

SUBJECT: Revising provisions governing general revenue dedicated funds

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 20 ayes — Otto, Sylvester Turner, Ashby, Bell, G. Bonnen, Burkett, Capriglione, S. Davis, Gonzales, Howard, Hughes, Koop, Longoria, McClendon, Muñoz, Phelan, J. Rodriguez, Sheffield, VanDeaver, Walle

0 nays

7 absent — Dukes, Giddings, Márquez, Miles, R. Miller, Price, Raney

WITNESSES: For — Cyrus Reed, Lone Star Chapter Sierra Club; Theodore (Tod) Wickersham, Jr., Public Citizen, Inc.; Judith Bundschuh, Texas Association of Realtors; Stephen Minick, Texas Association of Business; Darrell Pile, Texas EMS, Trauma and Acute Care Foundation; Matthew Davis; (*Registered, but did not testify*: Peyton McKnight, American Council of Engineering Companies of Texas; Dean McWilliams, American Society of Landscape Architects - Texas; John Paul Urban, NRG Energy; Billy Phenix, Securities Industry and Financial Markets Association (SIFMA); Randy Lee, Stewart Title Guaranty Company; Steven Garza and Daniel Gonzalez, Texas Association of Realtors; Brittney Booth, Texas Business Law Foundation; Susan Ross, Texas Dental Association; Jorie Klein and Dinah Welsh, Texas EMS, Trauma and Acute Care Foundation; Julie Acevedo, Texas Fire Chiefs Association.; Matt Burgin, Texas Food and Fuel Association; Troy Alexander, Texas Medical Association; Jim Reaves, Texas Nursery and Landscape Association; Bj Avery and Tommy Lucas, Texas Optometric Association; Heather Aguirre, Texas Osteopathic Medical Association; David Lancaster, Texas Society of Architects; Bob Owen, Texas Society of CPAs; Mark Hanna, Texas Society of Professional Surveyors)

Against — None

On — Sandie Haverlah, Environmental Defense Fund; Robin Garza, Harris Health System; Jose E. Camacho, Texas Association of

Community Health Centers; (*Registered, but did not testify*: Kelli Merriweather and Brian Millington, Commission on State Emergency Communications; Ursula Parks and Zelma Smith, Legislative Budget Board; Thomas Gleeson and Brian Lloyd, Public Utility Commission of Texas; Liz Day, Texas Commission on Environmental Quality; Rob Coleman, Texas Comptroller of Public Accounts)

BACKGROUND: General revenue dedicated funds are funds collected for a specific purpose designated in state law. The comptroller estimated in the 2015 Biennial Revenue Estimate that at the end of fiscal 2015 there would be \$4.4 billion in general revenue dedicated account balances available for certification, increasing to \$4.7 billion by 2017.

Under Art. 3, sec. 49a of the Constitution, no appropriations bill may be enacted until the comptroller certifies that the state will have enough revenue to cover 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: CSHB 7 would modify provisions governing general revenue dedicated funds and accounts. The bill would modify fees, eligible uses of funds, procedures, and other provisions.

The bill would take effect September 1, 2015.

B-On-time higher education student loan program. CSHB 7 would end a requirement that a portion of higher education tuition be reserved for the financial assistance program B-On-Time. Public higher education institutions no longer would have to contribute 5 percent of their tuition into the B-On-time student loan account, which provides no-interest loans to qualifying students.

The bill would expand the permissible uses of the funds in the B-On-time loan account, including allowing appropriations from the account to

institutions that had previously paid the 5 percent tuition set-aside but only for purposes other than the B-On-time loan program. The bill would require that these appropriations to institutions be made in proportion to what each institution had paid into the B-On-time account through tuition set-asides.

Physician education loan repayment program. The bill would repeal the requirement that 2 percent of medical school students' tuition be deposited in the physician loan repayment program account. Deposits from a portion of a tobacco products tax that go into the physician education loan repayment account would be suspended if the account was sufficient to fund existing and expected loan repayment commitments. The bill would allow these deposits to go instead to the general revenue account and would require that they be used only for health care purposes.

Trauma fund consolidation. CSHB 7 would abolish the state's regional trauma account and would allow the designated trauma facility and emergency medical services account to accept the deposits that would have gone into the regional trauma account. Any balance remaining in the regional trauma account would be transferred to the designated trauma facility and EMS account.

