

BILL ANALYSIS

C.S.H.B. 3398
By: Darby
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current statutory language needs to be modified to conform with current county treasury practices and procedures.

C.S.H.B. 3398 updates provisions relating to county treasury practices and procedures. The bill adds new provisions to establish bond and oath requirements for an assistant or deputy county treasurer.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas State Library and Archives Commission in SECTION 7 of this bill.

ANALYSIS

C.S.H.B. 3398 amends the Code of Criminal Procedure to authorize a county treasurer to collect money payable under the code with the written approval of the clerk of the court or fee officer and to collect money payable as otherwise provided by law. The bill changes the date by which an officer is required to deposit the money collected in the county treasury from not later than the third to not later than the fifth regular business day after the date that the money is collected. The bill changes the date by which the commissioners court of a county with a population of less than 50,000 may authorize an officer who is required to deposit money in the county treasury to deposit the money from not later than the 30th to not later than the 15th day after the date that the money is collected.

C.S.H.B. 3398 amends the Local Government Code to require a county treasurer who employs only one assistant or deputy to execute a surety bond to cover the assistant or deputy and execute a schedule surety bond or a blanket surety bond to cover all other employees of the office. The bill requires a county treasurer who employs more than one assistant or deputy to execute a blanket surety bond to cover the assistants or deputies and all other employees of the office. The bill authorizes the county to self-insure against losses that would be covered by a bond as an alternative to obtaining the required surety bonds. The bill requires a bond under these provisions to be conditioned in the same manner and to be for the same amount as the bond for the county treasurer. The bill requires the bond to be made payable to the county judge for the use and benefit of the county treasurer. The bill requires the treasurer to execute a required surety bond not later than October 1, 2009.

C.S.H.B. 3398 requires the appointment of an assistant treasurer or treasury deputy to be in writing, to be signed by the county treasurer, and to bear the seal of the county court. The bill requires a person appointed as an assistant treasurer or treasury deputy to take and subscribe the official oath before beginning to perform the duties of office, and requires the oath and the certificate of the officer administering the oath to be endorsed on the appointment. The bill requires the appointment and oath to be deposited and recorded in the county clerk's office. The bill establishes that an assistant treasurer or treasury deputy acts in the name of the county

treasurer as directed by the county treasurer and may perform all official acts that the county treasurer may perform at the discretion of the county treasurer.

C.S.H.B. 3398 requires a county treasurer to notify the county auditor of the receipt of all revenue from intergovernmental contracts not previously included in a special budget or the annual budget for that fiscal year or from a new source not anticipated before the adoption of the budget and not previously included in a special budget or the annual budget for that fiscal year. The bill authorizes a county treasurer, with the approval of the county clerk and the commissioners court, to perform the duties of the county clerk under provisions relating to accounts kept for officers by a county clerk.

C.S.H.B. 3398 defines "depository," "depository account," "money," and "treasury" for purposes of provisions relating to the management of county money. The bill revises provisions relating to reconciliation of depository account. The bill clarifies that the county depository, in fulfilling the requirements of reconciling depository accounts, is required to provide at the direction of the county and in accordance with the rules adopted by the Texas State Library and Archives Commission, originals, optical images, or electronic images of canceled checks and orders, deposit detail, debit and credit memoranda, or electronic transmission detail. The bill requires an official with special funds in the depository bank to reconcile all balances and transactions in the statement of activity to the transactions and balances shown on the official's records and to ensure, each month, all financial adjustments resulting from the reconciliation are reported to the county auditor for entry in the general set of records and reflected in the cash receipts and disbursement registers of the county treasurer. The bill authorizes an official to designate the county treasurer to reconcile and report the official's special accounts to the county auditor. The bill requires an official who fails to reconcile special accounts monthly to transfer responsibility for account reconciliation to the county treasurer. The bill makes a transfer of responsibility to the county treasurer effective for the duration of the term of office for the designating officer, unless the official and county treasurer set another period in writing for the duration of the transfer.

C.S.H.B. 3398 revises provisions relating to the requirement that money be deposited with the county treasurer and to the accrual of interest. The bill changes the date by which a county officer or other person is required to deposit the money with the county treasurer from not later than the seventh to not later than the fifty regular business day after the date that the money is received. The bill changes the maximum period of time that a commissioner court in a county with fewer than 50,000 inhabitants may extend the deadline for depositing funds with the county treasurer from not more than 30 to not more than 15 days after the date the funds are received.

C.S.H.B. 3398 revises provisions relating to the disbursement of money by the county treasurer, payment by check or electronic transmission, and a lost or destroyed instrument, and the requirement of a counter signature by the county auditor in certain cases.

