

SUBJECT: Supplemental appropriations and reductions for fiscal 2015

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 24 ayes — Otto, Sylvester Turner, Ashby, Bell, G. Bonnen, Burkett, Capriglione, Giddings, Gonzales, Howard, Hughes, Koop, Longoria, Márquez, Miles, R. Miller, Muñoz, Phelan, Price, Raney, J. Rodriguez, Sheffield, VanDeaver, Walle

0 nays

3 absent — S. Davis, Dukes, McClendon

WITNESSES: *(at March 19 hearing)*

For — *(Registered, but did not testify: Ted Melina Raab, Texas American Federation of Teachers)*

Against — None

On — Ursula Parks and Marva Scallion, Legislative Budget Board; *(Registered, but did not testify: David Cook, Department of Aging and Disability Services; Tracy Henderson, Department of Family and Protective Services; Lisa Carruth, Lesley French, David Kinsey, Greta Rymal, Lisa Subia, and Chris Traylor, Health and Human Services Commission; Amy Borgstedte, Maria Hernandez, and Leora Rodell, Legislative Budget Board; David Slayton, Office of Court Administration; Shyra Darr, Peter Maass, Kay Molina, and John Raff, Texas Facilities Commission; Dawn Heikkila, Texas Parks and Wildlife Department)*

(at March 24 hearing)

For — None

Against — None

On — Ursula Parks and Leora Rodell, Legislative Budget Board; *(Registered, but did not testify: David Kinsey, Greta Rymal, and Lisa*

Subia, Health and Human Services Commission; Amy Borgstedte, Maria Hernandez, and Marva Scallion, Legislative Budget Board; Shyra Darr, Kay Molina, and Rob Ries, Texas Facilities Commission)

BACKGROUND: The fiscal 2014-15 general appropriations act, art. 9, sec. 14.01 gives state agencies the discretion to transfer up to 20 percent of an appropriations item to another appropriations item. More than 20 percent of an item may be transferred with the written approval of the governor and the Legislative Budget Board (LBB).

Government Code, ch. 317 allows the governor and the LBB, after finding that an emergency exists, to transfer appropriations from one state agency to another if certain conditions are met and allows for appropriations to an agency to be redirected to a purpose different from the one for which it was made. This action is called budget execution authority and can occur only between legislative sessions.

DIGEST: CSHB 2 would appropriate \$280.1 million in general revenue funds – \$503.2 million in all funds – for fiscal 2015 to a number of state agencies. The bill also would reduce fiscal 2015 appropriations to certain agencies and adjust the authority that some agencies have over certain appropriations.

Medicaid. CSHB 2 would appropriate \$85.5 million in general revenue funds and \$118.4 million in federal funds to the Health and Human Services Commission (HHSC) for Medicaid acute care services. The bill also would transfer a total of \$252.8 million in general revenue funds to the HHSC for Medicaid acute care services. These transferred funds would come from appropriations made for long-term services and supports and habilitation services at the Department of Aging and Disability Services (DADS), community primary care services at the Department of State Health Services (DSHS), and certain HHSC strategies, including Integrated Eligibility and Enrollment, the Office of Inspector General, and Temporary Assistance for Needy Families (TANF) cash assistance grants.

TANF. The bill also would reduce by \$35.1 million unencumbered appropriations to the HHSC for TANF cash assistance grants.

Foster care and child welfare. At the Department of Family and Protective Services (DFPS), the bill would appropriate \$17.7 million in general revenue funds to provide foster care.

DFPS also would receive \$800,000 in general revenue funds and \$800,000 in federal matching funds for information technology and pre-evaluation costs associated with a proposed Title IV-E child welfare demonstration project.

Health insurance provider fee. To account for the health insurance providers fee imposed under the federal Affordable Care Act, the bill would appropriate \$79.7 million in general revenue funds and \$113.6 million in federal funds to the HHSC for adjustments to Medicaid capitation payments paid to managed care organizations and \$4.5 million in general revenue funds and \$15.4 million in federal funds for adjustments to Children's Health Insurance Program (CHIP) capitation payments.

Foundation School Program. CSHB 2 would reduce appropriations to the Foundation School Program (FSP) by \$710 million in general revenue funds.

Retired teacher health care. The bill would increase appropriations to the Teacher Retirement System (TRS) by \$768.1 million in general revenue funds for retired teacher health care.

Deferred maintenance and repairs. The Texas Facilities Commission (TFC) would receive \$20.6 million in general revenue for deferred maintenance and emergency repairs. The funding would address projects at various state entities, including about \$11 million for the School for the Deaf. The TFC would be required to report monthly to the LBB on how the money is being spent and to include information on project milestones

and target completion dates.

