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Writing the state budget

84th Legislature

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Writing a two-year budget is one of the main tasks of the Texas Legislature. During the 2015 regular session, the 84th Legislature will consider a budget for fiscal 2016-17, the two-year period ("biennium") from September 1, 2015, through August 31, 2017. Most states and the federal government operate on a one-year rather than a two-year budget cycle.

Budget cycle in brief

Since the early 1990s, the state has developed biennial budgets through a form of performance budgeting based on strategic planning. The governor and the Legislative Budget Board (LBB) initiate the process by outlining the state's mission and goals. Each state agency then develops strategies for accomplishing its goals and submits a budget request to implement its strategic plan. The Legislature determines the agency's biennial funding after considering performance measures to gauge the agency's success in meeting its goals.

In August, Speaker Straus directed the House Appropriations Committee to examine the responsibilities, costs, and operating practices at 11 state agencies as part of a new process called Strategic Fiscal Review. As part of the review, the LBB has been collecting detailed data on each agency's programs and examining alternative program funding, the relationship of programs to each agency's mission and statutes, each agency's implementation of directives, and the use of constitutional and general revenue dedicated funds. The agencies subject to the review represent all budget articles and received about 21 percent of the all-funds appropriations in fiscal 2014-15, according to the LBB. During the budget writing process, the LBB will report on its reviews.

Before each regular session begins, the comptroller of public accounts issues a constitutionally required estimate of revenue available for spending. On January 12, 2015, the comptroller estimated that the state will have about $113 billion for general-purpose spending for fiscal

2016-17. The comptroller projected the state will have an ending balance of $7.5 billion from fiscal 2014-15. Added to this are collections from taxes, fees, and other income, estimated at $110.4 billion, of which $2.5 billion will be transferred to the Economic Stabilization Fund ("rainy day fund") and $2.5 billion to the State Highway Fund. See the comptroller's *Biennial Revenue Estimate, 2016-17* for a detailed description of the revenue estimates and projected economic outlook.

State agencies were instructed to submit baseline spending requests for general revenue and general revenue dedicated funds that were no greater than funds expended in fiscal 2014 and budgeted for fiscal 2015. Agencies also had to submit plans showing potential general revenue and general revenue dedicated spending cuts of 10 percent, in two five-percent increments, as part of their fiscal 2016-17 requests. Funds for certain programs were exempted from these baseline requirements (see "*Pre-session budget instructions and hearings*," page 3).

Each session, the LBB publishes a baseline bill, which includes agency-by-agency figures for funds spent or budgeted in previous years, the budget amount requested by each agency, the amount recommended in the baseline bill, and proposed methods of financing. These proposals serve as the starting point for the Legislature's budget deliberations. The January 2015 LBB baseline recommendations for the House and Senate general appropriations bills for fiscal 2016-17 assumed spending would remain within the comptroller's revenue estimate and that the rainy day fund would not be used. The House Appropriations Committee and the Senate Finance Committee each will hold hearings at which agencies may justify their spending priorities and others may express their views.

Appropriations bills must comply with certain constitutional and statutory restrictions on spending (see "*Restrictions on spending*," page 8). For an adopted appropriations bill to be valid, the comptroller must certify that the state will have enough revenue to cover the approved spending.

The governor may veto any appropriations bill or specific spending provisions, called line items, within the general appropriations bill. If the Legislature still is in session, it may override the governor's line-item veto by a two-thirds majority of members present in each house.

Between sessions, the governor and the LBB may adjust appropriations under certain circumstances by using budget execution authority. The LBB and the Governor's Office monitor budget implementation. Other agencies, such as the State Auditor's Office, the Sunset Advisory Commission, and legislative committees, also may review the financial performance, effectiveness, and efficiency of state agencies or programs.

General appropriations bill

The House and the Senate general appropriations bills for fiscal 2016-17, HB 1 and SB 2, are the starting points for the Legislature to prescribe agency spending and to alter state accounting, performance measures, and other budgetary provisions. The House is expected to go first this session, so the final version of the bill will be HB 1.

LBB budget estimates. In January 2015, the LBB issued baseline budget estimates for the House and Senate budget bills (see the House and Senate versions of LBB's *Summary of Legislative Budget Estimates*, January 2015).

Budget format. Appropriations bills may deal only with spending. Art. 3, sec. 35 of the Texas Constitution limits bills to one subject, except for general appropriations bills, which may include various subjects and accounts. This provision has been interpreted as prohibiting the changing of substantive law through an appropriations bill, which may deal only with spending. House Rule 8, sec. 4 reflects this interpretation and explicitly prohibits changes in general law in an appropriations bill.

Articles. For fiscal 2016-17, LBB recommendations for the general appropriations act retain the basic structure of previous budget acts, with 10 articles for agency budgets. Articles 1 through 8 cover state agency budgets by functional category. For example, Article 3 covers agencies of public and higher education. Article 9 contains general provisions and directions to state agencies, the state salary classification schedule, and other items. Article 10 contains appropriations for the Legislature.

