

BILL ANALYSIS

C.S.H.B. 208
By: Parker
Appropriations
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties assert that the current method used to calculate the constitutional limit on the rate of growth of state appropriations, which incorporates estimations regarding the growth of the state's personal income, should be changed because personal income tends to grow faster than the overall economy. C.S.H.B. 208 seeks to address this issue by instead providing for the limit to be calculated based on a formula of the average rate of population growth times the rate of inflation.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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.H.B. 208 amends the Government Code to limit the rate of growth of appropriations from all sources of revenue other than the federal government in a state fiscal biennium to the estimated rate of growth of the state's economy.

C.S.H.B. 208 removes the requirement that the Legislative Budget Board (LBB) determine the estimated rate of growth of the state's economy for purposes of limits on the rate of growth of appropriations using a formula involving the estimated Texas total personal income and instead establishes that, for such purposes, the estimated rate of growth of the state's economy is the estimated average biennial rate of growth of the state's population during the state fiscal biennium for which appropriations are made, adjusted by the estimated average biennial rate of monetary inflation in Texas during the same period, as determined by the LBB. The bill requires the LBB to determine those rates using the most recent information available from sources the LBB considers reliable. The bill requires an appropriation to pay for a rebate of state taxes to be excluded from computations used to determine whether appropriations exceed the limit on the rate of growth of appropriations from state tax revenues not dedicated by the constitution or the limit on the rate of growth of appropriations from all sources of revenue other than the federal government.

C.S.H.B. 208 removes the requirement that the LBB, before submitting the budget to the governor and each member of the legislature, establish the estimated rate of growth of the state's economy from the current biennium to the next biennium, the level of appropriations for the current biennium from state tax revenues not dedicated by the constitution, and the amount of state tax revenues not dedicated by the constitution that could be appropriated for the next

biennium within the limit established by the estimated rate of growth of the state's economy. The bill instead requires the LBB, before transmitting the budget for the next state fiscal biennium to the governor and each member of the legislature, to establish the limit on the rate of growth of appropriations from state tax revenues not dedicated by the constitution for that state fiscal biennium and the limit on the rate of growth in appropriations from all sources of revenue other than the federal government for that state fiscal biennium, as compared to the previous state fiscal biennium. The bill provides formulas for the calculation of those limits. The bill requires the LBB to establish for the next state fiscal biennium a limit on the amount of appropriations from state tax revenues not dedicated by the constitution and a limit on the amount of appropriations from all sources of revenue other than the federal government and provides for the calculation of those limits.

C.S.H.B. 208 limits the amount of appropriations from state tax revenues not dedicated by the constitution for the next state fiscal biennium and the amount of appropriations from all sources of revenue other than the federal government for the next state fiscal biennium to the amount of the respective appropriations in the current state fiscal biennium if the applicable rate of growth of appropriations determined by the LBB is a negative number. The bill prohibits the LBB from transmitting the budget or the general appropriations bill to the governor or the legislature until the LBB establishes both the limit on the rate of growth of appropriations from state tax revenues not dedicated by the constitution and the limit on the rate of growth of appropriations from all sources of revenue other than the federal government.

C.S.H.B. 208 requires, in the absence of an action by the LBB to establish the limit on the rate of growth of appropriations from all sources of revenue other than the federal government, that the estimated rate of growth in the state's economy from the current fiscal biennium to the next fiscal biennium be treated as if it were zero and the amount of appropriations from all sources of revenue other than the federal government that could be appropriated within the limit be the same as the level of appropriations for the current fiscal biennium. The bill prohibits the LBB budget recommendations relating to the proposed appropriations from all sources of revenue other than the federal government from exceeding the limit on appropriations from those sources adopted by the committee composed of the governor, lieutenant governor, speaker of the house, and comptroller of public accounts unless authorized by majority vote of the members of the LBB from each house.

C.S.H.B. 208 requires the LBB to include in its budget recommendations the proposed limit on appropriations from all sources of revenue other than the federal government, which the bill establishes as binding on the legislature with respect to all appropriations for the next fiscal biennium made from those sources unless the legislature adopts a resolution raising the proposed limit that is approved by a record vote of three-fifths of the members of each house of the legislature. The bill requires the resolution to find that an emergency exists, to identify the nature of the emergency, and to specify the amount authorized and prohibits the excess amount authorized from exceeding the amount specified in the resolution.

