

**SUBJECT:** Supplemental appropriations for fiscal 2007 and fiscal 2008-09

**COMMITTEE:** Appropriations — committee substitute recommended

**VOTE:** 27 ayes — Chisum, Guillen, Allen, B. Brown, F. Brown, Chavez, Crownover, Darby, J. Davis, Dukes, England, Gattis, Harper-Brown, Hopson, Isett, Jackson, Kolkhorst, Lucio, McClendon, McReynolds, Menendez, Noriega, Otto, Riddle, Taylor, Turner, Zerwas

0 nays

2 absent — Branch, Van Arsdale

**WITNESSES:** None

**BACKGROUND:** Under Art. 9, ch. 1369, sec 13.18, Acts of the 79th Legislature, Regular Session, 2005 (the general appropriations act for fiscal 2006-07), the amount of general revenue-related funds that were vetoed by the governor are segregated by the comptroller and appropriated for budget execution purposes.

**DIGEST:** CSHB 15 would appropriate \$285 million in general revenue-related funds in fiscal 2007 while reducing appropriations from general revenue-related funds in fiscal 2007 by \$502 million, for a net reduction in general revenue-related appropriations in fiscal 2007 of \$216.7 million.

The bill also would appropriate \$216.7 million in general revenue-related funds in fiscal 2008-09. It would draw down \$282.8 million in federal funds for fiscal 2008-09.

The bill would take effect immediately.

**Criminal justice.** The Texas Department of Criminal Justice (TDCJ) would receive \$47 million for fiscal 2007 for operations and \$12.9 million for correctional managed health care in fiscal 2007.

**Forensic Science Commission.** The Forensic Science Commission would receive \$45,000 for salary, office, and travel expenses for fiscal 2007. The bill would authorize the commission to employ one full-time employee.

**Adjutant General's Department.** CSHB 15 would appropriate to the Adjutant General's Department for fiscal 2007 \$1.7 million for salaries, wages, maintenance, and operations.

**Texas Building and Procurement Commission.** CSHB 15 would appropriate a total of \$82.7 million to the Texas Building and Procurement Commission (TBPC) — \$79.7 million in fiscal 2007 and \$3 million in fiscal 2008-09.

The bill would appropriate about \$64 million for various maintenance projects and \$2.8 million to cover higher utilities costs in fiscal 2006-07.

It would appropriate \$12.8 million in fiscal 2007 for asbestos abatement in the Stephen F. Austin state office building and \$3 million in fiscal 2008-09 to complete renovations of the John H. Reagan Building in the Capitol Complex

**Data center service consolidation.** CSHB 15 would appropriate a total of \$78.1 million in fiscal 2007 and \$10 million in fiscal 2008-09 to the Department of Information Resources and various state agencies for data center services and one-time costs involved in consolidating data centers previously housed within each agency. This data center consolidation was authorized through the enactment by the 79th Legislature of HB 1516 by Isett in 2005.

The funds would cover hardware, software, human resources and other related costs as part of a state contract with IBM scheduled to begin March 31, 2007. To reflect reduced personnel and other costs related to the data center transfer, the bill would reduce appropriations to the following seven state agencies: the Comptroller's Office; Employees Retirement System; Department of Public Safety; Department of Family and Protective Services; Texas Department of Agriculture; TBPC; and Texas Department of Insurance.

**Reduction in funding for TRS-Care.** For fiscal 2007, CSHB 15 would eliminate a 2005 supplemental appropriation of \$76.6 million to cover projected increases in retiree health care costs for TRS-Care, which currently has a fund balance sufficient to cover such cost increases for the remainder of fiscal 2006-07.

**Health and Human Services. Provider rate restoration.** CSHB 15 would restore various health and human services (HHS) provider rates to fiscal

2003 levels for fiscal 2008-09. The HHS providers and related appropriations are as follows:

- \$108.9 million in general revenue and \$170 million in federal matching funds to the Health and Human Services Commission (HHSC) for Medicaid and Children's Health Insurance Program (CHIP) medical professionals;
- \$10.8 million in general revenue and \$16.9 million in federal funds for the Department of Aging and Disability Services (DADS) rate restorations for home and community-based services, community living assistance and support services, Texas Home Living Waiver program, and intermediate care facilities for the mentally retarded; and
- \$3.1 million in general revenue for Department of State Health Services (DSHS) to restore provider rates for programs for children with special health care needs, maternal and child health services, and family planning services.

