

BILL ANALYSIS

Senate Research Center
78S30443 KEG-D

C.S.H.B. 28
By: McCall (Bivins)
Finance
9/19/2003
Committee Report (Substituted)

DIGEST AND PURPOSE

C.S.H.B. 28 sets forth amendments to statutes relating to state fiscal management, including various matters related to increasing administrative efficiency in state government, and makes related appropriations.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the State Aircraft Pooling Board is transferred to the Texas Department of Transportation in SECTIONS 1.07 and 1.12 (Sections 2205.038 and 2205.043, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. STATE AIRCRAFT POOLING

SECTION 1.01. Amends the heading to Subchapter A, Chapter 2205, Government Code, to read as follows:

SUBCHAPTER A. STATE AIRCRAFT POOLING; GENERAL PROVISIONS

SECTION 1.02. Amends Section 2205.002(1), Government Code, to define “department” and delete the definition of “board.”

SECTION 1.03. Amends Section 2205.032, Government Code, to require the Texas Department of Transportation (TxDOT), rather than the State Aircraft Pooling Board (board), to operate a pool for the custody, control, operation, and maintenance of all aircraft owned or leased by the state. Makes conforming changes.

SECTION 1.04. Amends Section 2205.034, Government Code, to make conforming changes.

SECTION 1.05. Amends Section 2205.035, Government Code, to make conforming changes.

SECTION 1.06. Amends Section 2205.036, Government Code, to make conforming changes. Requires TxDOT to monitor and ensure compliance with the requirements of this section.

SECTION 1.07. Amends Section 2205.038, Government Code, to make conforming changes.

SECTION 1.08. Amends Section 2205.039, Government Code, to make conforming changes. Requires TxDOT to monitor and ensure compliance by state agencies with the requirements of this section. Requires TxDOT to annually report to the Legislative Budget Board on air travel information received under this section.

SECTION 1.09. Amends Section 2205.040, Government Code, as follows:

Sec. 2205.040. RATES AND BILLING PROCEDURES. (a) Requires TxDOT, rather than the board, to adopt rates for interagency aircraft services that are sufficient to recover all expenses incurred under this chapter, including current obligations for capital equipment financed under the Texas Public Finance Authority's master lease purchase program and aircraft replacement costs, rather than in the aggregate and to the extent possible, all direct costs for the services provided, including a state agency's pro rata share of major maintenance, overhauls of equipment and facilities, and pilots' salaries.

(b) Requires TxDOT to deposit all revenue received under this chapter to the credit of the state highway fund. Provides that money deposited to the credit of the state highway fund under this chapter is exempt from the application of Section 403.095 (Use of Dedicated Revenue). Deletes existing text relating to certain billing procedures.

(c) Requires TxDOT to spend money from the state highway fund for expenses incurred under this chapter.

(d) Provides that it is the intent of the legislature that receipts and expenditures that relate to the state highway fund under this chapter be balanced over time so that, to the extent practicable, the receipts and expenditures do not result in a net gain or net loss to the fund.

SECTION 1.10. Amends Section 2205.041(a), Government Code, to make conforming changes.

SECTION 1.11. Amends Section 2205.042, Government Code, to make conforming changes.

SECTION 1.12. Amends Section 2205.043(b), Government Code, to require TxDOT to adopt rules, consistent with federal regulations and Subtitle A (State Symbols and Honors), Title 11, rather than Article 6139f, Revised Statutes, governing the color, size, and location of marks of identification required by this section.

SECTION 1.13. Amends Section 2205.044, Government Code, to make conforming changes.

SECTION 1.14. Amends Section 2205.045(a), Government Code, to make conforming changes.

SECTION 1.15. Amends Section 2205.046, Government Code, to make conforming changes.

SECTION 1.16. Amends Section 2205.047, Government Code, to require TxDOT, rather than the board, to post information related to travel and other services provided by the TxDOT under this chapter, rather than the board, on an Internet site maintained by or for TxDOT, rather than the board. Makes a conforming change.

SECTION 1.17. Repealer: Sections 2205.003-2205.019, Government Code.

SECTION 1.18. Sets forth provisions for the abolishment of the board and the transfer of all its powers, duties, obligations, rights, contracts, leases, bonds, appropriations, records, employees, and property to TxDOT.

