

1 AN ACT
2 relating to certain fiscal matters affecting governmental
3 entities; providing a penalty.

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

5 ARTICLE 1. REGISTRATION FEE FOR CERTAIN LOBBYISTS

6 SECTION 1.01. Subsection (c), Section 305.005, Government
7 Code, is amended to read as follows:

8 (c) The registration fee and registration renewal fee are:

9 (1) \$100 for a registrant employed by an organization
10 exempt from federal income tax under Section 501(c)(3) or
11 501(c)(4), Internal Revenue Code of 1986; or

12 (2) \$500 [~~\$300~~] for any other registrant.

13 SECTION 1.02. This article takes effect December 1, 2005.

14 ARTICLE 2. CERTAIN AUDITS OF STATE AGENCY EXPENDITURES

15 SECTION 2.01. Subtitle C, Title 10, Government Code, is
16 amended by adding Chapter 2115 to read as follows:

17 CHAPTER 2115. RECOVERY OF CERTAIN STATE AGENCY OVERPAYMENTS

18 Sec. 2115.001. DEFINITIONS. In this chapter:

19 (1) "Overpayment" includes a duplicate payment made to
20 a vendor for a single invoice and a payment made to a vendor:

21 (A) when an available discount from the vendor
22 was not applied;

23 (B) for a late payment penalty that was
24 improperly applied by the vendor;

1 (C) for shipping costs that were computed
2 incorrectly or incorrectly included in an invoice;

3 (D) for state sales tax; or

4 (E) for a good or service the vendor did not
5 provide.

6 (2) "State agency" means a department, commission,
7 board, office, or other agency, including a university system or an
8 institution of higher education other than a public junior college,
9 that:

10 (A) is in the executive branch of state
11 government;

12 (B) is created by statute; and

13 (C) does not have statutory geographical
14 boundaries limited to a part of the state.

15 Sec. 2115.002. CONTRACT CONSULTANTS FOR RECOVERY AUDITS FOR
16 CERTAIN OVERPAYMENTS. (a) The comptroller shall contract with one
17 or more consultants to conduct recovery audits of payments made by
18 state agencies to vendors. The audits must be designed to detect
19 and recover overpayments to the vendors and to recommend improved
20 state agency accounting operations.

21 (b) A contract under this section:

22 (1) may provide for reasonable compensation for
23 services provided under the contract, including compensation
24 determined by the application of a specified percentage of the
25 total amount recovered because of the consultant's audit activities
26 or recommendations as a fee for services;

27 (2) may permit or require the consultant to pursue a

1 judicial action in a court inside or outside this state to recover
2 an overpaid amount; and

3 (3) to allow time for the performance of existing
4 state payment auditing procedures, may not allow a recovery audit
5 of a payment during the 180-day period after the date the payment
6 was made.

7 (c) The comptroller or a state agency whose payments are
8 being audited may provide a person acting under a contract
9 authorized by this section with any confidential information in the
10 custody of the comptroller or state agency that is necessary for the
11 performance of the audit or the recovery of an overpayment, to the
12 extent the comptroller and state agency are not prohibited from
13 sharing the information under an agreement with another state or
14 the federal government. A person acting under a contract
15 authorized by this section, and each employee or agent of the
16 person, is subject to all prohibitions against the disclosure of
17 confidential information obtained from the state in connection with
18 the contract that apply to the comptroller or applicable state
19 agency or an employee of the comptroller or applicable state
20 agency. A person acting under a contract authorized by this section
21 or an employee or agent of the person who discloses confidential
22 information in violation of a prohibition made applicable to the
23 person under this subsection is subject to the same sanctions and
24 penalties that would apply to the comptroller or applicable state
25 agency or an employee of the comptroller or applicable state agency
26 for that disclosure.

27 Sec. 2115.003. STATE AGENCIES SUBJECT TO MANDATORY RECOVERY

1 AUDITS. (a) The comptroller shall require that recovery audits be
2 performed on the payments to vendors made by each state agency that
3 has total expenditures during a state fiscal biennium in an amount
4 that exceeds \$100 million. Each state agency described by this
5 subsection shall provide the recovery audit consultant with all
6 information necessary for the audit.

7 (b) The comptroller may exempt from the mandatory recovery
8 audit process a state agency that has a low proportion of its
9 expenditures made to vendors, according to criteria the comptroller
10 adopts by rule after consideration of the likely costs and benefits
11 of performing recovery audits for agencies that make relatively few
12 or small payments to vendors.

13 Sec. 2115.004. PAYMENT TO CONTRACTORS. (a) A state agency
14 shall pay, from recovered money appropriated for the purpose, the
15 recovery audit consultant responsible for obtaining for the agency
16 a reimbursement from a vendor.

17 (b) A state agency shall expend or return to the federal
18 government any federal money that is recovered through a recovery
19 audit conducted under this chapter. The state agency shall expend
20 or return the federal money in accordance with the rules of the
21 federal program through which the agency received the federal
22 money.

23 Sec. 2115.005. FORWARDING REPORTS. (a) The comptroller
24 shall provide copies, including electronic form copies, of any
25 reports received from a consultant contracting under Section
26 2115.002 to:

27 (1) the governor;

1 (2) the state auditor's office; and

2 (3) the Legislative Budget Board.

3 (b) The comptroller shall provide the copies required by
4 Subsection (a) not later than the seventh day after the date the
5 comptroller receives the consultant's report.

6 (c) Not later than January 1 of each odd-numbered year, the
7 comptroller shall issue a report to the legislature summarizing the
8 contents of all reports received under this chapter during the
9 state fiscal biennium ending August 31 of the previous year.

10 SECTION 2.02. The comptroller of public accounts shall
11 adopt rules under Chapter 2115, Government Code, as added by this
12 article, in a timely manner so that the comptroller may begin
13 contracting with a consultant under that chapter not later than
14 January 1, 2006.

15 ARTICLE 3. ELIGIBILITY FOR MEDICAL ASSISTANCE
16 AND CHILDREN'S HEALTH INSURANCE PROGRAMS

17 SECTION 3.01. Section 62.102, Health and Safety Code, is
18 amended to read as follows:

19 Sec. 62.102. CONTINUOUS COVERAGE. [~~(a)~~] The commission
20 shall provide that an individual who is determined to be eligible
21 for coverage under the child health plan remains eligible for those
22 benefits until the earlier of:

23 (1) the end of the six-month [~~a~~] period[~~, not to exceed~~
24 ~~12 months,~~] following the date of the eligibility determination; or

25 (2) the individual's 19th birthday.

26 ~~[(b) The period of continuous eligibility may be~~
27 ~~established at an interval of 6 months beginning immediately upon~~

1 ~~passage of this Act and ending September 1, 2005, at which time an~~
2 ~~interval of 12 months of continuous eligibility will be~~
3 ~~re-established.]~~

4 SECTION 3.02. Section 32.0261, Human Resources Code, is
5 amended to read as follows:

6 Sec. 32.0261. CONTINUOUS ELIGIBILITY. The department shall
7 adopt rules in accordance with 42 U.S.C. Section 1396a(e)(12), as
8 amended, to provide for a period of continuous eligibility for a
9 child under 19 years of age who is determined to be eligible for
10 medical assistance under this chapter. The rules shall provide
11 that the child remains eligible for medical assistance, without
12 additional review by the department and regardless of changes in
13 the child's resources or income, until the earlier of:

14 (1) the end of the six-month period following [~~first~~
15 ~~anniversary of~~] the date on which the child's eligibility was
16 determined; or

17 (2) the child's 19th birthday.

18 SECTION 3.03. If before implementing any provision of this
19 article a state agency determines that a waiver or authorization
20 from a federal agency is necessary for implementation of that
21 provision, the agency affected by the provision shall request the
22 waiver or authorization and may delay implementing that provision
23 until the waiver or authorization is granted.

24 ARTICLE 4. WAIVER OF AND SUPPLEMENTAL HEALTH COVERAGE
25 FOR STATE EMPLOYEES

26 SECTION 4.01. Subsection (a), Section 1551.104, Insurance
27 Code, is amended to read as follows:

1 (a) Subject to Sections 1551.101 and 1551.102, each
2 full-time employee is covered automatically by the basic coverage
3 plan for employees and each annuitant is covered by the basic
4 coverage plan for annuitants unless:

5 (1) participation is specifically waived as provided
6 by Section 1551.1045;

7 (2) the employee or annuitant is expelled from the
8 program under Section 1551.351; or

9 (3) eligibility is otherwise limited by this chapter.

