

BILL ANALYSIS

C.S.S.B. 2
By: Ogden
Appropriations
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties assert that additional appropriations of money are necessary to fund state government for the period beginning September 1, 2011, and ending August 31, 2013. C.S.S.B. 2 seeks to authorize such appropriations and provide for certain guidance on the allocation and expenditure of such appropriations.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 2 establishes that the several sums of money specified by the bill, 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.

C.S.S.B. 2, in addition to amounts appropriated in H.B. 1, Acts of the 82nd Legislature, Regular Session, 2011, (General Appropriations Act) in the law enforcement and custodial officer supplemental retirement fund strategy, appropriates certain estimated amounts from General Revenue, General Revenue-Dedicated, Federal Funds, and Fund 006, totaling \$7,520,372 in fiscal year (FY) 2013 to the Employees Retirement System (ERS) for a state contribution of 0.5 percent to the law enforcement and custodial officer supplemental retirement program.

C.S.S.B. 2 establishes that appropriations made in the General Appropriations Act to the Texas Public Finance Authority for general obligation bond debt service, out of the Permanent Fund for Health & Tobacco Education & Enforcement Account No. 5044, out of Permanent Fund for Children & Public Health Account No. 5045, and out of Permanent Fund for EMS & Trauma Care Account No. 5046, are contingent on the enactment of S.B. 1, 82nd Legislature, First Called Session, 2011, or similar legislation by the 82nd Legislature related to the use of certain Tobacco Settlement Funds for debt service on Cancer Prevention and Research Institute debt. The bill requires the Legislative Budget Board (LBB) to adjust the informational listing of bond debt service pursuant to this provision of the bill.

C.S.S.B. 2 amends the General Appropriations Act by adding certain specified appropriations and riders relating to the Texas Education Agency (TEA) and, to the extent necessary, giving all riders under the bill pattern of the agency full force and effect. The bill appropriates amounts for FSP Equalized Operations in the amount of \$18,620,413,934 in FY12 and in the amount of \$18,564,213,933 in FY13 from the Available School Fund, Foundation School Fund, Property Tax Relief Fund, appropriated receipts, and lottery proceeds. The bill appropriates amounts for FSP Equalized Facilities in the amount of \$65,000,000 in FY12 and \$716,100,000 in FY13 from the Foundation School Fund. The bill, out of those additional funds appropriated to the TEA, requires a total of \$19,287,500,000 in FY2012 and a total of \$19,297,400,000 in FY2013 to

represent the sum-certain appropriation to the Foundation School Program (FSP) and prohibits the total appropriation from exceeding the sum-certain amount. The bill establishes that such an appropriation includes allocations under Chapters 41 (equalized wealth level), 42 (the foundation school program), and 46 (assistance with instructional facilities and payment of existing debt), Education Code.

C.S.S.B. 2 requires the commissioner of education to make allocations to local school districts under Chapters 41, 42 and 46, Education Code, based on the March 2011 estimates of average daily attendance and local district tax rates as determined by the LBB and the final tax year 2010 property values. The bill projects the basic allotment, for purposes of distributing the state aid appropriated for the FSP basic tier and in accordance with the applicable statutory provisions, to be \$4,765 in both FY2012 and FY2013. The bill sets the guaranteed yield, for purposes of distributing the state aid appropriated for the FSP enrichment tier and in accordance with the applicable statutory provisions, at \$59.97 in both FY2012 and FY2013.

C.S.S.B. 2 establishes that, out of amounts so appropriated and allocated to the FSP, no funds are appropriated for the new instructional facilities allotment. The bill authorizes TEA to make transfers as appropriate between the FSP-equalized operations and FSP-equalized facilities strategies. The bill requires TEA to notify the LBB and the governor of any such transfers at least 45 days before the transfer. The bill requires TEA to submit reports on the prior month's expenditures on programs described above by the rider relating to Foundation School Program funding no later than the 20th day of each month to the LBB and the governor's office in a format determined by the LBB in cooperation with the agency. The bill reduces appropriations from the Foundation School Fund No. 193 by \$438,900,000 in FY2012 and \$361,100,000 in FY2013. The bill establishes that such adjustments reflect a lower estimate of the state cost of the FSP in the 2012-2013 biennium as a result of updated pupil projections and projections of district property values. The bill requires property values, and the estimates of local tax collections on which they are based, to be decreased by 0.97 percent for tax year 2011, then increased by 0.52 percent for tax year 2012, and requires the sum-certain appropriation for the FSP to be decreased commensurately to reflect these adjustments.

C.S.S.B. 2, 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, reduces appropriations made from the Foundation School Fund 193 to TEA for the FSP by \$2.3 billion in FY 2013. C.S.S.B. 2 establishes that it is the intent of the legislature that such payment be made in September 2013 pursuant to the provisions of S.B. 1, 82nd Legislature, First Called Session, 2011. C.S.S.B. 2 requires the sum-certain appropriation for the FSP to be decreased commensurately.

