

## **BILL ANALYSIS**

Senate Research Center  
76R14460 JJT-F

C.S.H.B. 3211  
By: McCall (Duncan)  
Finance  
5/10/1999  
Committee Report (Substituted)

### **DIGEST**

C.S.H.B. 3211 would clarify state fiscal issues to improve the fiscal management of state government. Specifically, C.S.H.B. 3211 would make technical and policy changes to several statutes relating to fiscal management and the comptroller's powers and duties; clarifies the statutes that prohibit the state from making payments to a person who is indebted to the state or delinquent in tax, child support, or student loan payments; expand and revise the statutes that authorize the comptroller to deduct a person's indebtedness to the state or tax delinquency from any amount the state owes the person; authorizes state agencies to deduct an overpayment of compensation to a state officer or employee from a subsequent payment of compensation; authorizes the comptroller to allow persons to debit a state account directly for the types of payments that the comptroller determines are appropriate for the direct debt process; authorizes the comptroller to contract with a private person or entity to print and deliver warrants; and extends the deadline for filing certain information with the secretary of state after a state agency enters into or renews, amends, or extends a consulting services contract.

### **PURPOSE**

As proposed, C.S.H.B. 3211 amends regulations regarding state fiscal issues to improve the fiscal management of state government.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the comptroller of public accounts in SECTIONS 1, 6, 7, and 9 (Sections 57.48(a) and (h), Education Code; and Sections 403.023(a), 403.0271(d) and (e), 403.0551(h), and 666.007, Government Code) and SECTIONS 30 and 33 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 57.48, Education Code, as follows:

Sec. 57.48. New heading: PAYMENTS BY THE COMPTROLLER TO DEFAULTING PERSONS PROHIBITED. Requires a corporation to report to the comptroller names of persons in default of a loan guaranteed under this chapter, except as provided by Subsection (g), in compliance with the frequency of submission as required by comptroller rules. Prohibits the comptroller, as a ministerial duty, from issuing a warrant or initiating an electronic funds transfer to a person who is reported under Subsection (a) and to the assignee of a person who has been reported properly under Subsection (a) if the assignment became effective after, rather than before, the person defaulted. Sets forth to whom the comptroller is prohibited from issuing a warrant or initiating an electronic funds transfer if the comptroller is prohibited to do so by this section. Sets forth to whom and for the reason of properly reporting a corporation the comptroller is not prohibited from issuing funds. Prohibits a corporation from reporting people, of whom the corporation has not first provided the opportunity to exercise due process or other protections. Prohibits the comptroller from investigating or determining whether the corporation has complied with this prohibition. Authorizes the comptroller from adopting rules and establishing procedures to administer this section. Redefines "compensation" and "stage agency." Sets forth to whom the comptroller is not prohibited from issuing funds. Deletes provisions providing that this section applies when a payment is made to a person other than through the comptroller's warrant. Makes conforming changes.

SECTION 2. Amends Chapter 57C, Education Code, by adding Section 57.482, as follows:

Sec. 57.482. **PAYMENTS BY A STATE AGENCY TO DEFAULTING PERSONS PROHIBITED.** Prohibits a state agency from issuing funds, whether inside or outside the state treasury, to pay a person, the person's estate, the distributees of the estate, or the person's surviving spouse, if Section 57.48 prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to the person. Prohibits the comptroller from reimbursing a state agency for a payment that the comptroller determined was in violation of this section. Provides that this section applies to a payment only if the comptroller is not responsible for issuing warrants or electronic funds under Section 404.046, 404.069, or 2103.003, Government Code (Payment From Treasury; Trust Funds; and State Agency Spending of Appropriated Funds). Defines "state agency."

SECTION 3. Amends Section 62.021(a), Education Code, to make an exception to the prohibition of issuing a warrant for goods that have not been delivered for a book or another published library material, which is authorized under Section 2155.386, Government Code (Payment for Library Materials by Institutions of Higher Education). Sets forth amounts to be allocated from the fund according to the specified formula. Make conforming changes.

SECTION 4. Amends Section 66.02, Education Code, to require the distributions, rather than certain incomes, of the permanent university fund to constitute the available university fund. Deletes language requiring the distributions to be made at least once per month. Makes conforming changes.

