

## **BILL ANALYSIS**

C.S.H.B. 4583  
By: Pitts  
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 utilizing balances for other governmental purposes. The 72nd Legislature enacted provisions relating to the consolidation of funds in existence before August 31, 1993. These provisions provided for the abolishment of dedications in existence prior to August 31, 1995, unless otherwise expressly exempted.

C.S.H.B. 4583 provides for 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, and establishes the American Recovery and Reinvestment Act fund.

### **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**

C.S.H.B. 4583 establishes that, except as otherwise specifically provided by the bill, all funds and accounts created or re-created in the state treasury by an Act of the 81st Legislature, Regular Session, 2009, that becomes law and all dedications or rededications of revenue in the state treasury or otherwise collected by a state agency for a particular purpose by such an act that becomes law are abolished on the later of August 31, 2009, or the date the act creating or re-creating the fund or account or dedicating or rededicating revenue takes effect. The bill specifies that such abolishment does not apply to statutory dedications, funds, and accounts that were enacted before the 81st Legislature convened to comply with requirements of state constitutional or federal law; dedications, funds, or accounts that remained exempt from a certain former provision of the Government Code, at the time dedications, accounts, and funds were abolished under that provision; increases in fees or in other revenue dedicated as described by such specification; or increases in fees or in other revenue required to be deposited in a fund or account described by such specification.

C.S.H.B. 4583 exempts the following accounts and the revenue deposited to the credit of the accounts from the bill's abolishment provision and creates the accounts in the general revenue fund, if created or re-created by an Act of the 81st Legislature, Regular Session, 2009, that becomes law: the renewing our communities account; the account for conservation of marine resources; the pretrial victim-offender mediation program account; the fuel ethanol, renewable methane, and biodiesel production account; the emergency radio infrastructure account; the Texas nursery and floral account; the dedicated account for purchasing and distributing child passenger safety seat systems to low-income families; the trafficking of persons investigation and prosecution account; the Texas Rural Development Fund account; the mathematics and science teacher investment fund account; the Texas Rural Investment Fund account; the hospital district airline fares account; and the commission advanced clean energy project account. The

bill makes such exemptions effective on the later of August 31, 2009, or the date the act creating or re-creating the account takes effect. The bill exempts certain dedications or rededications of revenue collected by a state agency for a particular purpose from the bill's abolishment provision, if dedicated or rededicated by an Act of the 81st Legislature, Regular Session, 2009, that becomes law. The bill makes such exemptions effective on the later of August 31, 2009, or the effective date of the applicable legislation.

C.S.H.B. 4583 makes its abolishment provision inapplicable to funds created pursuant to an Act of the 81st Legislature, Regular Session, 2009, for which separate accounting is required by federal law, except that the funds are required to be deposited in accounts in the general revenue fund unless otherwise required by federal law. The bill makes its abolishment provision inapplicable to trust funds or dedicated revenue deposited to trust funds created under an Act of the 81st Legislature, Regular Session, 2009, except that the trust funds are required 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. The bill makes its abolishment provision inapplicable to the following funds and trusts funds, or the dedicated revenue deposited to such funds, created under an Act of the 81st Legislature, Regular Session, 2009: the state-licensed residential mortgage loan originator recovery fund, the anthropogenic carbon dioxide storage trust fund, the scholarship trust fund for fifth-year accounting students, or the unauthorized insurance guaranty fund.

C.S.H.B. 4583 makes its abolishment provision inapplicable to bond funds and pledged funds created or affected by an Act of the 81st Legislature, Regular Session, 2009, except that the funds are required to be held in the state treasury, with the comptroller in trust, or outside the state treasury with the comptroller's approval. The bill makes its abolishment provision inapplicable to 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 81st Legislature, Regular Session, 2009, or to dedicated revenue deposited to funds or accounts that would be so created or re-created, if the constitutional amendment is approved by the voters. The bill makes its abolishment provision inapplicable to the national research university fund or any revenue transferred or deposited to or dedicated to that fund under certain legislation that becomes law.

