

BILL ANALYSIS

C.S.S.B. 1588
By: Ogden
Appropriations
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Historically, dedications of revenue for particular purposes have limited the legislature's flexibility in appropriating funds based on budgetary need and in using fund balances for other governmental purposes. Almost 20 years ago, the legislature enacted provisions relating to the consolidation of funds in existence before the end of the fiscal biennium. These provisions provided for the abolition of dedications in existence prior to the end of the next fiscal biennium, unless otherwise expressly exempted. C.S.S.B. 1588 seeks to enact a similar consolidation, as it relates to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

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. Definition

C.S.S.B. 1588 defines "state agency" for any provision of the bill that does not amend current law to mean an office, institution, or other agency, excluding an institution of higher education, that is in the executive branch or judicial branch of state government, that has authority that is not limited to a geographical portion of the state, and that was created by the constitution or a state statute.

Section 2. Abolition of Funds, Accounts, and Dedications

C.S.S.B. 1588 abolishes, except as otherwise specifically provided by the bill, all funds and accounts created or re-created by an act of the 82nd Legislature, Regular Session, 2011, that become law and all dedications or rededications of revenue or otherwise collected by a state agency for a particular purpose by an act of the 82nd Legislature, Regular Session, 2011, that become law on the later of August 31, 2011, or the date the act creating or re-creating the fund or account or dedicating or rededicating revenue takes effect.

Section 3. Previously Exempt Dedications, Funds, and Accounts

C.S.S.B. 1588 exempts the following funds and accounts from abolition by the bill: statutory dedications, funds, and accounts that were enacted before the 82nd Legislature convened to comply with requirements of state constitutional or federal law; dedications, funds, or accounts that remained exempt from former law consolidating certain state funds and abolishing certain fund dedications at the time dedications, accounts, and funds were abolished under that law; increases in fees or in other such dedicated revenue; or increases in fees or in other revenue required to be deposited in such a fund or account.

Section 4. Federal Funds

C.S.S.B. 1588 exempts from abolishment by the bill funds created pursuant to an act of the 82nd Legislature, Regular Session, 2011, for which separate accounting is required by federal law, but requires such funds to be deposited in accounts in the general revenue fund unless otherwise required by federal law.

Section 5. Trust Funds

C.S.S.B. 1588 exempts from abolishment by the bill trust funds or dedicated revenue deposited to trust funds created under an act of the 82nd Legislature, Regular Session, 2011, but requires such trust funds to be held in the state treasury, with the comptroller of public accounts in trust, or outside the state treasury with the comptroller's approval.

Section 6. Bond Funds

C.S.S.B. 1588 exempts from abolishment by the bill bond funds and pledged funds created or affected by an act of the 82nd Legislature, Regular Session, 2011, but requires such funds to be held in the state treasury, with the comptroller in trust, or outside the state treasury with the comptroller's approval.

Section 7. Constitutional Funds

C.S.S.B. 1588 exempts from abolishment by the bill funds or accounts that would be created or re-created by the Texas Constitution or revenue that would be dedicated or rededicated by the constitution under a constitutional amendment proposed by the 82nd Legislature, Regular Session, 2011, or dedicated revenue deposited to funds or accounts that would be so created or re-created, if the constitutional amendment is approved by the voters.

Section 8. Creation of New Accounts for License Plate Fees

C.S.S.B. 1588 exempts from abolishment by the bill a new account created in the general revenue fund for receipt of fees for special license plates or for receipt of related revenue, gifts, or grants as provided by an act of the 82nd Legislature, Regular Session, 2011, or the dedication of revenue to or contained in the new account.

Section 9. Additional Uses for Dedicated Funds, Accounts, or Revenues

C.S.S.B. 1588 exempts from abolishment by the bill a newly authorized dedication of or use of a dedicated fund, a dedicated account, or dedicated revenues as provided by an act of the 82nd legislature, Regular Session, 2011, to the extent that act affects a fund, an account, or revenues that were exempted from funds consolidation before January 1, 2011. The bill authorizes the use, as provided by an act of the 82nd Legislature, Regular Session, 2011, of a dedicated fund, a dedicate account, or dedicated revenues that were exempted from funds consolidation before January 1, 2011, and specifies that a change in the name or authorized use of a previously exempted dedicated fund or account does not affect the fund's or account's dedicated nature.

Section 10. Accounts in General Revenue Fund

C.S.S.B. 1588 exempts from abolishment by the bill the following accounts and the revenue deposited to the credit of the accounts and creates the accounts and revenue in the general revenue fund if created or re-created by an act of the 82nd Legislature, Regular Session, 2011, that becomes law:

- the driver's license system improvement account created as a dedicated account in the general revenue fund by Senate Bill No. 9, Senate Bill No. 1583, or similar legislation;

- the judicial and court personnel training fund created as a dedicated account in the general revenue fund by Senate Bill No. 1582, Senate Bill No. 1811, House Bill No. 3648, or similar legislation;
- the oil and gas regulation and cleanup fund created by Senate Bill No. 655, Senate Bill No. 1584, House Bill No. 3106, or similar legislation, except that, regardless of any provision of that legislation, the oil and gas regulation and cleanup fund is created as a dedicated account in the general revenue fund;
- the fund for veterans' assistance re-created as a special fund in the state treasury outside the general revenue fund by Senate Bill No. 1635, Senate Bill No. 1739, House Bill No. 1172, House Bill No. 3179, or similar legislation; and
- the judicial access and improvement account created as a dedicated account in the general revenue fund by Senate Bill No. 1811, House Bill No. 2174, or similar legislation.

