

1-1 By: Solomons (Senate Sponsor - Zaffirini) H.B. No. 2641  
1-2 (In the Senate - Received from the House April 26, 2007;  
1-3 May 1, 2007, read first time and referred to Committee on  
1-4 Intergovernmental Relations; May 18, 2007, reported adversely,  
1-5 with favorable Committee Substitute by the following vote: Yeas 4,  
1-6 Nays 0; May 18, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2641 By: Nichols

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the selection of depositories for certain county funds,  
1-11 including funds held by a county or district clerk.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 116.021, Local Government Code, is  
1-14 amended to read as follows:

1-15 Sec. 116.021. DEPOSITORY AND SUBDEPOSITORY CONTRACTS. (a)  
1-16 The commissioners court of a county ~~[at its May regular term~~  
1-17 ~~immediately following each general election for state and county~~  
1-18 ~~officers]~~ shall select by the process provided by this subchapter  
1-19 or by Subchapter C, Chapter 262, ~~[contract with]~~ one or more banks  
1-20 in the county and enter a contract with each selected bank for the  
1-21 deposit of the county's public funds. The county shall contract  
1-22 with a bank under this section for a two-year or four-year contract  
1-23 term. On expiration of a contract under this section, the contract  
1-24 may be renewed for two years under terms negotiated by the  
1-25 commissioners court.

1-26 (b) If the contract is for a four-year term, the contract  
1-27 shall allow the county ~~[bank]~~ to establish, on the basis of  
1-28 negotiations with the bank ~~[county]~~, new interest rates and  
1-29 financial terms of the contract that will take effect during the  
1-30 final two years of the four-year contract ~~[if:~~

1-31 ~~[(1) the new financial terms do not increase the~~  
1-32 ~~prices to the county by more than 10 percent; and~~

1-33 ~~[(2) the county has the option to choose to use the~~  
1-34 ~~initial variable interest rate option or to change to the new fixed~~  
1-35 ~~or variable interest rate options proposed by the bank].~~

1-36 (c) On the renewal of a contract, the county may negotiate  
1-37 new interest rates and terms with the bank for the next two years in  
1-38 the same way and subject to the same conditions as provided by  
1-39 Subsection (b).

1-40 (d) If for any reason a county depository is not selected  
1-41 under Subsection (a), the commissioners court, at any subsequent  
1-42 time after 20 days' notice, may select, by the process described by  
1-43 Section 116.024 or by negotiated bid, one or more depositories in  
1-44 the same manner as at the regular time.

1-45 (e) If the commissioners court selects a depository by the  
1-46 process provided by Subchapter C, Chapter 262, the depository may  
1-47 be selected by:

1-48 (1) competitive bidding; or

1-49 (2) another method under that subchapter that the  
1-50 county is qualified to use.

1-51 SECTION 2. Section 116.022(a), Local Government Code, is  
1-52 amended to read as follows:

1-53 (a) Once each week for at least 20 days before the date to  
1-54 submit an application under Section 116.023(a) [May regular term of  
1-55 a commissioners court at which the court will make a depository  
1-56 contract], the county judge shall place over the judge's name in a  
1-57 newspaper of general circulation [published] in the county a notice  
1-58 that the commissioners court intends to receive applications from  
1-59 which to select a depository bank [make the contract]. A notice  
1-60 shall also be posted at the courthouse door of the county.

1-61 SECTION 3. Section 116.023(a), Local Government Code, is  
1-62 amended to read as follows:

1-63 (a) A bank in the county that wants to be a county depository

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

2-7 SECTION 4. Section 116.024(a), Local Government Code, is  
2-8 amended to read as follows:

2-9 (a) At the meeting [10 a.m. on the first day of each term] at  
2-10 which banks are to be selected as county depositories, the  
2-11 commissioners court shall:

2-12 (1) enter in the minutes of the court all applications  
2-13 filed with the county judge;

2-14 (2) consider all applications; and

2-15 (3) select the qualified applicants that offer the  
2-16 most favorable terms and conditions for the handling of the county  
2-17 funds.