Correctional managed health care. CSHB 2 would appropriate \$50.5 million in general revenue to the Texas Department of Criminal Justice (TDCJ) for correctional managed health care for fiscal 2015.

Office of Court Administration e-filing system. The Office of Court Administration would be appropriated \$6.4 million in general revenue for the contract to manage the state's electronic filing system for court documents.

Debt service on bonds. CSHB 2 would reduce appropriations for bond debt service to the Texas Public Finance Authority (TPFA) by \$21 million, to the Texas Department of Transportation (TxDOT) by \$22.1 million, and to the Texas Water Development Board (TWDB) by \$5.9 million.

Healthy Texas program. The Texas Department of Insurance (TDI) would receive \$5.3 million in general revenue dedicated funds for the agency's Healthy Texas program.

San Jacinto River lawsuit settlement. CSHB 2 would provide the Texas Parks and Wildlife Department (TPWD) up to \$10 million in settlement proceeds if money is recovered under final judgment in *Harris County v. Waste Management of Texas, Inc.* Funds would be transferred to Harris County for use in mitigating the effects of environmental contamination along the San Jacinto River. The appropriation would be effective for a two-year period following the enactment of CSHB 2.

Appropriation authority. CSHB 2 would adjust appropriation authority over certain funds for the Department of Public Safety (DPS), TxDOT, and Midland College.

Department of Public Safety. CSHB 2 would prohibit DPS during fiscal 2015 from transferring funds among appropriation items or purposes without prior written approval of the LBB. The prohibition would apply to

funds appropriated in the fiscal 2014-15 general appropriations act and those transferred to the agency in fiscal 2015 through budget execution authority.

The bill also would restrict the use of DPS funds for training and recruit schools for the rest of fiscal 2015. The agency would be prohibited from using appropriations made through the fiscal 2014-15 general appropriations act or funds transferred to the agency through budget execution authority for costs related to training or recruit schools that give new troopers fewer than 23 weeks of training. Troopers graduating from the 23-week recruit schools could not be compensated by DPS at a level higher than entry-level trooper.

Department of Transportation. CSHB 2 would reappropriate to TxDOT any unexpended funds originally appropriated to the agency for road repairs in energy sectors through the enactment in 2013 of HB 1025 by Pitts. The bill would authorize the department to use these funds for the same purpose for a two-year period following the enactment of CSHB 2.

Midland College. The bill would allow unexpended funds appropriated by the 83rd Legislature to Midland College for the American Airpower Heritage Museum to be distributed to the Permian Basin Petroleum Museum. Before disbursing any state money, Midland College would have to enter into a grant agreement with the Permian Basin Petroleum Museum that specified how the money would be spent in accordance with state law and the general appropriations act.

CSHB 2 would take immediate effect.

SUPPORTERS
SAY:

CSHB 2 would provide needed funding to allow state agencies to continue providing important services to Texans for the remainder of fiscal 2015. The bill would make use of savings and unexpended balances in several areas of the current budget to cover shortfalls in other strategies. It also appropriately would adjust the authority that some agencies have over certain funds.

Medicaid shortfall. CSHB 2 would provide general revenue funds to cover the net Medicaid shortfall of \$85.5 million. The total deficit consists of \$338.4 million due to higher demand for services, but this amount would be offset by \$252.8 million in transfers from other programs at the HHSC, DADS, and DSHS. The bill would not take usable funds from other programs but simply transfer funds from unexpended balances to Medicaid. It is usual for unused funds to be reallocated to another budgetary need.

TANF. The TANF program is expected to have a surplus in federal funds for the current biennium due to a decline in caseloads in fiscal 2014. The bill would reduce funds for TANF to account for the surplus and would make those funds available for appropriation in fiscal 2016-17.

Foster care and child welfare. The bill would address a budget shortfall of \$18.7 million for foster care services at DFPS due to changes in staff caseload and revised cost assumptions, according to the LBB. The shortfall would be offset by \$1 million in savings at the agency, leaving a gap of \$17.7 million to be addressed by appropriations.

DFPS also would receive funding to test innovative strategies in child welfare programs to improve reunification, permanency, and well-being for children and families in Child Protective Services. The bill would provide funding for information technology and pre-evaluation costs, as well as federal matching funds, for a foster care demonstration project in Harris County.

