

SUBJECT: Emergency appropriations

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 24 ayes — Junell, West, Cuellar, Delisi, Farrar, Flores, Gallego, Giddings, Glaze, Gutierrez, Hartnett, Heflin, Hochberg, Janek, Luna, McReynolds, P. Moreno, Mowery, Pickett, Pitts, Puente, Staples, S. Turner, Van de Putte

0 nays

3 absent — Coleman, Eiland, Tillery

SENATE VOTE: On final passage, February 24 — 30-0

WITNESSES: For — none

Against — none

On — Claire Bugen, Jim Smith, Texas School for the Deaf; Susan Combs, Texas Department of Agriculture; Robin Gilchrist, Mike Moses, Texas Education Agency; Jim Hine, Drew Thigpen, Department of Protective and Regulatory Services; James Hull, Texas Forest Service

DIGEST: CSSB 472 would appropriate a total of \$90.358 million to various state agencies for the two-year period beginning when the bill is enacted. The bill specifies that appropriations made from general revenue would be taken from nontax revenue and not counted against the constitutional spending cap for fiscal 1998-99 adopted by the Legislative Budget Board on November 20, 1996. The appropriations made by CSSB 472 would, to the extent feasible, be subject to all the restrictions set by HB 1, 75th Legislature, the general appropriations act for fiscal 1998-99. The bill would take effect immediately upon enactment, as the Constitution provides for a general appropriations act.

CSSB 472 would appropriate \$18,840,000 to the Texas Education Agency to train teachers in reading skills development, and reduce by the same amount a contingency appropriation set aside by rider 198 in Article 9 of the fiscal 1998-99 budget. It also would appropriate \$717,361 in general revenue to the School for the Deaf and \$498,000 in general revenue to the School for the Blind and Visually Impaired to meet increased salary expenses.

CSSB 472 would appropriate \$8,971,763 million (\$2.8 million in general revenue and \$6.2 million in federal funds) to the Department of Protective and Regulatory Services (PRS) to increase services, staffing, and staff supervision in child protective services. The bill also would authorize the purchase of computer equipment, limit employee growth to 280 FTEs above the fiscal 1998-99 cap, and limit expenditures on total salaries and benefits.

CSSB 472 would appropriate \$25 million in general revenue to the Texas Department of Agriculture to pay costs and expenses related to drought relief. The bill also would appropriate \$7.1 million in general revenue to the Texas A&M University System to reimburse extraordinary expenses related to the suppression of forest fires, and \$874,648 in general revenue to the A&M Agricultural Extension Service to expand the Financial and Risk Management Assistance (FARM Assist) program.

CSSB 472 would appropriate \$27,600,000 in general revenue to the Texas Department of Criminal Justice to pay for additional prison capacity and contracts with counties that provide temporary capacity.

CSSB 472 would appropriate \$6 million in general revenue to the State Office of Risk Management to pay state employee workers' compensation benefits. The bill also would authorize the Employees Retirement System (ERS) to transfer funds among institutions of higher education to cover shortfalls in group insurance premium costs. Money could only be moved from institutions that had an excess of actual revenue group insurance premiums to institutions with shortfalls. The transfers could not be made to or from the University of Texas or Texas A&M University systems. ERS would be required to file a report with the LBB, the governor, and the comptroller by November 1, 1999, detailing the transfers authorized.

CSSB 472 would appropriate \$350,000 from the Advance Interest Trust Fund to the Texas Workforce Commission to pay expenses related to the termination of contracts for delivery of services to five local workforce development boards. The appropriation would be reduced by amounts received from the settlement of claims arising out of the terminated contracts.

The bill would appropriate \$724,518 to the blindness education, treatment and screening program of the Texas Commission for the Blind out of funds voluntarily collected by the Texas Department of Public Safety when renewing or issuing licenses under sec. 521.421(f) of the Transportation Code.

The bill would appropriate \$103,000 from dedicated general revenue funds from oyster sales (account 5022) to the Texas Department of Health to contract with Texas A&M University at Galveston to test for bacteria levels in Texas oysters and bay waters.

CSSB 472 also would appropriate \$152,600 to the Department of Information Resources to create an Internet web-site and toll free telephone system to address Year 2000 computer problems.

SUPPORTERS
SAY:

CSSB 472 would appropriate funds needed this biennium to initiate improvements in selected state programs, reimburse agencies for unexpected expenditures, assist farmers, and pay for increased prison capacity and construction. Many of the appropriations would fund projects that should be implemented this spring or summer.