10 SECTION 4.02. Subchapter C, Chapter 1551, Insurance Code,
11 is amended by adding Section 1551.1045 to read as follows:

12 Sec. 1551.1045. WAIVER. (a) Subject to Subsections (b)
13 and (c), an employee or annuitant may waive in writing any coverage
14 provided under this chapter.

15 (b) To waive coverage under the basic coverage plan for
16 employees, a full-time employee must demonstrate, in the manner
17 required by the board of trustees, that the employee is:

18 (1) covered by another health benefit plan that
19 provides substantially equivalent coverage, as determined by the
20 board of trustees, to the coverage provided to employees by the
21 basic coverage plan; or

22 (2) eligible for benefits under the TRICARE Military
23 Health System.

24 (c) To waive coverage under the basic coverage plan for
25 annuitants for the purpose of eligibility for an incentive payment
26 under Section 1551.222, an annuitant must demonstrate, in the
27 manner required by the board of trustees, that the annuitant is:

1 (1) covered by another health benefit plan that
2 provides substantially equivalent coverage, as determined by the
3 board of trustees, to the coverage provided to annuitants by the
4 basic coverage plan; or

5 (2) eligible for benefits under the TRICARE Military
6 Health System.

7 SECTION 4.03. Subchapter E, Chapter 1551, Insurance Code,
8 is amended by adding Sections 1551.221 and 1551.222 to read as
9 follows:

10 Sec. 1551.221. OPTIONAL SUPPLEMENTAL HEALTH COVERAGE FOR
11 INDIVIDUALS ELIGIBLE UNDER TRICARE MILITARY HEALTH SYSTEM.

12 (a) The board of trustees shall offer, as an optional coverage
13 under the group benefits program, a supplemental health coverage
14 program.

15 (b) Under the supplemental health coverage program, an
16 employee or annuitant who is eligible to participate in the group
17 benefits program and who is also eligible for benefits under the
18 TRICARE Military Health System may elect to receive primary
19 coverage under the TRICARE Military Health System. An employee or
20 annuitant participating in the supplemental health coverage
21 program must waive basic coverage through the group benefits
22 program, but receives supplemental health coverage under this
23 section.

24 (c) The cost of supplemental health coverage provided under
25 this section may be paid in the same manner as the cost of other
26 optional coverage is paid under Subchapter G.

27 (d) The board of trustees shall contract to purchase the

1 supplemental health coverage in accordance with Sections
2 1551.213-1551.216.

3 (e) The board of trustees may adopt rules to implement this
4 section.

5 Sec. 1551.222. INCENTIVE PAYMENTS. (a) The board of
6 trustees may allow an incentive payment under this section to an
7 employee or annuitant who elects to waive coverage under the basic
8 coverage plan for employees or annuitants as provided by Section
9 1551.1045(b) or (c).

10 (b) The incentive payment authorized by this section is in
11 the amount authorized by the General Appropriations Act and may be
12 used by the employee or annuitant, in the manner prescribed by the
13 board of trustees, only to pay for other group coverage plans
14 provided under the group benefits program, including the
15 supplemental health coverage offered under Section 1551.221.

16 (c) The board of trustees, at the time of initial enrollment
17 in the group benefits program and during subsequent open-enrollment
18 periods, shall inform employees and annuitants that they may make
19 an election described by Subsection (a), if eligible, and receive
20 any authorized incentive payment.

21 SECTION 4.04. Subchapter G, Chapter 1551, Insurance Code,
22 is amended by adding Section 1551.324 to read as follows:

23 Sec. 1551.324. REDUCTION IN CONTRIBUTION FOR CERTAIN ACTIVE
24 EMPLOYEES AND ANNUITANTS; INCENTIVE PAYMENTS.

25 (a) Notwithstanding any other provision of this subchapter, the
26 state contribution for an employee's coverage or an annuitant's
27 coverage under this chapter may be reduced, as provided in the

1 General Appropriations Act, to reflect the reduced cost of coverage
2 for an employee or annuitant who elects to waive basic coverage as
3 provided by Section 1551.1045(b) or (c).

4 (b) Instead of the full state contribution for an employee
5 or annuitant who makes an election described by Subsection (a), the
6 state may contribute, as specified by the General Appropriations
7 Act, an amount for the incentive payment authorized by Section
8 1551.222.

9 ARTICLE 5. EXTENDING STATE REIMBURSEMENT PROGRAM: PETROLEUM
10 STORAGE TANKS

11 SECTION 5.01. Subsection (f), Section 26.351, Water Code,
12 is amended to read as follows:

13 (f) The person performing corrective action under this
14 section, if the release was reported to the commission on or before
15 December 22, 1998, shall meet the following deadlines:

16 (1) a complete site assessment and risk assessment
17 (including, but not limited to, risk-based criteria for
18 establishing target concentrations), as determined by the
19 executive director, must be received by the agency no later than
20 September 1, 2002;

21 (2) a complete corrective action plan, as determined
22 by the executive director and including, but not limited to,
23 completion of pilot studies and recommendation of a cost-effective
24 and technically appropriate remediation methodology, must be
25 received by the agency no later than September 1, 2003. The person
26 may, in lieu of this requirement, submit by this same deadline a
27 demonstration that a corrective action plan is not required for the

1 site in question under commission rules. Such demonstration must
2 be to the executive director's satisfaction;

3 (3) for those sites found under Subdivision (2) to
4 require a corrective action plan, that plan must be initiated and
5 proceeding according to the requirements and deadlines in the
6 approved plan no later than March 1, 2004;

7 (4) for sites which require either a corrective action
8 plan or groundwater monitoring, a comprehensive and accurate annual
9 status report concerning those activities must be submitted to the
10 agency;

11 (5) for sites which require either a corrective action
12 plan or groundwater monitoring, all deadlines set by the executive
13 director concerning the corrective action plan or approved
14 groundwater monitoring plan shall be met; and

15 (6) for sites that require either a corrective action
16 plan or groundwater monitoring, have met all other deadlines under
17 this subsection, and have submitted annual progress reports that
18 demonstrate progress toward meeting closure requirements, a site
19 closure request must be submitted to [~~requests for all sites where~~]
20 the executive director [~~agreed in writing that no corrective action~~
21 ~~plan was required must be received by the agency~~] no later than
22 September 1, 2007 [~~2005~~]. The request must be complete, as judged
23 by the executive director.

24 SECTION 5.02. Subsection (b), Section 26.355, Water Code,
25 is amended to read as follows:

26 (b) An owner or operator of an underground or aboveground
27 storage tank from which a regulated substance is released is liable

1 to the state unless:

2 (1) the release was caused by:

3 (A) [~~(1)~~] an act of God;

4 (B) [~~(2)~~] an act of war;

5 (C) [~~(3)~~] the negligence of the State of
6 Texas or the United States; or

7 (D) [~~(4)~~] an act or omission of a third
8 party; or

9 (2) the site at which the release occurred has been
10 admitted into the petroleum storage tank state-lead program under
11 Section 26.3573(r-1).

12 SECTION 5.03. Subsection (b), Section 26.35731, Water Code,
13 is amended to read as follows:

14 (b) The commission has discretion whether to postpone
15 considering, processing, or paying [~~may not consider, process, or~~
16 ~~pay~~] a claim for reimbursement from the petroleum storage tank
17 remediation account for corrective action work begun without prior
18 commission approval after September 1, 1993, and filed with the
19 commission prior to January 1, 2005 [~~without prior commission~~
20 ~~approval until all claims for reimbursement for corrective action~~
21 ~~work preapproved by the commission have been considered, processed,~~
22 ~~and paid~~].

23 SECTION 5.04. Section 26.3573, Water Code, is amended by
24 amending Subsections (d), (r), and (s) and adding Subsection (r-1)
25 to read as follows:

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

1 (1) necessary expenses associated with the
2 administration of the petroleum storage tank remediation account
3 and the groundwater protection cleanup program[, ~~not to exceed an~~
4 ~~amount equal to: 11.8 percent of the gross receipts of that account~~
5 ~~for FY02/03, 16.40 percent of the gross receipts of that account for~~
6 ~~FY04/05, and 21.1 percent of the gross receipts of that account for~~
7 ~~FY06/07];~~

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

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

20 (r) Except as provided by Subsection (r-1), the [The]
21 petroleum storage tank remediation account may not be used to
22 reimburse any person for corrective action performed after
23 September 1, 2005.

