

SUBJECT: Supplemental appropriations and reductions for fiscal 2013

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 27 ayes — Pitts, Sylvester Turner, Ashby, Bell, G. Bonnen, Carter, Crownover, Darby, S. Davis, Dukes, Giddings, Gonzales, Howard, Hughes, S. King, Longoria, Márquez, McClendon, Muñoz, Orr, Otto, Patrick, Perry, Price, Raney, Ratliff, Zerwas

0 nays

WITNESSES: For — None

Against — None

On — Carter Smith, Parks & Wildlife Department; (*Registered, but did not testify*: Steve Alderman, University of Texas Medical Branch; James Bass, Texas Department of Transportation; Cindy Brown, Department of Family and Protective Services; Kirk Cole, Department of State Health Services; Shyra Darr, Texas Facilities Commission; Liz Day, TCEQ; Robby DeWitt, Texas A&M Forest Service; James Douglas, Texas Southern University; Nim Kidd, Texas Department of Public Safety-TDEM; David Kinsey and Greta Rymal, Health and Human Services Commission; Paul Morris, Department of Family and Protective Services; Glenn Neal, Department of Assistive and Rehabilitative Services; Chip Osborne and Thomas Palladino, Texas Veterans Commission; Billy Parker, Texas A&M Engineering Extension Service; Milton Rister, Railroad Commission; Amanda Rockow, The University of Texas at Dallas; Edward Seidenberg, Texas State Library & Archives Commission)

DIGEST: CSHB would appropriate a total of \$874.9 million in all funds for fiscal 2013, including \$506.7 million in general revenue funds, \$194.2 million in general revenue dedicated funds, and \$174.1 million in economic stabilization (Rainy Day) funds.

Reductions and Appropriations in CSHB 1025

	Reductions	Appropriations	Net Total
General revenue funds	\$ (158,247,725)	\$ 664,898,843	\$ 506,651,118
General revenue dedicated	(12,500)	194,211,989	194,199,489
Other funds*	-	174,056,151	174,056,151
Federal funds	-	-	-
All funds total	\$ (158,260,225)	\$ 1,033,166,983	\$ 874,906,758

* Economic Stabilization Fund

Source: Legislative Budget Board fiscal note

Reductions

CSHB 1025 would reduce appropriations by a total of \$158.2 million in general revenue funds and \$12,500 in general revenue dedicated funds. This would include a \$110 million reduction in general revenue funds appropriated to the Texas Department of Transportation (TxDOT) and a \$22.6 million reduction to the Texas Public Finance Authority (TPFA) to pay debt service on bonds.

General Government

The bill would appropriate \$7.5 million in general revenue funds to pay salaries for district judges and prosecuting attorneys. An additional \$475,000 would be appropriated primarily to cover costs of juror pay and indigent inmate defense.

The Veterans Commission would receive \$1.5 million in general revenue funds to hire up to an additional 16 FTEs to address a backlog of claims and to hire additional counselors for hospitals and clinics. An additional \$500,000 would be included for the purpose of repaying a deficiency grant made under a specific provision in the law.

The bill would appropriate \$1.4 million in general revenue funds to the Facilities Commission to pay costs incurred as a result of an increase in utility rates.

Health and Human Services

The bill would appropriate \$170 million out of general revenue dedicated funds to the Department of State Health Services (DSHS) so it could enter into an interagency contract to transfer the funds to the Health and Human Services Commission (HHSC) for the non-federal share of the Medicaid disproportionate share hospital program.

The bill also would repeal a rider in the 2012-13 budget that allows the HHSC to seek funding from the most effective type of financing to fund debt from the Texas Integrated Eligibility Resign Systems (TIERS). The rider allows HHSC to transfer \$4.2 million to the Texas Public Finance Authority to pay debt service on the TIERS benefit portal.

