

- SUBJECT:** Revising provisions governing general revenue dedicated funds
- COMMITTEE:** Appropriations — committee substitute recommended
- VOTE:** 26 ayes — Pitts, Sylvester Turner, Ashby, Bell, G. Bonnen, Carter, Crownover, Darby, S. Davis, Dukes, Giddings, Howard, Hughes, S. King, Longoria, Márquez, McClendon, Muñoz, Orr, Otto, Patrick, Perry, Price, Raney, Ratliff, Zerwas
- 0 nays
- 1 absent — Gonzales
- WITNESSES:** For — Stephen Minick, Texas Association of Business; Mark Vickery, Waste Management of Texas Inc. (*Registered, but did not testify*: Brent Connett, Texas Conservative Coalition; Doug DuBois, Jr., Texas Food & Fuel Association; John Hawkins, Texas Hospital Association; Joey Park, Coastal Conservation Association Texas and Texas Wildlife Association; Cory Pomeroy, Texas Oil and Gas Association; Michelle Romero, Texas Medical Association; James Willmann, Texas Nurses Association; Mireya Zapata, National Multiple Sclerosis Society)
- Against — Robin Schneider, Texas Campaign for the Environment; (*Registered, but did not testify*: Andrew Dobbs, Central Texas Zero Waste Alliance; Tom “Smitty” Smith, Public Citizen)
- On — Elizabeth Hendler, Section 185 Working Group and 8- Hour Ozone Coalition; Cyrus Reed, Lone Star Chapter, Sierra Club; Randy Riggs, McLennan County and Heart of Texas Council of Governments; Gk Sprinkle, Texas Ambulance Association; Dinah Welsh, Texas EMS and Trauma & Acute Care Foundation; (*Registered, but did not testify*: David Brymer and Liz Day, Texas Commission on Environmental Quality; Robby DeWitt and Don Galloway, Texas A&M Forest Service; Jeremiah Jarrell, Legislative Budget Board; Maria Lebron, TCEQ; Kelli Merriweather, Commission on State Emergency Communications)
- BACKGROUND:** General revenue dedicated funds are funds collected for a specific purpose designated in state law. The comptroller estimated general revenue dedicated account balances to be \$4.8 billion at the beginning of fiscal

2014-15.

The constitution limits state spending to the amount of revenue the comptroller estimates will be available during the two-year budget period (Art. 3, sec. 49a). The comptroller must certify that the state will have enough revenue to pay for the approved spending.

Under Government Code, sec. 403.095 the comptroller includes in the estimate of funds available for general-purpose spending the amounts in general revenue dedicated accounts expected to exceed appropriations from those accounts at the end of the current biennium.

DIGEST:

HB 7 would modify provisions governing general revenue dedicated funds. The bill would modify fees, eligible uses of funds, procedures, and other provisions.

**System Benefit Fund.** The bill would reduce the fee that finances the System Benefit Fund to 2 cents per megawatt hour from a maximum of 65 cents per megawatt hour. HB 71 would require the Public Utility Commission to adopt rules providing for reimbursements for authorized uses from System Benefit Fund appropriations. Up to \$50 million from the System Benefit Fund could be appropriated to assist low-income electric customers with weatherization and other energy efficiency programs.

The Public Utility Commission would adopt and enforce rules to establish the Low-income Electric Customers Program Fund, which would be funded by a fee of 50 cents per megawatt hour imposed on retail electric customers. The rules would have to provide for the fund to be established outside of the state treasury and any interest earned would be credited to the fund.

Money in the fund would be used as follows:

- Not more than 96 percent would be used to provide a 15 percent reduced rate for low-income households; and
- Not more than 4 percent would be for bill payment assistance for critical care residential customers with incomes not to exceed 400 percent of federal poverty guidelines.

The fee could not be imposed after August 31, 2023. After that date, the PUC would continue the program until the balance of the fund was

exhausted.

