



Senate Finance

Location: E1.036
Time: 8:30 AM
Date: February 18, 2009
Senate Finance Committee (SFC)

RE: SB 1 – Article V

CHAIR: Senator Steve Ogden

AUSTIN (2/19/2009, 8 am, E1.036) The Senate Committee on Finance heard testimony today on Senate Bill 1, the 2010-2011 General Appropriations Bill. The meeting was opened in Capitol Extension E1.036 by Vice Chairman Juan Hinojosa, who called order at 8:34 AM, beginning with Article VI, the General Land Office (GLO) and Veterans' Land Board: (8:35) Tom Lambert, LBB analyst gave the GLO recommendation for \$156.9 million in All Funds, reflecting an increase of 1.1%. Among items denoted as significant were agency efforts toward resolution of Hurricane Ike, rider increases in coastal erosion construction projects and an Exceptional Item of \$43.2 million not slated for recommendation, including \$17.5 million for coastal erosion control.

(8:42) General Land Office Commissioner Jerry Patterson gave the agency presentation, stating 2.6% of their Legislative Appropriations Request (LAR) is General Revenue (GR) and \$8.9 million reflect substantial contributors in the Permanent School Fund (PSF). He gave details on the agency's substantial contributions to the PS, their efforts regarding Hurricane Ike, coastal planning reforms in preparation of future storms, and their search for a dedicated revenue source for CEPRA (Coastal Erosion Planning and Response Program) beyond GR, federal matching funds and possible dedicated sales tax. Imminent threats include the collapse of coastal ports, waterways, beaches, hotels and infrastructure at vulnerable peninsulas. Exceptional Items come from dedicated funds and are all geared to the purpose of generating further revenue off real estate and the oil & gas income, said Patterson. Chair Ogden nixed the idea of dedicating sales tax for CEPRA and asked for an explanation regarding the 17.5 million un-approved Exceptional Item for coastal erosion. LBB analyst Lambert returned to discuss the issue, concluding that there is \$20 million in available funds, but using 17.5 million of it for coastal erosion would require statutory change, which Ogden said the Senate Finance Committee (SFC) will take under advisement.

The SFC then turned to Article V-Public Safety and Criminal Justice:

(9:31) LBB analyst Lori Gabbert gave the budget recommendations for the Department of Public Safety: \$1.6 billion in All Funds, representing a reduction of federal funds amounting to one-third of the DPS total budget and a decrease in State funding due to an \$8 million emergency reimbursement from FEMA. Selected fiscal and policy issues include recommendations resulting from the agency's current Sunset review concerning border security, and the governor's office \$1 million emergency management exemption from capital budget provisions.

(9:46) LBB analyst Hayden Childs gave the Performance Report. It recommends DPS ban use of wireless communication devices (cell phones) and make violations a chargeable offense with civil penalties under the Driver Responsibility Program, and include a rider to appropriate \$500, 000 both years to inform drivers of the ban on use of cell phones.

(9:54) DPS Chairman Allan Polunsky and Colonel Stan Clark gave an agency overview, summarizing what they called a complete overhaul to bring DPS into the 21st century. Exceptional Items include additional personnel, increased compensation, renovation of Internet Technology, and \$27 million for 450 new black & white police cruisers. Chair Ogden said at 26,000 dollars per car the 27 million sounds high, and directed Polunsky to re-calculate the vehicle appropriation request. Discussion focused on continuing efforts toward modernizing the DPS, and difficulties in retaining the best employees when the average state trooper earns 40% less than an Austin police officer. DPS has eight forensic crime labs with a new lab opening in Garland, and ask for 67 new full-time employees (FTEs) to handle 7,500 DNA cases that need to be processed by 2011. Polunsky said they have an operating deficit due to the rise in gasoline costs but will not be requesting an emergency appropriation and hopes money from Washington can be used to address the shortfall. Chair Ogden announced that about \$161 million may be available to Texas in the federal economic-stimulus plan for use in criminal justice agencies, and that DPS should receive an apportionment. In closing the Chair brought up trooper malfeasance and noted there is no Exceptional Item to improve the professionalism and integrity of the department and ensure that the bad apples are weeded out of DPS and prevented from being hired at another police agency. In response Polunsky discussed the planned expansion of the Internal Affairs office, stating that they are increasing supervision and hiring more investigators, reviewing recruitment standards, and implementing enhanced training. These policies are in the planning stages, and the Finance Committee will be informed in the event additional funding is needed, said Polunsky.

