transfer had not been made.

(b) If the comptroller submits a statement under Article III, Section 49a, of the Texas Constitution when surplus cash transferred under *Subsection (a)* [~~this section~~] is in the

general revenue fund, the comptroller shall indicate in that statement that the transferred surplus cash is in the general revenue fund, is a liability of that fund, and is not available for appropriation by the legislature.

(c)(1) *The comptroller may temporarily transfer cash from the general revenue fund to the petroleum storage tank remediation fund during the 1994–1995 biennium for the purpose of paying reimbursement claims against that fund and for paying the necessary expenses associated with the administration of that fund. The amount of cash to be transferred shall not exceed \$120 million. The transfer shall be made on September 1, 1993, or as soon as practicable thereafter.*

(2) *Notwithstanding other law, fees collected under Section 26.3574, Water Code, shall be deposited to the credit of the general revenue fund until the amount of the fee collections so deposited to the credit of the general revenue fund equals the amount of the temporary cash transfer authorized in Subdivision (1). Fees collected in excess of the amount required by this subdivision shall be deposited to the credit of the petroleum storage tank remediation fund.*

(3) *The amount transferred under Subdivision (1) is a receivable of the general revenue fund for the purpose of statements that the comptroller submits under Article III, Section 49a, of the Texas Constitution. The transferred amount is available for appropriation by the legislature.*

(4) *This subsection expires on the latter of August 31, 1995, or the date of full repayment to the general revenue fund of the amount required under Subdivision (2).*

SECTION 2. Section 26.3573, Water Code, is amended by amending Subsections (b), (d), and (g) and by adding Subsection (p) to read as follows:

(b) The petroleum storage tank remediation fund consists of money from:

(1) fees charged under Section 26.3574 of this code;

(2) the interest and penalties for the late payment of the fee charged under Section 26.3574 of this code; [and]

(3) funds received from cost recovery for corrective action and enforcement actions concerning petroleum storage tanks as provided by this subchapter; and

(4) *temporary cash transfers and other transfers from the general revenue fund authorized by Section 403.092(c), Government Code.*

(d) The commission may use the money in the petroleum storage tank remediation fund to pay:

(1) necessary expenses associated with the administration of the petroleum storage tank remediation fund and the groundwater protection cleanup program, not to exceed an amount equal to *five* [~~three~~] percent of the gross receipts of that fund, provided that the increment between two and three percent of the gross receipts may be used only to pay administrative expenses associated with regulating petroleum storage tanks, reimbursing eligible owners and operators, and disposing of contaminated soils, *and further provided that the increment between three and five percent of the gross receipts may be used only to pay administrative expenses associated with conducting claims audits in accordance with Section 26.35735 of this code, reimbursing eligible owners and operators, and disposing of contaminated soils;*

(2) expenses associated with investigation, cleanup, or corrective action measures performed in response to a release or threatened release from a petroleum storage tank, whether those expenses are incurred by the commission or pursuant to a contract between a contractor and an eligible owner or operator as authorized by this subchapter; and

(3) subject to the conditions of Subsection (e) of this section, expenses associated with investigation, cleanup, or corrective action measures performed in response to a release or threatened release of hydraulic fluid or spent oil from hydraulic lift systems or tanks located at a vehicle service and fueling facility and used as part of the operations of that facility.

(g) The commission shall administer the petroleum storage tank remediation fund and by rule adopt guidelines and procedures for the use of and eligibility for that fund, *subject to the availability of money in that fund*, as the commission finds necessary to:

(1) make the most efficient use of the money available, *including*:

(A) *establishing priorities for payments from the fund; and*

(B) *suspending payments from the fund; and*

(2) provide the most effective protection to the environment and provide for the public health and safety.

(p) *An owner or operator shall not be entitled to, nor shall be paid, interest on any claim for payment from the petroleum storage tank remediation fund.*

SECTION 3. Subchapter I, Chapter 26, Water Code, is amended by adding Section 26.35735 to read as follows:

Sec. 26.35735. CLAIMS AUDIT. (a) The commission annually shall audit claims for payment from the petroleum storage tank remediation fund.

(b) The commission shall conduct the audit in accordance with generally accepted accounting standards as prescribed by the American Institute of Certified Public Accountants, the Governmental Accounting Standards Board, the United States General Accounting Office, or other professionally recognized entities that prescribe auditing standards.

(c) The commission may use generally recognized sampling techniques to audit claims if the commission determines that the use of those techniques would be cost-effective and would promote greater efficiency in administering claims for payment from the petroleum storage tank remediation fund.

(d) The commission may adopt rules necessary to implement this section.

SECTION 4. This Act takes effect September 1, 1993.

SECTION 5. 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 the Senate on April 6, 1993, by a viva-voce vote; passed the House on May 22, 1993, by a non-record vote.

Approved June 8, 1993.

Effective Sept. 1, 1993.