

BILL ANALYSIS

S.B. 1615
By: Averitt
Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

According to state agency reports submitted to the Office of the Attorney General, Texas is owed \$1.8 billion in uncollected debt. Current law requires a state agency to request that the attorney general collect an obligation before the agency may employ, retain, or contract with a person other than a full-time employee of the state agency to collect the obligation.

S.B. 1615 authorizes the attorney general to authorize a requesting state agency to employ, retain, or contract, subject to approval by the attorney general, and subject to the agency's compliance with applicable guidelines established by the attorney general, one or more persons, to collect the obligation; or if the attorney general determines it to be economical and in the best interest of the state, to contract with one or more persons to collect the obligation.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 2107.003, Government Code, as follows:

Sec. 2107.003. COLLECTION BY ATTORNEY GENERAL OR OUTSIDE AGENT.
(a) Requires a state agency, except as provided by Subsection (c) or (c-1), to refer an uncollected and delinquent obligation that meets the referral guidelines established by the attorney general to the attorney general for further collection efforts. Requires the state agency to refer the obligation on or before the 90th day after the date the obligation becomes past due or delinquent. Deletes existing text relating to requiring a state agency, except as provided by Subsection (c), to request that the attorney general collect an obligation before the agency may employ, retain, or contract with a person other than a full-time employee of the state agency to collect the obligation.

(b) Authorizes the attorney general to provide legal services for collection of the obligation. Authorizes the attorney general to authorize the requesting state agency to employ, retain, or contract with, subject to approval by the attorney general, and subject to the agency's compliance with applicable guidelines established by the attorney general, one or more persons, to collect the obligation; or if the attorney general determines it to be economical and in the best interest of the state, to contract on behalf of the state agency with one or more persons to collect the obligation. Deletes existing text authorizing a state agency to employ, retain, or contract with a person other than a full-time employee of the agency to collect an obligation that the attorney general cannot collect.

(c) Deletes existing text authorizing a proposed contract under this subsection to include a collection fee computed on the amounts collected under the contract. Entitles a person contracting with the comptroller of public accounts (comptroller) under this subsection to a collection fee, as provided under the contract, in an amount not to exceed 30 percent of the full amount of the obligation. Makes a conforming change.

(c-1) Authorizes the comptroller to also contract with one or more persons to collect delinquent obligations that have been referred to the attorney general and that the attorney general has returned to the comptroller after exhausting all reasonable collection efforts. Requires a proposed contract under this subsection to be reviewed by the attorney general. Entitles a person contracting with the comptroller under this subsection to a collection fee equal to 30 percent of the full amount of the obligation collected.

(d) Entitles the agency contracting under Subsection (b) or (c), to recover from the obligor, in addition to the amount of the obligation, reasonable costs incurred in undertaking the collection, including the costs of a contract under this section. Provides that the obligor is liable for costs of recovery under this section in an amount not to exceed 30 percent of the sum of the total amount of the obligation.

(e) Prohibits a person awarded a contract under Subsection (b), (c), or (c-1) from filing suit or otherwise pursuing judicial action to collect the obligation owed in a court of this state or another state on behalf of the contracting state agency.

(f) Authorizes a state agency, except as provided by Subsection (b)(3), to determine in its sole discretion which obligations to refer to a private collection firm for collection.

(g) Authorizes the contracting state agency to provide a person contracting under Subsection (b), (c), or (c-1) any information, including confidential information, that the agency is not prohibited from sharing under an agreement with another state or with the United States that is in the custody of the agency holding the claim and necessary to the collection of the obligation.

(h) Provides that a person acting under a contract formed under Subsection (b), (c), or (c-1) and each employee or agent of that person is subject to all statutory prohibitions against the wrongful disclosure of confidential information that the contracting state agency and its employees are subject to. Provides that a contractor's employee is subject to the same penalties for wrongful disclosure of confidential information as would apply to the employees of the contracting agency.

(i) Requires the contracting agency to require a person who contracts under Subsection (b), (c), or (c-1) to obtain and maintain insurance adequate to provide reasonable coverage for damages negligently, recklessly, or intentionally caused by the contractor or the contractor's employee or agent in the course of collecting an obligation under the contract.

(j) Provides that a person who contracts with a state agency under this section is subject to Chapter 392 (Debt Collection), Finance Code.

SECTION 2. Amends Section 2107.004, Government Code, as follows:

Sec. 2107.004. New heading: NOTICE BY COMPTROLLER TO ATTORNEY GENERAL FOR FURTHER COLLECTION. Requires the comptroller, except as provided by Section 2107.003, rather than 2107.003(c), not later than the 30th day after the comptroller determines that its efforts to collect a delinquent obligation have failed, to report the uncollected and delinquent obligation to the attorney general for further collection efforts. Deletes existing text regarding the period by when the comptroller is required to make the report.

SECTION 3. Amends Section 2254.102(c), Government Code, to provide that this subchapter (Subchapter C. Contingent Fee Contract for Legal Services) does not apply to a contract with a state agency to collect an obligation under Section 2107.003(b), (c), or (c-1). Makes a conforming change.

SECTION 4. Makes application of the changes in law made by this Act to Sections 2107.003, 2107.004, and 2254.102, Government Code, prospective.

SECTION 5. Effective date: September 1, 2007.

EFFECTIVE DATE

September 1, 2007.