

SUBJECT: Supplemental and disaster-related appropriations

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 18 ayes — Pitts, Raymond, F. Brown, Button, Cohen, Darby, Dukes, Eiland, Giddings, Herrero, Hochberg, Isett, S. King, McClendon, Morrison, Otto, Riddle, Zerwas

0 nays

9 absent — Aycock, Chavez, Creighton, Crownover, Driver, Edwards, Flores, D. Miller, Villarreal

WITNESSES: For — Jon Hansen, Texas Historical Commission; Latonia Wilson, Galveston County District Clerk

Against — None

On — Tom Boggus, Robby DeWitt, Texas Forest Service; David Duncan, Texas Department of Information Resources; Trace Finley, General Land Office; Allen Hightower, Correctional Managed Health Care Committee; Lawrence (Larry) Oaks, Texas Historical Commission; David Reisman, Texas Ethics Commission

DIGEST: CSHB 4586 would make supplemental appropriations to certain state agencies and reduce appropriations to others for fiscal 2009 and fiscal 2010. For fiscal 2009, the appropriations in CSHB 4586 would generate a net savings in general revenue and general revenue-dedicated funds of \$407.2 million. For fiscal 2010, the bill would cost \$117.1 million in general revenue and general revenue-dedicated funds. The two-year net impact of the bill would be a net gain to general revenue and general revenue-dedicated funds of \$290.1 million.

The bill would appropriate \$3.3 billion in federal Recovery Act Funds for several agencies, and \$698.9 million in general revenue to state agencies and institutions of higher education for expenses related to natural disasters. Other appropriations in the bill include \$153.0 million in general revenue funds to community colleges to reimburse them for costs associated with the governor's line-item veto of fiscal 2009 health

insurance appropriations to community colleges and \$79.0 million in general revenue and general revenue-dedicated funds for state data center services.

The bill would take immediate effect.

FEDERAL RECOVERY ACT FUNDS

CSHB 4586 would appropriate a total of \$3.3 billion in federal Recovery Act funds to agencies for fiscal 2009. Of this amount, \$1.7 billion would make available general revenue that the Legislature may have otherwise appropriated to the Health and Human Services Commission (HHSC), Department of Aging and Disability Services (DADS), the Office of the Attorney General (OAG), and the Department of Family Protective Services (DFPS). Other agencies would receive a \$1.64 billion net gain in appropriations from stimulus funds, including \$979 million for the Texas Education Agency (TEA) — including \$758.1 million for textbooks and \$220.9 million for technology — and \$662.2 million for the Texas Department of Transportation (TxDOT) for highway and bridge construction.

General revenue freed by stimulus funds

Due to an increase in the rate, known as FMAP, at which the federal government matches state spending for the Texas Medicaid program, CSHB 4586 would appropriate \$1.6 billion in federal funds to HHSC. HHSC would allocate these federal funds to HHS agencies affected by the increase in the federal match rate, which would make available corresponding amounts of general revenue funds that had been appropriated to these agencies for fiscal 2008-09. The \$1.6 billion in general revenue funds made available by the FMAP enhancement would be derived from general revenue funds reductions of \$1.2 billion at HHSC, \$414.6 million at DADS, and \$19.1 million at DFPS.

CSHB 4586 also would appropriate \$27.3 million in federal stimulus funds to the Attorney General's Office and would reduce fiscal 2009 appropriations to the Attorney General's Office by a corresponding \$27.3 million in general revenue funds.

Stimulus appropriations for agencies

CSHB 4586 would appropriate \$758.1 million in federal Recovery Act funds to the Texas Education Agency (TEA) to be distributed to school districts and charter schools to buy new language arts and reading textbooks and to fund current instructional materials contracts. The bill would appropriate an additional \$221.0 million in federal Recovery Act funds to TEA to fund the technology allotment.

CSHB 4586 also would appropriate \$662.2 million in federal stimulus funds to TxDOT for highway and bridge construction for fiscal 2009 through fiscal 2011. The highway and bridge funds would have to be spent within a timeframe specified in the Recovery Act and meet other federal conditions.

Spending and reporting requirements

Under CSHB 4586, no federal stimulus funds appropriated could be spent on purposes the Legislature has not approved in the bill without written permission from the LBB and the governor. State agencies could use funds from any available sources to satisfy state match requirements for receiving Recovery Act funds.

CSSB 4586 would state the intent of the Legislature to limit expenditure of federal stimulus funds to one-time expenses for purposes identified in the Recovery Act. The bill also would state the intent of the Legislature that no stimulus funds be expended on a plan, policy, strategy, or rule that could not reasonably be eliminated after the funds were exhausted or that created a liability for the state to repay funds to the federal government or continue payments to beneficiaries of programs administered with stimulus funds.

The bill also would require agencies receiving stimulus funds to prepare plans to indicate how services would be provided after stimulus funds were eliminated or reduced and what would happen to employees hired through stimulus-funded programs. Reports would have to adhere to criteria set forth in the bill. CSHB 4586 would state the intent of the Legislature that positions created through stimulus funds be eliminated or discontinued when the funds were exhausted.

The bill would require any agency or institution of higher education receiving stimulus funds through the bill to submit and update a plan to the LBB and the governor detailing the intended use of the stimulus funds and any funds spent, allocated, or encumbered through August 2009 and beyond.

