



**COURT FINANCIAL MANAGEMENT  
HANDBOOK**

**FOR**

**TEXAS COUNTIES**

Prepared By

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## INTRODUCTION

### Court Financial Management

The goals of those associated with the court system are pretty much the same—better government that is more efficient and effective, fair, and accountable to the public. Regardless of the size and complexity of the court, the financial management system should be able to show the same thing—who did what, when they did it, and what or how much was involved. This holds true whether the court is totally manual, totally automated, or somewhere in between.

The purpose of this handbook is to help improve financial management in Texas justice, county-level, and district courts. It is based on the premise that **when it comes to financial management—what you do not know can hurt you**. The unknown and unfamiliar cause the most fear and anxiety. Therefore, the more the judiciary knows about basic financial management, the better off the judiciary and county government will be. The result will be improved financial management in the judiciary—better accounting, better internal controls, better cash management, and better audit results.

The approach in this handbook is to: (1) familiarize the judiciary with county auditors— who they are, what they do, and why they do it; (2) present an easy-to-understand explanation of what internal controls are and why they are important to the courts; and (3) present practical information on a wide range of financial management topics that the courts can use to gauge and improve their financial management operations.

Over the years, the Office of Court Administration has received numerous questions from district judges about county auditors. As a result, materials have also been included to assist district judges in their responsibilities relating to hiring and evaluating county auditors.

### Disclaimer

This handbook is to aid judges, clerks, county auditors, and others by providing practical, up-to-date information on various topics regarding justice, county-level, and district court financial management. No express or implied warranties regarding the use or accuracy of this handbook are made by the OFFICE OF COURT ADMINISTRATION, the AUTHORS, or the EDITORS. This HANDBOOK is being distributed with the understanding that the OFFICE OF COURT ADMINISTRATION, the AUTHORS, and the EDITORS are not engaged in rendering legal, accounting, or other professional advice. When dealing with specific legal matters, attorneys should consult original sources and rely on their own knowledge and experience. Other readers should consult appropriate professionals for accounting, legal, or other advice.

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# **The County Auditor**



# CHAPTER I

## THE COUNTY AUDITOR

### A. COUNTY AUDITOR BASICS

#### 1. Introduction

Many people mentally picture auditors as men, wearing high-water pants and thick glasses, with a pocket protector in their shirt, and with little or no personality. Although the stereotype may be cute, it is not true. For example, auditors are just as likely to be female as male.

Auditors do tend to be people who like dealing with numbers, and who like those numbers to balance. They like details. At times, auditors, like many people, can get bogged down in those details and forget the big picture.

Some auditors are better than others. Just like judges and clerks—some are good, some are average, and some are below average. County auditors are generally financially conservative. However, everything is not just black and white to auditors—they do recognize the color gray.

County auditors are not a necessary evil to be avoided at all costs. They do not exist to make life miserable for everyone with whom they come in contact. Life would not be better if they disappeared. In fact, the judiciary, county government, and the taxpayers would be the losers without them.

**County auditors are county officials**—as distinguished from outside auditors who the county contracts with for specified services (normally an annual audit). They are considered more independent than other county officials since they are appointed by the district judge(s). Although they are not considered as independent (nor take the place of), outside auditors, they do provide a necessary level of accountability and assurance to the public concerning county finances.

The name “county auditor” is somewhat misleading—because in addition to auditing functions, the auditor also has major budgeting, accounting, reporting, and claims approval responsibilities. However, the overriding function of a county auditor is to see to the strict enforcement of the laws governing county finances.

LGC §112.006(b)

County auditors work to help ensure that all aspects of county finances operate as they should. If something is not operating as it should, they try to find out why and then do what they can to get it fixed. Their focus centers around trying to make sure the right amount of money gets to the right person or place at the appropriate time, and that money and other property is properly accounted for and safeguarded.

Good county auditors help to protect public officials and employees who are doing their jobs correctly. They do this by ensuring a good audit trail for money and other assets. An audit trail simply shows who did what, when they did it, and how much or what was involved. By pinpointing responsibility for errors and irregularities, those who did what they were supposed to do, and did it right, should not be unnecessarily suspected or accused of wrongdoing. And that is just one of the reasons for public officials to follow and implement an auditor’s procedural recommendations.

## **2. Appointment**

### **a. County with a Population of 10,200 or More**

In a county with a population of 10,200 or more (according to the most recent federal decennial census), the district judge(s) is **required** to appoint a county auditor.

LGC §84.002(a)

### **b. County with a Population of Less Than 10,200**

In a county with a population of less than 10,200, the district judge(s) **may** appoint a county auditor if the district judge(s) determines the county’s financial circumstances warrant the appointment. However, the district judge(s) **must** appoint a county auditor if: (1) the commissioners court finds that a county auditor is necessary to carry out county business and enters an order in its minutes stating the reason; (2) the order is certified to the district judge(s); and (3) the district judge(s) finds the reason stated by the commissioners court to be good and sufficient.

LGC §84.002(b)

### **3. Appointment Procedure**

#### **a. In a County with a Population of 3.3 Million or More (Harris County)**

Each district judge may nominate candidates for the office of county auditor. Appointment has to occur at a meeting called for that purpose with a majority of the district judges present. A candidate must receive at least a two-thirds vote of the district judges who are present at the meeting in order to be appointed county auditor.

LGC §84.005(a)

#### **b. In All Other Counties**

The district judge(s) must appoint the county auditor at a special meeting held for that purpose. The district clerk must record the judge's(s') action in the court minutes and certify it to the commissioners court, who then must record the action in its minutes along with an order directing the payment of the auditor's salary. In counties where more than one district judge has jurisdiction, a majority vote of the judges is required to appoint an auditor. If a majority of the judges cannot agree, one of the judges has to certify that fact to the governor, who is required to appoint another district judge to act and vote in the selection of an auditor.

LGC §84.003(a)

LGC §84.003(b)

LGC §84.001

LGC §84.003(a)

### **4. Term**

The term of office for a county auditor is two years. The term begins on the date of appointment and all subsequent appointments begin on the same date. However, in Harris County, the auditor's term of office begins on January 1 of each odd-numbered year.

LGC §84.004  
AG Op. O-4903 (1943)

LGC §84.005(b)

### **5. Qualifications**

A county auditor must be: (1) a competent accountant with at least two year's experience in auditing and accounting; (2) thoroughly competent in public business details; and (3) a person of unquestionably good moral character and intelligence. The law requires the district judge(s) to carefully investigate and consider the person's qualifications before appointing him or her county auditor.

LGC §84.006(a)

LGC §84.006(b)

## **6. Bond and Oath**

Before taking office and within 20 days after the date of appointment, the county auditor must execute a bond. The bond must be: (1) a good and sufficient surety bond or a bond secured by two or more good and sufficient personal sureties; (2) in the amount of \$5,000 or more; (3) payable to the district judge(s); (4) conditioned on the faithful performance of the duties of county auditor; and (5) approved by the district judge(s).

LGC §84.007(a)

Additionally, the auditor must take the official oath and a written oath that lists the positions of public or private trust previously held and the length of service in each of these positions. The written oath must also state: (1) that he has the required qualifications; and (2) that he will not be personally interested in a contract with the county.

LGC §84.007(b)

## **7. Joint Employment of County Auditor in Counties with Population Less Than 25,000**

With the exception of Harris County, the commissioners courts of two or more counties may agree to jointly employ and compensate a county auditor.

LGC §84.008(a)

After the commissioners courts have determined that an auditor is necessary and the agreement is made, each commissioners court must enter in its minutes an order stating its determination of the necessity for an auditor and then certify the order to the district judge(s) of the county. If the district judge(s) finds the order good and sufficient, he (they) must, by order appoint the auditor by an order recorded in the minutes of the district courts of all counties party to the agreement. The district clerk of each county shall certify the order to his/her commissioners court, for recording in its minutes.

LGC §84.008(b)

A majority vote of the district judges controls. The county auditor's term begins on the day of appointment.

LGC §84.008(d)

LGC §84.008(e)

## **8. Continuing Education**

County auditors are required to successfully complete at least 40 classroom hours of instruction during each full term of office. Courses must relate to county auditor duties and be accredited by the Texas State Board of Public Accountancy as continuing professional education for certified public accountants.

LGC §84.0085(a)

Once an auditor has completed the courses and accumulated the needed credits, he or she must certify that fact to the district judge(s).

LGC §84.0085(a)

## **9. Removal From Office**

A county auditor may be removed from office after investigation by the district judge(s) who made the appointment if it is proven that the auditor: (1) has committed official misconduct; or (2) is incompetent to faithfully discharge the duties of the office of county auditor.

LGC §84.009(a)

Additionally, the district judge(s) who appointed an auditor under Local Government Code, Section 84.002(b)(2) or Section 84.008, may discontinue the auditor's services after the expiration of one year if it is clearly shown that the auditor is not necessary and the auditor's services are not commensurate with the auditor's salary. Local Government Code, Section 84.002(b)(2) is the section that requires, in a county with a population of less than 10,200, an auditor to be appointed if the commissioners court finds it is necessary, makes the appropriate order, and properly certifies it to the district judge(s). And Section 84.008 is the section that provides for joint employment of county auditors in counties with a population of less than 25,000.

LGC §84.009(b)

## **10. Assistants**

The county auditor may certify to the district judge(s) a list stating the number of assistants to be appointed, their names, duties, qualifications and experience, along with the salary to be paid each one. After careful consideration and inquiry concerning the appointees' qualifications, the positions sought to be filled, and the reasonableness of the requested salaries, the district judge(s) must prepare a list of the approved appointees and the salary for each one. The district judge(s) must then certify the list to the commissioners court, which shall order that the salaries be paid when services are performed, and shall appropriate an adequate amount of money for payment.

LGC §84.021(a)

In emergency situations, the auditor shall recommend the appointment of temporary assistants, and after a hearing held in accordance with Local Government Code, Section 152.905, the district judge(s) shall determine the number of assistants, their salaries, and length of employment.

LGC §84.021(b)

Assistants must take the usual oath of office for faithful performance of duty. The county auditor may require an assistant to give a bond and may determine bond terms. The bond must run in favor of the county and the county auditor as their interests indicate. The county is required to pay for the bond. LGC §84.021(c)

If there is only one assistant appointed, he or she can perform the auditor's duties during the auditor's absence or unavoidable detention. If more than one assistant is appointed, the auditor can designate the assistant to act in his or her place when he or she is absent or unavoidably detained. LGC §84.021(d)

County auditors may discharge an assistant. Additionally, the district judge(s) has the right annually to withdraw the approval and change the number of assistants permitted. LGC §84.021(e)

## **11. Supplies**

A county auditor may purchase, at the county's expense, necessary ledgers, books, records, blank forms, stationery, equipment, telephone service, and postage. The auditor must follow the same purchasing laws other county officials follow. LGC §84.901

## **12. Procedures for Setting Compensation by District Judges**

Before setting the amount of annual compensation of the county auditor and assistant auditors, the district judge(s) must hold a public hearing on the matter. At the hearing, interested parties and citizens must be given an opportunity to be heard. LGC §152.905(b)

Notice of the time, place, and subject of the hearing must be published in a newspaper of general circulation in the county no earlier than 30 days or later than 10 days before the hearing. LGC §152.905(c)

The amount of compensation must be set by the district judge(s) at the hearing. The vote must be recorded, transcribed, and maintained as a public record. LGC 152.905(d)

### **13. Financial Disclosure Reporting System**

The commissioners court of a county with a population of 125,000 or more may adopt, by order, a financial disclosure reporting system for county officers (including county auditors) and county employees (including assistant auditors). The commissioners court must prescribe what is to be reported and when the report is due. The commissioners court may restrict the reporting requirement to a limited part of county employees if all employees with similar jobs are required to report.

LGC §159.033

A person required to file a report is considered to have complied if the person files a report with the appropriate authority that meets the requirements of Chapter 572, Government Code. Chapter 572 addresses personal financial disclosure for state officers and employees.

LGC §159.034(c)

## **B. MAJOR DUTIES AND RESPONSIBILITIES**

### **1. Introduction**

As already indicated, the title “county auditor” is somewhat misleading because auditors have responsibilities in other areas as well, including budgeting, accounting, approving claims, reporting, and countersigning checks.

In this section, the focus is on identifying an auditor’s major duties and responsibilities by looking at what the law requires a county auditor to do.

How an auditor divides time and resources among duties and responsibilities varies from county to county, depending on factors such as the size and complexity of the county, size and experience of the auditor’s office, how the county operates on a day-to-day basis, and what areas of the county’s operations pose the biggest financial management risks.

It is important to realize that auditors, like other county officials, are often strapped for time and resources to get everything done the law requires them to do. Day-to-day functions that require immediate action, such as claims approval, countersigning checks, and accounting, take time away from other functions, such as auditing. As a result, some auditors are not able to perform the quantity of work they would like. The district judge(s) can help this situation by appointing needed assistants. Of course, the auditor needs to make sure the district judge(s) knows specifically what his or her needs are.

### **2. Budgeting**

A county auditor’s budgeting duties depend upon whether the county operates under Subchapter A, B, or C of Chapter 111, Local Government Code.

#### **a. Subchapter A Counties**

Subchapter A applies to counties with a population of 225,000 or less and that do not operate under Subchapter C. In these counties, the county judge serves as the budget officer. Specifically, the law requires the county judge, assisted by the county auditor or county clerk, to prepare the budget. The auditor is usually the one to provide assistance, since the

LGC §111.001

LGC §111.002

LGC §111.003



auditor has detailed financial information on the county as a whole, and the clerk generally does not.

LGC §111.004

The auditor's assistance typically entails helping the judge prepare the itemized budget which must show:

- (1) the county's outstanding obligations;
- (2) the cash on hand to the credit of each county fund;
- (3) the funds received from all sources during the preceding fiscal year;
- (4) the funds available from all sources during the ensuing fiscal year;
- (5) the estimated revenues available to cover the proposed budget; and
- (6) the estimated tax rate required to cover the proposed budget.

The auditor must certify to the commissioners court the receipt of all grant or aid money available for disbursement during the fiscal year that is not included in the budget. The commissioners court then must adopt a special budget for the grant or aid money.

LGC §111.0106

The auditor must also certify the receipt of all revenue from intergovernmental contracts available for disbursement during the fiscal year that is not included in the budget. Here also, the commissioners court then must adopt a special budget for the revenue.

LGC §111.0107

Similarly, the auditor must certify the receipt of revenue from a new source not anticipated before the adoption of the budget and not included in the budget for that fiscal year. In this case, the commissioners court may, but does not have to, adopt a special budget.

LGC §111.0108

Except for emergencies, county spending has to be in strict compliance with the adopted budget (including appropriate budget amendments). It is part of the auditor's duties to help ensure this provision is complied with.

LGC §111.010

### **b. Subchapter B Counties**

Subchapter B applies to counties with a population of more than 225,000 and that do not operate under Subchapter C. In these counties, the **county auditor serves as the budget officer** and is responsible for preparing the proposed budget.

LGC §111.031

LGC §111.032

LGC §111.033

The law requires the auditor to itemize the budget in such a way to allow as clear a comparison as practicable between expenditures for similar purposes from year to year. Each project with an appropriation must be shown along with the appropriated amount.

LGC §111.034(a)

The auditor must make sure the budget shows:

LGC §111.034(b)

- (1) the county's outstanding obligations;
- (2) the cash on hand to the credit of each county fund;
- (3) the funds received from all sources during the preceding fiscal year;
- (4) the funds and revenue estimated by the auditor to be received from all sources during the preceding fiscal year;
- (5) the funds and revenue estimated by the auditor to be received from all sources during the ensuing fiscal year; and
- (6) a statement of all accounts and contracts on which money is due to or owed by the county as of the end of the preceding fiscal year (excluding taxes and court costs).

The auditor may require officials to provide information necessary to prepare the budget. The auditor must also file a copy of the proposed budget with the county clerk.

LGC §111.036

LGC §111.037(a)

The auditor's revenue estimating responsibility is significant because budget expenditures, by fund, may not exceed the beginning fund balance plus the auditor's anticipated revenue for the fiscal year.

LGC §111.039(b)

Subchapter B also requires the county auditor to certify to the commissioners court the receipt of all grant or aid money available for disbursement during the fiscal year that is not included in the budget. The court then must adopt a special budget for the grant or aid money.

LGC §111.043

A similar certification and special budget is required for revenue from intergovernmental contracts.

LGC §111.0431

The auditor must also certify the receipt of revenue from a new source not anticipated before the adoption of the budget and not included in the budget for that fiscal year. In this case, the commissioners court may, but does not have to, adopt a special budget.

LGC §111.0432

Until a budget is adopted, the county may not make payments during that fiscal year except for emergencies and obligations legally incurred before the start of the fiscal year for salaries, utilities, materials, and supplies. It is part of the auditor's duties to help ensure that the county complies with this provision.

LGC §111.035

Additionally, the county auditor is required to make a copy of a budget filed by the county tax assessor-collector, covering funds not included in the county budget, available to the public at all reasonable times.

LGC §111.095

### c. Subchapter C Counties

Subchapter C applies to counties with a population of more than 125,000 and that do not operate under Subchapter A or B. In these counties, the commissioners court may appoint a budget officer. The court may also abolish the position. If abolished, the county judge acts as budget officer in counties with a population of 225,000 or less and the county auditor performs those duties in counties with a population of more than 225,000.

LGC §111.061

LGC §111.062(a)

LGC §111.062(b)

As in Subchapter B counties, the budget officer in Subchapter C counties must itemize the budget in such a way as to allow as clear a comparison as practicable between expenditures for similar purposes from year to year. Each project with an appropriation must be shown along with the appropriated amount.

LGC §111.063(a)

A Subchapter C budget officer also must make sure the budget shows:

LGC §111.063(b)

- (1) the county's outstanding obligations;
- (2) the cash on hand to the credit of each county fund;
- (3) the funds received from all sources during the preceding fiscal year;
- (4) the funds and revenue estimated by the auditor to be received from all sources during the preceding fiscal year;
- (5) the funds and revenue estimated by the auditor to be received during the ensuing year; and
- (6) a statement of all accounts and contracts on which money is due to or owed by the county as of the end of the preceding fiscal year (excluding taxes and court costs).

If actual amounts for items (1), (2), (3), or (6) above are not available, the budget officer may use estimates made by the auditor.

LGC §111.063(c)

If the auditor is not the budget officer, the auditor must furnish necessary information to the budget officer, who is responsible for preparing the proposed budget.

LGC §111.063(b)

Until a budget is adopted, a county may not make payments during that fiscal year except for emergencies and obligations legally incurred before the start of the fiscal year for salaries, utilities, materials, and supplies. It is part of the auditor's duty to help ensure the county complies with this provision.

LGC §111.064

The budget officer can require officials to provide any information necessary to properly prepare or monitor the budget.

LGC §111.065

The budget officer must file a copy of the proposed budget with the county clerk and the county auditor. LGC §111.066(a)

The auditor's responsibility with respect to estimating revenues is significant because amounts budgeted in a fiscal year for expenditures from the various county funds cannot exceed the beginning fund balances plus the auditor's anticipated revenue for the fiscal year. LGC §111.068(b)

The commissioners court must file a copy of the approved budget with both the county clerk and county auditor. LGC §111.069

Subchapter C also requires the auditor to certify to the commissioners court the receipt of all grant or aid money and revenue from intergovernmental contracts and for the court to adopt special budgets for these amounts. LGC §111.0706  
LGC §111.0707

Similarly, the auditor must certify the receipt of revenue from a new source not anticipated before the adoption of the budget and not included in the budget for that fiscal year. In this case, the commissioners court may, but does not have to, adopt a special budget. LGC §111.07075

The law provides that the budget officer may assist the commissioners court in performing the court's duties relating to the efficiency and effectiveness of county operations. However, the provision does not give any detail about what those duties include. LGC §111.071

Additionally, if the county auditor serves as budget officer, he or she is required to make a copy of a budget filed by the county tax assessor-collector, covering funds not included in the county budget, available to the public at all reasonable times. LGC §111.095

#### **d. Budget Appropriations**

Once the commissioners court adopts a budget, the auditor's focus shifts from budget preparation to budget compliance. The auditor is required to open an appropriation account for each main or special budgeted item. The auditor is also required to enter each warrant drawn against an appropriation account and to periodically inform the commissioners court of the condition of the appropriation accounts. LGC §111.091

It is the auditor's responsibility to ensure a department's expenses do not exceed their appropriations. LGC §111.092

In counties with a population of more than 225,000, the auditor must charge all purchase orders, requisitions, contracts, and salary and labor allowances to the appropriation accounts. This is often referred to as encumbrance accounting. Requisitions and contracts are not binding until the auditor certifies there is budget authority and funds are or will be available to pay or make payment when due.

LGC §111.093

### **3. Accounting**

Perhaps the most comprehensive and time-consuming duty of the county auditor is accounting. The auditor is required to keep a detailed set of records showing all county transactions relating to accounts, contracts, indebtedness, receipts and disbursements. In other words, the auditor must keep a detailed set of journals and ledgers along with supporting documents and files.

LGC §112.007

Several other provisions give the auditor authority related to keeping the detailed set of books. In counties with a population of less than 190,000, the auditor may adopt and enforce regulations the auditor considers necessary for the speedy and proper collecting, checking, and accounting of the revenues and other funds and fees that belong to the county. The regulations cannot be inconsistent with another law, or with a rule adopted by the Comptroller of Public Accounts under Section 112.003, Local Government Code.

LGC §112.001

In counties with a population of 190,000 or more, the authority is even broader. In addition to being able to adopt and enforce regulations similar to those mentioned above, the auditor is required to prescribe the system of accounting for the county. In other words, the auditor prescribes how officials are to keep their books. (Note: in counties with a population of 190,000 or more, there is an additional requirement that the regulations adopted by an auditor may not be inconsistent with generally accepted accounting principles as established by the Governmental Accounting Standards Board.)

LGC §112.002

Also, the county auditor has general oversight of officials' books and records and is charged with the responsibility to see to the strict enforcement of the law governing county finances. This would include making sure monies are deposited in the proper funds and accounts and that there is compliance with any spending restrictions provided by law or contract.

LGC §112.006

Remember, the law requires the auditor to open an account for each main or special item in the budget and to charge the appropriate account when a disbursement is made. And, in counties with a population of more than 225,000, the auditor is required to use encumbrance accounting. Encumbrance accounting helps the auditor keep track of and stay within the budget by charging commitments that are not yet liabilities against budget appropriations.

LGC §111.091

LGC §111.093

#### 4. Auditing

Auditing is another major responsibility of the county auditor. Several different laws address audit duties. Some laws provide specific details about audit requirements, but others use broad language without providing any specifics. Several audit requirements overlap. Different auditors meet the requirements in different ways.

Perhaps the auditor's broadest responsibility is seeing to the strict enforcement of county finance laws. This includes laws relating to budgeting, accounting, auditing, reporting, cash management, investing, and purchasing. It also includes not only compliance by the auditor, but compliance by other officials as well.

LGC §112.006(b)

The specific requirements pertaining to the audit authority of the county auditor are:

(1) Audit officials' books, accounts, reports, vouchers, and other records.

LGC §115.001

(2) Audit the commissioners court's orders relating to county finances.

(3) Audit reports about the collection of money that are required to be made to the commissioners court.

LGC §115.002(a)

*- County officials that receive money are required to make monthly reports to the commissioners court.*

(4) Audit officials' books and reports at least quarterly.

LGC §115.002(b)

*- The auditor has to stamp the books and reports approved or note any differences, errors, or discrepancies.*

(5) Audit the county treasurer's monthly report to the commissioners court, along with canceled warrants/checks.

LGC §115.002(c)

*- The auditor has to verify the warrants/checks with what is shown on the auditor's books.*

(6) At least quarterly, do a surprise audit of the funds held by the county treasurer or in a bank in which the treasurer has put the funds.

LGC §115.003

*- The auditor has to make sure that all fund balances are actually on hand and that all investments are legally authorized.*

- (7) At least annually, do a surprise audit of all officials. LGC §115.035  
*- The auditor has to verify accounts are correct and report the findings to the next term of the commissioners court.*
- (8) Audit the accounts, dockets, and records of each clerk, justice of the peace, and constable and of the sheriff and tax assessor-collector to determine if the official has custody of any money that belongs to the county and that has not been properly accounted for and remitted. LGC §115.901  
*- If such money does exist, the auditor has to report the findings to the commissioners court at its next term.*
- (9) Audit the receipt book of each official collecting fines and fees in criminal cases each month to determine whether money collected has been properly disposed of. CCP Art. 103.011  
*- Officials are required to deliver receipts or allow electronic access to receipt records to the county auditor at the end of each month's business.*
- (10) In counties with a population of 190,000 or more, audit the accounts of officials at the end of each fiscal year or the accounting period fixed by law. LGC §115.004

## 5. Countersigning Checks/Warrants

Excluding jury service checks/warrants, county auditors are required to countersign checks/warrants drawn against the county treasury. The auditor's signature validates the check/warrant as a proper and budgeted item of expenditure. LGC §113.043

## 6. Approving Claims

Claims, bills, and accounts must be examined and approved by the county auditor before they can be paid. Each one approved must be stamped as such by the auditor. The auditor may require an affidavit indicating its correctness and may administer oaths prior to approval. LGC §113.064  
 The auditor is prohibited from approving a claim unless it was incurred as provided by law. LGC §113.065

Additionally, if the account is for the purchase of supplies or materials, the auditor cannot approve it unless a requisition, signed by the ordering officer and approved by the county judge, is attached to the account. In counties that have a county auditor, the commissioners court, by written order, can waive the requirement of the county judge's approval. LGC §113.9  
 The commissioners court may establish an electronic requisition system. If the system is established, the county auditor, subject to the approval of the commissioners court, must establish procedures for administering the system.

## 7. Reporting

County auditors are required to make and receive written financial reports. Reports must be sworn to by the officer making them and monthly reports must be filed within five days of month's end.

LGC §114.001

### a. Reports Made By the County Auditor

There is quite a bit of overlap in the auditor's reporting requirements.

As indicated previously, the auditor is required to periodically inform the commissioners court of the status of the budget. Auditors generally comply by making a monthly report to the court showing for each budget line item:

LGC §111.091

- (1) the amount budgeted;
- (2) the amount received/expended for the month;
- (3) the amount received/expended year-to-date; and
- (4) the unreceived/unexpended balance for the rest of the fiscal year.

At each regular commissioners court meeting, the auditor has to present a tabulated report of the county's receipts and disbursements, and the county's accounts.

LGC §114.024

Monthly and annual reports also have to be made to the commissioners court and district judge(s). The reports have to show:

LGC §114.025(a)

- (1) the total amounts received and disbursed from each fund;
- (2) the condition of each account;
- (3) the amount of funds on deposit in the county depository;
- (4) the amount of county bonded debt and other debt; and
- (5) anything else the auditor considers appropriate or that is required by the commissioners court or district judge(s).

In addition, the annual report must include a record of transactions made during the year.

LGC §114.025(b)

Also, at the time the annual report is delivered to the commissioners court and the district judge(s), the auditor must send to the bonding company of each officer a report indicating the condition of that person's office.

LGC §114.025(c)



In counties with a population of more than 225,000, the auditor must report at least monthly to the commissioners court on the county's financial condition. In addition to information the auditor considers necessary, or that is required by the commissioners court, the report must contain:

LGC §114.023

- (1) all facts of interest related to the county's financial condition;
- (2) a consolidated balance sheet;
- (3) a statement of the balances on hand at the beginning and end of the month;
- (4) a statement of total receipts and disbursements by fund;
- (5) a statement of transfers to and from each fund;
- (6) a statement of bond and warrant debt with corresponding interest rates; and
- (7) a summarized budget statement that shows:
  - (A) expenses paid for each office or department during the month and year-to-date;
  - (B) encumbrances against the budget; and
  - (C) amounts available for further expenditures.

A condensed copy of the above monthly report must be published once in a daily paper published in the county.

LGC §114.023(c)

#### **b. Reports Made To the County Auditor**

All auditors must determine when and how reports are made to them. Additionally, in counties with a population of 190,000 or more, the auditor may require monthly, annual, or other reports regarding receipts, disbursements, or money on hand. Also, each auditor must require every person who receives county money, or who is responsible for disposing of or managing county property, to make reports to the auditor.

LGC §114.002

LGC §114.043

LGC §112.005(c)

Those required to make reports to the auditor and who intentionally refuse to comply with a reasonable request of the auditor, commit an offense. The offense is a misdemeanor punishable by:

LGC §114.003

- (1) a fine of not less than \$25 or more than \$200;
- (2) removal from office; or
- (3) both a fine and removal from office.

## **8. Purchasing**

The county auditor also serves as purchasing agent in certain counties. In counties that have not appointed a purchasing agent, the auditor serves in that position if:

LGC §262.012

- (1) the county has a population of 41,680 to 42,100; or
- (2) appointed by the commissioners court of a county that jointly employs an auditor under Section 84.008 of the Local Government Code.

Additionally, in counties with a population of more than 100,000 where the commissioners court has established the position of purchasing agent and then abolishes the position, the auditor shall serve as purchasing agent.

LGC §262.0115

## **9. Other Duties and Responsibilities**

Other duties and responsibilities of the auditor include:

- (1) receiving employee requests for payroll deductions;
- (2) prescribing a system to be used by the county treasurer for receiving and depositing money;
- (3) in a county with a population of 190,001 to 200,000, in which the financial records of a municipal and county hospital must be kept, keeping the financial records for and making required reports of the hospital; and
- (4) in a county with a population of more than 600,000, appointing and supervising a comptroller for the County Building Authority.

LGC §155.002

LGC §113.023

LGC §84.902

LGC §293.025

## **C. COMMUNICATING WITH YOUR COUNTY AUDITOR**

Communications with your county auditor should be centered around the similar goals mentioned earlier—more effective and efficient government, which is fair and accountable to the public.

### **1. First Things First**

Meet with the auditor and any members of his/her staff that will be dealing with your office. Ask the auditor to explain his/her major duties and responsibilities. Explain your major duties and responsibilities to the auditor as well.

Give the auditor a copy of your operating procedures and manuals. It should make the auditor's job easier and, in the long run, reduce the amount of time the auditor has to spend auditing your office and asking questions. Show the auditor around your office and introduce him/her to your staff. Give your staff a general explanation of what the auditor will be doing and why. Make sure they know that a good auditor reinforces those who do their job right.

If you are a new official, ask the auditor to brief you on any past issues that have not been cleared up yet. Take any necessary steps to resolve the issues.

### **2. Audits**

Let the auditor know about any areas of your operations you would like him/her to give special attention to when auditing your office. Ask for written audit reports and for a meeting to explain any negative audit findings before a written report is issued. If you do not understand an audit finding, methodology, or recommendation—ask.

Respond to audit findings in writing. Do you agree or disagree with the finding? If you disagree, explain why. Comment on recommendations for procedural changes. Explain what changes you will make, along with how and when they will be made. Be open-minded when it comes to recommendations.

Consider asking the auditor for a copy of some *basic* audit programs to give you an idea of what the auditor will be looking at and help you be better prepared. Generally, an increased emphasis on auditing in an office has the added benefit of serving as a deterrent, and reduces the likelihood of wrongdoing. And if you are not being audited, ask to be.

If necessary, put the request in writing. If that does not work, contact the district judge(s).

### **3. Day-In and Day-Out**

Be yourself when dealing with the auditor. Do not try to intimidate the auditor or his/her staff. Give them access to your staff and office—within reason, of course, and make sure you are kept informed of what is going on.

Know your own operations in detail and make sure the auditor knows to whom he/she can go for certain types of information and answers to detailed questions—whether it be you or various members of your staff. If you do not know something—admit it, and then find the answer or the information requested.

Realize there will be times you disagree with the auditor. There is just no way to agree with the way the auditor does every aspect of his/her job. This is to be expected. The auditor probably will not agree with the way you do everything either. Handle any disagreements in a professional manner.

If you become aware of a financial management problem in your office (e.g., money may be missing), bring it to the auditor's attention. Attempts to hide it could make you a party to an illegal transaction. Also, you be the one to make the auditor aware of legislative changes, court cases, or attorney general opinions that have a financial management impact on your office. Doing so should save you time in the long run.

Finally, judge the auditor based on your relationship with him/her—not on what other officials and employees say. You may not know all the facts. And you would not want to be judged that way either. Bottom line, treat the auditor like you want him/her to treat you.

## **D. SPECIAL FOR DISTRICT JUDGES—COUNTY AUDITOR SELECTION, EVALUATION, AND DISCONTINUANCE OR REMOVAL**

The authority and responsibility of appointing and removing county auditors gives district judges a significant impact on their county's financial management system. The better the job the district judge(s) do at selecting an auditor, the more positive the impact. A good selection process will also save judges time in the long run—less time spent dealing with auditor-related issues.

Some district judges have been criticized in the past for their role in county financial management. Over the years, we have heard each of the following—or a variation of each of the following—more than once:

- *“The district judge is only interested in appointing who the county judge wants as county auditor.”*
- *“After appointing an auditor, the district judge never gets involved in the county's financial management again until it's time to make another appointment.”*
- *“The district judge never supports the auditor.”*
- *“The district judge is too concerned with getting re-elected to get involved in county financial management.”*

Although the above comments are the exception, and not the rule, they do tend to support the belief that district judges, as a whole, should be more actively involved in county financial management. One way to do this is for judges to become more active in the selection and evaluation of the county auditor.

### **1. Selecting a County Auditor**

Local Government Code, Section 84.006 (*see Appendix - page 27*) specifies the qualifications for a county auditor. These qualifications are:

- a competent accountant with at least two years' experience in auditing and accounting;
- thoroughly competent in public business details; and
- a person of unquestionably good moral character and intelligence.

Section 84.006 also requires district judges to carefully investigate and consider a person's qualifications before making an appointment.

District judges must determine whether and to what extent someone meets the qualifications. The selected auditor should be someone who has both accounting and auditing experience, and who has some familiarity with governmental financial management. Familiarity with governmental financial management can come from past government work experience, having had government clients, or past volunteer service in government.

There is no statutory requirement that the auditor be a licensed certified public accountant. However, depending on the needs and size of your county, this can probably be made a requirement. See *State v. Ramfield* (523 S.W. 2d 453).

Become familiar with the auditor's duties and responsibilities. This handbook hopefully will help in this regard. If this will be your county's first time to have an auditor, visit with some district judges from counties that have an auditor to get their perspectives and past experience.

If your county's current auditor is leaving, take into account the reason(s) why. If he/she is leaving under good circumstances, get his/her thoughts and recommendations on a successor. If the circumstances are not good, consider why. For example, if the county has received several outside audit reports indicating major accounting problems, you will want to focus on hiring a successor with strong accounting skills and experience. Take a look at the last few outside audit reports and contact the outside auditor(s) if you have questions. Some outside auditors are more willing to talk about their reports than others.

Before starting the selection process, consider visiting with other local officials and department heads to get their views on the county auditor position. **When weighing their comments, remember they are audited by the county auditor.**

Be sure all applicants fill out a county application form and complete all required sections. Although resumes are okay and should be accepted if provided, do not accept them in lieu of applications. If you do, you generally will not get all the information you want. Also, application forms generally include a statement certifying that the information provided in the application is true and complete, which is signed by the applicant. Further, it is usually easier to compare applicants if they have filled out the standard county application.

Once you get the applications, be sure and verify the information given and contact references and previous and possibly current employers of the applicants you are considering. Many employers fail to take the time to do so and frequently wish later they had.

Interview the top applicants before making a selection. In addition to focusing on the applicant's background and experience, center the interview around the county auditor's major duties and responsibilities. This will give you an idea of how much the applicant really knows about the job. Do not overlook the importance of communication skills. Also, keep in mind that computer experience and background are becoming more important. This is an area you might want to discuss with your county's information technology folks or other appropriate individuals before the selection process begins.

Although not a statutory requirement, it is probably desirable in many counties for the auditor to possess an accounting degree. And the larger the office, the more attention and focus you must give to an applicant's supervisory/managerial experience and background. For example, regardless of the technical background, you probably would not want someone with no supervisory/managerial experience to run a thirty-person office.

Do your best to determine whether an applicant has any outside interests that may conflict with the job. For example, if an auditor has a large tax practice, this may conflict with the job during tax season. This does not mean that you should not hire the applicant, but be aware of the outside interest, talk about it, and come to an understanding before the applicant is offered the job. In other words, do not be surprised later.

Consider some sort of evaluation form to use during the application and interview process. You can pick the areas you want to rate and how much weight to give each one. For example, you might want to weight technical background 30 percent, work experience 40 percent, and how the individual does in the interview 30 percent.