Oil and gas regulation and cleanup fund. The bill would direct certain oil and gas tax and fee revenues that currently are deposited into the general revenue fund to the oil and gas regulation and cleanup fund, including the pipeline safety and regulatory fee and the \$100 application fee for an oil and gas waste disposal well permit.

The bill also would require the entire \$150 application fee for an exception to any Railroad Commission oil and gas rule, rather than two-thirds of it, be deposited into the oil and gas regulation and cleanup fund.

The uses of the oil and gas regulation and cleanup fund would be expanded to include the administration of pipeline safety and regulatory programs.

Fee on certain occupational licenses. CSHB 7 would repeal a \$200 additional licensing fee imposed annually on the following 16 professions: chiropractors, physicians, dentists, optometrists, psychologists, certified public accountants, architects, engineers, real estate brokers, investment advisers, attorneys, veterinarians, property tax consultants, landscape architects, interior designers, and land surveyors.

Texas Emissions Reduction Program (TERP) funds. The bill would limit the statewide Texas Emission Reduction Program's 2 percent surcharge being assessed on the sale, lease, rental, storage, or use of all off-road, heavy-duty diesel equipment to apply only in non-attainment areas.

Driver responsibility program surcharges. The bill would reduce the driver responsibility program surcharges for the offenses of driving without a valid license and driving with no insurance if drivers came into compliance with the law within 60 days of their offense. Both surcharges would be reduced by 50 percent, reducing the surcharge to \$125 for not having valid insurance and to \$50 for driving with an invalid license. These changes would apply to surcharges pending on CSHB 7's effective date, regardless of when the surcharge was assessed.

System benefit fund. CSHB 7 would remove the 15 percent cap on the discount rate for low-income electricity customers for 2016 to spend the system benefit fund's unexpended balance by the fund's expiration date at the end of fiscal 2016.

Public Utility Commission utility assessments. CSHB 7 would rename the Assessment on Public Utilities to be the Utility Gross Receipts Assessment and would require the Public Utility Commission (PUC) to revise assessments so that the aggregate amount of assessments equaled one-sixth of 1 percent of total gross receipts or the total of amounts appropriated to PUC and the Office of Public Utility Counsel, whichever was less. The assessment would be deposited into a utilities gross receipts assessment general revenue dedicated account.

Petroleum storage tank remediation account. Under current law, TCEQ is required to set the fee on delivery of certain petroleum products in an amount not to exceed what is necessary to cover the agency's costs of administering law related to underground and aboveground storage tanks, as indicated by the amount appropriated by the Legislature from the petroleum storage tank remediation account for that purpose. The bill would exclude from the appropriated amount considered by TCEQ in determining this fee any amount appropriated by the Legislature from the petroleum storage tank remediation account to monitor or remediate releases occurring on or before December 22, 1998.

Changes in eligible uses for certain funds. CSHB 7 would make changes to the eligible uses of several funds.

Sexual assault program fund. The bill would expand the uses of the sexual assault program fund to include programs and services relating to sex and human trafficking and state agencies' sexual assault prevention or victim services programs. The bill would repeal the dedication to the Texas Health Opportunity Pool of sexually oriented business fees in excess of the first \$25 million collected each biennium. Instead, all of the sexually-oriented business fees would go toward the sexual assault program fund.

Volunteer fire department assistance fund. Money in the volunteer fire department assistance fund could be used for contributions to the Texas Emergency Services Retirement System. Amounts appropriated for this purpose and up to \$11.5 million appropriated to the Texas A&M Forest Service for grants to volunteer fire departments could not be used to determine the fiscal 2016-17 assessment on certain insurers that goes into the volunteer fire department assistance fund.

TCEQ solid waste disposal fee revenue. Solid waste disposal fee revenue could be used for grants to encourage entities located in nonattainment areas or affected counties to convert heavy-duty vehicles used for municipal solid waste collection into vehicles powered by natural gas engines.

Hazardous and solid waste remediation fees account. Money in the hazardous and solid waste remediation fees account from the sale of batteries could be used for environmental remediation of a closed battery-recycling facility in certain cities.

Law enforcement officer standards and education fund account. The uses of the law enforcement officer standards and education fund account would be expanded so that DPS could use appropriations from the account to make grants to local law enforcement agencies for training on incident-based reporting systems.

Other provisions. *Report on general revenue accounts.* The comptroller would be required to issue a report after each regular Legislative session that itemized each general revenue dedicated account and its estimated balance and revenue that is considered available for budget certification.

