

By: Farabee

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 511.016(a), Government Code, is amended  
9 to read as follows:

10 (a) Each county auditor shall provide the commission with a  
11 copy of each [~~the auditor's quarterly~~] audit of the county jail's  
12 commissary operations the auditor performs under Section 351.0415,  
13 Local Government Code, and a copy of the annual financial audit of  
14 general operations of the county jail. The county auditor shall  
15 provide a copy of an audit not later than the 10th day after  
16 completing the audit.

17 SECTION 4. Section 154.025, Local Government Code, is  
18 amended to read as follows:

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

23 (b) If notice of indebtedness has been filed with the county  
24 auditor and county treasurer evidencing the indebtedness of a  
25 person to the state, the county, or a salary fund, a warrant may not  
26 be drawn on a county fund in favor of a person, or an agent or  
27 assignee of a person, until:

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

4           (2) the debt is paid.

5           (c) A county may apply any funds the county owes a person to  
6 the outstanding balance of debt for which notice is made under  
7 Subsection (b)(1), if the notice includes a statement that the  
8 amount owed by the county to the person may be applied to reduce the  
9 outstanding debt.

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

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

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

19           (b) If a notice of indebtedness has been filed with the  
20 county auditor or county treasurer evidencing the indebtedness of a  
21 person to the state, the county, or a salary fund, a warrant may not  
22 be drawn on a county fund in favor of the person, or an agent or  
23 assignee of the person, until:

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

27           (2) the debt is paid.

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

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

9        SECTION 6. (a) The changes in law made by this Act to  
10 Chapter 55, Code of Criminal Procedure, apply only to an expunction  
11 order received on or after the effective date of this Act.

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

15        SECTION 7. This Act takes effect September 1, 2007.