



## Funds for parks, other efforts often raided or left unspent

Web Posted: 08/14/2006 01:57 AM CDT

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AUSTIN — Hundreds of millions in taxes and fees that were earmarked for specific purposes such as state parks, emergency medical services and even dogs and cats have been moved around by lawmakers to meet other needs.

The diversion of tax dollars meant for a deteriorating state park system, recently documented by the San Antonio Express-News, is but one instance of a sleight of hand that has been fairly common in recent years.

The practice stems from the rising cost of government associated with a growing population and is compounded by strong opposition among state Republican leaders to raising taxes.

Sen. Kyle Janek, R-Houston, a member of the Senate Finance Committee, said diverted funds often are spent on other important programs.

Janek said the money shuffle is "perfectly legal," but he believes the practice should be curtailed.

"I just think it's disingenuous," he said. "My feeling is if the Legislature wants to ignore previous statutes, then just repeal the damn things."

Despite laws dedicating certain sources of funding for specific programs, some of that money is blended into the state's general revenue fund for any number of uses — and some is even left unspent.

"The problem with these dedicated funds, they do get diverted," added Byron Schломach, chief economist for the Texas Public Policy Foundation, a conservative think tank. "It's impossible to keep up with every one of them."

Here, though, are a few examples:

In 1995, the Legislature imposed a 1.25 percent telephone assessment, still collected on everyone's long distance and cell phone bills, to pay for communications improvements for schools, libraries and hospitals.

The so-called Telecommunications Infrastructure Fund tax was supposed to end after 10 years, but lawmakers won't let it die. It now raises \$200 million a year for whatever the Legislature wants to spend the money on — but it's no longer being spent for the original purpose.

Phone customers also pay a monthly 50-cent fee to the state to help pay for 911 services. The levy raised more than \$90 million in 2005, and most of that was spent for its designated purpose. But the Legislature withheld \$9 million and built a reserve of more than \$80 million, even though most Texas counties, particularly in rural areas, have been unable to upgrade equipment for locating emergency calls made from cell phones.

In 1999, the Legislature added a fee on electric bills, 65 cents per megawatt hour, which adds almost \$1 per month in the summer to most Texans' utility charges.

The fee raised money to subsidize utility bills for senior citizens and low-income Texans until last year, when the Legislature used the fund's \$239 million balance to help certify the state budget instead. The extra charge is still being collected from consumers.

Animal welfare advocates applauded the enactment of a 1997 law allowing Texans to pay an extra fee — now \$30 — to have specialty license plates with an image of a dog and a cat and the words, "Animal Friendly."

Most of the money was to be spent to sterilize animals to prevent overpopulation and associated health and safety risks.

The Legislature appropriated \$500,000 for the sterilization program in the current, two-year budget. But that's only about half of what the special license fee is expected to generate in 2006-07, and more than \$1 million raised in previous years remains unspent.

As recently reported, the Legislature is spending only a fraction of the sales tax on sporting goods for state parks, despite a 1993 law dedicating that revenue source to the parks. The tax raised about \$100 million last year, but only \$15 million of it went to the parks system.

Although parks also get revenue from other sources, including user fees, many parks are understaffed, operating with reduced hours and have had to postpone maintenance.

### **Budget raids**

Dozens of dedicated accounts, created over the years by the Legislature for various reasons, help feed the state's general revenue fund, which is appropriated every two years by lawmakers.

"I think we have generally supported funds consolidation for better cash management and modern accounting," Deputy State Comptroller Billy Hamilton said.

Spending dedicated revenue for other purposes, he added, is a recent "phenomenon ... as they (legislators) sought ways to meet budgetary needs without having to raise taxes."

Money sometimes is "raided" for unrelated programs, and sometimes it is kept as an unexpended balance in its designated account to help boost the state's bottom line and certify the budget, which must balance within anticipated revenue.

But Robert "Skip" Trimble, a Dallas real estate investor whose group, the Texas Humane Legislation Network, was instrumental in getting the 1997 animal welfare law passed, is unhappy that most of the money raised by the special license plates has been held back.

"I don't know about violating the law, but it certainly violates the spirit and violates what we were told would happen with the money," he said.

The Texas Department of State Health Services, which distributes the animal sterilization grants, has never asked the Legislature for more than \$500,000 per budget period for the program, spokesman Doug McBride said.

"Is spaying and neutering important? Yes. Is it a top public health, mental health or substance abuse priority? No," he said.

However, the Texas Department of Transportation's Web site is clear about the purpose of the Animal Friendly plate.

"From the \$30 specialty plate fee, \$22 goes to the Texas Department of Health to make grants to eligible organizations that sterilize animals owned by the general public at minimal or no cost," the Web site states.

Trimble said the money that has been appropriated has enabled animal welfare groups to "spay and neuter a lot of animals," but it hasn't met all the demand.

"If we fix an animal right now instead of fixing it in five years, the number of offspring we could prevent is phenomenal," he said.

Some dedicated funds, including the highway trust fund, which receives three-fourths of the revenue from motor fuels taxes, are constitutional and can be changed only with voter approval.

But most funds, including those cited above, are statutory and can be changed, or ignored, whenever the Legislature sees fit.

Dale Craymer, chief economist for the Texas Taxpayers and Research Association, a business group, noted that legislators are elected to "set the policy direction of the budget."

"Historically anything that restrains that ability has been viewed as making the job more difficult," he added.

And budgetary decisions made by one group of legislators aren't binding on their successors.

### **Balancing the budget**

Senate Finance Chairman Steve Ogden, R-Bryan, said the money shuffling is necessary to help balance the state budget amid a growing demand for public services. When the current budget was set last year, he said, lawmakers were trying to set aside money for increasing Medicaid expenditures and preparing for the then-unknown outcome of a lawsuit about school finance.

"The primary reason you use it (dedicated funds) is to balance the budget," he said.

Ogden also said agencies don't always need all the money they collect for a particular program and said budget-writers have to be careful because fees sometimes don't generate as much money as forecast.

Janek said state law dedicates the first \$20 million in unclaimed lottery prize money during each two-year budget period to help compensate the University of Texas Medical Branch at Galveston for charity care. The school got only \$10 million in the current budget.

"I'm going to start squawking in Senate Finance," he added.

(This dedication shouldn't be confused with the larger dedication of the state's profit from the lottery to public education. All of the state's proceeds from the lottery are spent on education, although the dedication covers only a small portion of the total public school budget.)

There was a time when most of the licensing and registration fees paid by doctors, lawyers, architects and other professions and occupations were spent to support the state boards that regulated them.

Some of that money still pays for the boards, but laws were changed during the budget crunch of the late 1980s and early 1990s to make the various regulatory fees available for general state spending.

In fiscal 2005, the state collected about \$35 million in fees from doctors. Only \$8 million, almost one-fourth of the total, was appropriated to the Texas Medical Board, which regulates the profession, board spokeswoman Jill

Wiggins said. The remainder was spent elsewhere.

Democratic gubernatorial nominee Chris Bell has attacked Gov. Rick Perry over the raids on the parks and utility subsidy funds, and independent candidates Carole Keeton Strayhorn and Kinky Friedman also have criticized the practice.

Perry has said he favors a boost in parks funding, and he has called for restoring the utility subsidy for low-income and elderly Texans.

Perry included the subsidy in the budget he recommended to the Legislature last year, but lawmakers ignored his proposal, spokeswoman Kathy Walt said.

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