

## **BILL ANALYSIS**

Senate Research Center  
83R28929 JJT-D

C.S.H.B. 7  
By: Darby et al. (Williams)  
Finance  
5/17/2013  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

For more than 20 years, certain unspent dedicated revenue in the general revenue fund has counted toward overall budget certification. There is concern that these amounts have grown substantially during that time, and there are additional concerns regarding allocations from the system benefit fund. C.S.H.B. 7 seeks to address the amounts, availability, and use of certain statutorily dedicated revenue and accounts and to reduce or affect the amounts or rates of certain statutorily dedicated fees and assessments.

C.S.H.B. 7 amends current law relating to the amounts, availability, and use of certain statutorily dedicated revenue and accounts, reduces or affects the amounts or rates of certain statutorily dedicated fees and assessments, and imposes certain court costs.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Railroad Commission of Texas in SECTION 12 (Section 81.0681, Natural Resources Code) of this bill.

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 16 (Section 39.9039, Utilities Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 322, Government Code, by adding Section 322.024, as follows:

Sec. 322.024. REDUCTION OF RELIANCE ON AVAILABLE DEDICATED REVENUE FOR BUDGET CERTIFICATION. (a) Defines "available dedicated revenue" in this section.

(b) Requires the Legislative Budget Board (LBB) to:

- (1) develop and implement a process to review new legislative enactments that create dedicated revenue and the appropriation and accumulation of dedicated revenue and available dedicated revenue;
- (2) develop and implement tools to evaluate the use of available dedicated revenue for state government financing and budgeting; and
- (3) develop specific and detailed recommendations on actions the legislature is authorized to reasonably take to reduce state government's reliance on available dedicated revenue for the purposes of certification under Section 403.121 (Contents of Estimate) as authorized by Section 403.095 (Use of Dedicated Revenue).

(c) Requires LBB to incorporate into LBB's budget recommendations appropriate measures to reduce state government's reliance on available dedicated revenue for the purposes of certification under Section 403.121 as authorized by Section 403.095 and to include with the budget recommendations plans for further reducing state government's reliance on available dedicated revenue for those purposes for the succeeding six years.

(d) Requires LBB to consult the comptroller of public accounts of the State of Texas (comptroller) as necessary to accomplish the objectives of Subsections (b) and (c).

SECTION 2. Amends Subchapter F, Chapter 403, Government Code, by adding Section 403.0956, as follows:

Sec. 403.0956. REALLOCATION OF INTEREST ACCRUED ON CERTAIN DEDICATED REVENUE. Provides that notwithstanding any other law, all interest or other earnings that accrue on all revenue held in an account in the general revenue fund any part of which Section 403.095 makes available for certification under Section 403.121 are available for any general governmental purpose, and requires the comptroller to deposit the interest and earnings to the credit of the general revenue fund. Provides that this section does not apply to:

- (1) interest or earnings on revenue deposited in accordance with Section 51.008 (Certain Receipts To Be Deposited in State Treasury), Education Code; or
- (2) an account that accrues interest or other earnings on deposits of state or federal money the diversion of which is specifically excluded by federal law.

SECTION 3. Amends Sections 361.013(a) and (f), Health and Safety Code, as follows:

(a) Provides that the fee that Texas Natural Resource Conservation Commission (TNRCC) charges on all solid waste that is disposed of within this state is 94 cents per ton, rather than \$1.25 per ton, received for disposal at a municipal solid waste landfill if the solid waste is measured by weight. Provides that if the solid waste is measured by volume, the fee for compacted solid waste is 30 cents per cubic yard and the fee for uncompacted solid waste is 19 cents per cubic yard received for disposal at a municipal solid waste landfill, rather than providing that if the solid waste is measured by volume, the fee for compacted solid waste is 40 cents per cubic yard or, for uncompacted solid waste is 25 cents per cubic yard received for disposal at a municipal solid waste landfill.

(f) Prohibits TNRCC from charging a fee under Subsection (a) for source separated materials that are processed at a composting and mulch processing facility, including a composting and mulch processing facility located at a permitted landfill site, rather than prohibiting TNRCC from charging a fee under Subsection (a) for source separated yard waste materials that are composted at a composting facility, including a composting facility located at a permitted landfill site. Requires TNRCC to credit any fee payment due under Subsection (a) for any material received and processed to compost or mulch product at the facility, rather than for any material received and converted to compost or product for composting through a composting process. Provides that any compost or mulch product that is produced at a composting and mulch processing facility that is used in the operation of the facility or is disposed of in a landfill, rather than any compost or product for composting that is not used as compost and is deposited in a landfill, is not exempt from the fee.

