

SUBJECT: Eliminating dedicated funds and freeing them for general spending

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 19 ayes — Pitts, Raymond, Aycock, F. Brown, Button, Creighton, Crownover, Driver, Edwards, Eiland, Giddings, Herrero, Hochberg, S. King, D. Miller, Morrison, Otto, Riddle, Villarreal

0 nays

8 absent — Chavez, Cohen, Darby, Dukes, Flores, Isett, McClendon, Zerwas

WITNESSES: None

BACKGROUND: Under Art. 3, sec. 49a of the Texas Constitution, the comptroller must certify that the state will have enough revenue to pay for approved spending before an appropriations bill enacted by the Legislature may be sent to the governor.

Since 1991, the Legislature has been phasing out restrictions on many dedicated revenue funds and changing the methods of fund accounting. In the past, most dedicated revenue was held in separate “special funds” outside of general revenue, which limited the amount of general revenue available for general purpose spending. In 1991, the comptroller’s Texas Performance Review identified 537 state funds in the state treasury, 366 of which held cash balances at the end of fiscal 1990. Since then, the Legislature has phased in the consolidation of many dedicated funds into general revenue and has contained the growth of newly-created dedicated accounts. By August 31, 1995, 130 consolidated general revenue accounts lost their dedicated status, and 184 were established as dedicated general revenue accounts on September 1, 1995.

Funds consolidation changes also have included annual one-day accounting “sweeps.” Government Code, sec. 403.095(b) and (c) require that on August 31, 2009, cash balances in dedicated revenue accounts that exceed amounts appropriated or encumbered be transferred into general revenue and counted as available general revenue by the comptroller. The

availability of dedicated revenues for general governmental purposes is scheduled to expire September 1, 2009.

Government Code, sec. 403.095 requires that the comptroller include in the estimate of funds available for general-purpose spending the amounts in general revenue-dedicated accounts expected to exceed appropriations from those accounts at the end of the current biennium. The Legislature also may direct the comptroller to transfer these general revenue-dedicated account balances to the unobligated portion of the General Revenue Fund.

DIGEST:

CSHB 4583 would abolish, on August 31, 2009, most funds and accounts created or re-created in the state treasury or dedicated or rededicated by an act of the 81st Legislature. This would not apply to statutory dedications, funds, and accounts enacted before the 81st Legislature convened to comply with requirements of state constitutional or federal law, to trust funds or dedicated revenue deposited to trust funds created as an act of the 81st Legislature, to bond funds and pledge funds created or affected by an act of the 81st Legislature, or to accounts that were exempt from previous consolidation requirements.

The bill would reenact and amend all accounts created or re-created by certain acts of the 81st Legislature and would exempt certain new and existing accounts from the abolition of accounts or dedications, including:

- the designated trauma facility and EMS account;
- the System Benefit Fund;
- the large county and municipality recreation and parks account;
- the renewing our communities account under HB 492 by Zerwas or similar legislation;
- the account for conservation of marine resources under HB 1749 by Bonnen, SB 735 by Hegar, or similar legislation;
- the pretrial victim-offender mediation program account under HB 2139 by McClendon or similar legislation;
- the fuel ethanol, renewable methane, and biodiesel production account under HB 2318 by Swinford or similar legislation;
- the emergency radio infrastructure account under HB 2507 by Chisum or similar legislation;
- the Texas nursery and floral account under HB 3496 by S. Miller or similar legislation;

