

- SUBJECT:** Prohibiting using dedicated revenues for budget certification
- COMMITTEE:** Appropriations — committee substitute recommended
- VOTE:** 19 ayes — Otto, Ashby, Bell, Capriglione, S. Davis, Giddings, Gonzales, Howard, Hughes, Koop, Márquez, McClendon, R. Miller, Phelan, Raney, J. Rodriguez, Sheffield, VanDeaver, Walle
- 0 nays
- 8 absent — Sylvester Turner, G. Bonnen, Burkett, Dukes, Longoria, Miles, Muñoz, Price
- WITNESSES:** For — Stephen Minick, Texas Association of Business; (*Registered, but did not testify*: Vic Suhm, Tarrant Regional Transportation Coalition; Justin Lewis)
- Against — None
- BACKGROUND:** Under Texas Constitution, Art. 3, sec. 49a, no appropriations bill may be enacted until the comptroller certifies that the state will have enough revenue to cover the approved spending. The comptroller also is required before a regular session of the Legislature to estimate the anticipated revenue available for the upcoming biennium. This is called the biennial revenue estimate.
- General revenue dedicated funds are revenues collected for a specific purpose designated in state law. Since 1991, unappropriated balances in these accounts have been counted as available to certify general revenue fund appropriations, according to the Legislative Budget Board’s February 2015 report on reducing reliance on general revenue dedicated accounts for budget certification.
- DIGEST:** CSHJR 111 would amend the Texas Constitution to prohibit the use of revenue, other money, or account or fund balances that were dedicated to a particular purpose to certify spending and to estimate available revenue

in the biennial revenue estimate.

**Use of dedicated revenue to certify spending.** The comptroller would be prohibited from considering any dedicated revenue, other money, or any account or fund balance as being certified available for an appropriation that was not for a purpose or entity to which the money was dedicated. The Legislature would be prohibited from enacting laws making an unappropriated balance of dedicated accounts or funds available for general government purposes or to be used to certify spending except by repealing a dedication.

These provisions would take effect January 1, 2023, and would apply only to a certification of an appropriation for all or part of a state fiscal year beginning after September 1, 2023.

**Use of dedicated revenue for biennial revenue estimate.** When making the biennial revenue estimate before each legislative session, the comptroller could not consider any portion of any dedicated revenue, other money, or account or fund balance as being available for an appropriation that was not for a purpose or entity to which the money was dedicated.

This provision would take effect January 1, 2016, and would apply to biennial revenue estimates made for all or part of fiscal 2017 or after.

**Restriction on spending dedicated revenue.** Dedicated revenue or other money received by the state from a particular source or held or deposited in an identified account or fund inside or outside of the treasury could not be appropriated or expended for any purpose or to any entity other than that to which it was dedicated, unless the Legislature repealed the dedication.

This provision would take effect September 1, 2023, and would apply only to appropriations authorized for all or part of a state fiscal year beginning after that date.

The ballot proposal would be presented to voters at an election on November 3, 2015. It would read: “The constitutional amendment to end fee and other revenue diversions by prohibiting using certain money dedicated by law for nondedicated purposes or entities and to prohibit using that money to certify appropriations for nondedicated purposes or entities.”

**SUPPORTERS  
SAY:**

CSHJR 111 would increase transparency and accountability in the state’s budgeting process. The proposed amendment would move Texas closer to these principles by ensuring that money collected for dedicated purposes was not counted as being available for general purpose spending and that funds collected by the state would be used only for the purposes for which they were collected.

Revenues dedicated for a specific purpose should not be counted as available for general purpose spending, something the state has been doing since 1991. This is a smoke-and-mirrors technique that artificially increases the amount of general revenue available for certification, even though the balances in dedicated accounts do not reflect truly available funds. The practice distorts the financial picture of the state and has resulted in Texas holding large balances in some accounts instead of spending the money on the purposes for which it was collected.

While the Legislature recently began to address this issue by reducing the amount of dedicated account balances used to certify the budget, CSHJR 111 would ensure that the reductions continue. For fiscal 2014-15, about \$4.2 billion in dedicated account balances were counted as available for certification, a decrease of \$778 million from the previous biennium, according to the Legislative Budget Board. While the fiscal 2016-17 budget is on track to reduce reliance on dedicated account balances to about \$3 billion, this is still too high.

The proposed resolution would ensure that the state continued to wean itself from this practice by prohibiting the counting of dedicated revenue to certify the budget or to make the biennial revenue estimate. It would effect this change in a responsible manner by making the provisions take

full effect over time, with complete implementation in 2023. This would give the state several budget cycles to continue to reduce its reliance on dedicated account balances to certify the budget.

Prohibiting the use of dedicated account balances as a budgeting tool would give lawmakers an incentive to keep enough money in the accounts to fund the services and programs for which they were assessed. Excessive balances could be eliminated and fees and taxes could be adjusted to pay only for the dedicated purposes. The state could make a decision to either use the balances or to give the funds back to taxpayers.

The resolution would support truth in budgeting by limiting the process for repurposing dedicated funds or accounts. The proposed amendment would prohibit the Legislature from using dedicated funds for general purpose spending or to certify the budget unless the dedication of the funds was formally repealed by legislation. It also would require the Legislature to repeal a dedication if it were to appropriate dedicated funds for any purpose other than that to which they were dedicated. Putting these requirements into the Constitution would solidify the state's policy and ensure that any changes in this policy were done transparently and publicly.

While reducing reliance on general revenue dedicated account fund balances could continue without a constitutional amendment, the practice is so ingrained that an amendment is necessary to guarantee the reductions continue and that the practice is not revived. The resolution would ensure that legislators had the discipline to budget honestly and reassure taxpayers that money was being handled in a transparent way.

**OPPONENTS  
SAY:**

While reducing the state's reliance on using dedicated fund balances to certify the budget might be a good idea with broad support, using the Constitution to prohibit the practice is unnecessary and could be too restrictive on state budgeting practices.

Just like other budgeting tools, such as delaying a school funding payment until the next fiscal year, using dedicated account balances to certify

appropriations or to make the biennial revenue estimate might sometimes be necessary. For example, in a severe economic downturn, this practice might be used to help temper severe cuts to essential state programs and services or tax increases. Constitutionally prohibiting this practice could limit lawmakers' flexibility in crafting state budgets.

The Legislature is committed to continuing to reduce its reliance on using dedicated account balances, and a constitutional amendment would not be necessary to continue this practice. The amount in dedicated revenues used for budget certification was reduced significantly from fiscal 2012-13 to fiscal 2014-15 and is being reduced again for fiscal 2016-17. It would be best to let this process continue without a constitutional deadline and a prohibition that would be time-consuming and difficult to lift, if needed.

OTHER  
OPPONENTS  
SAY:

Reducing reliance of general revenue dedicated funds is a good idea that should be fully implemented sooner than 2023. The Legislature has demonstrated in the past few rounds of budget writing that it can take significant steps in one biennium to reduce reliance on general revenue dedicated accounts. This practice should be continued and accelerated to bring that reliance to an end as soon as possible.

NOTES:

SJR 33 by Watson, the companion to CSHJR 111, was referred to the Senate Finance Committee on February 24.

The Legislative Budget Board estimates that the cost of publishing the proposed resolution would be \$118,681.