SECTION 4. Amends Sections 361.014(a) and (b), Health and Safety Code, as follows:

(a) Provides that 66.7 percent of the revenue received by TNRCC and deposited in the state treasury to the credit of TNRCC is dedicated to TNRCC's municipal solid waste permitting programs, enforcement programs, and site remediation programs, and to pay for activities that will enhance the state's solid waste management program. Requires

TNRCC to issue a biennial report to the legislature describing in detail how the money was spent. Requires that the activities to enhance the state's solid waste management program include certain activities. Deletes existing text providing that half of the revenue is dedicated to TNRCC's municipal solid waste permitting and enforcement programs and related support activities and to pay for activities that will enhance the state's solid waste management program, including certain activities.

(b) Provides that of the revenue received by TNRCC under Section 361.013 (Solid Waste Disposal and Transportation Fees), 33.3 percent, rather than half of the revenue, is dedicated to local and regional solid waste projects consistent with regional plans approved by TNRCC in accordance with this chapter (Solid Waste Disposal Act) and to update and maintain those plans.

SECTION 5. Amends Section 361.133, Health and Safety Code, by adding Subsection (c-1), as follows:

(c-1) Authorizes that money in the account attributable to fees imposed under Section 361.138 (Fee on the Sale of Batteries), notwithstanding Subsection (c) (relating to authorizing TNRCC to use the money collected and deposited to the credit of the account under this section, including interest credited under Subsection (b)(4), only for certain purposes), be used for environmental remediation at the site of a closed battery recycling facility located in the municipal boundaries of a municipality if the municipality submits to TNRCC a voluntary compliance plan for the site and is paying or has paid for part of the costs of the environmental remediation of the site. Provides that this subsection expires September 30, 2014.

SECTION 6. Amends Section 771.0711(c), Health and Safety Code, to authorize that money collected under Subsection (b) be used only for services related to 9-1-1 services, including automatic number identification and automatic location information services, or as authorized by Section 771.079(c).

SECTION 7. Amends Section 771.079, Health and Safety Code, by amending Subsection (c) and adding Subsection (c-1), as follows:

(c) Authorizes money in the account, except as provided by Subsection (c-1), to be appropriated only to TNRCC for planning, development, provision, or enhancement of the effectiveness of 9-1-1 service or for contracts with regional planning commissions for 9-1-1 service, including for the purposes of:

- (1) maintaining 9-1-1 service levels while providing for a transition to a system capable of addressing newer technologies and capable of addressing other needs;
- (2) planning and deploying statewide, regional, and local emergency network systems; and
- (3) updating geospatial mapping technologies.

(c-1) Authorizes the legislature to appropriate money from the account to provide assistance to volunteer fire departments under Subchapter G (Rural Volunteer Fire Department Assistance Program), Chapter 614 (Peace Officers and Fire Fighters), Government Code, only if:

- (1) the purposes described by Subsection (c) have been accomplished or are fully funded for the fiscal period for which an appropriation under this subsection is made; and
- (2) all other sources of revenue dedicated for the purposes of providing assistance to volunteer fire departments under Subchapter G, Chapter 614, Government Code, are obligated for the fiscal period for which an appropriation under this subsection is made.

SECTION 8. Amends Section 780.003(a), Health and Safety Code, as follows:

(a) Authorizes money in the designated trauma facility and emergency medical services account to be appropriated only to:

(1) the Department of State Health Services for the purposes described by Section 780.004 (Payments From the Account); or

(2) the Texas Higher Education Coordinating Board for graduate-level medical education programs or nursing education programs.

SECTION 9. Amends Section 2007.002, Insurance Code, as follows:

Sec. 2007.002. ASSESSMENT. Requires the comptroller to assess against all insurers to which this chapter (Assessment For Rural Fire Protection) applies amounts for each state fiscal year necessary, as determined by the commissioner of insurance, to collect a combined total equal to the lesser of the total amount that the General Appropriations Act appropriates from the volunteer fire department assistance fund account in the general revenue fund for that state fiscal year and \$30 million. Deletes existing text requiring the comptroller to assess against all insurers to which this chapter applies a combined total of \$30 million for each 12-month period.