*Department of Family and Protective Services.* CSHB 15 would appropriate \$18.7 million in general revenue and \$2.8 million in federal matching funds for fiscal 2008-09 for direct delivery staff at the Department of Family and Protective Services (DFPS) to maintain the fiscal 2007 average daily caseload per worker for family-based safety services and to add additional statewide intake staff. CSHB 15 would appropriate \$34.5 million in general revenue and \$65.4 million in federal TANF funds to continue the changes to Child Protective Services (CPS) in fiscal 2008-09. The bill also would authorize DFPS to employ an additional 768 FTEs in fiscal 2008 and 1,092 FTEs in fiscal 2009. Finally, HHSC would transfer \$13 million in general revenue and \$17.9 million in TANF funds to DFPS to meet supplemental needs at the department.

*Repealing 2007 payment deferrals.* CSHB 15 would repeal Art. 2 riders from the 2005 general appropriations act for HHSC, DADS, and DFPS, authorizing the deferral of August 2007 payments to September 2007. HHSC would transfer \$122.7 million in general revenue to DADS and \$12.8 million in general revenue, along with \$9 million in TANF funds, to DFPS. These transfers would allow DADS and DFPS to make August 2007 payments for services.

*Other HHS appropriations.* CSHB 15 would appropriate \$15.8 million in general revenue and \$24.7 million in federal funds to DADS for fiscal

2008-09 to continue community care enhancement services at fiscal 2007 levels. The bill also would transfer the unencumbered amount of \$1.5 million in general revenue from HHSC to the Department of Assistive and Rehabilitative Services (DARS) for the Vocational Rehabilitation program.

**Multi-district litigation (MDL) funds.** CSHB 15 would provide an additional \$101,498 in general revenue for fiscal 2007 to the Supreme Court, which would provide funds as grants to the appellate courts in support of MDL at the appeals court level.

**Texas Medical Board.** CSHB 15 would appropriate \$1.8 million to the Texas Medical Board, \$1.2 million of which would come from general revenue with the remainder funded by the public assurance account to the TMB. The funding would be used to repay the Governor's Emergency and Deficiency Grant awarded in fiscal year 2006 and pay for costs incurred for licensing and enforcement and authorization of six FTEs for the remainder of fiscal 2007.

**Texas Department of Licensing and Regulation.** CSHB 15 would appropriate \$463,202 from general revenue for fiscal 2007 to pay costs associated with relocating the functions and operations of the former Texas Cosmetology Commission and the former Board of Barber Examiners as well as interest accrued on obligations stemming from relocation of those agencies. The attorney general and the comptroller would have to approve, by August 31, 2008, any claims for payment or reimbursement for goods or services received before August 31, 2005, dealing with those two former agencies.

**State Board of Dental Examiners.** CSHB 15 would appropriate \$85,000 out of general revenue to the board for fiscal 2007 to cover a shortfall of appropriated receipts.

**Higher education.** CSHB 15 would appropriate \$3.7 million in general revenue to Austin Community College and \$1.4 million to South Plains College for fiscal 2007 to correct the underreporting of state-funded group health insurance enrollment for fiscal 2006-07. The bill also would appropriate \$13.6 million in general revenue to Texas Southern University (TSU) for fiscal 2007 for deferred maintenance repairs, paying contract deficits, audit and legal costs, funding for summer school and for the TSU/Houston Independent School District Charter School. Angelo State

University (ASU) would receive \$50,000 for fiscal 2007 to make utility payments.

**Texas Forest Service.** The bill would appropriate \$44.7 million in general revenue for fiscal 2007 to the Texas Forest Service to reimburse costs related to wildfire.

**Tax administration.** The bill would appropriate \$4.1 million to the Comptroller's Office for fiscal 2008-09 to support the comptroller's tax administration and fiscal responsibilities.

**Vetoed appropriations.** The bill would reduce the amount of funds in the fiscal 2006-07 general appropriations act by an amount equal to the amount that was vetoed by the governor, which according to LBB amounts to \$424 million.

**Other appropriations.** The bill also would appropriate \$178,555 to various agencies for commercial air travel for fiscal 2007.

**SUPPORTERS  
SAY:**

CSHB 15 would balance supplemental appropriations in some areas with reduced appropriations in others. As a result, the bill would provide vital funding to a variety of state programs and services while leaving a net impact of \$0 on general-revenue related funds through the end of fiscal 2009.

**Criminal justice.** The appropriation to TDCJ is necessary to meet the state's obligation to house offenders and to pay other unexpected expenses that total \$109.3 million. TDCJ has identified \$62.3 million in other funds to offset some of these needs, reducing the total amount of appropriations to the agency in fiscal 2007 to \$47 million.