PUBLIC TESTIMONY:

(11:05) Sergeant Brian Hawthorne introduced himself as President of the Department of Public Safety Officer's Association, representing 3700 officers, troopers, Rangers, and forensic scientists, then introduced DPSOA Vice President and Sergeant Gary Chandler, who discussed compensation. Chandler argued for a change in pay disparities between DPS and all other law enforcement organizations in Texas, noting that DPS troopers are paid the least. Committee members Williams, Whitmire and Hinojosa registered support for pay increases, in agreement that DPS troopers should rightly be the highest paid police in the State.

(11:15) Arthur Eisenberg, Chairman of Pathology and Human Identification & Cell Biology and Genetics, University of North Texas, Fort Worth thanked the Legislature for funding the Missing Persons Clearinghouse which is responsible for identifying the human remains of murder victims; which he said is the necessary first step in launching murder investigations.

(11:17) Greg Gillian, former Bastrop County District Attorney testified in support of Dr. Eisenberg's genetic crime lab. Senator Hinojosa said the SFC is aware of the necessity of the work being done and will continue to fund the operation.

Texas Department of Criminal Justice and Correctional Managed Health Care::

(11:20) LBB analyst Michelle Connolly presented the budget methodology, stating that each report was composed by a designated analyst, who Committee members can contact for further information.

(11:34) LBB analyst Susan Dow laid out the budget of \$5.6 billion in GR, and \$5.8 billion in All Funds. She gave a summary of GR calculations, stating that the main budget drivers are population projections, diversion programs and the agency's own operating shortfalls. One Exceptional Item not included in the LBB recommendation is \$43.3 million for pay raises and recruitment bonuses.

(11:50) The LBB performance review found deficiencies and delays in reviews of offenders whose release is contingent on completion of a rehab program. A management directive was given to automate the process so offenders can be released in a timely fashion once they have met the requirement. An additional recommendation calls for phasing out the current typing pool, required training of existing

parole officers who do not have typing skills, and hiring only correctional officers who possess typing skills.

(11:57) Agency Presentation: Oliver Bell, Chairman of the Board of Criminal Justice identified four key budget items as pay raises, health care, contracting for diversionary programs and enhanced security strategies. Vice Chair Hinojosa asked for discussion on the LBB recommendation of \$29.4 million for security, compared with the agency's figure of \$65 million. Brad Livingston, Executive Director, TDCJ said they saw the 29.4 as the level of funding to begin the efforts of enhanced security. The other 36 million was generated by the cell phone/ contraband violations, and would be slated for the installation of security cameras in the units. Livingston said the LBB budget would leave TDCJ 18 million dollars short for electric bills. He said the 80 million in general obligation bond funds would leave them 20 million short for maintenance and renovations; additional funding of 28.6 million is needed for treatment programs, and 3 million more for data consolidation. Other TDCJ plans include expansion of the therapeutic treatment program, and an additional 128 FTEs to act as re-entry coordinators, to assist with the first steps after release in areas of housing, employment and treatment arrangements. Livingston noted that Texas is at the nation's bottom in CO salary and said the cornerstone of the LAR is an aggressive pay package to address correctional officer vacancies and turnover rates.

Vice Chair Hinojosa declared a Lunch break from 12:45 to 1:15 PM.

