

SUBJECT: Contracting with third party for the collection of delinquent state debt

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 5 ayes — Keffer, Ritter, Otto, Paxton, Peña
0 nays
1 present not voting — Y. Davis
3 absent — Bonnen, Flores, Pitts

SENATE VOTE : On final passage, May 3 — 31-0, on Local and Uncontested Calendar

WITNESSES: (*On House companion bill, HB 3278 by Isett:*)
For — Dwain James, American Collectors Association of Texas
Against — None
On — Richard Craig, Comptroller's Office

BACKGROUND: Government Code ch. 2107 governs collection of delinquent obligations owed to the state. Sec. 2107.003 requires a state agency to request the attorney general to collect an obligation before the agency can contract with an outside person to collect the debt. The attorney general can authorize an agency to contract with an outside person to collect a debt that the attorney general cannot collect. The comptroller is authorized to contract with an outside person to collect a debt, but such a contract must be reviewed by the attorney general. Under sec. 2107.004, within 120 days of an obligation becoming delinquent or 30 days after the comptroller determines its efforts to collect the debt have been unsuccessful, the agency must report the debt to the attorney general for further collection efforts.

DIGEST: SB 1615 would require state agencies to refer delinquent and uncollected debt to the attorney general for further collection efforts. An agency would have to refer the debt within 90 days of it becoming delinquent.

For debt that had been referred, the attorney general could:

- provide legal services to collect the debt;
- allow the agency to contract with a third party to collect the debt; or
- contract with a third party to collect the debt on behalf of the agency.

Debt referred to the attorney general would have to meet guidelines established by the attorney general.

The bill would allow the comptroller to contract with a third party to collect delinquent debt returned to the comptroller by the attorney general that had been referred to the attorney general after the Attorney General's Office had exhausted its collection efforts. Such a proposal would have to be reviewed by the attorney general. A third party contracting with the comptroller would be entitled to a fee of 30 percent of the amount of debt collected. Within 30 days after determining that its efforts to collecting a debt had failed, the comptroller would have to report the uncollected debt to the attorney general for further collection efforts.

An agency could recover from the individual owing the debt costs that were incurred due to the collection, including a collection contract up to 30 percent of the debt.

A third party debt collector could not pursue judicial action to collect the debt on behalf of a contracting state agency.

Except when otherwise determined by the attorney general, a state agency could decide on its own when to refer a debt to a private collection firm.

A contracting state agency could provide confidential information to a third party collector in order to aid in collection of a debt. A third party collector would be subject to all prohibitions and penalties against wrongful disclosure of such information.

A third party debt collection contractor would have to have insurance against damages caused in the course of collecting a debt and would be subject to existing state laws governing debt collection.

Laws governing contingent fee contracts for state services would not apply to a contract of a state agency with a third party debt collector authorized under the bill.

The bill would take effect September 1, 2007, and would apply to only to a contract for the collection of delinquent taxes or debt that was entered into on or after this date.

**SUPPORTERS
SAY:**

By authorizing state agencies to pursue delinquent debt through contracts with third party debt collectors, SB 1615 would enable the state to pursue the estimated \$1.8 billion in debt that has been deemed uncollectible. The bill would implement a recommendation from the Legislative Budget Board's 2007 *Texas Government Effectiveness and Efficiency* report, which found that the state could realize additional revenue by better coordinating its debt collection efforts. The bill would involve the Office of the Attorney General, the state agency with authority over debt collection for most state agencies, in determining how to collect outstanding debt and when to contract with an outside party.

Much of the delinquent amounts collected under SB 1615 would go to the state agency to which they were owed for use during the fiscal year in which they were received. In excess of those amounts, LBB estimates that under SB 1615 the state would see an increase in general revenue of \$1 million in fiscal 2008-09.

**OPPONENTS
SAY:**

A debt collection fee as high as 30 percent of the delinquent amount would be inappropriate. This maximum payment rate would be much higher than rates currently negotiated by the state.

NOTES:

According to the fiscal note, SB 1615 would result in an increase of \$1 million in general revenue in fiscal 2008-09.