

BILL ANALYSIS

Senate Research Center
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S.B. 1615
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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.

As proposed, 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, with a person 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

This bill does not expressly grant any additional rulemaking authority to any state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 403.019(c), Government Code, as follows:

(c) Requires the attorney general to approve a contract to collect a debt if the attorney general determines that the contract complies with the requirements of this section, the contract does not conflict with any contract formed under Section 2107.003(b), and the contract is in the best interest of the state.

SECTION 2. Amends Section 2107.003, Government Code, as follows:

Sec. 2107.003. New heading: COLLECTION BY ATTORNEY GENERAL, COMPTROLLER, OR OUTSIDE AGENT. (a) Requires a state agency, except as provided by Subsection (c), to report an uncollected and delinquent obligation to the attorney general for collection. Requires the state agency to report 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) Requires 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, subject to approval by the attorney general, with a person 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. 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) Makes no change to this subsection.

(d) Entitles the agency contracting under Subsection (b) to recover from the obligor, in addition to the amount of the obligation, the 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 amount of the obligation and any interest due on the obligation.

(e) Requires a contract formed under Subsection (b) to provide for the compensation due to the contractor. Prohibits the amount of the compensation from exceeding 30 percent of the sum of the collected amount of the obligation, any penalty, and any interest.

(f) Authorizes a contract formed under Subsection (b) or (c) to permit or require the contractor to pursue in the name of this state a judicial action to collect the amount of the obligation in a proper court in or outside of this state.

(g) Provides that in a suit in a Texas state court to collect an obligation under this section, the state is not required to post security for costs; liable for costs; or liable for certain fees.

(h) Requires an amount collected under a contract formed under Subsection (b), including the costs of recovery and court costs or other costs, to be deposited in the fund or account to which the obligation was required to be deposited. Requires the contracting agency to pay the compensation due under the contract to the contractor and to pay to the applicable court any court costs collected.

(i) Requires the contracting agency to require a person contracting under Subsection (b) to post a bond or other security in an amount the contracting agency determines is sufficient to cover all revenue or other property of the state that is expected to come into the possession or control of the contractor in the course of providing contract services.

(j) Provides that a person who contracts under Subsection (b) is an agent of this state for purposes of determining priority of a claim to be collected under the contract with respect to claims of other creditors. Provides that the contractor does not exercise any sovereign power of the state.

(k) Authorizes the contracting state agency to provide a person contracting under Subsection (b) 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.

(l) Provides that a person acting under a contract formed under Subsection (b) or (c) and each employee or agent of that person is subject to all prohibitions against the disclosure of confidential information obtained from the contracting agency, the reporting state agency, or their employees. Provides that a contractor or the contractor's employee or agent who discloses confidential information in violation of the prohibition is subject to the same penalties for that disclosure as would apply to the contracting agency or its employees.

(m) Requires the contracting agency to require a person who contracts under Subsection (b) 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 and to protect this state from liability for those damages. Provides that the state is not liable for and is prohibited from indemnifying a person acting under a contract under Subsection (b) 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.

(n) Authorizes the attorney general or the contracting agency in addition to grounds for termination provided by the contract terms, as applicable, to terminate a contract form under Subsection (b) if certain conditions exist.

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 an agency to collect an obligation under Section 2107.003(b).

SECTION 4. Repealer: Section 2107.004 (Notice to Attorney General for Further Collection), Government Code.

SECTION 5. Makes application of the changes in law made by this Act to Sections 2107.003 and 2254.102, Government Code, prospective.

SECTION 6. Effective date: September 1, 2007.