

SUBJECT: \$236.4 million emergency bond appropriation for corrections facilities

COMMITTEE: Appropriations — favorable, without amendment

VOTE: 18 ayes — Junell, Delisi, Clemons, Coleman, Cook, Conley, H. Cuellar, R. Cuellar, Glaze, Gray, Harris, Heflin, Johnson, Kubiak, McDonald, Park, Raymond, S. Turner

0 nays

9 absent — Carona, Davis, Gallego, Greenberg, Haggerty, Hernandez, Mowery, Ogden, Swinford

SENATE VOTE: On final passage, January 19 — 29-0

WITNESSES: None

BACKGROUND: Voters in recent years have authorized \$2.1 billion in general obligation bond debt for construction of corrections, youth corrections and mental health and mental retardation facilities. Art. 3, sec. 49 of the Texas Constitution prohibits the Legislature from creating state debt, but voters have approved numerous amendments to sec. 49 that authorize state debt in the form of state general-obligation bonds. Repayment of debt from general obligation bonds is guaranteed by the state, and payments are made from the first money coming into the state Treasury each fiscal year.

In November 1991 voters approved \$1.1 billion in general obligation bonds to finance construction of adult and youth corrections and mental health and mental retardation facilities. About \$24.2 million of the \$1.1 billion remains unappropriated.

In November 1993 voters approved sale of another \$1 billion in general obligation bonds to finance construction, acquisition and equipping of new corrections facilities, youth corrections facilities and mental health and mental retardation institutions and to repair or renovate facilities. About \$664.8 million of that \$1 billion remains unappropriated.

DIGEST: SB 4 would require the Texas Public Finance Authority to issue \$236.4 million in general obligation bonds. The bond proceeds would be appropriated to the Texas Department of Criminal Justice to acquire, construct or equip new corrections facilities.

SUPPORTERS SAY: TDCJ spent \$236.4 million last year to alleviate a jail overcrowding crisis, with the anticipation of reimbursement through an emergency appropriation. The money was spent on unplanned emergency construction, expanding state jail capacity and accelerating the opening of prison and state jail facilities. Without the appropriation in SB 4, construction could come to a halt.

The \$236.4 million was spent on the following projects:

- \$168.72 million for emergency construction of space for 13,500 beds, mostly in existing facilities, authorized in March 1994 to relieve the backlog of felons in county jails awaiting transfer to state prison. Another 1,500 emergency beds are being funded through other means.
- \$12.98 million to build 667 state jail beds in addition to the 22,000 funded through the fiscal 1994-95 general appropriation act.
- \$19.21 million for capital equipment to open the emergency beds authorized in March 1994. This is about 65 percent of the start up funds needed to open the facilities and represents TDCJ's estimate of the cost of capital items. These capital purchases for items such as furniture, computers and equipment should be made with bond funds that will be repaid over the long term because the equipment is for long-term use.
- \$35.6 million for capital equipment supporting about 36,500 beds scheduled to open during fiscal 1994-95 and funded by the 72nd and 73rd Legislatures.

Texans signaled their approval of using general obligation bonds to build prison facilities in November 1993 when they voted 62 percent to 38 percent for the \$1 billion bond issue. The Legislature should not hesitate to use available bond authority for these purposes. Prisons and state jails are designed for long-term use, and it is appropriate that smaller payments be

stretched out over several years rather than making one large up-front appropriation that would likely require a tax increase.

The state can afford to incur additional bond debt for a justified purpose and incur no risk. State bond debt service as a percent of general revenue, including bonds authorized but unissued, at the end of fiscal 1994 was about 3.2 percent, substantially below the 5 percent cap imposed by the 72nd Legislature.

This appropriation would leave about \$457.2 million in bond authorization to meet future needs. This would more than cover the fiscal 1996-97 requests of TDCJ, the youth commission (TYC) and TxMHMR.

OPPONENTS
SAY:

Using borrowed money to finance emergency prison construction and accelerated state jail construction, rather than making an appropriation from current revenue, would burden taxpayers with massive interest costs. This appropriation would divert funds needed by other state agencies for essential construction and would increase the state's bonded indebtedness. The Legislature should pay for emergency needs with current revenue, rather than encouraging agencies to spend money with the anticipation that it will be repaid with state debt.

Using general obligation bonds generally *doubles* building costs. The fiscal note on SB 4 estimates that the debt service on \$236.4 million in general obligation bonds at about \$20 million per fiscal year. Over the life of 20-year bonds, taxpayers would have to pay a total of \$406.6 million in principal and interest.

Voters approved bonds for TYC and TxMHMR construction needs, as well as prisons. TxMHMR has requested \$29.6 million in bond proceeds for fiscal 1996-97 for essential construction to replace, repair and renovate facilities, and TYC has requested \$203.6 million to expand its capacity so it can keep juvenile offenders longer. In addition, TDCJ has requested \$164.0 million in bond proceeds. SB 4 would leave just \$457.2 million in bond proceeds to meet future needs.

The state already has considerable bond debt. As of August 31, 1994, outstanding state bond debt totaled \$9.97 billion, of which about \$4.38

billion was in general-obligation bonds. This is up from \$3.45 billion in general obligation bond debt at the end of fiscal 1993 and \$2.94 billion at the end of fiscal 1991.

The state should concentrate its limited resources on more cost-effective, non-residential corrections programs such as electronic monitoring, or into community-based programs and facilities. The more prisons and state jails that are built, the more the state will have to pay to run them.

NOTES:

The 73rd Legislature appropriated \$335.2 million of the \$1 billion in general obligation bonds approved in 1991 for the following purposes:

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| • 12,000 state jail beds | \$258.8 million |
| • TDCJ buildings and facilities | \$ 39.2 million |
| • Texas Youth Commission facilities | \$ 21.5 million |
| • Mental health/retardation facilities | \$ 15.7 million. |

A series of budget execution orders by the Legislative Budget Board and the governor during 1994 transferred additional funds to meet problems with the backlog of prisoners in county jails awaiting transfer to prisons:

- The Texas Department of Criminal Justice was allowed to transfer any funds within its capital budget to build space for 15,000 prison beds on an emergency basis and to accelerate the building of space for 6,000 state jail beds, in an order on March 14, 1994.
- TDCJ was authorized on April 26, 1994, to transfer funds among line items and to transfer up to \$200 million between fiscal years.
- About \$103 million was transferred to TDCJ from the National Research Laboratory Commission, the Texas Lottery Commission, the Governor's Office, the Higher Education Employees Group Insurance Contribution, UTMB Galveston for an additional 7,500 temporary beds in state and county facilities, in April 1994.

- \$114.6 million was transferred to TDCJ from appropriations to the Treasury, various Higher Education Employees Group Insurance Contributions and the Employee Retirement System to pay counties for housing offenders awaiting transfer to state prisons, on July 7, 1994.
- \$25.5 million was transferred from the Lottery Commission to TDCJ, on August 25, 1994.

Texas operates about 100,000 state correctional beds in prisons, state jails, boot camps and psychiatric, substance abuse and other facilities. Capacity is projected to be about 145,000 by early 1996.

The 73rd Legislature funded about 48,000 beds. The fiscal 1994-95 general appropriations act provided \$456.0 million for 1,000 new prison beds and 22,000 state jail beds. SB 171 by Montford and Whitmire provided \$125 million to build 10,000 beds in transfer facilities, and budget execution orders provided funding for 15,000 beds.