SECTION 1.19. (a) Requires the General Land Office, notwithstanding any other law, to sell to TxDOT for fair market value the approximately three-acre property formerly operated by the board at the site of the former Robert Mueller Municipal Airport.

(b) Authorizes TxDOT to only use the property described by Subsection (a) of this section for purposes consistent with the operation of an intelligent transportation system unless the City of Austin and Travis County agree to a different use and lease an unneeded portion of the property described by Subsection (a) of this section under the procedures prescribed by

Subchapter C (Leases, Easements, and Agreements Concerning Highway Property), Chapter 202, Transportation Code, if the lease is approved by the City of Austin and Travis County.

(c) Defines "intelligent transportation system." Provides that the term does not include the maintenance of vehicles, the storage of fuel, or the storage of vehicles.

SECTION 1.20. Requires TxDOT, before March 1, 2004, to file with the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board a complete and detailed report on the transfer of powers and duties from the board to TxDOT.

ARTICLE 2. WORKERS' COMPENSATION RESEARCH

SECTION 2.01. Amends Subtitle A, Title 5, Labor Code, by adding Chapter 405, as follows:

CHAPTER 405. WORKERS' COMPENSATION RESEARCH

Sec. 405.001. DEFINITION. Defines "department."

Sec. 405.002. WORKERS' COMPENSATION RESEARCH DUTIES OF DEPARTMENT. (a) Requires the Texas Department of Insurance (TDI) to conduct certain professional studies and research relating to workers' compensation.

(b) Authorizes TDI to apply for and spend grant funds to implement this chapter.

(c) Requires TDI to ensure that all research reports prepared under this chapter or by the former Research and Oversight Council on Workers' Compensation are accessible to the public through the Internet to the extent practicable.

Sec. 405.003. FUNDING; MAINTENANCE TAX. (a) Provides that TDI's duties under this chapter are funded through the assessment of a maintenance tax collected annually from all insurance carriers, and self-insurance groups that hold certificates of approval under Chapter 407A, except governmental entities.

(b) Requires TDI to set the rate of the maintenance tax based on the expenditures authorized and the receipts anticipated in legislative appropriations. Prohibits the tax rate for insurance companies from exceeding one-tenth of one percent of the correctly reported gross workers' compensation insurance premiums. Prohibits the tax rate for certified self-insurers from exceeding one-tenth of one percent of the total tax base of all certified self-insurers, as computed under Section 407.103(b). Prohibits the tax rate for self-insurance groups described by Subsection (a) from exceeding one-tenth of one percent of the group's gross premium for the group's retention, excluding premium collected by the group for excess insurance.

(c) Provides that the tax imposed under Subsection (a) is in addition to all other taxes imposed on those insurance carriers for workers' compensation purposes.

(d) Requires the tax on insurance companies and on self-insurance groups described by Subsection (a) to be assessed, collected, and paid in the same manner and at the same time as the maintenance tax established for the support of the department under Article 5.68 (Maintenance Tax On Gross Premiums), Insurance Code. Requires the tax on certified self-insurers to be assessed, collected, and paid in the same manner and at the same time as the self-insurer maintenance tax collected under Section 407.104 (Collection of Taxes and Fees; Administrative Violation).

(e) Requires amounts received under this section to be deposited in the state treasury

in accordance with Article 5.68(e), Insurance Code, to be used for certain purposes.

(f) Provides that Section 403.095 (Use of Dedicated Revenue), Government Code, does not apply in relation to amounts received under this section or to any special account into which the amounts are deposited.

Sec. 405.004. COORDINATION WITH OTHER STATE AGENCIES; CONFIDENTIALITY. (a) Provides that as required to fulfill TDI's objectives under this chapter, TDI is entitled to access to the files and records of certain state entities.

(b) Requires a state agency to assist and cooperate in providing information to TDI.

(c) Provides that information that is confidential under state law is accessible to the department under rules of confidentiality and remains confidential.

(d) Provides that the identity of an individual or entity selected to participate in a TDI survey or who participates in such a survey is confidential and is not subject to public disclosure under Chapter 552 (Public Information), Government Code.

