

**SUBJECT:** Supplemental appropriations and reductions for fiscal 2011

**COMMITTEE:** Appropriations — committee substitute recommended

**VOTE:** 18 ayes — Pitts, Aycock, Button, Chisum, Crownover, Darby, Gooden, S. King, Margo, D. Miller, Morrison, Otto, Patrick, Riddle, Schwertner, Shelton, Torres, Zerwas

9 nays — Turner, Dukes, Eiland, Giddings, Hochberg, Johnson, Martinez, McClendon, Villarreal

0 absent

**WITNESSES:** For — None

Against — Marita Heyden

On — Ken Armbrister and Mike Morrissey, Office of the Governor; Brian Lloyd, Public Utility Commission; Robert Scott, Texas Education Agency

**DIGEST:** CSHB 4 would reduce state agency appropriations for fiscal 2011 by \$1.5 billion in all funds. About \$4.3 million of this amount would be federal funds and the rest general revenue and general revenue-dedicated funds. The bill also would make \$648.4 million in appropriations to five state agencies and to the comptroller to pay state district court judge salaries.

#### Reductions and Appropriations in CSHB 4

	<u>Reductions</u>	<u>Appropriations</u>	<u>Net Total</u>
General revenue funds	\$ (1,325,698,151)	\$ 641,850,376	\$ (683,847,775)
General revenue-dedicated	(172,048,105)	-	(172,048,105)
Other funds	-	6,579,371	6,579,371
Federal funds	(4,319,216)	-	(4,319,216)
All funds total	(1,502,065,472)	648,429,747	(853,635,725)

*Source: Legislative Budget Board and CSHB 4*

CSHB 4 would result in a net increase to general revenue funds of \$683.8 million and a net increase to general revenue-dedicated accounts of \$172.0 million. The net impact to all state funds would be an increase of \$853.6 million.

The bill would take immediate effect.

## **Reductions**

CSHB 4 would reduce appropriations to state agencies and institutions of higher education by a total of \$1.5 billion. Approximately \$1.3 billion of the reductions would be from general revenue funds, about \$172.0 million from general revenue-dedicated funds, and \$4.3 million from federal funds.

Agencies would be required to identify where reductions would take place if unidentified by CSHB 4.

**General government, Article 1.** General government agencies would see reductions of \$134.7 million in general revenue and \$4.5 million in general revenue-dedicated funds. This would include a \$20.0 million reduction in disaster funds appropriated to the Trusteed Programs of the Governor.

**Health and human services, Article 2.** CSHB 4 would reduce spending in Article 2 health and human services (HHS) agencies by \$226.5 million in general revenue funds, \$7.7 million in general revenue-dedicated funds, and \$4.3 million in federal funds. Cuts to the Health and Human Services Commission would total \$114.2 million and account for about half of the general revenue reductions. The federal funds reduction would be in Temporary Assistance to Needy Families (TANF) funds appropriated to the Department of Assistive and Rehabilitative Services (DARS).

**Education, Article 3.** CSHB 4 would reduce appropriations for public education by \$156.9 million in general revenue, including a \$121.0 million general revenue reduction to the Texas Education Agency (TEA).

Appropriations for higher education would be reduced \$601.1 million in general revenue and \$24.6 million in general revenue-dedicated funds. This includes reductions in general revenue funding for universities, community colleges, and higher education agencies totaling \$462.9 million; a \$70.7 million reduction in general revenue to higher education group insurance contributions; and a cut of

\$57.5 million in general revenue to the Texas Higher Education Coordinating Board (THECB). Another \$10 million in general revenue would be cut from THECB, and CSHB 4 would require THECB to coordinate with the governor and higher education institutions that received federal stimulus funds to have them remit any available unencumbered balances to THECB.

**The judiciary, Article 4.** The judiciary would be cut by \$9.9 million in general revenue and \$767,797 in general revenue-dedicated funds. This would include \$2.1 million in reduced general revenue to the state's 14 appeals courts.

**Public safety and criminal justice, Article 5.** Public safety and criminal justice agencies would see reductions of \$98.5 million in general revenue and \$2.2 million in general revenue-dedicated funds. This would include reductions of \$67.9 million in general revenue to the Texas Department of Criminal Justice (TDCJ) and \$13.2 million to the Texas Youth Commission.

**Natural resources, Article 6.** Appropriations to natural resources agencies would be cut by \$52.9 million in general revenue and \$67.6 million in general revenue-dedicated funds. These reductions would include a \$35.0 million reduction in general revenue-dedicated funds to the Texas Commission on Environmental Quality (TCEQ) for the Texas Emissions Reduction Program (TERP).

The general revenue reductions to the Texas Parks and Wildlife Department (TPWD) would include a cut of \$7.4 million in lapsed funds that were transferred by TPWD to the General Land Office for coastal erosion control projects.