TDCJ needs \$52 million to pay overtime to correctional officers in fiscal 2007. Guards have been working a growing number of overtime hours due to a large number of correctional officer vacancies. In January 2007, when the agency had 3,250 vacant correctional officer positions, it modified its overtime policies and began paying officers for their overtime in the next pay period instead of requiring them to bank 240 hours of overtime before receiving any payments. The agency also needs \$9 million to fund increases in hazardous duty and longevity pay that were established, but not funded, by the 79th Legislature.

CSHB 15 would appropriate \$5 million to TDCJ for increases in the rate paid to private correctional and parole facilities. These competitively awarded contracts include an increase of about 2 percent annually to the contracted rate.

TDCJ's bill for utilities will be about \$37 million more than anticipated in fiscal 2007 due to nationwide rate increases. The agency works hard to keep its utility costs as low as possible by pursuing competitive rates in the deregulated market, and it has been able to keep its expenses and rates lower than they would be otherwise. CSHB 15 also would appropriate \$6.3 million to TDCJ for fuel expenditures that will exceed its budget due to increases in petroleum prices.

The \$12.9 million for inmate managed health care in CSHB 15 is needed to pay the University of Texas Medical Branch at Galveston and Texas Tech University Health Sciences Center for the additional costs to provide a constitutional level of health care for prison inmates in fiscal 2006-07. Despite cost savings efforts, the university providers say they will spend more than they will earn this biennium.

Without reimbursing the universities for operating losses it might be difficult for them to continue their contracts to provide inmate health care. Because of the unique capabilities of the universities' health care systems, it is unlikely that another provider could provide services more cheaply to the state.

**Forensic Science Commission.** CSHB 15 would provide start-up funds for the Forensic Science Commission, which was created in 2005 by the 79th Legislature but not funded. The \$45,000 that the commission would receive in CSHB 15 would be enough to hire one person to handle the business of the commission for the rest of fiscal 2006-07. CSHB 1, the House committee version of the general appropriations bill for fiscal 2008-09, would give the commission \$175,000 for salaries, office expenses, and travel.

**Adjutant General's Department.** CSHB 15 would give the Adjutant General's Department the funding it needs to continue doing the work of the Military Facilities Commission, which had its fiscal 2006-07 budget line-item vetoed by Gov. Perry. When this occurred, the Adjutant General's Department was charged with doing much of the work of the

Military Facilities Commission, but its budget was not increased. The \$1.7 million in CSHB 15 would ensure that the work could continue.

**Texas Building and Procurement Commission.** The funding in CSHB 15 for maintenance and facilities would help complete the deferred maintenance projects and resolve building deficiencies in fiscal 2007, as well as replace 10- to 20-year-old equipment and building systems with new technology that is significantly more reliable and energy-efficient. In 2006, the TBPC commissioned a comprehensive facilities condition assessment, which identified \$64 million in repairs needed to complete a backlog of critical maintenance on state buildings. The bill would provide full funding for these repairs.

The funding for asbestos abatement would help complete the project in the Stephen F. Austin building and bring it into compliance with federal law, and it would allow state agencies to occupy all floors of the building rather than leasing office space in other locations.

**Data center service consolidation.** The data center transfer would save the state agencies involved a total of \$14 million in personnel and other costs. Covering the cost of data center consolidation as a one-time expense rather than amortizing it over seven years is expected to save the state \$21.9 million in interest costs.

**Health and Human Services. *Provider rate restoration.*** The 78th Legislature in 2003 made across-the-board cuts to many Medicaid provider types, including a 2.5 percent cut to CHIP and Medicaid medical professionals and cuts of up to 3.5 percent for various DADS and DSHS service provider types. The restoration proposal in CSHB 15 would lay the foundation for additional rate increases for medical professionals that are included on a contingent basis in CSHB 1. These increases are critical because only 38 percent of physicians currently are accepting new Medicaid patients. Those not accepting new patients frequently cite inadequate reimbursement rates as the major reason for refusing new Medicaid patients. Unless the state adequately funds medical professionals, the state may reach a crisis in which there are not enough health-care providers for Medicaid patients. Restoration of the 2003 rates for DSHS and DADS service providers would enhance the ability of these providers to offer high quality care to Texans in need.

*Department of Family and Protective Services.* CSHB 15 would fund additional staff for DFPS to maintain average daily caseloads for family-based safety caseworkers as well as additional statewide intake staff to maintain average call center hold times. CSHB 15 also would fully fund DFPS's critical needs for continued CPS reform.

The use of TANF funds is appropriate because DFPS has eligible programs that could tap this funding source. The competition for general revenue is great. Alternatives such as TANF funding should be used when available to allow other programs with no alternative to using general revenue to receive funding. CPS is a critical program that would be funded appropriately whether or not TANF funds were available in coming years.