Remember, the final decision is yours.

## 2. Evaluating a County Auditor

District judges do not *supervise* county auditors as that term is normally used, because county auditors are appointed officials. However, evaluating auditor performance is important to give district judges a sound basis for making reappointment decisions. Doing a thorough job takes time, but it is worth it. And the taxpayers are the ultimate beneficiaries.

Although a county auditor appointment is normally for a two-year period, evaluation should generally be an ongoing activity. At least annually, district judges should formally meet with the auditor to discuss his/her performance. Some sort of written evaluation will help make sure the many areas of the auditor's responsibilities are covered.

If there is more than one district judge in your county, agree beforehand which judge will be responsible for which part of the evaluation process.

Evaluations should be done more frequently than annually, when necessary. For example, if there is some part of an auditor's performance that needs to be improved in order for the auditor to be reappointed, this should be communicated to the auditor; and the auditor should be given sufficient time to make any necessary changes.

Similar to a law enforcement officer, a county auditor's evaluation should not be based on popularity. By the nature of their work, the auditor is going to rub some people the wrong way. In fact, if an auditor is too well-liked, you might want to find out why. Maybe he/she is not doing some of the things he/she should be doing.

Ask yourself the following:

- *Has the auditor kept me advised of the major financial management issues, problems, and concerns in the county in a timely manner?*
- *How did the auditor handle any major problems that arose since the last evaluation (e.g., promptly, thoroughly)?*
- *Does the auditor appear to manage his/her staff well?*
- *Does the auditor look for ways to make the county more effective and efficient from a financial management standpoint?*
- *Has the auditor's efforts improved the county's financial management?*



- *Does the auditor deal professionally with other officials and the media?*

Periodically, contact other officials and department heads, along with the outside auditor for information. Remember, though, that you should not expect all comments from other officials and department heads to be positive. **Just as everyone will not always agree with your judicial decisions, everyone will not always agree with what the auditor does.**

To assist you, an “Evaluation Checklist” has been included (see page I-28). Revise the checklist to meet your particular needs.

### **3. Discontinuing or Removing a County Auditor**

District judges have the authority to remove or discontinue the services of a county auditor.

An auditor may be removed from office after investigation by the district judge(s) who made the appointment if it is proven that the auditor: (1) has committed official misconduct; or (2) is incompetent to faithfully discharge the duties of the office of county auditor.

LGC §84.009(a)

The provisions for removing elected county officials probably does not apply to county auditors. Removing an auditor appears to be within the sole discretion of the district judge(s):

Although many of the cases cited and discussed in this chapter state that the county auditor is a county official - and there is no doubt that the auditor possesses attributes of a public official - it has never been determined in a reported opinion whether the removal statutes applicable to county officials also apply to the county auditor. It is suggested that the statutory procedures for removing an elected constitutional official with the attendant right of a jury trial should not apply to the auditor because he is not elected by the voters in the first place. The auditor probably serves at the pleasure of the district judges; in fact, the legislature created the auditor’s office as a means by which the judges could meet their constitutional duty to exercise general supervision over the county commissioners court.<sup>1</sup>

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<sup>1</sup>David Brooks, 35 *Texas Practice* §19.5 (1989)

The terms “official misconduct” and “incompetency” are not defined in Local Government Code, Section 84.009 (*see Appendix - page 28*), which provides for the removal of a county auditor. However, when considering a county auditor’s removal from office, it is recommended that district judges use the following definitions of those terms as they apply to elected county officials, which are found in Local Government Code, Section 87.011 (*see Appendix - page 29*):

“Incompetency” means:

LGC §87.011

- (A) gross ignorance of official duties;
- (B) gross carelessness in the discharge of those duties; or
- (C) unfitness or inability to promptly and properly discharge official duties because of a serious physical or mental defect that did not exist at the time of the officer’s election.

“Official misconduct” means intentional, unlawful behavior relating to official duties by an officer entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of an officer to perform a duty imposed on the officer by law.

The statutes also specifically provide for discontinuing the services of certain auditors. District judges who appoint an auditor under Local Government Code, Section 84.002(b)(2) [*see Appendix - page 26*] or Section 84.008 (*see Appendix - page 28*) may discontinue the auditor’s services after the expiration of one year after appointment if it is clearly shown that the auditor is not necessary and the auditor’s services are not commensurate with the auditor’s salary. Local Government Code, Section 84.002(b)(2) is the section that requires an auditor to be appointed if the commissioners court finds it necessary, makes the appropriate order, and properly certifies it to the district judges. This section only applies to counties with a population of less than 10,200. Local Government Code, Section 84.008 is the section that provides for joint employment of county auditors in counties with a population of less than 25,000.

LGC §84.009(b)

Discontinuing an auditor’s services should be based on what is best for the county. And remember, an auditor should not really be surprised if he/she is not reappointed. If there is some deficiency in an auditor’s performance, it should have been communicated to him/her through the evaluation process.

District judges are encouraged to consult with the county attorney before removing or discontinuing the services of an auditor.

## E. EVALUATION CHECKLIST

The following checklist has been included as a tool to assist district judges in making reappointment decisions by helping them consider all the areas of an auditor’s responsibilities when evaluating their performance. The checklist can also be used to help district judges become more familiar with the responsibilities and duties of the county auditor. A questionnaire format is used and a “yes” answer indicates that the auditor met the legal requirement or other expectation. A “no” answer indicates that the auditor did not meet the legal requirement or other expectation. A “not applicable” (N/A) answer indicates that the expectation does not apply to your auditor. You may have additional or different questions. Modify the checklist to fit your needs. A separate column indicates whether the question is based on a legal requirement.

Do not expect a “yes” to every question. No auditor is flawless, and perfection should not be expected from him/her.

| Question | Legal Requirement | Legal |    |     | Comments |
|----------|-------------------|-------|----|-----|----------|
|          |                   | Yes   | No | N/A |          |

### I. General

|    |   |    |     |     |     |       |
|----|---|----|-----|-----|-----|-------|
| 1. | Does the auditor keep me advised of the major financial management issues, problems, and concerns in the county?                        | No | ___ | ___ | ___ | _____ |
| 2. | Does the auditor periodically report to me on who was audited, when they were audited, and what the significant findings (if any) were? | No | ___ | ___ | ___ | _____ |
| 3. | Does the auditor properly handle any major problems that arise (e.g., promptly, thoroughly)?  | No | ___ | ___ | ___ | _____ |
| 4. | Does the auditor manage his/her staff well?   | No | ___ | ___ | ___ | _____ |
| 5. | Does the auditor look for ways to make the county more effective and efficient from a financial management standpoint?                  | No | ___ | ___ | ___ | _____ |
| 6. | Does the auditor’s efforts improve the financial management of the county?  | No | ___ | ___ | ___ | _____ |
| 7. | Does the auditor deal professionally with other officials, employees, and the media?  | No | ___ | ___ | ___ | _____ |

| Question | Legal Requirement | Legal |    |     | Comments |
|----------|-------------------|-------|----|-----|----------|
|          |                   | Yes   | No | N/A |          |

## II. Budgeting

### A. Subchapter A Counties

- |    |  |     |     |     |     |       |
|----|--|-----|-----|-----|-----|-------|
| 1. | Does the auditor assist the county judge in preparing the proposed budget?   | Yes | ___ | ___ | ___ | _____ |
| 2. | Is the assistance in 1. above  |     |     |     |     |       |
|    | a. Adequate?   | No  | ___ | ___ | ___ | _____ |
|    | b. Timely?   | No  | ___ | ___ | ___ | _____ |
| 3. | Does the auditor certify to the commissioners court the receipt of:  |     |     |     |     |       |
|    | a. All grant or aid money available for disbursement during the fiscal year that was not included in the budget?                       | Yes | ___ | ___ | ___ | _____ |
|    | b. All revenue from intergovernmental contracts available for disbursement during the fiscal year that was not included in the budget? | Yes | ___ | ___ | ___ | _____ |
|    | c. Revenue from a new source not anticipated before the adoption of the budget and not included in the budget for the fiscal year?     | Yes | ___ | ___ | ___ | _____ |
| 4. | Are the certifications in 3. above done timely?  | No  | ___ | ___ | ___ | _____ |

### B. Subchapter B Counties

- |    |   |     |     |     |     |       |
|----|---|-----|-----|-----|-----|-------|
| 1. | Does the auditor serve as the budget officer?   | Yes | ___ | ___ | ___ | _____ |
| 2. | Does the auditor prepare the proposed budget?   | Yes | ___ | ___ | ___ | _____ |
| 3. | Is the proposed budget prepared timely?   | Yes | ___ | ___ | ___ | _____ |
| 4. | Does the auditor follow any budget policy guidelines established by the commissioners court in preparing the proposed budget?                                   | No  | ___ | ___ | ___ | _____ |
| 5. | Does the auditor itemize the budget in such a way as to allow as clear a comparison as practicable between expenditures for similar purposes from year to year? | Yes | ___ | ___ | ___ | _____ |
| 6. | Is each project with an appropriation shown along with the appropriated amount?   | Yes | ___ | ___ | ___ | _____ |

| Question | Legal Requirement  | Legal |     |     | Comments |       |
|----------|--|-------|-----|-----|----------|-------|
|          |  | Yes   | No  | N/A |          |       |
| 7.       | Does the budget show:  |       |     |     |          |       |
| a.       | The county's outstanding obligations?  | Yes   | ___ | ___ | ___      | _____ |
| b.       | The cash on hand to the credit of each county fund?  | Yes   | ___ | ___ | ___      | _____ |
| c.       | The funds received from all sources during the preceding fiscal year?  | Yes   | ___ | ___ | ___      | _____ |
| d.       | The funds and revenue estimated by the auditor to be received from all sources during the preceding fiscal year?   | Yes   | ___ | ___ | ___      | _____ |
| e.       | The funds and revenue estimated by the auditor to be received from all sources during the ensuing fiscal year?   | Yes   | ___ | ___ | ___      | _____ |
| f.       | A statement of all accounts and contracts on which money is due to or owed by the county as of the end of the preceding fiscal year (excluding taxes and court costs)? | Yes   | ___ | ___ | ___      | _____ |
| 8.       | If needed, does the auditor require officials to provide information necessary to prepare the budget?  | Yes   | ___ | ___ | ___      | _____ |
| 9.       | Does the auditor file a copy of the proposed budget with the county clerk?   | Yes   | ___ | ___ | ___      | _____ |
| 10.      | Does the auditor certify to the commissioners court the receipt of:  |       |     |     |          |       |
| a.       | All grant or aid money available for disbursement during the fiscal year that was not included in the budget?  | Yes   | ___ | ___ | ___      | _____ |
| b.       | All revenue from intergovernmental contracts available for disbursement during the fiscal year that was not included in the budget?                                    | Yes   | ___ | ___ | ___      | _____ |
| c.       | Revenue from a new source not anticipated before the adoption of the budget and not included in the budget for the fiscal year?  | Yes   | ___ | ___ | ___      | _____ |
| 11.      | Are the certifications in 10. above done timely?   | No    | ___ | ___ | ___      | _____ |
| 12.      | Is the proposed budget easy to understand and follow?  | No    | ___ | ___ | ___      | _____ |
| 13.      | Are key components and features of the proposed budget adequately identified and explained?  | No    | ___ | ___ | ___      | _____ |

| Question | Legal Requirement | Legal |    |     | Comments |
|----------|-------------------|-------|----|-----|----------|
|          |                   | Yes   | No | N/A |          |

|     |   |     |     |     |     |       |
|-----|---|-----|-----|-----|-----|-------|
| 14. | Does the auditor make a copy of any budget filed by the county tax assessor-collector, covering funds not included in the county budget, available to the public at all reasonable times? | Yes | ___ | ___ | ___ | _____ |
|-----|---|-----|-----|-----|-----|-------|

**C. Subchapter C Counties**

|    |   |     |     |     |     |       |
|----|---|-----|-----|-----|-----|-------|
| 1. | Does the auditor certify to the commissioners court the receipt of:   |     |     |     |     |       |
| a. | All grant or aid money available for disbursement during the fiscal year that was not included in the budget?                       | Yes | ___ | ___ | ___ | _____ |
| b. | All revenue from intergovernmental contracts available for disbursement during the fiscal year that was not included in the budget? | Yes | ___ | ___ | ___ | _____ |
| c. | Revenue from a new source not anticipated before the adoption of the budget and not included in the budget for the fiscal year?     | Yes | ___ | ___ | ___ | _____ |
| 2. | Are the certifications in 1. above done timely?   | No  | ___ | ___ | ___ | _____ |
| 3. | Does the auditor furnish necessary information to the budget officer for preparing the proposed budget?                             | Yes | ___ | ___ | ___ | _____ |

*If the position of budget officer is abolished and the county population is more than 225,000, the county auditor performs the duties of the budget officer. If that situation exists in your county, the following questions would also apply:*

|    |   |     |     |     |     |       |
|----|---|-----|-----|-----|-----|-------|
| 4. | Does the auditor follow any budget policy guidelines established by the commissioners court in preparing the proposed budget?                                   | No  | ___ | ___ | ___ | _____ |
| 5. | Does the auditor itemize the budget in such a way as to allow as clear a comparison as practicable between expenditures for similar purposes from year to year? | Yes | ___ | ___ | ___ | _____ |
| 6. | Is each project with an appropriation shown along with the appropriated amount?   | Yes | ___ | ___ | ___ | _____ |

| Question  | Legal Requirement   | Legal |     |     | Comments |       |
|---|---|-------|-----|-----|----------|-------|
|   |   | Yes   | No  | N/A |          |       |
| 7.  | Does the budget show:   |       |     |     |          |       |
| a.  | The county's outstanding obligations?   | Yes   | ___ | ___ | ___      | _____ |
| b.  | The cash on hand to the credit of each county fund?   | Yes   | ___ | ___ | ___      | _____ |
| c.  | The funds received from all sources during the preceding fiscal year?   | Yes   | ___ | ___ | ___      | _____ |
| d.  | The funds and revenue estimated by the auditor to be received from all sources during the preceding fiscal year?  | Yes   | ___ | ___ | ___      | _____ |
| e.  | The funds and revenue estimated by the auditor to be received from all sources during the ensuing fiscal year?  | Yes   | ___ | ___ | ___      | _____ |
| f.  | A statement of all accounts and contracts on which money is due to or owed by the county as of the end of the fiscal year (excluding taxes and court costs)?  | Yes   | ___ | ___ | ___      | _____ |
| 8.  | If needed, does the auditor require officials to provide information necessary to prepare the budget?   | Yes   | ___ | ___ | ___      | _____ |
| 9.  | Does the auditor file a copy of the proposed budget with the county clerk?  | Yes   | ___ | ___ | ___      | _____ |
| 10.   | Is the proposed budget easy to understand and follow?   | No    | ___ | ___ | ___      | _____ |
| 11.   | Are key components and features of the proposed budget adequately identified and explained?   | No    | ___ | ___ | ___      | _____ |
| 12.   | As requested, does the auditor assist the commissioners court in performing the court's duties relating to efficiency and effectiveness of county operations?<br><i>(The law provides that the county auditor may assist the court in performing the court's duties.)</i> | Yes   | ___ | ___ | ___      | _____ |
| 13.   | Does the auditor make a copy of any budget filed by the county tax assessor-collector, covering funds not included in the county budget, available to the public at all reasonable times?   | Yes   | ___ | ___ | ___      | _____ |
| <b>D. Budget Appropriations - Subchapter A, B, and C Counties</b> |   |       |     |     |          |       |
| 1.  | Does the auditor open an appropriation account for each main or special budgeted item?  | Yes   | ___ | ___ | ___      | _____ |



| Question  | Legal Requirement | Legal |     |     | Comments |
|---|-------------------|-------|-----|-----|----------|
|   |                   | Yes   | No  | N/A |          |
| 2. Does the auditor enter each warrant/check drawn against an appropriation to the proper account?  | Yes               | ___   | ___ | ___ | _____    |
| 3. Does the auditor periodically inform the commissioners court of the condition of the appropriation accounts?   | Yes               | ___   | ___ | ___ | _____    |
| 4. Does the auditor ensure each department's expenses do not exceed their appropriations?   | Yes               | ___   | ___ | ___ | _____    |
| 5. In counties with a population of more than 225,000, does the auditor charge all purchase orders, requisitions, contracts, and salary and labor allowances to the appropriation accounts? | Yes               | ___   | ___ | ___ | _____    |
| <b>E. Other - Subchapter A, B, and C Counties</b>   |                   |       |     |     |          |
| 1. Are the auditor's revenue estimates reasonably accurate?   | No                | ___   | ___ | ___ | _____    |
| 2. Does the auditor adequately assist other officials and department heads in preparing departmental budget requests?   | No                | ___   | ___ | ___ | _____    |

### **III. Accounting**

|   |     |     |     |     |       |
|---|-----|-----|-----|-----|-------|
| 1. Does the auditor keep a detailed set of records showing all county transactions relating to accounts, contracts, indebtedness, receipts and disbursements?   | Yes | ___ | ___ | ___ | _____ |
| 2. Does the auditor adopt and enforce regulations the auditor considers necessary for the speedy and proper collecting, checking, and accounting of the revenues and other funds and fees that belong to the county?<br><i>(This authority is permissive rather than mandatory. The law provides that the auditor "may" adopt and enforce regulations, not that the auditor "shall" adopt and enforce regulations.)</i> | Yes | ___ | ___ | ___ | _____ |
| 3. Are all regulations adopted under 2. above consistent with another law or a rule adopted by the Comptroller under Local Government Code, Section 112.003?  | Yes | ___ | ___ | ___ | _____ |

| Question  | Legal Requirement | Legal |     |     | Comments |
|---|-------------------|-------|-----|-----|----------|
|   |                   | Yes   | No  | N/A |          |
| 4. In counties with a population of 190,000 or more, are all regulations adopted under 2. above consistent with generally accepted accounting principles as established by the Governmental Accounting Standards Board? | Yes               | ___   | ___ | ___ | _____    |
| 5. In counties with a population of 190,000 or more, does the auditor prescribe the system of accounting for the county?  | Yes               | ___   | ___ | ___ | _____    |
| 6. Does the outside auditor's opinions or reports lack any negative references to the county's accounting system?   | No                | ___   | ___ | ___ | _____    |
| 7. Does the auditor provide appropriate accounting guidance and assistance to other county officials and department heads?  | No                | ___   | ___ | ___ | _____    |

#### IV. Auditing

|  |     |     |     |     |       |
|--|-----|-----|-----|-----|-------|
| 1. Does the auditor see to the strict enforcement of county finance laws?  | Yes | ___ | ___ | ___ | _____ |
| 2. Does the auditor:   |     |     |     |     |       |
| a. Audit officials' books, accounts, reports, vouchers and other records?  | Yes | ___ | ___ | ___ | _____ |
| b. Audit commissioners court's orders relating to county finances?   | Yes | ___ | ___ | ___ | _____ |
| c. Audit reports about the collection of money that are required to be made to the commissioners court?  | Yes | ___ | ___ | ___ | _____ |
| d. Audit officials' books and reports at least quarterly, stamping the books and reports approved or noting any differences, errors, or discrepancies?   | Yes | ___ | ___ | ___ | _____ |
| e. Audit the county treasurer's monthly report to the commissioners court, along with canceled warrants/checks, and verify the warrants/checks with what is shown on the auditor's books?  | Yes | ___ | ___ | ___ | _____ |
| f. At least quarterly, do a surprise audit of the funds held by the county treasurer or in a bank in which the treasurer has put the funds, making sure that all fund balances are actually on hand and that all investments are legally authorized? | Yes | ___ | ___ | ___ | _____ |

| Question   | Legal Requirement | Legal |     |     | Comments |
|--|-------------------|-------|-----|-----|----------|
|  |                   | Yes   | No  | N/A |          |
| g. At least annually, do a surprise audit of all officials, verifying accounts are correct and reporting the findings to the next term of the commissioners court?   | Yes               | ___   | ___ | ___ | _____    |
| h. Audit the accounts, dockets, and records of each clerk, justice of the peace, constable and of the sheriff and tax assessor and collector to determine if the official has custody of any money that belongs to the county and that has not been properly accounted for and remitted? If such money does exist, does the auditor report the findings to the commissioners court at its next term? | Yes               | ___   | ___ | ___ | _____    |
| i. Audit the receipts of each official collecting fines, fees and court costs in criminal cases each month to determine whether money collected has been properly disposed of?   | Yes               | ___   | ___ | ___ | _____    |
| j. In counties with a population of 190,000 or more, audit the accounts of officials at the end of each fiscal year or the accounting period fixed by law?   | Yes               | ___   | ___ | ___ | _____    |
| 3. Does the auditor respond promptly and appropriately when a possible error or irregularity has occurred?   | No                | ___   | ___ | ___ | _____    |
| 4. Does the county auditor meet with the outside auditor to see if there is any audit work that can be done by the county auditor to cut down on the amount of work needed to be done by the outside auditor?  | No                | ___   | ___ | ___ | _____    |
| 5. Does the auditor do other work of an audit nature to help the county operate more efficiently and effectively?  | No                | ___   | ___ | ___ | _____    |
| <b>V. <u>Countersigning Warrants/Checks</u></b>  |                   |       |     |     |          |
| 1. Excluding warrants/checks for jury service, does the auditor sign all checks drawn against the county treasury?   | Yes               | ___   | ___ | ___ | _____    |
| <b>VI. <u>Approving Claims</u></b>   |                   |       |     |     |          |
| 1. Does the auditor examine and approve all claims, bills, and accounts before they are paid?  | Yes               | ___   | ___ | ___ | _____    |

| Question  | Legal Requirement | Legal |     |     | Comments |
|---|-------------------|-------|-----|-----|----------|
|   |                   | Yes   | No  | N/A |          |
| 2. Does the auditor stamp each approved claim, bill, and account as approved?   | Yes               | ___   | ___ | ___ | _____    |
| 3. Does the auditor require an affidavit or administer an oath prior to approving a claim, bill, or account when the auditor feels it is necessary?   | Yes               | ___   | ___ | ___ | _____    |
| 4. Does the auditor not approve a claim unless it was incurred as provided by law?  | Yes               | ___   | ___ | ___ | _____    |
| 5. Does the auditor not approve an account for the purchase of supplies or materials, unless a requisition signed by the ordering officer and approved by the county judge is attached to the account?<br><i>(The commissioners court, by written order, can waive the requirement of the county judge's approval.)</i> | Yes               | ___   | ___ | ___ | _____    |

**VII. Reporting**

|  |     |     |     |     |       |
|--|-----|-----|-----|-----|-------|
| 1. Does the auditor periodically inform the commissioners court of the status of the budget?   | Yes | ___ | ___ | ___ | _____ |
| 2. Does the auditor present a tabulated report of the county's receipts and disbursements, and accounts at each regular commissioners court meeting? | Yes | ___ | ___ | ___ | _____ |
| 3. Does the auditor make monthly and annual reports to the commissioners court and district judge(s) showing:  |     |     |     |     |       |
| a. The total amounts received and disbursed from each fund?  | Yes | ___ | ___ | ___ | _____ |
| b. The condition of each account?  | Yes | ___ | ___ | ___ | _____ |
| c. The amount of funds on deposit in the county depository?  | Yes | ___ | ___ | ___ | _____ |
| d. The amount of county bonded debt and other debt?  | Yes | ___ | ___ | ___ | _____ |
| e. Anything else the auditor considers appropriate or that is required by the commissioners court or district judge(s)?                              | Yes | ___ | ___ | ___ | _____ |
| 4. In the report discussed in 3. above, does the auditor include a record of transactions made during the year?                                      | Yes | ___ | ___ | ___ | _____ |

| Question | Legal Requirement   | Legal |     |     | Comments |       |
|----------|---|-------|-----|-----|----------|-------|
|          |   | Yes   | No  | N/A |          |       |
| 5.       | In counties with a population of more than 225,000, does the auditor report monthly to the commissioners court on the county's financial condition, with the report containing: |       |     |     |          |       |
| a.       | All facts of interest related to the county's financial condition?  | Yes   | ___ | ___ | ___      | _____ |
| b.       | A consolidated balance sheet?   | Yes   | ___ | ___ | ___      | _____ |
| c.       | A statement of the balances on hand at the beginning and end of the month?  | Yes   | ___ | ___ | ___      | _____ |
| d.       | A statement of total receipts and disbursements by fund?  | Yes   | ___ | ___ | ___      | _____ |
| e.       | A statement of transfers to and from each fund?   | Yes   | ___ | ___ | ___      | _____ |
| f.       | A statement of bond and warrant debt with corresponding interest rates?   | Yes   | ___ | ___ | ___      | _____ |
| g.       | A summarized budget statement showing:  |       |     |     |          |       |
| 1)       | expenses paid from each office or department during the month and year-to-date?   | Yes   | ___ | ___ | ___      | _____ |
| 2)       | encumbrances against the budget?  | Yes   | ___ | ___ | ___      | _____ |
| 3)       | amounts available for further expenditure?  | Yes   | ___ | ___ | ___      | _____ |
| h.       | Other information the auditor considers necessary?  | Yes   | ___ | ___ | ___      | _____ |
| i.       | Other information required by the commissioners court?  | Yes   | ___ | ___ | ___      | _____ |
| 6.       | Does the auditor publish a condensed copy of the monthly report discussed in 5. above in a daily paper published in the county?   | Yes   | ___ | ___ | ___      | _____ |
| 7.       | Does the auditor prepare other reports as needed to enhance the efficiency and effectiveness of the county?   | No    | ___ | ___ | ___      | _____ |
| 8.       | Does the auditor determine when and how reports from others are made to the auditor?  | Yes   | ___ | ___ | ___      | _____ |
| 9.       | Does the auditor require each person who receives money, or who is responsible for disposing of or managing county property, to make reports to the auditor?                    | Yes   | ___ | ___ | ___      | _____ |

| Question | Legal Requirement | Legal |    |     | Comments |
|----------|-------------------|-------|----|-----|----------|
|          |                   | Yes   | No | N/A |          |

### **VIII. Purchasing**

- |    |  |     |     |     |     |
|----|--|-----|-----|-----|-----|
| 1. | In counties that have not appointed a purchasing agent, does the auditor serve in that position if:  |     |     |     |     |
| a. | The county has a population of 41,680 to 42,100?   | Yes | ___ | ___ | ___ |
| b. | Appointed by the commissioners court of a county that jointly employs an auditor under Section 84.008 of the Local Government Code?  | Yes | ___ | ___ | ___ |
| 2. | In counties with a population of more than 100,000, where the commissioners court has established the position of purchasing agent and then abolished the position, does the auditor serve as purchasing agent for the county? | Yes | ___ | ___ | ___ |
| 3. | If the auditor serves as the county's purchasing agent, does the auditor:  |     |     |     |     |
| a. | Comply with the County Purchasing Act?   | Yes | ___ | ___ | ___ |
| b. | Follow sound purchasing guidelines when making purchases?  | No  | ___ | ___ | ___ |
| c. | Administer the county's purchasing program in an effective and efficient manner?   | No  | ___ | ___ | ___ |

### **IX. Continuing Education**

- |    |  |     |     |     |     |
|----|--|-----|-----|-----|-----|
| 1. | Does the auditor successfully complete at least 40 classroom hours of instruction during each full term of office?   | Yes | ___ | ___ | ___ |
| 2. | Do the courses relate to county auditor duties and are they accredited by the Texas State Board of Public Accountancy as continuing professional education credits for certified public accountants? | Yes | ___ | ___ | ___ |
| 3. | Upon completing the courses and accumulating the credits, does the auditor certify that fact to the district judge(s)?   | Yes | ___ | ___ | ___ |

### **X. Miscellaneous**

- |    |  |     |     |     |     |
|----|--|-----|-----|-----|-----|
| 1. | In counties with a population of 125,000 or more, does the auditor meet the financial disclosure reporting requirements, if any? | Yes | ___ | ___ | ___ |
|----|--|-----|-----|-----|-----|

| Question  | Legal Requirement | Legal |     |     | Comments |
|---|-------------------|-------|-----|-----|----------|
|   |                   | Yes   | No  | N/A |          |
| 2. Does the auditor receive employee requests for payroll deductions?   | Yes               | ___   | ___ | ___ | _____    |
| 3. Does the auditor prescribe a system to be used by the county treasurer for receiving and depositing money?   | Yes               | ___   | ___ | ___ | _____    |
| 4. In a county with a population of 190,001 to 200,000, does the auditor keep the financial records for and make any required reports for a municipal or county hospital? | Yes               | ___   | ___ | ___ | _____    |
| 5. In a county with a population of more than 600,000, does the auditor appoint and supervise a comptroller for the County Building Authority?                            | Yes               | ___   | ___ | ___ | _____    |

# **General Internal Control**



## CHAPTER II

### GENERAL INTERNAL CONTROL

#### A. INTRODUCTION

Chances are that if \$300 was missing from a corporation in your county, it would not be reported in the media unless there was something significant surrounding the missing money (e.g., a prominent citizen was involved or a robbery was made at gunpoint). However, if it appears that \$300 is missing from a justice court, county clerk's office, or district clerk's office, it generally will get media coverage—and often, significant coverage.

The public expects and deserves sound financial management from county officials and employees. And county officials and employees deserve to work in an environment that protects them if they do their jobs correctly. Chances for errors and other irregularities should be minimal. All too often, it is not a situation where money is actually missing that causes an office problems, but rather a situation where someone thinks money may be missing and the financial management system in the office cannot show otherwise.

There are basic principles and guidelines, which when followed, provide the framework around which a justice court, county clerk's office, or district clerk's office should be organized and operated. A sound financial management system will:

- help ensure the safeguarding of assets;
- help ensure the reliability and timeliness of bookkeeping and accounting reports and data;
- promote operational efficiency; and
- encourage adherence to prescribed laws, regulations, policies, and procedures.

Specifically, when it comes to money and other property, a court or clerk's office should show four things:

- they have collected all the money or other property to which they are entitled;

- the money collected is properly remitted to the appropriate party;
- all money and other property is properly managed; and
- all money and other property is properly expended, properly accounted for, and properly reported.

Many courts and clerk offices do not have adequate staff and resources to operate according to textbook guidelines. However, each court and clerk's office should have a goal to do the best they can with the resources they have. In fact, some extra precautions and steps should be taken in those situations where there is a lack of adequate staff and other resources, because the chances for problems are higher.

One of the purposes of this handbook is to provide a framework for sound financial management that provides both accountability to the public and protection for those who do their jobs and do them right.

In this chapter, internal control will be looked at in general terms—a definition and description will be given, the basic principles of internal control will be provided, segregation of duties will be discussed, and the preparation of a financial management procedures manual will be addressed. More detailed and specific controls relating to specific subject areas will be covered in subsequent chapters (e.g., internal controls relating to receipts will be covered in Chapter III).

## B. INTERNAL CONTROL DEFINED AND DESCRIBED

Although more technical definitions exist, a practical definition of internal control (as used in this handbook) is:

Internal Control: the plans and procedures implemented in a justice court or county or district clerk's office which are designed to provide **reasonable** assurance of: (1) reliable financial information; (2) compliance with applicable laws and regulations; and (3) effective and efficient operations.

One easy way to think of internal control is as a set of financial management checks and balances. A sound system of internal control should:

- minimize the possibilities for errors and misuse of funds;
- provide a clear audit trail (show who did what and when they did it); and
- provide for earlier detection of errors and/or irregularities than would otherwise be the case.

Good controls make the work of both the county auditor and outside auditor easier and less time-consuming. However, keep in mind that good internal control provides “reasonable” (see the definition above), not “absolute” assurance that operations are as they should be.

Internal control used to be primarily something that only auditors and accountants talked about. But the frequency of publicized wrongdoing in governmental financial management has increased the need for awareness and understanding of internal controls at all levels of government. In addition to actual monetary losses that can result from poor controls, perhaps the biggest loss is the decline in the public's perception of and confidence in government.

The importance of internal control relates to both money and people. The people component, which in the long run can prove more important than the money side of internal control, is often overlooked. An internal control system should protect the people who do their jobs and do them right. The vast majority of people who are not involved in errors and irregularities deserve to work in an office that can show their innocence when errors and/or irregularities do occur. They do not deserve to be clouded with unnecessary suspicion.

Not protecting honest employees from unnecessary suspicion or improperly accusing them of errors and/or irregularities can have disastrous long-term results. An employee may feel he/she might as well take money since everyone seems to think he/she did so anyway, or the employee's performance may take a nose dive.

Most internal controls are not complicated. They are, however, frequently overlooked because officials and employees focus on what they consider to be the primary function(s) of their office. For example, a district clerk generally thinks in terms of duties related to the district court(s), rather than financial management duties and internal controls.

When it comes to financial management, an individual should not want someone to just trust him/her. Rather, he/she should want a set of procedures that are followed, and that will show he/she did the right thing should a question ever arise concerning county money.

One of the things that makes sound financial management so important is the realization that something only has to go wrong once and it can plague someone for a long time.

One quick way to determine if there may be some internal control weaknesses in an office is for everyone to take a "Blank Paper Test." Simply have each person in the office (the official included) write down the things that could cause him/her to be accused or unnecessarily suspected of wrongdoing, even if he/she did things right.

For example, assume three people all work from the same cash drawer, and there is \$50 missing from the drawer at the end of a day. It does not matter whether it was intentional or unintentional. Any one of the three could be at fault. This means that the two innocent people will probably be unnecessarily suspected. A sound system of internal control would pinpoint responsibility for the missing money, preventing those who did not have anything to do with it from being unnecessarily suspected.

Other examples include: (1) not getting a receipt when turning in money to someone; (2) not using official, chronologically, pre-numbered receipts for intakes of money; or (3) not balancing out receipts before turning money and receipts over to someone else.

Finally, one additional matter should be kept in mind concerning internal control—and that is the “Cost Benefit Rule.” This rule simply provides that, in general, the cost of internal controls should not exceed the expected benefit. For example, \$10,000 should not be spent to protect \$500. The rule takes into account that funds should be spent efficiently and effectively.

## **C. BASIC PRINCIPLES OF INTERNAL CONTROL**

(The materials on pages II-6 through II-8 were adapted from the *Justice of the Peace Manual (1994)* - a Texas Comptroller of Public Accounts publication.)

There are four basic principles of internal control. Every good system of internal control has all four principles, not just two or three. The principles are:

1. Appropriate division of duties;
2. Qualified personnel;
3. Sound, written procedures for authorizing, recording, and reporting transactions; and
4. Actual performance consistent with the first three principles.

### **1. Appropriate Division of Duties**

If possible, the following three basic functions should be performed by three different people within an office:

- authorization (approval) of transactions;
- recording of transactions; and
- custody of assets (money and other property).

For example, a clerk making collections and issuing receipts (having custody of assets) should not be the person to balance and prepare the bank deposit (approving the day's receipts), and neither of these persons should record the day's receipts in the cash receipts journal.

If one person does perform two, or all three of these functions, there is no independent check for mistakes. Consequently, errors are more likely to go undiscovered for long periods of time. Fraud is also much easier if, for example, the same person collects cash, prepares the bank deposit, and/or records the receipts in the books.

Refer to Page II-9 for additional information on the division of duties.

In many offices, it is often not practical to maintain a strict division of duties due to a limited staff size. If such is the case, other means will have to be used to help assure reliable internal control. For example:

- rotation of duties among personnel;
- more strict supervision;
- special double-checking of work;
- enforced vacations;
- additional training to improve quality of personnel; and
- more frequent internal audits.

The six items above are important regardless of staff size—they just take on added importance in offices with fewer personnel.

The basic point to remember is that **no single person should handle a transaction from beginning to end**. This means if there are at least two people in an office on any given day, there can be some division of duties.

## **2. Qualified Personnel**

Staff positions should naturally be filled with the most qualified and competent persons possible. Under-qualified persons tend to be less able to perform their duties without undue errors. Special training may help here.

A surprising number of people are dishonest on applications and resumes. Employers who hire the “wrong” person often do so because they failed to take time to verify information given by applicants. If an official is interested in hiring someone, it is imperative they verify educational background, prior employment, skills, and check with references and prior supervisors.

All personnel should know clearly what they are supposed to do and how they are supposed to do it. Additionally, personnel should understand how their duties fit in with the duties of others in the office, and with the duties of other offices and departments in the county.

## **3. Sound Procedures for Authorizing, Recording, and Reporting Transactions**

All offices should have logical, consistent procedures that describe in detail the duties that must be performed, how they are to be performed, and who is to perform them. If personnel clearly understand what is expected of them, they will tend to do a better, more accurate job. Also, errors will be fewer and chances of fraud will be less, if each person understands what he/she should be doing.