C.S.H.B. 3398 requires a county treasurer to maintain a record of claims against the county, rather than a record in which the treasurer is required to register each claim against the county. The bill requires, in counties without a county auditor, a claim to be submitted to the county treasurer for presentation to the commissioners court for approval. The bill requires, in a county without an auditor, a potential claim to be encumbered for payment by providing notice of the expenditure to the county treasurer, including a copy of the requisition or purchase. The bill requires the treasurer to record the claims as they are presented by the officer authorizing the expenditure, and to place an encumbrance against the proper account until the claim is allowed or refused by the commissioners court. The bill removes language requiring the treasurer to register claims in the order of their date. The bill clarifies that the county treasurer is prohibited from paying a claim, or any part of it, until the claim has been encumbered, rather than registered. The bill clarifies that an officer is prohibited from ordering payment of, rather than receiving, a claim, or any part of it, until the claim has been encumbered, rather than registered, and removes language specifying that the claim is in payment of any indebtedness owed to the

county. The bill establishes that an encumbrance does not guarantee approval of the claim by the official authorized to approve the claim.

C.S.H.B. 3398 revises provisions relating to keeping a descriptive list of claims against the county.

C.S.H.B. 3398 establishes that a county publishing monthly financial reports that publishes its comprehensive annual financial report on its Internet website is not required to publish an annual financial exhibit.

C.S.H.B. 3398 repeals the following sections of the Local Government Code:

- Sections 113.061(c), (d), (e), and (f)
- Section 113.062
- Section 113.066

C.S.H.B. 3398 repeals Article 103.004(b), Code of Criminal Procedure, authorizing a commissioners court to authorize an officer who is required to deposit money the officer collects in the county treasury not later than the seventh regular business day after the date that the money is collected.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3398 adds a provision not in the original authorizing a county treasurer to collect money payable under the Code of Criminal Procedure with the written approval of the clerk of the court or fee officer and to collect money payable as otherwise provided by law. The substitute adds provisions not in the original changing the date by which an officer is required to deposit money in the county treasury, and changing the date by which certain counties may authorize an officer to deposit money in the county treasury.

C.S.H.B. 3398 removes language in the original requiring a county treasurer to ensure all financial adjustments resulting from the reconciliation performed by the treasurer of all balances and transactions are reported to the county auditor for entry in the general ledger and reflected in the cash receipts and disbursement registers of the county treasury. The substitute differs from the original by removing an official with clearing accounts in the depository bank from the officials to which requirements for an official with certain funds in the depository bank apply. The substitute differs from the original by adding an exception to the provision making a transfer of responsibility to the county treasurer effective for the duration of the term of office for the designating officer, that the official and county treasurer set another period in writing for the duration of the transfer.

C.S.H.B. 3398 differs from the original by removing the requirement that there must be approval from the county treasurer to extend the deadline for an officer or other person to deposit money with the county treasurer. The substitute differs from the original by changing the date by which a county officer or other person who is required to deposit money with the county treasurer but who is unable to deposit the money by the required date is required to deposit the money, and by changing the maximum period of time that a commissioner court in a county with fewer than 50,000 inhabitants may extend the deadline for depositing funds with the county treasurer. The substitute removes a provision in the original authorizing a county treasurer to require an officer or department head to report on collections that have been received but not deposited.

C.S.H.B. 3398 removes a provision in the original requiring, in counties with a county auditor, the county auditor to provide the county treasurer with a listing of each claim presented for payment not later than 72 hours before the date on which the claim will be presented to the commissioners court for approval. The substitute adds a provision not in the original requiring, in counties without a county auditor, a claim to be submitted to the county treasurer for presentation to the commissioners court for approval. The substitute differs from the original by requiring the treasurer to place an encumbrance against the proper account until the claim is allowed or refused by the commissioners court, rather than by the proper authorities as in the original.

C.S.H.B. 3398 removes provisions in the original specifying that the county treasurer's duty to supervise the collection of debt owed to the county includes overseeing delinquent fines and fees under the Code of Criminal Procedure, and authorizing the treasurer to operate a collections office to expedite collections of money belonging to the county from whatever source the money may be derived. The substitute removes language in the original prohibiting a commissioners court from setting the salary of an officer or employee at an amount less than the amount of the salary in effect 10 years before the fiscal year for which the salary is being set.

C.S.H.B. 3398 differs from the original by repealing a provision of the Code of Criminal Procedure authorizing a commissioners court to authorize an officer who is required to deposit money the officer collects in the county treasury not later than the seventh regular business day after the date that the money is collected.