SECTION 2.02. (a) Repealer: Chapter 404 (Research and Oversight Council on Work) and Section 413.021(f) (relating to return-to-work initiatives), Labor Code.

(b) Sets forth provisions for the abolition of the Research and Oversight Council on Workers' Compensation and for the transfer of all its records and other property to TDI, including certain references in law.

(c) Requires TDI to assume responsibility for any obligation incurred or contract entered into by the Research and Oversight Council on Workers' Compensation before the effective date of this article.

(d) Requires TDI to enter into an interagency agreement with the Texas Workers' Compensation Commission to share the costs of continued participation in the Workers' Compensation Research Institute's CompScope multistate report series.

SECTION 2.03. Provides that the special account established under Section 404.003 (Council Funding; Maintenance Tax), Labor Code, as that section existed before being repealed by this Act, is re-created and transferred to the Texas Department of Insurance's General Revenue and Insurance Companies Maintenance Tax and Insurance Department Fees Account to be used for the purposes described by Section 405.003, Labor Code, as added by this Act.

ARTICLE 3. TEXAS COMMISSION ON PRIVATE SECURITY

SECTION 3.01. Amends Section 1702.002, Occupations Code, by adding Subdivisions (1-a) and (5-a), to define "board" and "department."

SECTION 3.02. Amends Subchapter A, Chapter 1702, Occupations Code, by adding Section 1702.005, as follows:

Sec. 1702.005. DEPARTMENT OF PUBLIC SAFETY. (a) Provides that the Texas Private Securities Board (TPSB) created under Section 1702.021 (Commission Membership) is a part of the Department of Public Safety (DPS). Requires DPS to administer this chapter through TPSB.

(b) Provides that a reference in this chapter or another law to the Texas Commission on Private Security (TCPS) means TPSB.

SECTION 3.03. Amends Section 1702.021(a), Occupations Code, to set forth changes to the composition and membership of the TPSB, formerly known as TCPS.

SECTION 3.04. Amends Section 1702.025, Occupations Code, as amended by Chapter 1170, Acts of the 78th Legislature, Regular Session, 2003, and Section 1702.026, Occupations Code, as follows:

Sec. 1702.025. Provides that TPSB members, rather than appointed commission members, serve staggered six-year terms, with the terms of two or three members, rather than appointed members, expiring on January 31 of each odd-numbered year. Makes a conforming change.

Sec. 1702.026. Makes conforming changes.

SECTION 3.05. Repealer: Section 1702.022 (Ex Officio Commission Member), Occupations Code.

SECTION 3.06. Requires the governor, not later than the 60th day after the effective date of this Act, to appoint the members of TPSB, as required under Section 1702.021, Occupations Code, as amended by this Act. Sets forth provisions for the initial appointment and terms of members.

SECTION 3.07. (a) Sets forth provisions for the abolition of TCPS and the transfer of its functions and activities to TPSB, including rules and forms, references in law, administrative activities, property, and funds.

(b) Sets forth provisions for early transfer.

(c) Requires TCPS, during the period beginning on the effective date of this Act and ending on the 60th day after the effective date of this Act, to continue to perform functions and activities under Chapter 1702 (Private Security), Occupations Code, as if that chapter had not been amended by this Act, and continues the former law in effect for that purpose.

ARTICLE 4. TEXAS COUNCIL ON ENVIRONMENTAL TECHNOLOGY

SECTION 4.02. Amends Sections 386.051(a) and (b), Health and Safety Code, to delete a reference to Texas Council on Environmental Technology (TCET).

SECTION 4.02. Amends Section 387.001, Health and Safety Code, as follows:

Sec. 387.001. New heading: DEFINITIONS. Defines "commission" and makes a nonsubstantive change.

SECTION 4.03. Amends Section 387.002(b), Health and Safety Code, as amended by Section 1, Chapter 29, Acts of the 78th Legislature, Regular Session, 2003, to delete provisions relating to certain actions required of TCET in working to enhance the entrepreneurial and inventive spirit of Texans to assist in developing solutions to air, water, and waste problems.