Procedures should provide for:

- use and control of pre-numbered forms and documents (e.g., receipts, checks);
- cross-referencing of documents (e.g., citation numbers, docket numbers, receipt numbers);
- periodic reconciliation of subsidiary records to control totals (e.g., payout information);
- proper authorization of transactions (e.g., remittances, disbursements, requisitions);
- effective, timely reporting of transactions (e.g., monthly reports);
- safeguarding of assets (money and other assets);
- appropriate flow of documents (e.g., citations, complaints, receipts, deposit/remittance forms, warrants);
- reasonable amount of checking work of others; and
- bonding of all employees with access to money and other valuables.

These procedures should be developed in cooperation with the county auditor and county treasurer.

#### **4. Actual Performance Consistent With the First Three Principles**

A good system of division of duties, qualified personnel, and sound, written procedures will not guarantee good internal control—the system must be followed. Results must be periodically monitored to see if the system is working as it should be. In other words, just having good people, good procedures, and a good plan for distribution of the workload is not enough.

Checking to see if performance is appropriate is part of the county auditor's internal audit functions. However, this does not relieve an official of the responsibility for checking the performance in his/her own office. In fact, it can be argued that an official's attitude and desire for good internal control in his/her office is the most important part of a good system. In other words, if an official does not think internal control in his/her office is important, it is not likely his/her employees will either.



## D. DIVISION OF DUTIES WORKSHEET

An appropriate division of duties is the first basic principle of internal control (see page II-6). Remember, the basic point is that **no single person should handle a transaction from beginning to end**. The primary reason is to prevent an individual from having enough control over a transaction to where errors and/or irregularities can occur and go undetected for extended periods of time. An appropriate division of duties should also produce warning signals when errors and/or irregularities do occur.

It is important to keep in mind that a good division of duties does not guarantee that things will operate as they should. This is because two or more people can be involved in wrongdoing (i.e. collusion). Unannounced rotation of job duties and surprise audits can help reduce the chances of collusion.

In offices without an adequate staff size to properly divide duties, the additional procedures listed on page II-7 will help ensure reliable internal control.

The worksheet on the next page should assist in determining if there is a proper division of duties in an office. The worksheet comes from the December 1998 issue of *City and County Financial Management Systems*, a Texas Comptroller of Public Accounts publication.

### Division of Duties Worksheet

Place a check by the duties for each person in your office. Add additional columns if your office has more than five employees. Also, if your office has any additional duties/responsibilities that are not listed on the worksheet, add those. Remember, that ideally, no one person should be involved in more than one type of duty. In other words, someone with custody duties should not also have recording duties. If, upon completing the worksheet, you discover conflicting duties in your office, reallocate the duties in a manner that results in a more appropriate division. The county auditor can help here. If duties cannot be properly divided because of staff size, then, where possible, limit a person to only two types of duties. If it is not possible to limit a person's duties to two types, then be sure to use the additional procedures listed on page II-7.

| Duty/Responsibility   | Type    | Person<br>A | Person<br>B | Person<br>C | Person<br>D | Person<br>E |
|---|---------|-------------|-------------|-------------|-------------|-------------|
| <i>Involving Money:</i>   |         |             |             |             |             |             |
| Receive money/issue receipts  | Custody | _____       | _____       | _____       | _____       | _____       |
| Open and list mail receipts   | Custody | _____       | _____       | _____       | _____       | _____       |
| Prepare bank deposits/remittances                                     | Custody | _____       | _____       | _____       | _____       | _____       |
| Review/approve bank deposits/<br>remittances                          | Approve | _____       | _____       | _____       | _____       | _____       |
| Record receipts   | Record  | _____       | _____       | _____       | _____       | _____       |
| Access to unused receipts   | Custody | _____       | _____       | _____       | _____       | _____       |
| Take inventory of unused receipts                                     | Record  | _____       | _____       | _____       | _____       | _____       |
| Prepare disbursements   | Record  | _____       | _____       | _____       | _____       | _____       |
| Sign checks   | Approve | _____       | _____       | _____       | _____       | _____       |
| Record disbursements  | Record  | _____       | _____       | _____       | _____       | _____       |
| Access to unused checks   | Custody | _____       | _____       | _____       | _____       | _____       |
| Take inventory of unused checks                                       | Record  | _____       | _____       | _____       | _____       | _____       |
| Prepare billings and delinquency<br>letters                           | Record  | _____       | _____       | _____       | _____       | _____       |
| Approve billings and delinquency<br>letters                           | Approve | _____       | _____       | _____       | _____       | _____       |
| Reconcile bank statements   | Record  | _____       | _____       | _____       | _____       | _____       |
| Review/approve bank<br>reconciliations                                | Approve | _____       | _____       | _____       | _____       | _____       |
| Prepare monthly reports   | Record  | _____       | _____       | _____       | _____       | _____       |
| Review/approve monthly reports  | Approve | _____       | _____       | _____       | _____       | _____       |
| <i>Not Involving Money:</i>   |         |             |             |             |             |             |
| Use of furniture, equipment,<br>vehicles and other physical<br>assets | Custody | _____       | _____       | _____       | _____       | _____       |
| Take inventory of physical assets                                     | Record  | _____       | _____       | _____       | _____       | _____       |
| Review/approve inventory of<br>physical assets                        | Approve | _____       | _____       | _____       | _____       | _____       |
| Fill out own time cards   | Custody | _____       | _____       | _____       | _____       | _____       |
| Review/approve time cards   | Approve | _____       | _____       | _____       | _____       | _____       |
| Use time cards to calculate payroll                                   | Record  | _____       | _____       | _____       | _____       | _____       |

## **E. PROCEDURES MANUAL**

(The materials on pages II-11 and II-12 were adapted from the *Justice of the Peace Manual (1984)* - a Texas Comptroller of Public Accounts publication.)

### **1. Procedures Manual Defined**

A procedures manual is a detailed, written description of each duty and function in an office and how they are to be performed. A good manual should include the following:

- organization chart;
- list of employee positions, including job requirements and responsibilities;
- description of each function in the office, including all steps involved in performing the function;
- description and sample of each form and document used in the office;
- description of collecting, processing, and depositing/remitting payments;
- description of the bookkeeping system to be used, and how it is to be maintained;
- description of the reports to be completed, who is to complete them, how they are to be completed, and where and when to send them;
- internal controls within the office; and
- any other information useful in carrying out the duties and responsibilities of the office effectively and efficiently.

When possible, flowcharts should be used to enhance understanding of the procedures.

### **2. Preparing a Financial Management Procedures Manual**

A quick and often effective way of getting started on a financial management procedures manual is to let the employees do it themselves. They know better than anyone what they do, and how they do it. Simply have them list their duties and responsibilities and describe step-by-step specifically what they do.

Depending upon the size of the office, one individual or a procedures manual team should be responsible for preparing a complete, initial draft of the manual. A review process should be established and followed to ensure correctness, consistency, and completeness. Legal aspects of the manual should be reviewed by the county attorney's office.

Upon completion, a copy should be given to each office employee, if possible. Limited copies usually means limited use. If possible, update the manual whenever there are changes to laws, regulations, policies, or procedures. At a minimum, review and update the manual annually.

### **3. Benefits of a Good Financial Management Procedures Manual**

Even though Texas law does not require justice courts, county clerk offices, or district clerk offices to have a financial management procedures manual, it is an essential part of a sound system of internal control. A good procedures manual has the following important benefits:

- guides employees in performing their jobs correctly;
- guides employees in performing the duties of absent staff;
- helps train new employees;
- helps safeguard assets;
- helps auditors familiarize themselves with office operations (*without this tool, they may have to spend costly time learning how the office works*); and
- helps inform the budget officer and commissioners court of the operations of the office (*which can be particularly helpful during budget hearings*).

Operating without written procedures decreases efficiency and weakens the internal controls of the office and the county.

# **Receipts And Disbursements**

## CHAPTER III

### RECEIPTS AND DISBURSEMENTS

#### A. INTRODUCTION

This chapter focuses on financial management relating to receipts and disbursements. Topics include:

- Change funds;
- General over-the-counter receipts;
- Mail receipts;
- Lockbox receipts;
- Installment and partial payments;
- Other types of payments;
- Receipt form;
- Accounting for receipts;
- Disbursements and remittances; and
- Accounting for disbursements.

Remember, from the previous chapter, that the financial management checks and balances in an office should show:

- they have collected all the money or other property to which they were entitled;
- money collected was properly remitted to the appropriate party;
- all money and other property is properly managed; and
- all money and other property is properly expended, properly accounted for, and properly reported.

For a simple analogy, consider the paycheck you receive. You probably make sure the amount is correct (i.e. you received the full amount to which you are entitled). You probably also manage that money by keeping up with it and protecting it. In other words, you probably do not leave cash just laying around, nor do you leave blank checks just anywhere. You probably also make sure creditors get the right amount at the right time, and keep up with what you have left after bills are paid and where it is. Financial management in a justice court, county clerk's office, or district clerk's office is similar—it is just done on a larger scale.

When it comes to receipts and disbursements, a good audit trail (who did what and when they did it) is a must. Remember, without it, those who do their jobs right cannot be protected. And those who do their jobs wrong often cannot be identified with any degree of certainty.

## **B. CHANGE FUNDS**

(The materials on pages III-3 through III-5 were adapted from the *Justice of the Peace Manual (1994)* - a Texas Comptroller of Public Accounts publication.)

### **1. Introduction**

Change funds are used for the purpose of making change for customers. There should be a separate change fund for each person taking in money and issuing receipts. Change funds should be maintained at the lowest practical level—generally what is needed for daily operations. To determine the amount needed:

- analyze prior transactions;
- check with the county auditor and/or county treasurer for guidance; and
- check with other justices of the peace, county clerks, or district clerks.

Change funds are provided for in Local Government Code, Section 130.902 (*see Appendix - page 46*), which provides that the commissioners court may set aside from the general fund an amount approved by the county auditor for use as a change fund by any county or district official who collects public funds. Section 130.902 also provides that:

- the fund may be used only to make change in connection with collections that are due and payable to the county, the state, or another political subdivision of the state that are often made by the official;
- the bond of an official who receives a change fund must cover the official's responsibility for the correct accounting and disposition of the fund;
- a change fund may not be used to make loans or advances or to cash checks or warrants of any kind; and
- on the recommendation of the county auditor, the commissioners court may increase or decrease the change fund at any time.

It is recommended that signs be posted in the office indicating:

- checks and money orders will be accepted for the amount of payment only;
- checks will not be cashed;
- any currency denominations that will not be accepted; and



- when paying in cash, the payor have as close to the exact amount as possible.

## **2. Creating a Change Fund**

- a. After the commissioners court authorizes the change fund and the amount is approved by the county auditor, the official should receive the amount from the county treasurer, count it to verify the amount, and then sign for the receipt of it.
- b. The official will then turn over money to each individual responsible for operating a fund, have him/her count it to verify the amount, and then sign a receipt for the amount received.
- c. Each fund should be maintained in a simple, secured location. Generally, only the responsible individual should be allowed access to the fund.

## **3. Managing a Change Fund**

The individual responsible for operating a fund must:

- a. Count and verify the change fund at the beginning of each day. The amount should be consistent from day to day.
- b. Make change as necessary. When making change, always count the change until you come up with the same amount twice.
- c. Count and verify the change fund at the end of each day. The dollar amount in the change fund after receipts are removed should equal the authorized amount of the fund.
- d. Periodically review the adequacy of the change fund amount and make adjustments as needed.

## **4. Control of Change Funds**

- a. Maintain each fund at the lowest practical level (\$50 - \$200 per cashier is usually adequate).
- b. Under no circumstances should the fund be:

- 1) commingled with personal funds;
  - 2) used to make advances to officials or employees; or
  - 3) used to cash personal checks.
- c. Unannounced reconciliations or audits of cash receipts and change funds should be made on an irregular basis to help ensure the integrity of the fund.
- d. The fund should be appropriately secured at all times, during the day and night.

## C. GENERAL OVER-THE-COUNTER RECEIPTS

### 1. Introduction

The most basic method for receiving payments is over-the-counter. The following procedures are general in nature, but detailed enough to be adapted for use in most offices. Each office should adapt the procedures to fit its specific situation. In addition to the internal control considerations previously discussed, following sound procedures also helps an office present a good image to the public.

The procedures are broken down into four areas:

- Getting started;
- Opening up;
- Basic operations; and
- Closing out.

### 2. Getting Started

There are some basic things that should be covered before an office and employee begins receiving money over-the-counter. Many of them are common sense, but often get overlooked in the fast pace of day-to-day operations.

- a. Develop written procedures. The procedures should:
  - 1) be comprehensive;
  - 2) be dated (i.e. indicate their effective date); and
  - 3) periodically be reviewed and updated (at least annually).
- b. Appropriately bond cashiers. Whether employees are bonded individually, as part of an entire office, or as part of the county as a whole varies. The important thing is that employees are properly bonded.
  - 1) only bonded employees should receive and/or handle money; and
  - 2) the adequacy of bond amounts should periodically be reviewed (at least annually) and any necessary changes made.

- c. Provide a physically secure place for cashiers. Cashiers should have a feeling of safety as they do their jobs. Each county should take reasonable steps to ensure a safe working environment for employees by:

- 1) providing appropriate physical barriers and restrictions between cashiers and the public;
- 2) using signs to show restrictions (e.g., only employees beyond this point); and
- 3) providing cashiers with some sort of panic button or similar device.

Providing a physically secure place for cashiers would be a good use of the Courthouse Security Fund provided for in the Code of Criminal Procedure, Article 102.017 (*see Appendix - page 13*). The money in that fund comes from a \$5 fee on felony convictions, a \$3 fee on misdemeanor convictions in district courts and county courts, and a \$4 fee on convictions in justice courts. The fund is administered by and under the direction of the commissioners court.

- d. Adequately train cashiers. To best represent the office and the county, cashiers should be trained in a wide range of areas, including:

- 1) court operations;
- 2) county operations in general;
- 3) dealing with people;
- 4) handling money;
- 5) security issues;
- 6) types of collections:
  - a) cash;
  - b) money orders and cashiers checks;
  - c) credit cards; and
  - d) any other applicable types of collections;
- 7) determining the proper amounts to be collected; and
- 8) forms to be used and how to use them.

- e. Have a fireproof place (preferably a safe) to lock up money and any unissued receipts overnight. Money should not only be safeguarded during the day, but also overnight and at other times the office is closed.

- f. Explain to cashiers that no commingling of money is acceptable. This would include:
- 1) commingling personal money with office money;
  - 2) cashing personal checks;
  - 3) using office money to make personal change; or
  - 4) using personal money to make office change.
- g. Post signs indicating certain court policies. Individuals should not be surprised about certain office policies when they are ready to make a payment. The signs should be posted even if notification is also made via other methods (e.g., letters, citations, etc.). In this situation, the signs reinforce the policies and make the job of the cashiers somewhat easier. The signs should:
- 1) state the methods of payment accepted and not accepted;
  - 2) state any currency denominations not accepted;
  - 3) indicate that someone paying in cash should have as close to the exact amount owed as possible; and
  - 4) instruct payors to obtain a receipt as proof of payment.
- h. Obtain an adequate supply of pre-printed, hard-copy, chronologically numbered receipts. Using chronologically numbered and controlled receipts is a significant component of a sound system of receiving payments. Even if the office issues computer-generated receipts, hard-copy receipts are needed for those instances when the computer goes down.
- 1) if computer-generated receipts are used, they should also be chronologically numbered (the number is usually affixed as the transaction occurs);
  - 2) restrict the ability to set or reset the computer-generated receipt numbers;
  - 3) receipts should display the name of the county and county office;
  - 4) receipts should have at least three parts (it is okay for one part to be electronic):
    - a) one part for the person making the payment;
    - b) one part for the office issuing the receipt; and
    - c) one part for the county auditor (or county treasurer if there is no county auditor);

- i. Distribute the pre-printed, hard-copy, chronologically numbered receipts to the cashiers.
  - 1) explain to them their responsibilities concerning the receipts and what steps to take when they are aware of any problems;
  - 2) have them count all the receipts being distributed to them; and
  - 3) have them sign something indicating specifically what receipts they received (i.e. receipt numbers xxx - xxx).
  
- j. Periodically reconcile all receipts. It is important to periodically account for all receipts—not just the issued ones, but the unissued ones as well. The idea is to make sure that all unissued receipts are in fact unissued and accounted for. In other words, making sure that someone has not been issuing receipts out of sequence and taking the money.
  
- k. Provide each cashier with a separate cash box, drawer, or register. It is usually impossible to properly affix responsibility for over-the-counter errors or irregularities when two or more people work out of the same box, drawer, or register. For example, if Carol and Bob work out of the same cash drawer and \$50 dollars is missing at the end of a day, it is virtually impossible to appropriately pinpoint responsibility for who made the mistake or took the money. The problem is compounded as the number of people who work out of a single box, drawer, or register increases. Even if a single register is used that requires each cashier to key in a unique user number before processing a transaction, responsibility for missing money still cannot be properly pinpointed. This is because someone can take out more money or put in less money than they should. Here again, it would not be possible to affix responsibility to a specific cashier. It is recommended that the following procedures be implemented:
  - 1) provide each cashier with their own key;
  - 2) explain to each cashier their responsibility for the key and the box, drawer, or register;
  - 3) make sure another key is kept by someone higher in authority and is only used as needed and in the presence of at least two people; and

- 4) make sure the boxes, drawers, or registers are compartmentalized to keep currency and coin denominations separate. Using compartmentalized boxes, drawers, or registers reduces the chances of giving someone the wrong change.
1. Distribute a change fund to each cashier. Since each cashier needs their own box, drawer, or register, they need their own change fund as well.
    - 1) maintain the change fund at the lowest practical level—generally what is needed for daily operations;
    - 2) \$50—\$200 per change fund will be adequate in most instances;
    - 3) have cashiers count and sign for the money they receive; and
    - 4) periodically review the adequacy of the change fund amount (occasionally, determine how often coins and currency exchanges are needed) and make appropriate adjustments.

*(The total amount of change funds for a justice court, county clerk's office, or district clerk's office has to be set aside from the general fund by the commissioners court and has to be approved by the county auditor. On the recommendation of the county auditor, the commissioners court may increase or decrease the fund at any time.)*

LGC §130.902

- m. Make sure cashiers do not also handle mail receipts. If, due to a limited staff size, a cashier does have to handle mail receipts, mail should be handled at a time when the cashier is not handling over-the-counter receipts and when the cashier does not have access to his/her cash box, drawer, or register.

### **3. Opening Up**

This area focuses on those things that should be done by a cashier each day before he/she begins handling transactions.

- a. Obtain change fund and unissued receipts.
  - 1) the fund and receipts should have been locked up in a secure place overnight; and

- 2) if obtaining a fund and receipts provides a cashier access to another cashier's fund or receipts, at least two people should be present when the funds and receipts are obtained.
- b. Count and verify the change fund amount. It is important to verify that the beginning amount is correct. For example, if someone took money out of a change fund during the night, and the amount was not checked before starting to handle transactions the following day, the assumption would be that something happened during the day's transactions, not before the day's transactions started. A cashier could be unnecessarily suspected of wrongdoing.
- 1) indicate on the Cashier Reconciliation Form that the beginning change fund amount is correct and was verified; or
  - 2) if the amount is incorrect:
    - a) list the amount missing;
    - b) if possible, indicate specifically what is missing (i.e. the number of dimes, quarters, one dollar bills, five dollar bills, etc.); and
    - c) make appropriate notification as required by the official.
- c. Count and verify unissued receipts. It is also important to verify that the unissued receipts that are supposed to be there are in fact there. For example, if someone took unissued receipts during the night, and that was not checked before starting to handle transactions the following day, the assumption might be that the responsible cashier issued the receipts and pocketed the money. Remember, a good audit trail shows who did what, when they did it, and how much was involved.
- 1) indicate on the Cashier Reconciliation Form that the unissued receipts that are supposed to be there are in fact there; or
  - 2) if any receipts are missing:
    - a) list, by number, the receipts missing; and
    - b) make appropriate notification as required by the official.



- d. Put change fund and receipts in working location. The working location should be a box, drawer, or register that can be adequately secured.
- e. Make sure items needed to handle over-the-counter receipts are present and in good working condition. A cashier should have what they need to do the job before the first person comes in to make a payment. Items needed may include:
  - 1) calculator;
  - 2) date stamp (changed to current date);
  - 3) ink pads;
  - 4) restrictive endorsement stamp;
  - 5) payee stamp;
  - 6) court costs, fees, and fine schedule(s);
  - 7) pens and paper; and
  - 8) any information to be disseminated to persons making payments.
- f. If applicable, get computer “up and running.” This would include:
  - 1) turning the computer on and logging on;
  - 2) making sure needed applications are working; and
  - 3) making notifications and adjustments for any items not working.

#### **4. Basic Operations**

Below are the procedures a cashier should follow each day there is cashiering activity. Remember, the procedures should be adjusted to fit the circumstances of a particular office.

- a. Be professional and courteous to each person. Each cashier represents both the office and the county.
- b. Make sure the amount being paid is correct. The documents or information to check to make sure the amount being paid is correct include:
  - 1) a court judgment;
  - 2) court costs, fees, or fine schedules;
  - 3) a payout agreement; and/or
  - 4) an applicable law.

- c. Prepare and issue a receipt for each intake of money.
- 1) information on a receipt should normally include:
    - a) the date;
    - b) the docket, case, or account number;
    - c) the amount received;
    - d) the name of the person making the payment;
    - e) what the money is being received for;
    - f) the method of payment (e.g., cash, check, money order) and, if applicable, the number of the check or money order;
    - g) the name of the county and identification of the office (e.g., Justice Court, Precinct 1, County Clerk's Office, or District Clerk's Office);
    - h) additional information as needed; and
    - i) the signature of the person issuing the receipt;
  - 2) for hand-prepared receipts:
    - a) fill out the necessary information on the receipt before signing it;
    - b) make sure the payment is received and the amount is correct before entering the amount on the receipt. *(If checks are accepted, make sure they are completely filled out, the amount is correct, and they are signed);* and
    - c) if a hand-prepared receipt is being prepared because the computer is down and the system requires that a computer-generated receipt be issued later, appropriately cross-reference and attach the receipts;
  - 3) when making change, count it until the same amount is arrived at twice;
  - 4) keep the payment received in view until the receipt is issued and the payor is satisfied;
  - 5) restrictively endorse checks and money orders;
  - 6) put the payment in the box, drawer, or register; and
  - 7) appropriately place any paperwork and/or documents (e.g., receipt copies, payout agreement, files).
- d. Lock up money and receipts (both issued and unissued) if the immediate work area is left for any reason, including:
- 1) breaks;
  - 2) lunch;
  - 3) appointments; or

- 4) meetings.
- e. Establish a procedure for making coin and currency exchanges. When doing so:
  - 1) double-count what you give up; and
  - 2) double-count what you receive.
- f. For high volume operations, have a system in place to remove excess cash during the day. Doing so reduces security problems and should allow for more rapid deposits.
  - 1) make the renewals at predetermined times or levels; and
  - 2) amounts removed should be signed for, or if that is not possible, counted by both the cashier and the person receiving the cash.
- g. Retain all voided receipts. When voided receipts occur:
  - 1) clearly mark “VOID” on the receipt copies;
  - 2) do not alter the receipt in any way; and
  - 3) if the payor’s copy is missing, attach something explaining why.
- h. Make sure automated systems provide a clear audit trail (i.e. who did what, when they did it, and how much was involved).
  - 1) utilize a multi-level access structure that permits changes to only be made by authorized personnel; and
  - 2) ensure the system traces changes and shows who made them.

*(Financial management information should not be able to be changed on a computer without a clear audit trail. For example, if someone can reduce the amount the computer system shows as owing on a case—say from \$400 to \$200, it would be easier for someone to steal \$200 than would otherwise be the case.)*

- i. If someone performs a cash count on the cashier, the cashier should never leave the person performing the count alone with the money and receipts. The cashier should:

- 1) watch carefully what the person does;
- 2) sign the cash count form indicating the date and time; and
- 3) indicate on the form if he/she disagrees with the count, and if so, in what way.

## 5. Closing Out

The following procedures for closing out are based on the use of the sample Cashier Reconciliation Form shown on page III-18. The procedures can easily be adapted to use with other reconciliation forms.

- a. Each cashier should initially balance out his/her own cash box, drawer, or register. If a cashier turns in money to someone without counting it and something is missing, it is difficult to prove who is at fault.
- b. Each cashier should balance out each day he/she has any cashiering activity.
- c. To balance out, a cashier should:
  - 1) go to the designated location for balancing out. The location should:
    - a) generally not be in the public's view; or
    - b) be so isolated the cashier is completely alone;
  - 2) separate the money and checks/money orders and any other applicable documents (e.g., credit card slips);
  - 3) further separate the currency and coins into denominations;
  - 4) count the currency and coins by denomination, entering the individual denomination totals and the overall total in the "Cash and Currency" section of the Cashier Reconciliation Form. The overall total should also be entered in the "Recap" section of the Cashier Reconciliation Form.
  - 5) rubber-band (or otherwise secure) the currency together in descending denomination size and put coins in an appropriate envelope or container;
  - 6) list the individual checks and money orders with amounts and the overall total in the "Checks/Money Orders" section of the Cashier Reconciliation Form, and

- a) run an adding machine tape of the checks and money orders and write "Checks/Money Orders" on the top of the tape;
  - b) attach the tape to the checks and money orders; and
  - c) enter the overall total in the "Recap" section of the Cashier Reconciliation Form;
- 7) add the "Cash and Currency" total in the "Recap" section to the "Checks/Money Orders" total in the "Recap" section to arrive at the "Total Monies on Hand" in the "Recap" section;
  - 8) replenish the change fund (counting the amount twice) and enter the change fund amount in the "Recap" section. *(The change fund amount should generally remain constant from day to day.);*
  - 9) subtract the "Less Change Fund Amount" in the "Recap" section from the "Total Monies on Hand" amount in the "Recap" section to arrive at "Total Monies on Hand (Excluding Change Fund Amount)";
  - 10) put the copies of the receipts issued in numerically chronological order and enter the beginning receipt number and ending receipt number in the "Receipts To Account For" section of the Cashier Reconciliation Form. *(The form has space for three batches of receipts if needed.);*
  - 11) enter the total amount of the receipts issued in the "Receipts To Account For" section of the Cashier Reconciliation Form; and
    - a) run an adding machine tape of the receipts and write "Receipts" on the top of the tape;
    - b) attach the tape to the receipts; and
    - c) enter the total amount of the receipts issued in the "Recap" section of the Cashier Reconciliation Form;
  - 12) subtract the total of "Receipts To Account For" from "Total Monies on Hand (Excluding Change Fund Amount)" and enter the amount in the space provided in the Cashier Reconciliation Form. The amount should be zero. A positive number represents an overage. A negative number represents a shortage;

- 13) if there is an overage or shortage, repeat steps 4) through 12) and compare individual receipt amounts to check and money order amounts. If a mistake was made doing the reconciliation and there is not an overage or a shortage, correct the form. If there continues to be an overage or a shortage, continue to the next step;
  - 14) verify unissued receipts are all present (in unbroken series)  
*(If any are missing, indicate this in the "Additional Information" section of the Cashier Reconciliation Form, listing the missing receipt numbers.);*
  - 15) enter the date and time and sign the Cashier Reconciliation Form; and
  - 16) make a copy of the Cashier Reconciliation Form and forward the form, receipts, and payments to the appropriate individuals for verification and remittance or deposit preparation and bookkeeping.
- d. Return the cash box, drawer, or register (along with the change fund) to the appropriate location for safekeeping.

**CASHIER RECONCILIATION FORM**  
 County of \_\_\_\_\_, Office of \_\_\_\_\_  
 For the Date of \_\_\_\_\_

| CASH AND CURRENCY   |               | RECAP                                 |
|---------------------|---------------|---------------------------------------|
| <b>Denomination</b> | <b>Amount</b> | <b>Cash and Currency</b>              |
| .01                 | _____         | <b>Checks / Money Orders</b>          |
| .05                 | _____         |                                       |
| .10                 | _____         | <b>Total Monies on Hand</b>           |
| .25                 | _____         |                                       |
| .50                 | _____         | <b>Less Change Fund Amount</b>        |
| 1.00                | _____         |                                       |
| 2.00                | _____         | <b>Total Monies on Hand</b>           |
| 5.00                | _____         | <b>(Excluding Change Fund Amount)</b> |
| 10.00               | _____         |                                       |
| 20.00               | _____         | <b>Receipts To Account For</b>        |
| 50.00               | _____         |                                       |
| 100.00              | _____         | <b>Overage (Shortage)</b>             |
| <b>Total</b>        | _____         | _____                                 |

| RECEIPTS TO ACCOUNT FOR      |                           |                    |
|------------------------------|---------------------------|--------------------|
| <b>Beginning Receipt No.</b> | <b>Ending Receipt No.</b> | <b>Batch Total</b> |
| _____                        | _____                     | _____              |
| _____                        | _____                     | _____              |
| _____                        | _____                     | _____              |
| <b>Total</b>                 |                           | _____              |

| CHECKS / MONEY ORDERS |               |               |               |               |               |
|-----------------------|---------------|---------------|---------------|---------------|---------------|
| <b>Source</b>         | <b>Amount</b> | <b>Source</b> | <b>Amount</b> | <b>Source</b> | <b>Amount</b> |
| _____                 | _____         | _____         | _____         | _____         | _____         |
| _____                 | _____         | _____         | _____         | _____         | _____         |
| _____                 | _____         | _____         | _____         | _____         | _____         |
| _____                 | _____         | _____         | _____         | _____         | _____         |
|                       |               |               |               | <b>Total</b>  | _____         |

| ADDITIONAL INFORMATION                      |                                  |
|---|----------------------------------|
| Beginning change fund amount verified _____ | Unissued receipts verified _____ |
| _____                                       | _____                            |
| _____                                       | _____                            |
| _____                                       | _____                            |

\_\_\_\_\_  
 Signature / Date / Time

## **D. MAIL RECEIPTS**

(The materials on pages III-19 through page III-27 were adapted from *City and County Financial Management (1994)* - a Texas Comptroller of Public Accounts publication.)

### **1. Introduction**

Proper management of mail collections is particularly important because the person making payment is not present, and no receipt is issued at the time of collection. To make matters worse, many people send cash through the mail. The goals concerning mail collections are to establish a clear audit trail, and to ensure and document the proper handling of mail collections. The collections should be processed correctly and timely. This means mail payments should be processed daily.

How well an office is run can often be gauged by how the office handles mail receipts. If they are handled properly and timely, then the rest of the office is usually in pretty good shape. However, if mail is not handled properly, odds are high there are problems in other areas of office operations. In other words, if an area in which the involved party is not present (as with mail collections) is in good shape, the probability is that other areas (where the involved parties generally are present) are in good shape, also.

### **2. General Guidelines**

These general guidelines should help ensure an office has addressed the important issues related to mail receipts. They also provide the framework around which basic procedures can be developed.

#### **a. Getting Mail from the Post Office**

- 1) consult with the post office to determine the most efficient and effective way to have mail addressed;
- 2) make a conscious effort to help ensure that those who send payments and correspondence via the mail are aware of how the mail should be addressed;
- 3) determine if there is a specific time(s) when mail is supposed to be delivered to the office or picked up by someone from the office;



- 4) if mail is picked up by someone from the office, make sure a specific individual is designated to do so, and that there is a backup when one is needed;
- 5) determine if it will be beneficial to have mail delivered or picked up more than once a day;
- 6) on a sample basis, compare postmark dates with the delivery dates and take appropriate actions if delays are unreasonable;
- 7) have a specific contact at the post office to talk to when problems and/or questions arise;
- 8) if applicable, monitor the performance of the individual(s) assigned to pick up the mail to ensure it is being done when it is supposed to be done;
- 9) use a “date received” stamp to indicate when mail is received in the office (*If envelopes are discarded, the stamp needs to be applied directly to the correspondence.*);
- 10) on a sample basis, periodically check to make sure the receipt date is being indicated on mail received;
- 11) advise employees that personal mail is not to be sent to them at the office; and
- 12) establish procedures for handling overnight and express mail.

b. Getting Mail to the Appropriate Office

- 1) if mail is not delivered directly to or picked up by an individual office, make sure there is a person in the county designated to distribute mail;
- 2) make sure there is a backup person designated if the person who regularly distributes the mail is absent or otherwise unable to do it;
- 3) make sure specific times for mail distribution have been determined;

- 4) if mail is received more than once a day from the post office, determine whether it will be beneficial to distribute more than once a day to the offices;
- 5) make sure someone monitors the performance of the individuals designated to distribute mail to ensure it is done when it is supposed to be done and that it is distributed properly;
- 6) have a procedure for who to contact and when to contact them when deliveries are not being made timely and correctly;
- 7) use a “date received” stamp to indicate when mail is received in the office (*If envelopes are discarded, the stamp needs to be applied directly to the correspondence.*);
- 8) on a sample basis, periodically check to make sure the receipt date is being indicated on mail received; and
- 9) determine whether any type of mail needs to be specifically identified or numbered and then logged so it can be tracked.

c. Handling Mail within an Office

- 1) if there is more than one section within an office, establish a procedure for accurately distributing mail to the various sections;
- 2) have a procedure to identify mail that should receive priority treatment;
- 3) establish a maximum time limit to process priority mail or to notify the sender that his/her correspondence is being processed;
- 4) establish a maximum time limit to process all other mail or to notify the sender that his correspondence is being processed;
- 5) stress to employees the importance of good procedures for handling mail;
- 6) develop written procedures for handling mail;
- 7) make sure the procedures are up-to-date and cover all duties and responsibilities;

- 8) periodically review and update the procedures;
- 9) document in writing the reason for any change in procedures;
- 10) promptly notify employees of all changes;
- 11) make sure the duties and responsibilities concerning mail are well defined;
- 12) consider periodically rotating duties and responsibilities for handling mail;
- 13) require everyone who processes mail to take vacations;
- 14) make sure the work of someone on vacation is performed by someone else during their absence;
- 15) make sure employees are properly bonded;
- 16) periodically review the adequacy of the bond(s);
- 17) make sure employees are performing their duties properly;
- 18) make sure employees are adequately trained;
- 19) periodically review training needs;
- 20) stay current on processing mail;
- 21) open and process mail daily;
- 22) try to have the mail opened by someone other than those taking over-the-counter receipts;
- 23) have the person opening the mail prepare a record of the cash and checks received;
- 24) make sure the bank deposit or remittance is prepared by someone other than the person opening the mail;
- 25) immediately, restrictively endorse checks received through the mail;
- 26) advise individuals to never send currency through the mail;
- 27) instruct individuals to make sure checks are properly and completely filled out before being mailed;
- 28) make sure a receipt is prepared for all payments received by mail; and
- 29) deposit or remit mail receipts daily.

d. Interest Earnings

- 1) analyze mail pick-up or delivery times to determine if adjustments can be made to receive mail sooner and thus have more rapid deposits/remittances;
- 2) process mail promptly (at least daily) upon receipt so money received can be deposited as soon as possible;
- 3) where applicable, prepare and mail billings or payment notices as soon as possible;
- 4) use interest-bearing accounts when possible;
- 5) determine the possible net additional interest earnings (after deducting any additional costs that would be incurred) that could result from more frequent bank deposits; and
- 6) determine the possible net additional interest earnings to the county (after deducting any additional costs that would be incurred ) that could result from more frequent remittances to the county treasurer.

*(For example, from monthly to twice a month or weekly, or for some offices from weekly to daily. The treasurer almost always receives a higher rate of return. Criminal case collections generally have to be deposited with the county treasurer within three business days. However, in counties with a population of 50,000 or more, the commissioners court can extend the time up to seven business days. If the county population is less than 50,000, the time can be extended by the commissioners court up to thirty calendar days. For collections not related to criminal cases, money has to be remitted to the county treasurer within seven business days. Here again, for counties with a population of less than 50,000, the*

CCP Art. 103.004

LGC §113.022

*commissioners court can extend the time up to thirty calendar days.)*

e. Checking the System to See if It Is Working

- 1) develop a quality review system to routinely check some of the mail received to see how it was handled;
- 2) document the quality reviews;
- 3) make sure the quality review system includes checking the accuracy, timeliness, and documentation of the work done;
- 4) if processing the mail results in contact with some of the senders by telephone, contact some of them to see how professional, courteous, helpful and timely the employee was who contacted them;
- 5) include performance relating to mail handling on employee evaluations;
- 6) follow up complaints (verbal or written) to find out specifically what the complaint is, what caused it, and if there is anything that can be done to improve or remedy the situation;
- 7) if the county has a county auditor, make sure internal audits are periodically conducted, as required by law (refer to Chapter I);
- 8) make sure some of the audit work is done on a “surprise” basis;
- 9) ask the county auditor to periodically include the following in his/her audit work:
  - a) safety of money received in the mail;
  - b) how timely mail is processed;
  - c) how accurately mail is processed;
  - d) how efficiently mail is processed; and
- 10) implement auditor recommendations relating to mail.

