

BILL ANALYSIS

Senate Research Center

C.S.S.B. 2
By: Ogden
Finance
6/2/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 2 amends current law relating to appropriating money for the support of state government for the period beginning September 1, 2011 and ending August 31, 2013; and authorizing and prescribing conditions, limitations, rules, and procedures for allocating and expending the appropriated funds; and declaring an emergency.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Provides that the several sums of money herein specified, or so much thereby as may be necessary, are appropriated out of any funds in the state treasury not otherwise appropriated, or out of special funds as indicated, for the support, maintenance, or improvement of the designated agencies.

SECTION 2. Contingency for Senate Bill 1: LECOS Retirement Fund. Provides that contingent on enactment of Senate Bill 1, 82nd Legislature, First Called Session, 2011, or similar legislation relating to state contributions to the Law Enforcement and Custodial Officer Supplemental Retirement Program, in addition to amounts appropriated in House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011, in Strategy A.1.2, Law Enforcement and Custodial Officer Supplemental Retirement Fund, the Employees Retirement System is hereby appropriated certain estimated amounts in fiscal year 2013 for a state contribution of 0.5 percent to the Law Enforcement and Custodial Officer Supplemental Retirement Program in fiscal year 2013.

SECTION 3. Tobacco User Monthly Premium Fee. Requires the Employees Retirement System, contingent upon enactment of Senate Bill 1, 82nd Legislature, First Called Session, 2011, or similar legislation relating to the creation of a tobacco user monthly premium differential, by the 82nd Legislature, 2011, to apply a \$30 monthly tobacco premium differential to any tobacco user covered under the state health plan. Requires the comptroller of public accounts (comptroller), also contingent upon the enactment of this legislation, to deposit revenue from the premium differential (estimated to be \$16,720,343 in fiscal year 2012 and \$25,080,514 in fiscal year 2013) into the Employees Life, Accident, Health Insurance and Benefits Trust Account.

SECTION 4. Contingency for Senate Bill 1: Debt Service on Cancer Prevention and Research Bonds. Provides that the appropriations made in House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011, to the Texas Public Finance Authority for General Obligation Bond Debt Service are subject to the following provision. Provides that appropriations out of the Permanent Fund for Health & Tobacco Education & Enforcement Account No. 5044; Permanent Fund for Children & Public Health Account No. 5045; and Permanent Fund for EMS & Trauma Care Account No. 5046, are contingent on the enactment of Senate Bill 1, 82nd Legislature, First Called Session, 2011, or similar legislation related to the use of certain Tobacco Settlement Funds for debt service on Cancer Prevention and Research Institute debt, by the 82nd Legislature, 2011. Requires the Legislative Budget Board (LBB) to adjust the informational listing of bond debt service pursuant to this provision.

SECTION 5. Appropriations to the Foundation School Program. (a) Provides that Texas Education Agency, Article III, House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), is amended by adding certain appropriations and riders, and to the extent necessary, by giving all riders under the bill pattern of the Texas Education Agency (TEA) full force and effect.

(b) Foundation School Program Funding. Requires that a total of \$19,287,500,000 in fiscal year 2012 and \$19,297,400,000 in fiscal year 2013, out of the funds appropriated above in Subsection (a) and elsewhere in H.B. 1, 82nd Legislature, First Called Session, 2011, represent the sum-certain appropriation to the Foundation School Program (FSP). Prohibits the total appropriation from exceeding the sum-certain amount. Provides that this appropriation includes allocations under Chapters 41 (Equalized Wealth Level), Chapter 42 (Foundation School Program), and Chapter 46 (Assistance with Instructional Facilities and Payment of Existing Debt), Education Code.

Formula Funding: Requires the commissioner of education (commissioner) to make allocations to local school districts under Chapters 41, 42, and 46 based on the March 2011 estimates of average daily attendance and local district tax rates as determined by LBB and the final tax year 2010 property values.

Provides that for purposes of distributing the FSP basic tier state aid appropriated above and in accordance with Section 42.101 (Basic Allotment), Education Code, the basic allotment is projected to be \$4,765 in fiscal year 2012 and \$4,765 in fiscal year 2013.

Provides that for purposes of distributing the FSP enrichment tier state aid appropriated above and in accordance with Section 41.002(a)(2) (relating to the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student available to the Austin Independent School District) and Section 42.302(a-1)(1) (relating to the greater of the amount of district tax revenue per weighted student per cent of tax effort that would be available to the Austin Independent School District), Education Code, the guaranteed yield is \$59.97 in fiscal year 2012 and \$59.97 in fiscal year 2013.