The appropriations bills voted out of committee in previous sessions generally have contained two additional articles: a savings clause stating that if any part of the act were held invalid, the remaining portions of the act would not be affected and an emergency clause stating that the bill would take effect upon enactment. Appropriations bills in some previous sessions have included an article listing some agencies' exceptional items or "wish lists."

Listed at the end of each article are summary appropriations for employee retirement contributions, group health benefits, Social Security and benefit replacement pay, and lease payments. Also shown are recapitulations ("recaps") of total spending by article and type of fund.

Agency budget configuration. Each agency's budget first describes the method of financing or mix of revenue sources that finances the agency's appropriation.

This information is followed by the number of full-time equivalent (FTE) employee positions authorized by the Legislature and a schedule of exempt positions that specifies salaries of certain employees not covered by the state employee salary classification schedule

Appropriations for each agency's budget are described in components that link funding to the agency's goals and strategies.

Agency goals are general statements of the agency's purposes. They provide a framework for expressing specific strategies, which state how an agency intends to achieve its goals and objectives. Each goal also has specific outcome measures that assess the impact of the agency's actions on the public.

Strategies, sometimes called line items, are the bases for appropriating money to an agency. An appropriation for a single strategy may fund more than one division or program in the agency. The agency may need more than one strategy to accomplish each objective. Strategies also are linked to specific output and efficiency measures. Output measures gauge the quantity of a service provided or a good produced. Efficiency measures gauge the cost or time taken per unit of output.

The examples on page 4 illustrate the format for two portions of the fiscal 2016-17 appropriation for the Commission on the Arts in HB 1 by Otto as introduced. Figure 1 expresses one set of goals and strategies in terms of funds appropriated, and Figure 2 illustrates the performance measure targets for the same set of objectives.

A *rider* sets conditions on an appropriation. Some riders express instructions specific to a particular agency's operations. Riders also are used to describe an agency's capital budget, listing all capital expenditures and their methods of finance, or to break down agency funding by goals and strategies and by performance measures.

Some riders contain *contingent appropriations*, which appropriate money only if the Legislature enacts other specific bills. These riders can reflect pending legislation that would authorize particular programs or establish new state agencies. For example, provisions for agencies going through Sunset review usually include a rider making all appropriations contingent on the enactment of Sunset legislation to continue the agency.

Appropriations for agencies' *administrative functions* can be found in several areas in the budget, including as part of a strategy, as a budget goal, as an item listed separately, or in a rider.

Initial budget development

The Governor's Office and the LBB work jointly to instruct state agencies on strategic planning (Government Code, ch. 2056), appropriations, and pre-session budget hearings.

Pre-session budget instructions and hearings. In June 2014, the directors or the LBB and the Governor's Office of Budget, Planning, and Policy instructed state agencies to submit fiscal 2016-17 baseline spending requests for general revenue and general revenue dedicated funds that were no greater than funds expended in fiscal 2014 and budgeted for fiscal 2015. Agencies also had to submit plans showing potential general revenue and general revenue dedicated spending cuts of 10 percent, in two 5 percent increments, as part of their fiscal 2016-17 requests. These budget requests are known as Legislative Appropriations Requests (LARs).

Funds for certain programs were exempted from these baseline requirements, including amounts necessary to maintain funding for the Foundation School Program and to maintain current benefits and eligibility in Medicaid, the Children's Health Insurance Program, the foster care program, the adoption subsidies program, and the permanency care assistance program, which provides financial support under certain circumstances to relatives and others who become foster parents.

State law requires the governor to hold budget hearings with an opportunity for testimony by agencies and the public (Government Code, secs. 401.043 and 401.044). Such hearings are optional for the LBB (Government Code, sec. 322.010). The governor and the LBB may cooperate, exchange information, and hold joint public budget hearings. The LBB and the governor's budget staff held joint hearings in fall of 2014 for agencies to explain their requests, provide supporting data, and answer questions concerning the LARs.

Growth rate adopted. Under the Texas constitutional spending cap, state spending not constitutionally dedicated to particular purposes cannot

Figure 1

COMMISSION ON THE ARTS

	For the Years Ending August 31, 2016	August 31, 2017
Items of Appropriation:		
A. Goal: ARTS AND CULTURAL GRANTS		
Provide and Support Arts and Cultural Grants.		
A.1.1. Strategy: ARTS ORGANIZATION GRANTS	$ 3,905,832	$ 3,905,832
A.1.2. Strategy: ARTS EDUCATION GRANTS	$ 1,065,485	$ 1,065,485
A.1.3. Strategy: CULTURAL TOURISM GRANTS	$ 670,000	$ 670,000
A.1.4. Strategy: DIRECT ADMINISTRATION OF GRANTS	$ 539,776	$ 539,776
Total, Goal A: ARTS AND CULTURAL GRANTS	$ 6,181,093	$ 6,181,093