SECTION 10. Amends Section 81.067(c), Natural Resources Code, to provide that the oil and gas regulation and cleanup fund consists of, in addition to other fees, costs, expenses, and contributions, fees collected under Section 91.0115.

SECTION 11. Amends Section 81.068, Natural Resources Code, as follows:

Sec. 81.068. New heading: PURPOSES OF OIL AND GAS REGULATION AND CLEANUP FUND. Authorizes money in the oil and gas regulation and cleanup fund to be used by the Railroad Commission of Texas (railroad commission) or its employees or agents for any purpose related to the regulation of oil and gas development, including oil and gas monitoring and inspections, oil and gas remediation, and oil and gas well plugging, the study and evaluation of electronic access to geologic data and surface casing depths necessary to protect usable groundwater in this state, alternative fuels programs under Section 81.0681, public information and services related to those activities, and administrative costs and state benefits for personnel involved in those activities.

SECTION 12. Amends Subchapter C, Chapter 81, Natural Resources Code, by adding Section 81.0681, as follows:

Sec. 81.0681. ALTERNATIVE FUELS PROGRAMS. (a) Authorizes the railroad commission to adopt all necessary rules relating to activities regarding the use of alternative fuels that are or have the potential to be effective in improving the air quality, energy security, or economy of this state.

(b) Authorizes the railroad commission to use the oil and gas regulation and cleanup fund to pay for activities relating to the use of alternative fuels, including direct and indirect costs relating to:

(1) researching all possible uses of liquefied petroleum gas and natural gas as alternative fuels;

(2) researching, developing, and implementing marketing, advertising, and informational programs relating to alternative fuels to make alternative fuels more understandable and readily available to consumers;

(3) developing and implementing conservation and distribution plans to minimize the frequency and severity of disruptions in the supply of alternative fuels;

(4) developing a public information plan that will provide advisory services relating to alternative fuels to consumers;

(5) developing voluntary participation plans to promote the use of alternative fuels by federal, state, and local agencies; and

(6) other functions the railroad commission determines are necessary to add a program established by the railroad commission for the purpose of promoting the use of liquefied petroleum gas, natural gas, or other alternative fuels.

SECTION 13. Amends Section 91.0115, Natural Resources Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Deletes existing text authorizing that money collected under this subsection be used to study and evaluate electronic access to geologic data and surface casing depths under Section 91.020 (Electronic Geologic Data).

(d) Requires that the fees collected under this section be deposited in the oil and gas regulation and cleanup fund.

SECTION 14. Amends Section 151.801(c-1), Tax Code, as follows:

(c-1) Prohibits the comptroller, except as provided by this subsection, from crediting to the Parks and Wildlife Department (TPWD) or the Texas Historical Commission (THC) any amounts under this section that are in excess of the amounts appropriated to TPWD or THC for that biennium, rather than prohibiting the comptroller from crediting to TPWD or THC any amounts under this section that are in excess of the amounts appropriated to TPWD or THC for that biennium, less any other amounts to which TPWD or THC is entitled. Requires the comptroller, in addition to amounts appropriated to TPWD from the proceeds described by Subsection (c), to transfer to appropriate department accounts amounts from those proceeds sufficient to fund the state contributions for employee benefits of TPWD employees whose salaries or wages are paid from TPWD accounts receiving the transfers.

SECTION 15. Amends Subchapter G, Chapter 504, Transportation Code, by adding Section 504.6012, as follows:

Sec. 504.6012. ELIMINATION OF DEDICATED REVENUE ACCOUNTS; REVENUES IN TRUST. (a) Requires the comptroller, notwithstanding any other provision of this subchapter, not later than September 30, 2013, to eliminate all dedicated accounts established for specialty license plates under this subchapter and to set aside the balances of those dedicated accounts so that the balances may be appropriated only for the purposes intended as provided by the dedications.

(b) Requires that the portion of a fee payable under this subchapter that is designated for deposit to a dedicated account, on and after September 1, 2013, be paid instead to the credit of an account in a trust fund created by the comptroller outside the general revenue fund. Requires the comptroller to administer the trust fund and accounts and to allocate the corpus and earnings on each account only in accordance with the dedications of the revenue deposited to the trust fund accounts.