Teacher Training. CSSB 472 would fund kindergarten teacher training for reading instruction. Most of the training would be conducted over an eight-week period during the summer of 1999. The primary purpose of the requested funding would be to pay for the first phase of teacher training for the social promotion bill, SB 1 by Bivins, also called the student success initiative. Whether or not SB 1 is enacted, this appropriation would fund professional development of kindergarten teachers and bring those teachers up to speed on the latest "best practices" techniques for reading instruction. The training would also cover reading instruction techniques for English as a second language and dyslexic students.

TEA has nearly completed the design of the summer training program. The appropriation in CSSB 472 would cover the program costs of trainers, materials, and facilities at an average cost of \$450 per teacher and would pay for a \$150-per-day stipend to each teacher who attends the program. The stipend is the only incentive to attract teachers to the program; the training is not mandatory. However, TEA expects more than 90 percent of all kindergarten teachers to receive the training over the summer. Regardless of any connection to the social promotion initiative, training teachers in the latest techniques of reading instruction is essential to ensuring that students get off to the right start when they begin the school careers. Study after study has shown that the best way to keep children from falling behind is to start reading instruction as early as possible.

Prison construction and capacity. CSSB 472 would pay TDCJ for unanticipated expenditures it made to ensure that the state has adequate capacity to meet a larger than anticipated demand for adult prison space. In

September 1997, the Criminal Justice Policy Council (CJPC) reported that the growth in demand for prison space would be larger than anticipated and that by April 1998 county jails would have a backlog of prisoners awaiting transfer to state facilities.

In mid-November 1997, TDCJ received the go-ahead from state leadership to use existing appropriations to construct 4,120 new beds, to change some existing housing arrangements, and to contract as needed for additional beds. TDCJ began construction on two high-security units of 990 beds each, plus 2,140 beds in minimum security trusty camps. It also changed some existing housing arrangements to add about 900 beds and contracted with counties for about 3,000 beds. The CJPC projects that with these changes and the ability to contract for beds as needed, the state should be able to meet the demand for prison space for the next five years. As of January 1999, the state had total correctional capacity of about 149,500, according to the CJPC.

CSSB 472 would pay for the operation of the newly constructed beds as they are completed, for beds that were added by changing some existing housing arrangements, and for contracting with counties and others for beds. While TDCJ had total unanticipated expenditures of \$75.3 million for the additional capacity, it was able to offset this with \$47.7 million in federal funds and other appropriations to the agency, leaving only a \$27.6 million shortfall to be covered by CSSB 472. If the agency does not receive the needed money, it would have to make cuts throughout the agency. This could result in inadequate resources to operate or contract for beds. This in turn could lead to a backlog of prisoners in county jails and violations of Government Code provisions requiring the acceptance of inmates from county jails by state facilities within 45 days of their processing.

Drought relief. Appropriating \$25 million toward drought relief would help all Texans by sustaining the state's cotton industry, a vital part of the state economy. Texas leads the country in cotton production, but the drought in 1998 cut cotton production-related income by nearly half. Because of the loss of income, many cotton farmers are having a hard time meeting their annual payments to the Texas Boll Weevil Eradication Foundation, an organization that eradicates boll weevils for farmers who pay an annually determined assessment per acre.

Boll weevil damage and eradication efforts increase the cost of cotton production, making Texas less competitive in the cotton market and cotton production less profitable for farmers. Successful eradication of the boll weevil requires a sustained effort over four to five years, and past efforts

would be wasted if farmers reduce participation now. CSSB 472 appropriations could only be used for 1998 expenditures or 1999 assessments. Texas is the only state that has not helped its cotton farmers eradicate the boll weevil, and the decline in federal funding for boll weevil eradication makes state assistance even more imperative.

Child Protective Services. Additional funding in child protective services is needed to meet the growing demand for investigations of abuse and neglect and for effective protective and preventive measures. In his October 1998 report, *A Petition in Behalf of the Forsaken Children of Texas to the Governor and the 76th Legislature*, state district Judge F. Scott McCown of Austin found that while the child population has been increasing in Texas, state resources devoted to CPS investigations have been declining. As a result, proportionately fewer investigations are being conducted at a lower level of quality. The judge attributed many of CPS's problems to high workloads, low pay, high turnover by caseworkers, and inadequate staff supervision. Caseworker salaries are comparable to meter reader salaries, even though CPS caseworkers handle life and death situations. The serious consequences of child abuse and neglect warrant the immediate use of part of the state's surplus so that fewer children will suffer.