PUBLIC TESTIMONY:

(1:16) Clifford Gay, program specialist speaking on behalf of self as a person with mental illness in recovery, urged establishment of programs that address co-occurring diagnoses of mental illness/substance abuse, and a program that evaluates appropriate use of medication on a monthly basis, particularly for individuals undergoing a combination of psychotropic medications, or "polypharmacy."

(1:19) D. Simpson, representing the American Federation of State-County Municipal Employees Correction Council Seven, said they appreciate the efforts of Mr. Livingston in coming forward with an aggressive pay package. TDCJ has the highest turnover rate of any system in the country, said Simpson, and they pay the price in offender suicide, accidental deaths and increasing escapes. They request the creation of a separate salary schedule and career ladder in order to avoid the establishment of collective bargaining.

(1:25) Andrew Homer introduced himself as Director of Government Relations at Texas Public Employees Association with more than 16,000 members, including 7,000 from TDCJ. They support Exceptional Item 1 to increase pay by 20% for correctional officers and parole staff.

(1:30) Michael Noyes, Director of the Dallas County CSCD spoke in favor of basic supervision pay increases for probation officers.

(1:35) Joe Lovelace representing the 39 community MHMR Authorities statewide spoke in support of the \$12 million for TCOOMI (Texas Correctional Office on Offenders with Medical or Mental Impairments); also known as the treatment & supervision program for mentally ill offenders introduced in Texas 10 years ago that has since become a model for the nation.

(1:37) Corrections Officer William Cook requested the proposed 20% pay increase for officers and parole staff be increased to 30%.

(1:40) Caprice Kaspar, retired judge, member of the Judicial Advisory Council, spoke in support of mental and behavioral health initiatives for offenders.

(1:42) TDCJ Correctional Officer McKee and TDCJ staffer Janis Horton requested an increase in hazardous pay for TDCJ staff who are not correctional officers but still work with offenders, and are exposed to the same dangers.

(1:47) Aaron Setliff, former assistant prosecutor and present Policy Director with Texas Council of Family Violence, spoke in support of battery prevention funding to provide safety for victims and rehabilitation of batterers.

Texas Juvenile Probation Commission and Texas Youth Commission:

(1:52) TYC Sunset Review members Leah Campbell and Karl Spock introduced the proposed consolidation of TYC and TJPC to provide better coordination of their respective functions, which would provide a saving of 600,000 dollars a year in executive salaries. Sunset recommended a pilot program that would allocate additional funds to target youth most at risk to end up in TYC. The pilot would create a mechanism where the money would follow the youth, whether s/he was treated locally or through State confinement. Sunset also requested the consolidation of many TJPC grants to allow more flexibility in use of the funds. Considering the proposed merger Senator West expressed concerns about the fallout from the act of joining a bad agency with a good one, adding that the Sunset vote for consolidation was split 6-5, indicating a lack of consensus. Senator and Criminal Justice Chairman Whitmire rejected the assumption that a broken agency will bring a functional agency down, but said this is still the discussion stage and all views would be vetted in the workgroup discussion as the body aims for consensus.

(2:05) LBB budget analyst Angela Issack gave the Juvenile Probation summary recommendations of \$311.1 million, representing an increase of 8.6 million in All Funds, explained primarily by an increase in federal funds of 8.5 million. Issack stated that the agency moved funds around which raises a question as to whether TJPC used agency riders in line with legislative intent. Committee members discussed this issue at length, which Senator Duncan concluded would be sorted out in the TYC/ TJPC workgroup.

(2:15) Vicki Spriggs, Executive Director of Juvenile Probation and Annie Collier, Chief Financial Officer answered questions about the riders, and the LBB analyst recommended rider 19 specifically be reworded to resolve ambiguity. Spriggs then spoke directly to the Exceptional Item that would replace the \$17 million federal shortfall as fundamental to the operations of the agency. Two other Exceptional Items address mental health issues, and one Item for juvenile placement management would allow for personal offender information to be exchanged electronically between TYC and TJPC to enable tracking youth while in the community.

