

By: Jetton

H.B. No. 2675

A BILL TO BE ENTITLED

AN ACT

relating to the deposit of funds into court registries by the clerks of justice courts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2256.004(a), Government Code, is amended to read as follows:

(a) This subchapter does not apply to:

(1) a public retirement system as defined by Section 802.001;

(2) state funds invested as authorized by Section 404.024;

(3) an institution of higher education having total endowments of at least \$150 million in book value on September 1, 2017;

(4) funds invested by the Veterans' Land Board as authorized by Chapter 161, 162, or 164, Natural Resources Code;

(5) registry funds deposited with the clerk of a justice court, the county clerk, or the district clerk under Chapter 117, Local Government Code; or

(6) a deferred compensation plan that qualifies under either Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Section 1 et seq.), as amended.

SECTION 2. Section 117.001(2), Local Government Code, is amended to read as follows:

1 (2) "Clerk" means the clerk of a justice court, a
2 county clerk, a district clerk, or a county and district clerk.

3 SECTION 3. Section 117.002, Local Government Code, is
4 amended to read as follows:

5 Sec. 117.002. TRANSFER OF UNCLAIMED FUNDS TO COMPTROLLER.
6 Any funds deposited under this chapter, except cash bail bonds,
7 that are presumed abandoned under Chapter 72, 73, or 75, Property
8 Code, shall be reported and delivered by the clerk of a justice
9 court, the county clerk, or the district clerk to the comptroller
10 without further action by any court. The dormancy period for funds
11 deposited under this chapter begins on the later of:

12 (1) the date of entry of final judgment or order of
13 dismissal in the action in which the funds were deposited;

14 (2) the 18th birthday of the minor for whom the funds
15 were deposited; or

16 (3) a reasonable date established by rule by the
17 comptroller to promote the public interest in disposing of
18 unclaimed funds.

19 SECTION 4. Sections 117.021(a) and (d), Local Government
20 Code, are amended to read as follows:

21 (a) The commissioners court of a county shall select by the
22 process provided by this subchapter or by Subchapter C, Chapter
23 262, a federally insured bank or banks in the county to be the
24 depository for a special account held by the clerks of the justice
25 courts, the county clerk, and the district clerks. The county shall
26 enter a contract with the selected federally insured bank or banks
27 for a two-year or four-year term. The original term can be renewed

1 once for an additional two-year term. The contract may, on request
2 by the clerk and approval of the commissioners court, include a
3 provision that the funds in a special account earn interest. A
4 request from the clerk that an account earn interest must be made,
5 in writing, to the commissioners court not later than the 30th day
6 before the date the county gives notice under Section 117.022 and
7 shall be entered in the minutes of the court.

8 (d) A bank must file its application on or before a date set
9 by the commissioners court. The application must be accompanied by
10 a certified check or cashier's check for at least one-half of one
11 percent of the average daily balance of the registry funds held by
12 the clerks of the justice courts, the county clerk, and the district
13 clerk during the preceding calendar year, as determined by the
14 clerks of the justice courts, the county clerk and the district
15 clerk on or before the 10th day before the date the application is
16 required to be filed. A certified check or cashier's check that
17 complies with this section is a good-faith guarantee on the part of
18 the applicant that if its application is accepted it will execute
19 the bond required under this subchapter. If the bank selected as
20 depository does not provide the bond, the county shall retain the
21 amount of the check as liquidated damages and the county shall
22 select another depository as provided by this subchapter.

23 SECTION 5. Section 117.022, Local Government Code, is
24 amended to read as follows:

25 Sec. 117.022. NOTICE. A county shall advertise or give
26 notice that the county will accept applications to be the
27 depository for registry funds held by the clerks of the justice

1 courts, the county clerk, and the district clerk in the same manner
2 as notice is required under Section 116.022.