SECTION 4.04. Amends Section 387.003, Health and Safety Code, as amended by Section 2, Chapter 29, and Section 13, Chapter 1331, Acts of the 78th Legislature, Regular Session, 2003, to require the Texas Commission on Environmental Quality (TCEQ), in consultation with TCET, to establish and administer a new technology research and development program as provided by this chapter. Requires TCEQ, rather than TCET, under the program, to provide grants to be used to support development of emissions-reducing technologies that may be used for projects eligible for awards under Chapter 386 (Texas Emissions Reduction Plan) and other new technologies that show promise for commercialization. Deletes previously existing Subsection (c) relating to collection of fees for certain purposes.

SECTION 4.05. Amends Section 387.004, Health and Safety Code, to require TCEQ, rather than

TCET, from time to time to issue specific requests for proposals (RFPs) or program opportunity notices (PONs) for technology projects to be funded under the program.

SECTION 4.06. Amends Sections 387.005(b) and (c), Health and Safety Code, and Section 387.005(f), Health and Safety Code, as added by Section 3, Chapter 29, Acts of the 78th Legislature, Regular Session, 2003, as follows:

(b) and (c) Make conforming changes.

(f) Requires a commissioner, rather than a member of TCET, if the commissioner is an employee or owner of an entity that applies for a grant under this chapter, before a vote on the grant, to disclose the fact of the commissioner's, rather than member's, employment or ownership. Makes conforming changes.

SECTION 4.07. Amends Section 387.006(b), Health and Safety Code, to make a conforming change.

SECTION 4.08. Amends Section 387.007, Health and Safety Code, to make conforming changes.

SECTION 4.09. Amends Section 387.008, Health and Safety Code, as amended by Section 4, Chapter 29, Acts of the 78th Legislature, Regular Session, 2003, to delete a reference to fees collected under Section 387.003(c). Authorizes money in the environmental research fund to be used only by TCEQ for operations and projects under this chapter, rather than the operation and projects of TCET. Provides that Section 403.095 and 404.071 (Disposition of Interest on Investments), Government Code, do not apply to the fund. Requires interest earned on the fund to be credited to the fund.

SECTION 4.10. Amends Sections 387.009 and 387.010, Health and Safety Code, to authorize TCEQ, rather than TCET, to appoint advisory committees as necessary or desirable to assist TCEQ in performing its duties under this chapter. Makes conforming changes. Requires TCEQ to ensure that all research reports under the program are accessible to the public, including, as practicable, through TCEQ's Internet website.

SECTION 4.11. Repealer: Section 387.002(c) (relating to TCET), Health and Safety Code.

SECTION 4.12. Sets forth provisions for the transfer of the functions of TCET to TCEQ, including certain grant activities, contracts, and property and records.

ARTICLE 5. EQUITABLE USE OF REVENUE AND UNIFORMITY IN RELATION TO SCHOOL DISTRICT PROPERTY VALUES

SECTION 5.01. Amends Section 403.302, Government Code, by adding Subsection (c-1), as follows:

(c-1) Provides that notwithstanding Subsection (c), if after conducting the annual study for the year 2002 the comptroller of public accounts (comptroller) determines that the local value for a school district is invalid and the local value exceeds the state value for the school district determined by the comptroller under Subsections (a) and (b), the taxable value for the school district for that year is the district's state value as established by the comptroller. Provides that this subsection expires September 30, 2004.

SECTION 5.02. Repealer: Section 403.302(m) (relating to the determination of school district property value), Government Code, as added by Chapter 1183, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 5.03. Requires the commissioner of education to compute the amount of funding under

Chapters 42 (Foundation School Program) and 46 (Assistance with Instructional Facilities and Payment of Existing Debt), Education Code, to which each school district is entitled for the 2003-2004 school year, and the wealth per student of each school district for purposes of Chapter 41 (Equalized Wealth Level), Education Code, for the 2003-2004 school year, without regard to Chapter 1183, Acts of the 78th Legislature, Regular Session, 2003. Requires the commissioner of education, if a school district received an underallocation or overallocation of state funds because a payment made before the effective date of this Act was computed in accordance with Chapter 1183, Acts of the 78th Legislature, Regular Session, 2003, to adjust the computation of the amount of the payments made to the school district for the remainder of the 2003-2004 school year or take other action so that the total payments made to that school district for that school year equal the amount the school district would have received for that school year had none of the payments been computed in accordance with Chapter 1183, Acts of the 78th Legislature, Regular Session, 2003.