### 3. Basic Procedures

The following procedures are general in nature and can be adapted for use in most offices. Each office should adapt the procedures to fit their specific situation.

#### a. General

- 1) the daily mail should be picked up by the designated mail cashier or should be delivered to the cashier unopened;
- 2) all mail should be opened by one person and all checks and currency removed prior to further distribution of the mail; and
- 3) if possible, the person opening the mail should not be the same person who handles other types (i.e. non-mail) of cash receipts. *(If it is the same person, have this person process the mail receipts at a time that is exclusively dedicated to handling mail receipts and in a part of the office that is different from where other cash receipts are handled.)*

#### b. Mail Cashier

- 1) open all mail addressed to the office;
- 2) sort out mail intended for others, retaining all that contain currency or checks. Forward other mail to appropriate parties;
- 3) restrictively endorse all checks immediately (i.e. "For Deposit Only, Account # \_\_\_\_\_");
- 4) list all payments received on the Daily Mail Collection Report (see sample on page III-28) in sufficient detail to identify the person who sent the payment, the amount received, and for what it was received;
- 5) total all currency and checks and compare that amount to the total on the Daily Mail Collection Report. Find and correct any errors. Sign and date the report;

- 6) forward the mail collections and the Daily Mail Collection Report to the cash receipts cashier;
- 7) forward a copy of the Daily Mail Collection Report to the accounting department; and
- 8) retain a copy of the report.

c. Cash Receipts Cashier

- 1) receive the mail collections and Daily Mail Collection Report from the mail cashier;
- 2) verify that the amount received equals the amount shown on the Daily Mail Collection Report. If not, investigate discrepancies;
- 3) prepare receipts (whether they are mailed will depend upon office policy). Enter receipt number on the Daily Mail Collection Report;
- 4) prepare bank deposit or remittance to county treasurer;
- 5) make deposit or remittance;
- 6) forward the Daily Mail Collection Report and deposit slip or remittance receipt to accounting department for bookkeeping entries; and
- 7) retain a copy of the report.

d. Accounting Department

- 1) receive a copy of the Daily Mail Collection Report from the mail cashier;
- 2) receive the Daily Mail Collection Report and deposit slip or remittance receipt from the cash receipts cashier;
- 3) verify that the amount shown on the copy of the Daily Mail Collection Report received from the mail cashier is the same as the amount shown on the Daily Mail Collection Report received from the cash receipts cashier;

- 4) verify that the amount shown on the Daily Mail Collection Report equals the amount on the deposit slip or remittance receipt;  
and
- 5) make appropriate bookkeeping entries and file paperwork.





## **E. LOCKBOX RECEIPTS**

### **1. Introduction**

Some offices only accept payments when the office is open. Other offices provide a mechanism for payments to be made when the office is closed. Those offices that do provide for after-hours payments generally do so via some sort of lock or drop box.

Similar to mail collections, proper management of lockbox collections is important because the person making payment is not present when the payment is physically received by the office. Additionally, lockbox payments are even more likely to be made in cash than payments received in the mail. The goals concerning lockbox collections are to establish a clear audit trail and to ensure and document the proper handling of lockbox collections. Lockbox collections should be processed correctly and timely. Lockbox collections should be processed daily.

### **2. Basic Procedures**

Lockbox procedures are very similar to the procedures for mail receipts. The following procedures are general in nature and can be adapted for use in most offices. Each office should adapt the procedures to fit their specific situation.

#### **a. General**

- 1) prospective lockbox users should be advised of the importance of properly identifying who the payments are from and what they are for in order to get proper credit. Any applicable documents should be included with payments and reference numbers (e.g., criminal case numbers) should be written on checks and money orders (*Some offices provide envelopes to payors, writing the appropriate reference number on the envelopes before giving them to the payors.*);
- 2) the box should be opened and emptied daily;
- 3) the box should be delivered to the lockbox cashier unopened, or alternatively, should be opened in the presence of two people and the contents delivered directly to the lockbox cashier; and

- 4) if possible, the person opening the lockbox should not be the same person who handles other cash receipts. *(If it is the same person, have this person process the lockbox receipts at a time that is exclusively dedicated to handling lockbox receipts and in a part of the office that is different from where other cash receipts are handled.)*

b. Lockbox Cashier

- 1) open the lockbox or receive lockbox contents *(The box should be opened in an open area, not in an enclosed office.)*;
- 2) restrictively endorse all checks immediately (i.e. “For Deposit Only, Account # \_\_\_\_\_”);
- 3) list all payments received on the Daily Lockbox Collection Report (see sample on page III-32) in sufficient detail to identify the person who sent the payment, the amount received, and for what it was received;
- 4) total all currency and checks and compare that amount to the total on the Daily Lockbox Collection Report. Find and correct any errors. Sign and date the report;
- 5) forward the lockbox collections and Daily Lockbox Collection Report to the cash receipts cashier;
- 6) forward a copy of the Daily Lockbox Collection Report to the accounting department; and
- 7) retain a copy of the report.

c. Cash Receipts Cashier

- 1) receive the lockbox collections and Daily Lockbox Collection Report from the lockbox cashier;
- 2) verify that the amount received equals the amount shown on the Daily Lockbox Collection Report. If not, investigate any discrepancies;
- 3) prepare receipts (whether they are mailed will depend on office policy). Enter receipt numbers on the Daily Lockbox Collection Report;
- 4) prepare bank deposit or remittance to county treasurer;
- 5) make deposit or remittance;
- 6) forward the Daily Lockbox Collection Report and deposit slip or remittance receipt to the accounting department for bookkeeping entries; and
- 7) retain a copy of the report.

d. Accounting Department

- 1) receive a copy of the Daily Lockbox Collection Report from the lockbox cashier;
- 2) receive the Daily Lockbox Collection Report and deposit slip or remittance receipt from the cash receipts cashier;
- 3) verify that the amount shown on the copy of the Daily Lockbox Collection Report received from the lockbox cashier is the same as the amount shown on the Daily Lockbox Collection Report received from the cash receipts cashier;
- 4) verify that the amount shown on the Daily Lockbox Collection Report equals the amount on the deposit slip or remittance receipt; and
- 5) make appropriate bookkeeping entries and file paperwork.



## F. INSTALLMENT PAYMENTS

### 1. Introduction

Most offices either currently receive installment payments or will at some time in the future in criminal cases. For example, the judge may direct the defendant to pay:

- the entire fine, fees, and costs when sentence is pronounced;
- the entire fine, fees, and costs at some later date; or
- a specified portion of the fine, fees, and costs at designated intervals.

In addition to establishing a clear audit trail and properly handling payments, the goals concerning installment payments include ensuring that payments are made timely and that there is prompt follow up on missed payments.

### 2. Basic Procedures

The following procedures are general in nature and can be adapted for use in most offices. Each office should adapt the procedures to fit their specific situation.

- a. Have a written description of the circumstances under which installment payments are usually allowed in criminal cases.  
*(Even though the decision rests with the judge, it is best to have a written description of when installment payments are generally allowed. This indirectly causes the judge to think about the pros and cons, as well as the reasons for allowing or not allowing defendants to pay what they owe over a period of time. The end result is usually a more consistent application of when installment agreements are used.)*
- b. There should be a written agreement whenever installment payments are allowed in criminal cases.
  - 1) the agreement should clearly spell out the terms of the agreement, including payment amounts, dates, and location of office where payments are to be made;
  - 2) the agreement should be signed by someone representing the office (e.g., the judge) and the payor; and

3) a copy of the signed agreement should be given to the payor.

c. There should be an efficient way to monitor payments and when defaults occur.

*[Some offices have computer software specifically designed to simplify the installment payment process. In the absence of an automated method, a manual system will be needed. One easy manual method is to use a copy of the installment agreement with pre-printed columns on the back of the agreement. A minimum of four columns are needed—date paid, receipt number, amount paid, and balance. A separate sheet or index card will work as well. The advantage of using the back of the agreement is that all necessary reference information is in one place and files do not normally have to be pulled to see what the payment requirements are. If a manual system is used:*

- simply file the installment agreement, index cards, or separate sheets in a file folder, cabinet or box, based on due dates (or due dates plus a grace period), depending on how your office operates;*
- each day pull the installment agreements that are delinquent and follow up on them;*
- as payments are made, enter the appropriate information in the columns on the back of the agreement and file the agreement under the next payment due date or in the permanent file if paid in full;*
- ensure that payments and other appropriate information are also entered in the regular bookkeeping system and records; and*
- consider maintaining a list of individuals with an installment agreement. If an individual receives an installment agreement in another matter(s), this will enable the terms to be more appropriately set (e.g., the same due dates for payments).*

d. Maintain a control total for all outstanding amounts owed and periodically check to ensure the amount is correct.

*(An office should be able to tell at any point in time the total amount owed, and who owes what amount.)*

e. Consider maintaining a list of individuals who default on payments, and check that list before entering into new agreements.

## **G. OTHER TYPES OF PAYMENTS**

### **1. Introduction**

Many offices receive payments other than via cash, check, or money order (e.g., by credit card or electronically). By offering additional methods of payment, this provides additional convenience to taxpayers and generally increases revenue.

### **2. General Guidelines**

Offices should ensure that the following steps are taken before accepting payments via methods other than cash, checks, or money orders:

- contracts with outside vendors have been reviewed and approved by the county attorney and signed by the appropriate parties;
- the county auditor and the county treasurer have been involved in establishing appropriate procedures for handling, depositing, and remitting payments;
- everyone in the office who will be involved in handling, depositing, or remitting payments has comprehensive, written procedures covering these functions and responsibilities;
- appropriate safeguarding procedures are in place (e.g., to safeguard Western Union checks or to protect payors' credit card information from being improperly disseminated); and
- documentation and paperwork provides a clear audit trail (i.e. who did what, when they did it, and how much was involved).



## **H. RECEIPT FORM**

### **1. Introduction**

Each office should have a process which ensures that all money received is properly processed, deposited, and accounted for. A proper receipt form is essential. For internal control purposes, the receipts must be chronologically numbered. Remember, even if computer-generated receipts are used, hardcopy receipts are needed for those instances when the computer goes down.

Code of Criminal Procedure, Article 103.010 (*see Appendix - page 19*) requires two-part receipts in criminal cases. However, better internal control can be achieved using three-part receipts (for all intakes of money, not just in criminal cases) as follows:

- one part (the original) for the person making the payment;
- one part for the county auditor (or the county treasurer if the county does not have a county auditor); and
- one part to be retained by the office issuing the receipt.

One of the copies can be electronic. In some offices a four-part receipt is used with two parts being retained by the office instead of one.

For accounting and auditing purposes, the receipt should provide space for the following information:

- date;
- reference number (e.g. case number);
- who the money is being received from;
- method of payment (e.g. cash, check, money order, credit card);
- indication of whether the payment is a full or partial payment;
- total amount received;
- what the money is being received for;
- name of the official;
- signature or initials of the individual preparing the receipt; and
- any other relevant information.

### **2. Sample Format**

No particular format is required by law. A sample format is shown on the following page. Each office should adapt the format to meet their specific needs.

| OFFICIAL RECEIPT       |                          | No. _____                        |
|------------------------|--------------------------|----------------------------------|
| County of _____        |                          |                                  |
| Office of _____        |                          |                                  |
| Date _____             | Reference No. _____      |                                  |
|                        |                          | <u>Description</u> <u>Amount</u> |
| Received From          | _____                    |                                  |
| Received For           | _____                    | **                               |
| Mode of Payment        | Cash ___ Check * _____   |                                  |
|                        | Money Order * _____      |                                  |
|                        | Other _____              |                                  |
| Description of Payment | Full _____ Partial _____ |                                  |
|                        |                          | <u>Total Amount</u> _____        |
| Comments:              |                          |                                  |
| _____                  |                          |                                  |
| _____                  |                          |                                  |
| _____                  |                          |                                  |
| _____                  |                          |                                  |
| _____                  |                          |                                  |
| Received By            |                          |                                  |

*\* If a check or money order is received, it is recommended the number be entered here.*

*\*\* This space can be used to break down the various types of collections, such as fines, specific costs and fees, and other.*

## **I. ACCOUNTING FOR RECEIPTS**

### **1. Introduction**

Each office needs an effective and efficient method for recording financial transactions. Officials are responsible for ensuring that sound bookkeeping procedures are followed in their respective offices. This includes making sure that those responsible for the bookkeeping function are qualified and trained, and that access to accounting records is appropriately restricted. There should be a good audit trail from the time money is received until it is disbursed or remitted.

### **2. The Receipts Journal**

(The materials on the rest of this page and the top of page III-39 were adapted from the *Justice of the Peace Manual (1994)* - a Texas Comptroller of Public Accounts publication.)

A receipts journal should be used to chronologically account for individual receipts issued. The journal enables an office to:

- properly keep track of and account for each receipt issued;
- properly separate and account for the different types of monies collected;
- group collections in order to easily figure the total collections for each type;
- balance daily, weekly, and monthly reports; and
- leave a good audit trail for internal and external auditors.

The receipts journal should be maintained on a daily basis and should include:

- the date of the transaction;
- the name of the person making the payment;
- a reference number (e.g., a docket, case, or file number);
- the receipt number;
- an actual column to keep up with the total amount received; and
- several individual columns indicating what the money received is for (e.g., fines and court costs/fees by type).

Many offices have an automated financial management system that prepares receipts, journalizes transactions, makes subsidiary entries, and prepares various financial reports. However, if an office does not have such a system, a receipts journal should be maintained manually. Entries to the journal should be made from the receipt copies maintained by the office.

Daily entries should be verified for mathematical accuracy and should periodically be reviewed by someone other than the person making them, comparing them to appropriate source documents. Preferably, entries should be made by someone not receiving payments, preparing bank deposits, or approving disbursements.

Some offices with manual bookkeeping systems maintain two receipts journals—one for criminal cases and one for civil cases and other receipts. Other offices maintain only one receipts journal, separating criminal and civil case collections across the page.

A sample receipts journal for criminal case collections in a justice court is shown on page III-52. A description of the individual columns are:

#### FINES

- Parks & Wildlife - *finer collected for Parks and Wildlife Code offenses, of which 85 percent must be remitted to the state;*
- Weight - *finer collected for offenses involving a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than 5,000 pounds heavier than the allowable weight, of which 50 percent has to be sent to the state unless the offense occurred within 20 miles of an international border;*
- Safety Belt/Seat - *finer collected for Child Safety Seat Systems and certain Safety Belt offenses, of which 50 percent must be sent to the state;*
- Other Title 7 - *finer collected for offenses under Title 7 of the Transportation Code, which can only be used for specified purposes; and*
- Other - *other finer that are retained by the county.*

## STATE COURT COSTS AND FEES

- CCC - *Consolidated court costs, of which 90 percent must be remitted to the state;*
- JRF - *Juror reimbursement fees, of which 90 percent must be remitted to the state;*
- JSF - *Judicial support fees, of which 85 percent must be remitted to the state;*
- STF - *State traffic fines, of which 95 percent must be remitted to the state;*
- TPF - *Time payment fees, of which 50 percent must be sent to the state;*
- FTA - *Failure to appear/pay/satisfy a judgment administrative fees, of which two-thirds must be remitted to the state; and*
- AF - *Arrest fees, of which 20 percent must be remitted to the state if the service is performed by a state peace officer.*

## LOCAL COURT COSTS AND FEES

- CS - *Child safety court costs, which are retained locally;*
- TFC - *Traffic court costs, which are retained locally;*
- CHS - *Courthouse security court costs, which are retained locally;*
- JCT - *Justice court technology court costs, which are retained locally;*
- JCM - *Juvenile case manager court costs, which are retained locally;*
- AF - *Arrest fees for services performed by local peace officers, which are retained locally; and*
- Other - *Any other court costs and fees, which are retained locally.*

## OTHER

- Special Expense - *the special expense provided for in cases under Code of Criminal Procedure, Article 45.051 (Suspension of Sentence and Deferral of Final Disposition), which is retained locally;*
- Bonds - *the amount received for bonds; and*
- Misc. - *any other receipts received by the office.*

The sample journal format can be adapted to meet the specific needs of most justice of the peace, county clerk, and district clerk offices that maintain their accounting records manually. The columns just need to be tailored to the specific receipts received by a particular office. The detail maintained in accounting for receipts will be based on several factors, including the county budget, accounting system, number of restricted revenues, county auditor requirements, and external reporting requirements.

### 3. Sample Cash Receipts Journal Operations

Below is an example of how a cash receipts journal can be used. Assume the following transactions were recorded in the cash receipts journal for a justice of the peace office during the month of March. The small number of transactions is for illustrative purposes only. The entries are shown on page III-53.

March 3: \$206.00 was collected from Nancy Noshow for failure to appear. Docket No. 06-301. Receipt No. 1246 was issued.

March 6: \$161.00 was collected from Lack Control for disorderly conduct. Docket No. 06-302. Receipt No. 1247 was issued.

March 10: \$161.00 was collected from Bobby Bottle for public intoxication. Docket No. 06-303. Receipt No. 1248 was issued.

March 12: \$236.00 was collected from Randy Risk for failure to maintain financial responsibility. Docket No. 06-304. Receipt No. 1249 was issued.

March 14: \$181.00 was collected from Frank Fish for a Parks & Wildlife Code violation. Docket No. 06-305. Receipt No. 1250 was issued.

March 17: \$71.00 was collected from Marilyn Meter for a parking violation. Docket No. 06-306. Receipt No. 1251 was issued.

March 19: \$194.00 was collected from Randall Rush for speeding. The time payment fee was included. Docket No. 06-307. Receipt No. 1252 was issued.

March 21: \$144.00 was collected from Lonnie Lately for an expired motor vehicle inspection certificate. Docket No. 05-308. Receipt No. 1253 was issued.

March 26: \$104.00 was collected from Carol Course who requested to take a driving safety course for a speeding violation. Docket No. 06-309. Receipt No. 1254 was issued.

March 28: \$141.00 was collected from Mike Motorcycle for no motorcycle protective headgear. Docket No. 06-310. Receipt No. 1255 was issued.

March 31: \$200.00 was collected from Justin Case for a cash bond. Docket 06-311. Receipt No. 1256 was issued.

March 31: \$194.00 was collected from Betty Belt for a child passenger safety system offense. Docket 06-312. Receipt No. 1257 was issued.

#### **4. Chart of Accounts**

Counties generally develop their financial management system around a standard classification system, commonly referred to as a chart of accounts.

A chart of accounts is simply a county's structure of funds, functions, departments, assets, liabilities, fund balances (equity), revenues, expenses, and expenditures, and a numbering system to reflect that structure. A county's chart of accounts should be used consistently throughout the budget, accounting records, and reports.

In justice of the peace, county clerk, and district clerk offices, the emphasis is primarily on codes for receipts/revenues (expenditures are handled centrally by the county). Thus, receipts/revenues may need to be maintained by using a code number in addition to a title or name.

For example, codes can easily be added to the individual receipts/revenues in the sample receipts journal for criminal case collections in a justice court, as follows:

##### **FINES (301-310)**

- Parks & Wildlife 301
- Weight 302
- Safety Belt/Seat 303
- Title 7 304
- Other 305

##### **STATE COURT COSTS AND FEES (311-320)**

- CCC 311
- JRF 312
- JSF 313
- STF 314
- TPF 315
- FTA 316
- AF 317

#### LOCAL COURT COSTS AND FEES (321-330)

|         |     |
|---------|-----|
| ■ CS    | 321 |
| ■ TFC   | 322 |
| ■ CHS   | 323 |
| ■ JCT   | 324 |
| ■ JCM   | 325 |
| ■ AF    | 326 |
| ■ Other | 327 |

#### OTHER (331-340)

|                   |     |
|-------------------|-----|
| ■ Special Expense | 331 |
| ■ Bonds           | 332 |
| ■ Miscellaneous   | 333 |

The codes can easily be added to the receipts journal, as shown on Page III-54. Additional numbers can also be required to indicate the fund the receipts/revenues are to be credited to and/or to indicate the office that received them.

### **5. Specific Collections**

As previously indicated, the accounting detail maintained for receipts/revenues is based on several factors. For example, state court costs and fees are generally required by law to be accounted for separately. Some local court costs, fees, and/or fines may be required by law to be accounted for separately and/or may be restricted in how the money is used. And some specific receipts/revenues may still be accounted for separately for current and future budget purposes even though there are no restrictions as to how the money is used and no legal requirements exist for separate accounting.

The following information on court costs, fees, fines, and other types of receipts/revenues is intended to assist counties in determining the level of detail needed in accounting for receipts/revenues in individual offices. The information should not be considered exhaustive.



| Name                                    | Reference  | Amount   | State Share | Local Share | Use of Money Locally  |
|---|--|--|-------------|-------------|---|
| Expungement Fee                         | Alcoholic Beverage Code §106.12; Code of Criminal Procedure, Articles 45.0216, 45.055; Health and Safety Code §161.255 | \$30   | 0%          | 100%        | Used to defray the cost of notifying state agencies of orders of expunction |
| Alternative dispute resolution fee      | Civil Practices & Remedies Code §152.004   | Not to exceed \$15 additional filing fee in civil cases in district and county courts (excluding delinquent tax suits; Property Code Chapter 21 condemnation proceedings; and Health and Safety Code, Title 7, Subtitle C proceedings) | 0%          | 100%        | Used to establish and maintain an alternative dispute resolution system     |
| Alternative dispute resolution fee      | Civil Practices & Remedies Code §152.005   | Not to exceed \$5 additional filing fee in civil cases filed in justice courts (excluding delinquent tax suits and eviction proceedings)   | 0%          | 100%        | Used to establish and maintain an alternative dispute resolution system     |
| Restitution installment fee             | Code of Criminal Procedure, Article 42.037(g)(1)   | \$12   | 50%         | 50%         | Used for costs incurred in collecting restitution paid in installments      |
| Appealed cases deferred special expense | Code of Criminal Procedure, Articles 42.111, 45.051  | Not to exceed the amount of the fine assessed  | 0%          | 100%        | No restrictions   |
| Jury trial failure to appear costs      | Code of Criminal Procedure, Article 45.026   | Costs incurred to impanel a jury   | 0%          | 100%        | No restrictions   |

| Name   | Reference   | Amount  | State Share | Local Share | Use of Money Locally   |
|--|---|---|-------------|-------------|--|
| Suspension of sentence and deferral of final disposition special expense | Code of Criminal Procedure, Article 45.051        | Not to exceed the amount of the fine assessed                   | 0%          | 100%        | No restrictions  |
| Fee for requesting a driving safety course (mandatory courses)           | Code of Criminal Procedure, Article 45.0511(f)(1) | Not to exceed \$10  | 0%          | 100%        | Used to cover the cost of administering Article 45.0511  |
| Fee for requesting a driving safety course (permissive courses)          | Code of Criminal Procedure, Article 45.0511(f)(2) | Not to exceed the maximum amount of the fine for the offense    | 0%          | 100%        | No restrictions  |
| Fee for requesting a teen court program                                  | Code of Criminal Procedure, Article 45.052(e)     | Not to exceed \$10  | 0%          | 100%        | Used to cover the cost of administering Article 45.052   |
| Teen court program fee   | Code of Criminal Procedure, Article 45.052(g)     | \$10  | 0%          | 100%        | Used by the teen court program   |
| Jury and failure to timely withdraw jury trial request fees              | Code of Criminal Procedure, Article 102.004       | \$3 in justice courts; \$20 in county-level and district courts | 0%          | 100%        | No restrictions  |
| Juror reimbursement fee  | Code of Criminal Procedure, Article 102.0045      | \$4   | 90%         | 10%         | No restrictions  |
| Clerk's fee  | Code of Criminal Procedure, Article 102.005(a)    | \$40  | 0%          | 100%        | No restrictions  |
| Records management fee in criminal cases                                 | Code of Criminal Procedure, Article 102.005(f)    | \$25  | 0%          | 100%        | Used for records management and preservation purposes, as required by Chapter 203, Local Government Code |
| Prosecutor's fee   | Code of Criminal Procedure, Article 102.008       | \$25  | 0%          | 100%        | No restrictions  |
| Arrest and warrant fees when service performed by a state peace officer  | Code of Criminal Procedure, Article 102.011       | \$5, \$50, depending on the service performed                   | 20%         | 80%         | No restrictions  |
| Fees for services of local peace officers                                | Code of Criminal Procedure, Article 102.011       | Various (e.g., \$5, \$35, \$50)                                 | 0%          | 100%        | No restrictions  |

| Name  | Reference  | Amount   | State Share | Local Share | Use of Money Locally  |
|---|--|--|-------------|-------------|---|
| Child safety court costs  | Code of Criminal Procedure, Article 102.014                        | \$20   | 0%          | 100%        | Used for a school crossing guard program if the county operates ones. If not, no restrictions.  |
| Breath alcohol testing court cost in counties that maintain a certified breath alcohol testing program, but do not use the services of a certified technical supervisor employed by DPS | Code of Criminal Procedure, Article 102.016                        | \$22.50 of each consolidated court cost for conviction of Penal Code, Chapter 49 offenses, other than class c misdemeanors | 0%          | 100%        | Used to defray the costs of maintaining and supporting a certified alcohol breath testing program                                       |
| Courthouse security fee   | Code of Criminal Procedure, Article 102.017                        | \$5 for felonies; \$3 for misdemeanors in district and county courts; \$4 in justice courts                                | 0%          | 100%        | Used for the purpose of providing security services for buildings housing a district, county, or justice court                          |
| Juvenile case manager court cost  | Code of Criminal Procedure, Article 102.0174                       | Not to exceed \$5 if commissioners court has passed order  | 0%          | 100%        | Used to finance the salary and benefits of a juvenile case manager  |
| Juvenile delinquency prevention fee   | Code of Criminal Procedure, Article 102.0171; Family Code §54.0461 | \$5  | 0%          | 100%        | Used to repair graffiti damage, provide educational and intervention programs, provide rewards, and fund certain youth-related programs |
| Justice court technology fee  | Code of Criminal Procedure, Article 102.0173                       | \$4  | 0%          | 100%        | Used to finance the purchase of technological enhancements for a justice court  |
| Visual recording fee  | Code of Criminal Procedure, Article 102.018                        | \$15   | 0%          | 100%        | No restrictions   |
| Cost of evaluation court cost   | Code of Criminal Procedure, Article 102.018                        | Cost of an evaluation  | 0%          | 100%        | No restrictions   |
| EMS trauma fund court cost  | Code of Criminal Procedure, Article 102.0185                       | \$100  | 90%         | 10%         | No restrictions   |

| Name  | Reference                                    | Amount  | State Share | Local Share | Use of Money Locally  |
|---|--|---|-------------|-------------|---|
| Child abuse prevention court cost   | Code of Criminal Procedure, Article 102.0186 | \$100   | 0%          | 100%        | Used to fund child abuse programs in the county   |
| Transaction administrative fee  | Code of Criminal Procedure, Article 102.072  | Not to exceed \$2   | 0%          | 100%        | No restrictions   |
| DNA testing court cost  | Code of Criminal Procedure, Article 102.020  | \$50 for certain misdemeanors; \$250 for certain felonies | 90%         | 10%         | No restrictions   |
| Parent contributing to nonattendance fines  | Education Code §25.093                       | Varies  | 0%          | 100%        | 50% to the school district or juvenile justice education program; 50% no restrictions   |
| Juvenile probation diversion fees   | Family Code §54.0411                         | \$20  | 90%         | 10%         | No restrictions   |
| Countywide records management fee in civil cases collected by district clerks                           | Government Code §§51.317(b)(4); 51.317(c)(1) | \$5   | 0%          | 100%        | Used for records management and preservation purposes, as required by Chapter 203, Local Government Code  |
| District clerk records management fee in civil cases  | Government Code §§51.317(b)(4); 51.317(c)(2) | \$5   | 0%          | 100%        | Used for records management and preservation services performed by the district clerk when a case or document is filed in records of the district clerk |
| Basic filing fee in civil cases in district court (other than records management and preservation fees) | Government Code §51.317                      | Varies  | 0%          | 100%        | No restrictions   |
| Court reporter service fee  | Government Code §51.601                      | \$15  | 0%          | 100%        | Used to assist in the payment of court reporter-related services  |

| Name  | Reference   | Amount   | State Share  | Local Share                                      | Use of Money Locally  |
|---|---|--|--|--|---|
| Additional court costs and fees in county-level courts  | Government Code §§51.702, 51.703, 51.704                  | <u>Constitutional County Courts</u><br>- additional \$40 civil filing fee<br>- additional \$15 criminal court cost<br><u>Statutory County Courts</u><br>- additional \$40 civil filing fee<br>- additional \$15 criminal court cost<br><u>Statutory Probate Courts</u><br>- additional \$40 civil filing fee | Generally 100%<br><br>See italicized note at right | Generally 0%<br><br>See italicized note at right | Generally not applicable<br><br><i>The exception is the \$15 criminal court cost in statutory county courts in counties not participating under §51.702. In those statutory county courts, the \$15 court cost is retained locally with no restrictions as to how the money is used</i> |
| Family protection fee   | Government Code §51.961                                   | Not to exceed \$30   | 50%  | 50%  | Used to fund family violence and child abuse prevention, intervention, family strengthening, mental health, counseling, legal, and marriage preservation services   |
| Countywide records management fee in civil cases collected by county clerks   | Local Government Code §§118.052(3)(G), 118.0546, 118.0645 | \$5  | 0%   | 100%   | Used for records management and preservation purposes, as required by Chapter 203, Local Government Code  |
| Additional filing fee in original probate actions   | Local Government Code §118.052(2)(A)(vi)                  | \$5 (or less if fee produces more revenue than is needed)  | 0%   | 100%   | Used for continuing education of the judge and staff of the probate court or to fund required compensation for the presiding judge of the statutory probate courts  |
| Basic filing fees in civil cases in county-level courts (other than records management and preservation fee and additional fee in original probate actions) | Local Government Code §118.052                            | Varies   | 0%   | 100%   | No restrictions   |

| Name  | Reference                                | Amount  | State Share | Local Share | Use of Money Locally  |
|---|--|---|-------------|-------------|---|
| Basic filing fee in civil cases in justice courts   | Local Government Code §118.121(1)(A)     | \$15  | 0%          | 100%        | No restrictions   |
| Basic filing fee in civil cases in small claims courts  | Local Government Code §118.121(1)(B)     | \$10  | 0%          | 100%        | No restrictions   |
| Consolidated court cost   | Local Government Code §133.102           | \$133 for felonies; \$83 for class a/b misdemeanors; \$40 for class c misdemeanors                      | 90%         | 10%         | No restrictions   |
| Time payment fee  | Local Government Code §133.103           | \$25  | 50%         | 50%         | 20% of local share used for improving the efficiency of the administration of justice; 80% of local share no restrictions |
| Judicial support fee (criminal)   | Local Government Code §133.105           | \$4   | 80%         | 15%         | Used to promote the efficient operation of the courts and the investigation, prosecution, and enforcement of offenses     |
| Consolidated and additional filing fees in civil cases in district courts                       | Local Government Code §§133.151, 133.152 | \$40 for judicial fund  | 100%        | 0%          | Not applicable  |
|   |  | \$5 for basic civil legal services for indigents (in divorce and other family law matters)              | 95%         | 5%          | No restrictions   |
|   |  | \$10 for basic civil legal services for indigents (for other than divorce and other family law matters) | 95%         | 5%          | No restrictions   |
| Additional filing fee for basic civil legal services for indigents in county and justice courts | Local Government Code §133.153           | \$5 in statutory and constitutional county courts; \$2 in justice courts                                | 95%         | 5%          | No restrictions   |

| Name  | Reference                                 | Amount   | State Share                                 | Local Share                                 | Use of Money Locally   |
|---|---|--|---|---|--|
| Additional filing fee in civil case in district and county courts for judicial support                          | Local Government Code §133.154            | \$37   | 100%  | 0%  | Not applicable   |
| Law library fee   | Local Government Code §323.023            | Not to exceed \$35 additional filing fee in civil cases in district and county courts (excluding delinquent tax suits) | 0%  | 100%  | Used for law library purposes  |
| Water safety offense fines where arrest is made by a marine safety enforcement officer other than a game warden | Parks & Wildlife Code §31.128             | Varies   | 60%   | 40%   | No restrictions  |
| Other Parks & Wildlife Code offense fines   | Parks & Wildlife Code §§12.107, 31.128    | Varies   | 85% in justice courts; 80% in county courts | 15% in justice courts; 20% in county courts | No restrictions  |
| Traffic court cost  | Transportation Code §542.403              | \$3  | 0%  | 100%  | No restrictions  |
| State traffic fine  | Transportation Code §542.4031             | \$30   | 95%   | 5%  | Generally restricted to roads and bridges and enforcing highway laws |
| Expired motor vehicle registration fee  | Transportation Code §502.407              | Not to exceed \$10   | 0%  | 100%  | No restrictions  |
| Expired driver's license dismissal fee  | Transportation Code §521.026              | Not to exceed \$10   | 0%  | 100%  | No restrictions  |
| Fines from child passenger safety seat system and certain safety belt offenses                                  | Transportation Code §§545.412, 545.413(b) | \$100 - \$200  | 50%   | 50%   | Generally restricted to roads and bridges and enforcing highway laws |
| Expired inspection certificate dismissal fee  | Transportation Code §548.605              | Not to exceed \$10   | 0%  | 100%  | No restrictions  |

| <b>Name</b>  | <b>Reference</b>                 | <b>Amount</b>             | <b>State Share</b> | <b>Local Share</b> | <b>Use of Money Locally</b>  |
|--|----------------------------------|---------------------------|--------------------|--------------------|--|
| Fines from certain weight offenses of more than 5,000 pounds that did not occur within 20 miles of an international border | Transportation Code §621.506     | Generally \$300 - \$1,000 | 50%                | 50%                | Generally restricted to roads and bridges and enforcing highway laws |
| Other Transportation Code, Title 7 offense fines   | Transportation Code §542.402(a)  | Varies                    | 0%                 | 100%               | Generally restricted to roads and bridges and enforcing highway laws |
| Failure to appear or pay or satisfy a judgment fee   | Transportation Code, Chapter 706 | \$30                      | Two-thirds (\$20)  | One-third (\$10)   | \$6 - goes to OmniBase Services, Inc.<br>\$4 - no restrictions       |



## **J. DISBURSEMENTS AND REMITTANCES**

### **1. Introduction**

In addition to properly safeguarding and accounting for money received, it is important to make sure the money gets to the right destination and gets there timely. In this handbook, the term “remittance” is used to refer to turning money into the county treasurer and the term “disbursement” is used to refer to making payments (e.g., to the state or for out-of-county service of citations).

Making payments (disbursements) and turning in money (remittances) promptly and accurately is an important responsibility of county officials and a way for them to show their accountability to the public.

### **2. Rapid Deposit Laws**

Texas law spells out when justices of the peace, county clerks, and district clerks have to remit county money to the county treasurer.

#### **a. Criminal case collections**

Code of Criminal Procedure, Article 103.004 (*see Appendix - page 19*) requires collections in criminal cases (specifically recognizances, bail bonds, fines, forfeitures, judgments, jury fees, and other obligations recovered in the name of the state under any provision of Chapters 101-104 of the Code of Criminal Procedure) to be deposited in the county treasury not later than the next business day after the date the money is collected. If it is not possible to deposit the money by that date, then the money must be deposited no later than the third business day after the date it is collected.

Article 103.004 also allows the commissioners court to extend that time period. The commissioners court can extend the time period to not later than the seventh business day after the money is collected. And in counties with a population of less than 50,000, the commissioners court may extend the time period to not later than the 30<sup>th</sup> day after the date the money is collected.

b. Other collections

Other collections of county money are generally covered by Local Government Code, Section 113.022 (*see Appendix - page 38*). This section requires money to be deposited with the county treasurer on or before the next regular business day after the date the money is received. If this deadline is not met, the money must be deposited on or before the seventh business day after the day the funds are received. Here again, in counties with a population of less than 50,000, the commissioners court may extend the time period, but it may not be extended beyond 30 days after the date the money is received.

### 3. Basic Procedures

The following procedures should help ensure that an office has addressed the important issues relating to disbursement and remittances. They are general in nature and can be adapted for use in most offices. Each office should adapt the procedures to fit their specific situation. Justices of the peace, county clerks, and district clerks should develop their procedures in consultation with the county auditor and county treasurer.

