

SUBJECT: Allowing HHSC to keep certain federal funds for program administration

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 21 ayes — Zerwas, Longoria, C. Bell, Buckley, Capriglione, Cortez, S. Davis, Hefner, Howard, Jarvis Johnson, Miller, Minjarez, Muñoz, Rose, Sheffield, Smith, Stucky, Toth, J. Turner, VanDeaver, Wu

1 nay — Schaefer

5 absent — G. Bonnen, M. González, Sherman, Walle, Wilson

SENATE VOTE: On final passage, April 29 — 30-1 (Nelson)

WITNESSES: For — (*Registered, but did not testify*: Maggie Stern, Children's Defense Fund; Troy Alexander, Texas Medical Association; Kaitlyn Doerge, Texas Pediatric Society; Shana Ellison; Robert Norris; Nita Williams)

Against — None

On — (*Registered, but did not testify*: Victoria Grady and Charlie Greenberg, Health and Human Services Commission)

DIGEST: CSSB 2138 would allow the Health and Human Services Commission (HHSC) to retain a portion of funds the commission received from certain federal programs to pay the programs' administrative costs. The commission could retain funds in an amount equal to the estimated costs necessary to administer the program for which the funds were received, up to \$8 million per biennium. These provisions would apply to funds HHSC received from a source other than the general revenue fund to operate a Medicaid Section 1115 waiver program or a directed payment program or successor program as determined by the commission.

HHSC would have to spend funds retained under the bill to assist in paying necessary administrative costs for the program for which the money was received. The commission could not use the funds for

administrative costs that, before June 1, 2019, were funded with general revenue.

If HHSC determined that the commission needed additional money to administer a program it could, with the approval of the governor and the Legislative Budget Board, retain up to an additional 0.25 percent of the total amount estimated to be received for the program.

HHSC would be required to submit an annual report to the governor and the Legislative Budget Board that:

- detailed the amount of money retained and spent by the commission during the preceding fiscal year, including separate details on any increase in the amount of money retained for a program;
- contained a transparent description of how the commission used the money retained; and
- assessed the extent to which money retained by the commission covered the estimated costs to administer the applicable program and whether, based on that assessment, the commission adjusted or considered adjustments to the amount retained.

If before implementing any provision of the bill a state agency determined that a waiver or authorization from a federal agency was necessary, the agency affected by the provision would have to request the waiver or authorization and could delay implementing that provision until the waiver or authorization was granted.

The 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, 2019.

**SUPPORTERS
SAY:**

CSSB 2138 would help the state pay the administrative costs of overseeing certain programs, which would benefit both the state and the program providers. Currently, the Health and Human Services Commission (HHSC) administers certain federal programs that provide

hospitals with funding for care to the uninsured and those on Medicaid. The cost of administering the programs is paid with general revenue, but additional resources are needed due to the increasing complexity of the programs and changing federal reporting requirements.

CSSB 2138 would meet this need without expending additional state funds by allowing HHSC to use a portion of the federal funds for administrative costs. This would be in line with how administrative costs are handled for certain other federal programs for which the state can retain a portion of federal funds.

The growth in state administrative functions would be appropriate because the funds that would be retained under the bill would benefit program providers, recipients, and the state and would come at no cost to state revenue. With the retained funds, the state could provide additional support and greater oversight of the programs, including by making more timely payments and engaging more with program providers. The bill also would increase transparency on the use of the funds.

CSSB 2138 contains safeguards to ensure that funds were spent appropriately and limited to necessary costs. The amount retained would be capped, and it could be used only for the administrative costs of the programs. HHSC would have to report on its use of retained funds, including a transparent report on the use of the money.

**OPPONENTS
SAY:**

CSSB 2138 would result in an increase in state employees at a relatively high cost for programs the state already is administering, which could grow government unnecessarily. If the size of state government is going to increase, it should be clear what new necessary administrative tasks are being taken on and paid for with the increase.