Texas Forest Service funding. Reimbursement to the Texas A&M University System is necessary to pay back a loan it made to the Texas Forest Service (TFS) after it responded to an intense forest fire season in 1998 and incurred a debt of more than \$7 million. Although the TFS is part of the A&M System, the financial costs of meeting unforeseen statewide disasters, declared by both Gov. Bush and President Clinton as emergency situations, should be funded by the state and not by A&M system appropriations, which could reduce funding in other A&M programs and services. Also, the A&M system relied on a commitment from the state leadership expressing their support for an emergency appropriation to repay the loan. This loan needs to be repaid before the TFS incurs 1999 fire season expenses, which are expected to be high due to continuing drought conditions.

Workers' Compensation Payments. The State Office of Risk Management (SORM) has projected a \$12.45 million shortfall in the amounts appropriated to cover worker's compensation claims for fiscal 1998-99. The appropriation in CSSB 472 would cover a portion of that liability, with the remainder proposed to be included in fiscal 2000-01 budget.

Seventy-five percent of workers' compensation payments are funded by a general revenue appropriation to SORM, which is required to collect the

remaining 25 percent from the state agency employing the person filing the claim. However, over the last two biennia, the Department of Mental Health and Mental Retardation (MHMR) has been allowed to take a different approach to claims. In an effort to reduce the total amount of claims, MHMR claims below a certain amount (\$16 million for fiscal 1998-99) are funded entirely by the state. Any claims above that amount are funded entirely by the agency. According to the SORM, nearly all of the shortfall for the current biennium is based on having to pay 100 percent of MHMR claims below the threshold.

Teacher salaries for certain state schools. Teacher salaries for the School for the Deaf and the School for the Blind and Visually Impaired are required by statute (Texas Education Code §30.024 and §30.055) to match the salaries of teachers in the Austin Independent School District. That district raised salaries in 1998, and the two schools used funds from their 1999 budgets to fund the increases in 1998. The appropriation in CSSB 472 would fully fund the increases for 1999 and make up the amounts taken from the 1999 budgets to fund the increases in 1998.

Commission for the Blind. The appropriation to the Commission for the Blind would allow the commission to implement the education, treatment, and screening program the Legislature enacted last session (SB 1403 by Moncrief). DPS has collected \$724,518 in fiscal 1998 under a voluntary fee added to drivers license issuance and renewal and created for the purpose of funding the new program. However, the fee receipts were not appropriated to the agency in the fiscal 1998-99 budget.

Texas Workforce Commission funding. CSSB 472 would repay TWC for money it spent during the interim to continue employment services in five local workforce development regions that were contracted to a company that went bankrupt. The company, Medical Assistance Program Advisors (MAPA), was hired by the Panhandle, South East Texas, Concho Valley, North Texas, and Golden Crescent workforce development boards.

When the company declared bankruptcy in January 1999, TWC stepped in and used state and federal funds to pay employee salaries and related expenses for two weeks to ensure that services such as job training and day care to clients would continue until the local boards could make other arrangements for the delivery of services. CSSB 472 would allow TWC to be repaid for these unanticipated expenses. If TWC's claim against the company is paid, the agency would repay the funds.

FARM Assist. Emergency funds are needed for FARM Assist so that farmers and ranchers across the state can use the program to plan for the 1999 crop year and impending drought. FARM Assist helps farmers and ranchers with business decisions such as loan management and debt structure, retirement, insurance, and asset acquirement. This program is working successfully as a pilot project in the Panhandle and should be expanded statewide.

Oyster study. A study of bacteria levels in Texas oysters and bay waters should be conducted before this summer to help prevent future outbreaks of bacteria that can cause illness when ingested. Such outbreaks occurred in 1998 and can threaten both public health and the economic viability of the Texas oyster harvesting and handling industry.

ERS Transfer Authority. This bill would help certain higher education institutions meet their health care benefit costs this biennium at no cost to the state. Unlike state agencies whose ERS appropriations are funded as estimated amounts, ERS appropriations for higher education institutions are funded at a sum certain. If health care costs increase or the number of employees goes up, the institution can have a shortfall, which it must cover with other funds. Conversely, institutions with declining enrollments could experience a surplus. Because these funds are dedicated only for insurance costs, any surplus funds lapse. CSSB 472 would simply allow the surplus funds to be shifted to those institutions that have experienced a shortfall in paying for group health insurance.