The bill makes these provisions relating to the accounts in the general revenue fund described above effective on the later of the effective date of the act creating or re-creating the account or August 31, 2011.

Section 11. Revenue Dedication

C.S.S.B. 1588 exempts from abolishment by the bill the following dedications or rededications of revenue collected by a state agency for a particular purpose if dedicated or rededicated by an act of the 82nd Legislature, Regular Session, 2011, that becomes law:

- the dedication of all fees to be deposited to the credit of the driver's license system improvement account as provided by Senate Bill No. 9, Senate Bill No. 1583, or similar legislation;
- the dedication of amounts to be deposited to the credit of the charter district bond guarantee reserve fund as provided by Senate Bill No. 597, House Bill No. 1437, or similar legislation;
- the dedication of charges collected under Subsection (g), Section 151.158, Tax Code, as provided by Senate Bill No. 776, Senate Bill No. 1811, or similar legislation;
- the dedication of the additional annual fee to be deposited to the credit of the scholarship trust fund for fifth-year accounting students as provided by Senate Bill No. 777, House Bill No. 1521, or similar legislation;
- the dedication of fees imposed under Subsection (a), Section 2054.380, Government Code, as provided by Senate Bill No. 1579, House Bill No. 3665, or similar legislation;
- the dedication of fees to be charged for process server certification and renewal of certification as provided by Senate Bill No. 1582, Senate Bill No. 1811, House Bill No. 1614, House Bill No. 3648, or similar legislation;
- all dedications of revenue for deposit to the credit of the oil and gas regulation and cleanup fund as provided by Senate Bill No. 655, Senate Bill No. 1584, House Bill No. 3106, or similar legislation;
- the dedication of the enrollment fees to be deposited to the credit of the employees life, accident, and health insurance and benefits fund under Section 1551.3076, Insurance Code, as provided by Senate Bill No. 1664, Senate Bill No. 1811, or similar legislation;
- the dedication of contributions made under Section 502.1746, Transportation Code, as provided by Senate Bill No. 1635, House Bill No. 3179, or similar legislation;
- the dedication of contributions, gifts, grants, and promotional campaign proceeds received by the Parks and Wildlife Department under Subchapter J-1, Chapter 11, Parks and Wildlife Code, as provided by Senate Bill No. 1584, House Bill No. 1300, House

Bill No. 3418, or similar legislation;

- the dedication of licensing fees received under Section 13.0155, Parks and Wildlife Code, as provided by Senate Bill No. 1584, House Bill No. 1300, House Bill No. 3418, or similar legislation;
- the dedication of contributions received under Section 502.1747, Transportation Code, as provided by Senate Bill No. 1584, House Bill No. 1301, House Bill No. 3418, or similar legislation;
- the dedication of all fees to be deposited to the credit of the sexual assault program fund as provided by Senate Bill No. 23 or similar legislation;
- the dedication of fees imposed under Subsection (b), Section 1104.052, Occupations Code, as provided by House Bill 1146, or similar legislation;
- all dedications or rededications of revenue to an account of a Self-Directed, Semi-Independent Agency with the Texas Safekeeping Trust Company by any act of the 82nd Legislature, Regular Session, 2011;
- all dedications or rededications of revenue to the Texas Department of Insurance Operating Account by any act of the 82nd Legislature, Regular Session, 2011;
- all dedications or rededications of revenue to the State Highway Fund by any act of the 82nd Legislature, Regular Session, 2011; and
- all dedications or rededications of revenue to the Game, Fish, and Water Safety Account by any act of the 82nd Legislature, Regular Session, 2011.

The bill makes these provisions relating to revenue dedication described above effective on the later of the effective date of the act dedicating or rededicating the revenue or August 31, 2011.

Section 12. Separate Funds in the Treasury

C.S.S.B. 1588 exempts from abolishment by the bill the following funds in the state treasury and the revenue deposited to the credit of the funds if created by an act of the 82nd Legislature, Regular Session, 2011, and creates those funds as separate funds in the state treasury:

- the charter district bond guarantee reserve fund, created as a special fund in the state treasury outside the general revenue fund by Senate Bill No. 597, House Bill No. 1437, or similar legislation; and
- the Internet crimes against children account created as a special fund by Senate Bill No. 1843, House Bill No. 3746, or similar legislation.

The bill makes these provisions relating to separate funds in the treasury described above effective September 1, 2011.

Section 13. Scholarship Trust Fund for Fifth-Year Accounting Students

C.S.S.B. 1588 exempts from abolishment by the bill the scholarship trust fund for fifth-year accounting students re-created as a trust fund outside the state treasury by Senate Bill No. 777, House Bill No. 1521, or similar legislation and makes that trust fund subject to the bill's provisions relating to trust funds.