24 (r-1) In this subsection, "state-lead program" means the
25 petroleum storage tank state-lead program administered by the
26 commission. The executive director shall grant an extension for
27 corrective action reimbursement to a person who is an eligible

1 owner or operator under Section 26.3571. The petroleum storage
2 tank remediation account may be used to reimburse an eligible owner
3 or operator for corrective action performed under an extension
4 before August 31, 2007. Not later than July 1, 2007, an eligible
5 owner or operator who is granted an extension under this subsection
6 may apply to the commission in writing using a form provided by the
7 commission to have the site subject to corrective action placed in
8 the state-lead program. The eligible owner or operator must agree
9 in the application to allow site access to state personnel and state
10 contractors as a condition of placement in the state-lead program
11 under this subsection. On receiving the application for placement
12 in the state-lead program under this subsection, the executive
13 director by order shall place the site in the state-lead program
14 until the corrective action is completed to the satisfaction of the
15 commission. An eligible owner or operator of a site that is placed
16 in the state-lead program under this subsection is not liable to the
17 commission for any costs related to the corrective action.

18 (s) The petroleum storage tank remediation account may not
19 be used to reimburse any person for corrective action contained in a
20 reimbursement claim filed with the commission after March 1, 2008
21 [2006].

22 SECTION 5.05. Subsection (b), Section 26.3574, Water Code,
23 is amended to read as follows:

24 (b) A fee is imposed on the delivery of a petroleum product
25 on withdrawal from bulk of that product as provided by this
26 subsection. Each operator of a bulk facility on withdrawal from
27 bulk of a petroleum product shall collect from the person who orders

1 the withdrawal a fee in an amount determined as follows:

2 (1) \$12.50 for each delivery into a cargo tank having a
3 capacity of less than 2,500 gallons for the state fiscal year
4 beginning September 1, 2001, and the state fiscal year beginning
5 September 1, 2002 [FY 02 and FY 03]; and \$10.00 for each delivery
6 into a cargo tank having a capacity of less than 2,500 gallons for
7 the state fiscal year beginning September 1, 2003, through the
8 state fiscal year ending August 31, 2007 [FY 04 and FY 05, \$5.00 for
9 each delivery into a cargo tank having a capacity of less than 2,500
10 gallons for FY 06, and \$2.00 for each delivery into a cargo tank
11 having a capacity of less than 2,500 gallons for FY 07];

12 (2) \$25.00 for each delivery into a cargo tank having a
13 capacity of 2,500 gallons or more but less than 5,000 gallons for
14 the state fiscal year beginning September 1, 2001, and the state
15 fiscal year beginning September 1, 2002 [FY 02 and FY 03]; and
16 \$20.00 for each delivery into a cargo tank having a capacity of
17 2,500 gallons or more but less than 5,000 gallons for the state
18 fiscal year beginning September 1, 2003, through the state fiscal
19 year ending August 31, 2007 [FY 04 and FY 05, \$10.00 for each
20 delivery into a cargo tank having a capacity of 2,500 gallons or
21 more but less than 5,000 gallons for FY 06, and \$4.00 for each
22 delivery into a cargo tank having a capacity of 2,500 gallons or
23 more but less than 5,000 gallons for FY 07];

24 (3) \$37.50 for each delivery into a cargo tank having a
25 capacity of 5,000 gallons or more but less than 8,000 gallons for
26 the state fiscal year beginning September 1, 2001, and the state
27 fiscal year beginning September 1, 2002 [FY 02 and FY 03]; and

1 \$30.00 for each delivery into a cargo tank having a capacity of
2 5,000 gallons or more but less than 8,000 gallons for the state
3 fiscal year beginning September 1, 2003, through the state fiscal
4 year ending August 31, 2007 [~~FY 04 and FY 05, \$15.00 for each~~
5 ~~delivery into a cargo tank having a capacity of 5,000 gallons or~~
6 ~~more but less than 8,000 gallons for FY 06, and \$6.00 for each~~
7 ~~delivery into a cargo tank having a capacity of 5,000 gallons or~~
8 ~~more but less than 8,000 gallons for FY 07]~~

9 (4) \$50.00 for each delivery into a cargo tank having a
10 capacity of 8,000 gallons or more but less than 10,000 gallons for
11 the state fiscal year beginning September 1, 2001, and the state
12 fiscal year beginning September 1, 2002 [~~FY 02 and FY 03]; and~~
13 \$40.00 for each delivery into a cargo tank having a capacity of
14 8,000 gallons or more but less than 10,000 gallons for the state
15 fiscal year beginning September 1, 2003, through the state fiscal
16 year ending August 31, 2007 [~~FY 04 and FY 05, \$20.00 for each~~
17 ~~delivery into a cargo tank having a capacity of 8,000 gallons or~~
18 ~~more but less than 10,000 gallons for FY 06, and \$8.00 for each~~
19 ~~delivery into a cargo tank having a capacity of 8,000 gallons or~~
20 ~~more but less than 10,000 gallons for FY 07]; and~~

21 (5) a \$25.00 fee for each increment of 5,000 gallons or
22 any part thereof delivered into a cargo tank having a capacity of
23 10,000 gallons or more for the state fiscal year beginning
24 September 1, 2001, and the state fiscal year beginning September 1,
25 2002 [~~FY 02 and FY 03]; and~~ \$20.00 for each increment of 5,000
26 gallons or any part thereof delivered into a cargo tank having a
27 capacity of 10,000 gallons or more for the state fiscal year

1 beginning September 1, 2003, through the state fiscal year ending
2 August 31, 2007 [~~FY 04 and FY 05, \$10.00 for each increment of 5,000~~
3 ~~gallons or any part thereof delivered into a cargo tank having a~~
4 ~~capacity of 10,000 gallons or more for FY 06, and \$4.00 for each~~
5 ~~increment of 5,000 gallons or any part thereof delivered into a~~
6 ~~cargo tank having a capacity of 10,000 gallons or more for FY 07].~~

7 SECTION 5.06. Section 26.361, Water Code, is amended to
8 read as follows:

9 Sec. 26.361. EXPIRATION OF REIMBURSEMENT PROGRAM.
10 Notwithstanding any other provision of this subchapter, the
11 reimbursement program established under this subchapter expires
12 September 1, 2008 [~~2006~~]. On or after September 1, 2008 [~~2006~~], the
13 commission may not use money from the petroleum storage tank
14 remediation account to reimburse an eligible owner or operator for
15 any expenses of corrective action or to pay the claim of a person
16 who has contracted with an eligible owner or operator to perform
17 corrective action.

18 SECTION 5.07. This article takes effect September 1, 2005.

19 ARTICLE 6. DRUG PURCHASING FOR STATE AGENCIES

20 SECTION 6.01. Subchapter B, Chapter 531, Government Code,
21 is amended by adding Section 531.080 to read as follows:

22 Sec. 531.080. JOINT PURCHASING OF PRESCRIPTION DRUGS AND
23 OTHER MEDICATIONS. (a) Subject to Subsection (b), the commission
24 and each health and human services agency authorized by the
25 executive commissioner may enter into an agreement with one or more
26 other states for the joint bulk purchasing of prescription drugs
27 and other medications to be used in the Medicaid program, the state

1 child health plan, or another program under the authority of the
2 commission.

3 (b) An agreement under this section may not be entered into
4 until:

5 (1) the commission determines that entering into the
6 agreement would be feasible and cost-effective; and

7 (2) if appropriated money would be spent under the
8 proposed agreement, the governor and the Legislative Budget Board
9 grant prior approval to expend appropriated money under the
10 proposed agreement.

11 (c) If an agreement is entered into, the commission shall
12 adopt procedures applicable to an agreement and joint purchase
13 required by this section. The procedures must ensure that this
14 state receives:

15 (1) all prescription drugs and other medications
16 purchased with money provided by this state; and

17 (2) an equitable share of any price benefits resulting
18 from the joint bulk purchase.

19 (d) In determining the feasibility and cost-effectiveness
20 of entering into an agreement under this section, the commission
21 shall identify:

22 (1) the most cost-effective existing joint bulk
23 purchasing agreement; and

24 (2) any potential groups of states with which this
25 state could enter into a new cost-effective joint bulk purchasing
26 agreement.

27 SECTION 6.02. Not later than January 15, 2006, the Health

1 and Human Services Commission shall determine the feasibility and
2 cost-effectiveness of entering into an agreement under Section
3 531.080, Government Code, as added by this article. If the
4 commission determines that such action is feasible and
5 cost-effective, the commission shall take action to enter into an
6 agreement that takes effect March 1, 2006.

7 SECTION 6.03. If before implementing any provision of this
8 article a state agency determines that a waiver or authorization
9 from a federal agency is necessary for implementation of that
10 provision, the agency affected by the provision shall request the
11 waiver or authorization and may delay implementing that provision
12 until the waiver or authorization is granted.