Interest accrued on coastal protection, Alamo complex accounts. The bill would add the coastal protection account and the Alamo complex account to the list of those accounts that do not have their interest made available for general purposes and deposited in the general revenue fund.

Vehicle Inspection fees. The bill would amend Health and Safety Code, sec. 382.0622, regarding the Clean Air Act, by providing that \$2 from a portion of the initial two-year vehicle inspection fee, in addition to the general inspection fee, be remitted to the state.

Motorcycle license fee. The bill would reduce the motorcycle license fee by \$5.

The comptroller would be required to transfer any remaining balance in the motorcycle education account to the general revenue fund within 90 days of the start of fiscal 2016.

Specialty license plates. CSHB 7 would extend the date from September 30, 2013, to September 30, 2015, for the comptroller to eliminate all dedicated accounts established for specialty license plates and to set aside

the balances of those accounts for appropriations only for their intended purposes. The bill also would extend the date for the establishment of a trust fund outside of the general revenue fund to handle the fee that previously went into the dedicated accounts from September 1, 2013, to September 1, 2015.

Educator excellence innovation fund. The educator excellence innovation fund would be abolished and its balance transferred to the general revenue fund by the 90th day of fiscal 2016.

SUPPORTERS
SAY:

CSHB 7 would take key steps toward reducing reliance on general revenue dedicated funds and increasing budget transparency. Many of these changes come either directly or indirectly from recommendations in the February 2015 report by the Legislative Budget Board (LBB) on how to reduce reliance on general revenue dedicated accounts used to certify the budget. While the Legislature has not spent dedicated funds for unintended purposes, it has been using these for certification purposes for decades. This practice is so ingrained that it will take multiple sessions for the state to stop relying on the practice completely.

CSHB 7, along with CSHB 1 and HB 6 by Otto (also on today's calendar), would take important steps toward reducing the state's reliance on unspent general revenue dedicated funds. Eliminating and reducing general revenue dedicated balances through fee cuts, refunds, appropriations, and other measures simply will take time. This bill would not appropriate any funds but would make many account-specific changes needed to move the state closer to budget transparency. CSHB 7 would reduce the amount of general revenue dedicated funds available for budget certification by \$563.9 million, according to the LBB. Taken together with other fiscal bills, it would move the state toward a goal of reducing the general revenue dedicated fund balances available for certification by about \$1.7 billion.

B-On-time higher education student loan program. Millions of dollars in tuition set-asides sit unused in the B-On-time student loan account, and few schools are able to recapture and make use of what they paid in, often

becoming “donor” schools for other institutions that do make use of the program. CSHB 7 would enable the funds from the B-On-time student loan account to be equitably appropriated to schools in the proportion they paid in, ensuring funds collected at one institution were used at the same institution and for whatever tailored priorities they view as best for their students.

CSHB 7 would be essential for the implementation of CSHB 700 by Giddings, approved by the House on April 23, which would abolish the B-On-time loan program, funding renewals only for the next five years and then redistributing the remaining loan account funds to institutions that had paid into the account. This would allow students currently receiving the funds to continue to get the aid on which they have come to rely but also would eventually distribute the remainder of the account once this cohort of students graduated.

Physician education loan repayment program. CSHB 7 would eliminate or suspend collection of certain funds for the physician education loan repayment program because revenue deposited in the account is in excess of appropriations, and the account has accumulated a large balance. Eliminating the tuition set-aside for the account would increase transparency by helping keep tuition paid by students at the institutions where those students gain their medical education instead of redistributing it to others. The bill would ensure that other deposits in the account would not be suspended unless the fund had enough to continue to fulfill existing and expected physician loan repay commitments for the upcoming biennium.

Trauma fund consolidation. CSHB 7 would consolidate two of the state's trauma accounts for easier administration by abolishing the regional trauma account and moving its funds to the designated trauma facility and EMS account. No funds have been appropriated from the regional trauma account since 2009, and it has accumulated a large balance. Consolidating the accounts would allow the Legislature to have a better picture of the funds available for trauma care and would help provide funding for trauma care that is included in CSHB 1.

Oil and gas regulation and cleanup fund. The oil and gas regulation and cleanup fund is the main funding source for the Railroad Commission. CSHB 7 would direct several fees to the oil and gas regulation and cleanup fund that currently are deposited into the general revenue fund, ensuring that fees assessed on specific industries go back to the main funding source for the agency that is regulating them.