Public Education

The bill would add \$500 million in general revenue funds to the Foundation School Program for the current school year. The money would be distributed in an equal amount per student in weighted average daily attendance (WADA) to school districts and open-enrollment charter schools, with per-student amounts not to exceed \$72.50 per WADA.

The bill also would appropriate \$517,000 for a projected shortfall between contract and budgeted amounts for the Texas Education Agency (TEA) data center operations.

Higher Education

Hazlewood Reimbursements. CSHB 1025 would provide a partial reimbursement to institutions of higher education for the cost of providing veterans and certain family members free tuition. The bill would appropriate \$30 million in general revenue directly to general academic institutions and health-related institutions as well as junior colleges and community colleges that provided veterans and certain family members an exemption on tuition and certain fees in 2012 under the state's Hazlewood Act.

Graduate Medical Education. CSHB 1025 would appropriate \$17 million in general revenue to the Texas Higher Education Coordinating Board for graduate medical education. The bill would require that portions of this

appropriation be awarded as grants to:

- plan new GME programs;
- help fill existing but unfilled first-year residency positions; and
- expand existing GME programs or expand new programs to provide support for first-year residency positions.

Texas Research Incentive Program. The bill would appropriate an additional \$34.5 million in general revenue funds to the coordinating board for the Texas Research Incentive Program. The program is to be used to match donations raised by institutions of higher education according to a sliding scale.

Other provisions. HB 1026 would appropriate \$200,000 for workers' compensation claims to the University of Houston - Clear Lake and \$162,500 to the Texas A&M AgriLife Research for current operations. Under the bill, the Texas A&M Engineering Extension Service would receive \$1.7 million in general revenue funds to reimburse the agency for state-directed deployments for natural disasters.

Criminal Justice

Correctional managed health care. The Texas Department of Criminal Justice (TDCJ) would receive \$39 million in general revenue funds for correctional managed health care for adult offenders.

Jones County correctional facility. CSHB 1025 would appropriate \$19.5 million in general revenue to TDCJ for the purchase of the Jones County Correctional Facility. The funds could not be used for any other purpose without the prior approval of the Legislative Budget Board (LBB).

Wildfires

Several agencies would receive appropriations from the Rainy Day Fund for costs they incurred for fire response and fire damage, including:

- *Texas A&M Forest Service* - \$161.1 million for reimbursement of costs incurred fighting wildfires;
- *Texas Parks and Wildlife Department (TPWD)* - \$4.9 million to replace infrastructure and equipment at Bastrop State Park and the

Bastrop regional park office, as well as habitat restoration and erosion control;

- *Trusted Programs within the Office of the Governor: disaster recovery* - \$4.4 million for infrastructure repair and rehabilitation and hazard mitigation in Bastrop County, and no more than \$1 million to reimburse local responders in Cass County, restricted for use on private property and to maximize federal funds; and
- *Department of Public Safety (DPS)* - \$2.7 million to repay the agency for costs incurred for fighting wildfires.

Natural Resources

Elephant Butte litigation expenses. The Texas Commission on Environmental Quality (TCEQ) would receive \$500,000 in general revenue dedicated funds for litigation expenses related to Elephant Butte.

TPWD - restoration and maintenance of Cedar Bayou. The Texas Parks and Wildlife Department (TPWD) would receive \$7 million in general revenue dedicated funds for the Cedar Bayou restoration project.

Other provisions. The Texas Department of Agriculture would receive an additional \$10 million in general revenue funds for sourcing healthy food by Texas food banks for distribution in food deserts and other underserved communities.

CSHB 1025 would provide the Railroad Commission \$16.7 million in general revenue dedicated funds and an additional 11 FTEs to modernize their permitting program. TPWD would receive an additional \$889,000 for state park operations as a result of a revenue shortfall.

Other Provisions

In order to maximize balances, payment for benefits in the bill would have to be proportional to the source of the funds, except for payments for higher education employees group insurance contributions for public community or junior colleges. With certain exceptions, the funds could not be used to pay employee benefit costs if salaries or wages were not paid with general revenue. Each agency receiving funding through the bill would have to file a report demonstrating proportionality.

