

By: Darby

H.B. No. 3398

A BILL TO BE ENTITLED

AN ACT

relating to the office of county treasurer.

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

SECTION 1. Article 103.003(b), Code of Criminal Procedure, is amended to read as follows:

(b) A community supervision and corrections department and a county treasurer may collect money payable under this title with the written approval of the clerk of the court or fee officer, and may collect money payable as otherwise provided by law.

SECTION 2. Articles 103.004(a) and (c), Code of Criminal Procedure, are amended to read as follows:

(a) Except as provided by Subsection [~~Subsections (b) and~~ (c)], an officer who collects recognizances, bail bonds, fines, forfeitures, judgments, jury fees, and other obligations recovered in the name of the state under any provision of this title shall deposit the money in the county treasury not later than the next regular business day after the date that the money is collected. If it is not possible for the officer to deposit the money in the county treasury by that date, the officer shall deposit the money in the county treasury as soon as possible, but not later than the fifth [~~third~~] regular business day after the date that the money is collected.

(c) The commissioners court of a county with a population of less than 50,000 may authorize an officer who is required to deposit

1 money under Subsection (a) to deposit the money in the county
2 treasury not later than the 15th [~~30th~~] day after the date that the
3 money is collected.

4 SECTION 3. Chapter 83, Local Government Code, is amended by
5 adding Sections 83.008 and 83.009 to read as follows:

6 Sec. 83.008. SURETY BOND ON ASSISTANT TREASURERS, DEPUTIES,
7 AND EMPLOYEES; SELF-INSURANCE. (a) If a county treasurer employs
8 only one assistant or deputy, the county treasurer shall execute a
9 surety bond to cover the assistant or deputy and shall execute a
10 schedule surety bond or a blanket surety bond to cover all other
11 employees of the office. If a county treasurer employs more than
12 one assistant or deputy, the county treasurer shall execute a
13 blanket surety bond to cover the assistants or deputies and all
14 other employees of the office.

15 (b) Instead of a county treasurer obtaining a bond as
16 required by Subsection (a), the county may self-insure against
17 losses that would have been covered by the bond.

18 (c) The bond under this section must be conditioned in the
19 same manner and must be for the same amount as the bond for the
20 county treasurer under Section 83.002. The bond must be made
21 payable to the county judge for the use and benefit of the county
22 treasurer.

23 Sec. 83.009. ASSISTANT TREASURER OR TREASURY DEPUTY. (a)
24 The appointment of an assistant treasurer or treasury deputy must
25 be in writing, be signed by the county treasurer, and bear the seal
26 of the county court.

27 (b) A person appointed as an assistant treasurer or treasury

1 deputy, before beginning to perform the duties of office, must take
2 and subscribe the official oath, which, together with the
3 certificate of the officer administering the oath, must be endorsed
4 on the appointment. The appointment and oath shall be deposited and
5 recorded in the county clerk's office.

6 (c) An assistant treasurer or treasury deputy acts in the
7 name of the county treasurer as directed by the county treasurer and
8 may perform all official acts that the county treasurer may perform
9 at the discretion of the county treasurer.

10 SECTION 4. Sections 111.0707 and 111.07075, Local
11 Government Code, are amended to read as follows:

12 Sec. 111.0707. SPECIAL BUDGET FOR REVENUE FROM
13 INTERGOVERNMENTAL CONTRACTS. (a) The county auditor shall
14 certify to the commissioners court the receipt of all revenue from
15 intergovernmental contracts that is available for disbursement in a
16 fiscal year but not included in the budget for that fiscal year. On
17 certification, the court shall adopt a special budget for the
18 limited purpose of spending the revenue from intergovernmental
19 contracts for its intended purpose.

20 (b) The county treasurer shall notify the county auditor of
21 the receipt of all revenue from intergovernmental contracts not
22 previously included in a special budget or the annual budget for
23 that fiscal year.

24 Sec. 111.07075. SPECIAL BUDGET FOR REVENUE RECEIVED AFTER
25 START OF FISCAL YEAR. (a) The county auditor shall certify to
26 the commissioners court the receipt of revenue from a new source not
27 anticipated before the adoption of the budget and not included in

1 the budget for that fiscal year. On certification, the court may
2 adopt a special budget for the limited purpose of spending the
3 revenue for general purposes or for any of its intended purposes.

4 (b) The county treasurer shall notify the county auditor of
5 the receipt of all revenue from a new source not anticipated before
6 the adoption of the budget and not previously included in a special
7 budget or the annual budget for that fiscal year.

