

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 101  
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Finance  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The current constitutional spending limit on the growth of certain appropriations states that the rate of growth of appropriations from state tax revenue not dedicated by the Constitution may not exceed the estimated rate of growth of the state's economy. The Government Code outlines the process of determining the "growth of the state's economy." This law requires the Legislative Budget Board (LBB) to estimate the growth of the state's personal income.

In practice, LBB seeks out estimates from several sources which include Moody's, Perryman, the University of North Texas, and the comptroller of public accounts (comptroller). The estimated rate of growth in personal income for the 2014-2015 budget cycle ranged from 8.71 percent, by the University of North Texas, to Moody's estimate of 12.2 percent. The rate of 10.71 percent was adopted for this budget cycle as suggested by the comptroller. This wide disparity and the inaccuracies of past estimates clearly suggest the need for spending limit reform.

S.B. 101 improves the spending limit by tying the spending limit to the projected growth in population plus inflation. As a result, the growth of the Texas budget would be tied to what Texans need instead of what they can afford. S.B. 101 also limits the spending of all state revenue instead of excluding dedicated tax revenue. As a result, revenue from motor fuels taxes, oil and gas production taxes, and non-tax sources such as fees, fines, and penalties will be subject to the limit; however, federal revenues would continue to be excluded.

Finally, S.B. 101 directs the comptroller to calculate the surplus of revenue and refund that amount to franchise taxpayers in proportion to their tax liability from the previous year. This process must take place within 180 days of the beginning of the budget cycle.

As proposed, S.B. 101 amends current law relating to the constitutional limit on the rate of growth of appropriations and the use of surplus state revenues.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 4 (171.551, Tax Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 316.001, 316.002, and 316.006, Government Code, as follows:

Sec. 316.001. LIMIT. (a) Creates this subsection from existing text. Prohibits the rate of growth of appropriations in a state fiscal biennium from all sources of revenue other than the federal government from exceeding a rate determined by adding the estimated rate of the increase or decrease in the state's population during the preceding state fiscal biennium and the estimated rate of inflation or deflation during that preceding biennium in this state in the prices of a set of goods determined to be representative of this state's economy as a whole. Deletes existing text prohibiting the rate of growth of appropriations in a biennium from state tax revenues not dedicated by the constitution from exceeding the estimated rate of growth of the state's economy as a whole.

(b) Requires that appropriations for the state fiscal biennium from all sources of revenue other than the federal government decrease as prescribed by this subchapter (Limit on Growth of Appropriations) if the sum of the estimated rates described by Subsection (a) is a negative number.

Sec. 316.002. DUTIES OF LEGISLATIVE BUDGET BOARD. (a) Requires the Legislative Budget Board (LBB), before LBB transmits, rather than submits, the budget for the next state fiscal biennium as prescribed by Section 322.008(c) (relating to requiring the director of LBB to transmit a copy of the budget of estimated appropriations), to establish:

(1) the maximum allowable rate of growth of appropriations between the current state fiscal biennium and the next state fiscal biennium, in accordance with Section 22 (Restriction on Appropriations), Article VIII (Taxation and Revenue), Texas Constitution, expressed as a percentage, by adding the following estimated rates, as determined by LBB:

(A) the estimated rate of change of the state's population during the current state fiscal biennium, expressed as a percentage; and

(B) the estimated rate of inflation or deflation in this state during the current state fiscal biennium in the price of a set of goods determined by LBB to be representative of this state's economy as a whole during that biennium, expressed as a percentage, rather than the estimated rate of growth of the state's economy from the current biennium to the next biennium;

(2) the amount of appropriations for the current state fiscal biennium from all sources of revenue except the federal government, rather than the level of appropriations for the current biennium from state tax revenues not dedicated by the constitution; and

(3) the amount of revenue from all sources except the federal government that could be appropriated for the next state fiscal biennium within the limit established in accordance with the maximum allowable rate of growth determined under Subdivision (1) and the amount of appropriations for the current state fiscal biennium determined under Subdivision (2), rather than the amount of state tax revenues not dedicated by the constitution that could be appropriated for the next biennium within the limit established by the estimated rate of growth of the state's economy.

(b) Prohibits the amount of appropriations for the next state fiscal biennium from all sources of revenue other than the federal government from exceeding the product of the amount of appropriations from those sources in the current state fiscal biennium and the sum of one and that negative number if the sum of the estimated rate of increase or decrease in the state's population and the estimated rate of inflation or deflation is a negative number. Deletes existing text requiring LBB to determine the estimated rate of growth of the state's economy by dividing the estimated Texas total personal income for the next biennium by the estimated Texas total personal income for the current biennium except as provided by Subsection (c). Deletes existing text requiring LBB, using standard statistical methods, to make the estimate by projecting through the biennium the estimated Texas total personal income reported by the United States Department of Commerce or its successor in function.