Effective Date

The bill would take effect immediately. Appropriations from the Economic Stabilization Fund require a vote of two-thirds of the members present in each house of the Legislature.

SUPPORTERS SAY:

CSHB 1025 would balance needed supplemental appropriations in some areas of the state budget with reductions in others to meet the state's budget needs for the rest of the current fiscal biennium, which ends on August 31. The bill appropriately would use \$174.1 million in Rainy Day funds to pay for emergency expenses resulting from one-time events such as natural disasters and fire response.

Reductions

CSHB 1025 would reduce appropriations to agencies that are projected to have unspent balances at the end of fiscal 2013. The bulk of these reductions, \$110 million to TxDOT and \$22.6 million to TPFA, are for payments on outstanding debt that were not necessary.

Health and Human Services

CSHB 1025 would appropriate funds from the general revenue dedicated Trauma Facility and EMS Account for the Medicaid disproportionate share hospital program. The appropriation, which would be an authorized use of the trauma and EMS account, would provide the state match for private and smaller hospitals that absorb a minimum level of costs from care of low-income and indigent patients.

Public Education

Supplemental funding for public schools is a good-faith effort that would show legislators are serious about improving education funding this session instead of waiting for the Texas Supreme Court to rule on a pending school finance lawsuit. A district judge in Travis County has ruled that the state is violating the Texas Constitution by failing to provide an adequate level of funding, and the state is expected to appeal.

The additional \$500 million also would lessen the impact of the fiscal 2012-13 budget cuts that came at the same time the state was increasing standards through the new State of Texas Assessments of Academic

Readiness (STAAR). The push for this extra funding came from legislators who wanted school districts to be able to use it over the summer to provide tutoring and other programs for students who fail the STAAR exams being administered this spring. The bill would allow districts to begin planning those efforts.

CSHB 1025 would treat districts fairly by distributing the supplemental funding on a per-student basis. This is in contrast to additional funding in CSHB 1 that would add only a small amount to some property-wealthy districts and larger amounts to less wealthy districts.

Higher Education

Hazlewood reimbursement. This one-time, \$30 million appropriation would relieve many of the public universities and colleges of a growing financial burden placed on them by a well-meaning but flawed expansion of the state benefit during the 81st Legislature.

The expansion of the benefit through passage of the Hazlewood Legacy Act allows an exemption on tuition and fees for certain children of veterans. The benefit cost higher education institutions about \$110 million in fiscal 2012; most of that cost was due to revenue losses from providing the Hazlewood Legacy Act benefit. The appropriation would be distributed to each participating institution and would be based on the proportionate cost each reported in 2012. At \$2.5 million, The Texas State University - San Marcos would receive the largest appropriation for providing the Hazlewood benefit to students in 2012, while The University of Texas M.D. Anderson Cancer Center would draw the smallest appropriation at \$2,784.

Graduate medical education. Funding for graduate medical education (GME) helps defray the costs hospitals and other health providers incur for training and supervising doctors who have completed their undergraduate medical education and are now completing their graduate residency programs.

The state subsidizes GME slots because it is expensive for health-related institutions to both train and supervise residents. Because most doctors practice where they completed their residencies, if the state wishes to attract and retain more doctors, it should increase funding to existing GME slots and increase the total number of residency slots.

Criminal Justice

Correctional managed health care. TDCJ needs \$39 million to pay the university providers of adult inmate health care for expenses that they have incurred or expect to incur in fiscal 2013. The increased expenses are due to an aging prison population, the rising cost of health care, shortages in health care professionals, and evolving standards of care.