SECTION 5. Amends Chapter 66A, Education Code, by adding Section 66.09, as follows:

Sec. 66.09. **COST VALUE OF INVESTMENTS AND OTHER ASSETS OF THE PERMANENT UNIVERSITY FUND.** Sets forth a formula for the cost value of the investments and other assets of permanent university fund.

SECTION 6. Amends Section 231.007, Family Code, to make a person indebted to the Title IV-D agency, if the agency has reported the person to the comptroller under that section properly. Sets forth the formula for the amount of a person's indebtedness. Specifies that the agency is the sole assignee of payment, including payments of compensation to the state. Sets forth payment procedures for the comptroller to facilitate if an agency must make certain payments to the Title IV-D agency, at the Title IV-D agency's request. Provides that an order or writ to withhold income from workers' compensation benefits is not required before the benefits are withheld or assigned under this section. Authorizes the comptroller or a state agency to rely on a representative of the agency that benefits withheld or assigned would not be in violation this section. Prohibits the comptroller from expending funds to pay the remuneration of an individual who is being paid by a private person through a state agency, if the individual is indebted to the state under Subsection (a). Prohibits a state agency from paying and offering certain compensation and remunerations. Redefines "compensation," "state agency," and "state officer or employee." Deletes a provision that makes an assignment to be in effect before a certain date. Makes conforming changes.

SECTION 7. Amends Section 403.011, Government Code, by adding Subsection (b), to Subsection (b), to authorize the comptroller to solicit, accept, or refuse money, gifts, and other goods on behalf of the state for purposes related to the duties of the comptroller. Makes conforming changes.

SECTION 8. Amends Section 403.023, Government Code, as follows:

Sec. 403.023. New heading: **CREDIT, CHARGE, AND DEBIT CARDS.** Authorizes the comptroller to adopt rules relating to the acceptance of charge and debit cards for certain payments, but specifically not rules about a particular state agency's acceptance of charge or debit cards for a payment if the rules would affect a contract that the agency has entered into since September 1, 1999. Makes conforming and nonsubstantive changes.

SECTION 9. Amends Chapter 403B, Government Code, by adding Section 403.0271, as follows:

Sec. 403.0271. **AUTHORIZATIONS TO DEBIT STATE ACCOUNTS.** Sets forth specific authorizations the comptroller may permit regarding the debit of goods and services for payment from a state agency. Requires each state agency whose funds are paid through certain debits to reconcile and recover any debits. Requires the comptroller to specify, by rule, the frequency with which an agency shall reconcile its debits and to establish procedures to administer this section. Defines "state agency."

SECTION 10. Amends Section 403.055, Government Code, as follows:

Sec. 403.055. New heading: PAYMENTS TO DEBTORS OR DELINQUENTS PROHIBITED. Sets forth conditions that permit the comptroller to issue funds in the event a state agency has reported the person. Requires a state agency to report to the comptroller, in a format and frequency set by the comptroller, each person who is indebted to the state or has a tax delinquency. Sets forth to whom this section does not apply. Redefines “compensation” and “state agency.” Defines “tax delinquency.” Deletes a provision prohibited the comptroller from issuing funds to a person who owes delinquent taxes. Deletes which payments by a person to the comptroller and payment actions made by a state agency are and are not applicable to this section. Deletes a provision prohibiting the comptroller from undertaking a reimbursement in violation of this section. Deletes an authorization for the comptroller to subtract taxes from certain delinquent payments. Makes conforming changes.

SECTION 11. Amends Chapter 403D, Government Code, by adding Section 403.0551, as follows:

Sec. 403.0551. DEDUCTIONS FOR REPAYMENT OF CERTAIN DEBTS OR TAX DELINQUENCIES. Authorizes the comptroller to deduct a person’s amount of indebtedness to the state or tax delinquency from any amount the state owes the person or the person’s successor. Requires the comptroller to expend the remaining funds to the person. Sets forth conditions when Subsection (a) apply. Requires the comptroller to provide notice, containing certain specific information, to a person before deducting the amount. Provides that the comptroller is not authorized to deduct the amount of indebtedness to a state agency from any amount of compensation owed by the agency to the employee. Defines “compensation,” indebtedness,” “state agency,” “state employee,” and “successor.” Requires the comptroller to credit the deducted amount to the appropriate fund or account if the comptroller is the fund’s custodian or to remit the amount to the proper trustee. Authorizes the comptroller to determine the order in which a person’s multiple types of indebtedness are deducted from the amount the state owes the person. Sets forth terms and conditions to deduct the indebted amount from a successor to the person. Authorizes the comptroller to adopt rules to establish procedures for this section. Defines “successor.”