DISASTER EXPENSES

CSHB 4586 would appropriate \$698.9 million in general revenue to state agencies and institutions of higher education for costs and reimbursements related to natural disasters, including Hurricane Ike, that occurred in fiscal 2008-09 and before the bill's effective date. The appropriations would include funds for agency expenses from wildfires and flooding. Another \$18.0 million would be appropriated to the Texas Education Agency, contingent on enactment of legislation suspending recapture payments from property-wealthy school districts that suffered financial hardship from a natural disaster in cases of a declared state or national emergency.

The bill would appropriate a total of \$396.2 million to institutions of higher education, \$220.7 million to state agencies, and \$100 million for disaster relief to be allocated by the governor and the LBB.

State agencies and institutions of higher education would have to repay the state for funds received through the bill that were reimbursed by the federal government. These reimbursements would go to the general revenue fund.

UTMB and institutions of higher education

CSHB 4586 would appropriate about \$396.2 million from general revenue funds to various four- and two-year higher education institutions and agencies for costs from natural disasters. Funds would be used to pay for or reimburse payments made for costs incurred by the agencies for damage or disruptions from natural disasters during fiscal 2008-09.

Funding would be allocated to the following institutions:

- The University of Texas Medical Branch at Galveston (UTMB) - \$300.0 million;
- Texas Southern University - \$17.9 million;
- Alvin College - \$12.0 million;

- The University of Texas Health Science Center at Houston - \$8.5 million;
- Texas A&M Galveston - \$10.7 million;
- The University of Houston System Administration - \$7.3 million;
- Houston Community College - \$6.0 million;
- San Jacinto College - \$3.7 million;
- UT M.D. Anderson Cancer Center - \$1.7 million;
- Galveston College - \$491,844;
- The University of Texas at Brownsville - \$1.2 million;
- Lamar University - \$2.8 million;
- The University of Texas Health Science Center at Tyler - \$2.9 million;
- Lamar Institute of Technology - \$2.0 million;
- Lamar State College: Port Arthur - \$1.1 million;
- College of the Mainland - \$704,945;
- The University of Texas Pan American - \$102,258;
- Angelina College - \$142,245;
- Texas State Technical College: Harlingen - \$904,558;
- Lamar State College: Orange - \$693,691;
- Prairie View A&M University - \$488,864;
- Stephen F. Austin State University - \$434,075;
- Tyler Junior College - \$215,688;
- Sam Houston State University - \$118,841;
- The University of Texas Health Science Center at San Antonio - \$89,436;
- Texas A&M University-Commerce - \$39,694;
- Brazosport College - \$120,111;
- Texas A&M Corpus Christi - \$59,145; and
- Lee College - \$137,554.

CSHB 4586 would appropriate the following to Texas A&M system agencies:

- \$9.8 million to the Texas Forest Service for emergency response (\$9.4 million for wildfires that occurred from January through August of 2008; \$385,091 for costs from Hurricane Ike; and \$69,339 for flooding caused by various other storms);
- \$1.2 million to the Texas Engineering Extension Service for costs not reimbursed by FEMA for damages to a marine training facility in Galveston and for search and rescue operations related to the

hurricanes and \$2.1 million for search and rescue operations related to other flooding events;

- \$281,428 to Texas AgriLife Research to repair damage caused by Hurricane Ike to the Beaumont Research and Extension Center; and
- \$143,378 to the Texas AgriLife Extension Service for the costs to round up 20,000 head of cattle that were loose after Hurricane Ike.

Disaster relief allocated by the governor and the LBB

Under CSHB 4586, up to \$100 million in general revenue funds would be appropriated to the Disaster Contingency Fund and from that fund to the Governor's Trusteed Programs for providing disaster relief. The priority for the funds would be to provide matching funds for FEMA qualifying projects and to prevent default on outstanding bonds or meet other financial requirements. The transfer of funds from the General Revenue Fund or the Disaster Contingency Fund could be done only with the LBB's approval in response to a request from the Governor's Office.

The LBB could not approve at any one time the transfer or expenditure of more than \$25 million. The LBB could concurrently approve the transfer of an amount from the General Revenue Fund to the Disaster Contingency Fund and the expenditure of all or part of that amount from Disaster Contingency Fund.

Agencies or institutions of higher education that received a reimbursement from the federal government for an expenditure paid out of the \$100 million for disaster relief would be required to reimburse the Disaster Contingency Fund for that amount.

Texas Education Agency

CSHB 4586 would appropriate up to \$18.0 million to the Texas Education Agency, contingent on enactment of legislation suspending recapture payments from property-wealthy school districts that suffered financial hardship from a natural disaster in the case of a declared state or national emergency.

Other state agencies

CSHB 4586 would make the following disaster-related appropriations to other state agencies:

- General Land Office and Veteran's Land Board - \$35.2 million;
- Texas Department of Parks and Wildlife Department - \$60.8 million to restore and repair damage at a fish hatchery, several wildlife management areas, and several state parks;
- Health and Human Services Commission - \$47.4 million to restore funding to the Children's Health Insurance Program used to address disaster-related costs, including about \$40 million to fund the state's share of Other Needs Assistance program grants that assist disaster victims with transportation, personal property, medical, dental, and funeral expenses;
- Texas Department of Criminal Justice - \$32.4 million for the costs of evacuating inmates and sustaining power to 42 facilities due to Hurricane Ike;
- Texas Department of Agriculture - \$20 million to help the Boll Weevil Eradication Foundation cover increased costs from boll weevil migration and reinfestation after the storms;
- Texas Commission on Environmental Quality - \$4.6 million for debris cleanup, identifying areas of contamination, supplies, equipment, overtime, travel, and fuel;
- Adjutant General's Department - \$1.2 million to cover personnel and equipment costs to deploy the Texas State Guard and the Texas National Guard and to move a program for at-risk teenagers from Galveston to Sheffield; and
- Texas Department of Transportation - up to \$1.0 million to TxDOT for repairs to FM 170 in Presidio and Brewster counties due to damage caused by flooding from a severe storm in September 2008.

