

- SUBJECT:** Limiting growth of certain appropriations, calculating growth rate
- COMMITTEE:** Appropriations — committee substitute recommended
- VOTE:**
- 14 ayes — Zerwas, Ashby, G. Bonnen, Capriglione, Cospers, Dean, Gonzales, Koop, Miller, Phelan, Raney, Roberts, Simmons, VanDeaver
- 9 nays — Giddings, González, Howard, Muñoz, Perez, J. Rodriguez, Rose, Walle, Wu
- 4 absent — Longoria, S. Davis, Dukes, Sheffield
- WITNESSES:**
- For — Adam Cahn, Cahnman's Musings; Vance Ginn, Texas Public Policy Foundation; (*Registered, but did not testify*: Salvador Ayala and Michael Sullivan, Empower Texans)
- Against — Eva DeLuna, Center for Public Policy Priorities; (*Registered, but did not testify*: Dwight Harris, Texas American Federation of Teachers; Dax Gonzalez, Texas Association of School Boards)
- On — Ursula Parks, Legislative Budget Board; Stephen Minick, Texas Association of Business; Monty Exter, The Association of Texas Professional Educators; (*Registered, but did not testify*: Dale Craymer, Texas Taxpayers and Research Association)
- BACKGROUND:** The Texas Constitution has four limits on state spending: a limit on the growth of the budget, sometimes called the "spending limit," in Art. 8, sec. 22; a prohibition on deficit spending, often called the pay-as-you-go limit, in Art. 3, sec. 49a; a limit on state debt in Art. 3, sec. 49; and a limit on welfare spending, in Art. 3., sec. 51-a(b).
- Texas Constitution, Art. 8, sec. 22 restricts how much state spending that is not constitutionally dedicated to particular purposes may increase from one fiscal biennium to the next. The spending may not increase more than the estimated rate of growth of the state's economy unless the cap is waived by a majority vote of both houses of the Legislature. Examples of

revenue streams subject to this spending cap include sales, motor vehicle sales, franchise, alcoholic beverage, and cigarette and tobacco taxes. Excluded are tax revenues dedicated by the Constitution, including state highway funds and mobility funds, and non-tax revenues such as fees, fines, and lottery proceeds.

Government Code, ch. 316, subch. A., establishes how the Legislative Budget Board (LBB) determines the growth rate of the state's economy that is used to calculate the spending cap. The growth rate is determined by a formula based on the estimated Texas total personal income. The LBB can calculate the limit on appropriations using a more comprehensive definition of the rate of growth of the economy if approved by a committee composed of the governor, lieutenant governor, House speaker, and comptroller.

Under Government Code, sec. 316.008(a), the Legislature may not make appropriations in excess of the limit unless it adopts a resolution to do so. Art. 8, sec. 22(b) of the Texas Constitution requires that the resolution be adopted by majority vote in each house and that it find that an emergency exists and specify the amount authorized in excess of the limit.

**DIGEST:**

CSHB 208 would establish an additional limit on appropriations that, like the current constitutional limit on appropriations of non-dedicated state tax revenue, would be based on the growth rate of the Texas economy. The bill also would redefine how the Legislative Budget Board (LBB) calculated the growth rate of the economy to determine the current constitutional limit on appropriations applied to non-dedicated state tax revenue and the new limit that the bill would apply to all non-federal sources of revenue.

**New spending limit on all sources of revenue.** CSHB 208 would apply a new limit on appropriations to all sources of revenue, other than federal revenue. The bill would prohibit the rate of growth of appropriations of all non-federal sources of revenue from exceeding the estimated growth rate of the Texas economy. Appropriations to pay rebates of state taxes would be excluded from calculations made to determine whether appropriations

exceeded the limit.

CSHB 208 would allow the Legislature to authorize appropriations that exceeded the limit on all state revenue by adopting a resolution approved by a three-fifths vote of the members of each chamber. The resolution would have to find that an emergency existed, identify the nature of the emergency, and specify the amount authorized in excess of the limit. Any excess amount authorized could not exceed the amount specified in the resolution.

**Rate of growth of state economy.** The bill would repeal the current method, based on personal income, that LBB is required to use to determine the growth rate of the Texas economy and replace it with a calculation based on average population growth and inflation. The estimated rate of growth of the Texas economy would be the estimated average biennial rate of growth of the population during the biennium for which the appropriations were made, adjusted by the average biennial rate of monetary inflation during the same period.

The LBB would determine the population growth rate and inflation rate by using the most recent information from sources it considered reliable, including the U.S. Bureau of Labor Statistics and the Texas Demographic Center.

The bill would establish as a legislative finding for the current constitutional spending limit that the estimated average biennial rate of growth of the population during the state fiscal biennium for which appropriations were made, adjusted by the estimated average biennial rate of inflation in Texas during the same time, was an appropriate measure of the rate of growth of the economy.

**Determining limit on appropriations.** The LBB would be required to establish the two limits on the rate of growth of appropriations before it transmitted an estimated budget to the governor and the Legislature. To establish the amounts that could be appropriated for an upcoming biennium under the current spending limit and the limit established by

CSHB 208, the LBB would use a formula derived from the product of numbers based on the estimated average biennial rate of population growth during the fiscal biennium and the estimated average rate of monetary inflation for the same period. The LBB would then use those limits to determine the amount of appropriations allowed under the limit.