SECTION 12. Amends Chapter 403D, Government Code, by adding Section 403.0552, as follows:

Sec. 403.0552. PREPARATION AND RETENTION OF CERTAIN WARRANTS. Permits the comptroller to prepare and retain a warrant to a certain extent if certain statutes prohibit the comptroller from issuing or initiating the warrant. Prohibits the comptroller from canceling or destroying the warrant unless a state agency request the comptroller to cancel or destroy the warrant and if the agency meets certain conditions. Provides that a voucher is not erroneous and is not submitted erroneously merely because the comptroller is prohibited from doing so by certain sections.

SECTION 13. Amends Section 403.060(a), Government Code, to make nonsubstantive changes.

SECTION 14. Amends Section 403.302(b), Government Code, to require the comptroller to determine the taxable value of property in each school district ensuring that different levels of appraisal on sold and unsold property do not adversely affect the accuracy of the study.

SECTION 15. Amends Section 404.046, Government Code, to prohibit money from being paid out of a treasury, except as provided by Section 403.0271. Makes conforming changes.

SECTION 16. Amends Section 404.069(a), Government Code, to make conforming changes.

SECTION 17. Amends Section 608.002(b), Government Code, to require an authorization to state the denomination of the saving bonds to be purchased.

SECTION 18. Amends Section 608.003(b), Government Code, to make conforming changes.

SECTION 19. Amends Section 608.005, Government Code, as follows:

Sec. 608.005. New heading: PAYMENT TO DEPARTMENT ADMINISTRATOR OR

DISBURSING OFFICER. Makes conforming and nonsubstantive changes.

SECTION 20. Amends Section 608.007, Government Code, to make conforming changes.

SECTION 21. Amends Section 608.010(b), Government Code, to make conforming changes.

SECTION 22. Amends Title 6B, Government Code, by adding Chapter 666, as follows:

**CHAPTER 666. PAYROLL DEDUCTION TO RECOUP EXCESS COMPENSATION PAID TO  
A STATE OFFICER OR EMPLOYEE**

Sec. 666.001. DEFINITIONS. Defines “compensation,” “indebtedness,” “state agency,” “state employee,” and “successor.”

Sec. 666.002. DEDUCTION AUTHORIZATION. Sets forth conditions under which a state agency or the comptroller may deduct an employee or an employee’s successors indebtedness to the agency from any amount of compensation the agency owes the employee.

Sec. 666.003. NOTICE. Requires any state agency to provide notice to the employee before the agency deduct the amount or requests the comptroller to make the deduction. Sets forth criteria for the notice.

Sec. 666.004. PAYMENT OF AMOUNT REMAINING. Require the remaining amount from the deduction to be paid to the employee.

Sec. 666.005. DEDUCTION REQUESTS TO THE COMPTROLLER. Prohibits a state agency from requesting the comptroller to make certain deductions until a person has had the opportunity to exercise certain rights and protections. Prohibits the comptroller from investigating or determining whether the agency has complied with Subsection (a)(1), but authorizes the comptroller to rely on a determination made under Subsection (a)(2). Requires an agency’s request for the deduction to comply with the comptroller’s requirements for format, content, and frequency.

Sec. 666.006. ASSIGNEES. Considers an assignee of a state employee to be a successor, except that the deduction may not be made if the assignment became effective after the employee incurred the indebtedness.

Sec. 666.007. ADMINISTRATION. Authorizes the comptroller to adopt rules and establish procedures to administer this chapter.

SECTION 23. Amends Section 2103.003, Government Code, to authorize a state agency to spend appropriated funds only by a debit to a state account by a person authorized under Section 403.0271. Makes conforming and nonsubstantive changes.