OTHER PROVISIONS

CSHB 4586 would make the following additional appropriations:

General government

Office of the Governor, the Governor's Trusteed Programs, and Texas A&M University. CSHB 4586 would establish LBB oversight of the Emerging Technology Fund grant awarded to Texas A&M for National Center for Therapeutics Manufacturing projects and would restrict the governor's use or transfer of funds among the Emerging Technology Fund, Texas Enterprise Fund, and other programs without prior authorization from the LBB.

Under CSHB 4586, unspent emerging technology funds awarded to Texas A&M University could not be expended by A&M without LBB approval. In addition, A&M would be required to file with the LBB detailed accountings of the use of these funds, including reports on consulting contracts, staff salaries, construction costs, and timelines for completion of construction and operation of the National Center for Therapeutic Manufacturing.

The governor, the Office of the Governor, and the Governor's Trusteed Programs would need prior written approval from the LBB before an expenditure or transfer of funds in the Emerging Technology Fund or the Texas Enterprise Fund and could not transfer appropriations or FTEs from the Governor's Trusteed Programs without prior written approval from the LBB.

Without prior written approval of the LBB:

- the Office of the Governor would be prohibited from transferring funds between appropriated items within the office;
- the governor would be prohibited from transferring funds or FTEs within the Governor's Trusteed Programs; and
- the governor would be prohibited from transferring funds and FTEs from the Governor's Trusteed Programs to other agencies.

Historical Commission. The Texas Historical Commission would receive an additional \$8.3 million for restoration of the Governor's Mansion. These funds would be used to repair the exterior of the mansion and for landscaping, security improvements, and architectural and engineering design work, among other projects.

Cancer Prevention and Research Institute. CSHB 4586 would provide \$917,389 to the Cancer Prevention and Research Institute, created by Proposition 18 adopted by the 80th Legislature and approved by the voters in 2007, as it starts distributing grants for cancer prevention and research. The funds would go to salaries and wages, travel, information technology, computers, furniture, legal counseling, and contracts. CSHB 4586 also would authorize an additional 16 FTEs.

Data center services. CSHB 4586 would appropriate a total of \$10.7 million in general revenue and general revenue-dedicated funds to various agencies for fiscal 2009 to address increases in consumption, network

costs, and agency initiatives related to data center services. Specific agency appropriations would be as follows:

- \$128,000 in general revenue funds to the Texas Facilities Commission;
- \$278,855 in general revenue funds to the secretary of state;
- \$6.7 million in general revenue funds to the Texas Department of Criminal Justice;
- \$150,991 in general revenue funds to the Texas Youth Commission;
- \$42,089 in general revenue funds to the Department of Agriculture;
- \$1.3 million in general revenue-dedicated funds to the Texas Commission on Environmental Quality;
- \$1.2 million in general revenue funds to the Parks and Wildlife Department;
- \$349,929 in general revenue funds to the Railroad Commission;
- \$135,999 in general revenue funds to the Department of Licensing and Regulation; and
- \$147,687 in general revenue funds and \$265,313 in general revenue-dedicated funds to the Texas Department of Insurance.

These agencies, or the Department of Information Resources (DIR) should the above amounts be transferred to DIR, could use the appropriations to buy capital items needed to address unanticipated increases in consumption related to data center services.

DIR would receive \$68.3 million in general revenue funds and a corresponding increase in capital budget authority to fund upfront payment of costs associated with the State Data Center, including:

- transfer of state agency mainframes and servers to the State Data Center;
- transition of some state agency IT staff to the Data Center Services contractors;
- initiation of common policies, procedures, and processes;
- implementation of service management tools, metrics, and processes;
- deployment of system automation tools; and
- initiation of infrastructure rollout and upgrades.

Other appropriations would include:

- \$188,349 to the Texas Ethics Commission to reimburse the commission for payment of a judgment against it stemming from *Free Market Association of Texas v. Texas Ethics Commission*;
- \$1.9 million to the Texas State Library and Archives Commission to purchase furniture and shelving for the Lorenzo de Zavala Building; and
- \$2.4 million to the Texas Facilities Commission for increased utility costs reflecting an increase in utility rates. The Commission could not use these funds for any other purpose without the prior written approval of the LBB.

Health and human services

Health and Human Services Commission. CSHB 4586 would appropriate \$357.8 million in general revenue funds to the Health and Human Services Commission (HHSC) for fiscal 2009 supplemental needs in the Medicaid program, including higher average Medicaid costs than were assumed in the 2008-09 appropriations act, a lower federal match rate for Medicaid funds, and replacing transfers made from Medicaid funding.

The bill also would appropriate \$322.4 million in general revenue funds to HHSC for the Medicare federal give-back, which is a payment to the federal government for the state's share of certain prescription drug benefits that the governor vetoed in the fiscal 2008-09 appropriations act.

