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FUNDING THE 2012-13 BUDGET: LEGISLATURE KICKS THE CAN DOWN THE ROAD

At the beginning of the session, the state faced a $27 billion gap between anticipated revenue and the amount needed to fund current services. Rather than relying on cuts alone to close the gap, CPPP urged a balanced approach that used the state's Rainy Day Fund and added new revenue to minimize damaging cuts. With the Governor putting the Rainy Day Fund and new revenue off limits, however, the Legislature has been left with no alternative but larger-than-necessary cuts reduced only to the extent possible by payment delays and tax speedups.

This *Policy Page* highlights the major provisions of Senate Bill (SB) 1 and House Bill (HB) 1, the fiscal matters bills introduced in the special session to fund the state budget for 2012-13. The bills are scheduled for hearing in Senate Finance and House Appropriations on Thursday. The bills are almost identical to the conference committee report for SB/HB 1811 from the regular session.

These bills create the appearance of an additional $7.55 billion in General Revenue. In reality, almost all of this "revenue" comes from a permanent reduction in state support for public education by $4 billion, deferral into the next biennium of a $2.3 billion payment to school districts and other transfers, and acceleration of certain tax payments. In addition, the bills would actually reduce state revenue by $171 million by extending the small business exemption from the franchise tax and creating new exemptions for certain other businesses.

Reduction in state commitment to public education - $4 billion

Article 72 of SB/HB 1 would reduce state support for public education in 2012-13 by $4 billion compared to current formulas. The school finance plan embedded in these bills requires a proportional cut in the Foundation School Program regular program in 2012, followed by reductions to both both the regular program and target revenues in 2013. A more equitable plan would have been the Shaprio hybrid plan in S.B. 22 from the regular session.

Delayed transfers - $2.7 billion

Article 1 of SB/HB 1 would delay the Foundation School Program payment made by the state to school districts from August 2013 until after the beginning of September 2013 – after the start of the next fiscal biennium. This short delay would reduce the amount of revenue needed to support the 2012-13 budget by $2.3 billion.

The regular transfer of motor-fuel tax revenue from General Revenue, where it is first deposited, to the State Highway Fund (Fund 006) and the Available School Fund would be similarly delayed from August 2013 until September 2013. (Article 9) This would create the appearance of an additional $403 million in General Revenue Related funds available to spend in the 2012-13 budget.

Accelerated payments - $632 million

The bill would reduce the amount of time unclaimed property is held by utilities and financial institutions before being turned over to the Comptroller, and accelerate the deadline for transferring this property to create an additional transfer in the biennium. These two provisions would create a one-time gain of $315.7 million in 2012-13. (Article 5)

Retailers collecting sales taxes would be required to prepay a portion of those taxes in August 2013, increasing General

Revenue received in 2013 by $231.2 million, while reducing tax payments received in the next fiscal biennium by the same amount. (Article 13) Similarly, prepayment of motor-fuels taxes would increase General Revenue received in 2013 by $67.1 million (Article 9) and a prepayment of alcohol taxes would add $17.6 million to General Revenue in 2013 (Article 10).

Other major provisions - $608.9 million

A percentage of the payroll of the state and institutions of higher education would be paid into the ERS Employees Benefit Trust Account. The fiscal note estimates that a one-percent enrollment fee would generate $325.2 million in General Revenue Related funds over the 2012-13 biennium. (Article 37)

The bill would redefine "sale for resale" in the Tax Code in response to a recent court decision broadening the scope of purchases exempt from taxation because they are used in conjunction with federal contracts. The Comptroller estimates that this limitation on exempt purchases would create a gain of $150 million in General Revenue Related funds in 2012-13. (Article 12)

SB/HB 1 would allow the state to lower its contribution to the TRS Care retiree insurance fund. If the state were to contribute 0.5 percent of payroll for 2013, rather than the current 1 percent, General Revenue expenditures would drop by $133.7 million. (Article 21).

Tax cuts – revenue loss of $171 million

Despite the desperate need for revenue to minimize damaging cuts in public services, SB/HB 1 contains over $171 million in tax cuts!

In 2009 the Legislature temporarily raised the exemption from the franchise tax for small businesses. For 2010-11, firms with gross receipts of under $1 million were exempt, but the exemption is scheduled to drop to $600,000 at the end of this biennium. SB/HB 1 would extend the $1 million exemption for 2012-13, cutting $149.9 million from General Revenue Related funds. (Article 47)

A school district (reported to be Humble ISD) that incorrectly reported taxes deposited into a tax increment fund for five school years would have the amount that it owed the state reduced by $11.75 million. (Article 71)

New franchise tax exemptions would be created for live entertainment event promotion companies, Political Action Committees (PACs), and courier and logistics companies, for a loss of $2.42 million in General Revenue Related funds. (Article 55)

Certain tax credits under the former franchise tax, before the 2006 reforms, that were due to expire at the end of 2012 would be extended for four more years at a cost of $6.8 million in General Revenue. (Article 41)

Looking Toward 2013

Even with strong economic growth, the next Legislature will face a fiscal mess in 2013. The Texas population will continue to grow. Costs for goods and services will continue to go up. Yet our state's major tax will still be a sales tax on goods, a tax designed for yesterday's economy. And our state's business tax will still be flawed in design, again producing a $10 billion per biennium structural deficit. And, of course, all the steps taken to balance this biennium's budget discussed in this policy page will make balancing the next budget even harder. Texas can't keep kicking the can down the road. Our trillion dollar economy has the resources to meet our needs, but our state does not have a tax system that is both fair and robust enough to produce the revenue needed. Between now and 2013, Texas needs to give serious consideration to developing a tax system adequate to meet our needs.

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