

- SUBJECT:** Appropriations-related changes to Article 3 agencies
- COMMITTEE:** Appropriations — committee substitute recommended
- VOTE:** 19 ayes — Heflin, Luna, Berman, B. Brown, F. Brown, Crownover, J. Davis, Deshotel, Ellis, Hamric, Hope, Hupp, Isett, E. Jones, Kolkhorst, Pickett, Pitts, Stick, Wohlgemuth
- 0 nays
- 10 absent — Branch, Dukes, Eiland, Gutierrez, McClendon, Menendez, Raymond, Solis, Truitt, Turner
- WITNESSES:** For — None
- Against — Paul Colbert, El Paso ISD; David “Gus” Kennedy, Communities in Schools of Hidalgo County; Kay Lambert, Advocacy, Inc.; Nancy Reed, Communities in Schools of Texas and Communities in Schools of San Antonio; Rona Statman, The Arc of Texas
- On — Eva DeLuna, Center for Public Policy Priorities; Susan M. Maxwell, Texas Council for Developmental Disabilities
- BACKGROUND:** Texas Constitution, Art. 3, sec. 35 limits bills to one subject, except for general appropriations bills, which can include various subjects and accounts. However, this provision has been interpreted as prohibiting the general appropriations bill from changing substantive law. In other words, appropriations bills deal only with spending. Because the levels of funding in an appropriations bill assume certain programmatic changes, the statutory changes required to meet that funding level are contained in other legislation.
- On April 17, the House passed HB 1 by Heflin, the House version of the general appropriations bill for fiscal 2004-2005. The Senate passed its version of the bill on April 29, and the bill now is in conference committee.
- The statutory changes required to implement the final version of the state budget will be contained in a series of bills, all of which have been reported favorably by the House Appropriations Committee.

For further discussion of issues in the state budget, see HRO State Finance Report Number 78-2, *CSHB 1: The House Appropriations Committee's Proposed Budget for Fiscal 2004-05*, April 9, 2003.

DIGEST:

CSHB 3459 would amend portions of the Education Code and other statutes as required to implement provisions for public and higher education in the general appropriations act for fiscal 2004-05.

Monitoring and compliance. Except in the areas of federal special education and state accreditation, CSHB 3459 would make monitoring by the Texas Education Agency (TEA) permissive rather than mandatory. Cyclical monitoring would be performed only as necessary to ensure school district compliance with federal law, financial accountability, and data integrity with regard to the Public Education Information Management System (PEIMS) and accountability in the following areas:

- state-level special education programs;
- bilingual education programs;
- compensatory education and gifted and talented programs;
- kindergarten and prekindergarten;
- career and technology education;
- adult and community education;
- programs for students who are deaf or hard of hearing;
- screening for dyslexia and other related orders; and
- special allotments for many of the above programs, plus the Public Education Grant allotment, the transportation allotment, and the new instructional facility allotment.

TEA would evaluate bilingual education programs by performing desk audits of test results from the Texas Assessment of Knowledge and Skills (TAKS). The school board of a public school district and the governing body of an open-enrollment charter school would be given primary responsibility for ensuring that the district complied with all applicable requirements of state educational programs.

Regional Education Service Centers (ESCs). CSHB 3459 would make the provision of core services at ESCs optional rather than mandatory. This would affect training and assistance in:

- teaching subjects tested by the TAKS;
- qualifying for funding allotments under special education, compensatory education, bilingual education, and gifted and talented;
- assisting poorly performing districts rated poorly under state accreditation standards or state academic excellence indicators;
- site-based decision-making; and
- special education compliance.

The bill would repeal statutory requirements for the state to fund regional ESC core services and related statutes requiring ESCs to use state funds to develop, maintain, and deliver those services.

Technology allotment. CSHB 3459 would increase the technology allotment from \$30 to \$35 per student and would authorize payment from the Telecommunications Infrastructure Fund (TIF), the available school fund (ASF), or any other fund identified for that purpose.

Textbooks. The education commissioner would have to reduce the additional percentage of attendance for which a district or school could requisition textbooks from 110 percent of maximum attendance. A fast-growth district could apply to the commissioner to increase the percentage.

Assessment instruments. The State Board of Education (SBOE) would have to release the questions and answer keys to each assessment instrument every other year. The cost of preparing, administering, or grading the tests no longer would be paid from compensatory education allotments but would be paid directly from foundation school fund allotments.

School finance. CSHB 3459 would allow the equalized wealth level to be set by appropriation at an amount other than \$305,000 per student. The basic allotment could be set by appropriation at an amount other than \$2,537 per student. The guaranteed yield program allotment could be set at an amount other than \$27.14 per student.

Compensatory education allotments. CSHB 3459 would allow the Legislature to reduce funding in the appropriations act for compensatory education allotments, and, as a result, to reduce each district's Tier 1 allotment by the same amount.