Fee on certain occupational licenses. CSHB 7 would repeal a \$200 additional licensing fee, essentially an occupations tax, that is imposed annually on 16 professions, covering about 400,000 licensed professionals. At the time the fees were enacted, the state faced a revenue shortfall. Many of these fees were categorized as temporary and assessed because the selected professions were not subject to the franchise tax in place at the time. When the franchise tax methodology was changed in 2006, these professions were included. Despite the affected professions inclusion in Texas' current franchise tax, the \$200 occupations fee remains in effect.

This \$200 fee is a hidden double tax that selectively targets certain professional service industries and is levied in addition to the licensing fees these Texans already pay. Most licensed professionals have their own small businesses. By eliminating the \$200 annual fee, CSHB 7 would save Texas professionals about \$250 million over the next biennium, allowing them to reinvest in their own businesses as well as back into the local economy instead of padding the state coffers.

Texas Emissions Reduction Program funds. The 2 percent surcharge being assessed on the sale, lease, or rental of diesel equipment has been artificially raising the cost of construction in the state. CSHB 7 would limit the TERP surcharge only to nonattainment counties, the only areas of the state eligible for TERP grants. This would help level off the cost of construction and would slow down the accrual of money into the TERP fund, which has a balance of about \$1 billion.

Drivers responsibility program surcharges. CSHB 7 would create an

incentive to follow Texas driving laws by reducing certain surcharges assessed in the Drivers Responsibility Program if a driver came into compliance with the law. The bill would apply narrowly to driving without a valid license and driving without insurance and would promote changes in behavior that would make the roads safer for all.

System benefit fund. Removing the 15 percent cap on the discount rate for low-income utility customers for 2016 would allow the money to be used for the purpose for which it was intended and would allow the program to end as scheduled at the end of fiscal 2016.

The system benefit fund (SBF) is administered by the Public Utility Commission to fund the operation of the agency, pay for customer education programs, and provide a utility rate discount to eligible low-income utility customers during the warm-weather months of May through September. The SBF receives its revenue through a per-megawatt-hour fee collected from electricity ratepayers in areas open to competition. During recent years, revenue collected for the SBF has exceeded appropriations, and the fund ended fiscal 2013 with a balance of \$811.3 million.

The 83rd Legislature eliminated the fee deposited to the system benefit fund beginning in fiscal 2014 and set the fund's expiration date for end of fiscal 2016. However, due to lower-than-expected enrollment in the discount program, combined with a mild summer, the Public Utility Commission estimates that the SBF will have an unexpended balance of \$227 million at the end of fiscal 2016.

Public Utility Commission utility assessments. The Public Utility Commission currently is funded by both general revenue and a portion of the system benefit fund allocated for administration of the agency. Because the system benefit fund is set to expire, a long-term strategy is needed to move the PUC off of system benefit fund dollars and onto a predictable revenue stream that could sustain the important functions of the PUC as a utility regulator. CSHB 7 would use an existing tax on utilities and would allow the PUC to set a lower fee than what is currently

in statute to fund the PUC and Office of Public Utility Counsel operations.

Petroleum storage tank remediation account. CSHB 7 would reduce the petroleum product delivery fee to align the revenue deposited to the petroleum storage tank remediation account with the balance in the account needed to fund the ongoing programs. This would ensure the account balance, estimated to be about \$155 million by the end of fiscal 2015, was used to fund clean-up and monitoring costs related to spills at petroleum-contaminated sites that were reported to TCEQ on or before December 1998. This also would result in a reduction of \$21.6 million in general revenue dedicated funds counted toward certification during the 2016-17 biennium and could reduce the balance in the account to \$82.7 million by the end of fiscal year 2021.

Changes in eligible uses for certain funds. CSHB 7 would make changes to the eligible uses of some funds. Increasing the range of eligible uses of general revenue dedicated funds to include other state priorities that are related to the funds' original purpose would provide more flexibility for the Legislature to meet the needs of the state. State priorities change over time, and funding priorities must be flexible enough to change with them. Adding related funding priorities to uses of general revenue dedicated funds would provide this flexibility without being untrue to the original purpose to which the Legislature dedicated the funds. For instance, the addition of pipeline safety and regulatory programs to the eligible uses of the oil and gas regulation and cleanup fund clearly is related to the purpose of the account.

Other provisions. *Report on general revenue accounts.* CSHB 7 would codify a current practice by requiring the comptroller to report on general revenue accounts and their balances and revenues available for certification. This would ensure the Legislature had robust information for writing the state budget.