For fiscal 2009, the Health and Human Services Commission (HHSC) would be appropriated the estimated total revenue of \$6.7 million in the Red Light Camera Trauma Fund, which receives one-half of all profit from red-light ticketing systems, to reimburse uncompensated trauma care in fiscal 2009.

The unexpended balance of \$117.1 million in general revenue funds appropriated to HHSC in fiscal 2008-09 to fund *Frew* strategic initiatives, which are dental and medical initiatives serving Children's Medicaid patients, would be appropriated to HHSC to fund these initiatives in fiscal 2010. CSHB 4586 would permit HHSC to transfer amounts among specified funding strategies as appropriate to allocate supplemental funding and *Frew* strategic initiative funding.

Department of Aging and Disability Services. CSHB 4586 would appropriate \$62.4 million in general revenue funds to the Department of Aging and Disabilities Services (DADS) to meet fiscal 2009 needs resulting from a less favorable federal match rate for services, higher costs to meet minimum wage adjustments, and funding new waiver clients in more costly programs. The funding would go to the DADS nursing facility payments strategy, and DADS could transfer amounts among specified strategies to meet the supplemental needs.

CSHB 4586 would set fiscal 2009 caseload limits on DADS Medicaid waiver programs and other community-based programs equal to the caseload targets included in CSSB 1 for fiscal 2010. DADS could not exceed these caseload limits in fiscal 2009.

Department of Family and Protective Services. CSHB 4586 would reduce fiscal 2009 appropriations for foster care payments at the Department of Family and Protective Services (DFPS) by \$24.5 million in general revenue funds and \$26.7 million in federal TANF funds due to lower-than-anticipated caseloads. The bill also would make appropriations to DFPS in the following amounts for fiscal 2009:

- \$5.2 million in general revenue funds to address higher adoption subsidy caseloads;
- \$6.2 million in general revenue funds and \$4.2 million in federal TANF funds for continuing initiatives in the Child Protective Services (CPS) system; and
- \$13.1 million in general revenue funds to address a decrease in federal funding for Adult Protective Services.

An additional \$12.5 million in federal TANF funds would be appropriated to the CPS Direct Delivery Staff strategy to pay for unanticipated HHSC billings for support services, and the bill would permit DFPS to transfer amounts among specified funding strategies as appropriate.

Department of State Health Services. CSHB 4586 would remove limits on transfers of appropriations among Department of State Health Services funding strategies to permit the agency to maintain service capacity within the mental health state hospital system for fiscal 2009.

Community college employee health insurance payment

CSHB 4586 would appropriate \$153.0 million in general revenue funds to each community college district to reimburse costs from the governor's line-item veto of the fiscal 2009 health insurance appropriation to community colleges. The bill would restore to each district the proportional cost of health benefits contributions for fiscal 2009. It also would include a transition adjustment equal to each district's vetoed fiscal 2009 higher education group insurance contribution in cases where the restored proportional contribution was less than the original fiscal 2009 appropriation.

Texas Education Agency

CSHB 4586 would appropriate \$2.6 million in general revenue funds to the Texas Education Agency, in addition to appropriations remaining from fiscal 2008-09, to conduct criminal history background checks on applicants and current holders of teaching certificates, charter school employees, certain non-certified and contract employees, and substitute teachers.

CSHB 4586 also would reduce the fiscal 2008-09 appropriation from the Foundation School Fund to the Texas Education Agency by \$500 million due to higher than originally estimated local school district property values.

Other appropriations

Appropriations to other agencies include:

- \$125.1 million in general revenue to the Texas Department of Criminal Justice (TDCJ) for overtime, utilities, food, fuel, hazardous duty and longevity pay, salaries, and contracted temporary capacity funds that were vetoed by the governor;
- \$39.0 million to TDCJ for a shortfall in correctional managed health care funds, including salaries, pharmacy services and drugs, medical supplies and services, and hospital care;
- \$2.8 million to the University of North Texas System for costs incurred last year for the design and planning of a second academic building and its infrastructure at the Dallas campus;

- \$4.2 million re-appropriation of general revenue funds to develop and build the National Large Wind Turbine Research and Testing Facility at the University of Houston;
- \$2.5 million to the Texas Forest Service for grants for the Volunteer Fire Department Assistance Program out of a current balance from a dedicated fund;
- \$4.0 million to the Texas Water Development Board for a grant to the Bexar-Medina Atascosa Water Control and Improvement District #1 for structural improvements to the Medina Lake Dam, which studies indicate is at risk of collapse in a maximum flood;
- \$54,664 in general revenue to the Texas State Soil and Water Conservation Board to cover a legislative increase in the mileage reimbursement rate for soil and water conservation district directors; and
- \$178,525 to the Racing Commission for current operations to cover a revenue shortfall.

**SUPPORTERS
SAY:**

CSHB 4586 would balance needed supplemental appropriations in some areas with reductions in others to meet the state's budget needs for the rest of the current fiscal biennium, which ends on August 31. These appropriations, combined with an injection of federal stimulus funds, would result in a net gain to general revenue and general revenue-dedicated funds of \$290.1 million. This available revenue could then be used to help fund the state's budget for fiscal 2010-11.

General revenue is the most appropriate source of funding for these expenses because the state needs to safeguard the economic stabilization (rainy day) fund. A prolonged recession could mean that the state may need to use the rainy day fund in fiscal 2010-11, if the current revenue estimates are not met, or in fiscal 2012-13 to fund vital state services.

