



LEGISLATIVE BUDGET BOARD

Constitutional Limitations on Spending

PRESENTED TO THE SENATE FINANCE COMMITTEE

URSULA PARKS, LEGISLATIVE BUDGET BOARD

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Constitutional Spending Limits

The Texas Constitution includes four limitations on state spending:

- Debt limit
- Welfare spending limit
- Pay-as-you-go limit
- Limit on the growth of certain appropriations (a.k.a. spending limit)

The 2016-17 budget is within all of these limits

Debt Limit and Welfare Spending Limit

Debt Limit

- Texas Constitution, Article III, Section 49 (j)
- Limits the authorization of additional state debt if in any fiscal year the resulting annual debt service payable from the unrestricted General Revenue Fund exceeds 5 percent of the average annual unrestricted General Revenue Funds for the previous three years
- Approved by voters November 4th, 1997

Welfare Spending Limit

- Texas Constitution, Article III, Section 51-a
- Provides that the state funds appropriated for assistance grants on behalf of needy dependent children and their caretakers (i.e., Temporary Assistance for Needy Families [TANF]) shall not exceed 1 percent of the state budget in any biennium
- Approved by voters August 25, 1945

Pay-as-You-Go Limit

- Texas Constitution, Article III, Section 49a
- Requires that all appropriations are within available revenue in the fund from which the appropriations are made
- Approved by voters on November 3rd, 1942

What Appropriations are Limited by Pay-as-You-Go?

The Comptroller of Public Accounts is constitutionally required to certify whether appropriations are within estimates of available revenue. However, the commonly used term “the pay-as-you-go limit” only applies to General Revenue appropriations. Revenue available to certify GR appropriations under the pay-as-you-go limit include the beginning balance in the General Revenue Fund, collections deposited to the General Revenue Fund (less GR deposits reserved for transfer to the Economic Stabilization Fund and the State Highway Fund), and as a result of funds consolidation, unappropriated General Revenue–Dedicated account balances available for certification.

- Due to federal, constitutional or statutory provisions, certain accounts in General Revenue do not count against the pay-as-you-go limit
- General Revenue-Dedicated appropriations reduce the overall amount of General Revenue-Dedicated balances counted towards certification
- While certain Other Funds are estimated in the Biennial Revenue Estimate, as they are not General Revenue, they do not count against pay- as-you-go. Major such funds include:
 - Economic Stabilization Fund
 - State Highway Fund
 - Mobility Fund
 - Property Tax Relief Fund

Spending Limit: Constitution

- Texas Constitution, Article VIII, Section 22
- Limits the rate of growth in appropriations from one biennium to the next
- Approved by voters on November 7th, 1978
 - (a) In no biennium shall the rate of growth of appropriations from **state tax revenues not dedicated by this constitution exceed the estimated rate of growth of the state's economy.** The legislature shall provide by general law procedures to implement this section.*

Spending Limit: Statute

Government Code Chapter 316

- Provides the general law referenced in the Constitution, and directs the LBB to establish:
 - The current biennium's level of appropriations subject to the limit;
 - Estimated rate of growth in the state's economy from one biennium to the next; and
 - The subsequent biennium's limit on appropriations subject to the limit.
- It also requires that the rate of growth be defined as the growth in personal income

What Appropriations are Controlled by the Spending Limit?

Only appropriations funded with tax revenue not dedicated by the Constitution are subject to the limit

- Sales tax
- Motor vehicle sales tax
- Franchise tax
- Cigarette and tobacco taxes

Appropriations funded with tax revenues are not subject to the limit if the Constitution requires the tax revenues to be used for a certain purpose

- Motor fuel taxes are constitutionally dedicated for transportation and education
- 25 percent of oil and natural gas production taxes are constitutionally dedicated for education

Appropriations funded with non-tax revenues are not subject to the limit

- Fee, fines, penalties
- Interest and investment income
- Lottery proceeds

LBB Adoption of Growth Rate

- The Legislative Budget Board meets on or before December 1 every year before session to adopt an estimated rate of growth in the Texas economy and the resulting spending limit for the next legislative session
- Forecasted growth rates are provided by well known state and national economic forecasters to LBB staff and presented to the Legislative Budget Board
- The Legislative Budget Board is allowed to adopt any forecasted growth rate and is not limited to any of the provided growth rates

Does the Limit Ever Change?

The adopted rate of growth does not change over the biennium. The base to which it is applied may change, based both on changes to revenue and changes to appropriation levels. For example:

- Changes to actual appropriations for the base biennium affect not only spending limit capacity for that current biennium but also the limit itself for the subsequent (adopted) biennium; and
- Changes to revenues affecting the “mix” of revenue supporting appropriations can shift spending limit capacity.

Tax Changes

Changes in state or local revenue do not by themselves affect state appropriations. However, if a tax change affects revenues used in state funding formulas, statute could trigger changes to appropriation amounts and methods of finance.

Local Property Tax Cut

- Per the Texas Education Code, the Foundation School Fund (GR) is appropriated to replace any lost local revenue as a result of a local property tax cut
- Shifting funding from local funds to General Revenue funds will create additional General Revenue appropriations subject to the spending limit

Franchise Tax Cut

- Both the Foundation School Fund (GR) and the Property Tax Relief Fund (Other Funds) are subject to the constitutional spending limit
- Swapping one for the other (for example, reducing franchise tax deposits in the Property Tax Relief Fund and replacing that revenue with GR) will not materially change how much may be appropriated under the spending limit

Can The Limit Be Exceeded?

The legislature may adopt a concurrent resolution to exceed the adopted spending limit:

- The concurrent resolution requires a majority of each chamber.
- The adopted limit has only been exceeded once: In 2007 the Legislature passed Senate Concurrent Resolution 20, which authorized spending above the adopted limit in order to accommodate \$14.2 billion in increased state spending associated with funding property tax relief.

Spending Limit Proposals

Various proposals would change:

Base - spending that is subject to the limit

Growth Rate - the measure of economic growth

Timeframe – prospective to retrospective

84th Legislation - Senate

- The Senate passed an additional, statutory limit on spending which was not ultimately enacted
- Base: Applied to all General Revenue and General Revenue-Dedicated appropriations
- Growth Rate: Restricted by average growth of population and inflation during current and next biennia
- Timeframe: Average of both retrospective and prospective growth rates

84th Legislation - House

- The House passed an additional, statutory limit on spending which was not ultimately enacted
- Base: Applied to all non-federal appropriations by spending category
 - (1) transportation;
 - (2) public primary and secondary education;
 - (3) higher education;
 - (4) health care;
 - (5) public safety and corrections; and
 - (6) other general government
- Growth Rate: Restricted by the rate of growth for each spending category based on (1) the estimated rate of growth in the population served in that spending category and (2) the estimated rate of inflation in a representative set of goods and services for that spending category
- Timeframe: Prospective growth aligned with budget cycle



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Contact the LBB

Legislative Budget Board

www.lbb.state.tx.us

512.463.1200