PUBLIC TESTIMONY:

(2:44) Andrea Hinkson, Mental Health America of Greater Houston, spoke in favor of the Exceptional Item of \$6.5 million for mental health assessment of incarcerated youth to divert those with mental illness from criminal justice toward treatment protocols.

(2:49) David Cozad, Director of Operations at Burke Mental Health Center spoke in favor of an Exceptional Item directing funds to the Burke Center residential treatment program.

(2:53) Randy Turner, Chief Probation Officer of Tarrant County said they were able to reduce commitments by 50 kids, based on the funding granted by the Senators. He echoed concerns about losing \$17 million in federal funding, asked for expansion of mental health assessment, and flexibility in sharing information between agencies so as to track a youth throughout the system.

Texas Youth Commission:

(3:01) LBB analyst Issack gave the TYC summary of \$463.4 million in All Funds, reflecting a 17.5% decrease related primarily to a reduced offender population. Chair Ogden noted that the agency is half the size it used to be, a fact not reflected in the LAR. He directed the LBB to review their recommendations and try to trim the budget further. Senator Whitmire estimated there are 300 administrators in the central TYC office, and directed the LBB to count the number of Financial Officers on the agency's payroll.

(3:12) Cherie Townsend, Executive Commissioner, Texas Youth Commission told the Committee that TYC is not the agency it was during the 80th Session, and is not even the agency it was when under review by the Sunset Advisory Commission. She described the rollout of several provisions in Senate Bill 103 and defended the budget request in light of 700 staff reductions as right-sizing, noting the legislative mandate of a 12 to 1 staff-to-youth ratio, and added that the six fulltime staff for each offender represents the need for extensive security. Townsend highlighted Exceptional Item 2 as indicative of progress, which would fund a re-entry pilot with a strong multi-systemic therapeutic component shown to reduce recidivism by 30-40%. She said ongoing reforms are consistent with the wishes of the legislature and her office remains committed to turning the agency around. Whitmire said he is losing confidence in TYC proposals when they're asking to re-open Peyote, which the Legislature denied two years ago. Meanwhile kids are receiving no psychiatric care, little health care, and their own ombudsman said today TYC is still a dumping ground for Texas juveniles. Townsend defended the Peyote request on grounds that a facility is needed in West Texas. Chair Ogden told her the SCF wants to work closely with TYC on their budget request, that he thinks the whole thing needs to be redone, and suggested she start by reducing the FTE request to 3500, then make specific plans to adequately address the mental health and educational needs of the population.

PUBLIC TESTIMONY:

(3:47) Clifford Gay, substance abuse volunteer for TYC, requested the Legislature direct the Commission to produce a successful re-entry program.

(3:51) Jody Smith, Texans Care for Children said her organization has developed a consensus list of priorities endorsed by 22 agencies that endorse the TYC move to small, therapeutically-focused regionalized system as a nationally recognized best practice.

Adjutant General's Department:

(3:55) LBB analyst Susan Dell gave the budget as \$28.9 million in GR with a 40 million decrease in federal funds for a total decrease of 30%.

(4:09) General Charles Rodriguez gave the overview of Exceptional Items, totaling \$26 million in All Funds. The Texas National Guard is the largest in the nation, with a brigade in the Middle East, an air guard, and acts as first responders in emergency evacuation and disaster relief within the State. Exceptional Item 1 is a request for training support of the Texas Military Guard due to prohibitions from using federal appropriations for State exercises. Item 3 requests six FTEs to create a mobile counseling service to provide mental health support around the State to soldiers just returning from deployment. Item 4 is a request for a State match with federal dollars for a second academy. Remaining Items involve maintenance costs, military tuition assistance, Army ROTC scholarships and increased duty compensation.

