

1-1 By: Darby (Senate Sponsor - Jackson) H.B. No. 3398  
1-2 (In the Senate - Received from the House May 6, 2009;  
1-3 May 7, 2009, read first time and referred to Committee on  
1-4 Intergovernmental Relations; May 18, 2009, reported favorably by  
1-5 the following vote: Yeas 5, Nays 0; May 18, 2009, sent to  
1-6 printer.)

1-7 A BILL TO BE ENTITLED  
1-8 AN ACT

1-9 relating to the office of county treasurer.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Article 103.003(b), Code of Criminal Procedure,  
1-12 is amended to read as follows:

1-13 (b) A community supervision and corrections department and  
1-14 a county treasurer may collect money payable under this title with  
1-15 the written approval of the clerk of the court or fee officer, and  
1-16 may collect money payable as otherwise provided by law.

1-17 SECTION 2. Articles 103.004(a) and (c), Code of Criminal  
1-18 Procedure, are amended to read as follows:

1-19 (a) Except as provided by Subsection [~~Subsections (b) and~~  
1-20 (c), an officer who collects recognizances, bail bonds, fines,  
1-21 forfeitures, judgments, jury fees, and other obligations recovered  
1-22 in the name of the state under any provision of this title shall  
1-23 deposit the money in the county treasury not later than the next  
1-24 regular business day after the date that the money is collected. If  
1-25 it is not possible for the officer to deposit the money in the  
1-26 county treasury by that date, the officer shall deposit the money in  
1-27 the county treasury as soon as possible, but not later than the  
1-28 fifth [~~third~~] regular business day after the date that the money is  
1-29 collected.

1-30 (c) The commissioners court of a county with a population of  
1-31 less than 50,000 may authorize an officer who is required to deposit  
1-32 money under Subsection (a) to deposit the money in the county  
1-33 treasury not later than the 15th [~~30th~~] day after the date that the  
1-34 money is collected.

1-35 SECTION 3. Chapter 83, Local Government Code, is amended by  
1-36 adding Sections 83.008 and 83.009 to read as follows:

1-37 Sec. 83.008. SURETY BOND ON ASSISTANT TREASURERS, DEPUTIES,  
1-38 AND EMPLOYEES; SELF-INSURANCE. (a) If a county treasurer employs  
1-39 only one assistant or deputy, the county treasurer shall execute a  
1-40 surety bond to cover the assistant or deputy and shall execute a  
1-41 schedule surety bond or a blanket surety bond to cover all other  
1-42 employees of the office. If a county treasurer employs more than  
1-43 one assistant or deputy, the county treasurer shall execute a  
1-44 blanket surety bond to cover the assistants or deputies and all  
1-45 other employees of the office.

1-46 (b) Instead of a county treasurer obtaining a bond as  
1-47 required by Subsection (a), the county may self-insure against  
1-48 losses that would have been covered by the bond.

1-49 (c) The bond under this section must be conditioned in the  
1-50 same manner and must be for the same amount as the bond for the  
1-51 county treasurer under Section 83.002. The bond must be made  
1-52 payable to the county judge for the use and benefit of the county  
1-53 treasurer.

1-54 Sec. 83.009. ASSISTANT TREASURER OR TREASURY DEPUTY. (a)  
1-55 The appointment of an assistant treasurer or treasury deputy must  
1-56 be in writing, be signed by the county treasurer, and bear the seal  
1-57 of the county court.

1-58 (b) A person appointed as an assistant treasurer or treasury  
1-59 deputy, before beginning to perform the duties of office, must take  
1-60 and subscribe the official oath, which, together with the  
1-61 certificate of the officer administering the oath, must be endorsed  
1-62 on the appointment. The appointment and oath shall be deposited and  
1-63 recorded in the county clerk's office.

1-64 (c) An assistant treasurer or treasury deputy acts in the

2-1 name of the county treasurer as directed by the county treasurer and  
2-2 may perform all official acts that the county treasurer may perform  
2-3 at the discretion of the county treasurer.

