

SUBJECT: Appropriations for miscellaneous claims and judgments

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 18 ayes — Junell, West, Coleman, Cuellar, Delisi, Farrar, Gutierrez, Hartnett, Heflin, Hochberg, Janek, McReynolds, Mowery, Pickett, Pitts, Puente, Staples, Van de Putte

0 nays

9 absent — Eiland, Flores, Gallego, Giddings, Glaze, Luna, P. Moreno, Tillery, S. Turner

SENATE VOTE: On final passage, March 25 — voice vote

WITNESSES: None

BACKGROUND: Since the late 1970s, every general appropriations act has contained a rider prohibiting the use of general revenue to pay any judgment or settlement unless the funds are appropriated specifically for such purposes. For fiscal 1998-99, this provision is located in Art. 9, sec. 60 of HB 1 by Junell, 75th Legislature.

In March 1996, Attorney General Dan Morales filed a lawsuit on behalf of Texas against five major American tobacco companies. The lawsuit sought to recover billions of dollars the state had spent to treat Medicaid patients who suffered from tobacco-related illnesses. The suit accused the industry of violating both state and federal laws, including conspiracy, racketeering, wire fraud, mail fraud, consumer protection, and antitrust laws. In July 1998, Texas finalized the lawsuit's settlement, which awarded the state \$17.3 billion over the next 25 years. (*The State of Texas v. The American Tobacco Co., et al.*, No. 5-96CV-91, U.S. District Court, Eastern District of Texas.)

Hospital districts and counties had intervened in the settlement, claiming that it would have barred them from obtaining damages for all of the tobacco-related indigent health care they had provided. A separate settlement between the attorney general's office and the intervening counties and hospital districts agreed to direct \$2.275 billion to a permanent trust account from which the

counties and hospital districts will be reimbursed for costs associated with indigent health care. That amount accrued to Texas because of the “most favored nation” provision in the settlement, which awarded Texas with increased payments comparable to Minnesota’s subsequent settlement on somewhat more favorable terms.

**DIGEST:**

CSSB 928 would appropriate a total of \$16.5 million to pay specific claims and judgments against the state. The appropriations would come from general revenue and from other accounts and funds, including the confederate pension fund, the state highway fund, the proportional registration distributive trust fund, the coastal protection account, the operators and chauffeurs license account, the compensation to victims of crime account, and from tobacco settlement receipts. About \$291,100 would be appropriated from federal funds.

The appropriations would range from \$12.91 to Willowbend nursing home to \$10 million to the Texas Municipal League (TML) Group Benefits Risk Pool and \$5 million to the Texas Association of School Boards (TASB) Risk Management Fund. Other large appropriations would include about \$160,000 to National Heritage Insurance Co. for costs related to Medicaid, \$39,000 to Galveston County Child Protective Services, and \$25,000 to pay Ben Salazar for wrongful imprisonment.

Every claim or judgment paid from appropriations under this bill would have to be verified first by the administrator of the special fund or account against which the claim was to be charged and would have to be approved by the attorney general and the comptroller by August 31, 2000.

The bill would take effect September 1, 1999.

**SUPPORTERS  
SAY:**

CSSB 928 would take care of claims against the state that have awaited the settlement of disputes.

The appropriations to the TML Group Benefits Risk Pool and the TASB Risk Management Fund would reflect their agreement with the state to drop their lawsuit against the state’s settlement with the tobacco industry. TML and TASB had intervened in the settlement, claiming that they, like counties and hospital districts, had paid for costs associated with smoking.

The appropriations to these entities, like all other appropriations of tobacco settlement funds this session, would be directed toward defraying taxpayer costs associated with health-care expenditures. These appropriations would help reduce taxpayer costs associated with providing health benefits to city employees and officials and to school teachers and employees. The amounts were based on the number of enrollees in the pools and on estimates of health-care costs.

The use of appropriated funds by both of these health-benefit pools would be available for public scrutiny and would be managed by entities responsible to local governments. The TML Group Benefits Risk Pool plans to establish a trust account with the \$10 million and to use the interest to defray health-benefit premium payments. The TASB Risk Management Fund's plans include spending the \$5 million over several years on wellness and anti-smoking programs to reduce overall health-benefit costs.

OPPONENTS  
SAY:

Tobacco settlement funds should be spent on the direct provision of health-care services, especially for the indigent, and on state efforts to prevent or reduce the use of tobacco products.

OTHER  
OPPONENTS  
SAY:

Accountability to the taxpayers could be lost in making these appropriations to health-benefit pools, which are outside the normal state appropriation and budget oversight process.

NOTES:

The Senate-passed version would have appropriated about \$1.5 million to pay miscellaneous claims and judgments. The House committee substitute added a provision that would pay \$15 million to the TASB Risk Management Fund and the TML Group Benefits Risk Pool.

HB 1161 by Junell et al., which would establish a Tobacco Settlement Permanent Trust Account and a lump-sum trust account for unreimbursed health care expenses of counties and hospital districts, passed the House on April 22 and was reported favorably, as substituted, by the Senate Finance Committee on May 6.

HB 1676 by Junell et al. would spend \$500 million in tobacco receipts to create permanent funds for children and public health, trauma care, rural hospital facility improvements, and tobacco cessation and education programs. HB 1945 by Junell and Cuellar would spend \$580 million of

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tobacco receipts to establish permanent funds for health-related higher education purposes. Both bills are in conference committee.