Texas Alcoholic Beverage Commission:

(4:37) LBB analyst Lori Gabbert cited \$83 million in all funds, reflecting an overall increase, with a decrease in enforcement, funding of port-of-entry at 08-09 levels, an increase in administration funding, two riders unchanged and one new rider for seized assets.

(4:41) Alan Stein, Director of TABC said the Exceptional Item for retention will address turnover and move the agency out of constant training mode. The \$2.5 million Exceptional Item for the IT system would upgrade licensing from paper to an online process as recommended by the Sunset Review. Other requests include longevity and hazard pay, and six FTEs to staff two port-of-entries.

Commission on Fire Protection:

(4:55) LBB budget analyst Angela Issack gave the summary of \$5.9 million in all funds for the agency, reflecting a \$31,000 increase for salaries and 5,000 dollars for increased staff. This agency is currently under Sunset Review, they were granted a \$27,000 governor emergency grant for FY 2008 and are required to repay it in 2009.

(5:00) Chris Conley, Fire Chief and Chair of Texas Fire Chiefs Association, said the agency has been increasingly stressed to meet the needs of firefighters around the State, and fundamental issues such as safety are not being addressed. He then introduced Chief Gary Warren who described the Commission as a licensing and standard-setting agency, it performs inspections and provides a large library, all of which would be impacted by the loss of Exceptional Items and \$900,000 rider request to increase the fee for re-certification. They are attempting to repay the governor's grant by reducing the workforce, which is having a negative impact on morale and productivity. Chair Ogden said he would work with the Commission to see if they can't get the Governor to forgive the loan while they attend to other problematic budgetary items.

(5:15) Fire Protection Commissioner John Gillette stressed the loss of financing for facilities and vehicles and said they need the 900,000 rider passed to be able to purchase items they are required to have for basic functions of the Commission.

(5:19) Ray Cooper, Fire Chief, city of Lubbock said he hopes the SFC understands how concerned fire chiefs are regarding their ability to keep firefighters safe with the proper protective gear.

(5:22) Kelly Stalder, Texas Commission on Fire Protection said agency budget requests are rooted in Texas population growth, which has created a service demand that cannot be fulfilled by all-volunteer fire departments.

Commission on Jail Standards:

(5:25) Michelle Connolly, LBB analyst said the agency is primarily funded by General Revenue, and is presently under Sunset Review. The \$1.9 million budget request reflects an 0.6% increase to be used for State-approved salary increases. An Exceptional Item for additional beds totals \$228,000.

(5:28) Don Munoz, Deputy Commissioner stated the Exceptional Items are for necessary staff travel and 10,000 additional beds the agency will distribute to the inspectors. Senators Hinojosa and Whitmire had questions about enforcing compliance and expressed doubt that the Commission uses all available leverage over county jails that are found to be in non-compliance.

Commission on Law Enforcement Officer Standards and Education:

(5:38) LBB analyst Lori Gabbert gave the summary recommendation of \$5.9 million in All Funds, a 7% decrease from the 08-09 biennium. She noted that the agency is under Sunset Review, therefore a rider directing the agency how to direct its funds in the event it is eliminated has been added to the bill pattern. LBB recommends the agency perform a technology review and submit the analysis to the Legislature, and reduce the annual FTE cap from 46 to 41 employees. Exceptional Items not recommended amount to \$780,000 in All Funds.

(5:41) Charles Hall, Presiding Officer, reviewed the employee Exceptional Item, requesting funds be included that allow the organization to operate with the authorized 46 FTEs.

Special Provisions Relating to Public Safety and Criminal Justice agencies:

(5:50) Val Shepherd, LBB Manager stated that a bill section titled Federally Funded Projects has been amended to reflect the federally- funded FTEs included in the General Appropriations Bill as introduced for each agency.

(5:52) Chair Ogden reminded the Article Workgroups to be mindful that the budget is tight, left SB1 pending, then recessed until 8:30 tomorrow morning when they'll take testimony on Article VIII.

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