8 SECTION 5. Subchapter A, Chapter 112, Local Government
9 Code, is amended by adding Section 112.0045 to read as follows:

10 Sec. 112.0045. DELEGATION TO COUNTY TREASURER. With the
11 approval of the county clerk and the commissioners court, the
12 county treasurer may perform the duties of the county clerk under
13 Section 112.004.

14 SECTION 6. Subchapter A, Chapter 113, Local Government
15 Code, is amended by adding Section 113.0001 to read as follows:

16 Sec. 113.0001. DEFINITIONS. In this chapter:

17 (1) "Depository" means the financial institution
18 selected under Section 116.021 for safekeeping of the county
19 treasury.

20 (2) "Depository account" means an account covered by
21 the depository agreement, including required collateral.

22 (3) "Money" means an item or medium of exchange such as
23 coins, currency, checks, or other means of payment, including
24 electronic payment.

25 (4) "Treasury" means the depository account for money
26 belonging to the county.

27 SECTION 7. Section 113.008, Local Government Code, is

1 amended to read as follows:

2 Sec. 113.008. RECONCILIATION OF DEPOSITORY ACCOUNTS
3 ~~[COUNTY CHECKS AND WARRANTS]~~. (a) The county depository shall
4 provide statements of all bank activity and documentation
5 supporting a statement's transactions not less than once a month
6 ~~[all canceled checks and warrants and supporting statements]~~ to the
7 county treasurer.

8 (b) The county depository shall provide the information
9 required by Subsection (a) to the official responsible for the
10 account ~~[Subsection (a) does not apply]~~ if:

11 (1) the checks and orders ~~[warrants]~~ are payable from
12 funds under the direct authority of an official other than the
13 county treasurer as provided by statute; and

14 (2) the official has not delegated the responsibility
15 for reconciliation under Subsection (g).

16 (b-1) The ~~[exemption provided by this subsection does not~~
17 ~~apply if the]~~ official may request ~~[requests]~~ the county treasurer
18 to be responsible for the reconciliation of the checks and orders
19 ~~[warrants]~~ payable from the funds that are under the direct
20 authority of the official.

21 (c) In fulfilling the requirements of Subsection (a), the
22 county depository shall provide, at the direction of the county
23 treasurer and in accordance with the rules adopted by the Texas
24 State Library and Archives Commission, originals, optical images,
25 or electronic images of:

26 (1) ~~[original]~~ canceled checks and orders ~~[warrants]~~;
27 ~~[or]~~

- 1 (2) deposit detail;
2 (3) debit and credit memoranda; or
3 (4) electronic transmission detail ~~[optical images of~~
4 ~~the front and back of canceled checks and warrants if the optical~~
5 ~~images are retained in accordance with the rules adopted by the~~
6 ~~Texas State Library and Archives Commission]~~.

7 (d) The county treasurer shall:

8 (1) reconcile all balances and transactions for each
9 treasury account in the county depository's statement of activity
10 to the transactions and balances shown on the treasurer's records
11 ~~[the canceled checks and warrants with the account records of the~~
12 ~~depository]; and~~

13 (2) ensure all financial adjustments are made
14 regarding the depository account as required.

15 (e) In this section, a reference to the county treasurer
16 includes a person performing the duties of the county treasurer.

17 (f) An official with special funds in the depository bank
18 shall:

19 (1) reconcile all balances and transactions in the
20 statement of activity to the transactions and balances shown on the
21 official's records; and

22 (2) each month, ensure all financial adjustments
23 resulting from the reconciliation are reported to the county
24 auditor for entry in the general set of records and reflected in the
25 cash receipts and disbursement registers of the county treasurer.

26 (g) An official may designate the county treasurer to
27 reconcile and report the official's special accounts to the county

1 auditor. An official who fails to reconcile special accounts
2 monthly shall transfer responsibility for account reconciliation
3 to the county treasurer. Unless the official and county treasurer
4 set another period in writing for the duration of a transfer under
5 this section, the transfer is effective for the duration of the term
6 of office for the designating officer.