If the rate of growth of the economy from one biennium to the next was negative, the amount of appropriations of non-dedicated state tax revenue and of consolidated general revenue could not grow.

The bill would eliminate authorization for the LBB to use a more comprehensive definition of the rate of growth of the state's economy if one were developed.

**Revenue dedicated by the Constitution.** The bill states that it would be the intent of the Legislature, to the extent practicable, that revenue dedicated by the Texas Constitution for a particular purpose be appropriated in each fiscal biennium for that purpose.

The bill would take effect December 1, 2017, and would apply only to appropriations made beginning with the fiscal 2020-21 biennium.

**SUPPORTERS  
SAY:**

CSHB 208 would establish an additional statutory spending limit to maintain fiscally responsible spending of taxpayer dollars by future legislatures. While the Legislature has been fiscally conservative with taxpayer dollars, the additional limit in the bill would ensure the long-term financial well-being of the state by limiting spending and tax increases to what the state can afford, thereby supporting economic growth. CSHB 208 would address problems with the current spending cap by limiting a bigger pool of funds and improving the way the limit on the growth of appropriation is calculated.

CSHB 208 would give a more transparent and accurate picture of state budgeting by expanding the types of revenue that fall under a limit in the growth of spending. The current constitutional limit on spending growth applies to state tax revenue not dedicated by the Constitution, which

covers only about 60 percent the budget. A cap limited to revenue not dedicated by the Constitution also can provide an incentive to constitutionally dedicate funds so they are not under the limit. Another limit, the pay-as-you-go limit, also leaves a portion of the budget not subject to a cap. CSHB 208 would address these issues by bringing all funds that are subject to state oversight under a limit. It would not bring federal funds under the limit because they are given to the state for a specific purpose.

Because the current calculation method is flawed, CSHB 208 would establish a new way to calculate the growth rate of the economy to determine both the existing spending limit and the new limit that would be established by the bill. Under current statute, the limit on growth of appropriations is based on personal income growth, which is volatile, unreliable, and tends to grow faster than the overall economy. This results in a limit that may inaccurately portray economic growth and may not adequately curb spending. CSHB 208 would replace this measure with a more appropriate one, based on population growth and inflation. The new measure would reflect more accurately what was happening with the state's economy, which would limit spending to what the state could afford.

The bill would give the Legislative Budget Board the flexibility to determine the population and inflation growth rates using information it considered reliable. While the bill mentions two sources of data, it would not mandate their use or the use of any other specific measures.

CSHB 208 would ensure that the Legislature had adequate flexibility in budgeting by establishing a process for spending above the new limit. To exceed the limit, the Legislature simply would have to identify the reason for the spending and pass a resolution to exceed the cap. To ensure fiscal discipline, the threshold to exceed the new spending limit would be set at three-fifths instead of a simple majority.

While the Legislature could impose additional spending limits without legislation, placing the cap in statute would protect Texans by ensuring

that future legislatures adhered to it.

OPPONENTS  
SAY:

It is unnecessary for the Legislature to enact additional restrictions on state spending. Current limits work well to keep a check on state spending, and an additional limit would unnecessarily complicate budgeting. Texas has a history of passing conservative budgets that are within the state's means, and there is no compelling reason to add to the state's four spending restrictions.

Establishing additional spending limits would reduce flexibility in budgeting. Reduced flexibility could make the state less able to respond to changing conditions, meet the need for a service, or make large investments in one area of the budget. Budget writers should be able to respond to needs for schools, health care, roads, and public safety without having their hands tied. Reduced flexibility could result in cuts to existing programs if growth were needed in another area or new state spending was warranted. Another cap restricting the growth of spending could make it even more difficult to recover and make investments after the state was required by an existing cap to reduce spending. An additional spending limit also could provide an incentive to push spending to local governments.

While the current constitutional limit is restricted to tax revenue not dedicated by the Constitution, CSHB 208 would place under a new limit other types of revenue, such as fees and lottery revenue, which are intended for specific purposes. By pulling such revenue under a spending cap, the bill could unfairly result in a limit on spending funds that were collected for a specific purpose and the need for which might not be related to economic indicators.

While there might be a benefit in the state taking population and inflation into account when budgeting, these factors should not be built into another limit that could tie the hands of lawmakers. The Legislature could impose such limits without a statutory restriction.

OTHER

To ensure full budget transparency, the Legislature should apply limits to

OPPONENTS SAY: all spending, including federal funds. Any new cap using inflation should require the use of the consumer price index so that the costs of goods and services for taxpayers were considered.

NOTES: According to the fiscal note, HB 208 would have no fiscal implication in fiscal 2018-19. Starting with fiscal 2020-21, the implications of the bill would depend on the actions of the Legislative Budget Board and the Legislature's future appropriations decisions.

The committee substitute made several changes to the original bill, including removing provisions that would have applied a limit to "consolidated general revenue." Consolidated general revenue would have included the general revenue fund, dedicated accounts in the general revenue fund, and general revenue-related funds. The committee substitute also added language stating the intent of the Legislature relating to appropriations of revenue dedicated by the Constitution.