**Business and economic development, Article 7.** General revenue reductions to Article 7 agencies would total \$27.3 million, and cuts to general revenue-dedicated funds would be \$575,781. The Texas Department of Transportation (TxDOT) would be cut by \$20.1 million in general revenue, and the Texas Workforce Commission (TWC) by \$3.8 million in general revenue.

**Regulatory agencies, Article 8.** CSHB 4 would reduce funds to regulatory agencies by \$6.2 million in general revenue and \$64.1 million in general revenue-dedicated funds. These cuts would include a reduction of \$63.5 million to the Public Utility Commission (PUC) from the general revenue-dedicated System Benefit Fund.

**Legislature, Article 10.** Appropriations to the Legislature would be reduced by \$11.7 million in general revenue funds. The speaker of the House and the lieutenant governor jointly would identify which agencies and entities to reduce.

### **Appropriations**

CSHB 4 would make appropriations totaling \$648.4 million. General revenue appropriations would total \$641.9 million with TEA receiving \$600.0 million in general revenue for the Foundation School Program. The remaining \$6.6 million in appropriations would come from the Judicial Fund.

Appropriations that would be made to the judiciary would be for fiscal 2011, and the rest of the appropriations would be for a two-year period that would begin with CSHB 4's effective date.

**Texas Education Agency.** CSHB 4 would appropriate \$600.0 million in general revenue to the TEA for the Foundation School Program.

**Department of Criminal Justice.** The TDCJ would receive \$40.0 million in general revenue for correctional managed health care.

**The judiciary.** CSHB 4 would appropriate to the judiciary \$6.6 million as part of a finance swap method that substitutes a new appropriation from the state's Judicial Fund for previously appropriated general revenue. The finance swap would result in a net \$1.6 million increase in funds for the salaries of district court judges and a new appropriation of \$71,535 to the Texas Supreme Court for personnel costs, security, unemployment reimbursements, and travel expenses.

**Facilities Commission.** CSHB 4 would appropriate \$1.5 million in general revenue to the Texas Facilities Commission to pay utility costs at state-owned buildings managed by the commission. The Legislative Budget Board's (LBB's) approval would be required for the commission to use the appropriation for anything other than utility expenses.

**Real Estate Commission.** The Real Estate Commission would receive a total of \$350,376 in general revenue. The funds would be split with \$196,000 being used to continue the commission's project for imaging files and the rest for one-time moving costs from leased space to a state-owned building at the end of the fiscal year.

## Other provisions

**Texas Education Agency.** CSHB 4 would allocate \$85.0 million of TEA's fiscal 2010-11 appropriation from the State Textbook Fund for continuing contracts for materials to be used during the 2011-12 school year.

**Workforce commission.** CSHB 4 also would express the intent of the Legislature that TWC adjust unemployment benefit-eligibility periods to maximize any benefits funded wholly by federal funds.

**SUPPORTERS SAY:** CSHB 4 is necessary to help tackle the state's revenue shortfall for fiscal 2010-11 and to address critical spending needs for five state agencies and the courts in fiscal 2011.

In January, the comptroller projected that fiscal 2010-11 would end with a negative balance of \$4.3 billion. A shortfall was still expected even after the comptroller raised her estimate of sales tax revenue for fiscal 2011 by \$300 million and after the School Land Board approved an additional \$300 million transfer to the Permanent School Fund. Under the Texas Constitution, this negative balance must be eliminated for the comptroller to certify a balanced budget for the next biennium. In effect, the shortfall reduces revenue available to spend in fiscal 2012-13 by \$4.3 billion because any shortfall from the current biennium must be offset with unobligated revenue in the upcoming biennium. Eliminating the holdover shortfall in the current state budget requires either further spending reductions or increased revenue. CSHB 4 would address this problem with \$1.5 billion in spending reductions to agencies' fiscal 2011 appropriations.

The state agency spending cuts in CSHB 4 reflect steps taken by state leaders in 2010 to reduce spending in light of estimates of insufficient revenue for the biennium. In January 2010, state leaders required all state agencies to identify a 5 percent reduction to their general revenue spending for fiscal 2010-11. In December 2010, agencies were told by state leaders to cut an additional 2.5 percent from their original general revenue and general-dedicated appropriations for fiscal 2011. CSHB 4 would formalize about \$1.3 billion in cuts from those two requests so that the projected revenue shortfall can be reduced.

However, the spending reductions in CSHB 4 would not erase the entire fiscal 2010-11 \$4.3 billion shortfall. Also on today's calendar is CSHB 275 by Pitts, which would authorize using \$3.1 billion of the state's rainy day fund to cover

the remainder of the shortfall. Together, these two bills and the estimated revenue adjustments would allow the Legislature to use all the general revenue the comptroller has estimated will be available during the next biennium for the fiscal 2012-13 state budget without the need to offset the holdover shortfall.