- the dedicated account for purchasing and distributing child passenger safety seat systems to low-income under HB 528 by Vaught, SB 61 by Zaffirini, or similar legislation;
- the trafficking of persons investigation and prosecution account under HB 639 by Thompson, SB 89 by Van de Putte, or similar legislation;
- the Texas Rural Development Fund account under HB 1715 by Gonzalez Toureilles, SB 684 by Lucio, or similar legislation;
- the mathematics and science teacher investment fund account under HB 2773 by Eissler, SB 816 by Patrick, or similar legislation;
- the Texas Rural Investment Fund account under HB 1911 by Isett, HB 3236 by Flynn, SB 1016 or SB 1988 by Estes, or similar legislation;
- the hospital district airline fares account under HB 2899 by T. Smith or SB 1264 by Watson, or similar legislation;
- the commission advanced clean energy project account under HB 2811 by P. King, SB 2111 by Averitt, or similar legislation;
- the special fund established for special rangers under HB 2062 by Gallego, SB 1683 by Hinojosa, or similar legislation;
- the Chris Kyker Endowment for Seniors Fund under HB 610 by Naishtat, SB 1230 by Van de Putte, or similar legislation;
- the dedication of assessments and penalties by HB 77, SB 638, or similar legislation;
- the dedication of tax revenue by HB 982, SB 2187, or similar legislation;
- the dedication of fee revenue by HB 128, SB 924, or similar legislation;
- the dedication of fee revenue by HB 1965 or similar legislation;
- the dedication of revenue by HB 2259, SB 1378, or similar legislation;
- the dedication of revenue by HB 2389 or similar legislation;
- the dedication of fee revenue by HB 4064 or similar legislation;
- the dedication of revenue by HB 4110, SB 2208, or similar legislation;
- the dedication of revenue by HB 1834, SB 161, or similar legislation;
- the dedication of fee revenue by HB 1406, SB 862, or similar legislation;

- the dedication of fee revenue by HB 2203, SB 1007, or similar legislation;
- the dedication of proceeds by HB 4427, SB 1774, or similar legislation;
- the dedication of certain penalty proceeds by HB 2517, SB 2279, or similar legislation; and
- the dedication of revenue by HB 2774 or similar legislation.

The bill would make available for use for general governmental purposes on August 31, 2009, balances in certain dedicated revenue accounts that exceeded the amounts appropriated by the general appropriations act or other act of the 81st Legislature. Such funds also would be considered available for certification of the state budget.

Fifty percent of all commissions paid to the Department of Criminal Justice by a vendor would be appropriated to the Victims of Crime Fund and the other 50 percent would go to the credit of the undedicated portion of the General Revenue Fund, except that the department would transfer to the victims of crime fund the first \$10 million of the commissions collected.

CSHB 4583 would create the American Recovery and Reinvestment Act Fund as a special fund outside the General Revenue Fund. As necessary, state agencies that received money under the federal Recovery act would deposit the money to the credit of the fund. Money deposited to the credit of the fund would only be used for the purposes identified in the act. Interest earned on money in the fund would be retained in the fund.

CSHB 4583 would prevail over any other act of the 81st Legislature that purported to create or re-create a special fund or account in the state treasury or to dedicate or rededicate revenue to a particular purpose, regardless of effective dates.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

**SUPPORTERS
SAY:**

CSHB 4583 would continue the process of fund consolidation and preservation done by recent Legislatures. Since 1991, the Legislature has been phasing out restrictions on many dedicated revenue funds and changing the methods of fund accounting. In the past, most dedicated

revenue was held in separate “special funds” outside of general revenue, limiting the amount of general revenue available for general purpose spending.

Cash balances in dedicated revenue accounts that exceed amounts appropriated or encumbered would be “swept” or transferred into general revenue and counted as available general revenue by the comptroller for purposes of certification of the budget. The availability of dedicated revenues for general governmental purposes is scheduled to expire September 1, 2009, and the bill would extend this authority for another two years.

OPPONENTS
SAY:

This bill would perpetuate the practice of using unspent dedicated funds to certify the budget rather than appropriating the balance of these funds for the purpose for which these funds was intended. The Legislature under-appropriates from these dedicated funds to the agencies intended to receive them in order to preserve enough unspent revenue to certify the budget. This amounts to raising fee revenue for one purpose and diverting the funds to another purpose. The state should spend fee revenue for the purpose for which it was collected or else give the money back.

NOTES:

The companion bill, SB 1922 by Ogden, has been referred to the Senate Finance Committee.

According to the fiscal note, the fiscal impact of CSHB 4583 would depend on actions on other legislation by the 81st Legislature.