2-4 SECTION 4. Sections 111.0707 and 111.07075, Local  
2-5 Government Code, are amended to read as follows:

2-6 Sec. 111.0707. SPECIAL BUDGET FOR REVENUE FROM  
2-7 INTERGOVERNMENTAL CONTRACTS. (a) The county auditor shall  
2-8 certify to the commissioners court the receipt of all revenue from  
2-9 intergovernmental contracts that is available for disbursement in a  
2-10 fiscal year but not included in the budget for that fiscal year. On  
2-11 certification, the court shall adopt a special budget for the  
2-12 limited purpose of spending the revenue from intergovernmental  
2-13 contracts for its intended purpose.

2-14 (b) The county treasurer shall notify the county auditor of  
2-15 the receipt of all revenue from intergovernmental contracts not  
2-16 previously included in a special budget or the annual budget for  
2-17 that fiscal year.

2-18 Sec. 111.07075. SPECIAL BUDGET FOR REVENUE RECEIVED AFTER  
2-19 START OF FISCAL YEAR. (a) The county auditor shall certify to the  
2-20 commissioners court the receipt of revenue from a new source not  
2-21 anticipated before the adoption of the budget and not included in  
2-22 the budget for that fiscal year. On certification, the court may  
2-23 adopt a special budget for the limited purpose of spending the  
2-24 revenue for general purposes or for any of its intended purposes.

2-25 (b) The county treasurer shall notify the county auditor of  
2-26 the receipt of all revenue from a new source not anticipated before  
2-27 the adoption of the budget and not previously included in a special  
2-28 budget or the annual budget for that fiscal year.

2-29 SECTION 5. Subchapter A, Chapter 112, Local Government  
2-30 Code, is amended by adding Section 112.0045 to read as follows:

2-31 Sec. 112.0045. DELEGATION TO COUNTY TREASURER. With the  
2-32 approval of the county clerk and the commissioners court, the  
2-33 county treasurer may perform the duties of the county clerk under  
2-34 Section 112.004.

2-35 SECTION 6. Subchapter A, Chapter 113, Local Government  
2-36 Code, is amended by adding Section 113.0001 to read as follows:

2-37 Sec. 113.0001. DEFINITIONS. In this chapter:  
2-38 (1) "Depository" means the financial institution  
2-39 selected under Section 116.021 for safekeeping of the county  
2-40 treasury.

2-41 (2) "Depository account" means an account covered by  
2-42 the depository agreement, including required collateral.

2-43 (3) "Money" means an item or medium of exchange such as  
2-44 coins, currency, checks, or other means of payment, including  
2-45 electronic payment.

2-46 (4) "Treasury" means the depository account for money  
2-47 belonging to the county.

2-48 SECTION 7. Section 113.008, Local Government Code, is  
2-49 amended to read as follows:

2-50 Sec. 113.008. RECONCILIATION OF DEPOSITORY ACCOUNTS  
2-51 [COUNTY CHECKS AND WARRANTS]. (a) The county depository shall  
2-52 provide statements of all bank activity and documentation  
2-53 supporting a statement's transactions not less than once a month  
2-54 [all canceled checks and warrants and supporting statements] to the  
2-55 county treasurer.

2-56 (b) The county depository shall provide the information  
2-57 required by Subsection (a) to the official responsible for the  
2-58 account [Subsection (a) does not apply] if:

2-59 (1) the checks and orders [warrants] are payable from  
2-60 funds under the direct authority of an official other than the  
2-61 county treasurer as provided by statute; and

2-62 (2) the official has not delegated the responsibility  
2-63 for reconciliation under Subsection (g).

2-64 (b-1) The [exemption provided by this subsection does not  
2-65 apply if the] official may request [requests] the county treasurer  
2-66 to be responsible for the reconciliation of the checks and orders  
2-67 [warrants] payable from the funds that are under the direct  
2-68 authority of the official.

