

## **BILL ANALYSIS**

Senate Research Center  
76R14188 DLF-D

C.S.H.B. 1676  
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Finance  
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Committee Report (Substituted)

### **DIGEST**

On March 28, 1996, the attorney general filed suit against the tobacco industry on behalf of the State of Texas, which resulted in a settlement agreement in which the industry agreed to pay the state \$15 billion over the next 25 years. Subsequent to the settlement, several legal challenges were filed, including one to ensure the deposit of the settlement proceeds into the state treasury and to preserve the authority of the legislature to appropriate the funds, and one to ensure the allocation of some of the proceeds into counties and hospital districts with indigent care responsibilities. On February 2, 1998, an agreement was reached between the attorney general and Representative Robert Junell, chairman of the House Appropriations Committee, and Senator Bill Ratliff, chairman of the Senate Finance Committee, to deposit the proceeds into the treasury for appropriation by the legislature. On July 24, 1998, an agreement was reached between the attorney general and certain counties and hospital districts to preserve the entire amount of the original \$15 billion for the benefit of the State of Texas. Under this agreement, the parties also agreed that the additional payments of \$2.275 billion received under the "Most Favored Nation" provision of the settlement agreement would be used for the benefit of counties and hospital districts. C.S.H.B. 1676 would set forth provisions regarding permanent funds for certain public health purposes.

### **PURPOSE**

As proposed, C.S.H.B. 1676 sets forth provisions regarding permanent funds for certain public health purposes.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Legislative Budget Board in SECTION 1 (Section 403.105(d), Government Code); the Texas Board of Health in SECTION 1 (Sections 403.1055(d) and 403.106(d), Government Code); and the Center for Rural Health Institute in SECTIONS 2 and 3 (Section 106.202, Chapter 106G, Health and Safety Code and Section 106.204(a), Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 403G, Government Code, by adding Sections 403.105, 403.1055, 403.106, 403.1065, 403.1066, 403.1067, and 403.1068, as follows:

Sec. 403.105. PERMANENT FUND FOR TOBACCO EDUCATION AND ENFORCEMENT. Provides that the permanent fund for tobacco education and enforcement is a special fund in the state treasury outside the general revenue fund. Sets forth the composition of the fund. Prohibits money in the fund from being appropriated for any purpose, except as provided by Subsections (c), (e), and (f). Authorizes the available earnings of the fund to be appropriated to the Texas Department of Health (department) for certain programs to reduce the use of cigarettes and tobacco products in this state. Authorizes the department, subject to any applicable limit in the General Appropriations Act, to contract with another entity to perform all or a part of the functions described by Subsection (c) or may award grants to community organizations, public institutions of higher education, or political subdivisions to enable the organizations, institutions, or political subdivisions to perform all or a part of those functions. Requires the department to give high priority and preference to existing, effective state programs that do not otherwise receive money from an endowment program funded by money received under the Comprehensive Settlement Agreement and Release, to ensure the most efficient, effective, and rapid delivery of services. Authorizes the Legislative Budget Board (board) to adopt rules governing any grant program established under this section. Authorizes the comptroller of public accounts (comptroller) to solicit and accept gifts and grants to the fund. Authorizes a gift

or grant to the fund to be appropriated in the same manner as available earnings of the fund. Authorizes money in the fund to also be appropriated to pay any amount of money that the federal government determines that the state should repay to the federal government of that the federal government should recoup from the state in the event of national legislation regarding the subject matter of the case styled *The State of Texas v. The American Tobacco, et al.*, No. 5-96CV-91, in the United States District Court, Eastern District of Texas. Provides that Sections 403.095 and 404.071 do not apply to the fund.

Sec. 403.1055. **PERMANENT FUND FOR CHILDREN AND PUBLIC HEALTH.** Provides that the permanent fund for children and public health is a special fund in the state treasury outside the general revenue fund. Sets forth the composition of the permanent fund for children,. Prohibits money in the fund from being appropriated for any purpose, except as provided by Subsections (c), (e), and (f). Authorizes the available earnings of the fund to be appropriated to the department for the purpose of developing and demonstrating cost-effective prevention and intervention strategies for improving health outcomes for children and the public and for providing grants to local communities address public health priorities. Authorizes the Texas Board of Health (TBH) to adopt rules governing any grant program established under this section. Authorizes a gift or grant to the fund to be appropriated in the same manner as available earnings of the fund. Makes conforming changes.