FEDERAL RECOVERY ACT FUNDS

Direct stimulus appropriations

Texas Education Agency. Appropriating stimulus funds to the Texas Education Agency for instructional materials and the technology allotment would be an appropriate use of the funds designated by the federal Recovery Act to fill gaps in education spending to maintain levels of funding from the prior biennium. Use of federal Recovery Act funds

would ensure the state did not have to rely on a transfer of funds for these purposes between the Permanent School Fund and the Available School Fund, which is unlikely for fiscal 2010-11 because of market declines.

Stimulus funds to free general revenue

The FMAP enhancement — the increased federal matching rate for the Medicaid program — would make available \$1.6 billion in general revenue funds in fiscal 2009 to address supplemental needs or to make available general revenue funds for spending elsewhere in the budget.

Using federal stimulus funds to make available, or “free up,” general revenue for general appropriations purposes would not supplant general revenue funds because these programs likely would have been cut in the absence of federal assistance. In the absence of stimulus funds, the Legislature would have had to contend with a sizable deficit. Using rainy day funds to fill a deficit of this magnitude would have been unlikely because these funds could be needed to make up for larger projected shortfalls in fiscal 2012-13.

Using stimulus funds to free up general revenue would be the best option in less-than-ideal circumstances because it would provide a net increase in appropriations while retaining critical rainy day funds for possible use in the future.

Transparency provisions

CSHB 4586 would require reporting and documentation of stimulus funds to establish transparency in how the appropriated funds are administered. Requiring agencies that receive stimulus funds to report spending plans and expenditures, and to clearly adopt and submit plans for the discontinuation of stimulus-funded programs, would provide publicly accessible information on how the state spends taxpayer funds and with what results.

DISASTER EXPENSES

Appropriations in CSHB 4586 are necessary to reimburse state agencies and institutions of higher education for costs incurred from natural disasters occurring this biennium. These disasters included three

hurricanes, wildfires, and flooding. Many of the costs were incurred by state agencies as they dealt with immediate effects of the disasters and were essential to protecting lives and property. The appropriations in the bill are essential to the recovery of the Texas coast.

The appropriations in the bill would be for costs not covered by insurance or reimbursable by the federal government. The bill would ensure this by requiring agencies to repay funds if they receive federal reimbursement for any of the appropriations in the bill.

General revenue is the most appropriate source of funding for these expenses because the state needs to save the rainy day fund in case the state's economic situation worsens.

UTMB and institutions of higher education

The appropriations to higher education institutions and agencies are crucial to meet the recovery needs of entities devastated by recent natural disasters, especially Hurricanes Ike, Dolly, and Gustav. Hurricane Ike was the third hurricane to hit the Texas Gulf Coast in less than two months, and it was the most destructive.

Damages suffered by UTMB in Galveston from Hurricane Ike were the most significant, estimated to be around \$1 billion. University officials have identified other funds — including \$600 million from FEMA, \$100 million from insurance, and \$200 million from the Sealy and Smith Foundation, which has supported the hospital since the 1880s — but UTMB must receive immediate funding for the state's match for vital FEMA funds, which are essential to its recovery. University officials report that 59 percent of the annual budget was derived from patient care operations, a revenue stream that has been reduced significantly due to damage at the hospital and outpatient clinics.

Other Gulf Coast institutions that suffered significant damage from Hurricane Ike include Texas Southern University, Alvin College, the University of Texas Health Science Center at Houston, and Texas A&M Galveston. Hurricanes Dolly and Gustav, though not as destructive as Ike, also wreaked havoc to other Gulf coast universities and community colleges, which still are working to recover from the impact.

Much of the funding is needed to accelerate the reopening of UTMB's trauma center and to repair and harden the campus against future storms. More than 1 million square feet of building space was flooded by up to eight feet of storm surge. Most of the critical research, education, and clinical buildings were damaged. Clinical operations, particularly John Sealy Hospital, suffered the most damage. The hospital has since returned only to partial operational capacity. The trauma center, which is the primary entry point for most of the hospital's uninsured patients, is still closed. UTMB is a safety net hospital that serves mostly working families, with 85 percent of its uncompensated care coming from serving this population. It is the regional and statewide primary provider of uninsured and underinsured health care.

The closing of trauma center has had a devastating ripple effect on the healthcare system across southeast Texas, which serves 5.7 million people. Some trauma centers and emergency rooms in the Houston area have seen a 25 percent to 40 percent increase in patient traffic, and wait time for emergency room services has doubled in some cases. Seriously injured people on Galveston Island must go 50 miles away to downtown Houston for the nearest Level 1 trauma center. The closing of UTMB's trauma center also means that the area has lost its Level 1 trauma center for life-threatening injuries. Area residents and the medical community are concerned about reducing the regional capacity for emergency and burn treatment, especially in an area that is home to industrial complexes at risk for mass casualties.

Shriners Burns Hospital for Children, located on UTMB's campus, also was damaged by Hurricane Ike and remains closed. The Shriners charity is considering closing a quarter of its facilities nationwide because the charity's endowment has fallen and donations have dwindled and has said it will not reopen its hospital in Galveston. This only adds to the urgency for funding to speed the recovery of UTMB so that the medical staff can provide vital treatment to critically burned children and so that burns research that was conducted at Shriners can continue.

