

BILL ANALYSIS

Senate Research Center

H.B. 16
By: Pickett et al. (Nichols)
Finance
7/23/2013
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties observe that Texas faces a substantial gap between funding currently available for highway improvements and the amount that is needed over the next 25 years to maintain current levels of service. At current levels of funding, it is projected that there will be significant increases in congestion and declines in pavement quality, bridge conditions, and intercity connectivity. The parties also note that certain tax revenue generated from the motor vehicle sales, use, and rental tax is currently not used for transportation-related activities.

H.B. 16 seeks to address the transportation funding gap, in part, by providing for the allocation of certain fuel-related tax revenue and certain motor vehicles sales, use, and rental tax revenue to the state highway fund and limiting the use of that revenue to transportation-related purposes.

H.B. 16 amends current law relating to state revenues, including the provision and use of revenue for transportation, the transfer of revenue to the available school fund, and the administration of, transfers to, and appropriations from the economic stabilization fund, and makes contingent appropriations.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the joint legislative committee in SECTION 6 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. (a) Amends Section 43.001(b), Education Code, as follows:

(b) Provides that the available school fund, which is required to be apportioned annually to each county according to its scholastic population, consists of:

(1)-(2) Makes no change to these subdivisions;

(3) the amounts transferred to the fund under Section 5(h) (expired), Article VII, Texas Constitution, rather than one-fourth of revenue derived from state gasoline and special fuels excise taxes as provided by law; and

(4) Makes no change to this subdivision.

(b) Amends Sections 162.502(b) and (c), Tax Code, as follows:

(b) Requires the comptroller of public accounts of the State of Texas (comptroller) to allocate and deposit unclaimed refunds from gallons of fuel used in motorboats on which the gasoline tax is paid to the state to the credit of the general revenue fund, rather than requires the comptroller to allocate and deposit such unclaimed refunds as follows: 25 percent of the revenue based on unclaimed refunds of taxes paid on motor fuel used in motorboats is required to be deposited to the credit of the available school fund; and the remaining 75 percent of the revenue is required to be deposited to the credit of the general revenue fund.

(c) Authorizes money deposited to the credit of the general revenue fund under Subsection (b), rather than Subsection (b)(2), to be appropriated only to the Parks and Wildlife Department for any lawful purpose.

(c) Amends Section 162.503, Tax Code, as amended by S.B. No. 559, Acts of the 83rd Legislature, Regular Session, 2013, as follows:

Sec. 162.503. ALLOCATION OF GASOLINE TAX. (a) Requires the comptroller, after making all deductions for refund purposes and for the amounts allocated under Sections 162.502 (Allocation of Unclaimed Refundable Gasoline Taxes) and 162.5025 (Allocation of Other Unclaimed Refundable Nondedicated Taxes), on or before the fifth workday after the end of each month, to allocate the net remainder of the taxes collected under Subchapter B (Gasoline Tax) as follows:

(1) three-fourths of the tax is required to be deposited to the credit of the state highway fund; and

(2) from the remaining one-fourth of the tax the comptroller is required to:

(A) deposit to the credit of the county and road district highway fund all the remaining tax receipts until a total of \$7,300,000 has been credited to the fund each fiscal year; and

(B) after the amount required to be deposited to the county and road district highway fund has been deposited, deposit to the credit of the state highway fund the remainder of the one-fourth of the tax, the amount to be provided on the basis of allocations made each month of the fiscal year, which sum shall be used by the Texas Department of Transportation (TxDOT) for the construction, improvement, and maintenance of farm-to-market roads.

Deletes existing text requiring the comptroller, of the net remainder of the taxes collected under Subchapter B, to allocate one-fourth of the tax to be deposited to the credit of the available school fund, and one-half of the tax to be deposited to the credit of the state highway fund for the construction and maintenance of the state road system under existing law.

(b) Authorizes money deposited to the credit of the state highway fund under Subsection (a)(1) to be appropriated only for a purpose authorized by Section 7-a (Revenues From Motor Vehicle Registration Fees and Taxes on Motor Fuels and Lubricants; Purposes for Which Used), Article VIII, Texas Constitution.

(d) Amends Section 162.504, Tax Code, as amended by S.B. No. 559, Acts of the 83rd Legislature, Regular Session, 2013, as follows:

Sec. 162.504. ALLOCATION OF DIESEL FUEL TAX. (a) Requires the comptroller, after making deductions for refund purposes, for the administration and enforcement of this chapter, and for the amounts allocated under Section 162.5025, on or before the fifth workday after the end of each month, to deposit the remainder of the taxes collected under Subchapter C (Diesel Fuel Tax) to the credit of the state highway fund, rather than allocate the remainder of the taxes collected under Subchapter C as follows: one-fourth of the taxes is required to be deposited to the credit of the available school fund; and three-fourths of the taxes are required to be deposited to the credit of the state highway fund.

(b) Authorizes money deposited to the credit of the state highway fund under Subsection (a) to be appropriated only for a purpose authorized by Section 7-a, Article VIII, Texas Constitution.