Interest accrued on coastal protection, Alamo complex accounts. The bill would continue the process of properly classifying accounts by specifically exempting two accounts administered by the General Land

Office from the requirement that their interest be reallocated to the general revenue account.

Vehicle Inspection fees. Although statute appears to limit the allocation of vehicle inspection certificate fees to the clean air account to \$2 of the general inspection fee and \$2 of the initial two-year vehicle inspection fee, \$4 of the two-year vehicle inspection certificate fee is deposited to the clean air account. CSHB 7 would amend statute to clarify that \$2, rather than \$4, of the amount remitted to the state from two-year inspections of new vehicles is allocated to the clean air account.

Motorcycle license fee. Reducing the motorcycle license fee by \$5 would collect about \$2.8 million less in fee revenue over the next biennium. The motorcycle license fee funds the motorcycle education fund, which has a current balance of about \$17.8 million and has been untapped for its purpose of paying for training and safety programs at TxDOT and DPS. While these are worthwhile programs, they have not been funded appropriately. The motorcycle education fund should not continue to accrue money if it is not used for its intended purpose.

Specialty license plates. CSHB 7 would extend the date on the state's plan to improve the disbursement of specialty license plate funds so that efforts can continue to ensure that the money raised from the plates goes toward its intended purpose.

Educator excellence innovation fund. The educator excellence innovation fund would be abolished because the educator excellence innovation program has been funded through general revenue appropriated to the Texas Education Agency.

OPPONENTS
SAY:

B-On time higher education student loan program. CSHB 7 would endanger a financial aid program that has never been given a real chance to succeed, allowing funds to be drained from the program's account for purposes other than the program. The program serves an important population of students and has shown promising outcomes through incentivizing timely and academically distinguished graduation. Concerns

about the program could be remedied easily and are not an indication of whether the concept itself is good. For example, the Higher Education Coordinating Board could be allowed to redistribute funds differently, or the program could serve a more targeted population.

Physician education loan repayment program. The Legislature should be looking for ways to expand the physician education loan repayment program rather than to eliminate or suspend funding into the account that supports it. The state has an ongoing need to attract medical school students to serve in geographic and medical fields of critical need, and the program can help address those needs.

Fee on certain occupational licenses. The bill would result in a nearly \$250 million loss of general revenue related funds through the next biennium. From each \$200 fee collected, \$50 is deposited to the foundation school fund and the remaining \$150 is deposited to the general revenue fund. From the fee for real estate brokers, \$100 is deposited to the general revenue fund, \$50 to the foundation school fund, and \$50 to the Texas A&M Real Estate Center.

Given that significant tax cuts already are on the table this legislative session, it would be inappropriate to make further reductions when there are many underfunded priorities, including public education, that would suffer from the loss of revenue.

TERP funds. Limiting the statewide TERP 2 percent surcharge on diesel equipment to just the nonattainment and affected counties could cause confusion and an administrative burden. While TERP is geared toward nonattainment and other affected counties, there is a statewide benefit to the program. A large portion of TERP funds are used to replace or upgrade diesel equipment in nonattainment areas to reduce air emissions. Cleaner diesel equipment is a benefit to the whole state because it travels to other counties. Further, as the state faces more stringent federal air quality standards, more and more counties likely will come into nonattainment status.

Changes in eligible use for certain funds. CSHB 7 would modify the purposes for which some key funds could be spent. Expanding the permissible purposes for which funds could be spent could be problematic if there are significant unmet needs associated with the original purpose. For example, allowing solid waste disposal fee revenue to be used for grants to convert solid waste collection vehicles into vehicles powered by natural gas engines would benefit air quality issues in non-attainment areas. While a worthy purpose, the funds would be diverted from their original purpose of solid waste management and remediation. The Legislature should satisfy existing pressing needs before expanding eligible uses of funds.

OTHER
OPPONENTS
SAY:

While CSHB 7 would take some steps in the right direction, it might not go far enough. Under-appropriating from general revenue dedicated funds to preserve enough unspent revenue to certify the budget means that the state is raising revenue for one purpose and diverting the funds to another. 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.

NOTES:

According to the fiscal note, CSHB 7 would result in a negative net impact to general revenue related funds of \$150.4 million through fiscal 2016-17.

The companion bill, SB 1276 by Nelson, was referred to the Senate Finance Committee on March 18.