

By: Jetton

H.B. No. 2675

A BILL TO BE ENTITLED

AN ACT

relating to the deposit of funds into court registries by the clerks of justice courts.

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

SECTION 1. Section 2256.004(a), Government Code, is amended to read as follows:

(a) This subchapter does not apply to:

(1) a public retirement system as defined by Section 802.001;

(2) state funds invested as authorized by Section 404.024;

(3) an institution of higher education having total endowments of at least \$150 million in book value on September 1, 2017;

(4) funds invested by the Veterans' Land Board as authorized by Chapter 161, 162, or 164, Natural Resources Code;

(5) registry funds deposited with the clerk of a justice court, the county clerk, or the district clerk under Chapter 117, Local Government Code; or

(6) a deferred compensation plan that qualifies under either Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Section 1 et seq.), as amended.

SECTION 2. Section 117.001(2), Local Government Code, is amended to read as follows:

1           (2) "Clerk" means the clerk of a justice court, a  
2 county clerk, a district clerk, or a county and district clerk.

3           SECTION 3. Section 117.002, Local Government Code, is  
4 amended to read as follows:

5           Sec. 117.002. TRANSFER OF UNCLAIMED FUNDS TO COMPTROLLER.  
6 Any funds deposited under this chapter, except cash bail bonds,  
7 that are presumed abandoned under Chapter 72, 73, or 75, Property  
8 Code, shall be reported and delivered by the clerk of a justice  
9 court, the county clerk, or the district clerk to the comptroller  
10 without further action by any court. The dormancy period for funds  
11 deposited under this chapter begins on the later of:

12           (1) the date of entry of final judgment or order of  
13 dismissal in the action in which the funds were deposited;

14           (2) the 18th birthday of the minor for whom the funds  
15 were deposited; or

16           (3) a reasonable date established by rule by the  
17 comptroller to promote the public interest in disposing of  
18 unclaimed funds.

19           SECTION 4. Sections 117.021(a) and (d), Local Government  
20 Code, are amended to read as follows:

21           (a) The commissioners court of a county shall select by the  
22 process provided by this subchapter or by Subchapter C, Chapter  
23 262, a federally insured bank or banks in the county to be the  
24 depository for a special account held by the clerks of the justice  
25 courts, the county clerk, and the district clerks. The county shall  
26 enter a contract with the selected federally insured bank or banks  
27 for a two-year or four-year term. The original term can be renewed

1 once for an additional two-year term. The contract may, on request  
2 by the clerk and approval of the commissioners court, include a  
3 provision that the funds in a special account earn interest. A  
4 request from the clerk that an account earn interest must be made,  
5 in writing, to the commissioners court not later than the 30th day  
6 before the date the county gives notice under Section 117.022 and  
7 shall be entered in the minutes of the court.

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

23 SECTION 5. Section 117.022, Local Government Code, is  
24 amended to read as follows:

25 Sec. 117.022. NOTICE. A county shall advertise or give  
26 notice that the county will accept applications to be the  
27 depository for registry funds held by the clerks of the justice

1 courts, the county clerk, and the district clerk in the same manner  
2 as notice is required under Section 116.022.

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

5 (a) At the meeting at which banks are to be selected to serve  
6 as the depository for registry funds held by the clerks of the  
7 justice courts, the county clerk, and the district clerk, the  
8 commissioners court shall enter the applications in the minutes of  
9 the court and select a depository.

10 SECTION 7. The heading to Section 117.052, Local Government  
11 Code, is amended to read as follows:

12 Sec. 117.052. DEPOSITS OF REGISTRY FUNDS BY [~~COUNTY AND~~  
13 ~~DISTRICT~~] CLERKS.

14 SECTION 8. Section 117.052(a), Local Government Code, is  
15 amended to read as follows:

16 (a) If a depository has been selected under Subchapter B,  
17 the clerk of a justice court, a county clerk, or a district clerk  
18 who is to have for more than three days legal custody of money  
19 deposited in the registry of the court pending the result of a legal  
20 proceeding shall deposit the money in the depository.

21 SECTION 9. Section 117.053(a), Local Government Code, is  
22 amended to read as follows:

23 (a) If a commissioners court selects a new depository under  
24 Subchapter B, when the depository qualifies, the clerks of the  
25 justice courts, the county clerk, and the district clerk shall  
26 transfer the funds in a special account from the old depository to  
27 the new depository, and the clerks may draw checks on the accounts

1 for this purpose.

2 SECTION 10. Section 117.056(a), Local Government Code, is  
3 amended to read as follows:

4 (a) A depository selected under Subchapter B shall pay a  
5 check drawn by a clerk of a justice court, a county clerk, or a  
6 district clerk against funds deposited in the clerk's name on  
7 presentment of the check at the county seat if the funds subject to  
8 the check are in the possession of the depository.

9 SECTION 11. Section 117.057(a), Local Government Code, is  
10 amended to read as follows:

11 (a) A commissioners court may require a depository selected  
12 under Subchapter B to execute a new bond whenever the  
13 commissioners court considers it necessary for the protection of  
14 the clerks of the justice courts', the county clerk's, and the  
15 district clerk's registry funds.

16 SECTION 12. Section 117.058(b), Local Government Code, is  
17 amended to read as follows:

18 (b) If the commissioners court of a county provides a  
19 depository for the registry funds of the clerks of the justice  
20 courts, the county clerk, or the district clerk, those officers  
21 shall make reports under oath to the county auditor to properly  
22 reflect all registry funds received and disbursed by the officer,  
23 including all money remaining on hand at the time of the report.  
24 The county auditor shall prescribe the form and frequency of the  
25 report.

26 SECTION 13. Section 117.081, Local Government Code, is  
27 amended to read as follows:

1           Sec. 117.081. LIABILITY OF [~~COUNTY AND DISTRICT~~] CLERKS.

2   (a) A clerk of a justice court, a county clerk, or a district clerk  
3 is not responsible for a loss of registry funds resulting from the  
4 failure or negligence of a depository.

5           (b) This section does not release a clerk of a justice  
6 court, a county clerk, or a district clerk from:

7                   (1) liability for a loss of registry funds resulting  
8 from the clerk's official misconduct, negligence, or  
9 misappropriation of the funds; or

10                   (2) responsibility for keeping the registry funds safe  
11 until the clerk deposits them in a depository selected under  
12 Subchapter B.

13           (c) After a clerk of a justice court, a county clerk, or a  
14 district clerk deposits in a depository selected under Subchapter B  
15 the registry funds held by the clerk, the clerk is relieved of the  
16 responsibility for keeping the funds secure.

17           SECTION 14. Section [117.083](#), Local Government Code, is  
18 amended to read as follows:

19           Sec. 117.083. LOSS OF REGISTRY FUNDS. If registry funds  
20 held by a clerk of a justice court, a county clerk, or a district  
21 clerk and deposited by the county with a depository selected under  
22 Subchapter B are lost for any reason, including a loss due to the  
23 insolvency of the depository, the county is liable to the rightful  
24 owner of the funds for the full amount of the funds due the owner.

25           SECTION 15. This Act takes effect September 1, 2023.