Jones County correctional facility. As a provision for the future, the Legislature should provide \$19.5 million to TDCJ to purchase the Jones County Detention Center, a 1,100-bed unit, and then hold it for future needs. The facility was built in anticipation of housing state prisoners but was never used for that purpose. As the Legislature considers closing older, inefficient, and expensive-to-operate units, the Jones County facility could quickly be put into service if needed, either because another facility should be replaced or because the adult offender population had increased, as it is projected to do over the next five years.

Wildfires

The 2011 wildfire season was particularly devastating, with severe damage in many parts of the state. Because fires and other natural disasters are unpredictable events, they generally are paid for with supplemental appropriations after the costs of containment and restoration have been incurred.

The supplemental funding in CSHB 1025 would reimburse DPS, the Texas Forest Service, and other agencies for their response to the fires. Bastrop State Park and the Bastrop regional park office were devastated by the fire that raged through that area. Funds in the bill would replace infrastructure and equipment at those facilities, as well as assist in habitat restoration and erosion control.

Natural Resources

Elephant Butte litigation. TCEQ would receive \$500,000 in general revenue dedicated water fee account funds for litigation expenses in a water rights dispute with New Mexico over Rio Grande River water rights. Due to efforts made by New Mexico to reduce water deliveries to Texas users from Elephant Butte Reservoir, the State of Texas has filed suit with

the U. S. Supreme Court in order to protect Texas' rights by forcing New Mexico to abide by the Rio Grande River Compact Agreement. TCEQ is contracting for legal counsel, which amounts to an estimated \$1.5 million in legal expenses related to resolving the dispute in fiscal year 2013.

New Mexico's apparent violation of the Rio Grande River Compact Agreement continues to adversely impact the water supplies of Texas. Legal and technical experts have been retained to ensure the protection of Texas' water supplies. The House-engrossed version of SB 1 would provide \$5 million for legal expenses and experts. The supplemental funds could provide additional funding if needed.

Railroad Commission information technology modernization. An antiquated system is holding back the progress of an industry that is one of the state's major economic drivers. There are many outdated manual processes that could be updated to obtain efficiency. For example, the agency is 14,000 completion reports behind, which has resulted in a six-month backlog of issuing completion reports that are submitted by the operator once the well is drilled and ready for production. Currently, all of the information in the 37-page report has to be manually entered by keystroke rather than quickly scanned. Each page of the report takes up to five minutes to load, so only a handful of reports are being processed per person each day.

The agency also is having to lock the public out of their online system for several hours a day because the system cannot handle the load of agency and public use. Those hours of the day that the public is locked out are spent manually entering reports and permits. The Railroad Commission needs a permitting program that can keep up with demand.

Cedar Bayou. Funding for this project would sustain one of Texas' fastest-growing, economically robust communities. Several decades ago, the state took emergency action to plug Cedar Bayou to protect marine life and whooping cranes at the Aransas National Wildlife Refuge from an oil spill. Restoring the valuable hydrological connection between the Gulf of Mexico and Mesquite Bay and other bays in the mid-coastal Rockport area is essential to the productivity of the ecosystem and would promote recreation and tourism. When re-opened, Cedar Bayou will be the only connection through the barrier island system for almost 76 miles between Pass Cavallo and Aransas Pass.

Access to Healthy Food Grant Program. The Texas Department of Agriculture would receive an additional \$10 million in general revenue for sourcing healthy food by Texas Food banks for distribution in food deserts and other underserved communities.

Without this funding, there would be less nutritious food available for those Texans that are food insecure and rely on the food banks to feed their families. Access to healthy foods also would help prevent illnesses such as diabetes and childhood obesity, which can be a drain on the state's Medicaid program.

OPPONENTS
SAY:

CSHB 1025 would make a number of unnecessary appropriations, and unfortunately would choose to spend Rainy Day funds in areas where general revenue funds would suffice. Most of the appropriations in the bill appear on agency wish lists and are not baseline, necessary funding items. The Legislature already funded most of the true emergency needs when it enacted HB 10 by Pitts earlier this session.