Provides that out of amounts appropriated above and allocated by this rider to the FSP, no funds are appropriated for the New Instructional Facilities Allotment under Section 42.158 (New Instructional Facility Allotment), Education Code.

Authorizes TEA, notwithstanding any other provision of this Act, to make transfers as appropriate between Strategy A.1.1, FSP-Equalized Operations, and Strategy A.1.2, FSP Equalized Facilities. Requires TEA to notify LBB and the governor of any such transfers at least 45 days prior to the transfer.

Requires TEA to submit reports on the prior month's expenditures on programs described by this rider no later than the 20th day of each month to LBB and the Governor's Office in a format determined by LBB in cooperation with TEA.

(c) Foundation School Program Adjustments. Provides that appropriations from the Foundation School Fund No. 193 identified in Subsection (a) above are hereby reduced by \$438,900,000 in fiscal year 2012 and \$361,100,000 in fiscal year 2013. Provides that these adjustments reflect a lower estimate of the state cost of the FSP in the 2012-2013 biennium due to updated pupil projections and projections of district property values.

Requires that property values, and the estimates of local tax collections on which they are based, be decreased by 0.97 percent for tax year 2011, then increased by 0.52 percent for tax year 2012.

Requires that the sum-certain appropriation for the FSP as identified in Subsection (b) above be decreased commensurately to reflect these adjustments.

(d) Contingency for Senate Bill 1: Foundation School Program Deferral. Provides that contingent on enactment of S.B. 1, 82nd Legislature, First Called Session, 2011, or similar legislation providing the legal basis for deferring the August 2013 FSP payment to school districts, appropriations made in Subsection (a) above from the Foundation School Fund 193 to TEA for the FSP are hereby reduced by \$2,300,000,000 in fiscal year 2013. Provides that it is the intent of the legislature that this payment be made in September 2013 pursuant to the provisions of the bill. Requires that the sum-certain appropriation for the FSP as identified in Subsection (b) above be decreased commensurately.

(e) Contingency for H.J.R. 109. Provides that appropriations from the Foundation School Fund (Fund 193) made in Subsection (a) above, Texas Education Agency Strategy A.1.1, FSP - Operations, for the FSP, are hereby reduced by \$150,000,000 in each fiscal year of the 2012-2013 biennium. Provides that TEA is hereby appropriated from the Available School Fund (General Revenue) to the FSP in Strategy A.1.1, FSP - Operations, an amount estimated to be \$150,000,000 in each fiscal year of the 2012-2013 biennium, pursuant to all of the following: passage and enactment of H.J.R. 109, S.J.R. 5, 82nd Legislature, Regular Session, 2011, or similar legislation relating to proposing a constitutional amendment to clarify references to the Permanent School Fund and to allow the General Land Office or other entity to distribute revenue derived from Permanent School Fund land or other properties to the Available School Fund; voter approval of the associated constitutional amendment; and the distribution of funds from the General Land Office to the Available School Fund pursuant to the provisions of the legislation.

(f) Contingency for Senate Bill 1: Foundation School Program Funding Contingency. Provides that the All Funds appropriations made for the FSP, Texas Education Agency Strategies A.1.1 and A.1.2, in Subsection (a) above, and as adjusted by other subsections in this section, are contingent on enactment of S.B. 1, 82nd Legislature, First Called Session, 2011, or similar legislation by the 82nd Legislature, 2011, relating to certain state fiscal matters and that amends Chapter 42, Education Code, to adjust state aid payments to the level of FSP appropriations made in Subsection (a) above as adjusted for other subsections in this section. Provides that, should this legislation fail to pass and be enacted, the All Funds appropriations for the FSP made herein are hereby reduced to zero for each year of the 2012-2013 biennium, including the sum-certain appropriation identified in Subsection (b).

(f) (g) [sic] Provides that LBB is directed to make all necessary adjustments to TEA's bill pattern pursuant to the provisions above, including adjustments to strategies, methods of finance, measures and riders contained in House Bill 1, 82nd Legislature, Regular Session, 2011.

