

- SUBJECT:** State fiscal matters related to natural resources and environment
- COMMITTEE:** Appropriations — committee substitute recommended
- VOTE:** 25 ayes — Pitts, Turner, Aycock, Button, Chisum, Crownover, Darby, Dukes, Eiland, Giddings, Gooden, Hochberg, Johnson, S. King, Margo, McClendon, D. Miller, Otto, Patrick, Riddle, Schwertner, Shelton, Torres, Villarreal, Zerwas
- 0 nays
- 2 absent — Martinez, Morrison
- WITNESSES:** None
- 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. Since 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 3, the House passed HB 1 by Pitts, the House version of the general appropriations bill for fiscal 2012-13, and the Senate Finance Committee reported the bill favorably, as substituted, on April 21. For further discussion of issues in the state budget, see HRO State Finance Report Number 82-4, *CSHB 1: The House Appropriations Committee's Proposed Budget for Fiscal 2012-13*, March 31, 2011.
- DIGEST:** CSHB 3418 would authorize state agencies that received appropriations under Article 6, natural resources, of the general appropriations act to reduce or recover expenditures by:
- consolidating required reports or publications and filing or delivering them exclusively by electronic means;

- extending the effective period of any license, permit, or registration granted or administered by the agency;
- entering into a contract with another governmental entity or a private vendor to perform the agency's duties;
- adopting additional eligibility requirements for people who received benefits from the agency to ensure that benefits were received by the most deserving people, consistent with the purpose of the benefits;
- allowing agency communications, including applications, notices, billing statements, receipts, and certificates, to be delivered by e-mail or through the Internet; and
- adopting and collecting fees to cover agency costs.

Texas Animal Health Commission (TAHC) user fee. CSHB 3418 would amend the Agriculture Code to authorize TAHC, by rule, to set and collect a user fee to recover costs for any service for which a cost was incurred, including not just inspections but also disease testing and related services.

Petroleum product delivery fee. CSHB 3418 would extend the collection of petroleum product fees through fiscal year 2015 and would reduce the amounts to be collected.

Coastal erosion. CSHB 3418 would require the General Land Office to include in its biennial report to the Legislature a 10-year or more plan for coastal erosion response studies and projects that could be funded by the coastal erosion response account.

Texas farm and ranch lands conservation program. CSHB 3418 would eliminate the 50-percent match requirement for grants under the Texas farm and ranch lands conservation program.

Effective date. The bill would take effect September 1, 2011.

SUPPORTERS
SAY:

Texas Animal Health Commission (TAHC) user fee. The proposed spending reductions contained in CSHB 1 would negatively impact the ability of TAHC to prevent, eradicate, and control disease and parasites affecting the health and marketability of Texas livestock and poultry. CSHB 3418 would provide TAHC with the authority needed to establish and collect user fees necessary to help maintain the agency's core functions. This would be a cost recovery measure so that the state would

not have to subsidize the services of the agency. This change is assumed in CSHB 1.

The Texas livestock and poultry industries have stated that they support this bill because they rely on the agency to ensure that sick or suspect animals are not allowed into Texas and that other state, federal, and international health agencies are confident in the health and safety of Texas livestock.

Petroleum product delivery fee. CSHB 3418 would reauthorize the petroleum product delivery fee for another four years. This fee was used by the Texas Commission on Environmental Quality (TCEQ) to fund the remediation of certain sites contaminated by motor fuels released from underground storage tanks. The fee also was used to fund TCEQ's regulatory program for petroleum storage tanks.

The number of eligible sites has fallen from 2,500 sites in 2007 to 650 sites today. Lowering the fee would reflect the program's current needs and would ensure appropriate resources were available for TCEQ to accomplish its mission under the program. The reauthorization of this fee is supported by the industry.

Texas farm and ranch lands conservation program. CSHB 3418 would eliminate the 50-percent match requirement for grants under the Texas farm and ranch lands conservation program. This would provide flexibility to the Texas Farm and Ranch Lands Conservation Council by allowing it to determine a project's match requirements.

OPPONENTS
SAY:

The bill would allow TAHC to significantly raise fees for a wide variety of services. This would in effect raise taxes on many Texas businesses that raise, keep, and process animals. While these costs technically may be fees, they would, in effect, be taxes for the people who would have to pay them.

NOTES:

According to the fiscal note, CSHB 3418 would have a positive impact of about \$2.3 million in general revenue-related funds through the next biennium.

Texas Animal Health Commission (TAHC) fee. According to TAHC, an additional annual revenue target of \$5.1 million per fiscal year would be generated from a proposed broad-based, equitably derived fee covering

all species; all segments of the livestock, poultry and exotic livestock industries; and all marketing avenues and production methods. However, since a fee proposal has not been specifically identified by TAHC to raise this revenue, the revenue projections only include laboratory testing and a limited subset of inspection fees.

Laboratory testing fees are projected to generate \$731,500 per fiscal year. Inspection fees would generate an estimated \$232,725 per fiscal year. The total annual revenue gain from these two sources to general revenue is estimated to be \$964,225 or \$1,928,450 for fiscal 2012-13.

TAHC expects the new revenue collection responsibilities related to implementing the provisions of this bill would require an additional four full-time equivalent positions (including a clerk, two accountants, and a systems analyst) at an annual cost of \$223,947; the one-time cost of \$75,000 for billing or revenue software; \$20,000 for annual software license fee costs; and \$26,000 for the one-time purchase of additional computer equipment such as microcomputers, a printer, and a server with a network storage system. The implementation costs for fiscal year 2012 would total \$324,947 and would decline to \$243,947 per fiscal year for fiscal 2013 to 2015. The implementation cost would then increase to \$269,947 in fiscal 2016 to reflect replacement costs for computer hardware.

Petroleum product delivery fee. According to the comptroller, extending the fee would generate an estimated:

- fiscal 2012: \$431,000 to general revenue and \$21.1 million to the general revenue-dedicated Petroleum Storage Tank Remediation (PSTR) account;
- fiscal 2013: \$483,000 to general revenue and \$23.7 million to the PSTR account;
- fiscal 2014: \$486,000 to general revenue and \$23.8 million to the PSTR account; and
- fiscal 2015: \$489,000 to general revenue and \$23.9 million to the PSTR account.

The comptroller also estimates a residual remittance of fees related to collection timing issues of \$41,000 to general revenue and \$2 million to the PSTR account in fiscal year 2016.

The companion bill, SB 1584 by Ogden, was reported favorably, as substituted, by the Senate Finance Committee on April 26.

HB 1992 by Hardcastle, which also would allow TAHC to set user fees, was set on the May 2 General State Calendar.