## **Reductions**

CSHB 4 proposes reductions to state agency spending and the budgets of higher education institutions that would be reasonable and appropriate given the estimated revenue shortfall for fiscal 2011 and the revenue projections for fiscal 2012-13. In most cases, the reductions are those proposed in 2010 by state agency heads who are in the best position to know which state programs and operations could be reduced. While some of the cuts in CSHB 4 may be painful, they are necessary for the state to live within its means.

With five months left in the fiscal year, many of the reductions in spending already have occurred, and state agencies have adjusted their programs and staffs to deal with the cuts. For example, many of the general revenue cuts across the five health and human services agencies were achieved with a hiring freeze and administrative savings and by identifying programs with lower-than-anticipated caseloads and projects with delayed start dates. CSHB 4 would ratify these decisions that have already been implemented.

**PUC reduction/dedicated accounts.** The \$63.5 million reduction to the PUC's appropriation from the System Benefit Fund is one of the reasonable and necessary cuts that CSHB 4 would make to reduce state spending from general revenue-dedicated funds. CSHB 4 would give more assistance to those being helped by the utility discount program than some other proposals, including the filed version of HB 4. CSHB 4 would leave the PUC with enough funds to continue helping about 595,000 low-income electricity customers monthly this summer. The bill would sensibly balance assisting low-income Texans with their utility bills and reducing state spending.

## **Appropriations**

**Texas Education Agency.** The \$600-million appropriation to the TEA for the Foundation School Fund would help pay for higher-than-anticipated student enrollment during fiscal 2010-11. An appropriation adjustment like this is made almost every biennium to match state funds with actual enrollment.

**Texas Department of Criminal Justice.** TDCJ would receive \$40.0 million for a funding shortfall for correctional managed health care. The funds are needed to pay the University of Texas Medical Branch at Galveston and Texas Tech University Health Sciences Center for the costs of providing a constitutional level of health care for inmates in fiscal 2010-11. Despite cost savings efforts, the university health care providers say they need the additional funds for expenses already incurred and to cover the costs of treating an aging prison population and chronic diseases such as diabetes and hepatitis C.

**Judiciary.** CSHB 4 would appropriate \$1.6 million for state district judge salaries because the original fiscal 2010-11 state budget incorrectly estimated the amount needed for this item. The bill would appropriate enough funds for the judges to be paid the rest of the biennium. CSHB 4 would fund this item with a method-of-finance swap that would appropriate money from the Judicial Fund to replace general revenue funding.

The Texas Supreme Court also would receive an appropriation from the Judicial Fund for a much-needed upgrade in its security. Court personnel receive threats, and their offices need to be properly secured. The money in CSHB 4 would allow the court to install needed security improvements in the court's facilities.

These would be appropriate uses of money from the Judicial Fund, which is derived from court fines and fees and was created to support the court system.

**Texas Facilities Commission.** CSHB 4 would provide the Texas Facilities Commission the \$1.5 million in funds that it will need to pay for utility costs for state buildings for the rest of the biennium. The amount needed was underestimated in the fiscal 2010-11 budget.

**Real Estate Commission.** The appropriation to the Real Estate Commission is necessary for the agency to move from space leased from the private sector to a state-owned building. The move will lower state costs in the long run.

### **Other provisions**

**Texas Education Agency.** CSHB 4 would clarify that \$85.0 million appropriated to TEA for fiscal 2010-11 may be used to purchase textbooks for new students and instructional materials to replace consumable ones, such as

worksheets. The materials would be used by current students during the 2011-2012 school year. This clarification would not change TEA's appropriation.

**Workforce Commission.** The bill would enable TWC to extend unemployment benefits that would be fully federally funded and available through January 2012. TWC could not extend the benefits past fiscal 2011 without the authority granted in CSHB 4. Extending the benefits would have no impact on state revenue.

**OPPONENTS  
SAY:**

It is unnecessary to make the deep budget cuts in CSHB 4 given an \$8.2-billion balance in the state's rainy day fund. The \$3.1 billion that would be appropriated by CSHB 275, also on today's calendar, could be increased to lessen the negative impact of the cuts in CSHB 4.

**Reductions**

The spending reductions already undertaken by state agencies for fiscal 2010-11 are enough for the biennium, especially considering the deep cuts being proposed for fiscal 2012-13. The \$1.5 billion in reductions in CSHB 4 would go too far in cutting essential state functions and services.