13 ARTICLE 7. CONTINUATION OF QUALITY ASSURANCE FEES

14 SECTION 7.01. Section 252.209, Health and Safety Code, is
15 repealed.

16 ARTICLE 8. TEXAS MOBILITY FUND

17 SECTION 8.01. Subchapter M, Chapter 201, Transportation
18 Code, is amended by adding Section 201.9471 to read as follows:

19 Sec. 201.9471. TEMPORARY DISPOSITION OF MONEY ALLOCATED TO
20 FUND. (a) Notwithstanding Sections 521.058, 521.313, 521.3466,
21 521.427, 522.029, 524.051, and 724.046, to the extent that those
22 sections allocate money to the Texas mobility fund, in state fiscal
23 year 2006 the comptroller shall deposit that money to the credit of
24 the general revenue fund instead of to the credit of the Texas
25 mobility fund.

26 (b) Notwithstanding Sections 521.313, 521.3466, 521.427,
27 522.029, 524.051, and 724.046, to the extent that those sections

1 allocate money to the Texas mobility fund, in state fiscal year 2007
2 the comptroller shall deposit that money to the credit of the
3 general revenue fund instead of to the credit of the Texas mobility
4 fund.

5 (c) This section expires January 1, 2008.

6 SECTION 8.02. This article takes effect September 1, 2005.

7 ARTICLE 9. TELECOMMUNICATIONS INFRASTRUCTURE FUND

8 SECTION 9.01. Section 57.048, Utilities Code, is amended by
9 adding Subsections (f) through (i) to read as follows:

10 (f) Notwithstanding any other provision of this title, a
11 certificated telecommunications utility may recover from the
12 utility's customers an assessment imposed on the utility under this
13 subchapter after the total amount deposited to the credit of the
14 fund, excluding interest and loan repayments, is equal to \$1.5
15 billion, as determined by the comptroller. A certificated
16 telecommunications utility may recover only the amount of the
17 assessment imposed after the total amount deposited to the credit
18 of the fund, excluding interest and loan repayments, is equal to
19 \$1.5 billion, as determined by the comptroller. The utility may
20 recover the assessment through a monthly billing process.

21 (g) The comptroller shall publish in the Texas Register the
22 date on which the total amount deposited to the credit of the fund,
23 excluding interest and loan repayments, is equal to \$1.5 billion.

24 (h) Not later than February 15 of each year, a certificated
25 telecommunications utility that wants to recover the assessment
26 under Subsection (f) shall file with the commission an affidavit or
27 affirmation stating the amount that the utility paid to the

1 comptroller under this section during the previous calendar year
2 and the amount the utility recovered from its customers in
3 cumulative payments during that year.

4 (i) The commission shall maintain the confidentiality of
5 information the commission receives under this section that is
6 claimed to be confidential for competitive purposes. The
7 confidential information is exempt from disclosure under Chapter
8 552, Government Code.

9 SECTION 9.02. Section 57.0485, Utilities Code, is amended
10 to read as follows:

11 Sec. 57.0485. ALLOCATION OF REVENUE [ACCOUNTS]. [~~(a)~~] The
12 comptroller shall deposit [~~50 percent of~~] the money collected by
13 the comptroller under Section 57.048 to the credit of the general
14 revenue fund [~~public schools account in the fund. The comptroller~~
15 ~~shall deposit the remainder of the money collected by the~~
16 ~~comptroller under Section 57.048 to the credit of the qualifying~~
17 ~~entities account in the fund.~~

18 [~~(b) Interest earned on money in an account shall be~~
19 ~~deposited to the credit of that account].~~

20 SECTION 9.03. Section 57.051, Utilities Code, is amended to
21 read as follows:

22 Sec. 57.051. SUNSET PROVISION. The Telecommunications
23 Infrastructure Fund [~~Board~~] is subject to Chapter 325, Government
24 Code (Texas Sunset Act). Unless continued in existence as provided
25 by that chapter, [~~the board is abolished and~~] this subchapter
26 expires September 1, 2011 [~~2005~~].

27 SECTION 9.04. Section 57.043 and Subsections (c) and (d),

1 Section 57.048, Utilities Code, are repealed.

2 SECTION 9.05. If, on the day before the effective date of
3 this article, the assessment prescribed by Section 57.048,
4 Utilities Code, is imposed at a rate of less than 1.25 percent, the
5 comptroller of public accounts shall, on the effective date of this
6 article, reset the rate of the assessment to 1.25 percent.

7 SECTION 9.06. This article takes effect July 1, 2005, if
8 this Act receives a vote of two-thirds of all the members elected to
9 each house, as provided by Section 39, Article III, Texas
10 Constitution. If this Act does not receive the vote necessary for
11 effect on that date, this article takes effect September 1, 2005.

12 ARTICLE 10. COLLECTION OF CERTAIN COSTS, FEES, AND FINES
13 IN CRIMINAL CASES

14 SECTION 10.01. Chapter 103, Code of Criminal Procedure, is
15 amended by adding Article 103.0033 to read as follows:

16 Art. 103.0033. COLLECTION IMPROVEMENT PROGRAM. (a) In
17 this article:

18 (1) "Office" means the Office of Court Administration
19 of the Texas Judicial System.

20 (2) "Program" means the program to improve the
21 collection of court costs, fees, and fines imposed in criminal
22 cases, as developed and implemented under this article.

23 (b) This article applies only to:

24 (1) a county with a population of 50,000 or greater;
25 and

26 (2) a municipality with a population of 100,000 or
27 greater.

1 (c) Unless granted a waiver under Subsection (h), each
2 county and municipality shall develop and implement a program that
3 complies with the prioritized implementation schedule under
4 Subsection (h). A county program must include district, county,
5 and justice courts.

6 (d) The program must consist of:

7 (1) a component that conforms with a model developed
8 by the office and designed to improve in-house collections through
9 application of best practices; and

10 (2) a component designed to improve collection of
11 balances more than 60 days past due, which may be implemented by
12 entering into a contract with a private attorney or public or
13 private vendor in accordance with Article 103.0031.

14 (e) Not later than June 1 of each year, the office shall
15 identify those counties and municipalities that:

16 (1) have not implemented a program; and

17 (2) are able to implement a program before April 1 of
18 the following year.

19 (f) The comptroller, in cooperation with the office, shall
20 develop a methodology for determining the collection rate of
21 counties and municipalities described by Subsection (e) before
22 implementation of a program. The comptroller shall determine the
23 rate for each county and municipality not later than the first
24 anniversary of the county's or municipality's adoption of a
25 program.

26 (g) The office shall:

27 (1) make available on the office's Internet website

1 requirements for a program; and

2 (2) assist counties and municipalities in
3 implementing a program by providing training and consultation,
4 except that the office may not provide employees for implementation
5 of a program.

6 (h) The office, in consultation with the comptroller, may:

7 (1) use case dispositions, population, revenue data,
8 or other appropriate measures to develop a prioritized
9 implementation schedule for programs; and

10 (2) determine whether it is not cost-effective to
11 implement a program in a county or municipality and grant a waiver
12 to the county or municipality.

13 (i) Each county and municipality shall at least annually
14 submit to the office and the comptroller a written report that
15 includes updated information regarding the program, as determined
16 by the office in cooperation with the comptroller. The report must
17 be in a form approved by the office in cooperation with the
18 comptroller.

19 (j) The comptroller shall periodically audit counties and
20 municipalities to verify information reported under Subsection (i)
21 and confirm that the county or municipality is conforming with
22 requirements relating to the program. The comptroller shall
23 consult with the office in determining how frequently to conduct
24 audits under this section.

25 SECTION 10.02. Section 133.058, Local Government Code, is
26 amended by adding Subsection (e) to read as follows:

27 (e) A municipality or county may not retain a service fee

1 if, during an audit under Section 133.059 of this code or Article
2 103.0033(j), Code of Criminal Procedure, the comptroller
3 determines that the municipality or county is not in compliance
4 with Article 103.0033, Code of Criminal Procedure. The
5 municipality or county may continue to retain a service fee under
6 this section on receipt of a written confirmation from the
7 comptroller that the municipality or county is in compliance with
8 Article 103.0033, Code of Criminal Procedure.

9 SECTION 10.03. Section 133.103, Local Government Code, is
10 amended by amending Subsections (b) and (c) and adding Subsection
11 (c-1) to read as follows:

12 (b) Except as provided by Subsection (c-1), the [The]
13 treasurer shall send 50 percent of the fees collected under this
14 section to the comptroller. The comptroller shall deposit the fees
15 received to the credit of the general revenue fund.

