

**SUBJECT:** Eliminating dedicated funds and freeing them for general spending

**COMMITTEE:** Appropriations — committee substitute recommended

**VOTE:** 20 ayes — Pitts, Aycock, Button, Chisum, Crownover, Darby, Eiland, Gooden, Hochberg, Johnson, Margo, McClendon, D. Miller, Morrison, Otto, Patrick, Riddle, Schwertner, Shelton, Zerwas

0 nays

7 absent — Turner, Dukes, Giddings, S. King, Martinez, Torres, Villarreal

**SENATE VOTE:** On final passage, May 11 — 31-0

**WITNESSES:** No public hearing

**BACKGROUND:** Under Art. 3, sec. 49(a) 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.

In 1991, the Legislature began phasing out restrictions on many dedicated revenue funds and changing the methods of fund accounting. Before this change, 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. The Legislature has phased in the consolidation of many dedicated funds into general revenue and has contained the growth of newly created dedicated accounts.

Funds consolidation changes also have included annual one-day accounting “sweeps.” Government Code, sec. 403.095(b) requires that on August 31, 2011, 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, 2011.

Under Government Code, sec. 403.095 the comptroller includes 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.

**DIGEST:**

CSSB 1588 would abolish most funds and accounts created or recreated and dedications or rededications of revenue by an act of the 82nd Legislature. The abolishment of the funds would occur on August 31, 2011, or the date that the act creating or recreating the fund or account or dedicating or rededicating revenue took effect, whichever was later.

CSSB 1588 would list several dedications, funds, and accounts that would not be abolished. It would not apply to certain previously exempt dedications, funds, and accounts, including statutory dedications, funds, and accounts enacted before the 82nd Legislature convened to comply with requirements of state constitutional or federal law. The abolishment also would not apply to:

- federal funds created pursuant to an act of the 82nd Legislature for which separate accounting was required by law;
- trust funds or dedicated revenue deposited to trust funds created by the 82nd Legislature;
- bond funds and pledge funds created or affected by the 82nd Legislature;
- funds or accounts created or recreated by the Texas Constitution or funds that would be dedicated or rededicated by the Texas Constitution under a constitutional amendment proposed by the 82nd Legislature;
- a new account created in the General Revenue Fund for fees for special license plates as provided by an act of the 82nd Legislature;
- a newly authorized dedication of or use of a dedicated fund, dedicated account, or dedicated revenue as provided by an act of the 82nd Legislature if that act affected a fund, account, or revenue exempted from funds consolidation before January 1, 2011.

CSSB 1588 also lists certain accounts and revenue deposited to the accounts and dedications or rededications of revenue that would be exempt from the abolishment provisions in the bill. The five accounts would be created or recreated and the 18 dedications and rededications would be made if provided for by an act of the 82nd Legislature that became law.

The bill would exempt from abolishment two funds in the state treasury and the revenue deposited to the credit of the funds, if created by an act of the 82nd Legislature. These funds would be created as separate funds in the treasury. The scholarship trust fund for fifth-year accounting students also would be exempt from abolishment. The civil justice data repository fund and its revenue would be exempt from abolishment, and the fund would be created as an account in the General Revenue Fund.

The bill would make available for use for general governmental purposes on August 31, 2013, balances in certain dedicated revenue accounts that exceeded the amounts appropriated by the general appropriations act or other act of the 82nd Legislature. These funds would be considered available for certification of the state budget.

CSSB 1588 would prevail over any other act of the 82nd Legislature that purported to create or recreate a special fund or account or to dedicate or rededicate revenue to a particular purpose, regardless of the effective date. Exemptions from provisions about the use of dedicated revenue found in other acts of the 82nd Legislature would have no effect. Revenue that, according to any other act of the 82nd Legislature, would be deposited into a special account or fund would instead have to be deposited to the undedicated portion of the General Revenue Fund, unless exempted by CSSB 1588.

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 on the 91st day after the last day of the legislative session.

**SUPPORTERS  
SAY:**

CSSB 1588 would continue the process of fund consolidation and preservation begun 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. CSSB 1588 would ensure that laws enacted by the 82nd Legislature did not run afoul of this policy.

Without CSSB 1588, the Legislature's flexibility in appropriating state funds based on budgetary needs would be limited. About \$4 billion in additional cuts to state spending would be necessary if CSSB 1588 was not approved.

Cash balances in dedicated revenue accounts that exceeded 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. CSSB 1588 would continue this practice so that more general revenue could be made available for state priorities such as education, health care, and public safety. The availability of dedicated revenues for general governmental purposes is scheduled to expire September 1, 2011, 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 they were 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 revenue for the purpose for which it was collected or else give the money back.

NOTES:

The House committee substitute made numerous changes to the Senate-passed version of the bill, including revising the list of what accounts, funds, and dedications would be abolished and adding a provision that exemptions from provisions about the use of dedicated revenue found in other acts of the 82nd Legislature would have no effect.