C.S.H.B. 208 clarifies that for purposes of certain provisions governing limits on the rate of growth of appropriations, the term "biennium" refers to a fiscal biennium or state fiscal biennium, as applicable. The bill applies only in relation to appropriations made for the 2020-2021 state fiscal biennium and subsequent state fiscal bienniums. Appropriations for the 2018-2019 state fiscal biennium are expressly governed by applicable law as the law existed on July 1, 2017, and that law is continued in effect for that purpose.

EFFECTIVE DATE

December 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 208 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Sections 316.001, 316.002, and 316.006, Government Code, are amended to read as follows:

Sec. 316.001. LIMIT. (a) For purposes of this subchapter, "consolidated general revenue appropriations" means appropriations from:

(1) the general revenue fund in the state treasury;

(2) a dedicated account in the general revenue fund in the state treasury; or

(3) a general revenue-related fund in the state treasury as identified in the biennial statement required of the comptroller under Section 49a, Article III, Texas Constitution.

(b) The rate of growth of appropriations in a state fiscal biennium from state tax revenues not dedicated by the constitution may not exceed the estimated rate of growth of the state's economy.

(c) The rate of growth of consolidated general revenue appropriations in a state fiscal biennium may not exceed the estimated rate of growth of the state's economy.

(d) For purposes of this subchapter, the estimated rate of growth of the state's economy is the estimated average biennial rate of growth of this state's population during the state fiscal biennium for which appropriations are made, adjusted by the estimated average biennial rate of monetary inflation in this state during the same period, as determined under Section 316.002.

(e) The legislature finds that, for purposes of Section 22, Article VIII, Texas Constitution, the estimated average biennial rate of growth of this state's population during the state fiscal biennium for which appropriations are made, adjusted by the estimated average biennial rate of monetary inflation in this state during the same period, is an appropriate measure of the estimated rate of growth of the state's economy.

(f) For purposes of this subchapter, an appropriation to pay for a rebate of state taxes must be excluded from computations

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Sections 316.001, 316.002, and 316.006, Government Code, are amended to read as follows:

Sec. 316.001. LIMIT.

(a) The rate of growth of appropriations in a state fiscal biennium from state tax revenues not dedicated by the constitution may not exceed the estimated rate of growth of the state's economy.

(b) The rate of growth of appropriations from all sources of revenue other than the federal government in a state fiscal biennium may not exceed the estimated rate of growth of the state's economy.

(c) For purposes of this subchapter, the estimated rate of growth of the state's economy is the estimated average biennial rate of growth of this state's population during the state fiscal biennium for which appropriations are made, adjusted by the estimated average biennial rate of monetary inflation in this state during the same period, as determined under Section 316.002.

(d) The legislature finds that, for purposes of Section 22, Article VIII, Texas Constitution, the estimated average biennial rate of growth of this state's population during the state fiscal biennium for which appropriations are made, adjusted by the estimated average biennial rate of monetary inflation in this state during the same period, is an appropriate measure of the estimated rate of growth of the state's economy.

(e) For purposes of this subchapter, an appropriation to pay for a rebate of state taxes must be excluded from computations

used to determine whether appropriations exceed the amount authorized by Subsection (b) or (c).

(g) The Legislative Budget Board shall determine the rates described by Subsection (d) using the most recent information available from sources the board considers reliable, including the United States Bureau of Labor Statistics and the Texas Demographic Center.

Sec. 316.002. DUTIES OF LEGISLATIVE BUDGET BOARD. (a) Before the Legislative Budget Board transmits ~~submits~~ the budget for the next state fiscal biennium as prescribed by Section 322.008(c), the board shall establish:

(1) the limit on the rate of growth of appropriations from state tax revenues not dedicated by the constitution for that state fiscal biennium, as compared to the previous state fiscal biennium, by subtracting one from the product of:

(A) the sum of one and the estimated average biennial rate of growth of this state's population during the state fiscal biennium for which appropriations are made; and

(B) the sum of one and the estimated average biennial rate of monetary inflation in this state during the state fiscal biennium for which appropriations are made; and

(2) the limit on the rate of growth of consolidated general revenue appropriations for that state fiscal biennium, as compared to the previous state fiscal biennium, by subtracting one from the product of:

(A) the sum of one and the estimated average biennial rate of growth of this state's population during the state fiscal biennium for which appropriations are made; and

(B) the sum of one and the estimated average biennial rate of monetary inflation in this state during the state fiscal biennium for which appropriations are made [the state's economy from the current biennium to the next biennium;

~~[(2) the level of appropriations for the current biennium from state tax revenues not dedicated by the constitution; and~~

~~[(3) the amount of state tax revenues not dedicated by the constitution that could be appropriated for the next biennium within the limit established by the estimated rate of growth of the state's economy].~~

(b) Except as provided by Subsection (c),

used to determine whether appropriations exceed the amount authorized by Subsection (a) or (b).