16 (c) Except as provided by Subsection (c-1), the [The]
17 treasurer shall deposit 10 percent of the fees collected under this
18 section in the general fund of the county or municipality for the
19 purpose of improving the efficiency of the administration of
20 justice in the county or municipality. The county or municipality
21 shall prioritize the needs of the judicial officer who collected
22 the fees when making expenditures under this subsection and use the
23 money deposited to provide for those needs.

24 (c-1) The treasurer shall send 100 percent of the fees
25 collected under this section to the comptroller if, during an audit
26 under Section 133.059 of this code or Article 103.0033(j), Code of
27 Criminal Procedure, the comptroller determines that the

1 municipality or county is not in compliance with Article 103.0033,
2 Code of Criminal Procedure. The municipality or county shall
3 continue to dispose of fees as otherwise provided by this section on
4 receipt of a written confirmation from the comptroller that the
5 municipality or county is in compliance with Article 103.0033, Code
6 of Criminal Procedure.

7 SECTION 10.04. (a) Notwithstanding Subsection (e),
8 Article 103.0033, Code of Criminal Procedure, as added by this
9 article, not later than September 1, 2005, the Office of Court
10 Administration of the Texas Judicial System shall identify those
11 counties and municipalities that are able to implement a collection
12 improvement program under Article 103.0033, Code of Criminal
13 Procedure, as added by this article, before April 1, 2006.
14 Beginning June 1, 2006, the Office of Court Administration of the
15 Texas Judicial System shall comply with Subsection (e), Article
16 103.0033, Code of Criminal Procedure, as added by this article.

17 (b) Not later than September 1, 2005, the Office of Court
18 Administration of the Texas Judicial System shall make available on
19 the office's Internet website requirements for a program under
20 Article 103.0033, Code of Criminal Procedure, as added by this
21 article, in accordance with Subsection (g) of Article 103.0033.

22 ARTICLE 11. INTEREST ON CERTAIN TAX REFUNDS

23 SECTION 11.01. Section 111.064, Tax Code, is amended by
24 amending Subsections (a), (c), and (f) and adding Subsection (c-1)
25 to read as follows:

26 (a) Except as otherwise provided by this section, for a
27 refund under this chapter [~~Subsections (b) and (c), in a~~]

1 ~~comptroller's final decision on a claim for refund or in an audit],~~
2 interest is at the rate that is the lesser of the annual rate of
3 interest earned on deposits in the state treasury during December
4 of the previous calendar year, as determined by the comptroller, or
5 the rate set in Section 111.060, and accrues on the amount found to
6 be erroneously paid for a period:

7 (1) beginning on the later of 60 days after the date of
8 payment or the due date of the tax report; and

9 (2) ending on, as determined by the comptroller,
10 either the date of allowance of credit on account of the
11 comptroller's final decision or audit or a date not more than 10
12 days before the date of the refund warrant.

13 (c) For a refund claimed before September 1, 2005, and
14 granted for a report period due on or after January 1, 2000, the
15 rate of interest is the rate set in Section 111.060 [~~granted for a~~
16 ~~report period due on or after January 1, 2000, the rate of interest~~
17 ~~is the rate set in Section 111.060~~].

18 (c-1) A refund, without regard to the date claimed, for a
19 report period due before January 1, 2000, does not accrue interest.

20 (f) A local revenue fund is not subject to Subsections
21 (a)-(c-1) [~~(a)-(c)~~]. In this subsection, "local revenue fund"
22 includes a court cost, a fee, a fine, or a similar charge collected
23 by a municipality, a county, or a court of this state and remitted
24 to the comptroller.

25 SECTION 11.02. This article takes effect September 1, 2005.

26 ARTICLE 12. PUBLIC SCHOOL FACILITIES

27 SECTION 12.01. Section 46.033, Education Code, is amended

1 to longevity pay under this subchapter:

2 (1) a member of the legislature;

3 (2) an individual who holds a statewide office that is
4 normally filled by vote of the people;

5 (3) an independent contractor or an employee of an
6 independent contractor;

7 (4) a temporary employee;

8 (5) an officer or employee of a public junior college;

9 [~~or~~]

10 (6) an academic employee of a state institution of
11 higher education; or

12 (7) a state employee who retired from state employment
13 on or after June 1, 2005, and who receives an annuity based wholly
14 or partly on service as a state officer or state employee in a
15 public retirement system, as defined by Section 802.001, that was
16 credited to the state employee.

17 SECTION 13.02. Subsection (a), Section 659.043, Government
18 Code, is amended to read as follows:

19 (a) A state employee is entitled to longevity pay to be
20 included in the employee's monthly compensation if the employee:

21 (1) is a full-time state employee on the first workday
22 of the month;

23 (2) is not on leave without pay on the first workday of
24 the month; and

25 (3) has accrued at least two [~~three~~] years of lifetime
26 service credit not later than the last day of the preceding month.

27 SECTION 13.03. Section 659.044, Government Code, as amended

1 by Section 32, Chapter 1158, Acts of the 77th Legislature, Regular
2 Session, 2001, and Section 104, Chapter 1158, Acts of the 77th
3 Legislature, Regular Session, 2001, is reenacted and amended to
4 read as follows:

5 Sec. 659.044. AMOUNT. (a) Except as provided by
6 Subsections [~~Subsection~~] (e) and (f), the monthly amount of
7 longevity pay is \$20 for every two [~~three~~] years of lifetime service
8 credit.

9 (b) The amount increases when the 4th, 6th, 8th [~~9th~~], 10th,
10 12th, 14th [~~15th~~], 16th, 18th, 20th [~~21st~~], 22nd, 24th, 26th
11 [~~27th~~], 28th, 30th, 32nd [~~33rd~~], 34th, 36th, 38th [~~39th~~], 40th, and
12 42nd years of lifetime service credit are accrued.

13 (c) An increase is effective beginning with the month
14 following the month in which the 4th, 6th, 8th [~~9th~~], 10th, 12th,
15 14th [~~15th~~], 16th, 18th, 20th [~~21st~~], 22nd, 24th, 26th [~~27th~~],
16 28th, 30th, 32nd [~~33rd~~], 34th, 36th, 38th [~~39th~~], 40th, and 42nd
17 years of lifetime service credit are accrued.

18 (d) An employee may not receive from the state as longevity
19 pay more than the amount determined under Subsection (a) or (e), as
20 applicable, regardless of the number of positions the employee
21 holds or the number of hours the employee works each week.

22 (e) This subsection applies only to an employee of the Texas
23 Youth Commission who is receiving less than the maximum amount of
24 hazardous duty pay that the commission may pay to the employee under
25 Section 659.303. The employee's monthly amount of longevity pay is
26 the sum of:

27 (1) \$4 for each year of lifetime service credit, which

1 may not include any period served in a hazardous duty position; and

2 (2) the lesser of:

3 (A) \$4 for each year served in a hazardous duty
4 position; or

5 (B) the difference between:

6 (i) \$7 for each year served in a hazardous
7 duty position; and

8 (ii) the amount paid by the commission for
9 each year served in a hazardous duty position.

10 (f) A state employee who retired from state employment
11 before June 1, 2005, and who returned to state employment before
12 September 1, 2005, is entitled to receive longevity pay. The
13 monthly amount of longevity pay the employee is entitled to receive
14 equals the amount of longevity pay the employee was entitled to
15 receive immediately before September 1, 2005. A state employee who
16 retired from state employment before June 1, 2005, and who returns
17 to state employment on or after September 1, 2005, is not entitled
18 to receive longevity pay.

19 SECTION 13.04. Section 659.126, Government Code, is amended
20 to read as follows:

21 Sec. 659.126. LOSS OF ELIGIBILITY TO RECEIVE BENEFIT
22 REPLACEMENT PAY. (a) An eligible state employee who leaves state
23 employment after August 31, 1995, for at least 30 consecutive days
24 [~~12 consecutive months~~], on returning to state employment or on
25 assuming a state office, is ineligible to receive benefit
26 replacement pay.

27 (b) An eligible state-paid judge who leaves office after

1 August 31, 1995, for at least 30 consecutive days [~~12 consecutive~~
2 ~~months~~], on return to state office or on accepting a state
3 employment, is ineligible to receive benefit replacement pay.

4 (c) For purposes of Subsection (a), a state employee is not
5 considered to have left state employment:

6 (1) while the state employee is on an unpaid leave of
7 absence as provided by Section 661.909; or

8 (2) during a period of time the employee is not working
9 for the state because the employee's employment with the state
10 customarily does not include that period of time, such as a teacher
11 whose employment does not invariably include the summer months.

