

**SUBJECT:** Allowing cities and counties to hold certain unclaimed property

**COMMITTEE:** Business and Industry — committee substitute recommended

**VOTE:** 7 ayes — Brimer, Rhodes, Elkins, Giddings, Janek, Solomons, Woolley  
0 nays  
2 absent — Corte, Dukes

**WITNESSES:** For — Anita Thetford, City of Hurst  
Against — None

**BACKGROUND :** Chapter 74 of the Property Code requires that abandoned and unclaimed personal property, bank accounts and mineral proceeds be remitted to the state Comptroller's Office annually. The comptroller is required to publish notice of the unclaimed property in local newspapers and can send a notice of the unclaimed property to the last known address. The state safekeeps all unclaimed money and the proceeds from the sale of stock or personal property until claimed by the owner. The money is deposited in the general revenue fund, but records are kept so that the property can be redeemed.

**DIGEST:** CSHB 2986 would eliminate the requirement that cities and counties notify and remit abandoned and unclaimed personal property and mineral proceeds they hold to the state comptroller.

The bill would create a new unclaimed property statute that would allow cities and counties to hold abandoned and unclaimed personal property, including refund checks, and mineral proceeds in their possession. Cities and counties would have to follow the same procedures for notification and reclamation of unclaimed property that is required of the state, including maintaining an unclaimed money fund from which claims would be paid and publishing notices for unclaimed property over \$50.

The state comptroller would waive any interest, attorney's fees, and penalties owed by a city or county for failing to remit unclaimed property to the state prior to June 30, 1998.

The bill would take effect September 1, 1997, and apply to unclaimed property held by cities and counties on or after June 30, 1998.

**SUPPORTERS  
SAY:**

CSHB 2986 would allow cities to keep unclaimed property, such as undelivered city and county refund checks, and other personal property in their possession instead of remitting it to the state. Checks written by cities and counties for various types of refunds, such as water, electric and library refunds, should escheat to the locality that wrote the check and not to the state. Cities and counties would be under the same requirements as the state to notify persons of unclaimed funds and to keep the money in safekeeping until it was reclaimed.

Citizens could more easily reclaim unclaimed property from a locality than from the state. People would have no trouble locating where to make a claim because it could only be where they were currently living or had lived in the past.

This bill would only affect personal property held by the city or county and would not affect any financial institution or business that held unclaimed property or cash; the state would continue to be the holder.

Many cities and counties are unaware they have to remit unclaimed property to the state and only realize their obligation under audit review. The bill would require the state comptroller to waive interest and penalties cities and counties might owe for failure to remit unclaimed property on time. The penalty and interest due the state for failure to remit unclaimed property is 10 percent compounded annually. Requiring the cities and counties to pay these penalties can be very onerous. The city of Plano, for example, has nearly \$1 million in unclaimed property not remitted to the state since 1983. The penalty cost could be enormous, and this bill would allow the state to forgive such innocent mistakes.

**OPPONENTS  
SAY:**

Allowing cities and counties to be repositories for unclaimed property would make it difficult for people to know where to look for their unclaimed property. Unclaimed property should remain with a single statewide office.

Ignorance is no excuse under the law, and cities and counties that have not remitted unclaimed property to the state should be required to pay the state

any interest and penalty due. It is not fair that other entities have to pay for their mistakes and that cities and counties should be given a blanket exoneration for failing to know the law.

The bill would cause a loss of more than \$1 million a year to the general revenue fund.

NOTES:

The original version of the bill would have required all unclaimed property within a city or county to revert to the local entity rather than the state and would have made the bill effective on June 30, 1997.