- a. Unless remittances are made to the county treasurer daily, each office should maintain a bank account(s) with a county depository or subdepository.
- b. A receipt should be obtained for all remittances.
- c. All deposits and disbursements should be processed through the account(s) maintained at the county depository or subdepository. Disbursements should not be made in cash.

*(Refunds should also be made by issuing a check. If the money has already been turned into the county treasurer, the refund should not be made by the individual office. Rather, it should be made centrally by the county—as a regular claim against the county. That is, it is approved by the commissioners court and the check is signed by both the county auditor and county treasurer.)*

- d. All checks should be sequentially pre-numbered and used in order.

- e. Checks should be preprinted with the name of the county and the office.
- f. All unused checks should be safeguarded and periodically accounted for.
- g. A checkbook with sufficient room on the stub for an adequate description of the disbursement should be used.
- h. Checks should not be pre-signed.
- i. Checks should not be made out to “cash” or “bearer.”
- j. Voided checks should be clearly marked as “void” and accounted for. They should be kept with the checkbook and later placed in the reconciliation envelope or folder. Do not destroy voided checks.
- k. Authorized check signatures should be kept to a minimum.
- l. If a “stamp” or “check signing” device is used, it should be appropriately safeguarded and access appropriately restricted.
- m. Checks should be prepared only when:
  - 1) supporting documentation is present and has been verified;
  - 2) all figures have been double-checked; and
  - 3) there is an adequate balance in the account.
- n. The payee line should be completed by the person preparing the checks, not the person signing them.
- o. Checks should be signed by someone not keeping the books or preparing the checks.
- p. Checks should be mailed without allowing them to be returned to the person who approves them or does the bookkeeping for them.
- q. Checks should be appropriately entered in the office’s bookkeeping system.

## **K. ACCOUNTING FOR DISBURSEMENTS**

### **1. Introduction**

Each office not only needs an effective and efficient method for recording receipts and revenues, it also needs one for keeping up with and recording disbursements and remittances. Proper accounting for disbursements helps complete the cycle of having a good audit trail from the time money is received until it is disbursed or remitted.

### **2. The Disbursements Journal**

(The materials on the rest of this page and the top of page III-59 were adapted from the *Justice of the Peace Manual (1994)* - a Texas Comptroller of Public Accounts publication.)

A disbursements journal should be used to account for all disbursements from an office. The journal enables an office to:

- properly keep track of and account for each disbursement/remittance made;
- properly separate and account for the different types of disbursements/remittances;
- group disbursements/remittances in order to easily figure the total disbursements/remittances for each type;
- balance daily, weekly, and monthly reports; and
- leave a good audit trail for internal and external auditors.

The disbursements journal should be maintained on a daily basis and should include:

- the date of the transaction;
- the name of the payee and, where necessary, what the payment is for;
- a reference number (i.e. the check number);
- an actual column to keep up with the total amount disbursed;
- several individual columns indicating what the disbursement is for (e.g., Parks and Wildlife or County Treasurer); and
- a memorandum column to add any additional information needed (e.g., the reason for a refund).

If an office does not have an automated system of accounting for disbursements, a disbursements journal should be maintained manually. Entries to the journal should be made from the checks and applicable supporting documentation. Daily entries should be verified for mathematical accuracy and should periodically be reviewed by someone other than the person making them.

If an office makes only a few disbursements each month, a journal is normally not needed: in this situation, the checks, supporting documentation, and reports are usually sufficient. The decision not to maintain a disbursements journal should be made after consulting with the county auditor.

A sample disbursements journal for a justice court is shown on page III-61.

### **3. Sample Cash Disbursements Journal Operations**

Below is an example of how a cash disbursements journal can be used. Assume the following two transactions were recorded in the cash disbursements journal for a justice of the peace office during the month of January. The limited number of transactions is for sample purposes only (there will normally be many more monthly transactions in a justice court). The entries are based on the receipts in the sample cash receipts journal on page III-53. Assume money is remitted to the county treasurer only once a month, at the end of the month. In actual practice, many offices remit more frequently because they are required by law to do so. This helps increase overall interest income for the county, and/or relieves offices of safekeeping responsibilities. The entries are shown on page III-62.

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March 31: Check No. 345 in the amount of \$102.00 was issued to Parks and Wildlife, representing 85 percent of the fine revenue received for Parks and Wildlife Code violations during the month ( $\$120.00 \times 85\% = \$102.00$ ).

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March 31: Check No. 346 in the amount of \$1,691.00 was issued to the County Treasurer for the March remittance. The \$1,691.00 is comprised of the following:

|   |                          |
|---|--------------------------|
| <u>Fines</u>                                  |                          |
| _____ County share of Parks and Wildlife Code |                          |
| fines (\$120.00 x 15%)                        | \$18.00                  |
| Other Title 7                                 | 405.00                   |
| Safety Belt/Seat fines                        | 100.00                   |
| (50% due to the state)                        |                          |
| Other _____                                   | 350.00                   |
| Total fines                                   | 873.00                   |
| <br><u>State Court Costs and Fees</u>         |                          |
| CCC   | 400.00                   |
| JRF   | 40.00                    |
| JSF   | 40.00                    |
| STF   | 150.00                   |
| TPF   | 25.00                    |
| AF _____                                      | 30.00                    |
| Total state court costs and fees              | 685.00                   |
| <br><u>Local Court Costs and Fees</u>         |                          |
| _____ TFC                                     | 15.00                    |
| CHS   | 44.00                    |
| JCT   | 44.00                    |
| AF  | 20.00                    |
| Other _____                                   | 10.00                    |
| Total local court costs and fees              | <u>133.00</u>            |
| <b>Monthly Total</b>                          | <b><u>\$1,691.00</u></b> |

**Other  
Financial Management  
Areas**

## CHAPTER IV

### OTHER FINANCIAL MANAGEMENT AREAS

#### A. REPORTS TO THE COMMISSIONERS COURT AND THE DISTRICT COURT

Justices of the peace, county clerks, and district clerks are required to submit monthly collections reports to the commissioners court and to the district court.

Code of Criminal Procedure, Article 103.005 (*see Appendix - page 19*) requires a justice of the peace, county clerk, or district clerk to submit a collections report to the commissioners court during each term of the court and a collections report to the district court on the first day of each court term. Commissioners court terms are monthly. District courts are required to have at least two terms per year. The report must contain the following information for the reporting period:

LGC §81.005  
GC §24.012

- the amount of money collected by the officer;
- when and from whom the money was collected;
- the process by which the money was collected; and
- the disposition of the money.

The report must be in writing and under the oath of the officer. If for some reason no money has been collected since the last report, the report should so indicate.

Local Government Code, Section 114.044 (*see Appendix - page 41*) also requires that a justice of the peace, county clerk, or district clerk submit a report to the commissioners court on the collection and disposition of fines, judgments, and jury fees, at each regular court term. The report must contain the following information for the reporting period:

- the name of the person fined and the amount of the fine or the name of the person against whom judgment was rendered and the amount of the judgment;
- the style, number, and date of each case in which a fine was imposed or a judgment rendered; or
- the amount of the jury fees collected, the style and number of the case in which each jury fee was collected, and the name of the person from whom the fee was collected.



The official must also present the receipts and vouchers that show the disposition of the money, fines, or judgments.

District clerks, county clerks, and justices of the peace should consider getting together with the district judge(s), commissioners court, and county auditor to develop one report format that will satisfy both requirements (i.e. Code of Criminal Procedure, Article 103.005 and Local Government Code, Section 114.044).

## **B. REPORTS TO THE COUNTY AUDITOR**

### **1. General Information**

District clerks, county clerks, and justices of the peace are also required to submit financial reports to the county auditor. Local Government Code, Section 114.002 (*see Appendix - page 40*) provides that the county auditor shall determine the time and manner for making reports to the auditor, and the manner for making an annual report of office fees collected and disbursed. In other words, the county auditor determines what is reported to them and when it is reported. Reports have to be in writing and sworn to by the official making the report.

Failing to submit the required report(s) can result in a fine and/or removal from office. Local Government Code, Section 114.003 (*see Appendix - page 40*) provides that a county official who intentionally refuses to comply with a reasonable request of the county auditor relating to the report, commits an offense. The offense is a misdemeanor punishable by:

- a fine of not less than \$25 or more than \$200;
- removal from office; or
- both a fine and removal from office.

### **2. Sample Report Format**

In addition to an annual report, most county auditors require monthly reports from officials. Most county auditors generally require officials to report all receipts and disbursements in detail, along with beginning and ending balances. A sample report format is on the following page. The format can be adapted to meet the needs in most counties by adding the specifics and additional detail required by the county auditor.

## County Clerk Monthly Report

For the Month of \_\_\_\_\_, 200\_

**Beginning Balance (1):**

|              |  |  |
|--------------|--|--|
| Change Funds |  |  |
| Other        |  |  |
| Total        |  |  |

**Receipts (2):**

|       |  |  |
|-------|--|--|
|       |  |  |
|       |  |  |
|       |  |  |
| Total |  |  |

**Total Amount To Account For**

**Disbursements / Remittances (3):**

|       |  |           |
|-------|--|-----------|
|       |  |           |
|       |  |           |
|       |  |           |
| Total |  | ( _____ ) |

**Ending Balance (4):**

|              |  |  |
|--------------|--|--|
| Change Funds |  |  |
| Other        |  |  |
| Total        |  |  |

-----  
County Clerk / Date

- (1) The report should show the beginning balance, which is the balance the office was responsible for at the start of the month. The beginning balance should include all change funds, any bank account book balances, and any other funds under the control of the clerk.
- (2) The report should show all receipts for the month, breaking them down into detailed categories. The amount of detail will depend upon the county auditor's requirements, but will usually tie in with the budget, accounting, and reporting system.
- (3) All disbursements and remittances should be detailed. The amount of detail will depend upon the county auditor's requirements, but will usually tie in with the budget, accounting, and reporting system.
- (4) The report should show an ending balance, which is the amount the office is responsible for to start the next month. The ending balance is simply the beginning balance plus receipts minus disbursements/remittances. The ending balance should include change funds, bank account book balances, and any other funds under the control of the office.

### **3. Registry Fund Report In Certain Counties**

In counties with a population of 190,000 or more, county and district clerks are also required to make reports under oath to the county auditor to properly reflect all registry funds received and disbursed, including all money remaining on hand at the time of the report. The county auditor is responsible for prescribing the form and frequency of the report.

LGC §117.058

## C. PETTY CASH

Petty cash is simply a sum of money kept on hand for making small cash purchases.

Local Government Code, Section 130.909 (*see Appendix - page 46*) provides that the commissioners court of a county may set aside from the general fund of the county, for the establishment of a petty cash fund for any county or district official or department head approved by the commissioners court, an amount approved by:

- the county auditor, for a county with a population of 3.3 million or more ; or
- the commissioners court, for a county with a population of less than 3.3 million.

The fund must be established under a system provided and installed by the county auditor and, in a county with a population of 3.3 million or more, the county purchasing agent. Reports relating to the petty cash fund must be made to the auditor and, if applicable, the purchasing agent as the auditor or purchasing agent requires. Falsifying documents or reports relating to the fund is an offense according to Section 31.21 or 37.10, Penal Code.

The bond of the official who receives a petty cash fund must cover the official's responsibility for the correct accounting and disposition of the fund. The fund may not be used to make loans or advances or to cash checks or warrants of any kind. The commissioners court can increase or decrease the fund at any time on the recommendation of the county auditor.

## **D. BANK ACCOUNTS**

As a general rule, Code of Criminal Procedure, Article 103.004 requires an officer of the county to deposit money collected in the county treasury no later than one business day after the money is collected.

Money held by an official should be appropriately safeguarded. The most practical way to safeguard money until it is remitted or disbursed, is ordinarily through the proper use of a bank account(s). Where possible, remittances should be made to the county treasurer on a daily basis. For example, many justices of the peace remit money to the county treasurer daily, and do not maintain a bank account.

### **1. Regular Operating Account(s)**

Generally, money collected or held by a justice of the peace, county clerk, or district clerk, must be deposited in a county depository or subdepository [Local Government Code, Section 116.002 (*see Appendix - page 43*)]. A depository or subdepository is an institution with which the commissioners court contracts for the deposit and protection of public funds. A county is not limited to contracting with only one depository or subdepository. Contracts are usually for a two-year or four-year term. County depositories are covered in Chapter 116 of the Local Government Code. Refer to that chapter for more detailed information on county depositories and subdepositories

LGC §116.021

Officials should take steps to ensure that depository contracts include and cover all the services (e.g., number and type of accounts, and lockboxes) they need to effectively and efficiently operate their respective offices. Officials are encouraged to consult with their county auditor and county treasurer in determining what services are needed and can best be utilized.

A 1996 Attorney General Opinion (DM-396) provided that justices of the peace had to turn in fine money to the county treasurer “immediately” without first depositing the money into a separate checking account. This was based on an old requirement in the Code of Criminal Procedure, Article 103.004 which required an official to “...immediately pay the money to the county treasurer...” Article 103.004 (*see Appendix - page 19*) has since been amended to allow additional time before money has to be turned into the treasurer (see Page III-55). This being the case, a bank account is usually the best place for those funds until they are remitted to the treasurer.

## 2. Registry of the Court Funds

Commissioners courts are also required to contract with a qualified institution for a special county clerk account and a special district clerk account. Here again, contracts are usually for a two-year or four-year term and the commissioners court is not limited to contracting with only one institution. The special accounts are in the name(s) of the clerks.

LGC §117.021

Local Government Code, Section 117.052(c) (*see Appendix - page 44*) provides that a clerk is responsible for funds deposited into the registry fund from the following sources:

- funds of minors or incapacitated persons;
- funds tendered in an interpleader action;
- funds paid in satisfaction of a judgment;
- child support funds held for more than three days;
- cash bonds;
- cash bail bonds;
- funds in an eminent domain proceeding; and
- any other funds tendered to the clerk for deposit into the registry of the court.

At least monthly, justices of the peace are required to remit to the county clerk any funds held in trust for a plaintiff in a small claims court case whose whereabouts are unknown [Government Code, Section 28.055 (*see Appendix - page 22*)].

Local Government Code, Section 117.053 (*see Appendix - page 44*) covers withdrawals of funds. This section provides that disbursements must generally be made under an order of the proper court. The clerk also has to transfer funds to a separate account when specifically required to by law (e.g., Texas Probate Code, Section 887) or when directed to by a proper court order. A separate account must be in:

- interest-bearing deposits in a financial institution doing business in this state that is insured by the FDIC;
- United States treasury bills;
- an eligible interlocal investment pool that meets the requirements of Sections 2256.016, 2256.017, and 2256.019, Government Code; or a no-load money market mutual fund, if the fund:
  - is regulated by the Securities and Exchange Commission;
  - has a dollar weighted average stated maturity of 90 days or fewer;and

- includes in its investment objectives the maintenance of a stable net asset value of \$1 for each share.

Local Government Code, Section 117.054 (*see Appendix - page 44*) provides that for interest-bearing accounts, 10 percent of the interest goes to the county's general fund to compensate the county for the accounting and administrative expenses of maintaining the account. The other 90 percent is credited to the account.

For non-interest-bearing accounts, a fee not to exceed \$50 must be deducted from the account at the time of withdrawal to compensate the county for the accounting and administrative expenses incurred in handling the funds. Family Code cases are exempt from the fee. See Local Government Code, Section 117.055 (*see Appendix - page 45*).

In counties with a population of 190,000 or more, county clerks and district clerks are also required to make reports on registry funds to the county auditor [Local Government Code, Section 117.058 (*see Appendix - page 45*)]. See Page IV-5.

Chapter 117 also contains special provisions relating to court registry funds in a county with a population of 2.4 million or more (Harris County). The differences relate primarily to disbursing, auditing, and transferring funds.

Refer to Local Government Code, Chapter 117 for more detailed information concerning registry funds.



## **E. BANK RECONCILIATIONS**

### **1. General Information**

Each office that maintains a bank account(s) should do regular bank reconciliations. Monthly reconciliation of the bank statement(s) with the books maintained by the office is necessary to help assure that errors and/or irregularities, if any, are found and appropriately handled without delay.

Reconciliations should be done promptly upon receipt. Additionally, reconciliations should be done by someone who is not responsible for preparing deposits or signing checks.

Almost all bank statements include a reconciliation format. Many formats are similar to the one on the following page. A county auditor may even have a specific format for officials to use.

As a general rule, reconciliations should be done initially by the office that maintains the account(s). The county auditor will usually review the reconciliations as part of the audit of the office, and he/she may even perform what is known as a “proof of cash,” which is even more inclusive of an office’s transactions than is a bank reconciliation.

### **2. Basic Reconciliation Procedures**

After receiving the bank statement unopened (to ensure it has not been altered) from the bank:

#### **STEP ONE**

1. Enter the balance from the books in the space provided on the reconciliation form;
2. Deduct any bank charges indicated on the bank statement;
3. Make any other necessary adjustments such as adding interest earnings; and
4. Total the amounts in 1., 2., and 3. above to arrive at the adjusted book balance.

#### **STEP TWO**

1. From the bank statement, write the stated bank balance in the space provided on the reconciliation form;
2. Compare checks, deposits, and other transactions listed on the statement with the books;

3. List, in the space provided on the reconciliation form, all outstanding checks;
4. Add any deposits made by the end of the period not posted to the bank statement;
5. Make any other necessary adjustments; and
6. Total the amounts in 1., 2., 3., 4., and 5. above to arrive at the adjusted bank balance.

#### STEP THREE

1. Compare the amounts arrived at in Steps One and Two.
2. If they do not agree, investigate and resolve any differences.

#### STEP FOUR

1. Sign and date the reconciliation; and
2. Submit the bank statement and reconciliation to appropriate personnel for review and approval.

### 3. Bank Reconciliation Form

| <b>Bank Reconciliation Form</b> |                |               |                         |                |               |
|---------------------------------|----------------|---------------|-------------------------|----------------|---------------|
| Book Balance                    | _____          |               | Bank Balance            | _____          |               |
| Bank Charges                    | _____          |               | Less Outstanding Checks | _____          |               |
| Other Adjustments               | _____          |               | Add Deposits in Transit | _____          |               |
|                                 | _____          |               | Other Adjustments       | _____          |               |
|                                 | _____          |               |                         | _____          |               |
| Adjusted Book Balance           | _____          |               | Adjusted Bank Balance   | _____          |               |
| <b>Outstanding Checks</b>       |                |               |                         |                |               |
| <b>Date</b>                     | <b>Check #</b> | <b>Amount</b> | <b>Date</b>             | <b>Check #</b> | <b>Amount</b> |
| _____                           | _____          | _____         | _____                   | _____          | _____         |
| _____                           | _____          | _____         | _____                   | _____          | _____         |
| _____                           | _____          | _____         | _____                   | _____          | _____         |
| _____                           | _____          | _____         | _____                   | _____          | _____         |
| _____                           | _____          | _____         | _____                   | _____          | _____         |
| _____                           | _____          | _____         | _____                   | _____          | _____         |
| _____                           | _____          | _____         | _____                   | _____          | _____         |
| _____                           | _____          | _____         | _____                   | _____          | _____         |
| _____                           | _____          | _____         | _____                   | _____          | _____         |
| _____                           | _____          | _____         | <b>Total</b>            | _____          | _____         |

## F. CASH BOND FORFEITURES

In justice courts, there are two types of bond forfeitures. One is handled as a criminal case and the other type is handled as a civil-type proceeding. In county and district courts, cash bond forfeitures are handled as civil-type proceedings. Cash bonds should be receipted by the receiving official as with other intakes of money and the amount received should be adequately safeguarded until remitted.

### 1. Criminal Proceeding

Code of Criminal Procedure, Article 45.044 (*see Appendix - page 6*) provides for cash bond forfeiture in a justice court. A judge may enter a judgment of conviction and forfeit a cash bond in satisfaction of the costs, fees, and fine, if the defendant:

- has entered a written and signed conditional plea of no contest and a waiver of jury trial, and
- fails to appear according to the terms of the release.

The defendant must be notified in writing:

- that a judgment of conviction and forfeiture of bond was entered on a specific date and the forfeiture satisfies the defendant's fine, fees, and costs; and
- the defendant has the right to a new trial if applied for within 10 days from the date of judgment and forfeiture.

If a new trial is requested, the court must permit the defendant to withdraw the previously entered plea and waiver of jury trial. If a new trial is not requested, the judgment and forfeiture become final. **The cash bond is used to satisfy court costs, fees, and fine as in other criminal cases.** In other words, the amounts are handled just as if there was a regular conviction. Keep in mind that the defendant is automatically entitled to credit for any jail time served.

### 2. Civil-Type Proceeding

Code of Criminal Procedure, Chapter 22 addresses bond forfeitures that use the rules of civil procedure. Under Chapter 22, a case is initiated against the defendant and sureties. **Money forfeited stays totally with the county. Criminal case court costs, fees, and fine should not be taken out of the forfeited money.** The underlying criminal case remains

pending until it is later disposed of. If payment for the underlying case is received later, criminal case court costs, fees, and fine are satisfied at that time.

## **G. COMMUNITY SERVICE CREDIT**

### **1. General Information**

Community service credit for justice courts is provided for in the Code of Criminal Procedure, Article 45.049 (*see Appendix - page 7*), which provides that a defendant is considered to have discharged not less than \$50.00 for each eight hours of community service performed. That is equal to an hourly rate of at least \$6.25.

For county-level and district courts, community service credit is provided for in Code of Criminal Procedure, Article 43.09 (*see Appendix - page 3*). That article provides that a defendant is considered to have discharged \$100.00 for each eight hours of community service performed, which is equal to an hourly rate of \$12.50.

The basic provisions in both articles are similar.

- the judge must specify the number of hours the defendant is required to work;
- the judge may order that the work be performed only for a governmental entity or nonprofit organization that provides services to the general public that enhance social welfare and the general well-being of the community;
- a governmental entity or nonprofit organization that accepts a defendant must agree to supervise the defendant in the performance of the defendant's work and report on the defendant's work to the district probation department or court-related services office in county-level and district court cases and to the judge in justice court cases; and
- a judge may not order a defendant to perform more than 16 hours per week of community service, unless the judge determines that requiring the defendant to work additional hours does not work a hardship on the defendant or the defendant's dependents.

In addition, Article 43.09 (for county-level and district courts) provides that:

- the judge must specify whether the community supervision and corrections department or a court-related services office will perform the administrative duties required by the placement of the defendant in the community service program; and

- the court may require bail of a defendant to ensure the defendant's faithful performance of community service and may attach conditions to the bail as it determines are proper.

## 2. Example

Community service credit applies to the court costs, fees, and fine. If there are enough community service hours worked, the entire amount owed is satisfied. However, if a defendant satisfies part of the amount owed by performing community service and pays the balance, the amount paid is credited to court costs and fees first (both state and local), and the balance, if any, to the fine.

Assume a defendant is convicted of an offense in a county-level court and owes \$800.00, as follows:

|                      |                 |
|----------------------|-----------------|
| Court costs and fees | \$204.00        |
| Fine                 | <u>596.00</u>   |
| Total owed           | <u>\$800.00</u> |

Case 1: Defendant performs eight days of community service at \$100.00 per day.

|  |                    |
|--|--------------------|
| Total owed   | \$800.00           |
| Community service credit<br>(8 days @ \$100 per day) | <u>800.00</u>      |
| Balance owed   | <u><u>0.00</u></u> |

Case 2: Defendant performs five days of community service at \$100.00 per day and pays \$300.00.

|  |                    |
|--|--------------------|
| Total owed   | \$800.00           |
| Community service credit<br>(5 days @ \$100 per day) | <u>500.00</u>      |
| Balance owed   | <u>300.00</u>      |
| Amount paid:   |                    |
| Court costs and fees                                 | \$204.00           |
| Fine   | <u>96.00</u>       |
| Total  | 300.00             |
| Balance owed   | <u><u>0.00</u></u> |

Case 3: Defendant performs three days of community service at \$100.00 per day and pays \$150.00.

|  |             |                 |
|--|-------------|-----------------|
| Total owed   |             | \$800.00        |
| Community service credit<br>(3 days @ \$100 per day) |             | <u>300.00</u>   |
| Balance owed   |             | 500.00          |
| Amount paid:   |             |                 |
| Court costs and fees                                 | \$150.00    |                 |
| Fine   | <u>0.00</u> |                 |
| Total  | 150.00      | <u>150.00</u>   |
| Balance owed   |             | <u>\$350.00</u> |

### 3. Basic Procedures

- verify compliance with the requirements of Code of Criminal Procedure, Article 45.049 or Article 43.09;
- give the defendant a copy of the court order or other appropriate paperwork that indicates the specifics about the required community service (i.e. entity or organization name and location, number of hours to be worked, when the work must be completed by, etc.);
- send written notification to the entity or organization about the community service requirement, as well as a form to complete concerning the defendant's community service. The written notification and form can be combined into one form. The form should provide space for the entity or organization to indicate whether the work was performed as specified by the judge's order. The entity or organization should specifically indicate how many hours the defendant worked. The form should also provide space for the entity or organization to enter any additional comments they feel are warranted. The form should be signed and dated by an appropriate representative of the entity or organization;
- file a copy of the paperwork in some sort of tickler system so it can be pulled and followed up on if the completion of community service hours form is not received back from the entity or organization when due; and



- once the completion of hours form is received back from the entity or organization, the appropriate individual in the office should verify the amount of hours required and completed and enter the credit in the accounting and other records and then file the form with the case records. If there are any additional amounts owed, appropriate procedures should be followed to satisfy any balance. The form should be signed or initialed by the individual entering the credit in the accounting records.

## **H. JAIL TIME CREDIT**

### **1. General Information**

Jail time credit for justice courts is provided for in the Code of Criminal Procedure, Article 45.048 (*see Appendix - page 6*), which requires that the credit be at least \$50.00 for each period of time served, as specified by the convicting court. A convicting court may specify a period of time that is not less than eight hours or more than 24 hours as the period of time to satisfy \$50.00.

For county-level and district courts, jail time credit is provided for in Code of Criminal Procedure, Article 43.09 (*see Appendix - page 3*), which provides a basic amount of \$50.00 for each day. It is important to remember that Code of Criminal Procedure, Article 42.03 (*see Appendix - page 2*) also provides that defendants are entitled to any pre-conviction time they spend in jail.

The law also provides for additional credits.

- Code of Criminal Procedure, Article 43.09 (*see Appendix - page 3*) provides that the court or the county sheriff may grant an additional two days credit for each day served to any inmate participating in an approved work program or a rehabilitation, restitution, or education program.
- Code of Criminal Procedure, Article 42.032 (*see Appendix - page 2*) allows the county sheriff to grant additional credit for good conduct, industry, and obedience. The amount is not to exceed an additional day for each day served, and the total credit amount is not to exceed one-third of the original sentence of fines and court costs.

### **2. Example**

Jail time credit applies to the court costs, fees, and fine. If there is enough jail time credit, the entire amount owed is satisfied. However, if a defendant satisfies part of the amount owed by jail time credit and pays the balance, the amount paid is credited to court costs and fees first (both state and local), and the balance, if any, to the fine.

Assume a defendant is convicted of an offense in a county-level court and owes \$750.00, as follows:

|                      |                 |
|----------------------|-----------------|
| Court costs and fees | \$204.00        |
| Fine                 | <u>546.00</u>   |
| Total owed           | <u>\$750.00</u> |

Case 1: Defendant receives five days of jail time credit at \$150.00 per day.

|   |               |
|---|---------------|
| Total owed                                | \$750.00      |
| Jail time credit (5 days @ \$150 per day) | <u>750.00</u> |
| Balance owed                              | <u>0.00</u>   |

Case 2: Defendant receives three days of jail time credit at \$150.00 per day and pays \$300.00.

|   |               |
|---|---------------|
| Total owed                                | \$750.00      |
| Jail time credit (3 days @ \$150 per day) | <u>450.00</u> |
| Balance owed                              | 300.00        |

Amount paid:

|                      |               |
|----------------------|---------------|
| Court costs and fees | \$204.00      |
| Fine                 | <u>96.00</u>  |
| Total                | <u>300.00</u> |
| Balance owed         | <u>0.00</u>   |

Case 3: Defendant receives two days of jail time credit at \$150.00 per day and pays \$150.00.

|   |               |
|---|---------------|
| Total owed                                | \$750.00      |
| Jail time credit (2 days @ \$150 per day) | <u>300.00</u> |
| Balance owed                              | 450.00        |

Amount paid:

|                      |                 |
|----------------------|-----------------|
| Court costs and fees | \$150.00        |
| Fine                 | <u>0.00</u>     |
| Total                | <u>150.00</u>   |
| Balance owed         | <u>\$300.00</u> |

### 3. Basic Procedures

- verify there is appropriate documentation for the defendant to spend time in jail (e.g., an order signed by the judge or a motion signed by the defendant to lay out the costs, fees, and fine in jail);
- receive appropriate paperwork from the jail indicating the time served and showing the number of days credit given, the daily credit amount, and the total credit amount.

*(There should be a form at the jail showing the time the defendant was placed in jail and the time the defendant was released from jail. The form should be signed or initialed by the appropriate individual at the jail showing the date and time the defendant was placed in jail. The form should also be signed or initialed by the appropriate individual at the jail showing the date and time the defendant was released from jail.)*

- the appropriate individual in the office should verify the days served and the amounts and enter the credit in the accounting and other records and then file the paperwork with the case records. If there are any additional amounts owed, appropriate procedures should be followed to satisfy any balance due. The form indicating the time served and number of days credit given should be signed or initialed by the individual entering the credit in the records; and
- a determination should be made if there are any additional amounts owed, and if so, appropriate procedures should be followed to satisfy any balance due.

# I. COMPUTER SECURITY AND CONTROLS

## 1. Introduction

County offices continue to rely more and more on computers in daily operations and in storing important data and information. As a result, computer security and controls continue to grow in importance.

Computer malfunctions, viruses, intentional and/or unintentional problems caused by current or ex-employees, or even problems that could be caused by outside hackers present a real challenge to county officials in today's electronic workplace.

## 2. Some Basics

Each official should take the responsibility of computer security and controls seriously. Unfortunately, it is an area that is often overlooked because of the other demanding day-in and day-out responsibilities that have to be fulfilled. However, basic security is not as complicated or time-consuming as most people think.

Complying with the following **minimum** basics should be a goal for each county official. Additional controls and security measures unique to a particular county, office, computer system, and software should be added as needed. Officials should consult with the county auditor and information technology department in developing good security and controls.

### a. Written policies and procedures.

The county as a whole and each office should have written policies and procedures that cover just about everything when it comes to computer security and controls. The policies and procedures should be required reading for all officials and employees. Some offices require employees to sign a document indicating that they have read the policies and procedures, they understand them, and agree to abide by them. Procedures should cover and include:

- 1) who is responsible for what and how;
- 2) who has access to what (both physical access and computer access);
- 3) how that access is controlled;

- 4) software policies, such as the use of personal software;
- 5) an Internet use policy;
- 6) e-mail use policy; and
- 7) how passwords are to be used.

b. Restrict access.

Both hardware and software access should be restricted to authorized personnel. Users should be required to log off their computer whenever they leave their work area. This would also include an appropriate segregation of duties to prevent one person from having too much control over transactions.

c. Appropriately use passwords.

This is probably the easiest way to improve computer security, but it is also an area that is often not taken very seriously. Passwords should not be shared and they should be changed often. In addition, passwords should not be written down and left close to the computer where someone else can find and use them.

d. Use anti-virus programs.

Current programs should be obtained and used consistently.

e. Back up data and information.

Unfortunately, most people learn to do this the hard way—as a result of losing important data or information. Do not be one of them. Back your files up regularly and store the back-up in a location different from where your computer is located.

# Appendix

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## APPENDIX

### STATUTES

#### **Expungement of Conviction of a Minor**

##### **Alcoholic Beverage Code, Section 106.12**

- (a) Any person convicted of not more than one violation of this code while a minor, on attaining the age of 21 years, may apply to the court in which he was convicted to have the conviction expunged.
- (b) The application shall contain the applicant's sworn statement that he was not convicted of any violation of this code while a minor other than the one he seeks to have expunged.
- (c) If the court finds that the applicant was not convicted of any other violation of this code while he was a minor, the court shall order the conviction, together with all complaints, verdicts, sentences, and other documents relating to the offense, to be expunged from the applicant's record. After entry of the order, the applicant shall be released from all disabilities resulting from the conviction, and the conviction may not be shown or made known for any purpose.
- (d) The court shall charge an applicant a fee in the amount of \$30 for each application for expungement filed under this section to defray the cost of notifying state agencies of orders of expungement under this section.

#### **Financing**

##### **Civil Practices & Remedies Code, Section 152.004**

- (a) To establish and maintain an alternative dispute resolution system, the commissioners court may set a court cost in an amount not to exceed \$15 to be taxed, collected, and paid as other court costs in each civil case filed in a county or district court in the county, including a civil case relating to probate matters but not including:
- (1) a suit for delinquent taxes;
  - (2) a condemnation proceeding under Chapter 21, Property Code; or
  - (3) a proceeding under Subtitle C, Title 7, Health and Safety Code.
- (b) The county is not liable for the payment of a court cost under this section.
- (c) The clerks of the courts in the county shall collect and pay the costs to the county treasurer or, if the county does not have a treasurer, to the county officer who performs the functions of the treasurer, who shall deposit the costs in a separate fund known as the alternative dispute resolution system fund. The fund shall be administered by the commissioners court and may only be used to establish and maintain the system. The system shall be operated at one or more convenient and accessible places in the county.

#### **Additional Fee for Justice Courts**

##### **Civil Practices & Remedies Code, Section 152.005**

- (a) To establish and maintain an alternative dispute resolution system, the commissioners court may, in addition to the court cost authorized under Section 152.004, set a court cost in an amount not to exceed \$5 for civil cases filed in a justice court located in the county, but not including:
- (1) a suit for delinquent taxes; or
  - (2) an eviction proceeding, including a forcible detainer, a forcible entry and detainer, or a writ of

re-entry.

(b) A clerk of the court shall collect and pay the court cost in the manner prescribed by Section 152.004(c).

### **Pronouncing Sentence; Time; Credit for Time Spent in Jail Between Arrest and Sentence or Pending Appeal**

#### **Code of Criminal Procedure, Article 42.03**

Sec. 1. (a) Except as provided in Article 42.14, sentence shall be pronounced in the defendant's presence.

(b) The court shall permit a victim, close relative of a deceased victim, or guardian of a victim, as defined by Article 56.01 of this code, to appear in person to present to the court and to the defendant a statement of the person's views about the offense, the defendant, and the effect of the offense on the victim. The victim, or guardian may not direct questions to the defendant while making the statement. The court reporter may not transcribe the statement. The statement must be made:

- (1) after punishment has been assessed and the court has determined whether or not to grant community supervision in the case;
- (2) after the court has announced the terms and conditions of the sentence; and
- (3) after sentence is pronounced.

Sec. 2. (a) In all criminal cases the judge of the court in which the defendant was convicted shall give the defendant credit on his sentence for the time that the defendant has spent in jail in said cause, other than confinement served as a condition of community supervision, from the time of his arrest and confinement until his sentence by the trial court.

(b) In all revocations of a suspension of the imposition of a sentence the judge shall enter the restitution or reparation due and owing on the date of the revocation.

Sec. 3. If a defendant appeals his conviction, is not released on bail, and is retained in a jail as provided in Section 7, Article 42.09, pending his appeal, the judge of the court in which the defendant was convicted shall give the defendant credit on his sentence for the time that the defendant has spent in jail pending disposition of his appeal. The court shall endorse on both the commitment and the mandate from the appellate court all credit given the defendant under this section, and the institutional division of the Texas Department of Criminal Justice shall grant the credit in computing the defendant's eligibility for parole and discharge.

Sec. 4. When a defendant who has been sentenced to imprisonment in the institutional division of the Texas Department of Criminal Justice has spent time in jail pending trial and sentence or pending appeal, the judge of the sentencing court shall direct the sheriff to attach to the commitment papers a statement assessing the defendant's conduct while in jail.

### **Good Conduct**

#### **Code of Criminal Procedure, Article 42.032**

Sec. 1. To encourage county jail discipline, a distinction may be made to give orderly, industrious, and obedient defendants the comforts and privileges they deserve. The reward for good conduct may consist of a relaxation of strict county jail rules and extension of social privileges consistent with proper discipline.

Sec. 2. The sheriff in charge of each county jail may grant commutation of time for good conduct, industry, and obedience. A deduction not to exceed one day for each day of the original sentence actually served may be made for the term or terms of sentences if a charge of misconduct has not been

sustained against the defendant.

