

SUBJECT: Cap on general revenue dedicated funds available for budget certification

COMMITTEE: Appropriations — favorable, without amendment

VOTE: 26 ayes — Pitts, Sylvester Turner, Ashby, Bell, G. Bonnen, Carter, Crownover, Darby, S. Davis, Dukes, Giddings, Gonzales, Howard, Hughes, S. King, Longoria, Márquez, Muñoz, Orr, Otto, Patrick, Perry, Price, Raney, Ratliff, Zerwas

0 nays

1 absent — McClendon

WITNESSES: For — (*Registered, but did not testify*: Brent Connett, Texas Conservative Coalition; Stephen Minick, Texas Association of Business; Joey Park, Coastal Conservation Association Texas and Texas Wildlife Association; Cory Pomeroy, Texas Oil and Gas Association; Mireya Zapata, National Multiple Sclerosis Society)

Against — None

On — Gk Sprinkle, Texas Ambulance Association; (*Registered, but did not testify*: Jeremiah Jarrell, Legislative Budget Board

BACKGROUND: General revenue dedicated funds are funds collected for a specific purpose designated in state law. The comptroller estimated general revenue dedicated account balances to be \$4.8 billion at the beginning of fiscal 2014-15.

The Texas Constitution limits state spending to the amount of revenue the comptroller estimates will be available during the two-year budget period (Art. 3, sec. 49a). The comptroller must certify that the state will have enough revenue to pay for the approved spending.

In 1991, during “funds consolidation,” the Legislature began phasing out restrictions on many dedicated revenue funds and changing the methods of fund accounting. Before this change, most dedicated revenue was held in separate “special funds” outside of general revenue, which limited the amount of general revenue available for general purpose spending.

Funds consolidation changes also included annual one-day accounting “sweeps.” Government Code, sec. 403.095(b) requires that on August 31, 2013, cash balances in dedicated revenue accounts that exceed amounts appropriated or encumbered be transferred into general revenue and counted as available general revenue by the comptroller. The availability of dedicated revenues for general governmental purposes is scheduled to expire September 1, 2013.

Under Government Code, sec. 403.095 the comptroller includes in the estimate of funds available for general-purpose spending the amounts in general revenue-dedicated accounts expected to exceed appropriations from those accounts at the end of the current biennium.

DIGEST:

HB 6 would place a cap of \$4.8 billion on the amount of general revenue dedicated funds that could be considered for certification of the budget.

The bill also would abolish funds and accounts created or dedicated by an act of the 83rd Legislature on the later of August 31, 2013, or the date of when the act creating the fund or account took effect. Excluded from abolishment would be funds that:

- were enacted before the 83rd Legislature convened to comply with requirements of state constitutional or federal law;
- remained exempt from abolishment during funds consolidation in 1991;
- increases in fees or in other dedicated revenue; and
- increases in fees required to be deposited in a fund covered by the bill.

Federal funds, trust funds, bond funds, and constitutional funds also would be excluded.

HB 6 would prevail over any other act of the 83rd Legislature that attempted to create a special fund or account, dedicate revenue to a particular purpose, or modify provisions governing the use of dedicated revenue. Revenue dedicated by another bill enacted by the 83rd Legislature would be deposited as non-dedicated general revenue.

This 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 on the 91st day after the last day of the legislative session.

SUPPORTERS
SAY:

HB 6 would take an important step toward reining in the state's reliance on general revenue dedicated (GRD) funds to certify the budget and would continue the process of fund consolidation and preservation begun by recent Legislatures.

Cap on GRD funds for certification. HB 6 would get the state onto the path of reducing reliance on GRD funds. Placing a cap on the amount of GRD funds that the comptroller could count toward certification of the budget would halt the growth of this practice and give the Legislature time to weigh further measures to reduce reliance on these funds. Adopting a cap also would affirm that the Legislature recognized the importance of spending funds on the purposes for which they were collected and was setting a precedent to make this a priority in future sessions.

The Legislature has been using dedicated funds for certification purposes for two decades. Unfortunately, it is impossible to end this practice in one session. The comptroller recently estimated that there would be about \$4.8 billion available in GRD funds for fiscal 2014-15. Eliminating this balance through fee cuts, refunds, appropriations, and other measures will take time. HB 6 and a related bill, HB 7 by Darby, as well as measures in the House-passed version of the proposed fiscal 2014-15 budget, would together take important steps toward reducing the state's long-term reliance on unspent GRD funds. Although there are significant unspent balances of GRD, it is important to note that these funds are never spent for a unintended purpose.

Adopting provisions that commit future legislatures to a specific policy, like a ratchet-down rule for GRD that can be counted toward certification, could prevent future legislatures from doing what they all must do — craft measured solutions to the pressing problems of their time. There are many variables that affect the appropriations process each session. Every legislature has a unique challenge of funding pressing needs with limited resources. Restricting the ability of future legislatures to tailor laws to unique circumstances would invite unintended consequences.

Continuation of funds consolidation. HB 6 includes provisions that each Legislature has adopted since the process of fund consolidation. Since 1991, the Legislature has been phasing out restrictions on many dedicated revenue funds and changing the methods of fund accounting. In the past,

most dedicated revenue was held in separate special funds outside of general revenue, limiting the amount of general revenue available for general purpose spending. HB 6 would ensure that laws enacted by the 82nd Legislature did not run afoul of this policy.

Cash balances in dedicated revenue accounts that exceeded amounts appropriated or encumbered would be “swept” or transferred into general revenue and counted as available general revenue by the comptroller for purposes of budget certification. HB 6 would continue this practice so that more general revenue could be made available for state priorities such as education, health care, and public safety. The availability of dedicated revenues for general governmental purposes is scheduled to expire September 1, 2013, and the bill would extend this authority for another two years.

OPPONENTS
SAY:

While HB 6 would be a step in the right direction, it would not go far enough in addressing the state’s reliance on using GRD fund balances for budget certification.

Cap on GRD funds for certification. Under-appropriating from GRD funds to preserve enough unspent revenue to certify the budget amounts to raising fee revenue for one purpose and diverting the funds to another purpose. Honesty and transparency in budgeting call for spending funds on the purpose for which they were collected. If the state is not willing to spend the account balances, then it should be willing to refund the money to taxpayers.

One way the Legislature could eliminate diversions of GRD from their intended purposes would be to abolish the dedication of revenue and GRD accounts altogether and then sweep the balances of those funds into the General Revenue Fund. This would result in a gain in to general revenue and the elimination of all restrictions on previously dedicated revenue.

Another option for reducing reliance on GRD accounts for certification would be to enact a cap that would then decrease, or ratchet down, each biennium until it reached a level the Legislature deemed appropriate. This would have the effect of forcing future legislatures to confront GRD diversions and either find alternative sources of funding or scale back spending, or both. Under this scenario, the Legislature also could eventually ratchet the cap down to \$0 and include an expiration of the authority to count dedicated account balances toward certification. This

would completely remove any incentive to retain dedicated fund balances.

NOTES:

The Legislative Budget Board issued a publication in January 2013, that includes recommendations on measures the Legislature could take to reduce reliance on general revenue dedicated accounts.

A related bill revising provisions governing GRD funds, CSHB 7 by Darby, is also scheduled for second-reading consideration today.

The Senate companion, SB 1653 by Williams, has been referred to the Senate Finance Committee.