SECTION 6. Contingency for Senate Bill 1: Legislation Relating to Certain Office of Court Administration License Fees. Provides that contingent upon the enactment of S.B. 1, 82nd Legislature, First Called Session, 2011, relating to license fees and the allowable use of such fees for process servers, guardians, and court reporters by the 82nd Legislature, the Office of Court Administration is appropriated \$119,603 in fiscal year 2012 and \$119,714 in fiscal year 2013 to implement the provisions of the legislation. Provides that the number of "Full-Time-Equivalent Positions" indicated in the agency's bill pattern is increased by 2.0 each fiscal year. Requires that fees, fines and other miscellaneous revenues as authorized by the Process Servers Review Board, the Guardianship Certification Board, and the Court Reporters Certification Board, cover, at a minimum, the cost of appropriations made in this provision, as well as an amount sufficient to cover "Other Direct and Indirect Costs Appropriated Elsewhere in this Act" (estimated to be \$27,783 in fiscal year 2012 and \$29,175 in fiscal year 2013). Authorizes LBB, in the event that actual and/or projected revenues are insufficient to offset the costs identified by this provision, to direct the comptroller to reduce the appropriation authority provided above to be within the amount of revenue expected to be available.

SECTION 7. Contingency for Senate Bill 1: Railroad Commission. Provides that contingent upon enactment of S.B. 1, or similar legislation relating to the Railroad Commission of Texas (railroad commission) by the 82nd Legislature:

(a) Oil and Gas Related Fees. Provides that in addition to amounts appropriated in House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011, to the railroad commission, and contingent on S.B. 1, 82nd Legislature, First Called Session, 2011, or similar legislation creating an account to cover costs of the railroad commission's oil- and gas-related activities, by the 82nd Legislature, appropriations out of the General Revenue Fund are hereby reduced by \$16,766,209 in fiscal year 2012 and by \$16,716,472 in fiscal year 2013, and, to replace these appropriations, there is hereby appropriated \$16,766,209 in fiscal year 2012 and \$16,716,472 in fiscal year 2013 out of the Oil and Gas Regulation and Cleanup (OGRC) Fund created by the bill.

Sets forth certain amounts of General Revenue funding that would be replaced with funding from the OGRC Fund in certain strategies.

Provides that in addition, appropriations out of the Oil Field Cleanup Account No. 145 are hereby reduced by \$20,581,780 in fiscal year 2012 and by \$20,581,779 in fiscal year 2013, and, to replace these appropriations, there is hereby appropriated \$20,581,780 in fiscal year 2012 and \$20,581,779 in fiscal year 2013 out of the OGRC Fund created by the bill. Sets forth the amounts out of the General Revenue-Dedicated Oil Field Cleanup Account No. 145 that would be replaced with funding out of the OGRC Fund in certain strategies.

(b) Expansion of Pipeline Safety Fee Use to Include Gas Utility Regulation. Provides that contingent upon enactment of S.B. 1, 82nd Legislature, First Called Session, 2011, or similar legislation allowing for the use of pipeline safety fees for gas utility regulatory functions, by the 82nd Legislature, the railroad commission is hereby appropriated in each fiscal year of the 2012-13 biennium an amount not to exceed \$233,000 in Strategy A.2.1, Gas Utility Compliance. Provides that this appropriation is contingent upon the railroad commission increasing Pipeline Safety Fees and requires that it be limited to revenues deposited to the credit of Revenue Object Code 3553 in excess of the comptroller's Biennial Revenue Estimate for 2012-13.

Requires the railroad commission, upon completion of necessary actions to assess or increase the Pipeline Safety Fee, to furnish copies of the minutes and other information supporting the estimated revenues to be generated for the 2012-13 biennium under the revised fee structure to the comptroller. Requires, if the comptroller finds the information sufficient to support the projection of increased revenues in excess of those estimated in the Biennial Revenue Estimate for 2012-13, a finding of fact to that effect to be issued and the contingent appropriation to be made available for the intended purpose.

SECTION 8. Contingency for Senate Bill 1: Voter Registration. Requires that contingent on enactment of S.B. 1, 82nd Legislature, First Called Session, 2011, or similar legislation relating to transferring voter registration payments from the Fiscal Programs - Comptroller of Public Accounts to the Secretary of State, amounts appropriated elsewhere in H.B. 1, 82nd Legislature, Regular Session, 2011, to the Fiscal Programs Comptroller of Public Accounts in Strategy A.1.1, Voter Registration, be transferred to the Secretary of State.