(c) Deletes existing text authorizing LBB to use a more comprehensive definition of the rate of growth of the state's economy in calculating the limit on appropriations under certain conditions. Redesignates existing Subsection (d) as Subsection (c). Makes a nonsubstantive change.

(d) Redesignates existing Subsection (e) as Subsection (d). Requires that the sum of the estimated rate of population growth and the estimated rate of inflation be treated as if that rate were zero, and provides that the amount of revenue from all sources other than the federal government that may be appropriated for the next state fiscal biennium is the same as the amount of appropriations from those revenues for the current biennium in the absence of an action by LBB to adopt a spending limit as provided by this section. Deletes existing text requiring that the estimated rate of growth in the state's economy from the current biennium to the next biennium be treated as if it were zero, and requiring that the amount of state tax revenues not dedicated by the constitution that could be appropriated within the limit established by the estimated rate of growth in the state's economy be the same as the level of appropriations for the current biennium in the absence of an action by LBB to adopt a spending limit as provided in Subsections (a) and (b).

Sec. 316.006. **LIMIT ON BUDGET RECOMMENDATIONS.** Prohibits LBB budget recommendations relating to the proposed appropriations of revenue from all sources except the federal government, rather than state tax revenues not dedicated by the constitution, from exceeding the limit adopted by the committee under Section 316.005 (Adoption by Committee) unless authorized by majority vote of the members of LBB from each house.

SECTION 2. Amends Section 316.007(a), Government Code, to require LBB to include in its budget recommendations the proposed limit of appropriations from all sources of revenue except the federal government, rather than from state tax revenues not dedicated by the constitution.

SECTION 3. Amends Section 316.008(a), Government Code, to provide that unless the legislature adopts a resolution under Section 22, Article VIII, Texas Constitution, rather than Article VIII, Section 22(b), of the Texas Constitution, raising the proposed limit on appropriations, the proposed limit is binding on the legislature with respect to all appropriations for the next state fiscal biennium made from all sources of revenue except the federal government, rather than from state tax revenues not dedicated by the constitution.

SECTION 4. Amends Chapter 171, Tax Code, by adding Subchapter K, as follows:

#### SUBCHAPTER K. SURPLUS REVENUE: REBATE OF FRANCHISE TAXES

Sec. 171.551. **ISSUANCE OF INDIVIDUAL REBATES.** (a) Requires the comptroller of public accounts (comptroller), not later than the 180th day of each state fiscal biennium, to issue to each payer of the franchise tax during the previous state fiscal biennium a rebate as provided by this section if the comptroller has determined under Section 49-g-1(a) (relating to determining the amount of the unencumbered positive balance of general revenues), Article III (Legislative Department), Texas Constitution [as added by S.J.R. 10, 83rd Legislature, Regular Session, 2013], that there remains an unencumbered positive balance of general revenues from the preceding state fiscal biennium.

(b) Requires the comptroller to compute for each payer of the franchise tax during the preceding state fiscal biennium the fractional share of the franchise taxes to be rebated by dividing that franchise tax payer's total franchise taxes paid during the preceding state fiscal biennium by the total of all franchise taxes paid under this chapter during that preceding state fiscal biennium.

(c) Requires the comptroller to issue to each payer of the franchise tax during the preceding state fiscal biennium a rebate of franchise taxes paid in an amount equal to the fraction determined for that payer under Subsection (b) multiplied by the total amount of rebates to be issued under Section 49-g-1(b)(1) (relating to franchise tax rebate issuance), Article III, Texas Constitution [as added by S.J.R. 10, 83rd Legislature, Regular Session, 2013].

(d) Authorizes the comptroller to issue a payer's rebate by warrant or by electronic funds transfer, as provided by rules of the comptroller.

SECTION 5. Provides that the changes in law made by this Act apply only, as applicable, in relation to appropriations made for the state fiscal biennium beginning September 1, 2015, and subsequent state fiscal bienniums. Provides that appropriations for the state fiscal biennium that began September 1, 2013, are governed by Sections 316.001, 316.002, 316.006, 316.007, and 316.008, Government Code, as those sections existed on December 1, 2012, and the former law is continued in effect for that purpose.

SECTION 6. Effective date: contingent upon approval by the voters of the constitutional amendment proposed by the 83rd Legislature, Regular Session, 2013, relating to the limitation on the rate of growth in appropriations and the use of unencumbered surplus state revenues to provide for a rebate of state franchise taxes, to reduce public school district property taxes, and to fund the state's rainy day fund.