



RELYING ON DEDICATED FEES INSTEAD OF STATE TAXES:

System Benefit Fund Only One Example of How State Budget Has Become More and More Dependent on Earmarked Accounts

As the House and Senate budget-writing committees finish their “mark up” of the proposed state budget for 2008 and 2009, the fight continues between those who wish to raid dedicated funds and those who wish to protect dedicated funds. Those who wish to raid such funds have the upper hand because, by merely not spending the dedicated funds, the unappropriated revenue helps balance the budget. As a defensive tactic, proponents of dedicated funds are trying to structure the funds so that unappropriated balances may not be counted in balancing the budget. By making funds unavailable for use in balancing the general budget, defenders of dedicated funds seek to make it more likely that the legislature will spend the money for its dedicated purpose. This *Policy Page* explains this arcane but important budget issue, using the System Benefit Fund as an example. Of course, this issue is yet one more illustration of the true problem facing Texas: a regressive state/local tax system that does not generate enough money to meet our communities’ growing needs for education, health care, and other basic services. Moreover, while everyone agrees in principle that dedicated funds should be used for their dedicated purpose, as long as our revenue system is inadequate, in practice, the legislature will be under tremendous pressure to circumvent fund dedications to pay for other state services that may be as critical as or more critical than programs with dedicated funding.

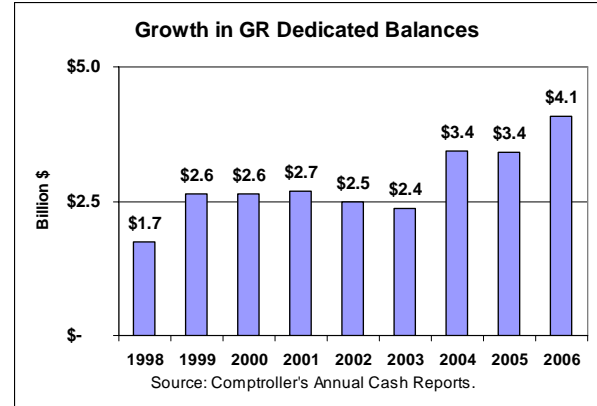
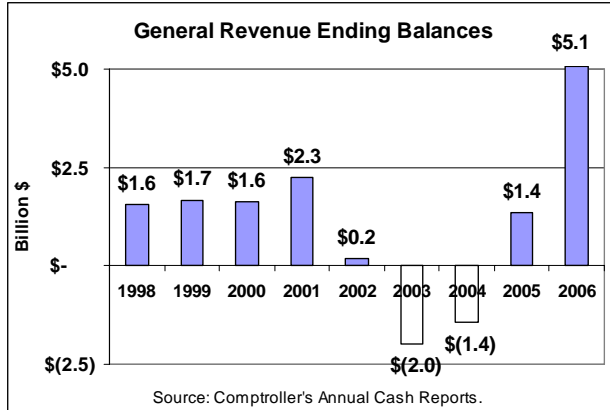
First, Some Background Information

Every year, the state comptroller prepares the state’s Cash Report, detailing revenue and expenditures for the state’s accounts and providing state officials, bond rating houses, and other interested parties with important information about the state’s fiscal health.

The Cash Report shows balances for almost 500 separate state accounts as of August 31, the last day of the fiscal year. But in certifying the budget, the accounts that really matter are those that are General Revenue (Fund 0001) or General Revenue-Dedicated funds—sometimes called “General Revenue-Related” funds.

One critical thing to understand before grading the state’s fiscal health according to the size of ending balances is that, because the Cash Report is prepared on a “cash basis”, expenses which have been incurred but not yet paid are **not** subtracted from the balances. (In contrast, an *accrual* basis of reporting would deduct payments that have to be made—for example, the August state payroll that is paid on the first day of September, in the **next** fiscal year—from the ending balance to indicate that the money is no longer available for spending.)

The charts at the top of the next page show how the General Revenue Fund (0001) and GR-Dedicated accounts have fared in recent years.



Looking at the “pure” General Revenue chart first, it is apparent that until 2006, the ending balance was relatively modest: the state’s finances took years (2003-2005) to recover from the revenue shortfall that started in 2002. The picture would look even worse (meaning, ending balances would shrink or be negative) if large payments postponed until the next fiscal year were deducted. (For example, in the current budget, \$1.1 billion in Foundation School Program payments and \$300 million in health care provider payments are paid in September rather than in August, as originally scheduled.)

Some of the largest GR-Dedicated balances at the end of 2006 are shown below.

GR-Dedicated Accounts	2006 Fund Balances (million \$)
Emissions Reduction Plan	\$390.5
Other environmental*	553.9
Higher Education Accounts	353.3
System Benefit Fund	256.4
Federal Funds	248.0
Tobacco Settlement	242.2
Foundation School Program	236.1
Telecommunications	
Infrastructure Fund	209.2

* Funding for programs at the Texas Commission on Environmental Quality or the General Land Office.