SECTION 9. Contingency for Senate Bill 1: Back to Work and Homeless Housing. Authorizes the Trusteed Programs within the Office of the Governor, contingent upon enactment of Senate Bill 1, 82nd Legislature, First Called Session, 2011, or similar legislation by the 82nd Legislature, relating to the transfer of General Revenue-Dedicated Texas Enterprise Fund Account No. 5107 appropriations to other state agencies, to transfer \$20,000,000 from the General Revenue-Dedicated Texas Enterprise Fund Account No. 5107 to the Texas Workforce Commission for the Texas Back to Work Program, and to the Texas Department of Housing and Community Affairs for the Homeless Housing Program.

Provides that if S.B. 1, or similar legislation by the 82nd Legislature, First Called Session, 2011, relating to the transfer of General Revenue-Dedicated Texas Enterprise Fund Account No. 5107 appropriations to other state agencies is not enacted, it is the intent of the legislature that the Truusted Programs within the Office of the Governor award a grant in the amount of \$20,000,000 in the 2012-2013 biennium out of the General Revenue-Dedicated Texas Enterprise Fund Account No. 5107 to the Texas Workforce Commission for the Texas Back to Work Program, and to the Texas Department of Housing and Community Affairs for the Homeless Housing Program.

SECTION 10. Contingency for Senate Bill 7: Managed Care Expansion. Provides that contingent on the enactment of Senate Bill 7 or similar legislation by the 82nd Legislature, First Called Session, 2011, authorizing the use of managed care in the South Texas counties of Cameron, Hidalgo, and Maverick, the following actions are required to take place:

- a. The Health and Human Services Commission (HHSC) is appropriated \$57,370,186 in General Revenue Funds and \$87,670,192 in Federal Funds in fiscal year 2012 and \$121,680,697 in General Revenue and \$185,809,691 in Federal Funds in fiscal year 2013 for Goal B, Medicaid (a biennial total of \$179,050,883 in General Revenue Funds and \$273,479,883 in Federal Funds); and
- b. General Revenue appropriations to HHSC are increased by \$143,139,236 in fiscal year 2012 and \$297,625,734 in fiscal year 2013 and General Revenue appropriations to the Department of Aging and Disability Services (DADS) are reduced by \$143,139,236 in fiscal year 2012 and \$297,625,734 in fiscal year 2013; therefore, appropriations at HHSC and DADS for the expansion of the managed care model for the provision of services is assumed to be identical to the strategy funding levels of both agencies in House Bill 1, 82nd Regular Session.

Requires HHSC to provide a report detailing the cost savings in General Revenue Funds and All Funds realized by the expansion of managed care in the biennium. Requires that the report be submitted to the LBB and the governor by December 1, 2012.

SECTION 11. Contingency for Senate Bill 7: Institute of Health Care Quality and Efficiency. Provides that contingent on the enactment of Senate Bill 7, 82nd Legislature, First Called Session, 2011, or similar legislation relating to creation of an Institute of Health Care Quality and Efficiency and repeal of the Texas Health Care Policy Council, HHSC is appropriated \$228,800 in fiscal year 2012 and \$228,800 in fiscal year 2013 in interagency contracts. Provides that the number of "Full-Time Equivalents (FTE)" is increased by 2.0 FTEs in fiscal year 2012 and 2.0 FTEs in fiscal year 2013.

SECTION 12. Contingency for Senate Bill 7; Health Care Collaborative. Provides that contingent on enactment of Senate Bill 7, 82nd Legislature, First Called Session, 2011, or similar legislation relating to creation of health care collaboratives, out of the fees and assessments collected by the Texas Department of Insurance (TDI), TDI is appropriated:

- a. \$169,408 for fiscal year 2012 and \$461,901 for fiscal year 2013 from General Revenue Insurance Companies Maintenance Tax and Insurance Department Fees, and
- b. \$254,112 for fiscal year 2012 and \$692,851 for fiscal year 2013 from General Revenue Dedicated Fund 36, the TDI operating account to implement the provisions of the legislation.

The number of FTEs is increased by 8.0 FTEs in fiscal year 2012 and 16.0 FTEs in fiscal year 2013.

SECTION 13. SAVINGS CLAUSE. Prohibits a decision, if any section, sentence, clause or part of this Act shall for any reason be held to be invalid, from affecting the remaining portions of this Act; and provides that it is hereby declared to be the intention of the legislature to have passed each sentence, section, clause, or part thereof irrespective of the fact that any other sentence, section, clause or part thereof may be declared invalid.

SECTION 14. EMERGENCY CLAUSE. Effective date: upon passage.