**Interest transfer.** Notwithstanding other laws, all interest and other earnings that accrued on general revenue dedicated funds available for certification would be available for any general governmental purpose and deposited into the General Revenue Fund. The deposit would not apply to certain receipts to be deposited in the state treasury or interest or earnings on deposits of federal money which may not be diverted.

**TERP Funds.** The bill would modify procedures governing Texas Emissions Reduction Plan (TERP) funds. The comptroller would no longer be required to see that the Texas Department of Motor Vehicles remitted certain funds to the TERP. The Texas Transportation Commission could designate unremitted amounts for eligible congestion mitigation projects or for deposit to the Texas rail relocation fund.

**Change in eligible fund use.** Money in the trauma facility and emergency medical services account could be appropriated to the Texas Higher Education Coordinating Board for graduate-level medical and nursing education programs.

Wireless telecommunications fees for emergency services could be appropriated to the Texas A&M Forest Service for providing assistance to volunteer fire departments.

Money in the Hazardous and Solid Waste Remediation Fees Account from the sale of batteries could be used for environmental remediation at the site of a closed battery-recycling facility that met certain conditions.

**Solid waste disposal fees.** The bill would reduce fees for the disposal of solid waste by one quarter. It would increase the percent of solid waste disposal revenue dedicated to various solid waste permitting and enforcement programs to 66.7 percent from 50 percent. There would be a corresponding decrease to local and regional solid waste projects consistent with approved regional plans. The fee would not apply to a composting and mulch-processing facility.

**Specialty License Plates.** No later than September 30, 2013, the comptroller would eliminate all dedicated accounts established for specialty license plates and set aside the balances of those accounts so they may be appropriated only for intended purposes as provided. The fee for

the dedicated accounts would be paid instead to the credit of an account in a trust fund the comptroller created outside the General Revenue Fund. The comptroller would administer the trust fund and could allocate the principle and interest on the accounts only in accord with the dedications.

**LBB recommendations.** CSHB 7 would charge the Legislative Budget Board with developing and implementing a process to review new legislative enactments that create dedicated revenue, as well as the appropriation and accumulation of dedicated revenue. The LBB would develop specific and detailed recommendations on actions the legislature could reasonably take to reduce reliance on dedicated revenue for certification. These recommendations would be incorporated into the LBB's budget recommendations.

**Other provisions.** The bill would modify fees assessed against insurers from \$30 million per fiscal year to be set at the amount necessary to collect enough revenue to cover general revenue appropriations from the volunteer fire department assistance fund for that fiscal year.

The bill would add fees collected by the Railroad Commission for the commission of certain letters of determination to the oil and gas regulation cleanup fund. Under the bill, money in the fund could be used for the study and evaluation of surface casing depths necessary to protect usable groundwater.

The bill would create a requirement for the Texas Natural Resource Conservation Commission to prepare an annual report on leaking underground tanks. The report would have to include an investigation of the amount of fees that would be necessary to cover the costs of concluding programs and activities related to the tanks before September 1, 2021.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

SUPPORTERS  
SAY:

HB 7 would take key steps toward reducing reliance on general revenue dedicated funds. Many of these changes either came directly or indirectly from recommendations in a Legislative Budget Board report on how to reduce the reliance on dedicated funds to budget certification.

While the Legislature has not spent dedicated funds for unintended purposes, it has been using these for certification purposes for over two decades. This practice is so deeply ingrained, that unfortunately, it will take multiple sessions to work out completely. The Comptroller recently estimated that there would be about \$4.8 billion available in general revenue dedicated funds for fiscal 2014-15. Eliminating this balance through fee cuts, refunds, appropriations, and other measures simply will take time. HB 7 and a related bill, HB 6 by Darby, as well as measures in the House-passed version of SB 1, would together take important steps toward reducing the state's long-term reliance on unspent general revenue dedicated funds.