2-69 (c) In fulfilling the requirements of Subsection (a), the

3-1 county depository shall provide, at the direction of the county  
3-2 treasurer and in accordance with the rules adopted by the Texas  
3-3 State Library and Archives Commission, originals, optical images,  
3-4 or electronic images of:

- 3-5 (1) ~~[original]~~ canceled checks and orders ~~[warrants]~~;
- 3-6 ~~[or]~~
- 3-7 (2) deposit detail;
- 3-8 (3) debit and credit memoranda; or
- 3-9 (4) electronic transmission detail ~~[optical images of~~  
3-10 ~~the front and back of canceled checks and warrants if the optical~~  
3-11 ~~images are retained in accordance with the rules adopted by the~~  
3-12 ~~Texas State Library and Archives Commission].~~

3-13 (d) The county treasurer shall:

3-14 (1) reconcile all balances and transactions for each  
3-15 treasury account in the county depository's statement of activity  
3-16 to the transactions and balances shown on the treasurer's records  
3-17 [the canceled checks and warrants with the account records of the  
3-18 depository]; and

3-19 (2) ensure all financial adjustments are made  
3-20 regarding the depository account as required.

3-21 (e) In this section, a reference to the county treasurer  
3-22 includes a person performing the duties of the county treasurer.

3-23 (f) An official with special funds in the depository bank  
3-24 shall:

3-25 (1) reconcile all balances and transactions in the  
3-26 statement of activity to the transactions and balances shown on the  
3-27 official's records; and

3-28 (2) each month, ensure all financial adjustments  
3-29 resulting from the reconciliation are reported to the county  
3-30 auditor for entry in the general set of records and reflected in the  
3-31 cash receipts and disbursement registers of the county treasurer.

3-32 (g) An official may designate the county treasurer to  
3-33 reconcile and report the official's special accounts to the county  
3-34 auditor. An official who fails to reconcile special accounts  
3-35 monthly shall transfer responsibility for account reconciliation  
3-36 to the county treasurer. Unless the official and county treasurer  
3-37 set another period in writing for the duration of a transfer under  
3-38 this section, the transfer is effective for the duration of the term  
3-39 of office for the designating officer.

3-40 SECTION 8. Sections 113.021 and 113.022, Local Government  
3-41 Code, are amended to read as follows:

3-42 Sec. 113.021. REQUIREMENT THAT MONEY BE DEPOSITED WITH  
3-43 COUNTY TREASURER ~~[AND PUT INTO SPECIAL FUND]~~; INTEREST. (a) The  
3-44 fees, commissions, funds, and other money belonging to a county  
3-45 shall be deposited with the county treasurer by the person  
3-46 ~~[officer]~~ who collects the money. The person ~~[officer]~~ must  
3-47 deposit the money in accordance with any applicable procedures  
3-48 prescribed by or under Section 112.001 or 112.002. However, the  
3-49 county tax assessor-collector must deposit the money in accordance  
3-50 with the procedures prescribed by or under the Tax Code and other  
3-51 laws.

3-52 (b) The county treasurer shall deposit the money in the  
3-53 county depository in the proper ~~[a special]~~ fund to the credit of  
3-54 the person or department collecting ~~[officer who collected]~~ the  
3-55 money. ~~[If the money is fees, commissions, or other compensation~~  
3-56 ~~collected by an officer who is paid on a salary basis, the~~  
3-57 ~~appropriate special fund is the applicable salary fund created~~  
3-58 ~~under Chapter 154.]~~

3-59 (c) The interest accruing on the money in the ~~[special]~~ fund  
3-60 is for the benefit of the county in accordance with other law.

3-61 Sec. 113.022. TIME FOR MAKING DEPOSITS. (a) A county  
3-62 officer or other person who receives money ~~[funds]~~ shall deposit  
3-63 the money ~~[funds]~~ with the county treasurer on or before the next  
3-64 regular business day after the date on which the money is ~~[funds~~  
3-65 ~~are]~~ received. If this deadline cannot be ~~[is not]~~ met, the officer  
3-66 or person must deposit the money ~~[funds]~~, without exception, on or  
3-67 before the fifth ~~[seventh]~~ business day after the day on which the  
3-68 money is ~~[funds are]~~ received. However, in a county with fewer than  
3-69 50,000 inhabitants, the commissioners court may extend the period

4-1 during which funds must be deposited with the county treasurer, but  
 4-2 the period may not exceed 15 [~~30~~] days after the date the funds are  
 4-3 received.

