

- SUBJECT:** Allocating a portion of certain vehicle-related taxes to Fund 6
- COMMITTEE:** Appropriations — committee substitute recommended
- VOTE:** 24 ayes — Pitts, Sylvester Turner, Ashby, Bell, G. Bonnen, Carter, Crownover, Darby, S. Davis, Dukes, Giddings, Howard, Hughes, S. King, Márquez, McClendon, Muñoz, Orr, Otto, Patrick, Perry, Raney, Ratliff, Zerwas
- 0 nays
- 3 absent — Gonzales, Longoria, Price
- WITNESSES:** For — (*Registered, but did not testify:* Les Findeisen, Texas Motor Transportation Association; Scott Norman, Texas Association of Builders; Brian O'Reilly, Alamo RMA, Cameron County RMA, Camino Real RMA, Central Texas RMA, North East Texas RMA; TJ Patterson, City of Fort Worth; Beth Ann Ray, Austin Chamber of Commerce; Vic Suhm, Tarrant Regional Transportation Coalition)
- Against — (*Registered, but did not testify:* Don Dixon)
- On — (*Registered, but did not testify:* John Barton, Texas Department of Transportation; Rob Coleman, Texas Comptroller)
- BACKGROUND:** **Fund 6.** The State Highway Fund (Fund 6) is the state's primary highway funding mechanism, collecting the vast majority of highway-related revenue from federal reimbursements, state motor fuels taxes, motor vehicle registrations, and various fees. The Legislature may appropriate funds from Fund 6 for various highway-related purposes, in accord with constitutionally and statutorily established limits.
- The state imposes a motor fuels tax of 20 cents per gallon on diesel and gasoline and 15 cents per gallon on liquefied gas. Texas Constitution, Art. 8, sec. 7-a, dedicates one-fourth of state motor fuels tax revenue to the Available School Fund, with the remaining three-fourths dedicated to highway-related purposes, including constructing, maintaining, and policing public roadways. Tax Code, ch. 162, subchapter F, includes statutory requirements for the 25 percent transfer to the Available School

Fund.

Rainy Day Fund. Art. 3, sec. 49-g of the Texas Constitution establishes the Economic Stabilization Fund, which was ratified by voters in 1988. The fund, also known as the Rainy Day Fund, receives general revenue equivalent to 75 percent of any oil or natural gas production tax revenue that exceeds the amount collected in fiscal 1987. Additionally, the comptroller must transfer one-half of any unencumbered balance remaining in the General Revenue Fund at the end of a fiscal biennium to the Rainy Day Fund.

Other vehicle-related taxes. The state collects other taxes that are related to vehicles but that are not dedicated to Fund 6. The motor vehicle sales tax and other taxes imposed under chapter 152 of the Tax Code all are deposited to the General Revenue Fund.

DIGEST:

CSHB 16 would require the comptroller, after September 1, 2015, to transfer into Fund 6 one-third of any revenue exceeding the first \$2.8 billion collected from motor vehicle sales taxes and other taxes imposed under chapter 152 of the Tax Code. This provision would take effect on the 91st day after the last day of the second called session (October 29, 2013, if both houses adjourn sine die on July 30).

The bill also would make statutory changes necessary to eliminate the current requirement dedicating 25 percent of motor fuels taxes to the Available School Fund. These provisions would take effect January 1, 2014, contingent on voter approval of an amendment making the necessary changes to the Texas Constitution (HJR 2 by Pickett, et al.).

SUPPORTERS
SAY:

CSHB 16 would take a significant step toward securing critical funding for transportation projects in Texas while reducing the amount of revenue from transportation-related taxes and fees that currently is diverted to other purposes. While far from a cure-all, the bill, in combination with the constitutional authorization provided in HJR 2, would present a politically viable means to secure a portion of the funding Texas needs to maintain roadway congestion at current levels, given population and economic growth. Although many options for highway funding have been discussed in the past three legislative sessions, these have not proved politically feasible.

