

1-1 By: Watson S.B. No. 1106  
1-2 (In the Senate - Filed March 2, 2007; March 14, 2007, read  
1-3 first time and referred to Committee on Intergovernmental  
1-4 Relations; March 29, 2007, reported favorably by the following  
1-5 vote: Yeas 3, Nays 0; March 29, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to county accounting procedures regarding certain audits,  
1-9 debts, and records.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 5, Article 55.02, Code of Criminal  
1-12 Procedure, is amended by amending Subsections (a), (c), and (d) and  
1-13 adding Subsection (g) to read as follows:

1-14 (a) Except as provided by Subsections [Subsection] (f) and  
1-15 (g), on receipt of the order, each official or agency or other  
1-16 entity named in the order shall:

1-17 (1) return all records and files that are subject to  
1-18 the expunction order to the court or, if removal is impracticable,  
1-19 obliterate all portions of the record or file that identify the  
1-20 person who is the subject of the order and notify the court of its  
1-21 action; and

1-22 (2) delete from its public records all index  
1-23 references to the records and files that are subject to the  
1-24 expunction order.

1-25 (c) Except in the case of a person who is the subject of an  
1-26 expunction order based on an entitlement under Article 55.01(d) and  
1-27 except as provided by Subsection (g), if an order of expunction is  
1-28 issued under this article, the court records concerning expunction  
1-29 proceedings are not open for inspection by anyone except the person  
1-30 who is the subject of the order unless the order permits retention  
1-31 of a record under Section 4 of this article and the person is again  
1-32 arrested for or charged with an offense arising out of the  
1-33 transaction for which the person was arrested or unless the court  
1-34 provides for the retention of records and files under Section 4(a)  
1-35 of this article. The clerk of the court issuing the order shall  
1-36 obliterate all public references to the proceeding and maintain the  
1-37 files or other records in an area not open to inspection.

1-38 (d) Except in the case of a person who is the subject of an  
1-39 expunction order on the basis of an acquittal or an expunction order  
1-40 based on an entitlement under Article 55.01(d) and except as  
1-41 provided by Subsection (g), the clerk of the court shall destroy all  
1-42 the files or other records maintained under Subsection (c) not  
1-43 earlier than the 60th day after the date the order of expunction is  
1-44 issued or later than the first anniversary of that date unless the  
1-45 records or files were released under Subsection (b).

1-46 (g) Notwithstanding any other provision in this section, an  
1-47 official, agency, court, or other entity may retain receipts,  
1-48 invoices, vouchers, or similar records of financial transactions  
1-49 that arose from the expunction proceeding or prosecution of the  
1-50 underlying criminal cause in accordance with internal financial  
1-51 control procedures. An official, agency, court, or other entity  
1-52 that retains records under this subsection shall obliterate all  
1-53 portions of the record or the file that identify the person who is  
1-54 the subject of the expunction order.

1-55 SECTION 2. Subsection (g), Article 59.06, Code of Criminal  
1-56 Procedure, is amended to read as follows:

1-57 (g)(1) All law enforcement agencies and attorneys  
1-58 representing the state who receive proceeds or property under this  
1-59 chapter shall account for the seizure, forfeiture, receipt, and  
1-60 specific expenditure of all such proceeds and property in an audit,  
1-61 which is to be performed annually by the commissioners court or  
1-62 governing body of a municipality, as appropriate. The annual  
1-63 period of the audit for a law enforcement agency is the fiscal year  
1-64 of the appropriate county or municipality and the annual period for

2-1 an attorney representing the state is the state fiscal year. The  
 2-2 audit shall be completed on a form provided by the attorney general.  
 2-3 Certified copies of the audit shall be delivered by the law  
 2-4 enforcement agency or attorney representing the state to the  
 2-5 comptroller's office and the attorney general not later than the  
 2-6 60th [~~30th~~] day after the date on which the annual period that is  
 2-7 the subject of the audit ends.