3 SECTION 6. Section 117.023(a), Local Government Code, is
4 amended to read as follows:

5 (a) At the meeting at which banks are to be selected to serve
6 as the depository for registry funds held by the clerks of the
7 justice courts, the county clerk, and the district clerk, the
8 commissioners court shall enter the applications in the minutes of
9 the court and select a depository.

10 SECTION 7. The heading to Section 117.052, Local Government
11 Code, is amended to read as follows:

12 Sec. 117.052. DEPOSITS OF REGISTRY FUNDS BY [~~COUNTY AND~~
13 ~~DISTRICT~~] CLERKS.

14 SECTION 8. Section 117.052(a), Local Government Code, is
15 amended to read as follows:

16 (a) If a depository has been selected under Subchapter B,
17 the clerk of a justice court, a county clerk, or a district clerk
18 who is to have for more than three days legal custody of money
19 deposited in the registry of the court pending the result of a legal
20 proceeding shall deposit the money in the depository.

21 SECTION 9. Section 117.053(a), Local Government Code, is
22 amended to read as follows:

23 (a) If a commissioners court selects a new depository under
24 Subchapter B, when the depository qualifies, the clerks of the
25 justice courts, the county clerk, and the district clerk shall
26 transfer the funds in a special account from the old depository to
27 the new depository, and the clerks may draw checks on the accounts

1 for this purpose.

2 SECTION 10. Section 117.056(a), Local Government Code, is
3 amended to read as follows:

4 (a) A depository selected under Subchapter B shall pay a
5 check drawn by a clerk of a justice court, a county clerk, or a
6 district clerk against funds deposited in the clerk's name on
7 presentment of the check at the county seat if the funds subject to
8 the check are in the possession of the depository.

9 SECTION 11. Section 117.057(a), Local Government Code, is
10 amended to read as follows:

11 (a) A commissioners court may require a depository selected
12 under Subchapter B to execute a new bond whenever the
13 commissioners court considers it necessary for the protection of
14 the clerks of the justice courts', the county clerk's, and the
15 district clerk's registry funds.

16 SECTION 12. Section 117.058(b), Local Government Code, is
17 amended to read as follows:

18 (b) If the commissioners court of a county provides a
19 depository for the registry funds of the clerks of the justice
20 courts, the county clerk, or the district clerk, those officers
21 shall make reports under oath to the county auditor to properly
22 reflect all registry funds received and disbursed by the officer,
23 including all money remaining on hand at the time of the report.
24 The county auditor shall prescribe the form and frequency of the
25 report.

26 SECTION 13. Section 117.081, Local Government Code, is
27 amended to read as follows:

1 Sec. 117.081. LIABILITY OF [~~COUNTY AND DISTRICT~~] CLERKS.

2 (a) A clerk of a justice court, a county clerk, or a district clerk
3 is not responsible for a loss of registry funds resulting from the
4 failure or negligence of a depository.

5 (b) This section does not release a clerk of a justice
6 court, a county clerk, or a district clerk from:

7 (1) liability for a loss of registry funds resulting
8 from the clerk's official misconduct, negligence, or
9 misappropriation of the funds; or

10 (2) responsibility for keeping the registry funds safe
11 until the clerk deposits them in a depository selected under
12 Subchapter B.

13 (c) After a clerk of a justice court, a county clerk, or a
14 district clerk deposits in a depository selected under Subchapter B
15 the registry funds held by the clerk, the clerk is relieved of the
16 responsibility for keeping the funds secure.

17 SECTION 14. Section [117.083](#), Local Government Code, is
18 amended to read as follows:

19 Sec. 117.083. LOSS OF REGISTRY FUNDS. If registry funds
20 held by a clerk of a justice court, a county clerk, or a district
21 clerk and deposited by the county with a depository selected under
22 Subchapter B are lost for any reason, including a loss due to the
23 insolvency of the depository, the county is liable to the rightful
24 owner of the funds for the full amount of the funds due the owner.

25 SECTION 15. This Act takes effect September 1, 2023.