

SUBJECT: Dedicated funds and accounts balance retention and abolition

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 19 ayes — Junell, Delisi, Averitt, Coleman, Cuellar, Finnell, Gallego, Greenberg, Haggerty, Heflin, Hinojosa, Hochberg, Kubiak, Pitts, Price, Swinford, Tillery, Walker, West

0 nays

8 absent — Davis, Eiland, Glaze, Hernandez, Moreno, Mowery, Raymond, S. Turner

WITNESSES: For — None

Against — None

On — T.C. Mallett, Office of the Comptroller

BACKGROUND
:
Statutes governing consolidation, abolition or use of state funds are found in the Government Code, secs. 403.094 - 403.096. In 1991, the Texas Performance Review report *Breaking the Mold* identified 537 state funds in the state treasury, 366 of which held cash balances at the end of fiscal 1990. The 72nd Legislature, in its first called session (1991), voted to consolidate most of the special funds into separate *accounts within* the general revenue fund by August 31, 1993. The account balances lost their dedication after August 31, 1995, unless individually rededicated by the Legislature or exempted to comply with state constitutional or federal requirements.

A total of 281 funds became general revenue accounts on August 31, 1993. The new account balances were included in the total general revenue fund estimate for the fiscal 1992-93 budget — a one-time net gain of \$540 million. 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, including newly created accounts or overlooked funds since 1993.

Sec. 403.095 (b) and (c) state that on August 31, 1997, any cash balances in dedicated revenue accounts that exceed amounts appropriated or encumbered can be made available for general governmental purposes, and the comptroller must reduce each dedicated account by the amount of the balance that exceeds appropriations. The availability of dedicated revenues for general governmental purposes expires on September 1, 1997.

Accounts exempted by secs. 403.095 (b) and (c) include those created by a court or the Constitution, trust funds, federally required funds, and funds outside the treasury. As of November 1996, about 48 funds have been identified that could be subject to balance transfers (see Funds Review Advisory Committee, *Comprehensive Report on State Funds*, 1996).

DIGEST:

CSHB 2948 would amend current law that authorizes balances in certain dedicated revenue accounts to be used for general purposes on August 31, 1997, to make the same authorization for August 31, 1999, and change the expiration of the provision to September 1, 1999.

CSHB 2948 also would abolish on August 30, 1997, all funds and accounts created or re-created in the state treasury or dedicated or rededicated by an act of the 75th Legislature. The fund elimination would not apply to statutory dedications, funds and accounts that were enacted before the 75th Legislature convened.

The fund elimination and balance availability would not apply to the following accounts or funds that may be created by the 75th Legislature:

- the capital access fund account created by SB 266 or HB 618;
- the account containing fees for maintaining a real estate license on inactive status created by HB 1346;
- the groundwater district loan assistance fund created by SB 1 or HB 5;
- the Texas water development fund II created by SB 1 or HB 5;
- the safe drinking water revolving fund created by SB 1 or HB 5;
- a rededication of certain fees collected under the Real Estate License Act, if becomes law under HB 2539 or SB 1497;
- accounts established to account for funds as required by federal law;

- trust funds or dedicated revenue deposited to trust funds that would have to be held outside the state treasury;
- bond funds and pledged funds created or affected by an act of the 75th Legislature, including revenue bond funds in SB 1060, SB 370 and HB 3189; and
- dedicated or rededicated by the Texas Constitution or under constitutional amendments, including: the Texas tomorrow fund in HJR 8, SJR 27 or HB 9; the crime victims' compensation fund and auxiliary fund in SJR 33, HJR 1 or HB 3062; lottery and property tax revenue in HJR 4 or HB 4; and the Texas growth fund II in SJR 17.

The bill would take effect immediately if finally approved by a two-thirds record vote of the membership in each house. It would prevail over any other act of the 75th Legislature, regular session, purporting to create or re-create a special fund or account or to dedicate or rededicate revenue unless the fund, account or dedication were exempted under the bill.

**SUPPORTERS
SAY:**

CSHB 2948 would continue the undertaking started by the 72nd Legislature to simplify and make more flexible state fund accounting and appropriations. Dedicated accounts tie the hands of the Legislature in channeling appropriations toward shifting or evolving state priorities by severely limiting the amount of general revenue available for expenditure for general purposes. Fund consolidations and balance transfers help make state spending more responsive and reduce accounting and paperwork costs.

Accounts once established in statute to meet a pressing need often are forgotten or remain dedicated even though the revenues deposited to the account may far exceed the demand for spending for the stated purpose or the need for the special account has diminished. Since 1991 the Legislature has been phasing out restrictions placed on many dedicated revenue funds and changing the methods of fund accounting.

For this legislative session alone, more than 500 bills have been identified that would create over 200 new accounts or dedicated fees and revenues. This kind of proliferation of new funds and accounts would counter progress made in recent years toward identifying and eliminating unnecessary dedicated accounts. CSHB 2948 would, however, authorize the dedication of necessary accounts that have a history of dedication but were

inadvertently eliminated last session, and accounts that would be established by constitutional amendments subject to the vote of the citizenry.

Shifting the dates for “sweeping” balances in dedicated accounts for general purposes would allow these balances to be used for certification of the fiscal 1998-99 budget, just as the account balances were used last session to certify the fiscal 1996-97 budget. No dedicated account would lose funds during this process; it would simply allow the comptroller to certify as available revenue that would be just sitting in accounts but would not be spent.

**OPPONENTS
SAY:**

The Legislature should be wary of making any exceptions to the policy against establishing or rededicating certain accounts dedicated toward resolving specific problems or enhancing specified purposes. To continue the progress toward funds consolidation and elimination, dedicating accounts targeted to significant areas of concern should be allowed only with special justification.

Revenues dedicated to a specific function or purpose also should not be used for general purposes — even if only for a day. Such a provision is a “smoke and mirrors” technique to artificially raise the amount of general revenue available for certification, even though balances in dedicated accounts do not reflect truly available funds. This provision also could lay the groundwork for a future “sweep” of such balances into the general revenue fund, which would eliminate excess funds that could be used to meet future emergencies or to forestall fee increases.

NOTES:

The committee substitute added to the original version provisions specifically exempting from elimination statutory dedications and accounts enacted before the 75th Legislature and exempting trust funds, bond funds, and certain constitutional funds.