

**House Bill 2641**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

(c) On the renewal of a contract, the county may negotiate new interest rates and terms with the bank for the next two years in the same way and subject to the same conditions as provided by Subsection (b) [If for any reason a county depository is not selected under

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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. On expiration of a contract under this section, the contract may be renewed for two years under terms negotiated by the commissioners court.

(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 initial variable interest rate option or to change to the new fixed or variable interest rate options proposed by the bank].~~

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

(d) If for any reason a county depository is not selected

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~~Subsection (a), the commissioners court, at any subsequent time after 20 days' notice, may select, by the process described by Section 116.024 or by negotiated bid, one or more depositories in the same manner as at the regular time].~~

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

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

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

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

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

(a) A bank in the county that wants to be a county

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under Subsection (a), the commissioners court, at any subsequent time after 20 days' notice, may select, by the process described by Section 116.024 or by negotiated bid, one or more depositories in the same manner as at the regular time.

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

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

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

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

Same as House version.

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

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

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

- (1) enter in the minutes of the court all applications filed with the county judge;
- (2) consider all applications; and
- (3) select the qualified applicants that offer the most favorable terms and conditions for the handling of the county funds.

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

Sec. 117.021. APPLICATIONS. (a) The commissioners court of a county ~~[at its May regular term after a general election for state and county officers]~~

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

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

- (1) enter in the minutes of the court all applications filed with the county judge;
- (2) consider all applications; and
- (3) select the qualified applicants that offer the most favorable terms and conditions for the handling of the county funds.

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

Sec. 117.021. APPLICATIONS. (a) The commissioners court of a county ~~[at its May regular term after a general election for state and county officers]~~

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shall select by the process provided by this subchapter or by Subchapter C, Chapter 262, [receive an application from] a federally insured bank or banks in the county to be the depository for a special account held by the county clerk and the district clerks. The county shall enter a contract with the selected [a federally insured] bank or banks [under this section] for a two-year or four-year [contract] term. The original term can be renewed once for an additional two-year term. The contract may, on request by the clerk and approval of the commissioners court, include a provision that the funds in a special account earn interest. A request from the clerk that an account earn interest must be made, in writing, to the commissioners court not later than the 30th day before the date the county gives notice under Section 117.022 and shall be entered in the minutes of the court.

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

(c) On the renewal of a contract, the county may negotiate new interest rates and terms with the bank for the next two years in the same way and under the same

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shall select by the process provided by this subchapter or by Subchapter C, Chapter 262, [receive an application from] a federally insured bank or banks in the county to be the depository for a special account held by the county clerk and the district clerks. The county shall enter a contract with the selected [a] federally insured bank or banks [under this section] for a two-year or four-year [contract] term. The original term can be renewed once for an additional two-year term. The contract may, on request by the clerk and approval of the commissioners court, include a provision that the funds in a special account earn interest. A request from the clerk that an account earn interest must be made, in writing, to the commissioners court not later than the 30th day before the date the county gives notice under Section 117.022 and shall be entered in the minutes of the court.

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

(c) On the renewal of a contract, the county may negotiate new interest rates and terms with the bank for the next two years in the same way and under the same

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conditions as provided by Subsection (b).

(d) If a bank is selected as provided by this subchapter, the [A] bank must file its application on or before a date set by the commissioners court that is no later than the 60th day before the date of the expiration of the existing depository contract [10 a.m. on the first day of the term].

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

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

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

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conditions as provided by Subsection (b).

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

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

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

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

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

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

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

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

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

Same as House version.

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No equivalent provision.

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

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

SECTION 9. Same as House version.

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