

By: Solomons

H.B. No. 2641

Substitute the following for H.B. No. 2641:

By: Smith of Harris

C.S.H.B. No. 2641

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the selection of depositories for certain county funds,
3 including funds held by a county or district clerk.

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

5 SECTION 1. Section 116.021, Local Government Code, is
6 amended to read as follows:

7 Sec. 116.021. DEPOSITORY AND SUBDEPOSITORY CONTRACTS. (a)
8 The commissioners court of a county [~~at its May regular term~~
9 ~~immediately following each general election for state and county~~
10 ~~officers~~] shall select by the process provided by this subchapter
11 or by Subchapter C, Chapter 262 [~~contract with~~] one or more banks in
12 the county and enter a contract with each selected bank for the
13 deposit of the county's public funds. The county shall contract
14 with a bank under this section for a two-year or four-year contract
15 term. The original term may be renewed for an additional two-year
16 term.

17 (b) If the contract is for a four-year term, the contract
18 shall allow the county [~~bank~~] to establish, on the basis of
19 negotiations with the bank [~~county~~], new interest rates and
20 financial terms of the contract that will take effect during the
21 final two years of the four-year contract if:

22 (1) the new financial terms do not increase the prices
23 to the county by more than 10 percent; and

24 (2) the county has the option to choose to use the

1 initial variable interest rate option or to change to the new fixed
2 or variable interest rate options proposed by the bank.

3 (c) On the renewal of a contract, the county may negotiate
4 new interest rates and terms with the bank for the next two years in
5 the same way and subject to the same conditions as provided by
6 Subsection (b) [~~If for any reason a county depository is not~~
7 selected under Subsection (a), the commissioners court, at any
8 subsequent time after 20 days' notice, may select, by the process
9 described by Section 116.024 or by negotiated bid, one or more
10 depositories in the same manner as at the regular time].

11 (d) If the commissioners court selects a depository by the
12 process provided by Subchapter C, Chapter 262, the depository may
13 be selected by:

14 (1) competitive bidding; or

15 (2) another method under that subchapter that the
16 county is qualified to use.

17 SECTION 2. Section 116.022(a), Local Government Code, is
18 amended to read as follows:

19 (a) Once each week for at least 20 days before the date to
20 submit an application under Section 116.023(a) [~~May regular term of~~
21 a commissioners court at which the court will make a depository
22 contract], the county judge shall place over the judge's name in a
23 newspaper published in the county a notice that the commissioners
24 court intends to make the contract. A notice shall also be posted
25 at the courthouse door of the county.

26 SECTION 3. Section 116.023(a), Local Government Code, is
27 amended to read as follows:

1 (a) A bank in the county that wants to be a county depository
2 must deliver its application to the county judge or a designated
3 representative of the judge on or before a date set by the
4 commissioners court that is no later than the 60th day before the
5 date of the expiration of the existing depository contract [~~the~~
6 ~~first day of the term of the commissioners court at which~~
7 ~~depositories are to be selected~~].

8 SECTION 4. Section 116.024(a), Local Government Code, is
9 amended to read as follows:

10 (a) After the date by which applications must be received
11 under Section 116.023(a), but before the expiration of the existing
12 depository contract [~~At 10 a.m. on the first day of each term at~~
13 ~~which banks are to be selected as county depositories~~], the
14 commissioners court shall:

15 (1) enter in the minutes of the court all applications
16 filed with the county judge;

17 (2) consider all applications; and

18 (3) select the qualified applicants that offer the
19 most favorable terms and conditions for the handling of the county
20 funds.

21 SECTION 5. Section 117.021, Local Government Code, is
22 amended to read as follows:

23 Sec. 117.021. APPLICATIONS. (a) The commissioners court
24 of a county [~~at its May regular term after a general election for~~
25 ~~state and county officers~~] shall select by the process provided by
26 this subchapter or by Subchapter C, Chapter 262, [~~receive an~~
27 ~~application from~~] a federally insured bank or banks in the county to

1 be the depository for a special account held by the county clerk and
2 the district clerks. The county shall enter a contract with the
3 selected [~~a federally insured~~] bank or banks [~~under this section~~]
4 for a two-year or four-year [~~contract~~] term. The original term can
5 be renewed once for an additional two-year term. The contract may,
6 on request by the clerk and approval of the commissioners court,
7 include a provision that the funds in a special account earn
8 interest. A request from the clerk that an account earn interest
9 must be made, in writing, to the commissioners court not later than
10 the 30th day before the date the county gives notice under Section
11 117.022 and shall be entered in the minutes of the court.

12 (b) If the contract is for a four-year term, the contract
13 shall allow the county [~~bank~~] to establish, on the basis of
14 negotiations with the bank [~~county~~], new interest rates and
15 financial terms of the contract that will take effect during the
16 final two years of the four-year contract if:

17 (1) the new financial terms do not increase the prices
18 to the county by more than 10 percent; and

19 (2) the county has the option to choose to use the
20 initial variable interest rate option or to change to the new fixed
21 or variable interest rate options proposed by the bank.

22 (c) On the renewal of a contract, the county may negotiate
23 new interest rates and terms with the bank for the next two years in
24 the same way and under the same conditions as provided by Subsection
25 (b).

26 (d) If a bank is selected as provided by this subchapter,
27 the [~~A~~] bank must file its application on or before a date set by the

1 commissioners court that is no later than the 60th day before the
2 date of the expiration of the existing depository contract [~~10 a.m.~~
3 ~~on the first day of the term~~]. The application must be accompanied
4 by a certified check or cashier's check for at least one-half of one
5 percent of the average daily balance of the registry funds held by
6 the county clerk and the district clerk during the preceding
7 calendar year, as determined by the county clerk and the district
8 clerk on or before the 10th day before the date the application is
9 required to be filed. A certified check or cashier's check that
10 complies with this section is a good-faith guarantee on the part of
11 the applicant that if its application is accepted it will execute
12 the bond required under this subchapter. If the bank selected as
13 depository does not provide the bond, the county shall retain the
14 amount of the check as liquidated damages and the county shall
15 select another depository as provided by this subchapter.

16 [~~(d) If for any reason a county depository is not selected~~
17 ~~under Subsection (a), the commissioners court, at any subsequent~~
18 ~~time after 20 days' notice, may select, by the process described by~~
19 ~~Section 117.023 or by negotiated bid, one or more depositories in~~
20 ~~the same manner as at the regular term.~~]

21 (e) If the commissioners court selects a depository by the
22 process provided by Subchapter C, Chapter 262, the depository may
23 be selected by:

24 (1) competitive bidding; or

25 (2) another method under that subchapter that the
26 county is qualified to use.

27 SECTION 6. Section 117.023(a), Local Government Code, is

1 amended to read as follows:

2 (a) At the meeting [~~10 a.m. on the first day of each term~~] at
3 which banks are to be selected [~~the commissioners court is required~~
4 ~~to receive applications~~] to serve as the depository for registry
5 funds held by the county clerk and the district clerk, the
6 commissioners court shall enter the applications in the minutes of
7 the court and select a depository.

8 SECTION 7. Section 117.025(b), Local Government Code, is
9 amended to read as follows:

10 (b) A designation under Subsection (a) is effective until
11 the designation and qualification of a successor depository or
12 until April 15 following the expiration of the contract [~~term in~~
13 ~~which a depository must be selected under this subchapter~~],
14 whichever is earlier. If the term of a depository ends before the
15 designation and qualification of a successor, the depository shall
16 pay to the clerk in whose name the account is carried all registry
17 funds due or on deposit.

18 SECTION 8. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2007.