12 (d) An eligible state employee who retired from state
13 employment on or after June 1, 2005, and who receives an annuity
14 based wholly or partly on service as a state officer or state
15 employee in a public retirement system, as defined by Section
16 802.001, that was credited to the state employee is ineligible to
17 receive benefit replacement pay.

18 SECTION 13.05. Section 661.152, Government Code, is amended
19 by adding Subsection (1) to read as follows:

20 (1) For purposes of computing vacation leave under
21 Subsection (d) for a state employee who retired from state
22 employment on or after June 1, 2005, and who receives an annuity
23 based wholly or partly on service as a state officer or state
24 employee in a public retirement system, as defined by Section
25 802.001, that was credited to the state employee, years of total
26 state employment includes only the length of state employment after
27 the date the state employee retired.

1 SECTION 13.06. Subsections (a), (b), (c), and (g), Section
2 659.305, Government Code, are amended to read as follows:

3 (a) Except as provided by Subsection (b), the amount of a
4 full-time state employee's hazardous duty pay for a particular
5 month is the lesser of:

6 (1) \$10 [~~\$7~~] for each 12-month period of lifetime
7 service credit accrued by the employee; or

8 (2) \$300 [~~\$210~~].

9 (b) This subsection applies only to a state employee whose
10 compensation for services provided to the state during any month
11 before August 1987 included hazardous duty pay that was based on
12 total state service performed before May 29, 1987. The amount of a
13 full-time state employee's hazardous duty pay for a particular
14 month is the sum of:

15 (1) \$10 [~~\$7~~] for each 12-month period of state service
16 credit the employee finished accruing before May 29, 1987; and

17 (2) \$10 [~~\$7~~] for each 12-month period of lifetime
18 service credit that the employee accrued after the date, which must
19 be before May 29, 1987, on which the employee finished accruing the
20 last 12-month period of state service credit.

21 (c) The amount determined under Subsection (b)(2) may not
22 exceed \$300 [~~\$210~~].

23 (g) A state employee may not receive more than \$10 [~~\$7~~] for
24 each 12-month period of lifetime service credit, regardless of:

25 (1) the number of positions the employee holds; or

26 (2) the number of hours the employee works each week.

27 SECTION 13.07. (a) Except as provided by Subsection (b) of

1 this section, the change in law made by this article to Section
2 659.126, Government Code, applies only to a state employee who
3 leaves state employment on or after the effective date of this
4 article. A state employee who leaves state employment before the
5 effective date of this article is governed by the law as it existed
6 on the date the employee left state employment and the former law is
7 continued in effect for that purpose.

8 (b) A state employee who leaves state employment before the
9 effective date of this article is ineligible to receive benefit
10 replacement pay unless the employee returns to state employment
11 before September 30, 2005.

12 SECTION 13.08. This article takes effect September 1, 2005.

13 ARTICLE 14. SYSTEM BENEFIT FUND

14 SECTION 14.01. Subsection (h), Section 39.903, Utilities
15 Code, is amended to read as follows:

16 (h) The commission shall adopt rules for a retail electric
17 provider to determine a reduced rate for eligible customers to be
18 discounted off the standard retail service package as approved by
19 the commission under Section 39.106, or the price to beat
20 established by Section 39.202, whichever is lower. Municipally
21 owned utilities and electric cooperatives shall establish a reduced
22 rate for eligible customers to be discounted off the standard
23 retail service package established under Section 40.053 or 41.053,
24 as appropriate. The reduced rate for a retail electric provider
25 shall result in a total charge that is at least 10 percent and, if
26 sufficient money in the system benefit fund is available, up to 20
27 percent, lower than the amount the customer would otherwise be

1 charged. To the extent the system benefit fund is insufficient to
2 fund the initial 10 percent rate reduction, the commission may
3 increase the fee to an amount not more than 65 cents per megawatt
4 hour, as provided by Subsection (b). If the fee is set at 65 cents
5 per megawatt hour or if the commission determines that
6 appropriations are insufficient to fund the 10 percent rate
7 reduction, the commission may reduce the rate reduction to less
8 than 10 percent. For a municipally owned utility or electric
9 cooperative, the reduced rate shall be equal to an amount that can
10 be fully funded by that portion of the nonbypassable fee proceeds
11 paid by the municipally owned utility or electric cooperative that
12 is allocated to the utility or cooperative by the commission under
13 Subsection (e) for programs for low-income customers of the utility
14 or cooperative. The reduced rate for municipally owned utilities
15 and electric cooperatives under this section is in addition to any
16 rate reduction that may result from local programs for low-income
17 customers of the municipally owned utilities or electric
18 cooperatives.

19 ARTICLE 15. FUNDING OF THE COASTAL PROTECTION FUND AND THE USE OF
20 MONEY IN THE FUND

21 SECTION 15.01. Section 40.152, Natural Resources Code, is
22 amended by adding Subsection (c) to read as follows:

23 (c) Notwithstanding Subsection (a)(9) and the other
24 provisions of this subchapter, the legislature may appropriate to
25 the General Land Office for implementation of the coastal
26 management program under Subchapter F, Chapter 33, and for erosion
27 response projects under Subchapter H, Chapter 33, money from the

1 fund in an amount that exceeds the amount of interest accruing to
2 the fund annually. This subsection expires September 1, 2007.

3 SECTION 15.02. Subsections (a) through (d), Section 40.155,
4 Natural Resources Code, are amended to read as follows:

5 (a) Except as otherwise provided in this section, the rate
6 of the fee shall be 1-1/3 cents [~~two cents~~] per barrel of crude oil
7 until the commissioner certifies that the unencumbered balance in
8 the fund has reached \$20 [~~\$25~~] million. The commissioner shall
9 certify to the comptroller the date on which the unencumbered
10 balance in the fund exceeds \$20 [~~\$25~~] million. The fee shall not be
11 collected or required to be paid on or after the first day of the
12 second month following the commissioner's certification to the
13 comptroller that the unencumbered balance in the fund exceeds \$20
14 [~~\$25~~] million.

15 (b) If the unencumbered balance in the fund falls below \$10
16 [~~\$14~~] million, the commissioner shall certify such fact to the
17 comptroller. On receiving the commissioner's certification, the
18 comptroller shall resume collecting the fee until suspended in the
19 manner provided in Subsection (a) of this section.

20 (c) Notwithstanding the provisions of Subsection (a) or (b)
21 of this section, the fee shall be levied at the rate of four cents
22 per barrel if the commissioner certifies to the comptroller a
23 written finding of the following facts:

24 (1) the unencumbered balance in the fund is less than
25 \$20 [~~\$25~~] million;

26 (2) an unauthorized discharge of oil in excess of
27 100,000 gallons has occurred within the previous 30 days; and

1 (3) expenditures from the fund for response costs and
2 damages are expected to deplete the fund substantially.

3 (d) In the event of a certification to the comptroller under
4 Subsection (c) of this section, the comptroller shall collect the
5 fee at the rate of four cents per barrel until the unencumbered
6 balance in the fund reaches \$20 [~~\$25~~] million or any lesser amount
7 that the commissioner determines is necessary to pay response costs
8 and damages without substantially depleting the fund. The
9 commissioner shall certify to the comptroller the date on which the
10 unencumbered balance in the fund exceeds \$20 [~~\$25~~] million or such
11 other lesser amount. The fee shall not be collected or required to
12 be paid on or after the first day of the second month following the
13 commissioner's certification to the comptroller.

14 ARTICLE 16. REIMBURSEMENT OF EXCESSIVE OR
15 UNFAIRLY DISCRIMINATORY RATES CHARGED BY CERTAIN INSURERS

16 SECTION 16.01. Article 5.144, Insurance Code, is amended by
17 amending Subsection (b) and adding Subsections (b-1) and (b-2) to
18 read as follows:

19 (b) Except as provided by Subsection (d) of this article, if
20 the commissioner determines that an insurer has charged a rate for
21 personal automobile insurance or residential property insurance
22 that is excessive or unfairly discriminatory, as described by
23 Article 5.13-2 [~~or 5.101~~] of this code, the commissioner may order
24 the insurer to:

25 (1) issue a refund of the excessive or unfairly
26 discriminatory portion of the premium, plus interest on that
27 amount, directly to each affected policyholder if the amount of

1 that portion of the premium is at least 7.5 percent of the total
2 premium charged for the coverage; or

3 (2) if the amount of that portion of the premium is
4 less than 7.5 percent:

5 (A) provide each affected policyholder who
6 renews the policy a future premium discount in the amount of the
7 excessive or unfairly discriminatory portion of the premium, plus
8 interest on that amount; and

9 (B) provide each affected policyholder who does
10 not renew or whose coverage is otherwise terminated a refund in the
11 amount described by Subdivision (1) of this subsection.

