

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

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

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

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

Sec. 83.009. ASSISTANT TREASURER OR TREASURY DEPUTY. (a) The appointment of an assistant treasurer or treasury deputy must

1 be in writing, be signed by the county treasurer, and bear the seal
2 of the county court.

3 (b) A person appointed as an assistant treasurer or treasury
4 deputy, before beginning to perform the duties of office, must take
5 and subscribe the official oath, which, together with the
6 certificate of the officer administering the oath, must be endorsed
7 on the appointment. The appointment and oath shall be deposited and
8 recorded in the county clerk's office.

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

13 SECTION 2. Sections 111.0707 and 111.07075, Local
14 Government Code, are amended to read as follows:

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

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

27 Sec. 111.07075. SPECIAL BUDGET FOR REVENUE RECEIVED AFTER

1 START OF FISCAL YEAR. (a) The county auditor shall certify to the
2 commissioners court the receipt of revenue from a new source not
3 anticipated before the adoption of the budget and not included in
4 the budget for that fiscal year. On certification, the court may
5 adopt a special budget for the limited purpose of spending the
6 revenue for general purposes or for any of its intended purposes.

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

11 SECTION 3. Subchapter A, Chapter 112, Local Government
12 Code, is amended by adding Section 112.0045 to read as follows:

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

17 SECTION 4. Chapter 113, Local Government Code, is amended
18 by adding Section 113.0001 to read as follows:

19 Sec. 113.0001. DEFINITIONS. In this chapter:

20 (1) "Depository" means the financial institution
21 selected under Section 116.021 for safekeeping of the county
22 treasury.

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

25 (3) "Money" means an item or medium of exchange such as
26 coins, currency, checks, or other means of payment, including
27 electronic payment.

1 (4) "Treasury" means the depository account for funds
2 belonging to the county.

3 SECTION 5. Section 113.008, Local Government Code, is
4 amended to read as follows:

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

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

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

17 (2) the official has not delegated the responsibility
18 for reconciliation under Subsection (f).

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

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

1 or electronic images of:

2 (1) [~~original~~] canceled checks and orders [~~warrants~~];
3 [~~or~~]

4 (2) deposit detail;

5 (3) debit and credit memoranda; or

6 (4) electronic transmission detail [~~optical images~~
7 ~~of the front and back of canceled checks and warrants if the optical~~
8 ~~images are retained in accordance with the rules adopted by the~~
9 ~~Texas State Library and Archives Commission~~].

10 (d) The county treasurer shall:

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

16 (2) ensure all financial adjustments resulting from
17 the reconciliation are reported to the county auditor for entry in
18 the general ledger and reflected in the cash receipts and
19 disbursement registers of the county treasurer [~~are made regarding~~
20 ~~the depository account as required~~].

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

23 (f) An official with special funds or clearing accounts in
24 the depository bank shall:

25 (1) reconcile all balances and transactions in the
26 statement of activity to the transactions and balances shown on the
27 official's records; and

1 (2) each month, ensure all financial adjustments
2 resulting from the reconciliation are reported to the county
3 auditor for entry in the general ledger and reflected in the cash
4 receipts and disbursement registers of the county treasurer.

5 (g) An official may designate the county treasurer to
6 reconcile and report the official's special accounts to the county
7 auditor. An official who fails to reconcile special accounts
8 monthly shall transfer responsibility for account reconciliation
9 to the county treasurer. A transfer under this section is effective
10 for the duration of the term of office for the designating officer.

11 SECTION 6. Sections 113.021 and 113.022, Local Government
12 Code, are amended to read as follows:

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

23 (b) The county treasurer shall deposit the money in the
24 county depository in the proper [~~a special~~] fund to the credit of
25 the person or department collecting [~~officer who collected~~] the
26 money. [~~If the money is fees, commissions, or other compensation~~
27 ~~collected by an officer who is paid on a salary basis, the~~

1 ~~appropriate special fund is the applicable salary fund created~~
2 ~~under Chapter 154.]~~

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

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

18 (b) A county treasurer shall deposit the money [~~funds~~]
19 received under Subsection (a) in the county depository in
20 accordance with Section 116.113(a). In all cases, the treasurer
21 shall deposit the money [~~funds~~] on or before the seventh business
22 day after the date the treasurer receives the money [~~funds~~].

23 (c) The county treasurer may require an officer or
24 department head to report on collections that have been received
25 but not deposited.

26 SECTION 7. The heading to Section 113.041, Local Government
27 Code, is amended to read as follows:

1 Sec. 113.041. DISBURSEMENT OF MONEY BY COUNTY TREASURER;
2 PAYMENT BY CHECK OR ELECTRONIC TRANSMISSION [~~OR WARRANT~~]; LOST OR
3 DESTROYED INSTRUMENT.

4 SECTION 8. Sections 113.041(c), (d), (e), and (g), Local
5 Government Code, are amended to read as follows:

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

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

16 (e) If the county treasurer is satisfied that an original
17 check or other order drawn on the county treasury by a proper
18 authority is lost or destroyed, the treasurer may issue a duplicate
19 instrument in place of the original. The treasurer may not issue a
20 duplicate until an applicant has filed an affidavit with the
21 treasurer that states that the applicant is the true owner of the
22 original instrument and that, to the best knowledge and belief of
23 the applicant, the original is lost or destroyed.