C.S.H.B. 4583 amends the Government Code to provide that dedicated revenues that, on August 31, 2011, rather than August 31, 2009, are estimated to exceed the amount appropriated by the General Appropriations Act or other laws enacted by the 81st, rather than the 80th, 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 postpones the expiration of this provision from September 1, 2009, to September 1, 2011.

C.S.H.B. 4583 reenacts 495.025(c), Government Code, as added by Section 1, Chapter 100 (S.B. 1580), Acts of the 80th Legislature, Regular Session, 2007, requiring the Texas Department of Criminal Justice to transfer 50 percent of all commissions paid to the department by a vendor under provisions relating to inmate pay telephone service to the compensation to victims of crime fund established by the Crime Victims' Compensation Act and the other 50 percent to the credit of the undedicated portion of the general revenue fund, except that the department is required to transfer the first \$10 million of the commissions collected in any given year under an inmate pay telephone service contract to the compensation to victims of crime fund established by the act. The bill reenacts a provision establishing that provisions relating to inmate pay telephone service do not reduce any appropriation to the department. The bill rededicates revenue dedicated to the compensation to such fund to the fund and exempts such rededication from the bill's abolishment provision.

C.S.H.B. 4583 makes the bill's abolishment provision inapplicable to the special fund established for special rangers under certain legislation of the 81st Legislature, Regular Session, 2009, that becomes law, or to the proceeds transferred to the fund. The bill makes the bill's abolishment

provision inapplicable to the Chris Kyker Endowment for Seniors Fund created as a special fund outside the state treasury by certain legislation of the 81st Legislature, Regular Session, 2009, that becomes law, or to revenue deposited to that fund.

C.S.H.B. 4583 amends the Government Code to create the American Recovery and Reinvestment Act fund as a special fund in the state treasury outside the general revenue fund. The bill requires state agencies that receive money under the recovery act, notwithstanding any other Texas law and except as otherwise provided by federal law, to deposit the money to the credit of the fund as the comptroller determines is necessary to hold and account for money received under the recovery act. The bill authorizes other money to be deposited to the credit of the fund as appropriated by the legislature, as required by federal law, or as necessary to account for money related to the recovery act. The bill authorizes money deposited to the credit of the fund to only be used for the purposes identified in the recovery act to stimulate the economy, including aid for unemployment, welfare, education, health, and infrastructure. The bill requires agencies to transfer amounts between the fund and other accounts and funds in the treasury as necessary to properly account for money received under the recovery act as directed by the comptroller. The bill provides that its provisions regarding the deposit of American Recovery and Reinvestment Act money do not affect the authority of the comptroller to establish and use accounts necessary to manage and account for revenues and expenditures. The bill exempts interest earned on money deposited to the credit of the fund from provisions regarding the disposition of interest on investments of money in funds and accounts as applicable to the state treasury operations of the comptroller. The bill requires interest earned on money in the fund to be retained in the fund. The bill authorizes the comptroller to issue guidelines for state agencies regarding the implementation of provisions regarding the deposit of recovery act money. The bill defines "fund" and "recovery act."

C.S.H.B. 4583 makes its abolishment provision inapplicable to the American Recovery and Reinvestment Act fund, or to revenue deposited to the fund.

C.S.H.B. 4583 makes its abolishment provision inapplicable to general revenue account no. 5111 established in the general revenue fund, the fund for emergency medical services, trauma facilities, and trauma care systems, and to general revenue account no. 5100, the system benefit account.

C.S.H.B. 4583 re-creates the large county and municipality recreation and parks account, established by Section 39, Chapter 1159 (H.B. 12), Acts of the 80th Legislature, Regular Session, 2007, as an account in the general revenue fund on the effective date of the bill. The bill exempts the account and the revenue deposited to the credit of the account from the bill's abolishment provision.