The bill would make it optional rather than mandatory for the commissioner to fund school counselors and counseling programs through compensatory education allotment set-asides. In distributing any available funds, the commissioner would have to give preference to applicant schools with the highest concentration of at-risk students.

The bill would make it optional rather than mandatory for the commissioner to set aside \$2.5 million per year in compensatory allotment funds for the investment capital fund. The commissioner could withhold up to 5 percent of the money set aside under compensatory education and could distribute it for extended-year programs. Preference in distributing the money would have to be given to districts with high concentrations of educationally disadvantaged students.

Career and technology allotment. The bill would reduce the weight applied to middle- and high-school students taking career and technology courses. The annual allotment weight would be reduced from 1.37 to 1.35.

Reduced aid for remedial college courses. The commissioner would have to reduce a district's Tier 1 allotments for the cost of courses being repeated by a student because he or she failed to meet minimum attendance requirements; repeated courses for which a student already received credit; and developmental courses in English or math at a college or university that a student had to take because of failure to pass the Texas Academic Skills Program test. This would not apply to special education students who were taking classes for their individualized education plan. The cost to higher education institute would not include the student's tuition and fees for the course.

At the end of each term, higher education institutions would have to report to the commissioner how many students who graduated from each school district were taking remedial courses and the total cost. School districts that received Tier 1 allotments would have those costs deducted from their allotments. If a school district did not have a Tier 1 allotment and failed to remit payment, the commissioner would have to detach property from that school district and annex it to another to reduce the district's state aid in an amount equal to the nonremittance.

Delayed payments. CSHB 3459 would delay the distribution of August 2005 Foundation School Program payments to school districts until at least September 5, 2005, but no later than September 10, 2005.

Permanent School Fund accounting. The bill would change the PSF accounting method to an accrual basis to allow the deposit of accrued interest and dividends to the ASF at the end of each fiscal year.

Existing Debt Allotment (EDA). CSHB 3459 would roll forward the eligibility cutoff date for the EDA by two years. This would make bonds for which school districts made payments during the 2002-03 school year eligible for state debt assistance under the EDA.

Equitable allocation formula funds. CSHB 3459 would make the deposit of \$50 million in equitable allocation formula funds for higher education contingent on the availability of revenue.

Sunset provision. The Texas Veterinary Medical Diagnostic Laboratory would be subject to sunset review and, unless continued, the laboratory would be abolished September 1, 2007. In the meantime, the laboratory could charge and collect fees for laboratory services.

Communities in Schools (CIS). The bill would delete requirements for the annual reduction in state funds to a local CIS program by up to 50 percent of the state contribution for the first year of the program. It also would delete a provision that savings could be used to extend CIS services to new areas or to expand CIS services in areas where they already exist.

TRS-Care. The bill would expand revenue for TRS-Care, the state-funded health-care program for retired teachers, by raising active employees' contributions from 0.25 percent of payroll to 0.50 percent in 2004 and to 0.75 percent in 2005. It also would create an optional school district contribution to TRS-Care in an amount specified by appropriations.

Waiting periods for health coverage. The bill would impose a 90-day waiting period before new employees of public and higher education institutions would become eligible for health-care benefits.

TRS-ActiveCare. Effective June 1, 2003, the bill would repeal a provision requiring the state to maintain a two-to-one ratio between its contribution and school employees' contributions to the health-care plan for active school employees. Effective September 1, 2003, the \$1,000 annual passthrough for active school employees would be reduced to the following levels:

- \$550 per year for active full-time professional employees, other than administrative personnel;
- \$300 per year for active full-time educational support employees; and
- \$200 per year for active part-time employees.

New employees would be subject to a 90-day waiting period before receiving the passthrough.

Transfer of TRS funds. Effective September 1, 2003, the comptroller would have to transfer \$42 million from the active school employees health-care fund (TRS-ActiveCare) to the retired school employees health-care fund (TRS-Care).

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

NOTES:

The fiscal note for CSHB 3459 projects a net general revenue gain of about \$2.2 billion during fiscal 2004-05.

The companion bill, SB 1873 by Bivins, has been referred to the Senate Finance Committee.

Other bills that would make statutory revisions to implement HB 1 are:

- HB 3306 by Berman, relating to appropriations for the judiciary in Article 4;
- HB 3441 by Pickett, relating to appropriations for general government agencies in Article 1;
- HB 3443 by Pickett, relating to appropriations for business and economic development agencies in Article 7;
- HB 3519 by Wohlgenuth, relating to appropriations for health and

- human services agencies in Article 2;
- HB 3305 by Berman, relating to appropriations for criminal justice agencies in Article 5;
- HB 3378 by Hope, relating to appropriations for Article 8 regulatory agencies; and
- HB 3442 by Pickett, relating to natural resources agency appropriations in Article 6.