SECTION 16. Amends Subchapter Z, Chapter 39, Utilities Code, by adding Section 39.9039, as follows:

Sec. 39.9039. DISBURSEMENT OF SYSTEM BENEFIT FUND BALANCE. (a) Authorizes money in the system benefit fund to be appropriated for the purpose of returning the money to payers of the fee imposed under Section 39.903 (System Benefit Fund) as provided by this section.

(b) Requires PUC by rule, after consultation with the comptroller, to establish a system for transmission and distribution utilities, retail electric providers, municipally owned utilities, or electric cooperatives to credit retail electric customers' bills in amounts necessary to expend in accordance with this section and as fully as practicable any portion of the system benefit fund appropriated to the commission for that purpose.

(c) Requires PUC to direct the comptroller to disburse as much as practicable of the appropriated money described by Subsection (b) as soon as practicable in one or more installments to transmission and distribution utilities, retail electric providers, municipally owned utilities, or electric cooperatives under the system established under Subsection (b) so that each entity receives an amount necessary to give each retail electric customer that has customer choice an equal credit so that the total of the credits equals the total amount disbursed.

(d) Requires PUC by rule to require each entity receiving disbursements under this section to ensure that retail electric customers that have customer choice, through one or more billings for electric services, each receive equal credits that, in the aggregate, equal the amount of the disbursements received under this section, less a reasonable amount to reimburse the entity for administering this section as established by PUC in an amount not to exceed two percent of the disbursements. Requires PUC by rule to ensure that the customer is provided, with the customer's bill, notice that the refund of the system benefit fund fee is "provided by the Texas Legislature."

(e) Requires the comptroller and PUC to jointly issue a report on the progress made in developing and implementing the system required to be established by Subsection (b), and in disbursing the amount appropriated from the system benefit fund through that system, not later than December 15 of each fiscal year for which the money is appropriated. Requires that the report issued under this subsection be presented in writing to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees of the senate and house of representatives having primary jurisdiction over electric utilities.

SECTION 17. Amends Subchapter I, Chapter 26, Water Code, by adding Section 26.35745, as follows:

Sec. 26.35745. REPORT ON CORRECTIVE ACTIONS FOR PETROLEUM CONTAMINATED SITES AND FEES NECESSARY TO CONCLUDE PROGRAM.

(a) Requires TNRCC to annually prepare a report regarding the status of corrective actions for sites reported to TNRCC under this subchapter as having had a release needing corrective action. Requires TNRCC to issue the report to the legislature on or before November 1 of each year.

(b) Requires that the report, regarding sites reported to TNRCC under this subchapter as having had a release needing corrective action on or before December 22, 1998, and that remain in TNRCC's PST State-Lead Program on September 1, 2013, include the total number of sites, the total number of sites for which corrective action is ongoing, the total number of sites monitored, the projected costs of the corrective actions, the projected costs of monitoring, a projected timeline for issuing closure letters under this subchapter for all of the sites, and for each site, the corrective action activities proposed and completed during the preceding state fiscal year.

(c) Requires that the report, regarding sites reported to TNRCC under this subchapter as having had a release needing corrective action after December 22, 1998, for which TNRCC has elected to assume responsibility for undertaking corrective action under this subchapter, include the current status of each site, the costs associated with the corrective action activities performed during the preceding state fiscal year for the sites, amounts recovered under Section 26.355 (Recovery of Costs) related to the sites, and enforcement actions taken against owners and operators related to those sites.

(d) Requires TNRCC to investigate the amount of fees that would be necessary to cover the costs necessary to conclude the programs and activities under this subchapter before September 1, 2021. Requires TNRCC to include in the annual report under this section the conclusions of the investigation and TNRCC's recommendations regarding the fees and programs and activities.

(e) Provides that this section expires September 1, 2021.

SECTION 18. Appropriates the balance of the system benefit fund, to the extent that balance is not otherwise appropriated by an Act of the 82nd Legislature or by an Act of the 83rd Legislature, Regular Session, 2013, to the comptroller for the period beginning on the effective date of this Act and ending August 31, 2014, for the purpose of returning the money to payers of the fee imposed under Section 39.903, Utilities Code, as provided by Section 39.9039, Utilities Code, as added by this Act.

SECTION 19. Effective date: upon passage or September 1, 2013.