source: HB 1 by Otto as introduced

Figure 2

	2016	2017
Performance Measure Targets:		
A. Goal: ARTS AND CULTURAL GRANTS		
Outcome (Results/Impact):		
Percentage of Grant Dollars Provided to Minority Organizations	12%	12%
Percentage of Grant Dollars to Rural Counties	6%	6%
Percentage of Grants Funded for Arts Education	25%	25%
Number of Artists Compensated for TCA Texas Touring Roster Performances	1,500	1,500
Number of Texas Cities in Which Organizations Received TCA Grants	150	150
Number Served by Arts Respond Projects in Education	1,000,000	1,000,000
Number Served by Arts Respond Projects in Health & Human Services	75,000	75,000
Number Served by Arts Respond Projects in Public Safety & Criminal Justice	100,000	100,000
A.1.3. Strategy: CULTURAL TOURISM GRANTS		
Output (Volume):		
Number of Grants that Promote Cultural Tourism	95	95

source: HB 1 by Otto as introduced

increase from one biennium to the next beyond the rate of growth in statewide personal income adopted by the LBB unless the cap is waived by a majority vote of both houses of the Legislature. On December 1, 2014, the LBB adopted a projected state personal income growth rate of 11.68 percent from fiscal 2014-15 to fiscal 2016-17. Subject to revisions in the revenue forecasts and subsequent appropriations, this limits spending from non-dedicated tax revenue in fiscal 2016-17 to $94.3 billion, up from $84.4 billion in fiscal 2014-15, according to the LBB.

Comptroller reports. Art. 3, sec. 49a of the Constitution requires the comptroller to submit statements before a regular session disclosing the financial condition of the state at the close of the last fiscal period, estimates of the revenues and expenditures for the current fiscal year, and anticipated revenue for the upcoming biennium. A supplemental estimate is required before any special session. The revenue estimate issued in January 2015 projected the 84th Legislature would have $113 billion available for general-purpose spending for the next biennium. This comes from $110.4 billion in general revenue-related collections from taxes, fees, and other income, with $2.5 billion of that going into the rainy day fund, and $2.5 billion into the State Highway Fund. When the estimated ending balance of $7.5 billion from the current biennium is added, the Legislature has $113 billion available.

The comptroller is not bound by the initial revenue estimate and may revise it at any time. The only revenue estimate that applies in determining if the state budget is balanced is the one made when the comptroller certifies the general appropriations bill (see "*Certification*," page 10).

LBB budget submission. Government Code, sec. 322.008 requires the LBB to send copies of an estimated state budget to the governor and each member of the Legislature within the first five days of a regular session. This document, called *Legislative Budget Estimates*, includes agency-by-agency figures for funds spent or budgeted in previous years, the budget amount requested by each agency, the amount recommended by the LBB, and methods of financing. The document indicates the number of FTE positions targeted for each agency and a schedule of salaries for exempt positions. The LBB must submit a budget in the form of a bill within seven days of the beginning of the regular session.

The LBB must submit to the Legislature by the third Tuesday of the regular session a report evaluating the performance and efficiency of agency programs (Government Code, sec. 322.011). Recommendations cited in the LBB's report, *Texas State Government Effectiveness and Efficiency*, often are incorporated into funding proposals.

Governor's budget proposal. Governors submit their own budget proposals under Government Code 401.0445, which vary in the amount of detail they include. If submitting a budget, the governor must do so before giving the State of the State address (Government Code, sec. 401.046) and may prepare a general appropriations bill that must be submitted by the 30th day of the session (Government Code, sec. 316.009).