Section 14. Civil Justice Data Repository Fund

C.S.S.B. 1588 exempts from abolishment by the bill the Civil Justice Data Repository fund and the revenue deposited to the credit of the fund and creates that fund as an account in the general revenue fund if created or re-created by an act of the 82nd Legislature, Regular Session, 2011, that becomes law. The bill makes this provision effective on the later of August 31, 2011, or the date the act created or re-creating the fund takes effect.

Section 15. Other Provisions

C.S.S.B. 1588 amends the Government Code, effective September 1, 2011, to provide that dedicated revenues that, on August 31, 2013, rather than August 31, 2011, are estimated to exceed the amount appropriated by the General Appropriations Act or other laws enacted by the 82nd Legislature, rather than the 81st Legislature, are available for general governmental purposes and are considered available for the purpose of certification in relation to the contents of the comptroller's biennial revenue estimate. The bill changes the expiration date of this provision from September 1, 2011, to September 1, 2013, and makes a conforming change relating to the comptroller's required reduction of each dedicated account following certification of the General Appropriations Act and other appropriations measures enacted by the 82nd Legislature.

Section 16. Effect of Act

C.S.S.B. 1588 establishes that the bill's provisions prevail over any other act of the 82nd Legislature, Regular Session, 2011, regardless of the relative dates of enactment, that purports to create or re-create a special fund or account or to dedicate or rededicate revenue to a particular purpose, including any fund, account, or revenue dedication abolished under former law. The bill establishes that an exemption from the application of Government Code provisions relating to the use of dedicated revenue contained in another act of the 82nd Legislature, Regular Session, 2011, that is exempted from being abolished under the bill's provisions has no effect. The bill requires revenues that would be deposited to the credit of a special account or fund under the terms of another act of the 82nd Legislature, Regular Session, 2011, to be deposited to the credit of the undedicated portion of the general revenue fund unless the fund, account, or dedication is exempted under the bill.

EFFECTIVE DATE

Except as otherwise provided, on passage, or, if the bill does not receive the necessary vote, August 29, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 1588 differs from the original with regard to the definition of "state agency" by including within its meaning an office, institution, or other agency in the judicial branch of state government that has certain characteristics, in addition to an office, institution, or other agency in the executive branch of state government, as in the original.

C.S.S.B. 1588 omits provisions included in the original relating to dedications of revenue to the state highway fund and to the game, fish, and water safety account.

C.S.S.B. 1588 omits from the accounts in the general revenue fund included in the original as exempt from abolishment by the bill the poison control services account created as a dedicated account in the general revenue fund by Senate Bill No. 435, Senate Bill No. 1579, House Bill No. 1015, or similar legislation. The substitute contains an account not included in the original among the accounts in the general revenue fund exempt from abolishment by the bill the judicial access and improvement account created as a dedicated account in the general revenue fund by Senate Bill No. 1811, House Bill No. 2174, or similar legislation.

C.S.S.B. 1588 omits the following dedications or rededications of revenue included in the original as exempt from abolishment by the bill:

- the dedication of all revenue to be deposited to the credit of the poison control services account as provided by Senate Bill No. 435, Senate Bill No. 1579, House Bill No. 1015, or similar legislation;

- the dedication of the handling fee for processing unclaimed property as provided by Senate Bill No. 1579 or similar legislation; and
- the dedication of certain tax revenue to the property tax relief fund under Section 155.2415, Tax Code, as provided by Senate Bill No. 1811 or similar legislation.

C.S.S.B. 1588 contains the following dedications or rededications of revenue not included in the original as exempt from abolishment by the bill:

- the dedication of fees imposed under Subsection (b), Section 1104.052, Occupations Code, as provided by House Bill 1146, or similar legislation;
- all dedications or rededications of revenue to an account of a Self-Directed, Semi-Independent Agency with the Texas Safekeeping Trust Company by any act of the 82nd Legislature, Regular Session, 2011;
- all dedications or rededications of revenue to the Texas Department of Insurance Operating Account by any act of the 82nd Legislature, Regular Session, 2011;
- all dedications or rededications of revenue to the State Highway Fund by any act of the 82nd Legislature, Regular Session, 2011; and
- all dedications or rededications of revenue to the Game, Fish, and Water Safety Account by any act of the 82nd Legislature, Regular Session, 2011.

C.S.S.B. 1588 differs from the original by specifying that the Internet crimes against children account created as a special fund and the revenue deposited to the credit of that fund by Senate Bill No. 1843, House Bill No. 3746, or similar legislation, exempt from abolishment by the bill, if created by an act of the 82nd Legislature, Regular Session, 2011, is created as a separate fund in the state treasury, whereas the original does not include that specification.

C.S.S.B. 1588 contains a provision not included in the original establishing that an exemption from the application of Government Code provisions relating to the use of dedicated revenue contained in another act of the 82nd Legislature, Regular Session, 2011, that is exempted from being abolished under the bill's provisions has no effect.

C.S.S.B. 1588 differs from the original in nonsubstantive ways.