

**SUBJECT:** Public education general appropriations for fiscal 2006-07

**COMMITTEE:** Appropriations — committee substitute recommended

**VOTE:** 25 ayes — Pitts, Berman, Branch, B. Brown, F. Brown, Chisum, Crownover, J. Davis, Dukes, Gattis, Guillen, Haggerty, Hamric, Hegar, Hope, Hopson, Isett, Kolkhorst, Martinez, McClendon, Pena, Pickett, T. Smith, Truitt, Turner

0 nays

4 absent — Luna, Edwards, T. King, Menendez

**WITNESSES:** No public hearing.

**BACKGROUND:** The general appropriations act governs state spending by agencies. During this year's regular session, the 79th Legislature approved SB 1 by Ogden, the general appropriations act for fiscal 2006-07. Article 3, the education portion of the bill, would have appropriated \$33.8 billion to the Texas Education Agency (TEA), but Gov. Perry line-item vetoed the entire TEA appropriation.

Some of the most significant appropriations for public education in SB 1 included:

- an increase of \$1.4 billion in general revenue and other funds to TEA for the Foundation School Program to cover enrollment growth, equity standards, and deferred payments from fiscal 2004-05;
- \$175 million over the state's current obligations for facilities funding to provide \$150 million for state assistance through the Existing Debt Allotment and \$25 million for grants through the Instructional Facilities Allotment;
- sufficient funding for all textbook purchases deferred from fiscal 2005 and all continuing contracts for textbooks and other instructional materials for fiscal 2006-07;
- an increase of \$140.5 million in funding for the Student Success Initiative for students in sixth and seventh grades who are at risk of

failing the 8th grade reading or math assessments in the 2007-08 school year;

- funding at the fiscal 2004-05 level for most other general revenue-funded programs, including pre-kindergarten expansion grants, Advanced Placement, Early Childhood Readiness, and the High School Initiative; and
- reduction in regional service center budgets by 5 percent from fiscal 2004-05 levels.

During the regular session the Legislature also approved HB 10 by Pitts, the supplemental appropriations bill, which made appropriations to cover shortfalls in agency budgets during the current biennium – fiscal 2004-05 – as well as certain education and health and human services functions in the upcoming biennium. It appropriated \$309 million to cover shortfalls in Medicaid, the Children’s Health Insurance Program, criminal justice programs, textbooks, teacher certification, and the teacher health insurance passthrough, as well as other programs. The bill also appropriated \$164 million to TEA for textbooks and \$316 million for the Student Success Initiative in fiscal 2006-07.

On June 10, 2005, the comptroller certified that estimated state revenue for fiscal 2006-07 was sufficient to meet the spending authorized by both SB 1 and HB 10. Taken together, the total amount appropriated by the 79th Legislature was \$141.4 billion.

On June 18, Gov. Perry vetoed TEA’s fiscal 2006-07 appropriation in SB 1. Under Art. 4, sec. 14 of the Texas Constitution, the governor is authorized to veto line items in any spending bill that contains more than one item of appropriation. The governor’s veto proclamation stated that the reason for the veto was that the Legislature had not made the best use of resources available for public education and by not passing HB 2 by Grusendorf during the regular session had failed to make “meaningful reforms to education policy.” The governor said that \$2 billion intended for public education priorities would be left on the table unused unless appropriated by the Legislature during a special session. On the same day, he issued the call for the first called session of the 79th Legislature.

The veto applies only to spending in the general appropriations act by TEA after September 1, 2005, the first day of the fiscal 2006-07 biennium. It does not apply to any spending before that date or to funds appropriated in HB 10.

Although vetoed by the governor, the funds appropriated to public education could be re-appropriated through budget execution authority. Article 9, sec. 13.18 of SB 1 states that any appropriated funds that are vetoed by the governor are appropriated for budget execution by the governor and the Legislative Budget Board (LBB) under the authority granted in Government Code, ch. 317. Under that provision, the governor or the LBB during the interim may propose withholding, reducing, transferring, or appropriating funds. With a majority affirmative vote by the LBB and the governor's approval, a budget execution order has the same effect as the general appropriations act.

**DIGEST:**

CSHB 1 would appropriate \$33.1 billion to TEA for fiscal 2006-07. It would distribute the funds through the same strategies and in the same proportions as SB 1 by Odgen and HB 10 by Pitts.

If HB 2 by Grusendorf and HB 3 by J. Keffer, or similar education and tax bills, are enacted during the first called session, then CSHB 1 would appropriate an additional \$1.9 billion to public education. The LBB would adjust the final general appropriations act to reflect spending authorized by the new legislation, and TEA would develop a plan, subject to approval by the LBB and governor, to implement HB 2.

The bill would reduce the appropriations available for budget execution authority by \$33.1 billion. It also would direct LBB to make necessary adjustments to the bill pattern and riders, even if HB 2 is not enacted.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect on the 91st day after the end of the special session (October 19, 2005, if the first called session lasts a full 30 days).

**SUPPORTERS  
SAY:**

CSHB 1 simply would reinstate the TEA budget, as approved by the Legislature during the regular session. It would ensure that public education received the share of funding that lawmakers decided was appropriate through the budget process. It also would allow additional appropriations if HB 2 and HB 3 are enacted during the special session.

If the bill receives a sufficient number of votes, none of TEA's budget would be appropriated through budget execution authority. But if it passes with less than a two-thirds vote, the LBB and governor could use budget execution authority to appropriate funds. In that case, the section of the

bill that authorizes the LBB to make adjustments would permit that agency to reconcile any funds appropriated through budget execution authority with those appropriated by CSHB 1.

OPPONENTS  
SAY:

The authority that CSHB 1 would give to the LBB is too broad. The Legislature, rather than the LBB, should determine the text of riders because they are an important reference for legislative intent.

OTHER  
OPPONENTS  
SAY:

This bill would not address the problem of paying for textbooks the state already indicated it would procure. Funding for Proclamation 2002 textbooks would not be included in HB 2, as approved by the House on June 28, or in this bill, even though the state commissioned these textbooks from publishers three years ago. This issue should be resolved during this special session while other education reforms are being considered.

NOTES:

The filed version of the bill did not include a contingency clause for appropriations if HB 2 and HB 3 are enacted during the first called session of the 79th Legislature.