In the General Revenue-Dedicated chart, in contrast, balances have been steadily increasing since 2003. This is because legislators have let various fees, fines, taxes, and other revenue sources accumulate, instead of using most or all of the money in the budget for the originally intended purposes.

The balances in various other dedicated accounts, such as sales tax revenue for state parks, or license plate fees earmarked to raise money for various worthy causes (such as literacy, or spaying/neutering pets), are not large enough to show up in the table above. But they can all be seen in the Cash Report, which is online at <https://fmx.cpa.state.tx.us/fm/pubs/cashrpt/index.php>.

When the Comptroller provides her revenue estimate to the Legislature, the **combined** amounts of GR and GR-Dedicated are reported, fostering the illusion that there is more unallocated money than there truly is. For the end of fiscal 2006, for example, the consolidated GR balance is reported as \$9 billion (the sum of the 2006 amounts in the two charts). By the end of fiscal 2007—the end of biennium “surplus”—the GR-related (combined) balance will be \$7 billion, according to the revenue estimate.

Legislative consolidation of dedicated funds into GR accounts so that they can be used in certifying the budget is a long-standing practice that began in 1991. As was the case in 2003, legislators in 1991 had significantly less revenue available than was needed to fund current services; fund consolidation created a one-time GR “gain” of \$540 million.

A Closer Look at the System Benefit Fund

The System Benefit Fund was created by the 76th Legislature in 1999. Revenue for the fund comes from a monthly utility fee collected in deregulated electricity markets, at a rate not to exceed 65 cents per megawatt hour of electricity. The enacting language for the System Benefit Fund also said that SBF revenue would only be collected to the extent necessary to fund a 10 percent discount for low-income electric customers in deregulated areas.

In effect until 2005, the discount program was administered by the Public Utility Commission and was known as the LITE-UP program. At its peak, the program served 800,000 customers, with the discount reaching 17 percent. In addition to the discount, eligible customers received other consumer protection benefits, such as waivers from being charged late fees, or the ability to spread large security deposits over more than one month's electric bill.

Unfortunately, the legislature started cutting the LITE-UP program in 2003 to reduce the discount and the number of people eligible (therefore reducing the cost of the program), allowing unspent System Benefit Fund revenue to accumulate more rapidly. The 2005 legislature eliminated funding for LITE-UP completely, and attempted unsuccessfully to use some SBF funds for Medicaid mental health restorations. This means that all money collected since 2006 has been piling up unspent. In 2007, another \$156 million will be deposited into the System Benefit Fund, bringing the 2006-07 biennium ending balance to \$413 million. In 2008-09, the SBF will collect another \$328 million.

SBF/LITE-UP in the 80th Session

Two very different things could happen to the System Benefit Fund and the discount program, depending on whether budget writers take the Senate or House's approach.

On the House side, Rep. Sylvester Turner's HB 551 would expand eligibility for the discount programs to nursing homes in which at least half of the patients are Medicaid-eligible. For 2008 and beyond, the SBF would be moved outside of the state treasury, and its balances could no longer be used to offset General Revenue spending in the rest of the budget. (The \$413 million that will have built up in the SBF by September 2007 would be left behind and still count as GR.)

The House Appropriation Committee's mark up of the budget bill (CSHB1) adds almost \$176 million in SBF dollars to the Public Utility Commission's appropriations. This would fund LITE-UP at a level of \$80 million in 2008 and \$90 million in 2009; customer education programs (\$750,000/year); and electric market oversight and administration (\$2.1 million/year). (\$170 million for LITE-UP would be a little more than the \$157 million it received in the 2004-05 biennium.) Finally, Article XI ("wish list" and contingent funding items requiring legislation to pass), contains a proposal to spend an additional \$121 million in SBF revenue on PUC assistance programs.

On the Senate side, the proposal supported by Senate leadership is to use all of the \$413 million accrued by the end of fiscal 2007 as General Revenue in Article II (Health and Human Services), the argument being that this will prevent cuts in HHS programs, and potentially draw down additional federal funds if used as Medicaid match. However, supporters of the LITE-UP program are arguing, and rightly so, that cutting a program to avoid cuts in other programs that do not provide the same services (health care, for example, instead of utility bill assistance) is still, in effect, cutting programs. The Senate's approach, and past attempts to use SBF for Medicaid mental health restorations, also ignore the fact that the SBF fee is not general revenue because it is not paid by people across the state. Only electric utility customers in

deregulated areas pay the fee. If you are served by a municipal utility, you do not pay the fee.

The Senate Finance Committee's plan for the LITE-UP discount and other 2008-09 uses of SBF funds will be known once its version of the budget is voted out.