(e) Amends Section 162.505, Tax Code, as follows:

Sec. 162.505. ALLOCATION OF LIQUEFIED GAS TAX. (a) Creates this subsection from existing text. Requires the comptroller, after making deductions for refund purposes and for the administration and enforcement of this chapter, on or before the fifth workday after the end of each month, to deposit the remainder of the taxes collected under Subchapter D (Liquefied Gas Tax) to the credit of the state highway fund, rather than allocate the remainder of the taxes collected under Subchapter D as follows: one-fourth of the taxes to be deposited to the credit of the available school fund; and three-fourths of the taxes to be deposited to the credit of the state highway fund.

(b) Authorizes money deposited to the credit of the state highway fund under Subsection (a) to be appropriated only for a purpose authorized by Section 7-a, Article VIII, Texas Constitution.

(f) Amends Section 162.506, Tax Code, as effective September 1, 2013, as follows:

Sec. 162.506. ALLOCATION OF COMPRESSED NATURAL GAS AND LIQUEFIED NATURAL GAS TAX. (a) Creates this subsection from existing text. Requires the comptroller, after making deductions for refund purposes and for the administration and enforcement of this chapter, on or before the fifth workday after the end of each month, to deposit the remainder of the taxes collected under Subchapter D-1 (Compressed Natural Gas and Liquefied Natural Gas Tax) to the credit of the state highway fund, rather than allocate the remainder of the taxes collected under Subchapter D-1 as follows: one-fourth of the taxes to be deposited to the credit of the available school fund; and three-fourths of the taxes to be deposited to the credit of the state highway fund.

(b) Authorizes money deposited to the credit of the state highway fund under Subsection (a) to be appropriated only for a purpose authorized by Section 7-a, Article VIII, Texas Constitution.

(g) Effective date, this section: January 1, 2014, contingent upon approval by the voters of the constitutional amendment proposed by the 83rd Legislature, 2nd Called Session, 2013, to provide for revenue from motor fuel taxes to be used solely for constructing, maintaining, and acquiring rights-of-way for certain public roadways and to provide for the transfer of certain general revenue to the economic stabilization fund and the available school fund.

SECTION 2. Amends Subchapter G, Chapter 152, Tax Code, by adding Section 152.1223, as follows:

Sec. 152.1223. ALLOCATION OF CERTAIN TAX REVENUE TO STATE HIGHWAY FUND. (a) Requires the comptroller, notwithstanding Section 152.122 (Allocation of Tax), in each state fiscal year beginning on or after September 1, 2015, to deposit to the credit of the state highway fund an amount of money that is equal to 33-1/3 percent of the money that:

(1) is received under Sections 152.043 (Collection of Tax on Motor Vehicles Operated by Nonresidents), 152.045 (Collection of Tax on Gross Rental Receipts), 152.047 (Collection of Tax on Seller-Financed Sale), and 152.121 (Tax Sent to Comptroller) and is remaining after the comptroller makes the allocation required by Section 152.1222 (Allocation of Certain Tax Revenue to Property Tax Relief Fund); and

(2) exceeds the first \$3.6 billion of money described by Subdivision (1) that is received in that fiscal year.

(b) Authorizes money deposited to the credit of the state highway fund under this section to be appropriated only:

(1) for a purpose authorized by Section 7-a, Article VIII, Texas Constitution;

(2) to repay the principal and interest on general obligation bonds issued as authorized by Section 49-p (Texas Transportation Commission; Texas Highway Improvement Funds), Article III, Texas Constitution; or

(3) to pay for a function performed by or under the supervision of TxDOT.

SECTION 3. Amends Section 55.002, Transportation Code, by adding Subsection (e), to authorize the Texas Transportation Commission to use money from the Texas Mobility Fund to provide funding, including through a loan, for a port security project, a port transportation project, or a project eligible for funding under Subsection (c) (relating to providing that port security, transportation, or facility projects eligible for funding under this chapter include certain factors).

SECTION 4. (a) Defines, in this section, "biennial state taxes and fees general revenue estimate" to mean the amount of revenue stated in the comptroller's estimate provided in advance of the regular legislative session as required by Section 49a (Financial Statement and Estimate by Comptroller of Public Account; Limitation of Appropriations), Article III, Texas Constitution, that, based on the laws in effect at the time the estimate is made, is anticipated to be received by and for the state from collections of taxes and fees the revenue from which is anticipated to be deposited to the credit of the general revenue fund and is not set aside by law for a particular purpose or entity.

(b) Provides that, on the 91st day of the state fiscal year beginning September 1, 2013, an amount of money equal to the amount by which transfers to the economic stabilization fund during the state fiscal year ending August 31, 2013, exceed the estimated amount of transfers to be made to that fund during that fiscal year as contained in the biennial state taxes and fees general revenue estimate for the state fiscal biennium ending August 31, 2013, is appropriated from the economic stabilization fund to the comptroller for the purpose of immediately depositing that amount to the credit of the state highway fund. Provides that money deposited to the credit of the state highway fund under this section is appropriated to TxDOT for the state fiscal biennium ending August 31, 2015, for the purposes of constructing, maintaining, and acquiring rights-of-way for public roadways other than toll roads.