Sec. 3. This article applies whether or not the judgment of conviction is a fine or jail sentence or both, but the deduction in time may not exceed one-third of the original sentence as to fines and court costs assessed in the judgment of conviction.

Sec. 4. A defendant serving two or more cumulative sentences shall be allowed commutation as if the sentences were one sentence.

Sec. 5. Any part or all of the commutation accrued under this article may be forfeited and taken away by the sheriff:

(1) for a sustained charge of misconduct in violation of any rule known to the defendant, including escape or attempt to escape, if the sheriff has complied with discipline proceedings as approved by the Commission on Jail Standards; or

(2) on receipt by the sheriff of a certified copy of a final order of a state or federal court that dismisses as frivolous or malicious a lawsuit brought by a defendant while the defendant was in the custody of the sheriff.

Sec. 6. Except for credit earned by a defendant under Article 43.10, no other time allowance or credits in addition to the commutation of time under this article may be deducted from the term or terms of sentences.

Sec. 7. The sheriff shall keep a conduct record in card or ledger form and a calendar card on each defendant showing all forfeitures of commutation time and the reasons for the forfeitures.

## **Restitution**

### **Code of Criminal Procedure, Article 42.037**

(g)(1) The court may require a defendant to make restitution under this article within a specified period or in specified installments. If the court requires the defendant to make restitution in specified installments, in addition to the installment payments, the court may require the defendant to pay a one-time restitution fee of \$12, \$6 of which the court shall retain for costs incurred in collecting the specified installments and \$6 of which the court shall order to be paid to the compensation to victims of crime fund.

## **Deferral of Proceedings in Cases Appealed to County Court**

### **Code of Criminal Procedure, Article 42.111**

If a defendant convicted of a misdemeanor punishable by fine only appeals the conviction to a county court, on the trial in county court the defendant may enter a plea of guilty or nolo contendere to the offense. If the defendant enters a plea of guilty or nolo contendere, the court may defer further proceedings without entering an adjudication of guilt in the same manner as provided for the deferral of proceedings in justice court or municipal court under Article 45.051 of this code. This article does not apply to a misdemeanor case disposed of under Subchapter B, Chapter 543, Transportation Code, or a serious traffic violation as defined by Section 522.003, Transportation Code.

## **Fine Discharged**

### **Code of Criminal Procedure, Article 43.09**

(a) When a defendant is convicted of a misdemeanor and his punishment is assessed at a pecuniary fine or is confined in a jail after conviction of a felony for which a fine is imposed, if he is unable to pay the fine and costs adjudged against him, he may for such time as will satisfy the judgment be put to work

in the county jail industries program, in the workhouse, or on the county farm, or public improvements and maintenance projects of the county or a political subdivision located in whole or in part in the county, as provided in the succeeding article; or if there be no such county jail industries program, workhouse, farm, or improvements and maintenance projects, he shall be confined in jail for a sufficient length of time to discharge the full amount of fine and costs adjudged against him; rating such confinement at \$50 for each day and rating such labor at \$50 for each day; provided, however, that the defendant may pay the pecuniary fine assessed against him at any time while he is serving at work in the county jail industries program, in the workhouse, or on the county farm, or on the public improvements and maintenance projects of the county or a political subdivision located in whole or in part in the county, or while he is serving his jail sentence, and in such instances he shall be entitled to the credit he has earned under this subsection during the time that he has served and he shall only be required to pay his balance of the pecuniary fine assessed against him. A defendant who performs labor under this article during a day in which he is confined is entitled to both the credit for confinement and the credit for labor provided by this article.

(b) In its discretion, the court may order that for each day's confinement served by a defendant under this article, the defendant receive credit toward payment of the pecuniary fine and credit toward payment of costs adjudged against the defendant. Additionally, the court may order that the defendant receive credit under this article for each day's confinement served by the defendant as punishment for the offense.

(c) In its discretion, the court may order that a defendant serving concurrent, but not consecutive, sentences for two or more misdemeanors may, for each day served, receive credit toward the satisfaction of costs and fines imposed for each separate offense.

(d) Notwithstanding any other provision of this article, in its discretion, the court or the sheriff of the county may grant an additional two days credit for each day served to any inmate participating in an approved work program under this article or a rehabilitation, restitution, or education program.

(e) A court in a county served by a community supervision and corrections department that has an electronic monitoring program approved by the community justice assistance division of the Texas Department of Criminal Justice may require a defendant who is unable to pay a fine or costs to discharge all or part of the fine or costs by submitting to electronic monitoring. A defendant that submits to electronic monitoring under this subsection discharges fines and costs in the same manner as if the defendant were confined in county jail.

(f) A court may require a defendant who is unable to pay a fine or costs to discharge all or part of the fine or costs by performing community service.

(g) In its order requiring a defendant to participate in community service work under Subsection (f) of this article, the court must specify:

(1) the number of hours the defendant is required to work; and

(2) whether the community supervision and corrections department or a court-related services office will perform the administrative duties required by the placement of the defendant in the community service program.

(h) The court may order the defendant to perform community service work under Subsection (f) of this article only for a governmental entity or a nonprofit organization that provides services to the general public that enhance social welfare and the general well-being of the community. A governmental entity or nonprofit organization that accepts a defendant under Subsection (f) of this article to perform community service must agree to supervise the defendant in the performance of the defendant's work and report on the defendant's work to the district probation department or court-related services office.

(i) The court may require bail of a defendant to ensure the defendant's faithful performance of community service under Subsection (f) of this article and may attach conditions to the bail as it determines are proper.



(j) A court may not order a defendant to perform more than 16 hours per week of community service under Subsection (f) of this article unless the court determines that requiring the defendant to work additional hours does not work a hardship on the defendant or the defendant's dependents.

(k) A defendant is considered to have discharged \$100 of fines or costs for each eight hours of community service performed under Subsection (f) of this article.

(l) A sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, an employee of a community corrections and supervision department, restitution center, or officer or employee of a political subdivision other than a county is not liable for damages arising from an act or failure to act in connection with manual labor performed by an inmate pursuant to this article if the act or failure to act:

(1) was performed pursuant to confinement or other court order; and

(2) was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.

(m) Fines and costs imposed by a municipal court, regardless of whether the court is a court of record, may be discharged in the manner provided by Subsection (f) of this article. A community supervision and corrections department or a court-related services office may provide the administrative duties and other services necessary for the placement in programs under this article of a defendant convicted in a municipal court, regardless of whether the municipal court is a court of record.

## **Expunction of Certain Conviction Records of Children**

### **Code of Criminal Procedure, Article 45.0216**

(a) In this article, "child" has the meaning assigned by Section 51.02, Family Code.

(b) A person convicted of not more than one offense described by Section 8.07(a)(4) or (5), Penal Code, while the person was a child may, on or after the person's 17<sup>th</sup> birthday, apply to the court in which the child was convicted to have the conviction expunged as provided by this article.

(c) The person must make a written request to have the records expunged. The request must be under oath.

(d) The request must contain the person's statement that the person was not convicted while the person was a child of any offense described by Section 8.07(a)(4) or (5), Penal Code, other than the offense the person seeks to have expunged.

(e) The judge shall inform the person and any parent in open court of the person's expunction rights and provide them with a copy of this article.

(f) If the court finds that the person was not convicted of any other offense described by Section 8.07(a)(4) or (5), Penal Code, while the person was a child, the court shall order the conviction, together with all complaints, verdicts, sentences, and prosecutorial and law enforcement records, and any other documents relating to the offense, expunged from the person's record. After entry of the order, the person is released from all disabilities resulting from the conviction and the conviction may not be shown or made known for any purpose.

(g) This article does not apply to any offense otherwise covered by:

(1) Chapter 106, Alcoholic Beverage Code;

(2) Chapter 161, Health and Safety Code, or

(3) Section 25.094 Education Code.

(h) Records of a person under 17 years of age relating to a complaint dismissed as provided by Article 45.051 or 45.052 may be expunged under this article.

(i) The justice or municipal court shall require a person who requests expungement under this article to pay a fee in the amount of \$30 to defray the cost of notifying state agencies of orders of expungement

under this article.

(j) The procedures for expunction provided under this article are separate and distinct from the expunction procedures under Chapter 55.

### **Jury Trail; Failure to Appear**

#### **Code of Criminal Procedure, Article 45.026**

(a) A justice or municipal court may order a party who does not waive a jury trial in a justice or municipal court and who fails to appear for the trial to pay the costs incurred for impaneling the jury.

(b) The justice or municipal court may release a party from the obligation to pay costs under this section for good cause.

(c) An order issued by a justice or municipal court under this section may be enforced by contempt as prescribed by Section 21.002(c), Government Code.

### **Forfeiture of Cash Bond in Satisfaction of Fine**

#### **Code of Criminal Procedure, Article 45.044**

(a) A justice or judge may enter a judgment of conviction and forfeit a cash bond posted by the defendant in satisfaction of the defendant's fine and cost if the defendant:

(1) has entered a written and signed plea of nolo contendere and a waiver of jury trial; and

(2) fails to appear according to the terms of the defendant's release.

(b) A justice or judge who enters a judgment of conviction and forfeiture under Subsection (a) of this article shall immediately notify the defendant in writing, by regular mail addressed to the defendant at the defendant's last known address, that:

(1) a judgment of conviction and forfeiture of bond was entered against the defendant on a date certain and the forfeiture satisfies the defendant's fine and costs in the case; and

(2) the defendant has a right to a new trial in the case if the defendant applies for the new trial not later than the 10<sup>th</sup> day after the date of judgment and forfeiture.

(c) Notwithstanding Article 45.037 of this code, the defendant may file a motion for a new trial within the period provided by Subsection (b) of this article, and the court shall grant the motion if the motion is made within that period. On the new trial, the court shall permit the defendant to withdraw the previously entered plea of nolo contendere and waiver of jury trial.

### **Discharged From Jail**

#### **Code of Criminal Procedure, Article 45.048**

(a) A defendant placed in jail on account of failure to pay the fine and costs shall be discharged on habeas corpus by showing that the defendant:

(1) is too poor to pay the fine and costs; or

(2) has remained in jail a sufficient length of time to satisfy the fine and costs, at the rate of not less than \$50 for each period of time served, as specified by the convicting court in the judgment in the case.

(b) A convicting court may specify a period of time that is not less than eight hours or more than 24 hours as the period for which a defendant who fails to pay the fines and costs in the case must remain in jail to satisfy \$50 of the fine and costs.

## **Community Service in Satisfaction of Fine or Costs**

### **Code of Criminal Procedure, Article 45.049**

(a) A justice or judge may require a defendant who fails to pay a previously assessed fine or costs, or who is determined by the court to have insufficient resources or income to pay a fine or costs, to discharge all or part of the fine or costs by performing community service. A defendant may discharge an obligation to perform community service under this article by paying at any time the fine and costs assessed.

(b) In the justice's or judge's order requiring a defendant to participate in community service work under this article, the justice or judge must specify the number of hours the defendant is required to work.

(c) The justice or judge may order the defendant to perform community service work under this article only for a governmental entity or a nonprofit organization that provides services to the general public that enhance social welfare and the general well-being of the community. A governmental entity or nonprofit organization that accepts a defendant under this article to perform community service must agree to supervise the defendant in the performance of the defendant's work and report on the defendant's work to the justice or judge who ordered the community service.

(d) A justice or judge may not order a defendant to perform more than 16 hours per week of community service under this article unless the justice or judge determines that requiring the defendant to work additional hours does not work a hardship on the defendant or the defendant's dependents.

(e) A defendant is considered to have discharged not less than \$50 of fines or costs for each eight hours of community service performed under this article.

(f) A sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, justice of the peace, municipal court judge, or officer or employee of a political subdivision other than a county is not liable for damages arising from an act or failure to act in connection with manual labor performed by a defendant under this article if the act or failure to act:

- (1) was performed pursuant to court order; and
- (2) was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.

## **Suspension of Sentence and Deferral of Final Disposition**

### **Code of Criminal Procedure, Article 45.051**

(a) On a plea of guilty or nolo contendere by a defendant or on a finding of guilt in a misdemeanor case punishable by fine only and payment of all court costs, the judge may, at the judge's discretion, defer further proceedings without entering an adjudication of guilt and place the defendant on probation for a period not to exceed 180 days. An order of deferral under this subsection terminates any liability under a bail bond or an appearance bond given for the charge.

(b) During the deferral period, the judge may, at the judge's discretion, require the defendant to:

- (1) post a bond in the amount of the fine assessed to secure payment of the fine;
- (2) pay restitution to the victim of the offense in an amount not to exceed the fine assessed;
- (3) submit to professional counseling;
- (4) submit to diagnostic testing for alcohol or a controlled substance or drug;
- (5) submit to a psychosocial assessment;
- (6) participate in an alcohol or drug abuse treatment or education program;
- (7) pay the costs of any diagnostic testing, psychosocial assessment, or participation in a treatment or education program either directly or through the court as court costs;
- (8) complete a driving safety course approved under Chapter 1001, Education Code, or another

course as directed by the judge;

(9) present to the court satisfactory evidence that the defendant has complied with each requirement imposed by the judge under this article; and

(10) comply with any other reasonable condition.

(b-1) If the defendant is younger than 25 years of age and the offense committed by the defendant is a traffic offense classified as a moving violation:

(1) Subsection (b)(8) does not apply;

(2) during the deferral period, the judge shall require the defendant to complete a driving safety course approved under Chapter 1001, Education Code; and

(3) if the defendant holds a provisional license, during the deferral period the judge shall require that the defendant be examined by the Department of Public Safety as required by Section 521.161(b)(2), Transportation Code; a defendant is not exempt from the examination regardless of whether the defendant was examined previously.

(b-2) A person examined as required by Section (b-1)(3) must pay a \$10 examination fee.

(b-3) The fee collected under Section (b-2) must be deposited to the credit of a special account in the general revenue fund and may be used only by the Department of Public Safety for the administration of Chapter 521, Transportation Code.

(c) On determining that the defendant has complied with the requirements imposed by the judge under this article, the judge shall dismiss the complaint, and it shall be clearly noted in the docket that the complaint is dismissed and that there is not a final conviction. If the complaint is dismissed, a special expense not to exceed the amount of the fine assessed may be imposed.

(d) If by the conclusion of the deferral period the defendant does not present satisfactory evidence that the defendant complied with the requirements imposed, the judge may impose the fine assessed or a lesser fine. The imposition of the fine or lesser fine constitutes a final conviction of the defendant. This subsection does not apply to a defendant required under Subsection (b-1) to complete a driving safety course approved under Chapter 1001, Education Code, or an examination under Section 521.161(b)(2), Transportation Code.

(d-1) If the defendant was required to complete a driving safety course or an examination under Subsection (b-1) and by the conclusion of the deferral period the defendant does not present satisfactory evidence that the defendant completed that course or examination, the judge shall impose the fine assessed. The imposition of the fine constitutes a final conviction of the defendant.

(e) Records related to a complaint dismissed as provided by this article may be expunged under Article 55.01. If a complaint is dismissed under this article, there is not a final conviction and the complaint may not be used against the person for any purpose.

(f) This article does not apply to:

(1) an offense to which Section 542.404 or 729.004(b), Transportation Code, applies; or

(2) a violation of a state law or local ordinance relating to motor vehicle control, other than a parking violation, committed by a person who holds a commercial driver's license, or held a commercial driver's license when the offense was committed.

### **Deferred Disposition Procedures Applicable to Traffic Offenses**

#### **Code of Criminal Procedure, Article 45.051(f)**

(f) In addition to court costs and fees authorized by a law of this state and applicable to the offense, the court may:

(1) require a defendant requesting a course under Subsection (b) to pay an administrative fee set by the court to cover the cost of administering this article at an amount of not more than \$10;

or

(2) require a defendant requesting a course under Subsection (d) to pay a fee set by the court at an amount not to exceed the maximum amount of the fine for the offense committed by the defendant.

### **Dismissal of Misdemeanor Charge on Completion of Teen Court Program**

#### **Code of Criminal Procedure, Article 45.052(e)(g)**

(e) The justice or municipal court may require a person who requests a teen court program to pay a fee not to exceed \$10 that is set by the court to cover the costs of administering this article. Fees collected by a municipal court shall be deposited in the municipal treasury. Fees collected by a justice court shall be deposited in the county treasury of the county in which the court is located. A person who requests a teen court program and fails to complete the program is not entitled to a refund of the fee.

(g) In addition to the fee authorized by Subsection (e) of this article, the court may require a child who requests a teen court program to pay a \$10 fee to cover the cost to the teen court for performing its duties under this article. The court shall pay the fee to the teen court program, and the teen court program must account to the court for the receipt and disbursal of the fee. A child who pays a fee under this subsection is not entitled to a refund of the fee, regardless of whether the child successfully completes the teen court program.

### **Expunction of Conviction and Records in Failure to Attend School Cases**

#### **Code of Criminal Procedure, Article 45.055**

(a) An individual convicted of not more than one violation of Section 25.094, Education Code, may, on or after the individual's 18<sup>th</sup> birthday, apply to the court in which the individual was convicted to have the conviction and records related to the conviction expunged.

(b) To apply for an expunction, the applicant must submit a written request that:

(1) is made under oath;

(2) states that the applicant has not been convicted of more than one violation of Section 25.094, Education Code; and

(3) is in the form determined by the applicant.

(c) The court may expunge the conviction and records relating to the conviction without a hearing or, if facts are in doubt, may order a hearing on the application. If the court finds that the applicant has not been convicted of more than one violation of Section 25.094, Education Code, the court shall order the conviction, together with all complaints, verdicts, sentences, and other documents relating to the offense, including any documents in the possession of a school district or law enforcement agency, to be expunged from the applicant's record. After entry of the order, the applicant is released from all disabilities resulting from the conviction, and the conviction may not be shown or made known for any purpose. The court shall inform the applicant of the court's decision on the application.

(d) The court shall require an individual who files an application under this article to pay a fee in the amount of \$30 to defray the cost of notifying state agencies of orders of expunction under this article.

### **Jury Fee**

#### **Code of Criminal Procedure, Article 102.004**

(a) A defendant convicted by a jury in a trial before a justice or municipal court shall pay a jury fee of \$3. A defendant in a justice or municipal court who requests a trial by jury and who withdraws the

request not earlier than 24 hours before the time of trial shall pay a jury fee of \$3, if the defendant is convicted of the offense or final disposition of the defendant's case is deferred. A defendant convicted by a jury in a county court, a county court at law, or a district court shall pay a jury fee of \$20.

(b) If two or more defendants are tried jointly in a justice or municipal court, only one jury fee of \$3 may be imposed under this article. If the defendants sever and are tried separately, each defendant convicted shall pay a jury fee.

(c) In this article, "conviction" has the meaning assigned by Section 133.101, Local Government Code.

### **Fee for Jury Reimbursement to Counties**

#### **Code of Criminal Procedure, Article 102.0045**

(a) A person convicted of any offense, other than an offense relating to a pedestrian or the parking of a motor vehicle, shall pay as a court cost, in addition to all other costs, a fee of \$4 to be used to reimburse counties for the cost of juror services as provided by Section 61.0015, Government Code.

(b) The clerk of the court shall remit the fees collected under this article to the comptroller in the manner provided by Subchapter B, Chapter 133, Local Government Code. The comptroller shall deposit the fees in the jury service fund.

(c) The jury service fund is created in the state treasury. If, at any time, the unexpended balance of the jury service fund exceeds \$10 million, the comptroller shall transfer the amount in excess of \$10 million to the fair defense account.

(d) Fees deposited in the jury service fund under this section are exempt from the application of Section 403.095, Government Code.

### **Fees to Clerks**

#### **Code of Criminal Procedure, Article 102.005**

(a) A defendant convicted of an offense in a county court, a county court at law, or a district court shall pay for the services of the clerk of the court a fee of \$40.

(b) In this article, a person is considered convicted if:

- (1) a sentence is imposed on the person;
- (2) the person receives community supervision, including deferred adjudication; or
- (3) the court defers final disposition of the person's case.

(c) Except as provided by Subsection (d), the fee imposed under Subsection (a) is for all clerical duties performed by the clerk, including:

- (1) filing a complaint or information;
- (2) docketing the case;
- (3) taxing costs against the defendant;
- (4) issuing original writs and subpoenas;
- (5) swearing in and impaneling a jury;
- (6) receiving and recording the verdict;
- (7) filing each paper entered in the case; and
- (8) swearing in witnesses in the case.

(d) The fee imposed by law for issuing a certified or noncertified copy is in addition to the fee imposed by Subsection (a). The clerk may issue a copy only if a person requests the copy and pays the appropriate fee as required by Sections 118.001, 118.014, 118.0145, 118.052, 118.060, and 118.0605, Local Government Code, and Sections 51.318 and 51.319, Government Code.

(e) Repealed by Acts 1999, 76<sup>th</sup> Leg., ch. 580, § 11(b), eff. Sept. 1, 1999.

(f) A defendant convicted of an offense in a county court, a county court at law, or a district court shall pay a fee of \$25 for records management and preservation services performed by the county as required by Chapter 203, Local Government Code. The fee shall be collected and distributed by the clerk of the court to the county treasurer, or to an official who discharges the duties commonly delegated to the county treasurer, for deposit as follows:

(1) \$22.50 to the county records management and preservation fund for records management and preservation, including automation, in various county offices; and

(2) \$2.50 to the records management and preservation fund of the clerk of the court for records management and preservation services performed by the clerk of the court.

(g) A fee deposited in accordance with Subsection (f) may be used only to provide funds for specific records management and preservation, including for automation purposes, on approval by the commissioners court of a budget as provided by Chapter 111, Local Government Code.

(h) An expenditure from a records management and preservation fund must comply with Subchapter C, Chapter 262, Local Government Code.

### **Fees for Services of Prosecutors**

#### **Code of Criminal Procedure, Article 102.008**

(a) Except as provided by Subsection (b), a defendant convicted of a misdemeanor or a gambling offense shall pay a fee of \$25 for the trying of the case by the district or county attorney. If the court appoints an attorney to represent the state in the absence of the district or county attorney, the appointed attorney is entitled to the fee otherwise due.

(b) No fee for the trying of a case may be charged against a defendant prosecuted in a justice court for violation of a penal statute or of the Uniform Act Regulating Traffic on Highways.

(c) If two or more defendants are tried jointly, only one fee may be charged under this article. If the defendants sever and are tried separately, each defendant shall pay the fee.

(d) A defendant is liable for fees imposed by Subsection (a) if the defendant is convicted of an offense and:

(1) the defendant does not appeal the conviction; or

(2) the conviction is affirmed on appeal.

### **Fees for Services of Peace Officers**

#### **Code of Criminal Procedure, Article 102.011**

(a) A defendant convicted of a felony or a misdemeanor shall pay the following fees for services performed in the case by a peace officer:

(1) \$5 for issuing a written notice to appear in court following the defendant's violation of a traffic law, municipal ordinance, or penal law of this state, or for making an arrest without a warrant;

(2) \$50 for executing or processing an issued arrest warrant or capias, with the fee imposed for the services of:

(A) the law enforcement agency that executed the arrest warrant or capias, if the agency requests of the court, not later than the 15<sup>th</sup> day after the date of the execution of the arrest warrant or capias, the imposition of the fee on conviction; or

(B) the law enforcement agency that processed the arrest warrant or capias, if the executing law enforcement agency failed to request the fee within the period required by Paragraph (A) of this subdivision;

- (3) \$5 for summoning a witness;
- (4) \$35 for serving a writ not otherwise listed in this article;
- (5) \$10 for taking and approving a bond and, if necessary, returning the bond to the courthouse;
- (6) \$5 for commitment or release;
- (7) \$5 for summoning a jury, if a jury is summoned; and
- (8) \$8 for each day's attendance of a prisoner in a habeas corpus case if the prisoner has been remanded to custody or held to bail.

(b) In addition to fees provided by Subsection (a) of this article, a defendant required to pay fees under this article shall also pay 29 cents per mile for mileage required of an officer to perform a service listed in this subsection and to return from performing that service. If the service provided is the execution of a writ and the writ is directed to two or more persons or the officer executes more than one writ in a case, the defendant is required to pay only mileage actually and necessarily traveled. In calculating mileage, the officer must use the railroad or the most practical route by private conveyance. The defendant shall also pay all necessary and reasonable expenses for meals and lodging incurred by the officer in the performance of services under this subsection, to the extent such expenses meet the requirements of Section 611.001, Government Code. This subsection applies to:

- (1) conveying a prisoner after conviction to the county jail;
- (2) conveying a prisoner arrested on a warrant or *capias* issued in another county to the court or jail of the county; and
- (3) traveling to execute criminal process, to summon or attach a witness, and to execute process not otherwise described by this article.

(c) If an officer attaches a witness on the order of a court outside the county, the defendant shall pay \$10 per day or part of a day spent by the officer conveying the witness and actual necessary expenses for travel by the most practical conveyance. In order to receive expenses under this subsection, the officer must make a sworn statement of the expenses and the judge issuing the attachment must approve the statement.

(d) A defendant shall pay for the services of a sheriff or constable who serves process and attends an examining trial in a felony or a misdemeanor case the same fees allowed for those services in the trial of a felony or a misdemeanor, not to exceed \$5.

(e) A fee under Subsection (a)(1) or (a)(2) of this article shall be assessed on conviction, regardless of whether the defendant was also arrested at the same time for another offense, and shall be assessed for each arrest made of a defendant arising out of the offense for which the defendant has been convicted.

(i) In addition to fees provided by Subsections (a) through (g) of this article, a defendant required to pay fees under this article shall also pay the costs of overtime paid to a peace officer for time spent testifying in the trial of the case or for traveling to or from testifying in the trial of the case.

(j) In this article, "conviction" has the meaning assigned by Section 133.101, Local Government Code.

### **Court Costs for Child Safety Fund**

#### **Code of Criminal Procedure, Article 102.014**

(d) A person convicted of an offense under Section 25.093 or 25.094, Education Code, shall pay as taxable court costs \$20 in addition to other taxable court costs. The additional court costs under this subsection shall be collected in the same manner that other fines and taxable court costs in the case are collected.

(e) In this article, a person is considered to have been convicted in a case if the person would be considered to have been convicted under Section 133.101, Local Government Code.

(h) Money collected under this article in a justice, county, or district court shall be used to fund school



crossing guard programs in the county where they are collected. If the county does not operate a school crossing guard program, the county may:

- (1) remit fee revenues to school districts in the jurisdiction for the purpose of providing school crossing guard services;
  - (2) fund programs the county is authorized by law to provide which are designed to enhance child safety, health, or nutrition, including child abuse prevention and intervention and drug and alcohol abuse prevention;
  - (3) provide funding for the sheriff's department for school-related activities;
  - (4) provide funding to the county's juvenile probation department; or
  - (5) deposit the money in the general fund of the county.
- (i) Each collecting officer shall keep separate records of money collected under this article.

### **Costs for Breath Alcohol Testing Program**

#### **Code of Criminal Procedure, Article 102.016**

(a) The custodians of municipal and county treasuries may deposit funds collected under this article in interest-bearing accounts and retain for the municipality or county interest earned on the funds. The custodians shall keep records of funds received and disbursed under this article and shall provide a yearly report of all funds received and disbursed under this article to the comptroller, the Department of Public Safety, and to each agency in the county served by the court that participates in or maintains a certified breath alcohol testing program. The comptroller shall approve the form of the report.

(b) The custodian of a municipal or county treasury in a county that maintains a certified breath alcohol testing program but does not use the services of a certified technical supervisor employed by the department may, to defray the costs of maintaining and supporting a certified alcohol breath testing program, retain \$22.50 of each court cost collected under Article 102.075 on conviction of an offense under Chapter 49, Penal Code, other than an offense that is a Class C misdemeanor.

(c) The legislature may appropriate money deposited to the credit of the breath alcohol testing account in the general revenue fund under this subsection to the Department of Public Safety for use by the department in the implementation, administration, and maintenance of the statewide certified breath alcohol testing program.

(d) The Department of Public Safety shall maintain a list of counties that do not use the services of a certified technical supervisor employed by the department.

### **Court Costs; Courthouse Security Fund; Municipal Court Building Security Fund**

#### **Code of Criminal Procedure, Article 102.017**

(a) A defendant convicted of a felony offense in a district court shall pay a \$5 security fee as a cost of court.

(b) A defendant convicted of a misdemeanor offense in a county court, county court at law, or district court shall pay a \$3 security fee as a cost of court. A defendant convicted of a misdemeanor offense in a justice court shall pay a \$4 security fee as a cost of court. The governing body of a municipality by ordinance may create a municipal court building security fund and may require a defendant convicted of a misdemeanor offense in a municipal court to pay a \$3 security fee as a cost of court.

(c) In this article, a person is considered convicted if:

- (1) a sentence is imposed on the person;
- (2) the person receives community supervision, including deferred adjudication; or
- (3) the court defers final disposition of the person's case.

(d) Except as provided by Subsection (d-1), the clerks of the respective courts shall collect the costs and pay them to the county or municipal treasurer, as appropriate, or to any other official who discharges the duties commonly delegated to the county or municipal treasurer, as appropriate, for deposit in a fund to be known as the courthouse security fund or a fund to be known as the municipal court building security fund, as appropriate. A fund designated by this subsection may be used only to finance security personnel for a district, county, justice, or municipal court, as appropriate, or to finance items when used for the purpose of providing security services for buildings housing a district, county, justice, or municipal court, as appropriate, including:

- (1) the purchase or repair of X-ray machines and conveying systems;
- (2) handheld metal detectors;
- (3) walkthrough metal detectors;
- (4) identification cards and systems;
- (5) electronic locking and surveillance equipment;
- (6) bailiffs, deputy sheriffs, deputy constables, or contract security personnel during times when they are providing appropriate security services;
- (7) signage;
- (8) confiscated weapon inventory and tracking systems;
- (9) locks, chains, alarms, or similar security devices;
- (10) the purchase or repair of bullet-proof glass; and
- (11) continuing education on security issues for court personnel and security personnel.

(d-1) (1) This subsection applies only to a justice court located in a county in which one or more justice courts are located in a building that is not the county courthouse.

(2) The county treasurer shall deposit one-fourth of the cost of court collected under Subsection (b) in a justice court described by Subdivision (1) into a fund to be known as the justice court building security fund. A fund designated by subsection may be used only for the purpose of providing for a justice court located in a building that is not the county courthouse security services as described by Subsection (d).

(e) The courthouse security fund and the justice court building security fund shall be administered by or under the direction of the commissioners court. The municipal court building fund shall be administered by or under the direction of the governing body of the municipality.

## **Court Costs; Juvenile Delinquency Prevention Funds**

### **Code of Criminal Procedure, Article 102.0171**

(a) A defendant convicted of an offense under Section 28.08, Penal Code, in a county court, county court at law, or district court shall pay a \$5 graffiti eradication fee as a cost of court.

(b) In this article, a person is considered convicted if:

- (1) a sentence is imposed on the person;
- (2) the person receives community supervision, including deferred adjudication; or
- (3) the court defers final disposition of the person's case.

(c) The clerks of the respective courts shall collect the costs and pay them to the county treasurer or to any other official who discharges the duties commonly delegated to the county treasurer for deposit in a fund to be known as the county juvenile delinquency prevention fund. A fund designated by this subsection may be used only to:

- (1) repair damage caused by the commission of offenses under Section 28.08, Penal Code;
- (2) provide educational and intervention programs designed to prevent individuals from committing offenses under Section 28.08, Penal Code;

- (3) provide to the public rewards for identifying and aiding in the apprehension and prosecution of offenders who commit offenses under Section 28.08, Penal Code;
  - (4) provide funding for teen recognition and teen recreation programs;
  - (5) provide funding for local teen court programs;
  - (6) provide funding for the local juvenile probation department; and
  - (7) provide educational and intervention programs designed to prevent juveniles from engaging in delinquent conduct.
- (d) The county juvenile delinquency prevention fund shall be administered by or under the direction of the commissioners court.

### **Court Costs; Justice Court Technology Fund**

#### **Code of Criminal Procedure, Article 102.0173**

- (a) The commissioners court of a county by order shall create a justice court technology fund. A defendant convicted of a misdemeanor offense in justice court shall pay a \$4 justice court technology fee as a cost of court for deposit in the fund.
- (b) In this article, a person is considered convicted if:
- (1) a sentence is imposed on the person; or
  - (2) the court defers final disposition of the person's case.
- (c) The justice court clerk shall collect the costs and pay the funds to the county treasurer, or to any other official who discharges the duties commonly delegated to the county treasurer, for deposit in a fund to be known as the justice court technology fund.
- (d) A fund designated by this article may be used only to finance:
- (1) the cost of continuing education and training for justice court judges and clerks regarding technological enhancements for justice courts; and
  - (2) the purchase and maintenance of technological enhancements for a justice court, including:
    - (A) computer systems;
    - (B) computer networks;
    - (C) computer hardware;
    - (D) computer software;
    - (E) imaging systems;
    - (F) electronic kiosks;
    - (G) electronic ticket writers; and
    - (H) docket management systems.
- (e) The justice court technology fund shall be administered by or under the direction of the commissioners court of the county.

### **Court Costs; Juvenile Case Manager Fund**

#### **Code of Criminal Procedure, Article 102.0174**

- (a) In this article, "fund" means a juvenile case manager fund.
- (b) The governing body of a municipality by ordinance may create a juvenile case manager fund and may require a defendant convicted of a fine-only misdemeanor offense in a municipal court to pay a juvenile case manager fee not to exceed \$5 as a cost of court.
- (c) The commissioners court of a county by order may create a juvenile case manager fund and may require a defendant convicted of a fine-only misdemeanor offense in a justice court, county court, or county court at law to pay a juvenile case manager fee not to exceed \$5 as cost of court.

- (d) The ordinance or order must authorize the judge or justice to waive the fee required by Subsection (b) or (c) in a case of financial hardship.
- (e) In this article, a defendant is considered convicted if:
  - (1) a sentence is imposed on the defendant;
  - (2) the defendant receives deferred disposition, including deferred proceedings under Article 45.052 or 45.053; or the defendant receives deferred adjudication in county court.
- (f) The clerks of the respective courts shall collect the costs and pay them to the county or municipal treasurer, as applicable, or to any other official who discharges the duties commonly delegated to the county or municipal treasurer for deposit in the fund.
- (g) A fund created under this section may be used only to finance the salary and benefits of a juvenile case manager employed under Article 45.056.
- (h) A fund must be administered by or under the direction of the commissioners court or under the direction of the governing body of the municipality.

### **Costs Attendant to Intoxication Convictions**

#### **Code of Criminal Procedure, Article 102.018**

- (a) Except as provided by Subsection (d) of this article, on conviction of an offense relating to the driving or operating of a motor vehicle under Section 49.04, Penal Code, the court shall impose a cost of \$15 on a defendant if, subsequent to the arrest of the defendant, a law enforcement agency visually recorded the defendant with an electronic device. Costs imposed under this subsection are in addition to other court costs and are due whether or not the defendant is granted probation in the case. The court shall collect the costs in the same manner as other costs are collected in the case.
- (b) Except as provided by Subsection (d) of this article, on conviction of an offense relating to the driving or operating of a motor vehicle punishable under Section 49.04(b), Penal Code, the court shall impose as a cost of court on the defendant an amount that is equal to the cost of an evaluation of the defendant performed under Section 13(a), Article 42.12, of this code. Costs imposed under this subsection are in addition to other costs and are due whether or not the defendant is granted probation in the case, except that if the court determines that the defendant is indigent and unable to pay the cost, the court may waive the imposition of the cost.
- (c) (1) Except as provided by Subsection (d) of this article, if a person commits an offense under Chapter 49, Penal Code, and as a direct result of the offense the person causes an incident resulting in an accident response by a public agency, the person is liable on conviction for the offense for the reasonable expense to the agency of the accident response. In this article, a person is considered to have been convicted in a case if:
  - (A) a sentence is imposed;
  - (B) the defendant receives probation or deferred adjudication; or
  - (C) the court defers final disposition of the case.
- (2) The liability authorized by this subsection may be established by civil suit; however, if a determination is made during a criminal trial that a person committed an offense under Chapter 49, Penal Code, and as a direct result of the offense the person caused an incident resulting in an accident response by a public agency, the court may include the obligation for the liability as part of the judgment. A judgment that includes such an obligation is enforceable as any other judgment.
- (3) The liability is a debt of the person to the public agency, and the public agency may collect the debt in the same manner as the public agency collects an express or implied contractual obligation to the agency.
- (4) A person's liability under this subsection for the reasonable expense of an accident response may

not exceed \$1,000 for a particular incident. For the purposes of this subdivision, a reasonable expense for an accident response includes only those costs to the public agency arising directly from an accident response to a particular incident, such as the cost of providing police, fire-fighting, rescue, ambulance, and emergency medical services at the scene of the incident and the salaries of the personnel of the public agency responding to the incident.