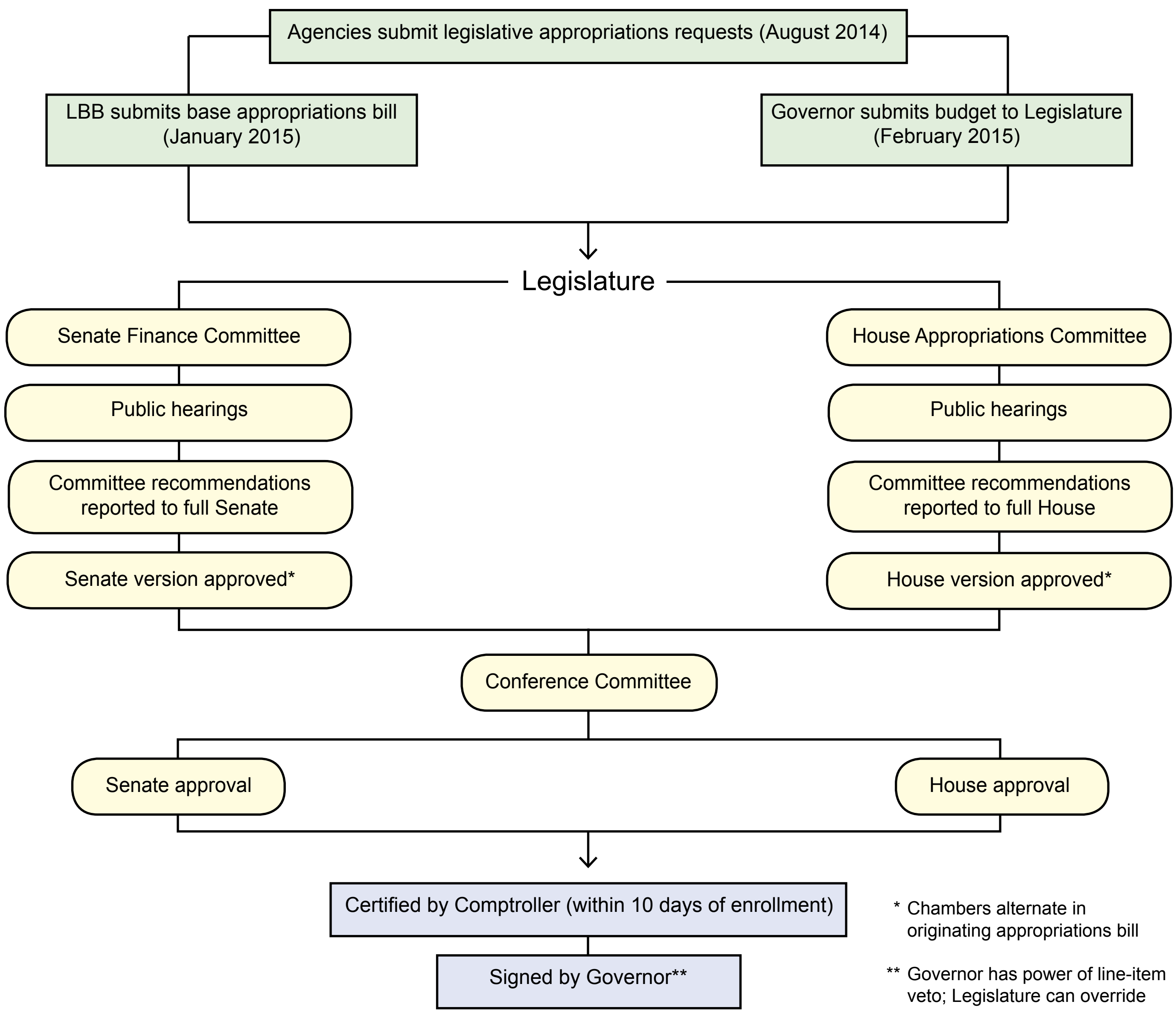
Legislative action

The House and the Senate usually take turns originating the general appropriations bill and chairing the budget conference committee. For the 2015 regular session, the bill is expected to originate in the House. Each house works on the budget and holds hearings simultaneously.

During the 83rd Legislature's 2013 regular session, the Senate Finance Committee reported SB 1 by Williams, the general appropriations bill for fiscal 2014-15, on March 13. After the bill passed the Senate on third reading on March 20, it was received by the House and referred to the House Appropriations Committee, which reported a substitute version on March 21. The House passed the bill as amended on April 4, a conference committee was appointed on April 22, and both houses then adopted the committee report in late May. Gov. Perry signed SB 1 on June 14.

House action. The House Appropriations Committee (HAC) has jurisdiction over appropriations bills. For the 2015 session, the HAC includes a chair, a vice chair, and 25 additional members. Up to one-half of the general HAC membership is determined by seniority and the rest chosen by the speaker, which is the method used for determining the membership of other substantive committees. House Rule 4, sec. 4(b) prohibits the chair of the Appropriations Committee from serving on another substantive committee.

Figure 3 **Overview of the Legislative Appropriations Process**



The chair of the HAC usually appoints standing subcommittees to consider different parts of the budget, such as general government, health and human services, education, criminal justice, and business and economic development. Each subcommittee holds public hearings and makes recommendations on budget proposals for agencies, programs, or funding under its jurisdiction. The full committee then makes final budget decisions during "mark-up" of the bill.

Time constraints. House Rule 8, sec. 21(g) requires the HAC to report the general appropriations bill to the House by the 90th day of the session, which will be April 12 for the 2015 session. The general appropriations bill has priority over other bills that would appropriate money. Under House Rule 8, sec. 21(a), during the first 118 days of the session the speaker may not lay before the House any bill appropriating money unless the general appropriations bill already has been enacted and the comptroller has certified it. If the HAC does not meet its 90th-day reporting deadline, this rule is suspended. The 118th day of the 2013 session is May 10.

House Rule 8, secs. 21(b) and (f) further restrict consideration of specific appropriations bills. To ensure compliance with the constitutional limit on spending from state tax revenue not dedicated by the Constitution, no bill that appropriates such revenue may be considered before final approval of the general appropriations bill, and no bills may be considered that, when added to amounts previously appropriated, would exceed the limit.