Year 2000 web site. This appropriation would help DIR prepare to meet the computer-related problems and questions that will arise at the end of the year and into the year 2000. The Year 2000 (Y2K) problem, stemming from the use of a two-digit date rather than a four digit date, has the potential to affect every person in the state due to our high reliance on computers and embedded computer chips that are used in everything from fax machines to elevators to heart defibrilators. Providing a central clearinghouse for information so that users can communicate with manufacturers would help to promote the remediation of these problems. It would also provide some level of comfort or security to such users if they can simply determine from manufacturers whether or not the product they have is Y2K ready, and may avoid computer-related lawsuits.

The bulk of the cost for this item would be for the toll free telephone number, not the web site. While the web site would be the primary location for the Y2K information, not everyone has access to the Internet. The web site and telephone number are an integral part of proposed legislation, HB 9 by

McCall and a companion bill, SB 598 by Duncan, intended to address liability issues related to the Y2K problem. Under that legislation, as introduced, posting of information on a state web site would serve as a presumption of notice to users of that product that could, unless rebutted, be used to limit the liability of the manufacturer for a date-related failure, in certain cases.

OPPONENTS
SAY:

Many of these appropriations do not address genuine emergencies. They could easily be considered in the fiscal 2000-01 budget discussions, so that they will not be treated more favorably than other, equally important state program requests. For example, staff shortages and low pay for caseworkers has been an ongoing problem in child protective services, yet previous legislatures have not seen the need to infuse the program with such a large appropriation. Funding for boll weevil eradication, the Commission for the Blind, and Department of Information Resources do not address problems that may be viewed as legitimate emergencies. Also, some CSSB 472 appropriations would repay agencies for expenditures that were made during the interim under the direction of the state leadership and that the Legislature as a whole had no chance to review, such as new prison construction, workforce commission funding of development board obligations, and repayment of TFS debt.

Teacher Training. The \$18,840,000 for reading instruction of kindergarten teachers is directly related to the social promotion initiative in SB 1 by Bivins and should be made contingent upon enactment of that legislation. While it would provide extra training to kindergarten teachers regardless of approval of the social promotion initiative, the program was designed with that initiative in mind. The program would not be nearly as effective unless SB 1 and the accompanying appropriation of nearly \$200 million for training of first and second grade teachers are approved.

Drought relief. CSSB 472 appropriations for drought relief would help only those who farm cotton and also are part of the Texas Boll Weevil Eradication Foundation. Yet all farmers have experienced financial hardships due to the drought. If supporting the state's economy is the goal, then all farmers should receive state aid. Cotton farmers should pay for boll weevil eradication themselves because they will directly profit from it. If cotton farmers cannot meet their annual assessment, the foundation board and the Department of Agriculture should consider reducing the assessments.

Workforce Commission funding. The state should not have to foot the bill for a bankrupt company that was hired by local workforce boards to deliver employment and training services. The local workforce boards — not the state — contracted with MAPA and should be responsible for ensuring continuity of services in their areas.

Year 2000 website. Like the social promotion initiative, this appropriation would begin to fund a program called for in legislation that has not yet been enacted.

OTHER
OPPONENTS
SAY:

Teacher training. According to TEA, this funding is expected to cover only 90 percent of all kindergarten teachers. Rather than ignoring those teachers who might not be willing to take the training, the state should make a special effort to reach out to them because some have the greatest need to learn new teaching techniques.

ERS transfer authority. The Legislature should change the mechanism for appropriating health benefit costs to higher education institutions from a sum certain to an estimated appropriation like other state agencies or grant ERS continuing authority to make transfers between these institutions.

NOTES:

Major differences between the House committee substitute and the Senate engrossed version include:

- the subhead describing TEA appropriations was changed from “Teacher Training for the Social Promotion Initiative” to “Teacher Training for Improved Reading Skills”;
- funding for child protective services was increased from \$8.876 million to \$8.971 million, with federal funds, instead of general revenue, paying for most of the cost;
- an appropriation of \$152,600 to the Department of Information Resources was added; and
- a section was added specifying that the Legislature intends that, to the extent feasible, the appropriations made by CSSB 472 be subject to the same restrictions as in the general appropriations act for fiscal 1998-99.