(5) A bill for the expense of an accident response sent to a person by a public agency under this subsection must contain an itemized accounting of the components of the total charge. A bill that complies with this subdivision is prima facie evidence of the reasonableness of the costs incurred in the accident response to which the bill applies.

(6) A policy of motor vehicle insurance delivered, issued for delivery, or renewed in this state may not cover payment of expenses charged to a person under this subsection.

(7) In this subsection, "public agency" means the state, a county, a municipality district, or a public authority located in whole or in part in this state that provides police, fire-fighting, rescue, ambulance, or emergency medical services.

(d) Subsections (a), (b), and (c) of this article do not apply to an offense under Section 49.02 or 49.03, Penal Code.

### **Additional Costs Attendant to Intoxication Convictions: Emergency Medical Services, Trauma Facilities, and Trauma Care Systems**

#### **Code of Criminal Procedure, Article 102.0185**

(a) In addition to the costs on conviction imposed by Articles 102.016 and 102.018, a person convicted of an offense under Chapter 49, Penal Code, except for Sections 49.02 and 49.031, shall pay \$100 on conviction of the offense.

(b) Costs imposed under this article are imposed without regard to whether the defendant is placed on community supervision after being convicted of the offense or receives deferred disposition or deferred adjudication for the offense.

(c) Costs imposed under this article are collected in the same manner as other costs collected under Article 102.075.

(d) The officer collecting the costs under this article shall keep separate records of the money collected and shall pay the money to the custodian of the municipal or county treasury.

(e) The custodian of the municipal or county treasury shall:

(1) keep records of the amount of money collected under this article that is deposited with the treasury under this article; and

(2) not later than the last day of the first month following each calendar quarter;

(A) pay the money collected under this article during the preceding calendar quarter to the comptroller; or

(B) if, in the calendar quarter, the custodian of the municipal or county treasury did not receive any money attributable to costs paid under this article, file a report with the comptroller stating that fact.

(f) The comptroller shall deposit the funds received under this article to the credit of the account established under Section 773.006, Health and Safety Code.

### **Additional Costs Attendant to Certain Child Sexual Assault and Related Convictions**

#### **Code of Criminal Procedure, Article 102.0186**

(a) A person convicted of an offense under Section 21.11, 22.011(a)(2), 22.021(a)(1)(B), 43.25, 43.251,

or 43.26, Penal Code, shall pay \$100 on conviction of the offense.

(b) Costs imposed under this article are imposed without regard to whether the defendant is placed on community supervision after being convicted of the offense or receives deferred adjudication for the offense.

(c) The clerks of the respective courts shall collect the costs and pay them to the county treasurer or to any other official who discharges the duties commonly delegated to the county treasurer for deposit in a fund to be known as the county child abuse prevention fund. A fund designated by this subsection may be used only to fund child abuse prevention programs in the county where the court is located.

(d) The county child abuse prevention fund shall be administered by or under the direction of the commissioners court.

### **Costs on Conviction for Offenses Requiring DNA Testing**

#### **Code of Criminal Procedure, Article 102.020**

(a) A person shall pay \$250 as a court cost on conviction of an offense listed in Section 411.1471(a)(1), Government Code, and \$50 as a court cost on conviction of an offense listed in Section 411.1471(a)(3) of that code.

(b) The court shall assess and make a reasonable effort to collect the cost due under this article whether or not any other court cost is assessed or collected.

(c) For the purposes of this article, a person is considered to have been convicted if:

(1) a sentence is imposed; or

(2) the defendant receives community supervision or deferred adjudication.

(d) Court costs under this article are collected in the same manner as other fines or costs. An officer collecting the costs shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county treasury.

(e) The custodian of a county treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and

(2) send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(f) A county may retain 10 percent of the funds collected under this article by an officer of the county as a collection fee if the custodian of the county treasury complies with Subsection (e).

(g) If no funds due as costs under this article are deposited in a county treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(h) The comptroller shall deposit 35 percent of the funds received under this article in the state treasury to the credit of the state highway fund and 65 percent of the funds received under this article to the credit of the criminal justice planning account in the general revenue fund.

(i) Funds collected under this article are subject to audit by the comptroller.

### **Additional Fee**

#### **Code of Criminal Procedure, Article 102.072**

An officer listed in Article 103.003 or a community supervision and corrections department may assess an administrative fee for each transaction made by the officer or department relating to the collection of fines, fees, restitution, or other costs imposed by the court. The fee may not exceed \$2 for each transaction. This article does not apply to a transaction relating to the collection of child support.

## **Disposition of Collected Money**

### **Code of Criminal Procedure, Article 103.004**

(a) Except as provided by 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 third regular business day after the date that the money is collected.

(b) The commissioners court of a county may authorize an officer who is required to deposit money under Subsection (a) to deposit the money in the county treasury not later than the seventh 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 money under Subsection (a) to deposit the money in the county treasury not later than the 30<sup>th</sup> day after the date that the money is collected.

(d) The custodian of the county treasury shall deposit money received from fees imposed under Article 102.012 in the special fund of the county treasury for the community supervision and corrections department serving the county.

## **Report Required**

### **Code of Criminal Procedure, Article 103.005**

(a) An officer listed in Article 103.003 who collects money other than taxes for a county shall report to the commissioners court of the county for which the money was collected during each term of the court.

(b) An officer listed in Article 103.003 who collects money other than taxes for the state shall report to the district court having jurisdiction in the county the officer serves on the first day of each term of the court.

(c) The report must state for the reporting period:

- (1) the amount of money collected by the officer;
- (2) when and from whom the money was collected;
- (3) the process by which the money was collected; and
- (4) the disposition of the money.

(d) The report must be in writing and under the oath of the officer.

(e) If an officer has not collected money since the last report required to be filed with the court or the commissioners court, the officer shall report that fact to the court or commissioners court.

## **Receipt Book**

### **Code of Criminal Procedure, Article 103.010**

(a) Each county shall provide a receipt book to each officer collecting fines and fees in criminal cases for the county. The book must contain duplicate official receipts. Each receipt must bear a distinct number and a facsimile of the official seal of the county.

(b) An officer who collects fines or fees in a criminal case shall give the person paying the money a receipt from the receipt book. The receipt must show:

- (1) the amount of money paid;
- (2) the date the money was paid;

- (3) the style and number of the case in which the costs were accrued;
  - (4) the item of costs;
  - (5) the name of the person paying the money; and
  - (6) the official signature of the officer receiving the money.
- (c) Instead of a receipt book, each officer collecting fines or fees in criminal cases for the county may maintain the information listed in Subsections (b)(1)-(5) in a computer database. The officer shall provide a receipt to each person paying a fine or fee.

## **Audit**

### **Code of Criminal Procedure, Article 103.011**

An officer shall deliver the receipt book or a copy of any receipt records contained in a computer database to the county auditor at the end of each month's business or at the end of each month shall allow the county auditor electronic access to receipt records contained in the computer database. The county auditor shall examine the receipt book or computer records and determine whether the money collected has been properly disposed of. If each receipt in a receipt book has been used, the county auditor shall keep the book. If any receipt in the book has not been used, the auditor shall return the book to the officer. The county auditor may keep a copy of computer generated receipt records delivered to the county auditor. Any person may inspect a receipt book or a computer generated receipt record kept by the county auditor.

## **Parent Contributing to Nonattendance**

### **Education Code, Section 25.093**

- (d) A fine collected under this section shall be deposited as follows:
- (1) one-half shall be deposited to the credit of the operating fund of, as applicable:
    - (A) the school district in which the child attends school;
    - (B) the open-enrollment charter school the child attends; or
    - (C) the juvenile justice alternative education program that the child has been ordered to attend;and
  - (2) one-half shall be deposited to the credit of:
    - (A) the general fund of the county, if the complaint is filed in the justice court or the constitutional county court; or
    - (B) the general fund of the municipality, if the complaint is filed in municipal court.

## **Juvenile Probation Diversion Fund**

### **Family Code, Section 54.0411**

- (a) If a disposition hearing is held under Section 54.04 of this code, the juvenile court, after giving the child, parent, or other person responsible for the child's support a reasonable opportunity to be heard, shall order the child, parent, or other person, if financially able to do so, to pay a fee as cost of court of \$20.
- (b) Orders for the payment of fees under this section may be enforced as provided by Section 54.07 of this code.
- (c) An officer collecting costs under this section shall keep separate records of the funds collected as costs under this section and shall deposit the funds in the county treasury.
- (d) Each officer collecting court costs under this section shall file the reports required under Article



103.005, Code of Criminal Procedure. If no funds due as costs under this section have been collected in any quarter, the report required for each quarter shall be filed in the regular manner, and the report must state that no funds due under this section were collected.

(e) The custodian of the county treasury may deposit the funds collected under this section in interest-bearing accounts. The custodian shall keep records of the amount of funds on deposit collected under this section and not later than the last day of the month following each calendar quarter shall send to the comptroller of public accounts the funds collected under this section during the preceding quarter. A county may retain 10 percent of the funds as a service fee and may retain the interest accrued on the funds if the custodian of a county treasury keeps records of the amount of funds on deposit collected under this section and remits the funds to the comptroller within the period prescribed under this subsection.

(f) Funds collected are subject to audit by the comptroller and funds expended are subject to audit by the State Auditor.

(g) The comptroller shall deposit the funds in a special fund to be known as the juvenile probation diversion fund.

(h) The legislature shall determine and appropriate the necessary amount from the juvenile probation diversion fund to the Texas Juvenile Probation Commission for the purchase of services the commission considers necessary for the diversion of any juvenile who is at risk of commitment to the Texas Youth Commission. The Texas Juvenile Probation Commission shall develop guidelines for the use of the fund. The commission may not purchase the services if a person responsible for the child's support or a local juvenile probation department is financially able to provide the services.

### **Payment of Juvenile Delinquency Prevention Fees**

#### **Family Code, Section 54.0461**

(a) If a child is adjudicated as having engaged in delinquent conduct that violates Section 28.08, Penal Code, the juvenile court shall order the child, parent, or other person responsible for the child's support to pay to the court a \$5 juvenile delinquency prevention fee as a cost of court.

(b) The court shall deposit fees received under this section to the credit of the county juvenile delinquency prevention fund provided for under Article 102.0171, Code of Criminal Procedure.

(c) If the court finds that a child, parent, or other person responsible for the child's support is unable to pay the juvenile delinquency prevention fee required under Subsection (a), the court shall enter into the child's case records a statement of that finding. The court may waive a fee under this section only if the court makes the finding under this subsection.

### **Salary Supplement From State for Certain County Judges**

#### **Government Code, Section 26.006**

(a) A county judge is entitled to an annual salary supplement from the state of \$15,000 if at least 40 percent of the functions that the judge performs are judicial functions.

(b) To receive a supplement under Subsection (a), a county judge must file with the Office of Court Administration of the Texas Judicial System an affidavit stating that at least 40 percent of the functions that the judge performs are judicial functions. The office of court administration shall send the affidavit to the comptroller.

(c) The commissioners court in a county with a county judge who is entitled to receive a salary supplement under this section may not reduce the county funds provided for the salary or office of the county judge as a result of the salary supplement required by this section.

## **Judgment Not Claimed by Plaintiff**

### **Government Code, Section 28.055**

(a) If a defendant has not paid a judgment in favor of the plaintiff and the plaintiff's whereabouts are unknown, the defendant shall use due diligence to locate the plaintiff. The defendant must send a letter by registered or certified mail, return receipt requested, to the plaintiff's last known address and to the address appearing in the plaintiff's statement of his claim or other court record.

(b) If the plaintiff is not located after the use of due diligence, the defendant may pay to the court the amount owed under the judgment. The judge shall immediately execute a release of the judgment on behalf of the plaintiff and deliver the release to the defendant.

(c) The amount paid to the court is held in trust for the plaintiff, and at least once a month the court shall pay those trust funds to the county clerk. The clerk shall deposit the trust funds in the county clerk's trust fund account in the county treasury. The funds shall be deposited, and may be withdrawn, in the same manner as trust funds deposited in district or county court to abide the result of a legal proceeding.

## **Fees Due at Filing**

### **Government Code, Section 51.317**

(a) The district clerk shall collect at the time the suit or action is filed the fees provided by Subsections (b) and (b-1) for services performed by the clerk.

(b) The fees are:

(1) except as provided by Subsection (b-1), for filing a suit, including an appeal from an inferior court \$50

(2) for filing a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition \$15

(3) for issuing a citation or other writ or process not otherwise provided for, including one copy, when requested at the time a suit or action is filed \$8

(4) for records management and preservation \$10.

(b-1) The fees for filing a suit, including an appeal from an inferior court, are:

(1) \$75, for a suit with at least 11 but not more than 25 plaintiffs;

(2) \$100, for a suit with at least 26 but not more than 100 plaintiffs;

(3) \$125, for a suit with at least 101 but not more than 500 plaintiffs;

(4) \$150, for a suit with at least 501 but not more than 1,000 plaintiffs; and

(5) \$200, for a suit with more than 1,000 plaintiffs.

(c) The district clerk, after collecting a fee under Subsection (b)(4), shall pay the fee to the county treasurer, or to an official who discharges the duties commonly delegated to the county treasurer, for deposit as follows:

(1) \$5 to the county records management and preservation fund for records management and preservation, including automation, in various county offices; and

(2) \$5 to the district clerk records management and preservation fund for records management and preservation services performed by the district clerk when a case or document is filed in the records office of the district clerk.

(d) A fee deposited in accordance with Subsection (c) may be used only to provide funds for specific records management and preservation, including for automation purposes, on approval by the commissioners court of a budget as provided by Chapter 111, Local Government Code.

(e) An expenditure from a records management and preservation fund must comply with Subchapter C, Chapter 262, Local Government Code.

## **Court Reporter Service Fee**

### **Government Code, Section 51.601**

(a) The clerk of each court that has an official court reporter shall collect a court reporter service fee of \$15 as a court cost in each civil case filed with the clerk to maintain a court reporter who is available for assignment in the court.

(b) The clerk shall collect this fee in the manner provided for other court costs and shall deliver the fee to the county treasurer, or the person who performs the duties of the county treasurer, of the county in which the court sits. The county treasurer, or the person who performs the duties of the county treasurer, shall deposit the fees received into the court reporter service fund.

(c) The commissioners court of the county shall administer the court reporter service fund to assist in the payment of court-reporter-related services, that may include maintaining an adequate number of court reporters to provide services to the courts, obtaining court reporter transcription services, closed-caption transcription machines, Braille transcription services, or other transcription services to comply with state or federal laws, or providing any other service related to the functions of a court reporter.

(d) The commissioners court shall, in administering the court reporter service fund, assist any court in which a case is filed that requires the payment of the court reporter service fee.

(e) This section does not apply to an action brought to collect delinquent taxes.

## **Additional Fees and Costs in Certain Statutory County Courts**

### **Government Code, Section 51.702**

(a) Except as provided by Subsection (g), in addition to all other fees authorized or required by other law, the clerk of a statutory county court shall collect a \$40 filing fee in each civil case filed in the court to be used for court-related purposes for the support of the judiciary.

(b) In addition to other court costs, a person shall pay \$15 as a court cost on conviction of any criminal offense in a statutory county court, including cases in which probation or deferred adjudication is granted. A conviction that arises under Chapter 521, Transportation Code, or a conviction under Subtitle C, Title 7, Transportation Code, is included, except that a conviction arising under any law that regulates pedestrians or the parking of motor vehicles is not included.

(c) Court costs and fees due under this section shall be collected in the same manner as other fees, fines, or costs are collected in the case.

(d) The clerk shall deposit the fees and costs collected under this section to be sent to the comptroller as provided by Subchapter B, Chapter 133, Local Government Code. The comptroller shall deposit the fees in the judicial fund.

(e) Section 51.320 applies to a fee or cost collected under this section.

(f) Subsections (a) - (d) and (g) - (k) apply only to fees and costs for a 12-month period beginning July 1 in a county in which the commissioners court:

- (1) adopts a resolution authorizing the fees and costs under Subsections (a) and (b); and
- (2) files the resolution with the comptroller not later than June 1 immediately preceding the first 12-month period during which the fees and costs are to be collected.

(g) A resolution under Subsection (f) continues from year to year allowing the county to collect fees and costs under Subsections (a) and (b) under the terms of this section until the resolution is rescinded.

(h) A commissioners court that desires to rescind a resolution adopted under Subsection (f) must submit to the comptroller not later than June 1 preceding the beginning of the first day of the state fiscal year the commissioners court desires to rescind the resolution.

(i) A county that is not eligible to participate under Subsection (f) on July 1 of a year but is eligible to

participate later in the year may submit a resolution meeting the requirements of Subsection (f) to the comptroller. The comptroller shall determine the date the county may begin to collect fees and costs under Subsections (a) and (b). A county that begins to collect fees and costs under Subsections (a) and (b) after July 1 is not eligible for a payment by the comptroller under Section 25.0015 until the 60<sup>th</sup> day after the date the comptroller determines the county may begin to collect fees and costs under Subsections (a) and (b).

(j) A clerk may not collect a fee under this section and under Section 51.701.

(k) Money collected under Subsections (a) and (b) after a county ceases to participate in the collection of additional fees and costs under Subsections (a) and (b) shall be remitted to the comptroller. The money shall be deposited in the judicial fund and shall be distributed to counties currently participating under this section in the manner described in Section 25.0005.

(l) In a county in which court costs are not collected under Subsection (b), a person shall pay, in addition to other costs, \$15 as a court cost on conviction of any criminal offense in a statutory county court, including cases in which probation or deferred adjudication is granted. A conviction that arises under Chapter 521, Transportation Code, or a conviction under Subtitle C, Title 7, Transportation Code, is included, except that a conviction arising under any law that regulates pedestrians or the parking of motor vehicles is not included.

(m) Court costs due under Subsection (l) shall be collected in the same manner as other fees, fines, and costs are collected in the case. The clerk shall send the costs to the county treasurer or other person performing the duties of the county treasurer at least as frequently as monthly. The county treasurer or other person shall deposit the costs collected in the county treasury.

### **Additional Fees and Costs in Certain County Courts**

#### **Government Code, Section 51.703**

(a) In addition to all other fees authorized or required by other law, the clerk of a county court with a judge who is entitled to an annual salary supplement from the state under Section 26.006 shall collect a \$40 filing fee in each civil case filed in the court to be used for court-related purposes for the support of the judiciary.

(b) In addition to other court costs, a person shall pay \$15 as a court cost on conviction of any criminal offense in a county court, including cases in which probation or deferred adjudication is granted. A conviction that arises under Chapter 521, Transportation Code, or a conviction under Subtitle C, Title 7, Transportation Code, is included, except that a conviction arising under any law that regulates pedestrians or the parking of motor vehicles is not included.

(c) Court costs and fees due under this section shall be collected in the same manner as other fees, fines, or costs are collected in the case.

(d) The clerk shall deposit the fees and costs collected under this section to be sent to the comptroller as provided by Subchapter B, Chapter 133, Local Government Code. The comptroller shall deposit the fees in the judicial fund.

(e) Section 51.320 applies to a fee or cost collected under this section.

(f) A clerk may not collect a fee under this section and under Section 51.702(a).

### **Additional Fees in Certain Statutory Probate Courts**

#### **Government Code, Section 51.704**

(a) Except as provided by Subsection (f), in addition to all other fees authorized or required by other law, the clerk of a statutory probate court shall collect a \$40 filing fee in each probate, guardianship, mental

health, or civil case filed in the court to be used for court-related purposes for the support of the judiciary.

(b) Court fees due under this section shall be collected in the same manner as other fees, fines, or costs are collected in the case.

(c) The clerk shall deposit the fees collected under this section to be sent to the comptroller as provided by Subchapter B, Chapter 133, Local Government Code. The comptroller shall deposit the fees in the judicial fund.

(d) Section 51.320 applies to a fee collected under this section.

(e) This section applies only to fees for a 12-month period beginning July 1 in a county in which the commissioners court:

(1) adopts a resolution authorizing the fees under this section; and

(2) files the resolution with the comptroller not later than June 1 immediately preceding the first 12-month period during which the fees are to be collected.

(f) A resolution under Subsection (e) continues from year to year allowing the county to collect fees under the terms of this section until the resolution is rescinded.

(g) A commissioners court that desires to rescind a resolution adopted under Subsection (e) must submit to the comptroller not later than June 1 preceding the beginning of the first day of the state fiscal year a resolution stating the commissioners court's desire to rescind the resolution.

(h) A county that is not eligible to participate under Subsection (e) on July 1 of a year but is eligible to participate later in the year may submit a resolution meeting the requirements of Subsection (e) to the comptroller. The comptroller shall determine the date the county may begin to collect fees under this section. A county that begins to collect fees under this section after July 1 is not eligible for a payment by the comptroller under Section 25.00211 until the 60<sup>th</sup> day after the date the comptroller determines the county may begin to collect fees under this section.

(i) A clerk may not collect a fee under this section and under Section 51.701 or 51.702.

## **Family Protection Fee**

### **Government Code, Section 51.961**

(a) The commissioners court of a county shall adopt a family protection fee in an amount not to exceed \$30.

(b) Except as provided by Subsection (c), the district clerk or county clerk shall collect the family protection fee at the time a suit for dissolution of a marriage under Chapter 6, Family Code, is filed. The fee is in addition to any other fee collected by the district clerk or county clerk..

(c) The clerk may not collect a fee under this section from a person who is protected by an order issued under:

(1) Subtitle B, Title 4, Family Code; or

(2) Article 17.292, Code of Criminal Procedure.

(d) The clerk shall pay one-half of the fee collected under this section to the appropriate officer of the county in which the suit is filed for deposit in the county treasury to the credit of the family protection account. The account may be used by the commissioners court of the county only to fund a service provider located in that county or an adjacent county. The commissioners court may provide funding to a nonprofit organization that provides services described by Subsection (e).

(e) A service provider who receives funds under Subsection (d) may provide family violence and child abuse prevention, intervention, family strengthening, mental health, counseling, legal, and marriage preservation services to families that are at risk of experiencing or that have experienced family violence or the abuse or neglect of a child.

(f) In this section, “family violence” has the meaning assigned by Section 71.004, Family Code.

(g) The clerk shall pay one-half of the fee collected under this section to the comptroller, who shall deposit the money to the credit of the child abuse and neglect prevention trust fund account established under Section 40.105, Human Resources Code.

### **Expungement of Conviction**

#### **Health and Safety Code, Section 161.255**

(a) An individual convicted of an offense under Section 161.252 may apply to the court to have the conviction expunged. If the court finds that the individual satisfactorily completed the tobacco awareness program or tobacco-related community service ordered by the court, the court shall order the conviction and any complaint, verdict, sentence, or other document relating to the offense to be expunged from the individual’s record and the conviction may not be shown or made known for any purpose.

(b) The court shall charge an applicant a fee in the amount of \$30 for each application for expungement filed under this section to defray the cost of notifying state agencies of orders of expungement under this section.

### **Effect of Reference to “District Judges”; Majority Vote Required**

#### **Local Government Code, Section 84.001**

(a) In this chapter, a reference to district judges means the district judges having jurisdiction in the county.

(b) A majority vote of the district judges is required to perform an act required or permitted of the district judges unless the law specifically provides otherwise. If only one district judge has jurisdiction in the county, the judge may act alone.

### **Appointment of County Auditor**

#### **Local Government Code, Section 84.002**

(a) In a county with a population of 10,200 or more, the district judges shall appoint a county auditor.

(b) In a county with a population of less than 10,200:

(1) the district judges may appoint a county auditor if the judges determine that the county’s financial circumstances warrant the appointment; and

(2) the district judges shall appoint a county auditor if:

(A) the commissioners court finds that a county auditor is necessary to carry out county business and enters an order in its minutes stating the reason for this finding;

(B) the order is certified to the district judges; and

(C) the district judges find the reason stated by the commissioners court to be good and sufficient.

### **Procedure for Appointment**

#### **Local Government Code, Section 84.003**

(a) The district judges shall appoint the county auditor at a special meeting held for that purpose. If a majority of the judges cannot agree on the selection of a person as county auditor, one of the judges shall certify that fact to the governor, who shall appoint another district judge to act and vote with the district judges to select the county auditor.

(b) The clerk of the district court shall record the judges' action in the minutes of the court and certify it to the commissioners court. The commissioners court shall record in its minutes the judges' action and an order directing the payment of the auditor's salary.

## **Term**

### **Local Government Code, Section 84.004**

The term of office of a county auditor is two years.

## **Procedure for Appointment and Term in Populous County**

### **Local Government Code, Section 84.005**

(a) In a county with a population of 3.3 million or more, the district judges shall hold a meeting for the purpose of appointing a county auditor. For a county auditor to be appointed, a majority of the district judges must be present at the meeting and a candidate for the office must receive at least a two-thirds vote of the district judges who are present and voting at the meeting. Each judge may nominate any number of candidates for the office.

(b) The term of office of the county auditor begins on January 1 of each odd-numbered year.

## **Qualifications**

### **Local Government Code, Section 84.006**

(a) A county auditor must be:

- (1) a competent accountant with at least two years' experience in auditing and accounting;
- (2) thoroughly competent in public business details; and
- (3) a person of unquestionably good moral character and intelligence.

(b) Before making an appointment the district judges shall carefully investigate and consider the person's qualifications.

## **Bond and Oath**

### **Local Government Code, Section 84.007**

(a) Before taking office and within 20 days after the date of a county auditor's appointment, the county auditor must execute a bond. The bond must be:

- (1) a good and sufficient surety bond or a bond secured by two or more good and sufficient personal sureties;
- (2) in the amount of \$5,000 or more;
- (3) payable to the district judges;
- (4) conditioned on the faithful performance of the duties of county auditor; and
- (5) approved by the district judges.

(b) The county auditor must take the official oath and a written oath that lists the positions of public or private trust previously held and the length of service in each of those positions and that states:

- (1) that he has the qualifications required by this chapter; and
- (2) that he will not be personally interested in a contract with the county.

## **Joint Employment of County Auditor in Counties With Population of Less Than 25,000**

### **Local Government Code, Section 84.008**

- (a) Except as provided by Section 84.005, the commissioners courts of two or more counties may agree to jointly employ and compensate a county auditor.
- (b) After the commissioners courts have determined that an auditor is necessary in the disposition of county business and after the agreement is made, the commissioners court of each county shall enter in its minutes an order stating its determination of the necessity and shall certify the order to the district judges of the county. If the judges find the orders good and sufficient, they shall appoint the county auditor by an order recorded in the minutes of the district courts of all counties party to the agreement. The district clerk of each county shall certify the order to the commissioners court of that county, who shall record the order in its minutes.
- (c) The county auditor is appointed for a term beginning on the day of appointment.
- (d) In matters required by this section to be done by the district judges, a majority vote of the judges controls.

## **Continuing Education**

### **Local Government Code, Section 84.0085**

- (a) During each full term of office, a county auditor must successfully complete at least 40 classroom hours of instruction in courses relating to the duties of the county auditor and accredited by the Texas State Board of Public Accountancy as continuing professional education credits for certified public accountants. On the completion of the courses and the accumulation of the continuing professional education credits, the county auditor must certify that fact to the district judges.
- (b) For purposes of removal for incompetency under another law, “incompetency” in the case of a county auditor includes the failure to complete the courses in accordance with this section.

## **Removal**

### **Local Government Code, Section 84.009**

- (a) A county auditor may be removed from office and a successor appointed if, after due investigation by the district judges who appointed the auditor, it is proven that the auditor:
- (1) has committed official misconduct; or
  - (2) is incompetent to faithfully discharge the duties of the office of county auditor.
- (b) The district judges who appointed a county auditor under Section 84.002(b)(2) or Section 84.008 may discontinue the services of the auditor after the expiration of one year after the date of the appointment if it is clearly shown that the auditor is not necessary and the auditor’s services are not commensurate with the auditor’s salary.

## **Assistants**

### **Local Government Code, Section 84.021**

- (a) From time to time the county auditor may certify to the district judges a list stating the number of assistants to be appointed, the name, duties, qualifications, and experience of each appointee, and the salary to be paid each appointee. The district judges, after careful consideration of the application for the appointment of the assistants and after inquiry concerning the appointees’ qualifications, the positions sought to be filled, and the reasonableness of the requested salaries, shall prepare a list of the



appointees that the judges approve and the salary to be paid each. The judges shall certify this list to the commissioners court, which shall order the salaries to be paid on the performance of services and shall appropriate an adequate amount of money for this purpose.

(b) If an emergency exists, the county auditor shall recommend the appointment of temporary assistants, and after a hearing held in accordance with Section 152.905, the district judges shall determine the number, salaries, and duration of employment of the assistants.

(c) An assistant must take the usual oath of office for faithful performance of duty. The county auditor may require an assistant to give a bond and may determine the terms of the bond. The bond must run in favor of the county and the county auditor as their interests indicate. The county shall pay for the bond.

(d) If only one assistant is appointed, the assistant, during the absence or unavoidable detention of the county auditor, may perform the duties required by law of the county auditor. If more than one assistant is appointed, the county auditor may designate the assistant to perform those duties during the absence or unavoidable detention of the county auditor.

(e) The county auditor may discharge an assistant. The district judges approving an appointment have the right annually to withdraw the approval and change the number of assistants permitted.

## **Supplies**

### **Local Government Code, Section 84.901**

A county auditor may purchase, at the county's expense and in the manner provided by law, necessary ledgers, books, records, blank forms, stationery, equipment, telephone service, and postage.

### **Auditor to Keep Certain Hospital Records in County With Population of 190,001 to 200,000**

### **Local Government Code, Section 84.902**

If, in a county with a population of 190,001 to 200,000, the financial records of a municipal and county hospital located in the county must be kept, the county auditor shall keep the records. If reports concerning that hospital's financial records must be made to the governing bodies of the municipality and county, the county auditor shall make the reports.

## **Definitions**

### **Local Government Code, Section 87.011**

In this subchapter:

- (1) "District attorney" includes a criminal district attorney.
- (2) "Incompetency" means:
  - (A) gross ignorance of official duties;
  - (B) gross carelessness in the discharge of those duties; or
  - (C) unfitness or inability to promptly and properly discharge official duties because of a serious physical or mental defect that did not exist at the time of the officer's election.
- (3) "Official misconduct" means intentional, unlawful behavior relating to official duties by an officer entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of an officer to perform a duty imposed on the officer by law.

## **Subchapter Applicable to Counties with Population of 225,000 or Less; Exception**

### **Local Government Code, Section 111.001**

This subchapter applies only to a county that has a population of 225,000 or less and that does not operate under Subchapter C.

### **Annual Budget Required**

### **Local Government Code, Section 111.003**

During the 7<sup>th</sup> or the 10<sup>th</sup> month of the fiscal year, as determined by the commissioners court, the county judge, assisted by the county auditor or county clerk, shall prepare a budget to cover all proposed expenditures of the county government for the succeeding fiscal year.

### **Itemized Budget; Contents**

### **Local Government Code, Section 111.004**

(a) The county judge shall itemize the budget to allow as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes that were made for the preceding fiscal year. The budget must show as definitely as possible each of the projects for which an appropriation is established in the budget and the estimated amount of money carried in the budget for each project.

(b) The budget must contain a complete financial statement of the county that shows:

- (1) the outstanding obligations of the county;
- (2) the cash on hand to the credit of each fund of the county government;
- (3) the funds received from all sources during the preceding fiscal year;
- (4) the funds available from all sources during the ensuing fiscal year;
- (5) the estimated revenues available to cover the proposed budget; and
- (6) the estimated tax rate required to cover the proposed budget.

(c) In preparing the budget, the county judge shall estimate the revenue to be derived from taxes to be levied and collected in the succeeding fiscal year and shall include that revenue in the estimate of funds available to cover the proposed budget.

### **Levy of Taxes and Expenditure of Funds Under Budget; Emergency Expenditure; Budget Transfer**

### **Local Government Code, Section 111.010**

(a) The commissioners court may levy taxes only in accordance with the budget.

(b) After final approval of the budget, the commissioners court may spend county funds only in strict compliance with the budget, except in emergencies.

(c) The commissioners court may authorize an emergency expenditure as an amendment to the original budget only in a case of grave public necessity to meet an unusual and unforeseen condition that could not have been included in the original budget through the use of reasonably diligent thought and attention. If the court amends the original budget to meet an emergency, the court shall file a copy of its order amending the budget with the county clerk, and the clerk shall attach the copy to the original budget.

(d) The commissioners court by order may amend the budget to transfer an amount budgeted for one item to another budgeted item without authorizing an emergency expenditure.

## **Special Budget for Grant or Aid Money**

### **Local Government Code, Section 111.0106**

The county auditor or the county judge in a county that does not have a county auditor shall certify to the commissioners court the receipt of all public or private grant or aid money that is available for disbursement in a fiscal year but not included in the budget for that fiscal year. On certification, the court shall adopt a special budget for the limited purpose of spending the grant or aid money for its intended purpose.

## **Special Budget for Revenue From Intergovernmental Contracts**

### **Local Government Code, Section 111.0107**

The county auditor or the county judge in a county that does not have a county auditor shall certify to the commissioners court the receipt of all revenue from intergovernmental contracts that is available for disbursement in a fiscal year but not included in the budget for that fiscal year. On certification, the court shall adopt a special budget for the limited purpose of spending the revenue from intergovernmental contracts for its intended purpose.

## **Special Budget for Revenue Received After Start of Fiscal Year**

### **Local Government Code, Section 111.0108**

The county auditor or the county judge in a county that does not have a county auditor shall certify to the commissioners court the receipt of revenue from a new source not anticipated before the adoption of the budget and not included in the budget for that fiscal year. On certification, the court may adopt a special budget for the limited purpose of spending the revenue for general purposes or for any of its intended purposes.

## **Subchapter Applicable to Counties With Population of More than 225,000; Exception**

### **Local Government Code, Section 111.031**

This subchapter applies only to a county that has a population of more than 225,000 and that does not operate under Subchapter C.

## **County Auditor as Budget Officer**

### **Local Government Code, Section 111.032**

The county auditor serves as budget officer for the commissioners court of the county.

## **Annual Budget Required**

### **Local Government Code, Section 111.033**

On or immediately after the first day of each fiscal year, the county auditor shall prepare a budget to cover the proposed expenditures of the county government for that fiscal year.

## **Itemized Budget; Contents**

### **Local Government Code, Section 111.034**

(a) The county auditor shall itemize the budget to allow as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes that were made for the preceding fiscal year. The budget must show with reasonable accuracy each project for which an appropriation is established in the budget and the estimated amount of money carried in the budget for each project.

(b) The budget must contain a complete financial statement of the county that shows:

- (1) the outstanding obligations of the county;
- (2) the cash on hand to the credit of each fund of the county government;
- (3) the funds received from all sources during the preceding fiscal year;
- (4) the funds and revenue estimated by the auditor to be received from all sources during the preceding fiscal year;
- (5) the funds and revenue estimated by the auditor to be received from all sources during the ensuing fiscal year; and
- (6) a statement of all accounts and contracts on which sums are due to or owed by the county as of the last day of the preceding fiscal year, except for taxes and court costs.

## **Limitation on Expenditures Before Adoption of Budget**

### **Local Government Code, Section 111.035**

Until a budget for a fiscal year is adopted by the commissioners court, the county may not make payments during that fiscal year except for emergencies and for obligations legally incurred before the first day of the fiscal year for salaries, utilities, materials, and supplies.

## **Information Furnished by Officers**

### **Local Government Code, Section 111.036**

In preparing the budget, the county auditor may require any district, county, or precinct officer of the county to provide information necessary for the auditor to properly prepare the budget.

## **Proposed Budget Filed With County Clerk; Public Inspection**

### **Local Government Code, Section 111.037**

(a) The county auditor shall file a copy of the proposed budget with the county clerk.

(b) The copy of the proposed budget shall be available for public inspection.

## **Adoption of Budget**

### **Local Government Code, Section 111.039**

(a) At the conclusion of the public hearing, the commissioners court shall take action on the proposed budget.

(b) The commissioners court may make any changes in the proposed budget that it considers warranted by the facts and law and required by the interest of the taxpayers, but the amounts budgeted in a fiscal year for expenditures from the various funds of the county may not exceed the balances in those funds as of the first day of the fiscal year, plus the anticipated revenue for the fiscal year as estimated by the

county auditor.