C.S.S.B. 2 reduces appropriations from Foundation School Fund 193 made in the TEA FSP-Operations strategy by \$150 million in each fiscal year of the 2012-2013 biennium. The bill appropriates to TEA from the Available School Fund (General Revenue) to the FSP in the FSP-Operations strategy an amount estimated at \$150 million in each fiscal year of the 2012-2013 biennium contingent on the following: passage and enactment of H.J.R. 109, 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.

C.S.S.B. 2 establishes that the All Funds appropriation for the FSP, as adjusted by provisions of the bill described above, is contingent on enactment of S.B. 1, 82nd Legislature, First Called Session, 2011, or similar legislation by the 82nd Legislature 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 and as adjusted by the bill provisions described above. C.S.S.B. 2

specifies that if S.B. 1, 82nd Legislature, First Called Session, 2011, fails to pass and be enacted, the All Funds appropriations for the FSP made by C.S.S.B. 2 are reduced to zero for each year of the 2012-2013 biennium, including the specified sum-certain appropriation.

C.S.S.B. 2 directs the LBB to make all necessary adjustments to the TEA's bill pattern pursuant to provisions of the bill described above, including adjustments to strategies, methods of finance, measures and riders contained in the General Appropriations Act.

C.S.S.B. 2, contingent on 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, appropriates to the Office of Court Administration \$119,603 in FY2012 and \$119,714 in FY2013 to implement the provisions of the legislation. The bill increases the number of "Full-Time-Equivalent Positions" (FTEs) indicated in the agency's bill pattern by 2.0 each fiscal year. The bill requires fees, fines, and other miscellaneous revenues as authorized by the Process Servers Review Board, the Guardianship Certification Board, and the Court Reporters Certification Board to cover, at a minimum, the cost of such appropriations made, as well as an amount sufficient to cover "Other Direct and Indirect Costs Appropriated Elsewhere in this Act" and provides estimates of such amounts for both fiscal years. The bill authorizes the LBB, in the event that actual or projected revenues are insufficient to offset such identified costs, to direct the comptroller of public accounts to reduce the provided appropriation authority to be within the amount of revenue expected to be available.

C.S.S.B. 2, contingent on enactment of S.B. 1, 82nd Legislature, First Called Session, 2011, or similar legislation by the 82nd Legislature creating an account to cover costs of the agency's oil- and gas-related activities, in addition to amounts appropriated in the General Appropriations Act to the Railroad Commission, reduces appropriations out of the General Revenue Fund by \$16,766,209 in FY2012 and by \$16,716,472 in FY2013, and, to replace these appropriations, appropriates \$16,766,209 in FY2012 and \$16,716,472 in FY2013 out of the Oil and Gas Regulation and Cleanup (OGRC) fund created by that legislation. The bill sets out specific amounts of General Revenue funding to be replaced in fiscal years 2012 and 2013 with funding out of the OGRC fund in the energy resource development, oil and gas monitoring and inspections, oil and gas remediation, oil and gas well plugging, and public information and services strategies.

C.S.S.B. 2, contingent on enactment of S.B. 1, 82nd Legislature, First Called Session, 2011, or similar legislation by the 82nd Legislature creating an account to cover costs of the agency's oil- and gas-related activities, reduces appropriations out of the Oil Field Cleanup Account No. 145 by \$20,581,780 in FY2012 and \$20,581,779 in FY2013. The bill, to replace these appropriations, appropriates the same amounts in the appropriate fiscal year out of the OGRC fund created by that legislation. The bill sets out specific amounts out of the General Revenue-Dedicated Oil Field Cleanup Account No. 145 to be replaced with funding out of the OGRC fund in the energy resource development, oil and gas monitoring and inspections, oil and gas remediation, oil and gas well plugging, and public information and services strategies.

C.S.S.B. 2, contingent on enactment of S.B. 1, 82nd Legislature, First Called Session, 2011, or similar legislation by the 82nd Legislature allowing for the use of pipeline safety fees for gas utility regulatory functions, appropriates to the Railroad Commission in each fiscal year of the 2012-2013 biennium an amount not to exceed \$233,000 in the gas utility compliance strategy. The bill makes the appropriation contingent on the Railroad Commission increasing Pipeline Safety Fees and limits the appropriation to revenues deposited to the credit of Revenue Object Code 3553 in excess of the comptroller's Biennial Revenue Estimate for 2012-2013. The bill requires the Railroad Commission, on 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 2012-2013 biennium under the revised fee structure to the comptroller. The bill 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 2012-2013, a finding of fact to that effect to be issued and the contingent appropriation to be made available for the intended purpose.