4-4 (b) A county treasurer shall deposit the money [~~funds~~]  
 4-5 received under Subsection (a) in the county depository in  
 4-6 accordance with Section 116.113(a). In all cases, the treasurer  
 4-7 shall deposit the money [~~funds~~] on or before the seventh business  
 4-8 day after the date the treasurer receives the money [~~funds~~].

4-9 SECTION 9. The heading to Section 113.041, Local Government  
 4-10 Code, is amended to read as follows:

4-11 Sec. 113.041. DISBURSEMENT OF MONEY BY COUNTY TREASURER;  
 4-12 PAYMENT BY CHECK OR ELECTRONIC TRANSMISSION [~~OR WARRANT~~]; LOST OR  
 4-13 DESTROYED INSTRUMENT.

4-14 SECTION 10. Sections 113.041(c), (d), (e), and (g), Local  
 4-15 Government Code, are amended to read as follows:

4-16 (c) The county treasurer may not disburse [~~pay~~] money out of  
 4-17 the county treasury without an order for payment [~~a certificate or~~  
 4-18 ~~warrant~~] from an officer who is authorized by law to issue the order  
 4-19 [~~certificate or warrant~~].

4-20 (d) If the county treasurer doubts the legality or propriety  
 4-21 of an order [~~, decree, certificate, or warrant~~] presented to the  
 4-22 treasurer for payment, the treasurer may not make the payment. The  
 4-23 treasurer shall report the matter to the commissioners court for  
 4-24 the court's consideration and direction. The treasurer may require  
 4-25 that the claim supporting the order be verified by an affidavit.

4-26 (e) If the county treasurer is satisfied that an original  
 4-27 check or other order drawn on the county treasury by a proper  
 4-28 authority is lost or destroyed, the treasurer may issue a duplicate  
 4-29 instrument in place of the original. The treasurer may not issue a  
 4-30 duplicate until an applicant has filed an affidavit with the  
 4-31 treasurer that states that the applicant is the true owner of the  
 4-32 original instrument and that, to the best knowledge and belief of  
 4-33 the applicant, the original is lost or destroyed.

4-34 (g) If, after issuance of the duplicate instrument, the  
 4-35 county treasurer determines that the duplicate was issued  
 4-36 improperly or that the applicant or person to whom the duplicate was  
 4-37 issued is not the owner of the original instrument, the treasurer  
 4-38 shall immediately stop payment or demand [~~the return of the~~  
 4-39 ~~duplicate, if it is unpaid, or~~] the return of the amount paid by the  
 4-40 county, if the duplicate is paid. If the person fails to return the  
 4-41 [~~duplicate instrument or the~~] amount of the instrument, the  
 4-42 treasurer shall institute a suit for recovery [~~on the bond~~] through  
 4-43 the office of the county or district attorney. Venue for the suit  
 4-44 lies in the county in which the treasurer serves.

4-45 SECTION 11. Section 113.043, Local Government Code, is  
 4-46 amended to read as follows:

4-47 Sec. 113.043. COUNTERSIGNATURE BY COUNTY AUDITOR. In a  
 4-48 county with a county auditor, the county treasurer and the county  
 4-49 depository may not pay a check or order [~~warrant~~] unless it is  
 4-50 countersigned by the county auditor to validate it as a proper and  
 4-51 budgeted item of expenditure. This section does not apply to a  
 4-52 check or order [~~warrant~~] for jury service or for restitution  
 4-53 collected on behalf of an individual as authorized by law.

4-54 SECTION 12. The heading to Section 113.061, Local  
 4-55 Government Code, is amended to read as follows:

4-56 Sec. 113.061. CLAIMS INFORMATION; PAYMENT OWED BY THE  
 4-57 COUNTY [~~REGISTER, CLASSES OF CLAIMS~~].