7 SECTION 8. Sections 113.021 and 113.022, Local Government
8 Code, are amended to read as follows:

9 Sec. 113.021. REQUIREMENT THAT MONEY BE DEPOSITED WITH
10 COUNTY TREASURER [~~AND PUT INTO SPECIAL FUND~~]; INTEREST. (a) The
11 fees, commissions, funds, and other money belonging to a county
12 shall be deposited with the county treasurer by the person
13 [~~officer~~] who collects the money. The person [~~officer~~] must
14 deposit the money in accordance with any applicable procedures
15 prescribed by or under Section 112.001 or 112.002. However, the
16 county tax assessor-collector must deposit the money in accordance
17 with the procedures prescribed by or under the Tax Code and other
18 laws.

19 (b) The county treasurer shall deposit the money in the
20 county depository in the proper [~~a special~~] fund to the credit of
21 the person or department collecting [~~officer who collected~~] the
22 money. [~~If the money is fees, commissions, or other compensation~~
23 ~~collected by an officer who is paid on a salary basis, the~~
24 ~~appropriate special fund is the applicable salary fund created~~
25 ~~under Chapter 154.~~]

26 (c) The interest accruing on the money in the [~~special~~] fund
27 is for the benefit of the county in accordance with other law.

1 Sec. 113.022. TIME FOR MAKING DEPOSITS. (a) A county
 2 officer or other person who receives money [~~fun~~ds] shall deposit
 3 the money [~~fun~~ds] with the county treasurer on or before the next
 4 regular business day after the date on which the money is [~~fun~~ds
 5 ~~are~~] received. If this deadline cannot be [~~is not~~] met, the officer
 6 or person must deposit the money [~~fun~~ds], without exception, on or
 7 before the fifth [~~seventh~~] business day after the day on which the
 8 money is [~~fun~~ds ~~are~~] received. However, in a county with fewer than
 9 50,000 inhabitants, the commissioners court may extend the period
 10 during which funds must be deposited with the county treasurer, but
 11 the period may not exceed 15 [~~30~~] days after the date the funds are
 12 received.

13 (b) A county treasurer shall deposit the money [~~fun~~ds]
 14 received under Subsection (a) in the county depository in
 15 accordance with Section 116.113(a). In all cases, the treasurer
 16 shall deposit the money [~~fun~~ds] on or before the seventh business
 17 day after the date the treasurer receives the money [~~fun~~ds].

18 SECTION 9. The heading to Section 113.041, Local Government
 19 Code, is amended to read as follows:

20 Sec. 113.041. DISBURSEMENT OF MONEY BY COUNTY TREASURER;
 21 PAYMENT BY CHECK OR ELECTRONIC TRANSMISSION [~~OR WARRANT~~]; LOST OR
 22 DESTROYED INSTRUMENT.

23 SECTION 10. Sections 113.041(c), (d), (e), and (g), Local
 24 Government Code, are amended to read as follows:

25 (c) The county treasurer may not disburse [~~pay~~] money out of
 26 the county treasury without an order for payment [~~a certificate or~~
 27 ~~warrant~~] from an officer who is authorized by law to issue the order

1 ~~[certificate or warrant]~~.

2 (d) If the county treasurer doubts the legality or propriety
3 of an order~~[, decree, certificate, or warrant]~~ presented to the
4 treasurer for payment, the treasurer may not make the payment. The
5 treasurer shall report the matter to the commissioners court for
6 the court's consideration and direction. The treasurer may require
7 that the claim supporting the order be verified by an affidavit.

8 (e) If the county treasurer is satisfied that an original
9 check or other order drawn on the county treasury by a proper
10 authority is lost or destroyed, the treasurer may issue a duplicate
11 instrument in place of the original. The treasurer may not issue a
12 duplicate until an applicant has filed an affidavit with the
13 treasurer that states that the applicant is the true owner of the
14 original instrument and that, to the best knowledge and belief of
15 the applicant, the original is lost or destroyed.

16 (g) If, after issuance of the duplicate instrument, the
17 county treasurer determines that the duplicate was issued
18 improperly or that the applicant or person to whom the duplicate was
19 issued is not the owner of the original instrument, the treasurer
20 shall immediately stop payment or demand ~~[the return of the~~
21 ~~duplicate, if it is unpaid, or]~~ the return of the amount paid by the
22 county, if the duplicate is paid. If the person fails to return the
23 ~~[duplicate instrument or the]~~ amount of the instrument, the
24 treasurer shall institute a suit for recovery ~~[on the bond]~~ through
25 the office of the county or district attorney. Venue for the suit
26 lies in the county in which the treasurer serves.