Bills reducing taxes or providing payment for legislative expenses, judgments against the state, and emergency matters are not subject to House appropriations restraints (House Rule 8, sec. 21(e)).

Dynamic economic impact statement. Under a provision adopted in 2011, the HAC chair must send the general appropriations bill to the LBB to prepare a dynamic economic impact statement. This statement must include the number of state employees to be affected and the estimated impact on private sector and local government employment resulting from any change the bill makes in state expenditures from the preceding biennium (Rule 4, sec. 34 (a-1)).

Distribution of the bill. A printed copy of the general appropriations bill reported by the HAC must be distributed to each House member at least 168 hours (seven days) before it may be considered on second reading during a regular session. During a special session, the bill must be distributed at least 72 hours in advance (House Rule 8, sec. 14(a-1)). The Calendars Committee must post electronically the calendar on which the general appropriations bill will be considered on second reading at least 144 hours (six days) in advance for that calendar to be eligible for consideration (House Rule 6, sec. 16(a-1)).

Limit on amendments. The House Calendars Committee usually adopts a special rule limiting floor amendments to the appropriations bill to changes that do not affect the "bottom line." The rule usually has required that any amendment adding or increasing an appropriation item must contain an equal or greater reduction in one or more other appropriation items. For a special rule proposed by the Calendars Committee concerning a general appropriations bill to take effect, House members must adopt it by a majority vote. A proposed rule cannot be amended.

Second-reading amendments must be filed at least 72 hours (three days) before the calendar on which the bill appears is eligible for consideration (House Rule 11, sec. 6(h)). The House usually considers numerous floor amendments before approving its version of the general appropriations bill.

Senate action. The Senate Finance Committee develops the Senate budget proposal. Budget hearings historically have occurred before the entire Senate Finance Committee, although in past sessions workgroups have heard testimony on specific areas of the budget.

Unlike in the House, historically Senate action on the general appropriations bill tends to follow the same rules that apply to all other legislation before the Senate. Bills are placed on the daily calendar in the order in which the Senate receives the committee reports. Approval by three-fifths of the members present is required to suspend the regular order and bring the general appropriations bill to floor consideration. Unlike in the House, the Senate Finance Committee version of the budget usually passes the full Senate without floor amendments.

Conference committee action. After the House and the Senate adopt their versions of the general appropriations bill, the speaker appoints five House members and the lieutenant governor appoints five senators to a conference committee to reconcile differences between the bills. The conference committee usually includes the chairs of the House Appropriations and Senate Finance committees and four other members of each committee, although the rules do not restrict who may be chosen.

House Rule 13, sec. 9(b) and Senate Rule 12.04 allow conferees to reconcile only points on which the House and Senate bills differ. They may not alter figures that are identical in both bills. If both bills include a spending item but differ on the amount, the conferees may not set the amount lower than the smaller of the two amounts nor increase it above the larger amount. If an item appears in only one bill, the conferees may include or delete it. If they include it, they may reduce but not increase the amount originally included in the bill.

The conferees may not include an item in the conference committee bill that does not appear in either the House or the Senate bill. However, House Rule 13, sec. 9(b)(5) and Senate Rule 12.04(5) allow the conference committee to add money for purposes or programs authorized by bills that have been passed by at least one house.

The conference committee may seek permission from the House and the Senate to make changes otherwise prohibited by the rules — "outside the bounds" — by means of a resolution specifying the changes. Adoption of the resolution requires a majority vote in each house. The resolution must be provided to members at least 48 hours before being considered in a regular session and 24 hours before in a special session (House Rule 13, sec. 9(f) and Senate Rule 12.08).

House Rule 13, sec. 10(a) requires that the conference committee report on the general appropriations bill be distributed to members at least 24 hours before it may be considered. Senate Rule 12.09(a) requires that the conference committee report be laid out for 48 hours before being considered in a regular session and 24 hours before being considered in a special session.

Restrictions on spending

Lawmakers must adhere to a number of restrictions when approving state spending. These include limits set forth by the Texas Constitution and in state statute and those associated with federal funds.

Constitutional limits. Five major constitutional limits bear on the appropriations process.

Appropriation requirement. Under the Texas Constitution, no money may be drawn from the state treasury unless it has been appropriated by law and no appropriation may be made for longer than two years (Art. 8, sec. 6).

Budget growth limit. The Constitution also caps spending of state tax revenue that is not dedicated by the Constitution to a particular purpose. Under the Texas constitutional spending cap, state spending not constitutionally dedicated to particular purposes cannot increase from one biennium to the next beyond the rate of growth in statewide personal income adopted by the LBB unless the cap is waived by a majority vote of both houses of the Legislature. Examples of revenue streams subject to the spending cap include sales, motor vehicle sales, franchise, and cigarette and tobacco taxes. (Art. 8, sec. 22).