SECTION 24. Amends Chapter 2107, Government Code, by adding Section 2107.008, as follows:

Sec. 2107.008. PAYMENTS TO DEBTORS OR DELINQUENTS PROHIBITED. Sets forth when a state agency may not expend state funds to an indebted person. Prohibits a state agency from paying the assignee of a person if Section 403.055 prohibits the comptroller from expending that person funds. Prohibits the agency from paying the assignee of a person that the agency may not pay under Subsection (a)(2) if the assignment became effective after the person became indebted or incurred a tax delinquency. Sets forth to whom the agency is prohibited from making a payment. Establishes that this section does not prohibit a state agency from making certain payments to a person. Prohibits the comptroller from reimbursing a state agency for a payment that the comptroller determines was made in violation of this section. Prohibits a state agency from paying and offering certain compensation and remunerations. Provides that Subsection (a)(2) does not prohibit a state agency from making certain payments. Prohibits a state agency from refusing to make a payment until the person has had an opportunity to exercise his or her rights and protections. Provides that this section does not apply to the extent that Section 57.482, Education Code, applies, but does apply only if the comptroller is not responsible to expend funds under certain sections. Defines “compensation,” “state agency,” “state officer or employee,” and

“tax delinquency.” Makes conforming changes.

SECTION 25. Amends Section 2254.030, Government Code, to require a contracting state agency to file a major consulting services contract with the secretary of state by the 20th, rather than 10th, day after entering into the contract.

SECTION 26. Amends Sections 2254.031(a)-(c), Government Code, to make conforming changes.

SECTION 27. Amends Section 2254.034(c), Government Code, to delete a requirement that a state agency comply with Sections 2254.029 through 2254.031 before the agency is authorized to make any payment under certain state and federal contracts.

SECTION 28. Amends Section 31.038, Human Resources Code, to require a cancellation of a warrant to be performed in the manner required by rules of the comptroller. Deletes an authorization for the comptroller to cancel certain warrants. Makes conforming changes.

SECTION 29. Repealers: Sections 481.0841, 608.004, and 608.012, Government Code (Payments Not to be Made to Defaulting Users; Issuance of Warrant to Officer or Employee; and Transfer by Electronic Means); and Section 66.03, Education Code (Apportionment and Use of Available Fund).

SECTION 30. (a) Authorizes the comptroller to adopt rules and take other actions before January 1, 2000, that the comptroller considers necessary or appropriate to prepare for SECTIONS 1, 2, 4, 8-10, 19, and 21 of this Act. Provides that this subsection does not authorize the comptroller to adopt rules or take any action that is not under the aforementioned SECTIONS.

(b) Makes application of this Act prospective. Defines “state agency.”

SECTION 31. Intends that the repeal of Section 608.004, Government Code, is the repealing of a redundant law. Sets forth intentions for which the repeal of the section is not intended.

SECTION 32. Makes application of this Act prospective.

SECTION 33. Authorizes the comptroller to adopt rules and take other actions before September 1, 1999, that the comptroller considers necessary or appropriate to prepare for SECTIONS 6, 22, 23, and 29 of this Act, but not other rules or action that are not authorized under the aforementioned SECTIONS.

SECTION 34. Makes application of this Act effective immediately, except that SECTIONS 6, 22, 23, and 29 take effect September 1, 1999; and SECTIONS 1, 2, 4, 8-10, 19 and 21 take effect January 1, 2000. Provides that this Act takes effect only if the constitutional amendment proposed by H.J.R. No. 58, 76th Legislature, Regular Session, is approved by the voters.

SECTION 35. Emergency clause.  
Effective date: upon passage.

## **SUMMARY OF COMMITTEE CHANGES**

### **SECTION 3.**

Amends Section 62.021(a), Education Code, to reallocate the formula amounts to certain universities.

### **SECTION 4.**

Adds proposed changes to Section 66.02, Education Code, regarding the available university fund. Redesignates SECTIONS 4-11 as SECTIONS 6-13.

### **SECTION 5.**

Amends Chapter 66A, Education Code, by adding Section 66.09, regarding the cost value of investments and other assets of the permanent university fund.

SECTION 7.

Amends Section 403.011, Government Code, by adding Subsection (b), to authorize the comptroller to solicit, accept, or refuse money, gifts, and other goods on behalf of the state for purposes related to the duties of the comptroller.

SECTION 14.

Adds proposed changes to Section 403.302(b), Government Code, regarding the taxable value of property in each school district. Redesignates SECTIONS 14-32 as SECTIONS 17-35.

SECTION 29.

Adds a repealer for Section 66.03, Education Code.

SECTION 34.

Adds a provision stating that this Act takes effect only if H.J.R. 58 is approved by the voters.