Even though a consulting firm had recommended moving all patient beds from Galveston to the mainland, the community and the University of Texas System board of regents unanimously support a plan to renovate and mitigate the island-based facilities, including the trauma center, provided significant and reliable funding is available from the state and federal government, philanthropic sources, and perhaps a taxpayer-funded

hospital district. The consultant's report also did not take into account that some of the FEMA money may not be available if UTMB medical operations were moved inland.

Rebuilding on Galveston would maintain the proximity and economies of scale with the rest of UTMB's campus. The Sealy Smith Foundation, which contributes \$20-\$30 million a year to UTMB, has pledged \$75 million for capital renovations and construction if the hospital is maintained on the Galveston campus.

In response to concerns raised about building back in a hurricane zone, it should be noted that newer buildings in Galveston and on UTMB's campus suffered little or no damage from Hurricane Ike. The Galveston National Lab, which was completed just before the storm, suffered no damage. Also, FEMA requires that all repairs and construction be done according to current standards that mitigate against future damage. Finally, the UTMB campus has more than \$3 billion worth of facilities, a level of investment that would be economically impossible to recreate elsewhere.

In its interim report to the 81st Legislature, the House Select Committee on Hurricane Ike Devastation to the Texas Gulf Coast recommended providing all necessary funding to restore UTMB's Level 1 trauma center. The committee also recommended that the University of Texas and the state commit to maintaining UTMB on Galveston Island.

Disaster relief allocated by the governor and the LBB

CSHB 4586 would create a method of delivering relief funds to disaster areas, while ensuring proper oversight. Requiring LBB approval before funds were transferred from the General Revenue Fund to the Disaster Contingency Fund, and then to the Truusted Programs of the Governor, would ensure that the funds were spent for appropriate projects. The bill would remove the risk of politicization of the funds by requiring the LBB to sign off on any transfer.

Because many states pay all or part of the local share of the FEMA match, it would be appropriate to prioritize this \$100 million for local matching funds for FEMA-qualifying projects. This funding would help smaller local governments with tight budgets that may be unable to generate matching funds to respond to disasters. Historically, delays in setting up

such funding have stalled critical recovery efforts and hurt vendors and contractors that must wait months for payment.

The \$100 million also could help small and medium counties and cities bear some of the costs they incur in emergencies to which they might not have the resources to respond properly. These entities often must do everything from rescuing people from their homes to cleaning up storm debris. They use their own facilities, such as schools, for shelter and their buses for evacuation and generally must pay public employees overtime for their work. For an extended emergency, especially one requiring a local government to house and feed displaced people, this burden sometimes can be beyond the means of an entity that has no ability to deficit spend or take money from some other fund.

Texas Education Agency

To provide each school district with the same level of funding per student, the Texas Education Agency (TEA) “recaptures” money from property-wealthy school districts for redistribution to property-poor school districts. Suspending recapture payments from school districts damaged by natural disasters would mitigate the debt these districts accrue from disaster-related facility repairs and prevent some districts from having to consider cuts to other school programs.

If legislation were enacted to suspend certain recapture payments, TEA still would be obligated to distribute to property-poor school districts the amount of money the agency would have collected had all the recapture payments been made. The appropriation to TEA of up to \$18 million would help fulfill the state’s financial obligation to property-poor school districts.

Other state agencies

General Land Office and Veteran’s Land Board. Funds appropriated to GLO would be used for the following:

- \$15 million for matching state dollars to buy out structures on Texas beaches;
- \$6 million for the closure of Rollover Pass;

- \$13.7 million for matching state dollars to repair and rebuild portions of CR 257, which links Galveston Island and Brazoria County; and
- \$500,000 for hard costs associated with direct response to Hurricane Ike.

The \$15 million would give local governments funds to match FEMA monies to buy structures on Texas beaches that pose a threat to public health and safety as a result of hurricane damage. If nothing is done, the state could incur millions of dollars in legal expenses and years of delay in removing these hazards. Many of the structures qualify for FEMA grant funds at 75 percent, and the \$15 million would provide the 25 percent local match. These structures will be removed and the areas affected will become public beach. The state does not have the resources to manage these additional public beach lands, so the local governments will retain ownership with the stipulation that those areas not be developed.

Rollover Pass is a manmade cut from the Gulf to East Bay on Bolivar Peninsula that it is a significant contributor to erosion in the area, threatening public infrastructure and the Inter-coastal waterway. CSHB 4586 would appropriate money to close Rollover Pass immediately to reduce erosion and dredging costs and to allow for future large-scale beach nourishment projects to be viable in this area. It also would provide an environmental benefit by allowing the natural habitat to flourish. Because Rollover Pass has been a popular fishing spot, the agency may consider putting in a fishing pier once the pass is closed.

Funds for lost revenue and business interruptions

CSHB 4586 appropriations appropriately would focus on direct costs related to damages or disruptions to state entities caused by natural disasters. It would be too difficult to calculate in a standard way lost revenue and business interruption costs associated with natural disasters, and any efforts to reimburse certain agencies for these costs could invite more agencies to request funding when they did not need it. CSHB 4586 focuses on funding requests that may be calculated equitably and easily substantiated, such as capital expenditures needed to repair storm damages or overtime pay related to disaster recovery efforts.