4-58 SECTION 13. Section 113.061, Local Government Code, is  
 4-59 amended by amending Subsections (a) and (b) and adding Subsections  
 4-60 (a-1), (a-2), and (b-1) to read as follows:

4-61 (a) The county treasurer shall maintain a record of claims  
 4-62 [~~in which the treasurer shall register each claim~~] against the  
 4-63 county.

4-64 (a-1) In counties without a county auditor, a claim must be  
 4-65 submitted to the county treasurer for presentation to the  
 4-66 commissioners court for approval.

4-67 (a-2) In a county without an auditor, a potential claim must  
 4-68 be encumbered for payment by providing notice of the expenditure to  
 4-69 the county treasurer, including a copy of the requisition or

5-1 purchase. The treasurer shall record [~~register~~] the claims as [~~in~~  
5-2 ~~the order in which~~] they are presented by the officer authorizing  
5-3 the expenditure. The treasurer shall place an encumbrance against  
5-4 the proper account until the claim is allowed or refused by the  
5-5 commissioners court. [~~If more than one claim is presented at the~~  
5-6 ~~same time, the treasurer shall register them in the order of their~~  
5-7 ~~date.~~]

5-8 (b) The county treasurer may not pay a claim, or any part of  
5-9 it, until the claim has been encumbered [~~registered~~]. An officer  
5-10 may not order payment of [~~receive~~] a claim, or any part of it, [~~in~~  
5-11 ~~payment of any indebtedness owed to the county~~] until the claim has  
5-12 been encumbered [~~registered~~].

5-13 (b-1) An encumbrance under this section does not guarantee  
5-14 approval of the claim by the official authorized to approve the  
5-15 claim.

5-16 SECTION 14. Section 113.063, Local Government Code, is  
5-17 amended to read as follows:

5-18 Sec. 113.063. CLAIMS INFORMATION LIST; INDEBTEDNESS TO THE  
5-19 COUNTY. (a) Each officer who collects a fine, penalty, forfeiture,  
5-20 judgment, tax, or other indebtedness owed to the county in a claim  
5-21 against the county shall keep a descriptive list of those claims.  
5-22 When the officer reports the collection, the officer shall file  
5-23 with the report a list that states:

- 5-24 (1) the party in whose favor the claim was issued;
- 5-25 (2) [~~the class and register number of the claim,~~
- 5-26 [~~3~~] the name of the party paying in the claim;
- 5-27 (3) [~~4~~] the amount received; and
- 5-28 (4) [~~5~~] the purpose for which the amount was  
5-29 received.

5-30 (b) The officer shall give the claims and the report to the  
5-31 county treasurer, who shall give the officer a receipt. The  
5-32 treasurer shall determine the time and manner of making [~~file the~~  
5-33 ~~list with~~] the [~~treasurer's~~] report [~~in the office of the county~~  
5-34 ~~clerk~~].

5-35 SECTION 15. Section 114.022, Local Government Code, is  
5-36 amended by adding Subsection (c) to read as follows:

5-37 (c) A county publishing monthly financial reports under  
5-38 Section 114.023 that publishes its comprehensive annual financial  
5-39 report on its Internet website is not required to publish an exhibit  
5-40 under this section.

5-41 SECTION 16. (a) Article 103.004(b), Code of Criminal  
5-42 Procedure, is repealed.

5-43 (b) The following sections of the Local Government Code are  
5-44 repealed:

- 5-45 (1) Sections 113.061(c), (d), (e), and (f);
- 5-46 (2) Section 113.062; and
- 5-47 (3) Section 113.066.

5-48 SECTION 17. (a) A county treasurer required to execute a  
5-49 surety bond under Section 83.008, Local Government Code, as added  
5-50 by this Act, shall execute a surety bond not later than October 1,  
5-51 2009.

5-52 (b) The change in law made by Section 83.009, Local  
5-53 Government Code, as added by this Act, applies to an assistant  
5-54 treasurer or treasury deputy appointed on or after the effective  
5-55 date of this Act. An assistant treasurer or treasury deputy  
5-56 appointed before the effective date of this Act is covered by the  
5-57 law in effect when the assistant treasurer or treasury deputy was  
5-58 appointed.

5-59 SECTION 18. This Act takes effect September 1, 2009.

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