For example, health care providers took a rate cut in fiscal 2010, and the reductions in CSHB 4 would constitute about \$106.3 million in additional general revenue cuts, bringing the cumulative rate reductions for fiscal 2010-11 for Medicaid/Children's Health Insurance Program (CHIP) acute care services, including managed care, to 2 percent. For nursing facilities and Intermediate Care Facilities for the Mentally Retarded (ICFs-MR), the cumulative rate reduction for fiscal 2010-11 would be 3 percent. These cuts could cause providers to quit their participation in state HHS programs, reducing access and quality of care when the state's population is growing and aging and the state already is struggling to meet Texans' needs with sufficient providers and safe environments.

CSHB 4's cuts of \$7.7 million to HHS agencies' general revenue-dedicated funds would be borne largely by DARS out of its funding from 10 dedicated-revenue accounts. The bulk of the cuts would come from taking \$5 million from the Designated Trauma Facility and EMS Account, which would reduce available funding used to support hospitals, EMS, and first responders facing unexpected emergencies and for hospitals providing trauma care to indigent patients.



Higher education is another area where the cuts in CSHB 4 would go too far and too deep. Reducing state appropriations to universities and community colleges at a time of historic enrollment growth could result in higher tuition, the loss of hundreds of jobs, larger class sizes, fewer courses, and enrollment caps. Reductions would include \$41.5 million in general revenue and general revenue-dedicated funds for the Texas B-on-Time loan program and a total of \$12.4 million in reductions to other student financial aid programs. The Top 10 Percent scholarship program also would be cut by \$3 million in general revenue. This program provides scholarships to needy students who graduate in the top 10 percent of their high school class. Cutting financial aid and scholarships would make college less affordable for low-income students and hurt student access and retention. CSHB 4's reduction of \$2.5 million to the Texas Research Incentive Program (TRIP) would hinder the state's seven emerging research institutions' efforts to attain tier-one research status.

**PUC reduction/dedicated accounts.** By cutting appropriations to the PUC and making less money available from the System Benefit Fund, CSHB 4 would unfairly hurt low-income and largely elderly Texans who benefit from the PUC's program, which gives utility discounts to eligible electric customers during the state's hottest months. The PUC met the requirement from state leaders to cut fiscal 2010-11 spending by making reductions in the program of about \$10.1 million. Even though the PUC was not directed to find additional savings, it proposed additional cuts by further reducing the low-income utility discount. This essentially raised utility payments for elderly and low-income Texans to provide an additional \$53.4 million, which is included in CSHB 4.

Instead of cutting funds to help the poor and elderly pay their electricity bills, the Legislature should consider funding the discount at the maximum rate of 20 percent rather than the current 17 percent and restoring the program to cover the entire year rather than just the five hottest months. The previous winter's freezing temperatures illustrate why the state should help Texans pay heating bills as well. Unlike with many other programs, the money is readily available in the System Benefit Fund balance and can be appropriated.

OTHER  
OPPONENTS  
SAY:

**PUC reduction/dedicated accounts.** CSHB 4 would continue the state's inappropriate practice of not spending general revenue-dedicated funds for their intended purpose. The bill would reduce appropriations from several general revenue-dedicated accounts, including \$63.5 million from the System Benefit Fund, \$49.0 million from the TERP account, and \$23.0 million from the Texas B-On-Time Student Loan account. Collecting fees for one purpose

and allocating them for another is not a fiscally sound or conservative approach to budgeting. Using fee revenue specifically earmarked for low-income utility customers, student loans, and emissions reductions for unidentified purposes would violate the principle of truth in taxation. If the state does not intend to use fees for their original purpose, it should stop collecting them or change the stated purpose of their collection.

**NOTES:**

The committee substitute made several changes to the original, including adjusting some agency reductions from general revenue and general revenue-dedicated funds. These include:

- increasing the general revenue cut to TEA from \$60.3 million in the original bill to \$90.3 million;
- decreasing the general revenue cut to TxDOT from \$84.4 million in the original bill to \$20.1 million; and
- reducing the cut to the PUC from the System Benefit Fund from \$86.8 million to \$63.5 million.

Other changes made to the original bill by the committee substitute include:

- adding to the original bill an appropriation from the Judicial Fund of \$6.5 million as part of a finance swap method to fund the salaries of district court judges;
- adding a \$10.0 million general revenue reduction to THECB and requiring that the Governor's Office and institutions of higher education remit any unavailable federal stimulus funds to THECB;
- adding a \$35.0 million general revenue-dedicated fund reduction to the TCEQ for the TERP; and
- adding a \$20.0 million general revenue reduction to the disaster funds appropriated to the Truusted Programs of the Governor.

Also on today's calendar is CSHB 275 by Pitts, which would appropriate \$3.1 billion from the Economic Stabilization ("rainy day") Fund into the General Revenue Fund for use in fiscal 2011.