**System Benefit Fund.** HB 7 would make key changes to the System Benefit Fund that would ultimately reduce the Legislature's reliance on that fund for certification. The comptroller estimated the balance of the Fund to be about \$810 million for fiscal 2014-15. The bill would enact three main measures to reduce reliance on the System Benefit Fund. The bill would:

- create a new low-income electric customer program (LIEC) outside of the treasury and fund it with a 50 cent fee;
- reduce the System Benefit Fund fee of 65 cents to 2 cents for administration, education, and outreach for LIEC; and
- provide a ten-year sunset for the LIEC fee and wind-down provisions for the program.

Moving the LIEC account outside of the treasury would make it ineligible to be counted for certification purposes, thereby removing any incentive to hold future revenue in the account. Reducing the fee amounts to a total estimated fee reduction of \$60 million and would slow the accrual of fund balances and ensure that incoming revenue could be spent on the 15 percent discount program.

**Change in eligible fund use and other procedures.** HB 7 would make changes to the eligible uses of some funds and would modify processes governing others. Increasing the range of eligible uses of general revenue dedicated funds to include other pressing state priorities that are related to the fund's original purpose would enhance opportunities for the Legislature to spend these funds. State priorities change over time, and funding priorities must be flexible enough to change with them. Adding related funding priorities provides this flexibility without clouding the

original purpose to which the legislature dedicated the fund.

For instance, the addition of graduate medical education to the eligible uses of the trauma facility and emergency medical services account permits an expense that is clearly related to the purpose of the account but which now must be funded through general revenue or other means.

**Specialty License Plates.** The bill would not have a substantive impact on specialty license plate funds but would, at long last, free them to be spent on their intended purposes. Moving the specialty license plate funds outside of the treasury would eliminate more than 30 general revenue dedicated accounts and prevent the balances from being used for certification. This would remove all obstacles to spending these funds for their intended purpose.

OPPONENTS  
SAY:

HB 7 would modify the purposes for which some key funds may be spent and would make potentially detrimental changes in some processes for others. Expanding the permissible purposes for which funds may be spent can be problematic when there are still significant unmet needs associated with those original purposes. For example, adding graduate medical education to the permissible uses of the trauma and EMS account could divert funds from the pressing needs that the account was originally set up to address. The Legislature should satisfy existing pressing needs before expanding the eligible appropriations from these funds.

In addition, HB 7 would remove the requirement that certain funds transferred to the Texas Mobility Fund must be transferred back in corresponding value to the TERP. If the transfers were not made, as would be possible under the bill, the state could lose valuable funds for emissions reduction programs.

OTHER  
OPPONENTS  
SAY:

HB 7 would take some steps in the right direction, but also would perpetuate problems with the general revenue dedicated account with the largest unspent balance, the System Benefit Fund.

There is widespread agreement that under-appropriating from general revenue dedicated funds to preserve enough unspent revenue to certify the budget amounts to raising revenue for one purpose and diverting the funds to another purpose. As many have noted, honesty and transparency in budgeting call for spending funds on the purpose for which they were collected; if the state is not willing to spend the account balances, then it

should be willing to refund the money to taxpayers.

HB 7, in effect, would prolong the System Benefit Fund for 10 years in the form of the low-income electric customer program. The System Benefit Fund, being the fund with the highest unspent balance, presents the biggest test to the Legislature to prove its resolve in addressing the general revenue dedicated diversion problem. The Legislature has had ample opportunity to spend these funds for their original purpose, and yet it has chosen not to do so. As such, the funds should be discontinued or leveled to match appropriations and the balance should be refunded to the ratepayers who have been paying the fee.

Moving the low income electric customer fund outside of the treasury would be an unusual move and could create a troubling precedent.

**NOTES:**

The Legislative Budget Board released a publication in January 2013 that includes recommendations on measures the Legislature could take to reduce reliance on general revenue dedicated accounts.

A related bill, HB 6 by Otto, would place a cap of \$4.8 billion on the general revenue dedicated funds that could be counted toward the state's budget certification. The bill is also scheduled for second reading consideration today.

The committee substitute for HB 7 added provisions governing the System Benefit Fund and creating the low-income electric customer program. The substitute also added, among others: provisions governing specialty license plates, transfers to the TERP, reports on leaking underground storage tanks.