Sec. 403.106. **PERMANENT FUND FOR EMERGENCY MEDICAL SERVICES AND TRAUMA CARE.** Provides that the permanent fund for emergency medical services and trauma care is a special fund in the state treasury outside the general revenue fund. Sets forth the composition of the permanent fund for emergency medical services and trauma care. Prohibits money in the fund from being appropriated for any purpose, except as provided by Subsections (c), (e), and (f). Authorizes the available earnings of the fund to be appropriated to the department for programs to provide emergency medical services and trauma care in the state, as provided by Sections 773.122 and 773.213, Health and Safety Code. Authorizes the department, subject to any applicable limit in the General Appropriations Act, to establish programs to provide emergency medical services and trauma care in this state, as provided by Sections 773.122 and 773.123, Health and Safety Code. Authorizes the department to consolidate any grant program established under this section with other grant programs relating to the provision of emergency medical services and trauma care. Authorizes TBH to adopt rules governing the grant program. Makes conforming changes.

Sec. 403.1065. **PERMANENT FUND FOR RURAL HEALTH FACILITY CAPITAL IMPROVEMENT.** Provides that the permanent fund for rural health care facility capital improvement is a special fund in the state treasury outside the general revenue fund. Sets forth the composition of the rural health care facility capital improvement fund. Prohibits money in the fund from being appropriated for any purpose, except as provided by Subsections (c), (d), and (e). Authorizes the available earnings of the fund to be appropriated to the Center for Rural Health Initiatives for the purposes of Chapter 106G, Health and Safety Code. Authorizes a gift or grant to the fund to be appropriated in the same manner as available earnings of the fund. Makes conforming changes.

Sec. 403.1066. **RESTRICTIONS ON LOBBYING EXPENDITURES.** Sets forth the prohibited uses of funds or grants to pay for certain items by an organization, program, political subdivision, public institution of higher education, local community organization, or other entity receiving funds or grants from the permanent funds in Sections 403.105, 403.1055, 403.106, and 403.1065, Government Code. Provides that the persons described by Subsection (a) are not eligible to receive the money or to participate either directly or indirectly in the contracts, funds, or grants awarded in Sections 403.105, 403.1055, 403.106, and 403.1065. Prohibits grants made under Sections 403.105, 403.1055, 403.106, and 403.1065, Government Code, from being conditioned on the enactment of legislation, agency rules, or local ordinances.

Sec. 403.1067. **MANAGEMENT OF CERTAIN FUNDS.** Provides that this section applies only to management of the permanent funds established under Sections 403.105, 403.1055, 403.106, and 403.1065. Requires the comptroller to manage the assets of each permanent fund. Authorizes the comptroller, in managing the assets of the fund, to acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions the comptroller considers appropriate, any kind of investment that prudent investors, exercising reasonable care, skill, and caution, would

acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment. Provides that the available earnings of each permanent fund consist of distributions made to the fund from the total return on all investment assets of the fund. Requires the amount of any distributions to each fund under Subsection (c) to be determined by the comptroller in a manner intended to provide a stable and predictable stream of annual distributions and to maintain over time, the purchasing power of fund investments and annual distributions to the fund. Prohibits the comptroller from increasing annual distributions to the available earnings of the fund until the purchasing power of the fund investment is restored, if the purchasing power of fund investments for any 10-year period is not preserved. Prohibits an annual distribution made by the comptroller to the available earnings of a fund during any fiscal year from exceeding an amount equal to seven percent of the average net fair market value of the investment assets of each fund as determined by the comptroller. Requires the expenses of managing land and investments of each fund to be paid from each fund. Requires the comptroller, on request, to fully disclose all details concerning the investments of each fund.

Sec. 403.1068. REPORTING REQUIREMENT. Requires the department to provide a report on the permanent funds established under this subchapter to the board no later than November 1 of each year. Sets forth the information required to be included in the report.

SECTION 2. Amends Chapter 106, Health and Safety Code, by adding Subchapter G, as follows:

#### SUBCHPATER G. RURAL HEALTH FACILITY CAPITAL IMPROVEMENT

Sec. 106.201. DEFINITIONS. Defines “public hospital,” and “rural county.”

Sec. 106.202. POWERS OF CENTER. Sets forth the authorized actions a center for rural health initiatives (center) may perform in order to administer this subchapter.