The governor's budget, as part of a set of proposals labeled "Eliminate, Return, or Use Dedicated Funds (Truth in Budgeting)", would return the end-of-2007 SBF balance to ratepayers and discontinue collection of the SBF fee starting in March 2007. The total cost of these actions would be \$738 million. (In the case of other GR-Dedicated funds, such as the Emissions Reduction Plan, Trauma Facility/EMS, and specialty license plates, the governor's budget proposes spending all balances to expand services paid for with these funds.)

More information on the various bills filed that would affect the System Benefit Fund can be seen in the Appendix. Key differences in the proposals revolve mainly around whether the System Benefit Fund would be taken out of General Revenue and/or out of the State Treasury; what would happen to existing balances and future revenue; and eligibility criteria and benefits that could be provided through LITE-UP and other PUC programs.

Dedicated Funding Streams are Not Necessarily "Off Limits"

Moving dedicated funds outside of General Revenue, or entirely out of the State Treasury, could reduce the chance of these funds being "held hostage" to current and future GR

shortfalls. But there is nothing to stop future legislatures from moving the funds back into General Revenue, so the use of funds for their originally intended purpose could prove to be short-lived at best. Furthermore, even funds outside of GR—such as Fund 6, the constitutionally dedicated State Highway Fund that counts as "Other" revenue in the state's budget—can and has been used to make up for lack of General Revenue: to fund state troopers and other Department of Public Safety programs, for example, or as Medicaid match for client transportation services.

Dedicating or earmarking funds also creates the illusion that a program has been "taken care of" once and for all, and will not require more state tax funding in the future—a common misperception about the state lottery and K-12 education, for instance, or the new proposal to expand gambling in order to help fund higher education. The truth is that the basic services that account for most of the state budget—K-12 and higher education, health care and other HHS programs, and state prisons—need general revenue from a tax system that will grow with the state's population, at a rate that keeps pace with increased costs (for wages/benefits, energy prices, etc.).

Conclusion

Ideally, the state should have adequate revenue to support its needs, no funds should be dedicated, and the legislature should set priorities session to session. As long as we are short of revenue, however, the battle over dedications will rage.

To make a donation, sign up for free E-Mail Updates, or access the rest of our work, visit www.cppp.org

Appendix

Bill Number/ Author	Changes in Original Uses of SBF	Additional Changes in Assistance	What happens to existing SBF funds?	What happens to SBF funds collected in 2008 and beyond?	Other Comments
HB 1394, Turner SB 444, Hinojosa	Funds can be used for all original purposes		Fees collected before effective date to be remitted to comptroller for deposit in general revenue.	Establish trust fund outside state treasury Funds held by financial institution eligible to be a depository for state funds	
HB 551, Turner HB 1487, Guillen	Following removed: (e)4: programs to assist low-income electric customers by providing 20% reduced rate ... (e)5: reimbursement to HHSC for expense incurred in the implementation and administration of an integrated eligibility process...”	Nursing homes are eligible for rate reduction if it is a non-profit entity and at least half of entity’s nursing resident’s are Medicaid eligible.		SBF will be held outside the state treasury by the commission. Commission will act as SBF trustee and make payments from fund for outlined purposes.	Starting 9/1/2007, PUC to spend at least \$12 million from SBF on customer education (\$12 m also for 2008) After 9/1/2009, SBF may not be used for customer ed programs
SB 65, Zaffirini	Following Removed: (e)2: “customer education programs, administrative expenses incurred by the commission in implementing and administering this chapter...” (e)5: reimbursement to HHSC for expense incurred in the implementation and administration of an integrated eligibility process...”		Funds collected before 9/1/2007 to be remitted to comptroller and deposited in general revenue.	SBF to be a trust outside state treasury. PUC may provide for the fund to be operated by a contractor.	

Bill Number/ Author	Changes in Original Uses of SBF	Additional Changes in Assistance	What happens to existing SBF funds?	What happens to SBF funds collected in 2008 and beyond?	Other Comments
SB 292, Williams	<p>Following Removed:</p> <p>(e)(1)b: “provide one-time bill payment assistance to electric customers...”</p> <p>(e)3: “programs to assist low-income electric customers by providing targeted energy efficiency programs...”</p> <p>(e)4: programs to assist low-income electric customers by providing 20% reduced rate ...</p> <p>(e)5: reimbursement to HHSC for expense incurred in the implementation and administration of an integrated eligibility process”</p>	<p>Low-income energy efficiency program administered by Texas Department of Housing and Community Affairs.</p>		<p>SBF is account in general revenue</p> <p>Each fiscal year, PUC to set assessment at zero cents per megawatt hour if balance of SBF is sufficient to fund programs</p>	
SB 485, Fraser HB 1192, King				<p>SBF is account in general revenue.</p>	<p>Deletes statutory language that allows SBF to be spent on purposes other than those in Utilities Code</p>
SB 169, Ellis				<p>SBF is account in general revenue. Money to be appropriated only for purposes specified in Utilities Code.</p>	