(c) Provides that, on the 91st day of the state fiscal year beginning September 1, 2014, an amount of money equal to the amount by which transfers to the economic stabilization fund during the state fiscal year ending August 31, 2014, exceed the estimated amount of transfers to be made to that fund during that fiscal year as contained in the biennial state taxes and fees general revenue estimate for the state fiscal biennium ending August 31, 2015, is appropriated from the economic stabilization fund to the comptroller for the purpose of immediately depositing that amount to the credit of the state highway fund. Provides that money deposited to the credit of the state highway fund under this section is appropriated to TxDOT for the state fiscal biennium ending August 31, 2015, for the purposes of constructing, maintaining, and acquiring rights-of-way for public roadways other than toll roads.

(d) Provides that this section takes effect only if:

(1) this Act receives a vote of two-thirds of the members present in each house of the legislature, as provided by Section 49-g(m) (relating to authorizing the legislature, by a two-third vote of the members present in each house, appropriate

amounts from the economic stabilization fund at any time and for any purpose), Article III, Texas Constitution; and

(2) the constitutional amendment proposed by House Joint Resolution No. 2 or similar legislation of the 83rd Legislature, 2nd Called Session, 2013, is not approved by the voters.

SECTION 5. (a) Defines, in this section, "biennial state taxes and fees general revenue estimate" to mean the amount of revenue stated in the comptroller's estimate provided in advance of the regular legislative session as required by Section 49a, Article III, Texas Constitution, that, based on the laws in effect at the time the estimate is made, is anticipated to be received by and for the state from collections of taxes and fees the revenue from which is anticipated to be deposited to the credit of the general revenue fund and is not set aside by law for a particular purpose or entity, including probable changes to that anticipated revenue as shown in supplemental statements submitted in accordance with Section 49a, Article III, Texas Constitution.

(b) Requires the comptroller to deposit to the credit of the state highway fund an amount of money equal to the amount by which the revenue derived from state taxes and fees that is received by the comptroller in the state fiscal biennium ending August 31, 2015, exceeds the estimate of revenue contained in the biennial state taxes and fees general revenue estimate for that biennium. Prohibits the amount of money deposited to the credit of the state highway fund under this section from exceeding \$2,000,000,000.

(c) Provides that this section expires September 1, 2015.

SECTION 6. (a) Requires a joint committee to conduct a study to evaluate and make recommendations regarding the issues described by Subsection (d) of this section.

(b) Provides that the committee is composed of eight members appointed as follows:

(1) four members of the senate appointed by the lieutenant governor; and

(2) four members of the house of representatives appointed by the speaker of the house of representatives.

(c) Requires the speaker of the house of representatives and the lieutenant governor jointly to designate a chair or, alternatively, designate two co-chairs from among the committee membership.

(d) Requires the committee to:

(1) consider whether the continued use of oil and gas production tax amounts received by this state in the fiscal year ending August 31, 1987, to determine certain amounts to be transferred to the economic stabilization fund under Sections 49-g(d) (relating to requiring the comptroller to appropriately handle certain funds) and (e) (relating to requiring the comptroller to appropriately transfer and retain certain funds), Article III, Texas Constitution, is appropriate, or whether different figures should be used when calculating amounts to be transferred to the fund;

(2) consider whether the current percentage allocations of certain oil and gas production tax revenue under Sections 49-g(d) and (e), Article III, Texas Constitution, are appropriate, or whether changes should be made to those allocations;

(3) consider whether the manner in which the limitation on the balance of the economic stabilization fund under Section 49-g(g) (relating to prohibiting the amount in the economic stabilization fund from exceeding an amount equal to 10 percent of the total amount deposited in general revenue during the preceding

biennium), Article III, Texas Constitution, is currently prescribed is appropriate, or whether changes should be made to the way that limitation is prescribed; and

(4) examine whether the constitutional provisions relating to the permissible uses of money in the economic stabilization fund and the vote requirements necessary to appropriate money from the fund for those uses are appropriate and whether changes should be made to either the permissible uses of money in the fund or the vote requirement to appropriate money from the fund.

(e) Authorizes the committee to adopt rules necessary to carry out the committee's duties under this section.

(f) Authorizes the committee, except as otherwise specifically provided by this section, to operate in the same manner as a joint committee of the 83rd Legislature.

(g) Requires the committee, not later than November 1, 2014, to report to the governor and the legislature the recommendations developed by the committee under this section.

(h) Provides that this section expires January 1, 2015.

SECTION 7. Provides that the changes in law made by this Act do not affect tax liability accruing before the effective date of this Act. Provides that that liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection and allocation of the revenue from those taxes.

SECTION 8. Effective date, except as otherwise provided by this Act: the 91st day after the last day of the legislative session.