OTHER PROVISIONS

General government

Office of the Governor, the Governor's Trusteed Programs, and Texas A&M University. The Legislature must increase its oversight of the Governor's Trusteed Programs to better protect and control the spending priorities set during the appropriations process. While the National Center for Therapeutic Manufacturing at Texas A&M may be a worthy investment of public funds, the unusual chain of events that led to its receipt of \$50 million in funding from the Trusteed Programs of the Governor has revealed that the Legislature needs to provide additional oversight to ensure that funds are spent to achieve the specific goals for which they were appropriated. Requiring LBB approval before certain funds are expended or transferred is an established budgeting practice. The additional approval requirements and reporting required by the bill should not be overly burdensome. Even if they do lead to more paperwork, the protections and oversight they would establish for expenditure of taxpayers dollars would be well worth it.

Data Center Services. Appropriating \$68.3 million to the Department of Information Resources to pay one-time, upfront transition and other costs related to the State Data Center would save the state about \$16 million in interest costs over the remaining five years of the IBM data center services contract. Otherwise, these costs, built into the initial contract with IBM, would accrue interest and be paid for in subsequent biennia with appropriations to individual agencies that use the state data centers.

Department of Aging and Disability Services

The existing 2009 caseload targets for DADS Medicaid waiver programs and other community-based programs are lower than the caseload targets in CSSB 1 for fiscal 2010. By setting fiscal 2009 caseload limits for these programs equal to the caseloads included in CSSB 1 for fiscal 2010, CSHB 4586 would allow DADS to serve more clients in fiscal 2009 in community-based programs.

Community college employee health insurance

CSHB 4586 would restore funding to community college districts for fiscal 2009 health insurance appropriations vetoed by the governor and

acknowledge the critical role that community colleges have in the state's higher education system. Currently, each district is drawing down a greater share of its formula funding in order to pay for employee health insurance premiums previously covered by the state. Without the agreement to restore the funds, this added cost could force many community college districts to raise student tuition or local taxes or to cut programs. This would result in a loss of vital services to Texas communities and the economic health of the state.

At the center of the dispute is a budgetary principal known as proportionality, under which only employees paid with state funds are entitled to state-funded health insurance benefits. It is used to determine the state's portion of the cost of the health benefits. All state agencies and public higher education institutions determine the proportional cost-sharing split between agencies and the state. The Legislature has not applied proportionality to community college employee benefits in the past and instead has fully funded the cost of employee benefits for eligible faculty and staff.

Following the governor's veto, the state leadership agreed to restore full funding for community college employee health insurance for fiscal 2009, and CSHB 4586 would fulfill that commitment. Whether the state should continue to fully fund these benefits or make the transition to proportionality in the future will be decided during consideration of the fiscal 2010-11 budget, but for now, the community colleges need these funds to cover the cost of health insurance for their employees.

Texas Education Agency

The 80th Legislature in 2007 enacted SB 9 by Shapiro, which requires criminal background checks for public school employees. TEA needs supplemental funds to conduct the background checks because the cost of the program has proven more expensive than originally projected.

The bill's \$500 million reduction to TEA reflects a decrease in state funding obligations to school districts as a result of increased local property values. The state comptroller underestimated by 5 percent the rate of property value growth in Texas for this biennium. As a result, fiscal 2009 appropriations to the Foundation School Program exceed estimated payments by about \$500 million.

OPPONENTS
SAY:

Instead of using general revenue to make appropriations for disaster-related expenses, the state should use the rainy day fund, which is like a state savings account, because these expenditures are for one-time, unexpected costs. Using the rainy day fund for these disaster appropriations would not make a significant dent in the \$6.7 billion that is projected to be available in the fund at the end of fiscal 2009. Appropriations from the fund soon would be replenished by projected deposits in the fund, which the comptroller estimates will bring the balance to \$9.1 billion by the end of fiscal 2011, if no withdrawals are made.

FEDERAL RECOVERY ACT FUNDS

Direct stimulus appropriations

Texas Education Agency. CSHB 4586 should not appropriate federal Recovery Act funds to TEA for instructional materials and the technology allotment. It remains unclear whether there will be restrictions on the use of federal Recovery Act funds for these purposes.

Stimulus funds to free general revenue

Using federal Recovery Act funds to free up general revenue effectively amounts to supplanting general revenue funds with stimulus funds, which is contrary to the intent of the Recovery Act. Stimulus funds are intentionally directed toward public functions that create jobs or provide services to people and institutions that have been hurt by the recession. The two largest sources of freed-up general revenue, HHS and TEA, fit squarely into this purpose. Stimulus funds for education, for instance, could be used to invest in necessary capital improvements that would both improve educational facilities and create solid jobs.

Additional sources of revenue could be dedicated to shoring up budgetary shortfalls for fiscal 2010-11. The state could draw on a portion of the significant rainy day reserve, for instance, without jeopardizing its fiscal position in fiscal 2012-13. The budget also could be reduced in areas that do not have a stimulant or stabilizing effect on the state's economy.

Transparency provisions

CSHB 4586 should clearly separate and document how the federal stimulus funds would be spent. A separate section of the bill should be designated to specify stimulus spending in detail and any freed general revenue and should include the purposes of the funds, performance measures, new FTEs, and other data. The bill also should require entities receiving stimulus funds to post information about stimulus spending on their websites and designate certain agencies to act as leads, coordinating state efforts to apply for competitive funding made available in the Recovery Act.

CSHB 4586 should require notification and reporting of any additional federal funding received beyond the appropriations made in the bill. An agency receiving additional funding should be required to hold a public hearing on the intended use of the funds and to solicit the written approval of the LBB before spending the funds.