12 (b-1) The rate for interest assessed under Subsection (b) of
13 this article is the prime rate for the calendar year in which the
14 order is issued plus six percent. For purposes of this subsection,
15 the prime rate is the prime rate as published in The Wall Street
16 Journal for the first day of the calendar year that is not a
17 Saturday, Sunday, or legal holiday. The interest accrues beginning
18 on the date on which the department first provides the insurer with
19 formal written notice that the insurer's filed rate is excessive or
20 unfairly discriminatory, as determined by the commissioner, and
21 continues to accrue until the refund is paid. An insurer may not be
22 required to pay any interest penalty or refund if the insurer
23 prevails in a final appeal of the commissioner's order under
24 Subchapter D, Chapter 36 of this code.

25 (b-2) An insurer may not claim a premium tax credit to which
26 the insurer is otherwise entitled unless the insurer has complied
27 with this article.

1 ARTICLE 17. CERTAIN PROVISIONS RELATING TO RETIREMENT SYSTEM

2 CONTRIBUTIONS AND BENEFITS FOR RETIRED SCHOOL EMPLOYEES

3 SECTION 17.01. Subsection (a), Section 825.404, Government
4 Code, is amended to read as follows:

5 (a) During each fiscal year, the state shall contribute to
6 the retirement system an amount equal to at least six and not more
7 than 10 [~~eight~~] percent of the aggregate annual compensation of all
8 members of the retirement system during that fiscal year.

9 SECTION 17.02. Subsection (a), Section 1575.203, Insurance
10 Code, is amended to read as follows:

11 (a) Each state fiscal year, each active employee shall, as a
12 condition of employment, contribute to the fund an amount equal to
13 0.65 [~~0.5~~] percent of the employee's salary.

14 SECTION 17.03. The change in law made by this article to
15 Section 1575.203, Insurance Code, takes effect September 1, 2005.

16 ARTICLE 18. COMPENSATION SUPPLEMENTATION FOR CERTAIN SCHOOL
17 EMPLOYEES

18 SECTION 18.01. Subsections (a), (b), (c), (i), and (j),
19 Section 22.004, Education Code, are amended to read as follows:

20 (a) A district shall participate in the uniform group
21 coverage program established under Chapter 1579 [~~Article 3.50-7~~],
22 Insurance Code, as provided by Subchapter D [~~Section 5~~] of that
23 chapter [~~article~~].

24 (b) A district that does not participate in the program
25 described by Subsection (a) shall make available to its employees
26 group health coverage provided by a risk pool established by one or
27 more school districts under Chapter 172, Local Government Code, or

1 under a policy of insurance or group contract issued by an insurer,
2 a company subject to Chapter 842, Insurance Code, or a health
3 maintenance organization under Chapter 843, Insurance Code. The
4 coverage must meet the substantive coverage requirements of Chapter
5 1251, Subchapter A, Chapter 1364, and Subchapter A, Chapter 1366
6 ~~[Article 3.51-6]~~, Insurance Code, and any other law applicable to
7 group health insurance policies or contracts issued in this state.
8 The coverage must include major medical treatment but may exclude
9 experimental procedures. In this subsection, "major medical
10 treatment" means a medical, surgical, or diagnostic procedure for
11 illness or injury. The coverage may include managed care or
12 preventive care and must be comparable to the basic health coverage
13 provided under Chapter 1551, Insurance Code. The board of trustees
14 of the Teacher Retirement System of Texas shall adopt rules to
15 determine whether a school district's group health coverage is
16 comparable to the basic health coverage specified by this
17 subsection. The rules must provide for consideration of the
18 following factors concerning the district's coverage in
19 determining whether the district's coverage is comparable to the
20 basic health coverage specified by this subsection:

21 (1) the deductible amount for service provided inside
22 and outside of the network;

23 (2) the coinsurance percentages for service provided
24 inside and outside of the network;

25 (3) the maximum amount of coinsurance payments a
26 covered person is required to pay;

27 (4) the amount of the copayment for an office visit;

1 (5) the schedule of benefits and the scope of
2 coverage;

3 (6) the lifetime maximum benefit amount; and

4 (7) verification that the coverage is issued by a
5 provider licensed to do business in this state by the Texas
6 Department of Insurance or is provided by a risk pool authorized
7 under Chapter 172, Local Government Code, or that a district is
8 capable of covering the assumed liabilities in the case of coverage
9 provided through district self-insurance.

10 (c) The cost of the coverage provided under the program
11 described by Subsection (a) shall be paid by the state, the
12 district, and the employees in the manner provided by Subchapter F,
13 Chapter 1579 [~~Article 3.50-7~~], Insurance Code. The cost of
14 coverage provided under a plan adopted under Subsection (b) shall
15 be shared by the employees and the district using the contributions
16 by the state described by Subchapter F, Chapter 1579 [~~Section 9,~~
17 ~~Article 3.50-7~~], Insurance Code, or Subchapter D [~~by Article~~
18 ~~3.50-8, Insurance Code~~].

19 (i) Notwithstanding any other provision of this section, a
20 district participating in the uniform group coverage program
21 established under Chapter 1579 [~~Article 3.50-7~~], Insurance Code,
22 may not make group health coverage available to its employees under
23 this section after the date on which the program of coverages
24 provided under Chapter 1579 [~~Article 3.50-7~~], Insurance Code, is
25 implemented.

26 (j) This section does not preclude a district that is
27 participating in the uniform group coverage program established

1 under Chapter 1579 [~~Article 3.50-7~~], Insurance Code, from entering
2 into contracts to provide optional insurance coverages for the
3 employees of the district.

4 SECTION 18.02. Chapter 22, Education Code, is amended by
5 adding Subchapter D to read as follows:

6 SUBCHAPTER D. COMPENSATION SUPPLEMENTATION

7 Sec. 22.101. DEFINITIONS. In this subchapter:

8 (1) "Cafeteria plan" means a plan as defined and
9 authorized by Section 125, Internal Revenue Code of 1986.

10 (2) "Employee" means an active, contributing member of
11 the Teacher Retirement System of Texas who:

12 (A) is employed by a district, other educational
13 district whose employees are members of the Teacher Retirement
14 System of Texas, participating charter school, or regional
15 education service center;

16 (B) is not a retiree eligible for coverage under
17 the program established under Chapter 1575, Insurance Code;

18 (C) is not eligible for coverage by a group
19 insurance program under Chapter 1551 or 1601, Insurance Code; and

20 (D) is not an individual performing personal
21 services for a district, other educational district that is a
22 member of the Teacher Retirement System of Texas, participating
23 charter school, or regional education service center as an
24 independent contractor.

25 (3) "Participating charter school" means an
26 open-enrollment charter school established under Subchapter D,
27 Chapter 12, that participates in the program established under

1 Chapter 1579, Insurance Code.

2 (4) "Regional education service center" means a
3 regional education service center established under Chapter 8.

4 Sec. 22.102. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY.

5 (a) The agency may adopt rules to implement this subchapter.

6 (b) The agency may enter into interagency contracts with any
7 other agency of this state for the purpose of assistance in
8 implementing this subchapter.

9 Sec. 22.103. ELIGIBILITY; WAITING PERIOD. A person is not
10 eligible for a monthly distribution under this subchapter before
11 the 91st day after the first day the person becomes an employee.

12 Sec. 22.104. DISTRIBUTION BY AGENCY. Subject to the
13 availability of funds, each month the agency shall deliver to each
14 district, including a district that is ineligible for state aid
15 under Chapter 42, each other educational district that is a member
16 of the Teacher Retirement System of Texas, each participating
17 charter school, and each regional education service center state
18 funds in an amount, as determined by the agency, equal to the
19 product of the number of eligible employees employed by the
20 district, school, or service center multiplied by the amount
21 specified in the General Appropriations Act for purposes of this
22 subchapter and divided by 12. The agency shall distribute funding
23 to only one entity for employees who are employed by more than one
24 entity listed in this section.

25 Sec. 22.105. FUNDS HELD IN TRUST. All funds received by a
26 district, other educational district, participating charter
27 school, or regional education service center under this subchapter

1 are held in trust for the benefit of the employees on whose behalf
2 the district, school, or service center received the funds.

