

- SUBJECT:** Creating board of legislators to administer certain federal funds
- COMMITTEE:** Appropriations — committee substitute recommended
- VOTE:** 22 ayes — Bonnen, M. González, Ashby, C. Bell, Capriglione, Dean, Dominguez, Gates, Holland, Howard, A. Johnson, Jarvis Johnson, Morrison, Raney, Rose, Stucky, E. Thompson, Toth, VanDeaver, Walle, Wilson, Wu
- 1 nay — Schaefer
- 4 absent — Julie Johnson, Minjarez, Sherman, Zwiener
- WITNESSES:** For — Vance Ginn, Texas Public Policy Foundation; (*Registered, but did not testify*: Cyrus Reed, Lone Star Chapter Sierra Club)
- Against — (*Registered, but did not testify*: Monty Exter, ATPE; Chloe Latham Sikes, Intercultural Development Research Association; Dena Donaldson, Texas AFT; Pamela McPeters, Texas Classroom Teachers Association; Emma Shaw, Texas Legislative Education Equity Coalition; Ana Gonzalez, Workers Defense Action Fund; Julie Campbell)
- On — Christy Rome, Texas School Coalition
- BACKGROUND:** Concerns have been raised about the level of legislative oversight and involvement in the handling of federal funds when those funds are available outside of the regular legislative process.
- DIGEST:** CSHB 2021 would create the board on administration of federal funds to make proposals regarding the handling and spending of certain federal funds made available to the state outside of a regular or special legislative session. The bill also would establish a process for the board to make proposals dealing with such funds and for the governor to accept or reject the proposals.
- The bill would state that the purpose of its provisions would be to exercise

the Legislature's constitutional authority to safeguard the power of the purse and protect public money by providing a mechanism for the appropriate allocation and transfer of certain federal money.

The bill would apply to federal contract or grant money made available to Texas as a result of the public health emergency declared by the U.S. secretary of health and human services on January 31, 2020, including money made available under:

- the Coronavirus Aid, Relief, and Economic Security (CARES) Act;
- the Coronavirus Response and Relief Supplemental Appropriations Act; or
- the American Rescue Plan Act of 2021.

The bill also would apply to any additional emergency federal funds appropriated to the state in federal fiscal years 2022-23 and future federal funds that addressed certain investments in infrastructure, capital projects, and economic and workforce development.

The bill would not apply to:

- current and future allocations made to the state under the Congressional Budget and Impoundment Control Act of 1974; or
- a federal grant of \$10 million or less in total allocation from a single grant source in a single award.

Composition, meetings of the board. The board would be composed of:

- the lieutenant governor;
- the speaker of the House of Representatives;
- the chair and vice chair of the standing committees of the House and Senate with jurisdiction over appropriations;
- two senators, appointed by the lieutenant governor; and
- two members of the House, appointed by the speaker of the House.

The lieutenant governor and the speaker of the House would be the joint chairs of the board. The bill would establish that a quorum to transact business would have to be majority of the board members who were members of the House plus a majority of the board members who were senators.

The board would be required to meet as often as necessary to perform its duties. The bill would establish where the board would meet and when it could meet outside of Austin and would authorize meeting by videoconference. A meeting could be held at any time at the request of either of the joint chairs of the board.

The board would have to provide notice of each meeting according to the rules of both the House and the Senate for providing notice of a legislative committee hearing and by mail to each member of the Legislature at least seven days before the date of the meeting. CSHB 2021 would establish what would have to be in the meeting notice, including a description of any proposal that would be considered and whether the board intended to hold a public hearing on a proposal at the meeting.

Authority for proposals. The board would have authority to propose to:

- accept or reject, allocate to state agencies, and establish uses for money provided by the federal government and appropriated by the Legislature; or
- reject money provided by the federal government that had been appropriated to a state agency contingent on the receipt of the money from the federal government, or accept that money and either transfer the spending authority or distribute the money to a different state agency or instruct the state agency to use the money for a different or additional purpose.

The board could not make a proposal during a regular or special session of the Legislature or a proposal for an appropriation made for a period during a state fiscal year that ended before the date the proposal was made.

The provisions of the bill would prevail if there were a conflict between the bill's provisions relating to a proposal to accept or reject federal money and any other state law.

A proposal would have to provide sufficient detail to allow for a public hearing on the proposal. The board would have to hold a public hearing on each proposal after the proposal was published in the Texas Register.

Adoption of proposal. Within 10 days of holding a public hearing on a proposal, the board could adopt, amend, amend and adopt, or reject the proposal.

An amendment to a proposal could change:

- the proposed amount of money accepted, rejected, allocated, transferred, or used for a specific purpose;
- the proposed purpose for the money;
- the proposed period for which the money could be expended, obligated, or distributed;
- the source or recipient of a proposed transfer or allocation; or
- a proposed time of distribution or availability of the money.

The bill would prohibit the board from adopting a proposal:

- expressly postponing the time set by law that an appropriation was distributed or otherwise made available to a state agency for a period that exceeded 180 days;
- reducing or eliminating an appropriation for the salary of an elected state official or a member of a board or commission appointed by the governor; or
- reducing or eliminating an appropriation to a state agency that received appropriations under a provision of a general appropriations act that made an appropriation to the legislative branch.

The board could adopt a proposal only through an affirmative vote of the

majority of the members who were members of the House plus a majority of the members who were senators.

Approval by the governor. After the board adopted a proposal it would have to submit the proposal to the governor. The governor would have to approve or reject the proposal within 10 days, and if neither action was taken, it would be considered approved. A proposal adopted by the board would take effect only if approved by the governor under this section.

If the governor approved a proposal, the board would have to notify the comptroller and the affected state agencies of the proposal and file a copy of the approved proposal with the secretary of state for publication in the Texas Register.

Expiration of proposal. A proposal approved by the governor would expire on the earlier of the date of the next regular or special legislative session or the last day of the state fiscal year to which the proposal applied. As an exception to these expiration dates, a proposal could specify an earlier or later expiration date as long as it was not later than the last day of the state fiscal biennium that included each state fiscal year to which the proposal applied.

An unexpired approved proposal could be superseded by subsequent action of the board, law, or adoption of a constitutional amendment.

As soon as practicable after the bill's effective date, the lieutenant governor and the speaker of the House would have to make appointments to the board.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.