

SENATE AMENDMENTS

2nd Printing

By: Solomons

H.B. No. 2641

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

(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.

ADOPTED

MAY 23 2007

Lotay Spaw
Secretary of the Senate

By: Zaffirini

H.B. No. 2641

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

By: *Zaffirini*

C.S. H.B. No. 2641

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

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

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

4 (c) On the renewal of a contract, the county may negotiate
5 new interest rates and terms with the bank for the next two years in
6 the same way and subject to the same conditions as provided by
7 Subsection (b).

8 (d) If for any reason a county depository is not selected
9 under Subsection (a), the commissioners court, at any subsequent
10 time after 20 days' notice, may select, by the process described by
11 Section 116.024 or by negotiated bid, one or more depositories in
12 the same manner as at the regular time.

13 (e) If the commissioners court selects a depository by the
14 process provided by Subchapter C, Chapter 262, the depository may
15 be selected by:

16 (1) competitive bidding; or

17 (2) another method under that subchapter that the
18 county is qualified to use.

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

21 (a) Once each week for at least 20 days before the date to
22 submit an application under Section 116.023(a) [~~May regular term of~~
23 ~~a commissioners court at which the court will make a depository~~
24 ~~contract~~], the county judge shall place over the judge's name in a
25 newspaper of general circulation [~~published~~] in the county a notice
26 that the commissioners court intends to receive applications from
27 which to select a depository bank [~~make the contract~~]. A notice

1 shall also be posted at the courthouse door of the county.

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

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

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12 amended to read as follows:

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14 which banks are to be selected as county depositories, the
15 commissioners court shall:

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

18 (2) consider all applications; and

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

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25 of a county [~~at its May regular term after a general election for~~
26 ~~state and county officers~~] shall select by the process provided by
27 this subchapter or by Subchapter C, Chapter 262, [~~receive an~~

1 ~~application from~~ a federally insured bank or banks in the county to
2 be the depository for a special account held by the county clerk and
3 the district clerks. The county shall enter a contract with the
4 selected [a] federally insured bank or banks [~~under this section~~]
5 for a two-year or four-year [~~contract~~] term. The original term can
6 be renewed once for an additional two-year term. The contract may,
7 on request by the clerk and approval of the commissioners court,
8 include a provision that the funds in a special account earn
9 interest. A request from the clerk that an account earn interest
10 must be made, in writing, to the commissioners court not later than
11 the 30th day before the date the county gives notice under Section
12 117.022 and shall be entered in the minutes of the court.

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

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

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

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

27 (d) A bank must file its application on or before a date set

1 by the commissioners court [~~10 a.m. on the first day of the term~~].
2 The application must be accompanied by a certified check or
3 cashier's check for at least one-half of one percent of the average
4 daily balance of the registry funds held by the county clerk and the
5 district clerk during the preceding calendar year, as determined by
6 the county clerk and the district clerk on or before the 10th day
7 before the date the application is required to be filed. A
8 certified check or cashier's check that complies with this section
9 is a good-faith guarantee on the part of the applicant that if its
10 application is accepted it will execute the bond required under
11 this subchapter. If the bank selected as depository does not
12 provide the bond, the county shall retain the amount of the check as
13 liquidated damages and the county shall select another depository
14 as provided by this subchapter.

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

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

23 (1) competitive bidding; or

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

26 SECTION 6. Section 117.023(a), Local Government Code, is
27 amended to read as follows:

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

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

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

17 SECTION 8. To the extent of any conflict, a change in law
18 made by this Act to Chapter 116 or 117, Local Government Code,
19 controls over a change made by H.B. No. 892, Acts of the 80th
20 Legislature, Regular Session, 2007, regardless of the relative
21 dates of enactment.

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 17, 2007

TO: Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2641 by Solomons (Relating to the selection of depositories for certain county funds, including funds held by a county or district clerk.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code, making adjustments to the procedures and requirements for a county to select depositories for certain county funds, including funds held by a county clerk or a district clerk.

To the extent of any conflict, a change in law made by the bill to Chapters 116 or 117, Local Government Code, would control over changes made by provisions of House Bill 892, Eightieth Legislature, Regular Session, 2007, regardless of relative dates of enactment.

The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2007.

Local Government Impact

The fiscal impact would vary by county, depending on terms and conditions negotiated. The proposed changes to statute would provide more flexibility for the county that could result in a positive fiscal impact.

Source Agencies:

LBB Staff: JOB, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 8, 2007

TO: Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2641** by Solomons (Relating to the selection of depositories for certain county funds, including funds held by a county or district clerk.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code, making adjustments to the procedures and requirements for a county to select depositories for certain county funds, including funds held by a county clerk or a district clerk.

Local Government Impact

The fiscal impact would vary by county, depending on terms and conditions negotiated. The proposed changes to statute would provide more flexibility for the county that could result in a positive fiscal impact.

Source Agencies:

LBB Staff: JOB, DB



LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 9, 2007

TO: Honorable Wayne Smith, Chair, House Committee on County Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2641 by Solomons (Relating to the selection of depositories for certain county funds, including funds held by a county or district clerk.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code, making adjustments to the procedures and requirements for a county to select depositories for certain county funds, including funds held by a county clerk or a district clerk.

Local Government Impact

The fiscal impact would vary by county, depending on terms and conditions negotiated. The proposed changes to statute would provide more flexibility for the county that could result in a positive fiscal impact.

Source Agencies:

LBB Staff: JOB, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 15, 2007

TO: Honorable Wayne Smith, Chair, House Committee on County Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2641 by Solomons (Relating to the selection of depositories for certain county funds, including funds held by a county or district clerk.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code regarding adjustments to the procedures and requirements for a county to select depositories for certain county funds.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, DB