*Repealing 2007 payment deferrals.* The 2005 general appropriations act funded payments to DADS, HHSC, and DFPS service providers for 23 months rather than the full 24 months for the biennium. Several riders in Art. 2 of that bill were developed to defer service provider payments for August 2007 into September 2007, the first month of fiscal 2008. These riders — DADS, Riders 21 and 48; HHSC, Rider 66; and DFPS, Rider 25 — were developed for cash management purposes because HHS agencies must estimate the cost of provider payments, and these estimates may not prove accurate. Deferral riders free general revenue that would have gone toward payments to be appropriated for other purposes in the event that payment estimates are high. HHS agencies reassess their budget estimates at the beginning of the following session to see if unencumbered funds are available to make the payments in the biennium in which the costs were incurred or if funds need to be allocated from the subsequent biennium. CSHB 15 would repeal the deferral riders from the fiscal 2006-07 appropriations act because unencumbered funds are available to make provider payments in August 2007.

*Community care enhancement services.* Community care enhancement services are a wise investment because they improve the quality of care given by DADS providers and allow transparency in how state funds are spent. Enhancement services allow providers to negotiate their rates with HHSC. The DADS provider selects a level at which to participate and every six months must provide a cost report to verify that 90 percent of the funding increase went to wages and benefits. Enhancement funds may be used for home and community services as well as consolidated waiver programs, deaf-blind programs, and Title 20 services. The \$15.8 million in CSHB 15 would allow HHSC to maintain the enhancement levels that

HHSC awarded effective March 1, 2006, through the fiscal 2008-09 biennium.

*Vocational rehabilitation program.* The vocational rehabilitation (VR) program helps people who have physical or mental disabilities prepare for, find, or keep employment. DARS received full funding for the VR program for fiscal 2006. Art. 2, DARS, Rider 31 in the 2005 general appropriations act appropriated 2007 population growth funding for the VR program, contingent on enactment by the 79th Legislature of HB 2 by Grusendorf, which did not pass in the 2005 regular session. CSHB 15 would fund the VR program for fiscal 2007 by taking advantage of all the federal funds available at a 4 to 1 match.

**Multi-district litigation (MDL).** MDL provides cost savings and efficiencies to the court system of Texas. These civil actions, commonly asbestosis or silicosis cases, are transferred to a particular district for coordinated or consolidated review of motions. The Supreme Court would use the funds in CSHB 15 to provide grants to appellate courts for additional court staff to handle MDL cases that have been appealed from the trial courts.

Without MDL, appeals courts would need to hear appeals on thousands of extremely similar cases one by one. MDL permits one judge to handle hundreds of identical motions, allowing the rest of the appeals system to function normally. Without this funding, the judges who handle MDL cases would have to choose between their normal dockets and their MDL caseloads. CSHB 15 would fund new staff to help these judges process and track the hundreds of motions related to MDL. These staff would better enable the appeals courts to address their own dockets while taking advantage of the benefits of MDL.

**Texas Medical Board.** The agency has seen a surge in applications for physician licenses, but because of a change making \$80 registration payments biennial instead of annual, the agency has not had the revenue or resources to handle the increased load. Although it had cut processing time for new applicants from 180 to 60 days between fiscal 2002 and fiscal 2004, applications for physician licensing have increased more than 50 percent in the last three years and wait times have increased up to six months. This is a huge problem for patients, especially those in underserved areas who face shortages of adequate medical care.

Funding six FTEs would allow TMB to hire workers to screen, analyze, and investigate applications in a more timely manner. CSHB 1, as reported by the House Appropriations Committee, also includes funding for these additional workers. The funding also would be used to cover the \$375,000 grant the agency received from the Governor's Office on June 29, 2006, and other enforcement activities aimed at handling complaints more efficiently.

**Higher education.** Both Austin Community College and South Plains College received decreased funding for their state-funded group health insurance in fiscal 2006-07. All higher education institutions were required to submit updated enrollment numbers at the end of 2006, but reporting inaccuracies resulted in underreporting of enrollment for these two institutions. It is appropriate for the state to reimburse out-of-pocket costs the institutions had to pay to make up the difference.

Emergency funding for Texas Southern University is imperative. Because of current budget shortfalls, the university is operating at a deficit. It must address critical deferred maintenance and repairs that affect the health and safety of the students and need to be remedied. The lack of sufficient funds to address past due obligations will undermine the academic soundness of the university, unfairly affecting the 11,000 students who attend TSU. Additional funding is needed to provide summer school developmental courses because summer school is critical to improving the university's retention and graduation rates.