27 SECTION 11. Section 113.043, Local Government Code, is

1 amended to read as follows:

2 Sec. 113.043. COUNTERSIGNATURE BY COUNTY AUDITOR. In a
3 county with a county auditor, the county treasurer and the county
4 depository may not pay a check or order [~~warrant~~] unless it is
5 countersigned by the county auditor to validate it as a proper and
6 budgeted item of expenditure. This section does not apply to a
7 check or order [~~warrant~~] for jury service or for restitution
8 collected on behalf of an individual as authorized by law.

9 SECTION 12. The heading to Section 113.061, Local
10 Government Code, is amended to read as follows:

11 Sec. 113.061. CLAIMS INFORMATION; PAYMENT OWED BY THE
12 COUNTY [~~REGISTER; CLASSES OF CLAIMS~~].

13 SECTION 13. Section 113.061, Local Government Code, is
14 amended by amending Subsections (a) and (b) and adding Subsections
15 (a-1), (a-2), and (b-1) to read as follows:

16 (a) The county treasurer shall maintain a record of claims
17 [~~in which the treasurer shall register each claim~~] against the
18 county.

19 (a-1) In counties without a county auditor, a claim must be
20 submitted to the county treasurer for presentation to the
21 commissioners court for approval.

22 (a-2) In a county without an auditor, a potential claim must
23 be encumbered for payment by providing notice of the expenditure to
24 the county treasurer, including a copy of the requisition or
25 purchase. The treasurer shall record [~~register~~] the claims as
26 [~~in the order in which~~] they are presented by the officer
27 authorizing the expenditure. The treasurer shall place an

1 encumbrance against the proper account until the claim is allowed
2 or refused by the commissioners court. [~~If more than one claim is~~
3 ~~presented at the same time, the treasurer shall register them in the~~
4 ~~order of their date.~~]

5 (b) The county treasurer may not pay a claim, or any part of
6 it, until the claim has been encumbered [~~registered~~]. An officer
7 may not order payment of [~~receive~~] a claim, or any part of it, [~~in~~
8 ~~payment of any indebtedness owed to the county~~] until the claim has
9 been encumbered [~~registered~~].

10 (b-1) An encumbrance under this section does not guarantee
11 approval of the claim by the official authorized to approve the
12 claim.

13 SECTION 14. Section 113.063, Local Government Code, is
14 amended to read as follows:

15 Sec. 113.063. CLAIMS INFORMATION LIST; INDEBTEDNESS TO THE
16 COUNTY. (a) Each officer who collects a fine, penalty, forfeiture,
17 judgment, tax, or other indebtedness owed to the county in a claim
18 against the county shall keep a descriptive list of those claims.
19 When the officer reports the collection, the officer shall file
20 with the report a list that states:

- 21 (1) the party in whose favor the claim was issued;
22 (2) [~~the class and register number of the claim,~~
23 [~~3~~]] the name of the party paying in the claim;
24 (3) [~~4~~] the amount received; and
25 (4) [~~5~~] the purpose for which the amount was
26 received.

27 (b) The officer shall give the claims and the report to the

1 county treasurer, who shall give the officer a receipt. The
2 treasurer shall determine the time and manner of making [~~file the~~
3 ~~list with~~] the [~~treasurer's~~] report [~~in the office of the county~~
4 ~~clerk~~].

5 SECTION 15. Section 114.022, Local Government Code, is
6 amended by adding Subsection (c) to read as follows:

7 (c) A county publishing monthly financial reports under
8 Section 114.023 that publishes its comprehensive annual financial
9 report on its Internet website is not required to publish an exhibit
10 under this section.

11 SECTION 16. (a) Article 103.004(b), Code of Criminal
12 Procedure, is repealed.

13 (b) The following sections of the Local Government Code are
14 repealed:

- 15 (1) Sections 113.061(c), (d), (e), and (f);
16 (2) Section 113.062; and
17 (3) Section 113.066.

18 SECTION 17. (a) A county treasurer required to execute a
19 surety bond under Section 83.008, Local Government Code, as added
20 by this Act, shall execute a surety bond not later than October 1,
21 2009.

22 (b) The change in law made by Section 83.009, Local
23 Government Code, as added by this Act, applies to an assistant
24 treasurer or treasury deputy appointed on or after the effective
25 date of this Act. An assistant treasurer or treasury deputy
26 appointed before the effective date of this Act is covered by the
27 law in effect when the assistant treasurer or treasury deputy was

1 appointed.

2 SECTION 18. This Act takes effect September 1, 2009.