C.S.H.B. 4583 establishes that its provisions prevail over any other Act of the 81st Legislature, Regular Session, 2009, regardless of the relative dates of enactment, that purports to create or re-create a special fund or account in the state treasury or to dedicate or rededicate revenue to a particular purpose, including any fund, account, or revenue dedication abolished under a certain former provision of the Government Code. The bill requires revenue that, under the terms of another Act of the 81st Legislature, Regular Session, 2009, would be deposited to the credit of a special account or fund, 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's provisions.

C.S.H.B. 4583 defines "state agency" to mean, in any provision of the bill that does not amend current law, an office, institution, or other agency that is in the executive branch of state government, has authority that is not limited to a geographical portion of the state, and was created by the constitution or a statute of the state. The bill specifies that the term does not include an institution of higher education.

## **EFFECTIVE DATE**

Except as otherwise provided, on passage, or, if the act does not receive the necessary vote, the act takes effect August 31, 2009.

## **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 4583 differs from the original by specifying 13 accounts, omitting the one account specified in the original, if created or re-created by an Act of the 81st Legislature, Regular Session, 2009, that becomes law, and the revenue deposited to the credit of the accounts, as exempt from the bill's abolishment provision and creating such accounts in the general revenue fund.

C.S.H.B. 4583 omits provisions in the original exempting from the bill's abolishment provision the assistant public defender supplement fund, if created or re-created by an Act of, or constitutional amendment proposed by, the 81st Legislature, Regular Session, 2009, that becomes law or is approved by the voters, and revenue deposited to the credit of the account, and re-creating the account as an account in the general revenue fund to the extent allowed by the Texas Constitution.

C.S.H.B. 4583 differs from the original by exempting 14 dedications or rededications of revenue, omitting the one dedication in the original, collected by a state agency for a particular purpose from the bill's abolishment provision, if dedicated or rededicated by an Act of the 81st Legislature, Regular Session, 2009, that becomes law. The substitute adds provisions not in the original making the bill's abolishment provision inapplicable to two specified funds and two specified trust funds, or the dedicated revenue deposited to such funds, created under an Act of the 81st Legislature, Regular Session, 2009. The substitute adds a provision not in the original making the bill's abolishment provision inapplicable to the national research university fund or any revenue transferred or deposited to or dedicated to that fund under certain legislation of the 81st Legislature, Regular Session, 2009, if such legislation becomes law.

C.S.H.B. 4583 omits a provision in the original exempting from the bill's abolishment provision the freestanding emergency medical care facility licensing fund if certain legislation creating the fund is enacted by the 81st Legislature, Regular Session, 2009, and the revenue deposited to the credit of such fund, and creating the fund as a separate fund in the state treasury.

C.S.H.B. 4583 adds provisions not in the original making the bill's abolishment provision inapplicable to the special fund established for special rangers under certain legislation of the 81st Legislature, Regular Session, 2009, that becomes law, or to the proceeds transferred to the fund, and to the Chris Kyker Endowment for Seniors Fund created as a special fund outside the state treasury by certain legislation of the 81st Legislature, Regular Session, 2009, that becomes law, or to revenue deposited to that fund.

C.S.H.B. 4583 adds provisions not in the original to create the American Recovery and Reinvestment Act fund as a special fund in the state treasury outside the general revenue fund. The substitute adds provisions not in the original regarding such fund, including requirements on recipients of recovery act money, authorizations relating to the deposit of other money to the fund, and a provision making the bill's abolishment inapplicable to the fund.

C.S.H.B. 4583 adds provisions not in the original making its abolishment provision inapplicable to general revenue account no. 5111 established in the general revenue fund, the fund for emergency medical services, trauma facilities, and trauma care systems, and to general revenue account no. 5100, the system benefit account.

C.S.H.B. 4583 adds provisions not in the original re-creating the large county and municipality recreation and parks account as an account in the general revenue fund and exempting the account and the revenue deposited to the credit of the account from the bill's abolishment provision.