Government Code, ch. 316, subch. A specifies how the LBB adopts the growth rate. On December 1, 2014, the LBB adopted a projected state personal income growth rate of 11.68 percent from fiscal 2014-15 to fiscal 2016-17. Subject to revisions in the revenue forecasts and subsequent appropriations, this limits spending from non-dedicated tax revenue in fiscal 2016-17 to $94.3 billion, up from $84.4 billion in fiscal 2014-15.

The spending cap amount is subject to change with additional appropriations or adjustments for fiscal 2015. According to the LBB, the amount expended and budgeted for fiscal 2014-15 will increase by $193 million, of which $171.2 million will be for Medicaid supplemental costs.

Revenue that the Constitution restricts to a specific purpose is not subject to the constitutional spending limit. Motor-fuels tax revenue dedicated to highways and the 25 percent of oil and natural gas production taxes dedicated to public education are examples of restricted revenue that does not count toward the limit.

Prohibition against deficit spending. The Constitution also limits spending to the amount of revenue the Texas Comptroller of Public Accounts estimates will be available during the two-year budget period (Art. 3, sec. 49a). The comptroller must certify that the state will have enough revenue to pay for the approved spending. Once the comptroller certifies a general appropriations bill, the certification stands, even if the comptroller subsequently determines that revenue will not cover expenditures after all. The Legislature may override the deficit spending prohibition only if at least four-fifths of the members in each house approve.

The state may end a fiscal biennium with an unanticipated deficit, but it must eliminate the deficit in the subsequent budget. Any deficit carried from one biennium to another must be deducted from anticipated revenue when determining how much revenue is available for appropriation and certification in the new biennium (see Attorney General Opinion JM-666, April 1, 1987).

Limits on state debt. The Constitution prohibits state borrowing except to "supply casual deficiencies of revenue" up to $200,000, repel invasion, suppress insurrection, defend the state in war, or for a purpose it specifically authorizes (Art. 3, sec. 49).

The Legislature may not authorize general-obligation or revenue bonds or large lease-purchase agreements designed to be repaid from general revenue if the resulting annual debt service from general revenue would exceed

5 percent of the average amount of general revenue (excluding funds dedicated by the Constitution) during the preceding three fiscal years (Art. 3, sec. 49-j). The limitation does not include bonds that are backed by the full faith and credit of the state and are reasonably expected to be paid from other revenue sources and not draw on general revenue.

At the end of fiscal 2014, debt service on outstanding debt payable from general revenue equaled about 1.2 percent of unrestricted general revenue, according to the Bond Review Board. The total authorized debt service (issued and unissued) equaled 2.7 percent of unrestricted general revenue.

Limit on child welfare spending. The Constitution limits state spending on assistance to needy children and their caretakers to no more than 1 percent of the total state budget (Art. 3, sec. 51-a(b)). Federal matching funds and administrative expenses are not included under this cap, which was about $2 billion for fiscal 2014-15, according to the LBB. The fiscal 2014-15 budget allocated $132.5 million in state spending to grants for Temporary Assistance for Needy Families, about $1.9 billion below the constitutional limit.

Dedicated revenues and funds. Discretion in legislative spending also is restricted by constitutional or statutory dedications that reserve certain revenue sources for special purposes or by state compliance with court orders or federal requirements.

According to the LBB's *Fiscal Size-up: 2014-15 Biennium*, 82.7 percent of the general revenue funds and general revenue dedicated funds appropriated for fiscal 2014-15 is restricted by various means. Of the general revenue and general revenue dedicated funds budgeted in fiscal 2014-15:

- 44.7 percent is restricted by constitutional or statutory dedications;
- 26.6 percent is influenced or directed by federal laws, regulations, and court decisions; and
- 11.3 percent is influenced by funding formulas.

After accounting for these restrictions, 17.2 percent of all general revenue and general revenue dedicated funds in fiscal 2014-15 were available for totally discretionary spending.

General revenue dedicated funds are those funds within the general revenue fund, such as the State Parks Account, reserved for specific purposes by the Texas Constitution or specific statutes. Many of these funds have balances carried over from previous biennia that have been unspent but counted toward budget certification.

In fiscal 2014-15 the general revenue dedicated funds budget increased by $759.1 million from the 2012-13 level, due in large part to an appropriation of $500 million out of the System Benefit Fund for the low-income discount program at the Public Utilities Commission.

The 83rd Legislature in 2013 made a number of changes to general revenue dedicated funds. These include allowing the interest accrued from most general revenue dedicated funds to be used for general purpose spending and reducing various fees associated with dedicated accounts.

In addition to general revenue restrictions, the state's $200.4 billion total appropriation for fiscal 2014-15 included about $68.7 billion in federal fund expenditures. Federal funds generally are granted for specific purposes or with restrictions on how states may spend them.

Rainy day fund. The Economic Stabilization Fund ("rainy day fund") will reach $11.1 billion by the end of fiscal 2017 absent any appropriations from the fund, according to the comptroller's January 2015 *Biennial Revenue Estimate*.