ARTICLE 6. REPAYMENT OF CASH TRANSFERRED FROM FUNDS OF STATE TREASURY

SECTION 6.01. Provides that for the state fiscal biennium beginning September 1, 2003, the comptroller is appropriated from the general revenue fund the amount needed to return any available cash that was transferred to that fund from a fund outside the state treasury and to maintain the equity of the fund from which the transfer was made, as required by Section 403.092 (Temporary Transfer of Surplus and Other Cash), Government Code, as amended by Section 19, Chapter 1310, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 6.02. Limits to \$5,000,000 of the appropriation made by Section 1 of this Act the maximum amount which may be used to allocate earned interest to a fund outside the state treasury under Section 403.092(a), Government Code.

SECTION 6.03. Requires the comptroller, during the state fiscal biennium beginning September 1, 2003, to return available cash that has been transferred from a fund outside the state treasury to a fund within the state treasury under Section 403.092(a), Government Code, together with the earned interest on the transferred amount, to the fund from which the available cash was transferred within 14 days after the date on which the available cash was transferred.

ARTICLE 7. APPROPRIATION OF VETOED FUNDS; CLARIFICATION OF USE OF BUDGET EXECUTION PROCESS FOR STATE FISCAL RELIEF

SECTION 7.01. (a) Amends Section 11.28, Article IX, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act), by amending Subsection (a) and adding Subsections (c) and (d), as follows:

(a) Deletes existing text relating to the implementation of contingency appropriation reductions and contingency appropriations. Provides that notwithstanding other provisions of this Act, based upon the passage of federal legislation that provides federal funds for the purpose of state fiscal relief, such funds are appropriated to the comptroller in the fiscal year in which the funds are received for the purpose of transferring funds to state agencies for state fiscal relief, as directed by the governor and Legislative Budget Board (LBB) acting under Chapter 317 (State Budget Execution), Government Code, and in accordance with Subsection (b) of this section.

(c) Provides that notwithstanding Section 11.15(b) of this article, an amount equal to the sum of the General Revenue Fund and general revenue dedicated account appropriations contained in this Act that are vetoed by the governor under Section 14 (Approval or Disapproval of Bills; Return and Reconsideration; Failure to Return; Disapproval of Items of Appropriation), Article IV, Texas Constitution, is appropriated out of the General Revenue Fund or appropriate general revenue dedicated account to

the comptroller for the state fiscal biennium beginning September 1, 2003, for the purpose of transferring funds to state agencies for state fiscal relief, as directed by the governor and LBB acting under Chapter 317, Government Code, and in accordance with Subsection (b) of this section.

(d) Provides that this section does not prohibit the governor and the LBB, acting under Chapter 317, Government Code, from making an emergency transfer of money appropriated by this section, based on need, to an agency or for a purpose that is not described by Subsection (b) of this section.

(b) Provides that this Act controls in the event of a conflict between this Act and another Act enacted by the 78th Legislature, 3rd Called Session, 2003, that becomes law and that amends Section 11.28, Article IX, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act).

SECTION 7.02. Amends the heading to Section 11.28, Article IX, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act), to read as follows:

Sec. 11.28. Appropriation of State Fiscal Relief Federal Funds and Reappropriation for State Fiscal Relief of Vetoed General Revenue Appropriations.

ARTICLE 8. REPEAL OF TECHNOLOGY ADVANCEMENT APPROPRIATION TO SUPREME COURT OF TEXAS

SECTION 8.01. Repealer: Rider 5 following the appropriation to the Supreme Court of Texas on page IV-2, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act).

ARTICLE 9. EFFECTIVE DATE

SECTION 9.01. Effective date: upon passage or 91 days after adjournment.

SUMMARY OF COMMITTEE CHANGES

Differs from original by amending the relating clause.

Differs from the original by adding articles to the bill which make amendments to statutes relating to state aircraft pooling, workers' compensation research, the Texas Commission on Private Security, the Texas Council on Environmental Technology, and the technology advancement appropriation to the Supreme Court of Texas.

Differs from the original by amending the bill's address of the equitable use of revenue and uniformity in relation to school district property values.