(f) The Legislative Budget Board shall determine the rates described by Subsection (c) using the most recent information available from sources the board considers reliable, including the United States Bureau of Labor Statistics and the Texas Demographic Center.

Sec. 316.002. DUTIES OF LEGISLATIVE BUDGET BOARD. (a) Before the Legislative Budget Board transmits ~~submits~~ the budget for the next state fiscal biennium as prescribed by Section 322.008(c), the board shall establish:

(1) the limit on the rate of growth of appropriations from state tax revenues not dedicated by the constitution for that state fiscal biennium, as compared to the previous state fiscal biennium, by subtracting one from the product of:

(A) the sum of one and the estimated average biennial rate of growth of this state's population during the state fiscal biennium for which appropriations are made; and

(B) the sum of one and the estimated average biennial rate of monetary inflation in this state during the state fiscal biennium for which appropriations are made; and

(2) the limit on the rate of growth of appropriations from all sources of revenue other than the federal government for that state fiscal biennium, as compared to the previous state fiscal biennium, by subtracting one from the product of:

(A) the sum of one and the estimated average biennial rate of growth of this state's population during the state fiscal biennium for which appropriations are made; and

(B) the sum of one and the estimated average biennial rate of monetary inflation in this state during the state fiscal biennium for which appropriations are made [the state's economy from the current biennium to the next biennium;

~~[(2) the level of appropriations for the current biennium from state tax revenues not dedicated by the constitution; and~~

~~[(3) the amount of state tax revenues not dedicated by the constitution that could be appropriated for the next biennium within the limit established by the estimated rate of growth of the state's economy].~~

(b) Except as provided by Subsection (c),

the board shall determine for the next state fiscal biennium a limit on the amount of:

(1) appropriations from state tax revenues not dedicated by the constitution by multiplying the amount of appropriations from state tax revenues not dedicated by the constitution for the current state fiscal biennium by the sum of one and the limit on the rate of growth of appropriations from state tax revenues not dedicated by the constitution established by the board under Subsection (a)(1); and

(2) consolidated general revenue appropriations by multiplying the amount of consolidated general revenue appropriations for the current state fiscal biennium by the sum of one and the limit on the rate of growth of consolidated general revenue appropriations established by the board under Subsection (a)(2) [the estimated rate of growth of the state's economy by dividing the estimated Texas total personal income for the next biennium by the estimated Texas total personal income for the current biennium. Using standard statistical methods, the board shall make the estimate by projecting through the biennium the estimated Texas total personal income reported by the United States Department of Commerce or its successor in function].

(c) If the rate determined under Subsection (a)(1) is a negative number, the amount of appropriations from state tax revenues not dedicated by the constitution for the next state fiscal biennium may not exceed the amount of appropriations from state tax revenues not dedicated by the constitution for the current state fiscal biennium. If the rate determined under Subsection (a)(2) is a negative number, the amount of consolidated general revenue appropriations for the next state fiscal biennium may not exceed the amount of consolidated general revenue appropriations for the current state fiscal biennium [If a more comprehensive definition of the rate of growth of the state's economy is developed and is approved by the committee established by Section 316.005, the board may use that definition in calculating the limit on appropriations].

the board shall establish for the next state fiscal biennium a limit on the amount of:

(1) appropriations from state tax revenues not dedicated by the constitution by multiplying the amount of appropriations from state tax revenues not dedicated by the constitution for the current state fiscal biennium by the sum of one and the limit on the rate of growth of appropriations from state tax revenues not dedicated by the constitution established by the board under Subsection (a)(1); and

(2) appropriations from all sources of revenue other than the federal government by multiplying the amount of appropriations from all sources of revenue other than the federal government for the current state fiscal biennium by the sum of one and the limit on the rate of growth of appropriations from all sources of revenue other than the federal government established by the board under Subsection (a)(2) [determine the estimated rate of growth of the state's economy by dividing the estimated Texas total personal income for the next biennium by the estimated Texas total personal income for the current biennium. Using standard statistical methods, the board shall make the estimate by projecting through the biennium the estimated Texas total personal income reported by the United States Department of Commerce or its successor in function].

