

By: Farabee

H.B. No. 2485

Substitute the following for H.B. No. 2485:

By: Heflin

C.S.H.B. No. 2485

A BILL TO BE ENTITLED

AN ACT

1
2 relating to county accounting procedures regarding certain audits,
3 debts, and records.

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

5 SECTION 1. Section 5, Article 55.02, Code of Criminal
6 Procedure, is amended by amending Subsections (a), (c), and (d) and
7 adding Subsection (g) to read as follows:

8 (a) Except as provided by Subsections [~~Subsection~~] (f) and
9 (g), on receipt of the order, each official or agency or other
10 entity named in the order shall:

11 (1) return all records and files that are subject to
12 the expunction order to the court or, if removal is impracticable,
13 obliterate all portions of the record or file that identify the
14 person who is the subject of the order and notify the court of its
15 action; and

16 (2) delete from its public records all index
17 references to the records and files that are subject to the
18 expunction order.

19 (c) Except in the case of a person who is the subject of an
20 expunction order based on an entitlement under Article 55.01(d) and
21 except as provided by Subsection (g), if an order of expunction is
22 issued under this article, the court records concerning expunction
23 proceedings are not open for inspection by anyone except the person
24 who is the subject of the order unless the order permits retention

1 of a record under Section 4 of this article and the person is again
2 arrested for or charged with an offense arising out of the
3 transaction for which the person was arrested or unless the court
4 provides for the retention of records and files under Section 4(a)
5 of this article. The clerk of the court issuing the order shall
6 obliterate all public references to the proceeding and maintain the
7 files or other records in an area not open to inspection.

8 (d) Except in the case of a person who is the subject of an
9 expunction order on the basis of an acquittal or an expunction order
10 based on an entitlement under Article 55.01(d) and except as
11 provided by Subsection (g), the clerk of the court shall destroy all
12 the files or other records maintained under Subsection (c) not
13 earlier than the 60th day after the date the order of expunction is
14 issued or later than the first anniversary of that date unless the
15 records or files were released under Subsection (b).

16 (g) Notwithstanding any other provision in this section, an
17 official, agency, court, or other entity may retain receipts,
18 invoices, vouchers, or similar records of financial transactions
19 that arose from the expunction proceeding or prosecution of the
20 underlying criminal cause in accordance with internal financial
21 control procedures. An official, agency, court, or other entity
22 that retains records under this subsection shall obliterate all
23 portions of the record or the file that identify the person who is
24 the subject of the expunction order.

25 SECTION 2. Article 59.06(g), Code of Criminal Procedure, is
26 amended to read as follows:

27 (g)(1) All law enforcement agencies and attorneys

1 representing the state who receive proceeds or property under this
2 chapter shall account for the seizure, forfeiture, receipt, and
3 specific expenditure of all such proceeds and property in an audit,
4 which is to be performed annually by the commissioners court or
5 governing body of a municipality, as appropriate. The annual
6 period of the audit for a law enforcement agency is the fiscal year
7 of the appropriate county or municipality and the annual period for
8 an attorney representing the state is the state fiscal year. The
9 audit shall be completed on a form provided by the attorney general.
10 Certified copies of the audit shall be delivered by the law
11 enforcement agency or attorney representing the state to the
12 comptroller's office and the attorney general not later than the
13 60th [~~30th~~] day after the date on which the annual period that is
14 the subject of the audit ends.

15 (2) If a copy of the audit is not delivered to the
16 attorney general within the period required by Subdivision (1),
17 within five days after the end of the period the attorney general
18 shall notify the law enforcement agency or the attorney
19 representing the state of that fact. On a showing of good cause,
20 the attorney general may grant an extension permitting the agency
21 or attorney to deliver a copy of the audit after the period required
22 by Subdivision (1) and before the 76th [~~46th~~] day after the date on
23 which the annual period that is the subject of the audit ends. If
24 the law enforcement agency or the attorney representing the state
25 fails to establish good cause for not delivering the copy of the
26 audit within the period required by Subdivision (1) or fails to
27 deliver a copy of an audit within the extension period, the attorney

1 general shall notify the comptroller of that fact. On notice under
2 this subdivision, the comptroller shall perform the audit otherwise
3 required by Subdivision (1). At the conclusion of the audit, the
4 comptroller shall forward a copy of the audit to the attorney
5 general. The law enforcement agency or attorney representing the
6 state is liable to the comptroller for the costs of the comptroller
7 in performing the audit.

8 SECTION 3. Section 154.025, Local Government Code, is
9 amended to read as follows:

10 Sec. 154.025. DISBURSEMENTS TO PERSONS WITH OUTSTANDING
11 DEBT PROHIBITED. (a) In this section, "debt" includes delinquent
12 taxes, fines, fees, and indebtedness arising from written
13 agreements with the county.

14 (b) If notice of indebtedness has been filed with the county
15 auditor and county treasurer evidencing the indebtedness of a
16 person to the state, the county, or a salary fund, a warrant may not
17 be drawn on a county fund in favor of a person, or an agent or
18 assignee of a person, until:

19 (1) the county treasurer, or the county auditor in a
20 county without a county treasurer, notifies in writing the person
21 owing the debt [~~is notified~~] that the debt is outstanding; and

22 (2) the debt is paid.

23 (c) A county may apply any funds the county owes a person to
24 the outstanding balance of debt for which notice is made under
25 Subsection (b)(1), if the notice includes a statement that the
26 amount owed by the county to the person may be applied to reduce the
27 outstanding debt.

1 (d) A county may include a notice in its forms, bonds, or
2 other agreements stating that the county may offset payments to a
3 person in accordance with this section.

4 SECTION 4. Section 154.045, Local Government Code, is
5 amended to read as follows:

6 Sec. 154.045. DISBURSEMENTS TO PERSON WITH OUTSTANDING DEBT
7 PROHIBITED. (a) In this section, "debt" includes delinquent
8 taxes, fines, fees, and indebtedness arising from written
9 agreements with the county.

10 (b) If a notice of indebtedness has been filed with the
11 county auditor or county treasurer evidencing the indebtedness of a
12 person to the state, the county, or a salary fund, a warrant may not
13 be drawn on a county fund in favor of the person, or an agent or
14 assignee of the person, until:

15 (1) the county treasurer, or the county auditor in a
16 county without a county treasurer, notifies in writing the person
17 owing the debt [~~is notified~~] that the debt is outstanding; and

18 (2) the debt is paid.

19 (c) A county may apply any funds the county owes a person to
20 the outstanding balance of debt for which notice is made under
21 Subsection (b)(1), if the notice includes a statement that the
22 amount owed by the county to the person may be applied to reduce the
23 outstanding debt.

24 (d) A county may include a notice in its forms, bonds, or
25 other agreements stating that the county may offset payments to a
26 person in accordance with this section.

27 SECTION 5. (a) The changes in law made by this Act to

1 Chapter 55, Code of Criminal Procedure, apply only to an expunction
2 order received on or after the effective date of this Act.

3 (b) Article 59.06(g), Code of Criminal Procedure, as
4 amended by this Act, applies only to an audit performed on or after
5 the effective date of this Act.

6 SECTION 6. This Act takes effect September 1, 2007.