

- SUBJECT:** Dedicating a portion of Rainy Day Fund revenue to public roads
- COMMITTEE:** Transportation Funding, Select — committee substitute recommended
- VOTE:** 7 ayes — Phillips, Burkett, Geren, Harper-Brown, Hunter, Muñoz, S. Thompson  
0 nays
- WITNESSES:** For — *(Registered, but did not testify:* Brandon Aghamalian, City of Fort Worth; Jim Allison, County Judges and Commissioners Association of Texas; Victor Boyer, San Antonio Mobility Coalition, Inc. and Transportation Advocates of Texas, Inc.; Gary Bushell, Alliance for I-69 Texas and U S 190/Gulf Coast Strategic Highway Coalition; Snapper Carr, City of Corpus Christi; Les Findeisen, Texas Motor Transportation Association; Donald Lee, Texas Conference of Urban Counties; Seth Mitchell, Bexar County Commissioners Court; Jennifer Newton, AGC of Texas; Lawrence Olsen, Texas Good Roads Association; Craig Pardue, Dallas County; Rider Scott, Dallas Regional Mobility Coalition; Chris Shields, Greater San Antonio Chamber of Commerce; Tara Snowden, Zachry Corporation; Jill Schulz Boyer)  
  
Against — *(Registered, but did not testify:* Eric Hartman, Texas AFT; Dick Lavine, Center for Public Policy Priorities and Texas Forward)  
  
On — Phil Wilson, Texas Department of Transportation; *(Registered, but did not testify:* Phillip Ashley, Paul Ballard, Rob Coleman, and John Heleman, Comptroller of Public Accounts; John Barton, Texas Department of Transportation; Ursula Parks, Legislative Budget Board)
- BACKGROUND:** Art. 3, sec. 49-g of the Texas Constitution establishes the Economic Stabilization Fund, which was ratified by voters in 1988. The fund, also known as the Rainy Day Fund, receives general revenue equivalent to 75 percent of any oil or natural gas production tax revenue that exceeds the amount collected in fiscal 1987. Additionally, the comptroller must transfer one-half of any unencumbered balance remaining in the General Revenue Fund at the end of a fiscal biennium to the Rainy Day Fund.
- DIGEST:** CSHB 1 is the enabling legislation for HJR 1 by Pickett, which would

direct the comptroller to allocate to Fund 6 one-half of the general revenue currently transferred to the Rainy Day Fund. CSHB 1 would require any amount thus transferred to Fund 6 to be allocated throughout the state by the Texas Department of Transportation (TxDOT) consistent with existing formulas adopted by the Texas Transportation Commission.

**Sufficient balance.** The comptroller would reduce or withhold allocations to Fund 6 as necessary to maintain a sufficient balance in the Rainy Day Fund. The sufficient balance would be determined by a select committee of members appointed by the speaker of the House and the lieutenant governor, with the first committee appointed as soon as practicable after the bill's effective date.

The committee would include five members each from the House Appropriations and Senate Finance committees appointed by the speaker and lieutenant governor, respectively, and would determine a sufficient balance based on:

- the history of fund balances;
- the history of transfers to the fund;
- estimated fund balances for the fiscal biennium;
- estimated transfers to the fund to occur during the fiscal biennium;
- information available to the committee regarding state highway congestion and funding demands; and
- any other information requested by the committee regarding the state's financial condition.

A majority of members in both houses could adjust the sufficient balance determination by approving a resolution to this effect within the first 60 days of the regular legislative session.

**TxDOT efficiency savings.** CSHB 1 would require TxDOT to identify and implement \$100 million in savings and efficiencies in funds appropriated for fiscal 2014-15. The amount saved by the department would be appropriated for fiscal 2015 for paying off State Highway Fund (Prop. 14) bond debt. TxDOT could use savings realized through operational efficiencies, cost reductions, or cost savings, but could not reduce the amount of funding available for transportation projects.

**Transportation committees.** The bill would require the speaker of the House and the lieutenant governor each to appoint a nine-member select

committee on transportation funding. The two committees would be charged with reviewing and evaluating topics specified in the bill and making joint recommendations to be presented in a report produced by November 1, 2014.

**Effective date.** 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 the 91st day after the last day of the third called session. Provisions in the bill governing sufficient balance and allocation of revenue would take effect only if voters approved the necessary constitutional amendment authorizing the transfer to Fund 6 of funds that would otherwise be deposited to the credit of the Rainy Day Fund.