Health insurance provider fee. The bill would provide funds for a health insurance provider fee established by the federal Affordable Care Act. The cost of the fee was not included in the fiscal 2014-15 budget nor in managed care premiums, and HHSC has not made any payments on the fee. By covering this cost, CSHB 2 would meet the state's obligations to the managed care organizations providing plans under the state's Medicaid and CHIP programs. In addition, the federal Centers for Medicare and Medicaid (CMS) factors the payment of the fee into its calculation of actuarially sound rates. If funding for the fee is not

provided, CMS might not determine the rates to be actuarially sound.

This fee is a cost that the state will have to account for one way or another. Including a supplemental appropriation for the fee in CSHB 2 would allow the Legislature to better control how much the state is willing to reimburse managed care organizations for the fee and would increase transparency in budgeting.

Foundation School Program. CSHB 2 would reduce appropriations to the FSP by \$710 million to reflect higher-than-anticipated growth in local school property values and lower-than-anticipated student enrollment.

Retired teacher health care. The \$710 million reduction from the FSP would be used to partially offset a looming shortfall in TRS-Care, the health care program for retired teachers. The bill would make a one-time appropriation of \$768.1 million to avoid TRS-Care insolvency in fiscal 2016-17. It is appropriate to use savings in the FSP to support health care for retired educators who have dedicated their careers to helping Texas schoolchildren succeed. While some have called for structural changes to TRS-Care to ensure its future sustainability, this supplemental appropriation is needed to ensure TRS-Care can pay health insurance claims during the next fiscal biennium.

Deferred maintenance and repairs. Of the \$20.6 million that CSHB 2 would provide to the TFC, about \$11 million would address safety issues at the School for the Deaf, including repairs and upgrades to the campus fire-alarm notification system for people with hearing impairments and for the necessary abatement of hazardous materials.

The other \$9.6 million to the TFC would pay for capital projects and deferred maintenance at various state-owned buildings. This appropriation would fund emergency projects to fix failing equipment and systems, such as boilers and steam lines. While these items may have been identified for future funding in the agency's deferred maintenance plan, they have unexpectedly risen to a more critical and immediate priority. The functionality of the equipment and infrastructure is critical to continuing

the operations of state government.

The appropriations to the TFC would include funding for projects authorized in previous legislative sessions that were delayed, with the LBB's permission, to fund other urgent needs that unexpectedly escalated and required immediate attention. When such unforeseen emergencies occur, the only available option has been to seek LBB approval to transfer money from other projects that are then delayed. These transfers have allowed the TFC to address the immediately urgent needs to avoid even more extensive deterioration and higher repair costs. However, continuing to delay projects from which money was transferred would result in further deterioration and higher costs. The funding included in CSHB 2 would restore certain funds so that these much-needed projects could be completed as originally intended.

Correctional managed health care. TDCJ would receive \$50.5 million to address a funding shortfall within 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 constitutionally required level of health care for inmates in fiscal 2014-15. The costs of providing care to the approximately 150,000 inmates this biennium have been greater than anticipated, especially for hospital and clinic visits.

Office of Court Administration e-filing system. The \$6.4 million to the Office of Court Administration would fund a projected shortfall in the fees and court costs used to pay the vendor that developed and operates the e-filing system used by Texas courts. The shortfall is due to a reduction in court filings, which are assessed a fee to pay the vendor. Without the funding, the state would not be able to continue the e-filing system. The phasing in of e-filing for Texas courts began in January 2014 and will be required for all civil courts by July 1, 2016.

Debt service on bonds. Reductions in funding for TPFA, TxDOT, and TWDB reflect projected debt service savings.

Texas Public Finance Authority. The \$21 million reduction to TPFPA would reflect changes in cost assumptions that have occurred since the Legislature appropriated the funds in 2013, including the fact that today's interest rates are lower than expected.

Texas Department of Transportation. CSHB 2 would reduce the unencumbered appropriation of general revenue to TxDOT by \$22.1 million due to debt service savings on Proposition 12 bonds. This amount is the remainder of unused debt service for these bonds due to smaller payments resulting from lower interest rates.

Texas Water Development Board. The bill also would reduce the unencumbered appropriation of general revenue to the TWDB by \$5.9 million due to unused debt service for non-self-supporting general obligation bonds for the Economically Distressed Areas Program and the Water Infrastructure Fund. The Economically Distressed Areas Program provides financial assistance to bring water and wastewater services to economically distressed areas, and the Water Infrastructure Fund is used to support state water plan projects.