(c) If the rate determined under Subsection (a)(1) is a negative number, the amount of appropriations from state tax revenues not dedicated by the constitution for the next state fiscal biennium may not exceed the amount of appropriations from state tax revenues not dedicated by the constitution for the current state fiscal biennium. If the rate determined under Subsection (a)(2) is a negative number, the amount of appropriations from all sources of revenue other than the federal government for the next state fiscal biennium may not exceed the amount of appropriations from all sources of revenue other than the federal government for the current state fiscal biennium [If a more comprehensive definition of the rate of growth of the state's economy is developed and is approved by the committee established by Section 316.005, the board may use that definition in calculating the limit on appropriations].

(d) To ensure compliance with this subchapter and Section 22, Article VIII, [Section 22, of the] Texas Constitution, the Legislative Budget Board may not transmit in any form to the governor or the legislature the budget as prescribed by Section 322.008(c) or the general appropriations bill as prescribed by Section 322.008(d) until the board adopts:

(1) the limit on the rate of growth of appropriations from state tax revenues not dedicated by the constitution under Section 316.001(b); and

(2) the limit on the rate of growth of consolidated general revenue appropriations under Section 316.001(c) [has been adopted as required by this subchapter].

(e) In the absence of an action by the Legislative Budget Board to adopt the limits [a spending limit] as provided by this section:

(1) for purposes of Section 316.001(b):

(A) [in Subsections (a) and (b),] the estimated rate of growth of [it] the state's economy from the current fiscal biennium to the next fiscal biennium shall be treated as if it were zero; [;] and

(B) the amount of state tax revenues not dedicated by the constitution that could be appropriated within the limit established by the estimated rate of growth of [it] the state's economy shall be the same as the level of appropriations for the current fiscal biennium; and

(2) for purposes of Section 316.001(c):

(A) the estimated rate of growth of the state's economy from the current fiscal biennium to the next fiscal biennium shall be treated as if it were zero; and

(B) the amount of consolidated general revenue appropriations that could be appropriated within the limit established by that subsection shall be the same as the level of appropriations for the current fiscal biennium.

Sec. 316.006. LIMIT ON BUDGET RECOMMENDATIONS. Unless authorized by majority vote of the members of the board from each house, the Legislative Budget Board budget recommendations:

(1) relating to the proposed appropriations from [øf] state tax revenues not dedicated by the constitution may not exceed the limit on

(d) To ensure compliance with this subchapter and Section 22, Article VIII, [Section 22, of the] Texas Constitution, the Legislative Budget Board may not transmit in any form to the governor or the legislature the budget as prescribed by Section 322.008(c) or the general appropriations bill as prescribed by Section 322.008(d) until the board establishes:

(1) the limit on the rate of growth of appropriations from state tax revenues not dedicated by the constitution under Section 316.001(a); and

(2) the limit on the rate of growth of appropriations from all sources of revenue other than the federal government under Section 316.001(b) [has been adopted as required by this subchapter].

(e) In the absence of an action by the Legislative Budget Board to establish the limits [adopt a spending limit] as provided by this section:

(1) for purposes of Section 316.001(a):

(A) [in Subsections (a) and (b),] the estimated rate of growth of [it] the state's economy from the current fiscal biennium to the next fiscal biennium shall be treated as if it were zero; [;] and

(B) the amount of state tax revenues not dedicated by the constitution that could be appropriated within the limit established by the estimated rate of growth of [it] the state's economy shall be the same as the level of appropriations for the current fiscal biennium; and

(2) for purposes of Section 316.001(b):

(A) the estimated rate of growth of the state's economy from the current fiscal biennium to the next fiscal biennium shall be treated as if it were zero; and

(B) the amount of appropriations from all sources of revenue other than the federal government that could be appropriated within the limit established by that subsection shall be the same as the level of appropriations for the current fiscal biennium.