SUPPORTERS  
SAY:

CSHB 1, in combination with its associated constitutional amendment, HJR 1 by Pickett, would take a key step toward securing critical funding for transportation projects in Texas. While far from a cure-all, the two measures together would present a politically viable means to secure a portion of the funding Texas needs to maintain roadway congestion at current levels, given population and economic growth. Although many options for highway funding have been discussed in the past three regular legislative sessions, these have not proved politically feasible.

**Sufficient balance.** CSHB 1 would allow the Legislature to take necessary measures to ensure a minimum balance in the Rainy Day Fund was available to respond to natural disasters and fiscal emergencies. The bill would call for the appointment of a committee of legislators to determine a sufficient balance for the Rainy Day Fund, below which no general revenue would be transferred to Fund 6. The committee would have to consider specific conditions in the bill and would base their decision on the comptroller's revenue projection for the Rainy Day Fund.

The sufficient balance provision in CSHB 1 would strike a compromise between an automatic Fund 6 transfer, irrespective of the status of the Rainy Day Fund, and a constitutionally established floor under which no transfer would be made. Without a floor, a combination of unforeseen events could leave the Legislature with insufficient funds to finance emergency spending needs. A constitutionally designated floor, on the other hand, might not provide the Legislature sufficient flexibility to meet varying needs each session.

CSHB 1 would provide an assurance that a sufficient balance remained in

the Rainy Day Fund while granting each Legislature license to address the needs of the time. In addition, it would enable the Legislature to adjust a sufficient balance determination within the first 60 days of a regular session and ensure proper legislative oversight in determining what the state should maintain as a reserve fund.

**TxDOT savings.** CSHB 1 would require TxDOT to achieve savings of \$100 million in administrative and operating efficiencies, not including transportation projects. While TxDOT has made significant improvements to administrative and managerial efficiency in recent years, achieving the maximum savings is key to ensuring that any additional appropriations are deployed as efficiently as possible. It could be a challenge for the agency to identify this sum in cost savings, but it would be important to cultivating the perception that it has dramatically increased efficiency and performance in recent years.

OPPONENTS  
SAY:

CSHB 1 would not provide a solution to the state's serious, ongoing highway funding shortage and would not adequately safeguard emergency reserves in the Rainy Day Fund.

**Inadequate safeguard.** Neither CSHB 1 nor its associated constitutional amendment would provide a guarantee of a minimum balance in the Rainy Day Fund before authorizing a transfer of funds to Fund 6. The bill would relegate this authority to each legislature, which is inevitably subject to the whims and political vagaries of any given legislative session. The Rainy Day Fund transfer is designated in the constitution in part to provide a well-protected reserve and to ensure continuity and stability. A constitutionally protected reserve is important for the state's ability to weather economic calamities and for its credit rating.

Failing to provide a constitutionally designated floor under which no transfer to Fund 6 would be made — such as has been considered and approved in previous versions of this legislation — would open the door to decisions that could leave future legislatures with shortfalls in revenue and a shallow reserve pool from which to draw.

**No additional revenue.** Because neither CSHB 1 nor its associated constitutional amendment would authorize the collection of any additional revenue, the measures in effect would take money out of one fiscal pocket and move it to another. While this might not cause problems in times of plenty, it could create some difficult choices in trying fiscal times. There

was strong resistance during the 83rd Legislature's regular session to allowing the Rainy Day Fund to drop below a certain amount. Reluctance to drain the account below this level, coupled with the 50 percent dedication to highways proposed in HJR 1, could leave the Legislature with effectively little to spend for emergency purposes.

OTHER  
OPPONENTS  
SAY:

**TxDOT savings.** TxDOT has greatly improved efficiency and effectiveness of operation in recent years. The agency has already identified significant cost and efficiency savings. Requiring the agency to identify another \$100 million in savings could result in reductions to services, instead of cost efficiency savings.

NOTES:

The committee substitute to HB 1 added a provision that would require TxDOT to identify and implement \$100 million in savings and efficiencies in funds appropriated for fiscal 2015. The committee substitute also modified the composition of the committee that would determine a sufficient balance in the Rainy Day fund, a task that would have fallen to the Legislative Budget Board in the introduced version of the bill.

The authorizing constitutional amendment, HJR 1 by Pickett, is set for second-reading consideration on today's Constitutional Amendments Calendar.