Healthy Texas Program. TDI would receive \$5.3 million to pay claims under the Healthy Texas Program, which used to help eligible small businesses provide health insurance to their employees. Healthy Texas was dissolved because the Affordable Care Act made the program no longer necessary. Of the appropriated amount, \$1.7 million would be used to reimburse the agency for money borrowed from other strategies to cover past claims payments. About \$3.6 million would be used to make remaining claims payments.

San Jacinto River lawsuit settlement. CSHB 2 would allocate any settlement proceeds that emerge from an ongoing lawsuit to remediation and environmental education due to the contamination that occurred during a 20-year period from waste containment pits leaking highly toxic and cancer-causing chemicals into the San Jacinto River and Galveston Bay.

These are important recreational areas, especially for fishing. Harris County would use the funds to post signs in contaminated areas, to build piers in waters where it is safe to fish, and for other related activities.

Appropriation authority. CSHB 2 would help ensure that the *Department of Public Safety* did not recruit and train new troopers through unfair competition with local law enforcement agencies. To meet its anticipated need for new troopers and to transition to a permanent presence on the border, DPS has proposed hiring qualified current Texas peace officers after an abbreviated training course and starting them at a salary higher than the one given to new, inexperienced recruits. This could lead to large numbers of officers moving to DPS from local police and sheriff's departments, leaving those agencies short on experience and personnel.

CSHB 2 would address this potential problem by limiting the ability of DPS to spend its money on abbreviated training schools and paying graduates of such schools higher salaries than new officers. The restrictions on spending would apply both to the agency's appropriation through the fiscal 2014-15 budget and any funds it receives through budget execution authority. The bill would result in all new troopers completing the full training program and starting at entry-level salaries, which would reduce incentives for experienced officers to leave their current positions for higher-paying jobs with DPS.

Local law enforcement agencies invest time and money training their personnel, and a large-scale siphoning of their experienced officers could hamper agencies in performing their duties. Although local law enforcement agencies are accustomed to officers transitioning to other agencies, the large number of troopers that DPS will need to recruit could thin the ranks of local law enforcement, especially in smaller cities and counties.

The bill's restrictions on transferring funds among appropriation items would not hinder DPS' operations for the remainder of the fiscal year. In the case of a natural disaster or other need, DPS simply would have to

request approval from the LBB to transfer funds.

Department of Transportation. CSHB 2 would grant TxDOT unexpended balance authority for about \$193 million in remaining funds appropriated for road repairs in energy sectors during fiscal 2014-15. While bringing great economic opportunity, the recent surge in the state's oil and gas production has had a costly impact on roads that were not designed for the heavy truck traffic that accompanies these activities. Extensive wear and damage to these roads has made them difficult to use and caused extensive damage to energy-sector vehicles, as well as ordinary cars and trucks.

Midland College. The bill would transfer about \$355,000 in unexpended funds appropriated in 2013 from the American Airpower Heritage Museum to the Permian Basin Petroleum Museum. The Commemorative Air Force (CAF), which provides administrative and management assistance to the airpower museum, announced plans in 2014 to relocate CAF headquarters, which currently adjoin the museum, to the Dallas Executive Airport. According to a December 2014 state audit, the CAF manages the airpower museum's state-appropriated funds.

The 2013 appropriation for the airpower museum was funneled through Midland College, and it would not be appropriate to use the funds for an entity that no longer will have its headquarters in the college's district. The unexpended funds instead would allow the Permian Basin Petroleum Museum, an entity that is within the Midland College district, to increase its educational programs.

OPPONENTS
SAY:

Medicaid. Funding for Medicaid acute care should not come from an unexpended funds balance in fiscal 2014 for Community Primary Care services at DSHS. The agency still could use \$2 million of the remaining funds from fiscal 2014 in fiscal 2015 for the Expanded Primary Health Care program. Rider 89 in the fiscal 2014-15 budget specifically allowed funding to be moved from one fiscal year to another, but the funds were not moved. These funds should continue to support this important program at DSHS in fiscal 2015.

Health insurance provider fee. The state should not have to reimburse managed care organizations for a fee that is a cost of doing business for every other health insurance provider in Texas. The Legislature instead should reallocate these funds to a program that really needs the money, such as TRS-Care. If the managed care organizations need state assistance to cover this fee, they should submit to the LBB a report to specify the method for determining capitation payment adjustments to increase transparency and make clear how they would use the funds the state has provided them. Managed care organizations receiving a fee reimbursement also should be required to use these funds for additional health care services to enrollees in the organizations' managed care plans.