Revenue for the rainy day fund comes almost entirely from oil and natural gas production taxes. In November 2014, voters approved a constitutional amendment that changed how the state allocates this revenue. Previously, the rainy day fund received 75 percent of any oil or natural gas production tax revenue that exceeded the amount collected in fiscal 1987. The newly adopted constitutional amendment requires the comptroller to send one-half of this amount to the State Highway Fund (Fund 6), with the rest continuing to go to the rainy day fund.

The modification is expected to send an estimated $2.5 billion to Fund 6 in fiscal 2016-17, according to the comptroller. The comptroller will reduce or withhold allocations to Fund 6 as necessary to maintain a sufficient balance in the rainy day fund as determined by a committee of lawmakers named by the speaker of the House and the lieutenant governor. For fiscal 2016-17, lawmakers set the sufficient balance for the rainy day fund at $7 billion.

The rainy day fund has grown rapidly in recent years because of increased collections of oil and natural gas production taxes. Transfers of excess natural gas and oil production tax collections to the rainy day fund are projected to be $2.5 billion during fiscal 2016-17.

In addition to half the oil and gas tax revenue above the 1987 level, the comptroller must transfer one-half of any unencumbered balance remaining in the general revenue fund at the end of a biennium to the rainy day fund (Art. 3, sec. 49-g). Only twice has an unexpended balance been transferred to the fund under this provision – once in fiscal 1992 ($20.2 million) and again in fiscal 2008 ($1.8 billion).

Money in the rainy day fund may be spent only with legislative approval, and spending is subject to various limitations. At least three-fifths of the members present in each house of the Legislature must approve spending from the fund to cover but not exceed an unanticipated deficit in a current budget or offset a decline in revenue for a future budget. However, any amount from the fund may be spent for any purpose if approved by at least two-thirds of the members present in each house.

The rainy day fund cannot exceed an amount equal to 10 percent of the total amount deposited into general revenue (minus certain types of income and funds) during the previous biennium. The cap usually is higher than 10 percent of the actual general revenue estimate for a biennium because many funds, including federal funds, are first deposited into the general revenue fund before being transferred to other accounts. The cap for fiscal 2016-17 is $16.1 billion. Money drawn from the rainy day fund counts toward the state's constitutional spending limit, according to the LBB.

The Legislature has appropriated money from the rainy day fund during six legislative sessions, including four times since 2000. These most recent appropriations are summarized as follows:

- $3.9 billion to the State Water Implementation Fund for Texas, the Foundation School Program, and wildfire-related expenses (83rd Legislature, 2013 regular session);
- $3.2 billion to cover revenue shortfalls in the fiscal 2010-11 budget (HB 275 by Pitts, 82nd Legislature, 2011 regular session);
- $2 billion for a number of purposes, including funding for public schools and textbooks, Child Protective Services, Medicaid, the Children's Health Insurance Program, and the Emerging Technology Fund (HB 10 by Pitts, 79th Legislature, 2005 regular session); and
- $1.3 billion for a number of purposes, including funding for Medicaid, teacher health insurance, and the Texas Enterprise Fund (HB 7 by Heflin, 78th Legislature, 2003 regular session).

Action after final passage

Certification. After an appropriations bill is approved by each house and signed by the speaker and the lieutenant governor, it goes to the comptroller. Under Art. 3, sec. 49a of the Constitution, no appropriations bill may be enacted or sent to the governor for consideration until the comptroller certifies that the state will have enough revenue to cover the approved spending. Government Code, sec. 403.0131(a) requires the comptroller to certify the appropriations act not later than the 10th day, excluding Sundays, after the date the act is reported enrolled by the house from which it originated.

Art. 3, sec. 49a allows appropriations in excess of anticipated revenue in cases of "emergency and imperative public necessity" with approval of four-fifths of the total membership of each house. Generally, however, the Legislature does not approve an appropriations bill unless the revenue necessary to pay for it is available.

A bill not certified is treated as if it never passed and is returned to the house from which it originated. If the Legislature still is in session when the comptroller returns the bill, the bill can be amended to conform to the comptroller's revenue estimate.

Governor's veto powers. Art. 4, sec. 14 of the Constitution authorizes the governor to veto line items in any spending bill that contains more than one item of appropriation. In 2013, Gov. Perry used his line-item authority to veto appropriations for the state's Public Integrity Unit, capital infrastructure and other projects, higher education special item funding, and the transfer of funds from the Texas Water Development board to an entity for aquifer research, along with several contingent riders for bills that were not enacted or were vetoed.

While the Legislature is in session, the governor has 10 days (not counting Sundays) after receiving the appropriations bill to make line-item vetoes. If the governor fails to act within the 10 days, the bill becomes law. If the Legislature still is in session when the governor vetoes a line item, the bill is returned to the Legislature, which may override the veto if two-thirds of the members present in each house approve. The house where the bill originated votes first.