2-18 SECTION 5. Section 117.021, Local Government Code, is  
2-19 amended to read as follows:

2-20 Sec. 117.021. APPLICATIONS. (a) The commissioners court  
2-21 of a county [at its May regular term after a general election for  
2-22 state and county officers] shall select by the process provided by  
2-23 this subchapter or by Subchapter C, Chapter 262, [receive an  
2-24 application from] a federally insured bank or banks in the county to  
2-25 be the depository for a special account held by the county clerk and  
2-26 the district clerks. The county shall enter a contract with the  
2-27 selected [a] federally insured bank or banks [under this section]  
2-28 for a two-year or four-year [contract] term. The original term can  
2-29 be renewed once for an additional two-year term. The contract may,  
2-30 on request by the clerk and approval of the commissioners court,  
2-31 include a provision that the funds in a special account earn  
2-32 interest. A request from the clerk that an account earn interest  
2-33 must be made, in writing, to the commissioners court not later than  
2-34 the 30th day before the date the county gives notice under Section  
2-35 117.022 and shall be entered in the minutes of the court.

2-36 (b) If the contract is for a four-year term, the contract  
2-37 shall allow the county [bank] to establish, on the basis of  
2-38 negotiations with the bank [county], new interest rates and  
2-39 financial terms of the contract that will take effect during the  
2-40 final two years of the four-year contract [if.

2-41 (1) the new financial terms do not increase the  
2-42 prices to the county by more than 10 percent; and

2-43 (2) the county has the option to choose to use the  
2-44 initial variable interest rate option or to change to the new fixed  
2-45 or variable interest rate options proposed by the bank].

2-46 (c) On the renewal of a contract, the county may negotiate  
2-47 new interest rates and terms with the bank for the next two years in  
2-48 the same way and under the same conditions as provided by Subsection  
2-49 (b).

2-50 (d) A bank must file its application on or before a date set  
2-51 by the commissioners court [10 a.m. on the first day of the term].  
2-52 The application must be accompanied by a certified check or  
2-53 cashier's check for at least one-half of one percent of the average  
2-54 daily balance of the registry funds held by the county clerk and the  
2-55 district clerk during the preceding calendar year, as determined by  
2-56 the county clerk and the district clerk on or before the 10th day  
2-57 before the date the application is required to be filed. A  
2-58 certified check or cashier's check that complies with this section  
2-59 is a good-faith guarantee on the part of the applicant that if its  
2-60 application is accepted it will execute the bond required under  
2-61 this subchapter. If the bank selected as depository does not  
2-62 provide the bond, the county shall retain the amount of the check as  
2-63 liquidated damages and the county shall select another depository  
2-64 as provided by this subchapter.

2-65 (e) [d] If for any reason a county depository is not  
2-66 selected under Subsection (a), the commissioners court, at any  
2-67 subsequent time after 20 days' notice, may select, by the process  
2-68 described by Section 117.023 or by negotiated bid, one or more  
2-69 depositories in the same manner as at the regular term.

3-1 (f) If the commissioners court selects a depository by the  
3-2 process provided by Subchapter C, Chapter 262, the depository may  
3-3 be selected by:

- 3-4 (1) competitive bidding; or
- 3-5 (2) another method under that subchapter that the  
3-6 county is qualified to use.

3-7 SECTION 6. Section 117.023(a), Local Government Code, is  
3-8 amended to read as follows:

3-9 (a) At the meeting [10 a.m. on the first day of each term] at  
3-10 which banks are to be selected [the commissioners court is required  
3-11 to receive applications] to serve as the depository for registry  
3-12 funds held by the county clerk and the district clerk, the  
3-13 commissioners court shall enter the applications in the minutes of  
3-14 the court and select a depository.

3-15 SECTION 7. Section 117.025(b), Local Government Code, is  
3-16 amended to read as follows:

3-17 (b) A designation under Subsection (a) is effective until  
3-18 the designation and qualification of a successor depository or  
3-19 until April 15 following the expiration of the contract [term in  
3-20 which a depository must be selected under this subchapter],  
3-21 whichever is earlier. If the term of a depository ends before the  
3-22 designation and qualification of a successor, the depository shall  
3-23 pay to the clerk in whose name the account is carried all registry  
3-24 funds due or on deposit.

3-25 SECTION 8. To the extent of any conflict, a change in law  
3-26 made by this Act to Chapter 116 or 117, Local Government Code,  
3-27 controls over a change made by H.B. No. 892, Acts of the 80th  
3-28 Legislature, Regular Session, 2007, regardless of the relative  
3-29 dates of enactment.

3-30 SECTION 9. This Act takes effect immediately if it receives  
3-31 a vote of two-thirds of all the members elected to each house, as  
3-32 provided by Section 39, Article III, Texas Constitution. If this  
3-33 Act does not receive the vote necessary for immediate effect, this  
3-34 Act takes effect September 1, 2007.

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