

SUBJECT: Repealing conditions for non-dedicated spending from rehabilitation fund

COMMITTEE: Human Services — favorable, without amendment

VOTE: 8 ayes — Hupp, Eissler, A. Allen, Gonzalez Toureilles, Goodman,
Naishtat, Paxton, Reyna

0 nays

1 absent — J. Davis

WITNESSES: For — Dennis Borel, William Greer, Coalition of Texans with
Disabilities; Eric Markowski, Brain Injury Association of Texas; Jonas
Schwartz, Advocacy, Inc.

Against — None

On — Les Young, Department of Assistive and Rehabilitative Services

BACKGROUND: The Comprehensive Rehabilitation Fund was established in 1991 to support rehabilitation services for people with disabilities. The Department of Assistive and Rehabilitation Services (DARS) is appropriated monies from the fund to contract with public and private entities to offer rehabilitation services, such as occupational training, procuring assistive devices, and home modifications. According to DARS, there is a waiting list of 173 people for these services.

The fund collects a court cost surcharge on misdemeanor and felony convictions. At the end of each biennium, the comptroller transfers any amount in the Comprehensive Rehabilitation Fund that exceeds \$500,000 to general revenue. The money in the fund also may be appropriated for any use if :

- the comptroller certifies that state spending exceeds available revenue and cash balances for the remainder of the biennium;
- the certified anticipated revenue for the coming biennium is less than was certified for the current biennium; or
- the Legislative Budget Board (LBB) determines that a state fiscal emergency exists.

According to the comptroller's *Annual Cash Report*, the Comprehensive Rehabilitation fund received almost \$11 million in fines and fees in fiscal 2004 and spent \$7.4 million on public assistance. Including other revenue and costs, the fund held \$4.5 million at the end of fiscal 2004.

DIGEST:

HB 134 would repeal the authorized use of the Comprehensive Rehabilitation Fund in cases where the comptroller certified that state spending exceeded available revenue and cash balances for the remainder of the biennium, the certified anticipated revenue for the coming biennium was less than was certified for the current biennium, or the LBB determined that a state fiscal emergency existed.

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, 2005.

SUPPORTERS
SAY:

HB 134 appropriately would help prevent the sweeping of money in the Comprehensive Rehabilitation Fund for spending other than rehabilitation purposes. People who receive comprehensive rehabilitation services often are at critical junctures in the recovery process, and the right intervention can help them live independent lives. The timing of services is particularly important to people with traumatic brain injuries. The way the brain heals is very complicated and therapies must be administered in the right order and at the right time for maximum improvement. Without proper access to those important services, individuals may end up on public assistance or needing much more expensive and intensive therapy to make up for what they missed.

Even though the revenue stream is dedicated to comprehensive rehabilitation, the fund still can be diverted to supplement state spending. Under current law, there is no assurance that the body of the fund will go to rehabilitation services even though there is a waiting list of more than 170 people. This bill would ensure that comprehensive rehabilitation funds were used for their intended purpose.

OPPONENTS
SAY:

The body of the Comprehensive Rehabilitation Fund was not swept in fiscal 2003 and is not anticipated as a source of general revenue funds in fiscal 2005. There are many funds that can be counted toward certification even though they are dedicated. Just because they are counted does not mean they are used as unencumbered general revenue. Those funds still must be used for their dedicated purpose.

Future budget writers' hands should not be tied by limiting their ability to sweep funds. Each legislature must reconcile spending priorities with available funds, which can mean deciding between very worthy health programs. In 2003, the 78th Legislature swept all kinds of funds so that they would not need to cut as deeply into health and human services budgets. People with disabilities, including those with traumatic brain injuries, may receive services funded by sources other than the Comprehensive Rehabilitation Fund. Other state programs with separate funding needs may serve the same population.

This bill would do little to protect funding for rehabilitation services because it would not prevent transfers of excess balances. At the end of each biennium, the statute requires the comptroller to transfer any fund balance greater than \$500,000 to general revenue, which has occurred in the past. HB 134 would not change that portion of the statute.

OTHER
OPPONENTS
SAY:

Sweeping funds is a system-wide problem, and all dedicated funds should be reserved for their original purpose. Even though the Comprehensive Rehabilitation Fund has not been swept others have, including the System Benefit Fund at the Public Utilities Commission and the Subsequent Injury Fund at the Texas Workers' Compensation Commission. Those dedicated funds should be protected as well.

NOTES:

The companion bill, SB 187 by Zaffirini, which is identical to HB 134 except that it would increase from \$500,000 to \$1.5 million the threshold for transferring to general revenue any money left in the Comprehensive Rehabilitation Fund at the end of each biennium, passed the Senate by 30-0 on April 6, and was reported favorably, without amendment, by the House Human Services Committee on April 14, making it eligible to be considered in lieu of HB 134.