Sec. 106.203. GRANT, LOAN, AND LOAN GUARANTEE PROGRAM. Authorizes the center to use money appropriated to the center under Section 403.1065, Government Code, to make a grant or low interest loan to, or guarantee a loan for, a public or nonprofit hospital located in a rural county. Authorizes a grant, loan, or loan guarantee recipient to use the money only to make capital improvements to existing health facilities located in a rural county, to construct new health facilities in a rural county, or to purchase capital equipment.

Sec. 106.204. ELIGIBILITY FOR GRANT, LOAN, OR LOAN GUARANTEE; INTEREST RATE. Requires the center to adopt rules that establish eligibility criteria for receiving a grant, loan, or loan guarantee under this subchapter. Sets forth what the rules must state and allow.

SECTION 3. Sets forth amounts of money with respective transfer accounts which the comptroller is required to transfer on the effective date of this Act.

SECTION 4. Effective date: August 31, 1999.

SECTION 5. Emergency clause.

#### **SUMMARY OF COMMITTEE CHANGES**

SECTION 1.

Amends Section 403.105, Chapter 403G, Government Code, to set forth the composition of the fund, including the available earnings of the fund determined in accordance with Section 403.1067. Authorizes the available earnings of the fund, rather than interest received from investment of the fund, to be appropriated to the Texas Department of Health (department) for certain programs to reduce the use of cigarettes and tobacco products in this state. Authorizes a gift or grant to the fund to be appropriated in the same manner as available earnings of the fund, rather than the interest received from investment of the fund. Deletes proposed Subdivision (3).

Amends Section 403.1055, Chapter 403G, Government Code, to set forth the composition of the permanent fund for children, including the available earnings of the fund determined in accordance with Section 403.1067. Authorizes the available earnings of the fund, rather than the interest

received from investment of the fund, to be appropriated to the department for the purpose of developing and demonstrating cost-effective prevention and intervention strategies for improving health outcomes for children and the public and for providing grants to local communities address public health priorities. Authorizes a gift or grant to the fund to be appropriated in the same manner as available earnings of the fund, rather than as the interest received from investment of the fund. Deletes proposed Subdivision (3).

Amends Section 403.106, Chapter 403G, Government Code, to set forth the composition of the permanent fund for emergency medical services and trauma care, including the available earnings of the fund determined in accordance with Section 403.1067. Authorizes the available earnings of the fund, rather than the interest received from investment of the fund, to be appropriated to the department for programs provide emergency medical services and trauma care in the state, as provided by Sections 773.122 and 773.213, Health and Safety Code. Deletes proposed Subsection (d) and replaces it with text authorizing the department, subject to any applicable limit in the General Appropriations Act, to establish programs to provide emergency medical services and trauma care in this state, as provided by Sections 773.122 and 773.123, Health and Safety Code. Deletes proposed Subdivision (3).

Amends Section 403.1065, Chapter 403G, Government Code, to set forth the composition of the rural health care facility capital improvement fund, including the available earnings of the fund determined in accordance with Section 403.1067. Authorizes the available earnings of the fund, rather than the interest received from investment of the fund, to be appropriated to the Center for Rural Health Initiatives for the purposes of Chapter 106G, Health and Safety Code. Authorizes a gift or grant to the fund to be appropriated in the same manner as available earnings of the fund, rather than as the interest received from investment of the fund. Deletes proposed Subdivision (4).

Amends Section 403.1066, Chapter 403G, Government Code, to redesignate it from proposed SECTION 2, and to provide that the persons described by Subsection (a) are not eligible to receive the money or to participate either directly or indirectly in the contracts, funds, or grants awarded in Sections 403.105, 403.1055, 403.106, and 403.1065.

Amends Section 403.1067, Chapter 403G, Government Code, to replace proposed Section 403.106 with text regarding management of certain funds.

Amends Section 403.1068, Chapter 403G, Government Code, by redesignating it from proposed Section 403.108.

## SECTION 2.

Deletes proposed SECTION 2 and replaces it with proposed SECTION 3.

## SECTION 3.

Redesignated from proposed SECTION 4. Sets forth amounts of money with respective transfer accounts for which the comptroller is required to transfer on the effective date of this Act, including \$150 million, rather than \$125 million, from the general revenue fund to the permanent fund for children and public health established by Section 403.1055, Government Code, as added by this Act.

## SECTIONS 4-5.

Redesignated from proposed SECTIONS 5-6.