C.S.S.B. 2, contingent on enactment of S.B. 1, 82nd Legislature, First Called Session, 2011, or similar legislation by the 82nd Legislature relating to transferring voter registration payments from the Fiscal Programs - Comptroller of Public Accounts to the Secretary of State, transfers to the Secretary of State amounts appropriated elsewhere in the General Appropriations Act to the Fiscal Programs Comptroller of Public Accounts in the voter registration strategy.

C.S.S.B. 2, contingent on the enactment of H.B. 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, requires the following actions to take place:

- an appropriation to the Health and Human Services Commission (HHSC) of \$57,370,186 in General Revenue Funds and \$87,670,192 in Federal Funds in FY2012 and \$121,680,697 in General Revenue and \$185,809,691 in Federal Funds in FY2013 for Goal B, Medicaid, for a biennial total of \$179,050,883 in General Revenue Funds and \$273,479,883 in Federal Funds; and
- increases in General Revenue appropriations to HHSC by \$143,139,236 in FY2012 and \$297,625,734 in FY2013 and reductions in General Revenue appropriations to the Department of Aging and Disability Services (DADS) by \$143,139,236 in FY2012 and \$297,625,734 in FY2013.

C.S.S.B. 2 establishes that, as a result of the above actions, appropriations to 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 the General Appropriations Act. The bill requires HHSC, by December 1, 2012, to provide to the LBB and the governor a report detailing the cost savings in General Revenue Funds and All Funds realized by the expansion of managed care in the biennium.

C.S.S.B. 2, contingent on the enactment of H.B. 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, appropriates to HHSC \$228,800 in FY2012 and \$228,800 in FY2013 in interagency contracts and increases the number of FTEs by 2.0 FTEs in FY2012 and 2.0 FTEs in FY2013.

C.S.S.B. 2, contingent on enactment of H.B. 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 Department of Insurance, appropriates to the department \$169,408 for FY2012 and \$461,901 for FY2013 from General Revenue Insurance Companies Maintenance Tax and Insurance Department Fees and \$254,112 for FY2012 and \$692,851 for FY2013 from General Revenue Dedicated Fund 36, the Texas Department of Insurance operating account, to implement the provisions of that legislation. The bill increases the number of FTEs by 8.0 FTEs in FY2012 and 16.0 FTEs in FY2013.

C.S.S.B. 2, contingent on enactment by the vote necessary for immediate effect of S.B. 6, 82nd Legislature, First Called Session, 2011, or similar legislation by the 82nd Legislature, First Called Session, relating to the establishment of an instructional materials allotment, and contingent on such act immediately becoming law, establishes that Subsection (a) of Section 11 of H.B. 4, Acts of the 82nd Legislature, Regular Session, 2011, has no effect and the \$184 million described by that subsection is allocated to fund the instructional materials allotment in accordance with the provisions of S.B. 6 or the similar legislation, as applicable. The bill establishes that, to the extent of any conflict, this bill prevails over the provisions of Subsection (b), Section 11, H.B. 4, Acts of the 82nd Legislature, Regular Session, 2011.

C.S.S.B. 2 establishes that if any section, sentence, clause or part of the bill is for any reason held to be invalid, such decision does not affect the remaining portions of the bill, and declares the intent of the legislature to have passed each sentence, section, clause, or part of the bill, irrespective of the fact that another sentence, section, clause, or part of the bill may be declared invalid. The bill establishes an emergency that justifies the suspension of the constitutional rule requiring bills to be read on three separate days in each house, suspends the rule, and provides for the bill's immediate effect.

EFFECTIVE DATE

On passage.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 2 differs from the original by appropriating certain estimated amounts in FY 2013 to the Employees Retirement System (ERS) for a state contribution of 0.5 percent to the law enforcement and custodial officer supplemental retirement program, whereas the original makes the appropriation contingent on the enactment of S.B. 1, 82nd Legislature, First Called Session, 2011, or similar legislation relating to state contributions to the program.

C.S.S.B. 2 omits provisions included in the original relating to the tobacco user monthly premium fee; contingent funding for the Texas back to work program and the homeless housing program; appropriations for basic civil legal services; appropriations for an indigent defense and an additional FTE; disaster funding and related reimbursements at the trustee programs within the office of the governor; contingent appropriations to the Texas State Technical College-Waco for institutional operations; and contingent appropriations to Lamar Institute of Technology for institutional operations.

C.S.S.B. 2 omits provisions included in the original relating to contingent appropriations to the Commission on State Emergency Communications for scheduled equipment replacement and making a related rider ineffective.

C.S.S.B. 2 contains a provision not included in the original declaring an emergency and suspending the constitutional rule requiring bills to be read on three separate days in each house.

C.S.S.B. 2 differs from the original in nonsubstantive ways.