2-8 (2) If a copy of the audit is not delivered to the  
 2-9 attorney general within the period required by Subdivision (1),  
 2-10 within five days after the end of the period the attorney general  
 2-11 shall notify the law enforcement agency or the attorney  
 2-12 representing the state of that fact. On a showing of good cause,  
 2-13 the attorney general may grant an extension permitting the agency  
 2-14 or attorney to deliver a copy of the audit after the period required  
 2-15 by Subdivision (1) and before the 76th [~~46th~~] day after the date on  
 2-16 which the annual period that is the subject of the audit ends. If  
 2-17 the law enforcement agency or the attorney representing the state  
 2-18 fails to establish good cause for not delivering the copy of the  
 2-19 audit within the period required by Subdivision (1) or fails to  
 2-20 deliver a copy of an audit within the extension period, the attorney  
 2-21 general shall notify the comptroller of that fact. On notice under  
 2-22 this subdivision, the comptroller shall perform the audit otherwise  
 2-23 required by Subdivision (1). At the conclusion of the audit, the  
 2-24 comptroller shall forward a copy of the audit to the attorney  
 2-25 general. The law enforcement agency or attorney representing the  
 2-26 state is liable to the comptroller for the costs of the comptroller  
 2-27 in performing the audit.

2-28 SECTION 3. Subsection (a), Section 511.016, Government  
 2-29 Code, is amended to read as follows:

2-30 (a) Each county auditor shall provide the commission with a  
 2-31 copy of each [~~the auditor's quarterly~~] audit of the county jail's  
 2-32 commissary operations the auditor performs under Section 351.0415,  
 2-33 Local Government Code, and a copy of the annual financial audit of  
 2-34 general operations of the county jail. The county auditor shall  
 2-35 provide a copy of an audit not later than the 10th day after  
 2-36 completing the audit.

2-37 SECTION 4. Section 154.025, Local Government Code, is  
 2-38 amended to read as follows:

2-39 Sec. 154.025. DISBURSEMENTS TO PERSONS WITH OUTSTANDING  
 2-40 DEBT PROHIBITED. (a) In this section, "debt" includes delinquent  
 2-41 taxes, fines, fees, and indebtedness arising from written  
 2-42 agreements with the county.

2-43 (b) If notice of indebtedness has been filed with the county  
 2-44 auditor and county treasurer evidencing the indebtedness of a  
 2-45 person to the state, the county, or a salary fund, a warrant may not  
 2-46 be drawn on a county fund in favor of a person, or an agent or  
 2-47 assignee of a person, until:

2-48 (1) the county treasurer, or the county auditor in a  
 2-49 county without a county treasurer, notifies in writing the person  
 2-50 owing the debt [is notified] that the debt is outstanding; and

2-51 (2) the debt is paid.

2-52 (c) A county may apply any funds the county owes a person to  
 2-53 the outstanding balance of debt for which notice is made under  
 2-54 Subsection (b)(1), if the notice includes a statement that the  
 2-55 amount owed by the county to the person may be applied to reduce the  
 2-56 outstanding debt.

2-57 (d) A county may include a notice in its forms, bonds, or  
 2-58 other agreements stating that the county may offset payments to a  
 2-59 person in accordance with this section.

2-60 SECTION 5. Section 154.045, Local Government Code, is  
 2-61 amended to read as follows:

2-62 Sec. 154.045. DISBURSEMENTS TO PERSON WITH OUTSTANDING DEBT  
 2-63 PROHIBITED. (a) In this section, "debt" includes delinquent  
 2-64 taxes, fines, fees, and indebtedness arising from written  
 2-65 agreements with the county.

2-66 (b) If a notice of indebtedness has been filed with the  
 2-67 county auditor or county treasurer evidencing the indebtedness of a  
 2-68 person to the state, the county, or a salary fund, a warrant may not  
 2-69 be drawn on a county fund in favor of the person, or an agent or

3-1 assignee of the person, until:

3-2 (1) the county treasurer, or the county auditor in a  
3-3 county without a county treasurer, notifies in writing the person  
3-4 owing the debt [~~is notified~~] that the debt is outstanding; and

3-5 (2) the debt is paid.

3-6 (c) A county may apply any funds the county owes a person to  
3-7 the outstanding balance of debt for which notice is made under  
3-8 Subsection (b)(1), if the notice includes a statement that the  
3-9 amount owed by the county to the person may be applied to reduce the  
3-10 outstanding debt.

3-11 (d) A county may include a notice in its forms, bonds, or  
3-12 other agreements stating that the county may offset payments to a  
3-13 person in accordance with this section.

3-14 SECTION 6. (a) The changes in law made by this Act to  
3-15 Chapter 55, Code of Criminal Procedure, apply only to an expunction  
3-16 order received on or after the effective date of this Act.

3-17 (b) Subsection (g), Article 59.06, Code of Criminal  
3-18 Procedure, as amended by this Act, applies only to an audit  
3-19 performed on or after the effective date of this Act.

3-20 SECTION 7. This Act takes effect September 1, 2007.

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