Appropriation authority. CSHB 2 would hurt the ability of DPS to recruit and hire experienced law enforcement officers to help meet its need for new troopers. By restricting DPS to operating only 23-week recruit schools and by prohibiting the agency from paying experienced troopers higher salaries than entry level, CSHB 2 would make it difficult for DPS to fill its ranks with the experienced officers it needs. DPS recently began planning an abbreviated training school that would begin this summer, but CSHB 2's restrictions on the use of money would halt these efforts.

Currently and in fiscal 2016-17, DPS will need to hire hundreds of troopers. In January 2015, DPS had about 250 trooper vacancies, and the agency may receive authorization in the fiscal 2016-17 budget for 300 more troopers. In addition, the state is anticipating more trooper retirements than usual during the next biennium, making the hiring of experienced officers a priority.

DPS would like to meet a portion of this need by hiring qualified current Texas peace officers as troopers after an abbreviated training course and to start them at a salary higher than entry level. This would be a necessary change from current practices, under which all new troopers earn the same entry-level salary after 23 weeks of training, regardless of past law enforcement experience. DPS will need a large number of officers needed and the skills that DPS would like the officers to have, especially given

the agency's increasing responsibilities along the border. Hiring experienced officers would be an efficient way to put skilled troopers on the ground quickly throughout the entire state.

CSHB 2 would go too far by prohibiting DPS from using the default ability given to all agencies in the fiscal 2014-15 general appropriations act to move up to 20 percent of the department's funds among appropriations items. The agency might need to address an emergency such as a natural disaster or to move funds to continue its surge operations on the border. In these situations, DPS might need the flexibility to quickly move a limited amount of money within the agency's budget without waiting for the LBB's prior approval.

Midland College. The American Airpower Heritage Museum will remain open for business through the end of the fiscal year, and money that was appropriated for fiscal 2015 should be released to the museum. The withholding of the designated funds is having a negative impact on museum operations, and the moving of related assets to Dallas is not a sufficient reason to transfer funds away from the museum.

OTHER
OPPONENTS
SAY:

Appropriation authority. *Department of Public Safety.* CSHB 2 could meet DPS' need to hire experienced officers while recognizing the concerns of local law enforcement agencies by allowing the use of agency funds for a limited number of eight-week recruit schools. For example, the department could fund the eight-week schools until it had hired a set number of graduating troopers.

NOTES:

Fiscal impact. The LBB's fiscal note estimates that CSHB 2 would have a negative net impact of \$280.1 million on general revenue related funds through fiscal 2017.

Changes to introduced bill. The committee substitute differs in several ways from HB 2 as introduced. Unlike the filed bill, CSHB 2 would:

- reduce funding to the Water Development Board;
- increase funding to the Department of Insurance;

- increase funding to the Facilities Commission;
- increase funding to the Office of Court Administration;
- increase funding to the Parks and Wildlife Department; and
- adjust unexpended balance transfer authority for TxDOT, DPS, and Midland College.

The committee substitute would appropriate \$203.9 million in all funds for the Medicaid shortfall, an increase of \$60.6 million from the amount that the introduced bill would have appropriated. Unlike the committee substitute, HB 2 as filed would have transferred funds to Medicaid from adult mental health services, the Texas Women’s Health Program, and CHIP.

Pre-filed amendments. Members have submitted nine pre-filed amendments to the bill. An amendment by Rep. Otto would allow DPS to use its funds for eight-week training and recruit schools only until 250 troopers who attended the schools had graduated and were employed by the agency. Other pre-filed amendments would:

- decrease by \$2 million the amount of the appropriation that CSHB 2 would transfer to the HHSC from DSHS Strategy B.1.4., Community Primary Care Services;
- decrease the appropriation to the Facilities Commission by \$2 million in general revenue and appropriate that amount to the Texas Military Department for the Texas State Guard and facilities maintenance;
- increase the number of FTEs that the Veterans Commission could employ during fiscal 2015;
- replace the word “adjusting” with “reimbursing” in sections 9 and 10 of the bill, which relate to Medicaid and CHIP capitation payments made to managed care organizations to account for the health insurance providers fee imposed under the Affordable Care Act;
- remove sections 9 and 10 of the bill and increase the appropriation to TRS by \$84,201,631;

- require the executive commissioner of the HHSC to submit a report to the LBB that includes certain information about capitation payment adjustments to Medicaid and CHIP managed care organizations;
- require funds appropriated in CSHB 2 under sections 9 and 10 to be used to provide additional health care services to Medicaid and CHIP managed care enrollees; and
- decrease the appropriation to TFC by \$95,000 in general revenue and appropriate that amount to the Preservation Board for expansion and improvement of the volunteer firefighters monument at the Capitol.