24 (g) If, after issuance of the duplicate instrument, the
25 treasurer determines that the duplicate was issued improperly or
26 that the applicant or person to whom the duplicate was issued is not
27 the owner of the original instrument, the treasurer shall

1 immediately stop payment or demand [~~the return of the duplicate, if~~
2 ~~it is unpaid, or~~] the return of the amount paid by the county, if the
3 duplicate is paid. If the person fails to return the [~~duplicate~~
4 ~~instrument or the~~] amount of the instrument, the treasurer shall
5 institute a suit for recovery [~~on the bond~~] through the office of
6 the county or district attorney. Venue for the suit lies in the
7 county in which the treasurer serves.

8 SECTION 9. Section 113.043, Local Government Code, is
9 amended to read as follows:

10 Sec. 113.043. COUNTERSIGNATURE BY COUNTY AUDITOR. In a
11 county with a county auditor, the county treasurer and the county
12 depository may not pay a check or order [~~warrant~~] unless it is
13 countersigned by the county auditor to validate it as a proper and
14 budgeted item of expenditure. This section does not apply to a
15 check or order [~~warrant~~] for jury service or for restitution
16 collected on behalf of an individual as authorized by law.

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

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

21 SECTION 11. Section 113.061, Local Government Code, is
22 amended by amending Subsections (a) and (b) and adding Subsections
23 (a-1), (a-2), and (b-1) to read as follows:

24 (a) The county treasurer shall maintain a record of claims
25 [~~in which the treasurer shall register each claim~~] against the
26 county.

27 (a-1) In counties with a county auditor, the county auditor

1 shall provide the county treasurer with a listing of each claim
2 presented for payment not later than 72 hours before the date on
3 which the claim will be presented to the commissioners court for
4 approval.

5 (a-2) In a county without an auditor, a potential claim must
6 be encumbered for payment by providing notice of the expenditure to
7 the county treasurer, including a copy of the requisition or
8 purchase. The treasurer shall record [~~register~~] the claims as
9 [in the order in which] they are presented by the officer
10 authorizing the expenditure. The treasurer shall place an
11 encumbrance against the proper account until the claim is allowed
12 or refused by the proper authorities. [If more than one claim is
13 presented at the same time, the treasurer shall register them in the
14 order of their date.]

15 (b) The county treasurer may not pay a claim, or any part of
16 it, until the claim has been encumbered [~~registered~~]. An officer
17 may not order payment of [~~receive~~] a claim, or any part of it, [~~in~~
18 ~~payment of any indebtedness owed to the county~~] until the claim has
19 been encumbered [~~registered~~].

20 (b-1) An encumbrance under this section does not guarantee
21 approval of the claim by the official authorized to approve the
22 claim.

23 SECTION 12. Section 113.063, Local Government Code, is
24 amended to read as follows:

25 Sec. 113.063. CLAIMS INFORMATION LIST; INDEBTEDNESS TO THE
26 COUNTY. (a) Each officer who collects a fine, penalty, forfeiture,
27 judgment, tax, or other indebtedness owed to the county in a claim

1 against the county shall keep a descriptive list of those claims.
2 When the officer reports the collection, the officer shall file
3 with the report a list that states:

- 4 (1) the party in whose favor the claim was issued;
- 5 (2) ~~[the class and register number of the claim,~~
- 6 ~~[(3)]~~ the name of the party paying in the claim;
- 7 (3) ~~[(4)]~~ the amount received; and
- 8 (4) ~~[(5)]~~ the purpose for which the amount was
9 received.

10 (b) The officer shall give the claims and the report to the
11 county treasurer, who shall give the officer a receipt. The
12 treasurer shall determine the time and manner of making ~~[file the~~
13 ~~list with]~~ the ~~[treasurer's]~~ report ~~[in the office of the county~~
14 ~~clerk]~~.

15 SECTION 13. Section 113.902, Local Government Code, is
16 amended by amending Subsection (a) and adding Subsection (b-1) to
17 read as follows:

18 (a) The county treasurer shall direct prosecution for the
19 recovery of any debt owed to the county, as provided by law, and
20 shall supervise the collection of the debt, including overseeing
21 delinquent fines and fees under Chapter 103, Code of Criminal
22 Procedure.

23 (b-1) The county treasurer may operate a collections office
24 to expedite collections of money belonging to the county from
25 whatever source the money may be derived.

26 SECTION 14. Section 114.022, Local Government Code, is
27 amended by adding Subsection (c) to read as follows:

1 (c) A county publishing monthly financial reports under
2 Section 114.023 that publishes its comprehensive annual financial
3 report on its Internet website is not required to publish an exhibit
4 under this section.

5 SECTION 15. Section 152.012, Local Government Code, is
6 amended to read as follows:

7 Sec. 152.012. MINIMUM AMOUNT OF SALARY. The commissioners
8 court may not set the salary of an officer or employee at an amount
9 less than the amount of the salary in effect 10 years before the
10 fiscal year for which the salary is being set [~~on January 1, 1972~~].
11 The court may not set the salary of a justice of the peace at an
12 amount less than the amount of the salary in effect on May 25, 1973.

13 SECTION 16. The following sections of the Local Government
14 Code are 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.