

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**April 18, 2007**

**TO:** Honorable Steve Ogden, Chair, Senate Committee on Finance

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: SB1615** by Averitt (Relating to the collection of delinquent obligations owed to the state.),  
**As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB1615, As Introduced: a negative impact of (\$107,370,000) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$59,640,000)
2009	(\$47,730,000)
2010	(\$49,210,000)
2011	(\$50,730,000)
2012	(\$52,310,000)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable Revenue (Loss) from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable (Cost) from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable Revenue Gain from <i>GR DEDICATED</i> <i>ACCOUNTS</i> 994
2008	\$560,000	(\$59,640,000)	(\$560,000)	\$800,000
2009	\$610,000	(\$47,730,000)	(\$610,000)	\$880,000
2010	\$660,000	(\$49,210,000)	(\$660,000)	\$950,000
2011	\$720,000	(\$50,730,000)	(\$720,000)	\$1,000,000
2012	\$780,000	(\$52,310,000)	(\$780,000)	\$1,100,000

Fiscal Year	Probable (Cost) from <i>GR DEDICATED</i> <i>ACCOUNTS</i> 994	Probable Revenue Gain from <i>OTHER FUNDS</i> 997	Probable (Cost) from <i>OTHER FUNDS</i> 997
2008	(\$800,000)	\$220,000	(\$220,000)
2009	(\$880,000)	\$240,000	(\$240,000)
2010	(\$950,000)	\$260,000	(\$260,000)
2011	(\$1,000,000)	\$280,000	(\$280,000)
2012	(\$1,100,000)	\$300,000	(\$300,000)

**Fiscal Analysis**

This bill would implement recommendations of the *LBB Government Effectiveness and Efficiency Report* entitled "Establish a Centralized Third-party Debt Collection Contract."

The bill would amend Section 403.019(c), Government Code, which addresses contracts to collect out-of-state debt, to ensure that a contract under this section does not conflict with a contract under Section 2107.003(b), which authorizes the attorney general to permit a state agency to establish a third-party collection contract.

The bill would amend Section 2107.003, Government Code, to modify the collection of state agency debts. The bill would amend Subsection (a) to require state agencies to report uncollected and delinquent obligations to the attorney general for collection on or before the 90<sup>th</sup> day after the obligation became past due. The bill would amend Subsection (b) to require the attorney general to provide legal services for collection of the obligation and permit state agencies to contract with a third-party to collect the debt if economical and in the best interest of the state to do so. The bill would add Subsections (d) and (e) to limit compensation for a third-party collection agent to up to 30 percent of the sum of the collected amount of the obligation, any penalty, and any interest. The bill would add Subsections (f) and (g) to permit contractors to pursue judicial action to collect the debt and to exempt the state for costs under such a judicial action. The bill would add Subsection (h) to deposit any collections to the fund or account to which the obligation was required and directs the contracting agency to pay the contractor the compensation due and to pay the court any court costs due. The bill would add Subsections (i) and (j) to require bonds or other security of the collection agent and to designate a collection agent as an agent of the state for purposes of determining priority of a claim with respect to claims of other creditors. The bill would add Subsections (k) and (l) to allow the exchange of confidential information for collection purposes, but to prohibit the disclosure of this information. The bill would add Subsections (m) and (n) to establish required insurance and to establish grounds for termination outside of contractual grounds.

The bill would amend Section 2254.102(c), Government Code, which addresses contingent fee contracts for legal services, to exempt contracts established under Section 2107.003(b), Government Code.

The bill would repeal Section 2107.004, Government Code, Notice to Attorney General for Further Collection. This section includes language that requires a state agency to report to the Office of Attorney General (OAG) delinquent obligations by the 120th day of delinquency or by the 30th day after the Comptroller of Public Accounts (CPA) has determined that its collection efforts on the delinquent obligation have failed.

The bill would take effect September 1, 2007.

## **Methodology**

The loss to the General Revenue Fund is based on the analysis by the CPA. The CPA states that the repeal of Section 2107.004 would require the CPA to report its uncollected debts to the Office of the Attorney General (OAG) on or before the 90th day after the debt becomes delinquent. This referral would end the CPA's collection efforts whether or not the the CPA had determined its efforts had failed.

The CPA reports that private debt collectors would not have the same success rate as the CPA collection efforts due to the limited tools at their disposal. The CPA estimates that the OAG and private collectors would collect 70 percent of delinquent obligations more than 90 days old, estimated to be \$199.3 million in fiscal 2008, based on historical trends. This would result in a loss of \$59.6 million in fiscal year 2008, \$47.7 million in fiscal year 2009, \$49.2 million in fiscal year 2010, \$50.7 million in 2011, and \$52.3 million in fiscal year 2012.

The CPA reports an additional administrative cost of \$158,974 in fiscal year 2008 and \$138,749 in subsequent years. It is assumed that these costs could be absorbed within the CPA's current appropriations.

The gain to General Revenue Funds, General Revenue-Dedicated Funds, and Other Funds results from

the collection of other debts currently classified as uncollectable at other state agencies. Although \$1.8 billion in uncollectible debt was reported in fiscal year 2004 (the most recent year with available data), approximately 98 percent is either currently being pursued or is governed by federal legislation, which precludes state effort to collect the debt. After subtracting those amounts, the remaining uncollectible debt reported for fiscal year 2004 is \$31.6 million. The average growth rate for uncollectible debt for fiscal years 2000 through 2004 was 8.8 percent. Assuming a 4 percent collection rate (which is the rate that the CPA collects on similar debt) and an 8.8 percent annual growth in uncollectible debts, the bill could lead to a revenue gain of \$3.3 million in All Funds in the 2008-09 biennium.

It is assumed that funds collected by a vendor would be remitted to the state agency that incurred the debt in the form of an appropriated receipt. Section 8.03 of Article IX in the current version of the General Appropriations Bill would appropriate these revenues to the state agency for use during the fiscal year in which they are received. It is expected that all revenues gained by this bill would be expended in the same year.

### **Technology**

The CPA reports an annual technology cost of \$8,049. It is assumed that this cost could be absorbed within the CPA's current appropriations.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, CT, HC, JI, JM