3 Sec. 22.106. RECOVERY OF DISTRIBUTIONS. The agency is
4 entitled to recover from a district, other educational district,
5 participating charter school, or regional education service center
6 any amount distributed under this subchapter to which the district,
7 school, or service center was not entitled.

8 Sec. 22.107. DETERMINATION BY AGENCY FINAL. A
9 determination by the agency under this subchapter is final and may
10 not be appealed.

11 Sec. 22.108. DISTRIBUTION BY SCHOOL. Each month, each
12 district, other educational district that is a member of the
13 Teacher Retirement System of Texas, participating charter school,
14 and regional education service center must distribute to its
15 eligible employees the funding received under this subchapter. To
16 receive the monthly distribution, an individual must meet the
17 definition of an employee under Section 22.101 for that month.

18 Sec. 22.109. USE OF SUPPLEMENTAL COMPENSATION. An employee
19 may use a monthly distribution received under this subchapter for
20 any employee benefit, including depositing the amount of the
21 distribution into a cafeteria plan, if the employee is enrolled in a
22 cafeteria plan, or using the amount of the distribution for health
23 care premiums through a premium conversion plan. The employee may
24 take the amount of the distribution as supplemental compensation.

25 Sec. 22.110. SUPPLEMENTAL COMPENSATION. An amount
26 distributed to an employee under this subchapter must be in
27 addition to the rate of compensation that:

1 (1) the district, other educational district,
2 participating charter school, or regional education service center
3 paid the employee in the preceding school year; or

4 (2) the district, school, or service center would have
5 paid the employee in the preceding school year if the employee had
6 been employed by the district, school, or service center in the same
7 capacity in the preceding school year.

8 SECTION 18.03. Subsection (c), Section 822.201, Government
9 Code, is amended to read as follows:

10 (c) Excluded from salary and wages are:

11 (1) expense payments;

12 (2) allowances;

13 (3) payments for unused vacation or sick leave;

14 (4) maintenance or other nonmonetary compensation;

15 (5) fringe benefits;

16 (6) deferred compensation other than as provided by
17 Subsection (b)(3);

18 (7) compensation that is not made pursuant to a valid
19 employment agreement;

20 (8) payments received by an employee in a school year
21 that exceed \$5,000 for teaching a driver education and traffic
22 safety course that is conducted outside regular classroom hours;

23 (9) the benefit replacement pay a person earns as a
24 result of a payment made under Subchapter B or C, Chapter 661;

25 (10) any amount [~~contributions to a health~~
26 ~~reimbursement arrangement account~~] received by an employee under
27 Subchapter D, Chapter 22, Education Code, former Article 3.50-8,

1 Insurance Code, former Chapter 1580, Insurance Code, or Rider 9,
2 page III-39, Chapter 1330, Acts of the 78th Legislature, Regular
3 Session, 2003 (the General Appropriations Act); and

4 (11) any compensation not described by Subsection (b).

5 SECTION 18.04. Subsection (b), Section 1579.253, Insurance
6 Code, is amended to read as follows:

7 (b) The employee may pay the employee's contribution under
8 this subsection from the amount distributed to the employee under
9 Subchapter D, Chapter 22, Education Code [~~1580~~].

10 SECTION 18.05. Section 1581.702, Insurance Code, is amended
11 to read as follows:

12 Sec. 1581.702. ADDITIONAL SUPPORT. The state shall provide
13 additional support for a school district to which this section
14 applies in an amount computed by multiplying the total amount of
15 supplemental compensation received by district employees under
16 Subchapter D, Chapter 22, Education Code, [~~1580~~] by 0.062.

17 SECTION 18.06. The following laws are repealed:

18 (1) Chapter 1580, Insurance Code;

19 (2) Section 57, Chapter 201, Acts of the 78th
20 Legislature, Regular Session, 2003;

21 (3) Chapter 313, Acts of the 78th Legislature, Regular
22 Session, 2003; and

23 (4) Section 1.01, Chapter 366, Acts of the 78th
24 Legislature, Regular Session, 2003.

25 SECTION 18.07. The functions and duties of the Teacher
26 Retirement System of Texas with respect to the compensation
27 supplementation program established under Chapter 1580, Insurance

1 Code, and other applicable law, and any appropriation relating to
2 that program are transferred to the Texas Education Agency. A
3 reference in law to the Teacher Retirement System of Texas with
4 respect to the compensation supplementation program means the Texas
5 Education Agency.

6 SECTION 18.08. This article takes effect September 1, 2005.

7 ARTICLE 19. RETIREMENT SYSTEM CONTRIBUTIONS FOR CERTAIN MEMBERS OF
8 THE TEACHER RETIREMENT SYSTEM OF TEXAS

9 SECTION 19.01. Subchapter E, Chapter 825, Government Code,
10 is amended by adding Section 825.4041 to read as follows:

11 Sec. 825.4041. EMPLOYER PAYMENTS. (a) For purposes of
12 this section, a new member is a person first employed on or after
13 September 1, 2005, including a former member who withdrew
14 retirement contributions under Section 822.003 and is reemployed on
15 or after September 1, 2005.

16 (b) During each fiscal year, an employer shall pay an amount
17 equal to the state contribution rate, as established by the General
18 Appropriations Act for the fiscal year, applied to the aggregate
19 compensation of new members of the retirement system, as described
20 by Subsection (a), during their first 90 days of employment.

21 (c) On a monthly basis an employer shall:

22 (1) report to the retirement system, in a form
23 prescribed by the system, a certification of the total amount of
24 salary paid during the first 90 days of employment of a new member
25 and the total amount of employer payments due under this section for
26 the payroll periods; and

27 (2) retain information, as determined by the

1 retirement system, sufficient to allow administration of this
2 section, including information for each employee showing the
3 applicable salary as well as aggregate compensation for the first
4 90 days of employment for new employees.

5 (d) A person who was hired before September 1, 2005, and was
6 subject to a 90-day waiting period for membership in the retirement
7 system becomes eligible to participate in the retirement system as
8 a member starting September 1, 2005. For the purpose of this
9 section, the member shall be treated as a new member for the
10 remainder of the waiting period.

11 (e) The employer must remit the amount required under this
12 section to the retirement system at the same time the employer
13 remits the member's contribution. In computing the amount required
14 to be remitted, the employer shall include compensation paid to an
15 employee for the entire pay period that contains the 90th calendar
16 day of new employment.

17 (f) At the end of each school year, the retirement system
18 shall certify to the commissioner of education and to the state
19 auditor:

20 (1) the name of each employer that has failed to remit,
21 within the period required by Section 825.408, all payments
22 required under this section for the school year; and

23 (2) the amounts of the unpaid required payments.

24 (g) If the commissioner of education or the state auditor
25 receives a certification under Subsection (f), the commissioner or
26 the state auditor shall direct the comptroller to withhold the
27 amount certified, plus interest computed at the rate and in the

1 manner provided by Section 825.408, from the first state money
2 payable to the employer. The amount withheld shall be deposited to
3 the credit of the appropriate accounts of the retirement system.

4 (h) The board of trustees shall take this section into
5 consideration in adopting the biennial estimate of the amount
6 necessary to pay the state's contributions to the retirement
7 system.

8 SECTION 19.02. This article takes effect September 1, 2005.

9 ARTICLE 20. EFFECTIVE DATE

10 SECTION 20.01. Except as otherwise provided by this Act,
11 this Act takes effect immediately if it receives a vote of
12 two-thirds of all the members elected to each house, as provided by
13 Section 39, Article III, Texas Constitution. If this Act does not
14 receive the vote necessary for immediate effect, except as
15 otherwise provided by this Act, this Act takes effect on the 91st
16 day after the last day of the legislative session.

David Dewhurst
President of the Senate

Jim Caddick
Speaker of the House

I hereby certify that S.B. No. 1863 passed the Senate on May 18, 2005, by the following vote: Yeas 24, Nays 6; May 26, 2005, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 2005, House granted request of the Senate; May 29, 2005, Senate adopted Conference Committee Report by the following vote: Yeas 21, Nays 10.

Roger Spaw
Secretary of the Senate

I hereby certify that S.B. No. 1863 passed the House, with amendments, on May 25, 2005, by the following vote: Yeas 79, Nays 61, one present not voting; May 26, 2005, House granted request of the Senate for appointment of Conference Committee; May 29, 2005, House adopted Conference Committee Report by the following vote: Yeas 89, Nays 53, two present not voting.

Robert Haney
Chief Clerk of the House

Approved:

17 JUNE '05

Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2:10 PM CLOCK

JUN 17 2005

Roger Williams
Secretary of State