SUBJECT: County accounting procedures regarding certain audits, debts, and records

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 6 ayes — W. Smith, Naishtat, Farabee, Heflin, Leibowitz, T. Smith

0 nays

3 absent — Bolton, Coleman, Harless

WITNESSES: For — April Bacon, Travis County Auditor's Office; Donald Lee, Texas Conference of Urban Counties; Jimmy Mynar, Texas Association of County Auditors; *(Registered, but did not testify:* Chuck Rice, Texas Association of County Auditors; Paul Sugg, Texas Association of Counties)

Against — None

DIGEST: CSHB 2485 would allow an official, agency, court or other entity to retain receipts, invoices, vouchers, or similar records of financial transactions that arose from an expunction proceeding or prosecution of the underlying criminal cause so long as the identity of the person was removed from the records.

It would extend the due date of delivery for audits of seized, forfeited, received, and expended proceeds and property from 30 days to 60 days, with allowable extensions increasing from 46 days to 76 days after the date on which the annual period of the audit ended.

The bill would add a definition for "debt" in Local Government Code, ch. 154 that would include delinquent taxes, fines, fees and indebtedness arising from written agreements with the county.

The bill would require the county treasurer or county auditor to notify in writing a person who owed a debt to the county. The county could, with proper written notice to the debtor, apply any funds the county owed a person to the outstanding balance of the debt.

The bill would take effect September 1, 2007.

SUPPORTERS SAY:

CSHB 2485 is a clean-up measure for county financial processes. Not only would the bill better define debt, it would provide a better means for counties to collect debt. Currently, counties simply are directed not to allow people to owe them money, but the law provides no means of collecting funds from those people with whom the county has a working relationship. For example, a county may be working with a vendor that owes taxes or fees to the county because the county has not yet made payment for a major contract. The bill would streamline county financial processes by providing the option of applying accounts payable to the existing debt in order to maintain the working relationship. It also would protect debtors by requiring the county to provide written notice of an existing debt and its intention of applying accounts payable to the existing debt, if applicable.

The bill further would aid counties handling criminal expunctions and filing annual audits. Currently, county auditors do not receive notice of expunctions until the order is executed. The order does not always take into consideration the ramification of destroying financial documents that support a government expenditure. CSHB 2485 would clarify how to properly redact identifying information from the receipts of a criminal expungement in order to protect both the defendant and the county.

The bill also would grant counties more time to file annual forfeiture and seizure audits. This is necessary because many counties do not have the staff to complete an audit within 30 days, especially since they are due to the comptroller and attorney general at a period of high financial activity for the county each year. The bill would provide county auditors more breathing room to meet the auditing requirements without sacrificing auditing standards.

OPPONENTS SAY:

Because the bill would define debt to include fines and fees, a county employee technically could owe a debt to the county for a simple traffic or registration violation. While a county employee could contest such a fine or fee, this process might not be completed before a regularly scheduled pay period, at which point the county could offset the fine or fee from the employee’s wages. While this bill would require the county to provide notice of the debt and an intention to apply accounts payable to it, it would not require the county to negotiate terms or authorize a payment plan with the offender. The bill should limit the application of the debt offset from accounts payable only to contractors with the county.

NOTES:

The committee substitute removed a section from the original bill dealing with auditors and quarterly audit requirements. This section is contained in HB 1780 by Harless, which passed the House on March 28.

The companion bill, SB 1106 by Watson, passed the Senate on April 12 on the Local and Uncontested Calendar and was reported favorably, as substituted, by the House County Affairs Committee on April 24, making it eligible to be considered in lieu of HB 2485.