The only necessary appropriations the bill would make are those related to fire containment and relief. These are unavoidable, emergency costs that cannot be predicted and represent the proper use of supplemental funds. Other proposed expenditures, such as those for health and human services, education, criminal justice, and natural resources are not necessary, by many measures, and are certainly not time-critical or of an emergency nature. These priorities should not be funded with supplemental appropriations but should compete for funding, along with other priorities, in the general appropriations act for fiscal 2014-15.

The bill improperly would appropriate \$174.1 million from the Rainy Day fund. While the purpose of the Rainy Day fund appropriations is sound — fire containment and relief — it is not necessary to use this particular funding mechanism. The Legislature should use general revenue funds, as it has in supplemental appropriations bills enacted in 2009 and 2011. Rainy Day funds should be conserved for times of proven need or to finance tax relief.

Public Education

The Legislature should not put more money into a school finance system that has been ruled unconstitutional by a district court judge. It would be better to set the money aside until the Texas Supreme Court rules on the

expected appeal. Another option would be to use the funds for another state need, such as transportation.

Higher Education

Hazlewood reimbursement. Providing the benefit that allows Texas veterans and their children access to higher education is a state legacy that should be preserved by continuing the exemption on tuition and fees at the state's public universities and colleges. A one-time appropriation in CSHB 1025 to reimburse these institutions for a portion of the cost for providing the benefit would yield similar appropriations that are unnecessary and would not address the core problem of adequate funding for higher education institutions. Higher education institutions should continue to educate the state's veterans and their children because it is the right way to reward those who have placed service to country ahead of themselves and their families.

Criminal Justice

Jones County correctional facility. The state should not purchase a new correctional facility at a time when the population of offenders is below state capacity. According to the LBB, the number of offenders incarcerated by the state at the end of fiscal 2014-15 will be about 3,000 fewer than state capacity of 156,942.

Natural Resources

Elephant Butte litigation. Ample funding for litigation expenses in the water rights dispute with New Mexico over water deliveries to Texas from Elephant Butte Reservoir already would be funded in the engrossed version of SB 1. Additional funding in the form of supplemental appropriations for fiscal 2013 is not necessary. Earmarking money for this purpose could divert funds from other core water management functions of the agency.

Cedar Bayou restoration project. Appropriating \$7 million for the Cedar Bayou restoration project to unplug a barrier created several decades ago to protect the bays from the oil spill would be an unnecessary use of state funds. State money would be better spent on other, more critical projects, especially because previous attempts to reopen the bayou have failed.

OTHER
OPPONENTS
SAY:

School districts are limited in how they can use the \$500 million supplemental funding because it is one-time money and the school year is nearly over. For example, a district would not be able to use the money for ongoing expenses such as hiring teachers. Many districts likely would use the money for tutoring and extra instruction to help students who fail this spring's administration of the STAAR tests. The funds would be distributed on a per-student basis to all districts even though some districts will have a greater percentage of students who need help passing the exams.

NOTES:

The LBB fiscal note estimates the bill would have a negative impact of \$506.7 million on general revenue funds through fiscal 2015.

CSHB 1025 differs from HB 1025 as introduced in that the committee substitute would change the method of finance for appropriations related to wildfires from general revenue funds to Rainy Day funds. The substitute deleted provisions in the original that would have reduced appropriations to community colleges by \$86.7 million. It also added a number of provisions, including:

- \$500 million in additional funds for public education;
- \$170 million for the Medicaid disproportionate share hospital program;
- \$34.5 million for the Texas Research Incentive Program;
- \$30 million for higher education institutions for the Hazlewood Exemption;
- \$19.5 million of the Jones County Correctional Facility;
- \$17 million for graduate medical education expansion;
- \$10 million for the Access to Healthy Foods Program; and
- reductions of \$110 million in general revenue funds to TxDOT for general obligation bond debt service.