Funding for the charter school also is important. The school originally was a joint project with TSU and the Houston Independent School District (HISD). In the fall of 2006, HISD opted out of the partnership, leaving TSU to assume operating control to avoid closure of the school. Consistent with the university's urban mission, the TSU charter school trains teachers for Houston areas schools and develops learning strategies for at-risk students, both of which are good investments for the state.

Appropriations in CSHB 15 also would help Angelo State University (ASU) meet its responsibilities to the San Angelo Museum of Fine Arts (SAMFA). Under an agreement between the two institutions, the university is required to maintain the museum building and pay for the utilities. The museum then reimburses the university for the cost of utilities. The state of Texas owns the building, and ASU occupies part of the space and offers classes there. Extremely high utility bills in that region of Texas are common, and because of the special temperature needs

of the museum, annual utility costs are about \$110,000. The museum was able to reimburse the university for only a portion of the utility costs in fiscal 2007, with the university having to absorb the difference. Due to flat or decreased state funding for ASU, the university does not have the extra funds to cover the cost.

OPPONENTS  
SAY:

**Texas Building and Procurement Commission.** At least a portion of these funds should be used to cover costs related to Hurricane Katrina or to reimburse UTMB-Galveston for indigent health care costs.

**Data center service consolidation.** The funds should be used for other important purposes, such as covering the cost of retiree health care.

**Health and Human Services Appropriations.** *Provider rate restoration.* While CSHB 15 would be a positive step in restoring rates for medical professionals and DADS and DSHS providers, the bill should go further by funding provider rate increases for DADS and DSHS providers beyond fiscal 2003 levels. CSHB 1, the general appropriations bill for fiscal 2008-09, contains funding for rate increases for medical professionals. DADS and DSHS providers are equally in need of rate increases, but these providers would not receive additional funding in CSHB 1.

One of the main reasons cited for being unable to reduce wait list populations for HHS programs is the lack of provider capacity due to low provider rates. Many services at DSHS and DADS have not received rate increases since 2000 or earlier, and many deemed earlier rate increases inadequate even at the time they were implemented. Provider costs have continued to rise, including those for supplies and materials, medication, and wages for nurses and non-professional staff. By not raising provider rates above 2003 levels in either CSHB 15 or the general appropriations bill, the state risks issues with access to care for its citizens most in need. Texas also faces threats of litigation from populations that feel they have waited too long to receive services because the state lacks provider capacity to reduce wait-list populations.

*Department of Family and Protective Services.* CSHB 15 would fund additional family-based safety caseworkers and statewide intake staff, but it would not raise the FTE cap for these staff. The FTE cap should be raised by 34 in fiscal 2008 and by 68 in fiscal 2009 for statewide intake staff. For family-based safety service caseworkers, the FTE cap should be raised by 188 for fiscal 2008-09.

CSHB 15 should not fund such a substantial portion of CPS staffing and other changes with TANF funds. As a result of caseload declines, the balance of available TANF federal funds at the end of fiscal 2006–07 is estimated to be \$163.1 million. Recommended TANF funding levels for fiscal 2008-09 already exceed Texas’ annual allocation, and DFPS funding in CSHB 15 alone proposes to use \$92.3 million in TANF funds. Any expanded use of TANF should be weighed against the ability to sustain spending in the future. It would not be prudent to spend down the surplus of TANF funds on critical DFPS programs that will have increasing needs in coming years. Because TANF surpluses may be depleted in the near future, DFPS should establish funding strategies now so that critical programs would have sustainable sources of funding in the future.

**Higher education.** The \$50,000 in CSHB 15 would not be enough to cover the full costs of maintaining the infrastructure of the San Angelo Museum of Fine Arts, including the utility costs. Without increased funding, the museum would have to cut costs in order to continue operations.

NOTES:

According to the Legislative Budget Board, CSHB 15 would have a net impact of \$0 to general revenue related funds through the end of fiscal 2009. While CSHB 15 would cost the general revenue fund \$285 million in fiscal 2007 and \$220.3 million in fiscal 2008-09, these amounts would be offset entirely by savings to the general revenue fund of \$501.7 million in fiscal 2007 and \$3.6 million in fiscal 2008-09. Savings to the general revenue fund would comprise:

- a \$424.0 million reduction of the governor’s vetoed funds appropriation in fiscal 2007;
- a \$76.6 million reduction of unencumbered appropriations to TRS in fiscal 2007; and
- a \$4.7 million reduction in fiscal 2007 and fiscal 2008-09 as a result of reduced costs due to the implementation of data center consolidation.

The companion bill, SB 1720 by Ogden, has been referred to the Senate Finance Committee.