Sec. 316.006. LIMIT ON BUDGET RECOMMENDATIONS. Unless authorized by majority vote of the members of the board from each house, the Legislative Budget Board budget recommendations:

(1) relating to the proposed appropriations from [øf] state tax revenues not dedicated by the constitution may not exceed the limit on

appropriations from those sources adopted by the committee under Section 316.005; and

(2) relating to the proposed consolidated general revenue appropriations may not exceed the limit on appropriations from those sources adopted by the committee under Section 316.005.

SECTION 2. Section 316.007(a), Government Code, is amended to read as follows:

(a) The Legislative Budget Board shall include in its budget recommendations:

(1) the proposed limit of appropriations from state tax revenues not dedicated by the constitution; and

(2) the proposed limit on consolidated general revenue appropriations.

SECTION 3. Section 316.008(a), Government Code, is amended to read as follows:

(a) Unless the legislature adopts a resolution under Section 22, Article VIII, [~~Section 22(b), of the~~] Texas Constitution, raising the proposed limit on appropriations from state tax revenues not dedicated by the constitution, the proposed limit is binding on the legislature with respect to all appropriations for the next fiscal biennium made from those [state tax] revenues [not dedicated by the constitution]. The proposed limit on consolidated general revenue appropriations is binding on the legislature with respect to all appropriations for the next fiscal biennium made from those sources unless the legislature adopts a resolution raising the proposed limit that is approved by a record vote of three-fifths of the members of each house of the legislature. The resolution must find that an emergency exists, identify the nature of the emergency, and specify the amount authorized. The excess authorized under this subsection may not exceed the amount specified in the resolution.

No equivalent provision.

appropriations from those sources adopted by the committee under Section 316.005; and

(2) relating to the proposed appropriations from all sources of revenue other than the federal government may not exceed the limit on appropriations from those sources adopted by the committee under Section 316.005.

SECTION 2. Section 316.007(a), Government Code, is amended to read as follows:

(a) The Legislative Budget Board shall include in its budget recommendations:

(1) the proposed limit of appropriations from state tax revenues not dedicated by the constitution; and

(2) the proposed limit of appropriations from all sources of revenue other than the federal government.

SECTION 3. Section 316.008(a), Government Code, is amended to read as follows:

(a) Unless the legislature adopts a resolution under Section 22, Article VIII, [~~Section 22(b), of the~~] Texas Constitution, raising the proposed limit on appropriations from state tax revenues not dedicated by the constitution, the proposed limit is binding on the legislature with respect to all appropriations for the next fiscal biennium made from those [state tax] revenues [not dedicated by the constitution]. The proposed limit on appropriations from all sources of revenue other than the federal government is binding on the legislature with respect to all appropriations for the next fiscal biennium made from those sources unless the legislature adopts a resolution raising the proposed limit that is approved by a record vote of three-fifths of the members of each house of the legislature. The resolution must find that an emergency exists, identify the nature of the emergency, and specify the amount authorized. The excess amount authorized under this subsection may not exceed the amount specified in the resolution.

SECTION 4. Chapter 316, Government Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. APPROPRIATION OF

CONSTITUTIONALLY DEDICATED
REVENUE

Sec. 316.151. LEGISLATIVE INTENT. It is the intent of the legislature that, to the extent practicable under Section 316.001 and other law, all revenue dedicated by the Texas Constitution for a particular purpose be appropriated in each state fiscal biennium for that purpose.

SECTION 4. The changes in law made by this Act apply only in relation to appropriations made for the state fiscal biennium beginning September 1, 2019, and subsequent state fiscal bienniums. Appropriations for the state fiscal biennium beginning September 1, 2017, are governed by Sections 316.001, 316.002, 316.006, 316.007, and 316.008, Government Code, as those sections existed on December 1, 2016, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect December 1, 2017.

SECTION 5. The changes in law made by this Act to Sections 316.001, 316.002, 316.006, 316.007, and 316.008, Government Code, apply only in relation to appropriations made for the state fiscal biennium beginning September 1, 2019, and subsequent state fiscal bienniums. Appropriations for the state fiscal biennium beginning September 1, 2017, are governed by Sections 316.001, 316.002, 316.006, 316.007, and 316.008, Government Code, as those sections existed on July 1, 2017, and the former law is continued in effect for that purpose.

SECTION 6. Same as introduced version.