If the appropriations bill goes to the governor later than the 10th day (not counting Sundays) before the session ends, the governor has 20 days (counting Sundays) after the session ends to act. If the 84th Legislature's 2015 regular session lasts its full 140 days and ends on June 1, the veto deadline will be Tuesday, June 21.

The Legislature must take all actions on a bill during the same session. Because the general appropriations act usually receives final approval during the last few days of a session, the Legislature typically forfeits the chance to override any line-item vetoes. If the Legislature happens to be meeting in a subsequent special session when the governor vetoes line items from an appropriations bill approved during the regular session, the Legislature cannot override the vetoes during the special session.

Veto-proof riders. Riders that are not "items of appropriation" are not subject to veto by the governor. Rider 48 in the fiscal 2014-15 budget for the Texas Education Agency (TEA) is an example of a rider that is, presumably, veto-proof because it does not contain an appropriation of money. "Out of funds appropriated ... in Strategy A.2.1, Statewide Educational Programs," Rider 48 designates spending by the agency of a specified amount for the Early Childhood School Readiness Program. The rider language does not appropriate money. It merely stipulates how some of the total amount appropriated to TEA is to be spent. Thus, if the governor had wanted to veto the funds for the listed activities, he would have had to veto the entire amount set aside under Strategy A.2.1.

Lump-sum appropriations. In recent state budgets, each institution of higher education has been funded through a single line item, or lump-sum appropriation, instead of through multiple-line appropriations for separate strategies. A breakdown of each institution's funding by goals, strategies, and other budget components has been listed in the first rider, called "Informational Listing of Appropriated Funds." Lump sum appropriations have been subject to debate in previous sessions, with some criticizing the practice as reducing accountability over detailed line-item spending.

Effective date. A general appropriations bill usually takes effect immediately, as specified in the bill. Art. 3, sec. 39 of the Constitution says that other bills must be approved by at least two-thirds of the membership of each house in order to take effect sooner than 90 days after adjournment of the session in which they are enacted. A general appropriations bill, however, takes effect as soon as the governor signs it or allows it to become law without signing it (Art. 4, sec. 14). Nevertheless, the spending approved in a general appropriations act generally does not take effect until the start of the new fiscal biennium on September 1 following the regular session.

Interim budget action

An enacted appropriations bill is subject to adjustment after it takes effect, either to reduce or adjust appropriations.

Appropriation reductions and adjustments. Once it enacts a general appropriations bill, the Legislature may adjust appropriations during the two-year budget period, either in a special session called by the governor or in a subsequent regular session. The appropriations bill itself may include provisions allowing agencies to make discretionary transfers between appropriations items, subject to various limitations or prior approval by the governor and the LBB.

Budget execution authority. Government Code, ch. 317 allows the governor and the LBB, acting jointly, to use budget execution authority to make certain changes in appropriations when the Legislature is not in regular or special session.

A budget execution order may prohibit an agency from spending funds, change the purpose for an appropriation, change the time that an appropriation is distributed to an agency, or transfer an appropriation from one agency to another. It cannot spend money that has not already been appropriated by the Legislature. An order may not withhold for more than 180 days money appropriated to any agency, reduce the salary of an elected state official or a board member appointed by the governor, or reduce appropriations to the Legislature or legislative agencies. An order may not extend beyond a two-year budget period. An order may be superseded by legislative action.

Informal reductions. The governor and legislative leaders also may informally instruct agencies to modify their spending without taking official action to reduce appropriations. For example, in 2010, the governor, lieutenant governor, and speaker of the House jointly instructed state agencies to identify reductions in spending for fiscal 2010-11. The three state leaders approved some of the proposed reductions and modified or waived others.

Supplemental appropriations. The Legislature may change the state budget after it has been approved. Because the regular session begins in January, with eight months remaining in the two-year budget period, agencies sometimes ask for appropriations to supplement their funds for the last fiscal year of a biennium.

Budget monitoring. Several legislative agencies and entities evaluate agency budget performance and state finance issues between legislative sessions.

The LBB monitors agency performance measures and expenditures and performs interim assignments directed by the general appropriations act. After a regular session ends, the LBB summarizes the state budget, state revenue, and state government functions, activities, and agencies in its *Fiscal Size-up* report.

The State Auditor's Office audits state government management and financial systems, and its work can include audits of the financial operations of state agencies. It also assists in strategic planning and budgeting by assessing the use and reliability of agency performance measures.

The Sunset Advisory Commission reviews all agencies scheduled by the Texas Sunset Act (Government Code, ch. 325) for termination in a given year, examining each agency's operations, conformity to its strategic plan and objectives, and any duplication or overlapping jurisdictions with other agencies.

The House Appropriations Committee and the Senate Finance Committee often schedule oversight hearings during the interim between regular sessions. Other House and Senate committees also may review agency spending as part of their oversight of the state agencies under their jurisdiction.

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