Transfer of portion of vehicle-related taxes to Fund 6. In the past few regular legislative sessions, the Legislature has made a concerted effort to reduce so-called highway funding “diversions” — the use of transportation-related revenue to finance functions unrelated to roads. CSHB 16 would take a significant step toward recognizing that, as much as possible, revenue generated from vehicle-related taxes should be used to finance road construction and development.

The author’s intent is to dedicate to Fund 6 one-third of the growth in future revenue received from the vehicle-related taxes specified in CSHB 16. If amended to reflect this intent, the bill’s ultimate impact on general revenue would be less than is currently stated in the fiscal note, because the \$2.8 billion floor is a placeholder figure. That figure could be revised upward in an amendment to match the current revenue received from the vehicle-related taxes in fiscal 2014-15.

As such, while the fiscal note shows a negative impact on general revenue, the intent is not to dedicate to Fund 6 any general revenue funding the state currently receives, only a portion of any growth.

Motor fuels tax transfer to Fund 6. CSHB 16, in conjunction with HJR 2, would dedicate an additional, much-needed funding stream for constructing and maintaining public roads. This would represent a sharp departure from relying on debt and toll roads as primary mechanisms for funding highways. The bill would make use of expected increases in oil and gas severance tax remissions to offset any loss to the Available School Fund.

The diversion of 25 percent of motor fuels taxes to the Available School Fund is among the largest and longest-standing diversions of highway funds that has yet to be addressed. CSHB 16, in conjunction with HJR 2, appropriately would dedicate this substantial amount to maintaining and developing public, non-tolled roads, a purpose directly related to the chief source of motor fuels taxes. Using taxpayer dollars for purposes as closely related as possible to the reason for their collection is both a matter of good practice and honesty in appropriations.

**OPPONENTS
SAY:**

HB 16 would not provide a solution to the state’s serious, ongoing highway funding shortage and would lock general revenue funds otherwise available for a variety of purposes into funding roads alone.

Transfer of portion of vehicle-related taxes to Fund 6. CSHB 16 would dedicate funds to transportation that otherwise would be deposited as general revenue, including a portion of motor vehicle sales taxes and other taxes imposed under chapter 152 of the Tax Code. This would prevent future legislatures from spending revenue from these taxes that could be dedicated to other pressing needs – from education to health and human services or public safety. Dedicating general revenue to specific purposes is problematic because it hampers the Legislature’s ability to adjust to changing needs and fiscal circumstances.

According to the fiscal note, CSHB 16 would transfer to Fund 6 from general revenue nearly \$1 billion in fiscal 2016-17. To make up for the loss of these funds, the Legislature would have to raise taxes or fees on other items or cut spending, likely from public education or health and human services, the largest sources of general revenue appropriations.

Motor fuels tax transfer to Fund 6. Because CSHB 16 would not authorize collection of additional revenue, in effect it would take money out of one fiscal pocket and move it to another. Eliminating the portion of motor fuels taxes dedicated to the Available School Fund would, in combination with HJR 2, require the state to offset the negative fiscal impact through general revenue. The Rainy Day funds that would replace the motor fuels taxes going to the Available School Fund are now available for general-purpose spending to support core priorities. While this might not cause problems in times of plenty, it could create difficult choices in trying fiscal times.

NOTES:

The Legislative Budget Board estimates the bill would have no fiscal impact in fiscal 2014-15, but that it would have a negative impact on general revenue of \$973.2 million in fiscal 2016-17 and a corresponding positive impact on Fund 6.

The committee substitute for HB 16 would add language transferring to Fund 6 one-third of any revenue exceeding the first \$2.8 billion collected from motor vehicle sales taxes and other taxes imposed under chapter 152 of the Tax Code.

HJR 2 by Pickett, et al., a proposed constitutional amendment that would eliminate the dedication of 25 percent of motor fuels taxes to the Available School Fund, is set for second-reading consideration on today’s Constitutional Amendments Calendar.