DISASTER EXPENSES

UTMB and institutions of higher education

An independent outside consulting firm hired by the UT board of regents found that an inland location would be the best hope for securing the financial future of UTMB and recommended moving patient-care enterprises from Galveston to the mainland. The consulting firm reviewed UTMB's new outpatient specialty care center under construction in League City as a possible alternative hospital site. The recommendations stated that an inland location made more sense because of the closer proximity to the more heavily populated outskirts of Houston, which has a greater proportion of patients with commercial and governmental insurance, and would help support operational costs of UTMB's health care system.

Disaster relief allocated by the governor and the LBB

The procedure required by CSHB 4586 for allocating disaster relief funding would add unnecessary layers of bureaucratic oversight and reporting. It would create inefficiencies, increase costs, and result in delays in distributing funding after a natural disaster. Instead, these disaster relief funds simply should be appropriated directly to the Trusteed

Programs of the Governor to ensure the kind of timely response necessary to start relief and repair work as soon as possible.

Other agencies

General Land Office and Veterans Land Board. The state should not spend \$15 million to buy private properties on Texas beaches that were built in an area highly susceptible to damage from storms. Property owners were aware of the risk when they bought property in those locations. The state also should not spend \$6 million to close Rollover Pass because it would be a loss of a recreational area that is a popular fishing spot.

OTHER PROVISIONS

General government

Office of the Governor, the Governor's Trusteed Programs, and Texas A&M University. Changes to the Governor's Trusteed Programs are not needed because of their solid track record with economic development and job creation. The National Center for Therapeutic Medicine will be a world-class research facility and fill research and development gaps that have long existed in Texas. Requiring additional layers of bureaucratic oversight and reporting would only create inefficiencies, increase costs, and increase the possibility of delays, potentially putting Texas at a competitive disadvantage in vying for projects that would boost economic development and job creation.

Data Center Services. Texas has had difficulty with IBM's management of the Data Center Services contract in the past, including data losses due to insufficient data backups and higher than projected costs at individual agencies. Texas should not risk paying the \$68.3 million in transition and other one-time costs upfront, even if this would mean higher long-term interest costs, because the state would be assuming all the risks related to these costs should IBM refuse to complete this contract.

Department of Aging and Disability Services

The general appropriation act historically has set only targets and not firm caps for the number clients that may be served in DADS community-based programs. Such targets give DADS the flexibility to exceed these

levels if critical circumstances dictate. CSHB 4586 should not set firm limits on the number of clients that may be served in fiscal 2009 in DADS Medicaid waiver programs and other community-based programs because this would remove DADS' flexibility to exceed the caps regardless of the circumstances. DADS would remain accountable if CSHB 4856 did not include caseload caps because any variance of 5 percent or greater from the existing caseload targets must be justified by the agency in the LBB quarterly performance measures report.

Community college health insurance payment proportionality

Even though the state leadership agreed to fully restore the funding for employee health insurance to community colleges that the governor vetoed, the agreement was contingent on the community colleges making the transition to proportionality in the future. A portion of the restored funds would be a one-time transitional payment meant to ease the shift toward applying proportional cost-sharing standards that would limit state costs only to covering employees paid by the state.

CSHB 4586 should make clear that the restored funding to community colleges for employee health insurance is transitional only. Appropriating state funds to pay for benefits of non-state paid employees is contrary to state law. Community colleges must follow the law by paying their fair share of health insurance for their employees. If employees are paid from locally raised funds, their health insurance must be paid from the same local source. In fact, in 2005 and 2007, the Legislative Budget Board recommended the state apply proportional cost-sharing to state contributions for public community college employee health benefits in order to reduce the state's financial obligation. The LBB said it would save the state millions and bring community colleges into compliance with current law.

OTHER
OPPONENTS
SAY:

DISASTER EXPENSES

Funds for lost revenue and business interruptions

CSHB 4586 should include appropriations to agencies and institutions of higher education for lost revenue and business interruption costs associated with natural disasters. It is unfair that state entities must struggle to meet their obligations with less money than was appropriated to them for ongoing operations because they have absorbed unforeseeable

disaster-related business costs and revenue losses. When insurance proceeds are not available and all other revenue sources have been exhausted, it is appropriate to seek more funding from the state. Without reimbursements for these costs, some agencies may not be able to fulfill all their obligations and may have to make difficult decisions about what programs or services they may need to cut.

NOTES:

The bill as filed contained only three appropriations: \$322.4 million to the Health and Human Services Commission to pay Texas's share of fiscal 2009 Medicare prescription drug costs; \$157.5 million for the Texas Department of Criminal Justice for its operational shortfall; and \$2.1 million to the Cancer Prevention and Research Institute for start-up funds. The committee substitute added all the other provisions found in CSHB 4586.

HB 6 by Eiland contains disaster-related provisions similar to those in CSHB 4586. It would appropriate \$864.7 million from the economic stabilization (rainy day) fund to state agencies and institutions of higher education to pay for costs and reimbursements related to natural disasters that occurred in fiscal 2008-09 and before the bill's effective date. HB 6 would reported favorably, as substituted, by the Appropriations Committee on March 20 and is pending in the Calendars Committee.

CSHB 4586 made the following changes to provisions in CSHB 6:

- increased the appropriation to Texas A&M Galveston from \$7.5 million to \$10.7 million;
- eliminated an appropriation to Texas A&M University of \$979,000; and
- reduced from \$250 million to \$100 million the amount that would have been appropriated for disaster relief generally to be allocated by the LBB and the governor and established procedures to be followed by the LBB and the governor when expending those funds.