### **Special Budget for Grant or Aid Money**

#### **Local Government Code, Section 111.043**

The county auditor shall certify to the commissioners court the receipt of all public or private grant or aid money that is available for disbursement in a fiscal year but not included in the budget for that fiscal year. On certification, the court shall adopt a special budget for the limited purpose of spending the grant or aid money for its intended purpose.

### **Special Budget for Revenue From Intergovernmental Contracts**

#### **Local Government Code, Section 111.0431**

The county auditor shall certify to the commissioners court the receipt of all revenue from intergovernmental contracts that is available for disbursement in a fiscal year but not included in the budget for that fiscal year. On certification, the court shall adopt a special budget for the limited purpose of spending the revenue from intergovernmental contracts for its intended purpose.

### **Special Budget for Revenue Received After Start of Fiscal Year**

#### **Local Government Code, Section 111.0432**

The county auditor shall certify to the commissioners court the receipt of revenue from a new source not anticipated before the adoption of the budget and not included in the budget for that fiscal year. On certification, the court may adopt a special budget for the limited purpose of spending the revenue for general purposes or for any of its intended purposes.

### **Subchapter Applicable to Counties With Population of More Than 125,000**

#### **Local Government Code, Section 111.061**

This subchapter applies only to a county that has a population of more than 125,000 and that chooses to operate under this subchapter instead of under Subchapter A or B.

### **Appointment of Budget Officer; Abolition of Office**

#### **Local Government Code, Section 111.062**

(a) The commissioners court of the county may appoint a county budget officer to prepare a county budget for the fiscal year.

(b) A county that establishes the office of county budget officer may abolish that office only by a formal action of the commissioners court. The court must take the action after the first day of the second month of the fiscal year and before the first day of the sixth month of the fiscal year. If the office is abolished, the duties of budget officer shall be performed by:

- (1) the county judge, if the county has a population of 225,000 or less; or
- (2) the county auditor, if the county has a population of more than 225,000.

## **Itemized Budget; Contents**

### **Local Government Code, Section 111.063**

(a) The budget officer shall itemize the budget to allow as clear a comparison as practicable between expenditures included in the proposed budget and actual or estimated expenditures for the same or similar purposes that were made for the preceding fiscal year. The budget must show with reasonable accuracy each of the projects for which an appropriation is established in the budget and the estimated amount of money carried in the budget for each project.

(b) The budget officer shall obtain from the county auditor any information necessary to prepare a complete financial statement for inclusion in the budget. The financial statement must show:

- (1) the outstanding obligations of the county;
- (2) the cash on hand to the credit of each fund of the county government;
- (3) funds received from all sources during the preceding fiscal year;
- (4) the funds and revenue estimated by the auditor to be received from all sources during the preceding fiscal year;
- (5) the funds and revenue estimated by the auditor to be received during the ensuing year; and
- (6) a statement of all accounts and contracts on which sums are due to or owed by the county as of the last day of the preceding fiscal year, except for taxes and court costs.

(c) If actual amounts for the information described by Subsection (b)(1), (b)(2), (b)(3), or (b)(6) are not available at the time the budget officer prepares the financial statement, the budget officer may use in the preparation of the statement estimates of that information made by the county auditor.

(d) Subsection (c) does not prevent the commissioners court from adopting a budget before the beginning of the fiscal year for which the budget is prepared.

## **Limitation on Expenditures Before Adoption of Budget**

### **Local Government Code, Section 111.064**

Until a budget for a fiscal year is adopted by the commissioners court, the county may not make payments during that fiscal year except for emergencies and for obligations legally incurred before the first day of the fiscal year for salaries, utilities, materials, and supplies.

## **Information Furnished by Officers**

### **Local Government Code, Section 111.065**

In preparing or monitoring the budget, the budget officer may require the county auditor or any other district, county, or precinct officer of the county to provide any information necessary for the budget officer to properly prepare or monitor the budget.

## **Proposed Budget Filed With County Clerk and County Auditor; Public Inspection**

### **Local Government Code, Section 111.066**

(a) The budget officer shall file a copy of the proposed budget with the county clerk and the county auditor.

(b) The copy of the proposed budget shall be available for public inspection.

## **Adoption of Budget**

### **Local Government Code, Section 111.068**

(a) At the conclusion of the public hearing, the commissioners court shall take action on the proposed budget.

(b) The commissioners court may make any changes in the proposed budget that it considers warranted by the facts and law and required by the interest of the taxpayers, but the amounts budgeted in a fiscal year for expenditures from the various funds of the county may not exceed the balances in those funds as of the first day of the fiscal year, plus the anticipated revenue for the fiscal year as estimated by the county auditor.

## **Approved Budget Filed With Officers**

### **Local Government Code, Section 111.069**

On final approval of the budget by the commissioners court, the court shall file a copy of the budget with the county auditor and the county clerk.

## **Special Budget for Grant or Aid Money**

### **Local Government Code, Section 111.0706**

The county auditor shall certify to the commissioners court the receipt of all public or private grant or aid money that is available for disbursement in a fiscal year but not included in the budget for that fiscal year. On certification, the court shall adopt a special budget for the limited purpose of spending the grant or aid money for its intended purpose.

## **Special Budget for Revenue From Intergovernmental Contracts**

### **Local Government Code, Section 111.0707**

The county auditor shall certify to the commissioners court the receipt of all revenue from intergovernmental contracts that is available for disbursement in a fiscal year but not included in the budget for that fiscal year. On certification, the court shall adopt a special budget for the limited purpose of spending the revenue from intergovernmental contracts for its intended purpose.

## **Special Budget for Revenue Received After Start of Fiscal Year**

### **Local Government Code, Section 111.07075**

The county auditor shall certify to the commissioners court the receipt of revenue from a new source not anticipated before the adoption of the budget and not included in the budget for that fiscal year. On certification, the court may adopt a special budget for the limited purpose of spending the revenue for general purposes or for any of its intended purposes.

## **Budget Officer's Assistance to Commissioners Court**

### **Local Government Code, Section 111.071**

The budget officer may assist the commissioners court in the performance of the court's duties relating to the efficiency and effectiveness of county operations.

## **Appropriation Accounts**

### **Local Government Code, Section 111.091**

- (a) On the adoption and certification of a general or special county budget, the county auditor shall open an appropriation account for each main budgeted or special item in the budget.
- (b) The county auditor shall enter to an appropriation account each warrant drawn against that appropriation.
- (c) The county auditor periodically shall inform the commissioners court of the condition of the appropriation accounts.

## **Departmental Expenses Not to Exceed Appropriations**

### **Local Government Code, Section 111.092**

The county auditor shall oversee the warrant process to ensure that the expenses of any department do not exceed the budget appropriations for that department.

## **Appropriations For Purchases, Contracts, Salaries, or Labor Expenses in County With Population of More Than 225,000**

### **Local Government Code, Section 111.093**

- (a) This section applies only to a county with a population of more than 225,000.
- (b) The county auditor shall charge all purchase orders, requisitions, contracts, and salary and labor allowances to the appropriation accounts.
- (c) A requisition issued or a contract for work, labor, services, or materials and supplies that is entered into in the manner provided by law by a proper authority is not binding until the county auditor certifies that the budget contains an ample provision for the obligation and that funds are or will be available to pay the obligation when due.
- (d) The amount allocated in the budget for a purchase order, requisition, contract, special purpose, or salary or labor account may not be allocated for any other purpose unless an unexpended balance remains in the account after full discharge of the obligation or unless the requisition, contract, or allocation is canceled in writing by the commissioners court or a county officer for a valid reason.

## **Special Funds**

### **Local Government Code, Section 111.095**

- (a) This section shall apply to all funds maintained and controlled by a county tax assessor-collector that are not included in the county budget.
- (b) At least 60 days before the first day of the county's fiscal year, the county tax assessor-collector shall prepare a budget for the expenditure of the funds during that fiscal year and file a copy of that budget with the county budget officer. The county budget officer shall make a copy of the budget filed with the budget officer available to the public at all reasonable times. The budget filed with the county budget officer is not subject to approval by the commissioners court of the county, but any member of the public is entitled to speak for or against the budget during the county's budget process. Funds in the accounts under this section may be spent only in compliance with the budget filed with the county budget officer under this subsection.
- (c) Funds in the accounts under this section may not be used to supplement the salary or cover the personal expenses of the county tax assessor-collector.



(d) The provisions of this section are cumulative with the provisions of other statutes pertaining to county funds.

### **Accounting System in County With County Auditor and Population of Less Than 190,000**

#### **Local Government Code, Section 112.001**

In a county with a population of less than 190,000, the county auditor may adopt and enforce regulations, not inconsistent with law or with a rule adopted under Section 112.003, that the auditor considers necessary for the speedy and proper collecting, checking, and accounting of the revenues and other funds and fees that belong to the county.

### **Accounting System in County With County Auditor and Population of 190,000 or More**

#### **Local Government Code, Section 112.002**

(a) In a county with a population of 190,000 or more, the county auditor shall prescribe the system of accounting for the county

(b) The county auditor may adopt and enforce regulations, not inconsistent with law or with a rule adopted under Section 112.003, that the auditor considers necessary for the speedy and proper collecting, checking, and accounting of the revenues and other funds and fees that belong to the county or to a person for whom a district clerk, district attorney, county officer, or precinct officer has made a collection or for whose benefit the officer holds or has received funds.

(c) A regulation adopted under this section may not be inconsistent with generally accepted accounting principles as established by the Governmental Accounting Standards Board.

### **Accounts Kept for Officers by County Auditor**

#### **Local Government Code, Section 112.005**

(a) The county auditor shall maintain an account for each county, district, or state officer authorized or required by law to receive or collect money or other property that is intended for the use of the county or that belongs to the county.

(b) In the account, the auditor shall detail the items of indebtedness charged against that officer and the manner of discharging the indebtedness.

(c) The auditor shall require each person who receives money that belongs to the county or who has responsibility for the disposition or management of any property of the county to render statements to the auditor.

### **General Oversight Authority of County Auditor**

#### **Local Government Code, Section 112.006**

(a) The county auditor has general oversight of the books and records of a county, district, or state officer authorized or required by law to receive or collect money or other property that is intended for the use of the county or that belongs to the county.

(b) The county auditor shall see to the strict enforcement of the laws governing county finances.

## **County Auditor's Records of County Financial Transactions**

### **Local Government Code, Section 112.007**

The county auditor shall keep a general set of records to show all the transactions of the county relating to accounts, contracts, indebtedness of the county, and county receipts and disbursements.

### **Time for Making Deposits**

### **Local Government Code, Section 113.022**

A county officer who receives funds shall deposit the funds with the county treasurer on or before the next regular business day after the date on which the funds are received. If this deadline is not met, the officer must deposit the funds, without exception, on or before the seventh business day after the day on which the funds are received. However, in a county with fewer than 50,000 inhabitants, the commissioners court may extend the period during which funds must be deposited with the county treasurer, but the period may not exceed 30 days after the date the funds are received.

### **Deposit Warrants**

### **Local Government Code, Section 113.023**

(a) Except as provided by Subsection (c), each deposit made in the county treasury must be made on a deposit warrant issued in triplicate by the county clerk. The deposit warrant authorizes the county treasurer to receive the amount stated in the warrant. The warrant must state the purpose for which the amount is received and the fund to which it is to be applied.

(b) The county treasurer shall keep the original of the warrant. The duplicate shall be signed and returned to the county clerk. The triplicate shall be signed and returned to the depositor. If the county has a county auditor, the county clerk shall give the clerk's copy of the warrant to the auditor, and the auditor shall enter the amount in the auditor's books, charging the amount to the county treasurer and crediting the person who deposited the amount. The treasurer may receive money only through this procedure except as provided by Subsection (c).

(c) In a county with more than 2.2 million inhabitants, the county clerk is relieved of all duties under Subsections (a) and (b). In any other county that has the office of county auditor, the commissioners court by order may relieve the county clerk of all duties under Subsections (a) and (b). If the county clerk is relieved of duties, the county treasurer shall receive all deposits that are made in the county treasury. The county treasurer shall prepare a receipt in triplicate for all money received. The treasurer shall keep one copy of the receipt and shall transmit the original to the county auditor and the other copy to the depositor. The county auditor shall prescribe a system, not inconsistent with this subsection, to be used by the county treasurer for receiving and depositing money.

### **Countersignature by County Auditor**

### **Local Government Code, Section 113.043**

In a county with a county auditor, the county treasurer and the county depository may not pay a check or warrant unless it is countersigned by the county auditor to validate it as a proper and budgeted item of expenditure. The section does not apply to a check or warrant for jury service.

## **Approval of Claims by County Auditor**

### **Local Government Code, Section 113.064**

(a) In a county that has the office of county auditor, each claim, bill, and account against the county must be filed in sufficient time for the auditor to examine and approve it before the meeting of the commissioners court. A claim, bill, or account may not be allowed or paid until it has been examined and approved by the auditor.

(b) The auditor shall stamp each approved claim, bill, or account. If the auditor considers it necessary, the auditor may require that a claim, bill, or account be verified by an affidavit indicating its correctness.

(c) The auditor may administer oaths for the purposes of this section.

## **Requirement for Approval of Claim**

### **Local Government Code, Section 113.065**

The county auditor may not audit or approve a claim unless the claim was incurred as provided by law.

## **Requirements for Approval of Accounts and Requisitions**

### **Local Government Code, Section 113.901**

(a) Except as provided by Subsection (c), a county auditor may not audit or approve an account for the purchase of supplies or materials for the use of the county or a county officer unless a requisition, signed by the officer ordering the supplies or materials and approved by the county judge, is attached to the account. The requisition is in addition to any other requirements of law.

(b) The requisition must be made, signed, and approved in triplicate. The original must be delivered to the person from whom the purchase is to be made before the purchase is made. The duplicate must be filed with the county auditor. The triplicate copy must remain with the officer requesting the purchase.

(c) The commissioners court of a county that has the office of county auditor may, by a written order, waive the requirement of the county judge's approval of requisitions. The order must be recorded in the minutes of the commissioners court. If the approval of the county judge is waived, all claims must be approved by the commissioners court in open court.

(d) The commissioners court of a county may establish an electronic requisition system to perform the functions required by Subsection (a). The county auditor, subject to the approval of the commissioners court, shall establish procedures for administering the system.

(e) An electronic requisition system established under this section must be able to electronically transmit data to and receive data from the county's financial system in a manner that meets professional, regulatory, and statutory requirements and standards, including those related to purchasing, auditing, and accounting.

## **General Requirements Applicable to Reports**

### **Local Government Code, Section 114.001**

(a) Each report required under this subtitle must be made in writing and must be sworn to by the officer making the report before an officer authorized to administer oaths.

(b) A monthly report must be filed within five days after the last day of each month.

## **County Auditor's Authority to Determine Time and Manner of Reports Made to Auditor**

### **Local Government Code, Section 114.002**

The county auditor shall determine:

- (1) the time and manner for making reports to the auditor; and
- (2) the manner for making an annual report of:
  - (A) office fees collected and disbursed; and
  - (B) the amount of office fees refunded to the county in excess of those that the officer is permitted by law to keep.

## **Penalty for Failure to Furnish County Auditor With Report; Removal**

### **Local Government Code, Section 114.003**

- (a) A county official or other person who is required under this subtitle to provide a report, statement, or other information to the county auditor and who intentionally refuses to comply with a reasonable request of the county auditor relating to the report, statement, or information, commits an offense.
- (b) An offense under this section is a misdemeanor punishable by:
  - (1) a fine of not less than \$25 or more than \$200;
  - (2) removal from office; or
  - (3) both a fine and removal from office.

## **County Auditor's Monthly Report to Commissioners Court in County With Population of More Than 225,000**

### **Local Government Code, Section 114.023**

- (a) In a county with a population of more than 225,000, the county auditor shall report to the commissioners court at least monthly on the financial condition of the county. The auditor shall prescribe the form of the report.
- (b) In addition to information considered necessary by the auditor or required by the commissioners court, the report must contain:
  - (1) all of the facts of interest related to the financial condition of the county;
  - (2) a consolidated balance sheet;
  - (3) a complete statement of the balances on hand at the beginning and end of the month;
  - (4) a statement of the aggregate receipts and disbursements of each fund;
  - (5) a statement of transfers to and from each fund;
  - (6) a statement of the bond and warrant indebtedness with corresponding rates of interest; and
  - (7) a summarized budget statement that shows:
    - (A) the expenses paid from the budget for each budgeted officer, department, or institution during that month and for the period of the fiscal year inclusive of the month for which the report is made;
    - (B) the encumbrances against the budgets; and
    - (C) the amounts available for further expenditures.
- (c) The county auditor shall publish a condensed copy of the report showing the condition of funds and budgets and a statement of the auditor's recommendations. The publication must be made once in a daily paper published in the county.

## **County Auditor's Report to Commissioners Court at Regular Meeting**

### **Local Government Code, Section 114.024**

At each regular meeting of the commissioners court, the county auditor shall present a tabulated report of:

- (1) the county's receipts and disbursements of funds; and
- (2) the accounts of the county.

## **County Auditor's Monthly and Annual Reports to Commissioners Court and District Judges**

### **Local Government Code, Section 114.025**

(a) The county auditor shall make monthly and annual reports to the commissioners court and to the district judges of the county. Each report must show:

- (1) the aggregate amounts received and disbursed from each county fund;
- (2) the condition of each account on the books;
- (3) the amount of county, district, and school funds on deposit in the county depository;
- (4) the amount of county bonded indebtedness and other indebtedness; and
- (5) any other fact of interest, information, or suggestion that the auditor considers proper or that the court or district judges require.

(b) The annual report must include a record of all transactions made during a calendar year. The auditor shall file the annual report at a regular or special term of the commissioners court held during the month of April of the following year. The auditor shall file a copy of the report with the district judges of the county.

(c) At the time the annual audit is delivered to the commissioners court and the district judges, the auditor shall send to the bonding company of each district, county, and precinct officer a report indicating the condition of that person's office.

## **Periodic Report to County Auditor by Officer Who Has Custody of Money in County With Population of 190,000 or More**

### **Local Government Code, Section 114.043**

In a county with a population of 190,000 or more, the county auditor may require a district clerk, district attorney, county officer, or precinct officer to furnish monthly reports, annual reports, or other reports regarding any money, tax, or fee received, disbursed, or remaining on hand. In connection with those reports, the auditor may count the cash in the custody of the officer or verify the amount on deposit in the bank in which the officer has deposited the cash for safekeeping.

## **Report to Commissioners Court at Regular Term by Officer Who Collects Fines, Judgments, or Jury Fees**

### **Local Government Code, Section 114.044**

(a) Each district clerk, county clerk, county judge, county treasurer, sheriff, district attorney, county attorney, constable, or justice of the peace who collects or handles any money for the use of the county shall make a full report at each regular term to the commissioners court on all fines imposed and collected, all judgments rendered and collected for the use of the county, and all jury fees collected by the respective courts in favor of or for the use of the county and, at the time of the report, shall present the receipts and vouchers that show the disposition of the money, fines, and judgments.

- (b) Each report must fully state:
- (1) the name of the person fined and the amount of the fine or the name of the person against whom judgment was rendered and the amount of the judgment;
  - (2) the style, number, and date of each case in which a fine was imposed or a judgment rendered; or
  - (3) the amount of the jury fees collected, the style and number of the case in which each jury fee was collected, and the name of the person from whom the fee was collected.
- (c) The court shall carefully examine the reports, receipts, and vouchers. If the court finds them to be correct, the court shall direct the county clerk to enter the information in the county finance records. If they are found to be incorrect, the court shall summon before the court the officer making the report and shall have corrections made. The reports, receipts, and vouchers shall be filed in the county clerk's office.

### **Examination of Records**

#### **Local Government Code, Section 115.001**

The county auditor shall have continual access to and shall examine and investigate the correctness of:

- (1) the books, accounts, reports, vouchers, and other records of any officer;
- (2) the orders of the commissioners court relating to county finances; and
- (3) the vouchers given by the trustees of all common school districts of the county.

### **Examination of Books and Reports**

#### **Local Government Code, Section 115.002**

- (a) The county auditor shall carefully examine and report on all reports that are about the collection of money for the county and that are required to be made to the commissioners court.
- (b) At least once each quarter, the county auditor shall check the books and shall examine in detail the reports of the county tax assessor-collector, the county treasurer, and all other officers. The auditor shall verify the footings and the correctness of those books and reports. The auditor shall either stamp the books and reports approved or shall note any differences, errors, or discrepancies.
- (c) The auditor shall carefully examine the report made under Section 114.026 by the county treasurer, together with the canceled warrants that have been paid. The auditor shall verify those warrants with the register of warrants issued as shown on the auditor's books.

### **Examination of Funds Held by County Treasurer**

#### **Local Government Code, Section 115.003**

- (a) At least once each quarter, or more often if the county auditor desires, the auditor shall, without advance notice, fully examine the condition of, or shall inspect and count, the cash held by the county treasurer or held in a bank in which the treasurer has placed the cash for safekeeping.
- (b) The auditor shall make sure that all balances to the credit of the various funds are actually on hand in cash and that none of the funds are invested in any manner except as authorized by law.

### **Examination of Funds Collected by County Entity or the District Attorney**

#### **Local Government Code, Section 115.0035**

- (a) For purposes of this section, "accounts" means all public funds that are subject to the control of any precinct, county or district official, including the accounts of law enforcement agencies and the attorney

for the state composed of money and proceeds of property seized and forfeited to those officials.

(b) At least once each county fiscal year, or more often if the county auditor desires, the auditor shall, without advance notice, fully examine the accounts of all precinct, county and district officials.

(c) The auditor shall verify the correctness of the accounts and report the findings of the examination to the commissioners court of the county at its next term beginning after the date the audit is completed.

(d) This section does not apply to funds received by the attorney for the state from the comptroller of public accounts pursuant to the General Appropriations Act, or to federal or state grant-in-aid funds received by precinct, county, or district officials.

### **Audit in County With Population of 190,000 or More**

#### **Local Government Code, Section 115.004**

(a) This section applies only to a county with a population of 190,000 or more.

(b) At the end of the fiscal year or the accounting period fixed by law, the county auditor shall audit, adjust, and settle the accounts of the district attorney, the district clerk, and each county or precinct officer.

(c) If the county auditor is unable to obtain proper reports or an adequate accounting from any of those persons, either during or after the person's term of office, the auditor may require an accounting and may proceed at the county's expense as the auditor considers necessary to protect the interest of the county or of the person entitled to any funds.

### **Examination of Certain Records by County Auditor or County Treasurer**

#### **Local Government Code, Section 115.901**

(a) The county auditor or, in a county that does not have the office of county auditor, the county treasurer, shall examine the accounts, dockets, and records of each clerk, justice of the peace, and constable and of the sheriff and county tax assessor-collector to determine if any money belonging to the county and in the possession of the officer has not been accounted for and paid over according to law.

(b) If the auditor or treasurer finds that such money does exist, the auditor or treasurer shall report the findings of the examination to the commissioners court of the county at its next term for the purpose of instituting a suit for the recovery of the money.

### **Money Affected**

#### **Local Government Code, Section 116.002**

(a) This chapter applies to money collected or held by a district, county, or precinct officer in a county and by the officers of a defined district or subdivision in the county, including the funds of a municipal or quasi-municipal subdivision or corporation that has the power to select its own depository but has not done so. The money shall be deposited under this chapter, and the money shall be considered in fixing, and is protected by, a county depository's bond.

(b) Warrants, checks, and vouchers evidencing the money deposited in the county depository under Subsection (a) are subject to audit and countersignature as provided by law.

### **Deposits of Registry Funds by County and District Clerks**

#### **Local Government Code, Section 117.052**

(a) If a depository has been selected under Subchapter B, a county clerk or a district clerk who is to have

for more than three days legal custody of money deposited in the registry of the court pending the result of a legal proceeding shall deposit the money in the depository.

(b) The funds deposited shall be carried at the depository selected under this chapter as a special account in the name of the clerk making the deposit.

(c) A clerk is responsible for funds deposited into the registry fund from the following sources:

- (1) funds of minors or incapacitated persons;
- (2) funds tendered in an interpleader action;
- (3) funds paid in satisfaction of a judgment;
- (4) child support funds held for more than three days;
- (5) cash bonds;
- (6) cash bail bonds;
- (7) funds in an eminent domain proceeding; and
- (8) any other funds tendered to the clerk for deposit into the registry of the court.

### **Withdrawal of Funds**

#### **Local Government Code, Section 117.053**

(a) If a commissioners court selects a new depository under Subchapter B, when the depository qualifies, the county clerk and the district clerk shall transfer the funds in a special account from the old depository to the new depository, and the clerks may draw checks on the accounts for this purpose.

(b) Except as provided by Subsection (a), a clerk may not draw a check on special account funds held by a depository except to pay a person entitled to the funds. The payment must be made under an order of the court of proper jurisdiction in which the funds were deposited except that an appeal bond shall be paid without a written order of the court on receipt of mandate or dismissal and funds deposited under Section 887, Texas Probate Code, may be paid without a written order of the court. The clerk shall place on the check the style and number of the proceeding in which the money was deposited with the clerk.

(c) The clerk shall transfer any registry funds into a separate account when directed to by a written order of a court of proper jurisdiction or when the clerk is required to under Section 887, Texas Probate Code. The clerk shall transfer the funds into a separate account in:

- (1) interest-bearing deposits in a financial institution doing business in this state that is insured by the Federal Deposit Insurance Corporation;
- (2) United States treasury bills;
- (3) an eligible interlocal investment pool that meets the requirements of Sections 2256.016, 2256.017, and 2256.019, Government Code; or
- (4) a no-load money market mutual fund, if the fund;
  - (A) is regulated by the Securities and Exchange Commission;
  - (B) has a dollar weighted average stated maturity of 90 days or fewer; and
  - (C) includes in its investment objectives the maintenance of a stable net asset value of \$1 for each share.

### **County Expenses Paid From Interest**

#### **Local Government Code, Section 117.054**

(a) If a special or separate account earns interest, the clerk, at the time of withdrawal, shall pay in a manner directed by a court with proper jurisdiction the original amount deposited into the registry of the court and any interest credited to the account in the manner calculated in Subsection (b).

(b) The interest earned on a special account or a separate account shall be paid in the following amounts:



- (1) 10 percent of the interest shall be paid to the general fund of the county to compensate the county for the accounting and administrative expenses of maintaining the account; and
- (2) 90 percent of the interest shall be credited to the special or separate account.

**County Expenses Paid From Fees**

**Local Government Code, Section 117.055**

- (a) To compensate the county for the accounting and administrative expenses incurred in handling the registry funds that have not earned interest, including funds in a special or separate account, the clerk shall, at the time of withdrawal, deduct from the amount of the withdrawal a fee in an amount equal to five percent of the withdrawal but that may not exceed \$50. Withdrawal of funds generated from a case arising under the Family Code is exempt from the fee deduction provided by this section.
- (b) A fee collected under this section shall be deposited in the general fund of the county.

**Accounting for and Disbursing Registry Funds in Counties With Population of 190,000 or More**

**Local Government Code, Section 117.058**

- (a) This section applies to a county with a population of 190,000 or more.
- (b) If the commissioners court of a county provides a depository for the registry funds of the county clerk or the district clerk, those officers shall make reports under oath to the county auditor to properly reflect all registry funds received and disbursed by the officer, including all money remaining on hand at the time of the report. The county auditor shall prescribe the form and frequency of the report.
- (c) Each check issued for the disbursement of the funds must be issued in accordance with the laws providing for registry fund depositories. Each check must be signed according to procedure established by the county auditor before delivery or payment.

**Fee Schedule**

**Local Government Code, Section 118.052**

- (3) Other Fees
  - (G) Records Management and Preservation Fee.....\$5.00

**Records Management and Preservation Fee—Civil Cases**

**Local Government Code, Section 118.0546**

- (a) The fee for “Records Management and Preservation” under Section 118.052 is for the records management and preservation services performed by the county as required by Chapter 203.
- (b) The fee shall be assessed as cost and must be paid at the time of filing any civil case or ancillary pleading thereto.
- (c) The fee shall be placed in a special fund to be called the records management and preservation fund.
- (d) The fee shall be used only for records management and preservation purposes in the county. No expenditure may be made from this fund without prior approval of the commissioners court.

**Records Management and Preservation Fee—Probate Cases**

**Local Government Code, Section 118.0645**

- (a) The fee for “Records Management and Preservation” under Section 118.052 is for the records

management and preservation services performed by the county as required by Chapter 203.

(b) The fee shall be assessed as cost and must be paid at the time of filing any probate case or adverse probate action.

(c) The fee shall be placed in a special fund entitled records management and preservation fund.

(d) The fee shall be used only for records management and preservation purposes in the county as required by Chapter 203. No expenditure may be made from this fund without prior approval of the commissioners court.

## **Fee Schedule**

### **Local Government Code, Section 118.121**

A justice of the peace shall collect the following fees for services rendered to any person:

(1) Services rendered before judgment (Sec. 118.122):

(A) Justice court .....\$15

(B) Small claims court .....\$10

## **Change Fund in Counties**

### **Local Government Code, Section 130.902**

(a) The commissioners court of a county may set aside from the general fund of the county an amount approved by the county auditor for use as a change fund by any county or district official who collects public funds. The fund may be used only to make change in connection with collections that are due and payable to the county, the state, or another political subdivision of the state that are often made by the official.

(b) The bond of that official who receives such a change fund must cover the official's responsibility for the correct accounting and disposition of the change fund.

(c) A change fund may not be used to make loans or advances or to cash checks or warrants of any kind.

(d) On the recommendation of the county auditor, the commissioners court may increase or decrease the change fund at any time.

## **Petty Cash Funds in Populous County**

### **Local Government Code, Section 130.909**

(a) The commissioners court of a county may set aside from the general fund of the county, for the establishment of a petty cash fund for any county or district official or department head approved by the commissioners court, an amount approved by:

(1) the county auditor, for a county with a population of 3.3 million or more; or

(2) the commissioners court, for a county with a population of less than 3.3 million.

(a-1) The petty cash fund must be established under a system provided and installed by the county auditor and, in a county with a population of 3.3 million or more, the county purchasing agent. Reports relating to the petty cash fund must be made to the auditor and, if applicable, the purchasing agent as the auditor or purchasing agent requires.

(a-2) Falsifying documents or reports relating to the petty cash fund is an offense according to Section 32.21 or 37.10, Penal Code.

(b) The bond of that county or district official or department head who receives such a petty cash fund must cover the official's responsibility for the correct accounting and disposition of the petty cash fund.

(c) The petty cash fund may not be used to make loans or advances or to cash checks or warrants of any

kind.

(d) On the recommendation of the county auditor, the commissioners court may increase or decrease the petty cash fund at any time.

## **CHAPTER 133. CRIMINAL AND CIVIL FEES PAYABLE TO THE COMPTROLLER**

### **Purpose**

#### **Local Government Code, Section 133.001**

The purpose of this chapter is to consolidate and standardize:

- (1) collection of fees in criminal and civil matters by:
  - (A) an officer of a court for deposit in a county or municipal treasury; or
  - (B) an officer of a county or municipality for deposit in the county or municipal treasury, as appropriate;
- (2) remittance of those fees to the comptroller as required by this chapter and other law; and
- (3) distribution of those fees by the comptroller to the proper accounts and funds in the state treasury.

### **Definitions**

#### **Local Government Code, Section 133.002**

In this chapter:

- (1) "Fee" means:
  - (A) a criminal fee listed under Section 133.003; and
  - (B) a civil fee listed under Section 133.004.
- (2) "Indigent" means an individual who earns not more than 125 percent of the income standard established by applicable federal poverty guidelines.
- (3) "Treasurer" means the custodian of money in a municipal or county treasury, as appropriate.

### **Criminal Fees**

#### **Local Government Code, Section 133.003**

This chapter applies to the following criminal fees:

- (1) the consolidated fee imposed under Section 133.102;
- (2) the time payment fee imposed under Section 133.103;
- (3) fees for services of peace officers employed by the state imposed under Article 102.011, Code of Criminal Procedure, and forwarded to the comptroller as provided by Section 133.104;
- (4) costs on conviction imposed in certain statutory county courts under Section 51.702, Government Code, and deposited in the judicial fund;
- (5) costs on conviction imposed in certain county courts under Section 51.703, Government Code, and deposited in the judicial fund;
- (6) the administrative fee for failure to appear or failure to pay or satisfy a judgment imposed under Section 706.006, Transportation Code;
- (7) fines on conviction imposed under Section 621.506(g), Transportation Code;
- (8) the fee imposed under Article 102.0045, Code of Criminal Procedure; and
- (9) the cost on conviction imposed under Section 133.105 and deposited in the judicial fund.

## **Civil Fees**

### **Local Government Code, Section 133.004**

This chapter applies to the following civil fees:

- (1) the consolidated fee on filing in district court imposed under Section 133.151;
- (2) the filing fee in district court for basic civil legal services for indigents imposed under Section 133.152;
- (3) the filing fee in courts other than district court for basic civil legal services for indigents imposed under Section 133.153;
- (4) the filing fees for the judicial fund imposed in certain statutory county courts under Section 51.702, Government Code;
- (5) the filing fees for the judicial fund imposed in certain county courts under Section 51.703, Government Code;
- (6) the filing fees for the judicial fund imposed in certain statutory probate courts under Section 51.704, Government Code;
- (7) fees collected under Section 118.015;
- (8) marriage license fees for the family trust fund collected under Section 118.018;
- (9) marriage license or declaration of informal marriage fees for the child abuse and neglect prevention trust fund account collected under Section 118.022; and
- (10) the filing fee for the judicial fund imposed in district court, statutory county court, and county court under Section 133.154.

## **Collection and Remittance of Fees**

### **Local Government Code, Section 133.051**

A municipality or county shall collect, record, account for, and remit to the comptroller all fees in the manner provided by this subchapter.

## **Deposit of Fees**

### **Local Government Code, Section 133.052**

- (a) An officer collecting a fee in a case in municipal court shall deposit the money in the municipal treasury.
- (b) An officer collecting a fee in a justice, county, or district court shall deposit the money in the county treasury.
- (c) A municipal or county clerk collecting a fee shall deposit the money in the municipal or county treasury, as appropriate.

## **Interest-Bearing Account**

### **Local Government Code, Section 133.053**

- (a) The treasurer may deposit fees in an interest-bearing account.
- (b) The municipality or county may retain any interest accrued on the money the treasurer deposited in the treasury if the treasurer remits the funds to the comptroller within the period prescribed by Section 133.055(a).

## **Records**

### **Local Government Code, Section 133.054**

- (a) An officer or clerk collecting a fee shall keep a record of the money collected.
- (b) The treasurer shall keep a record of the money collected and on deposit in the treasury.

## **Quarterly Remittance of Fees to the Comptroller**

### **Local Government Code, Section 133.055**

- (a) On or before the last day of the month following each calendar quarter, the treasurer shall:
  - (1) remit to the comptroller the money from all fees collected during the preceding quarter, except as provided by Section 133.058; and
  - (2) submit to the comptroller the report required under Section 133.056 for criminal fees and Section 133.057 for civil fees.
- (b) If the treasurer does not collect any fees during a calendar quarter, the treasurer shall file the report required for the quarter in the regular manner. The report must state that no fees were collected. This subsection does not apply to fees collected under Sections 14 and 19, Article 42.12, Code of Criminal Procedure, or under Section 76.013, Government Code.

## **Quarterly Report for Criminal Fees**

### **Local Government Code, Section 133.056**

- (a) On the last day of the month following a calendar quarter, the treasurer shall report the criminal fees collected for the preceding calendar quarter.
- (b) For fees collected for convictions of offenses committed on or after January 1, 2004, a municipality or county shall report the fees collected for a calendar quarter categorized according to the class of offense.
- (c) For fees collected for convictions of offenses committed before January 1, 2004, a municipality or county shall report the total of fees collected for a calendar quarter.

## **Quarterly Report for Civil Fees**

### **Local Government Code, Section 133.057**

On the last day of the month following a calendar quarter, the treasurer shall report the civil fees collected for the preceding calendar quarter.

## **Portion of Fee Retained**

### **Local Government Code, Section 133.058**

- (a) Except as otherwise provided by this section, a municipality or county may retain 10 percent of the money collected from fees as a service fee for the collection if the municipality or county remits the remainder of the fees to the comptroller within the period prescribed by Section 133.055(a).
- (b) A municipality or county may retain an amount greater than 10 percent of the money collected from fees if retention of the greater amount is authorized by law.
- (c) A county may retain five percent of the money collected as a service fee on the basic civil legal service for indigents filing fee.
- (d) A county may not retain a service fee on the collection of a fee:

- (1) for the judicial fund; or
  - (2) under Sections 14 and 19, Article 42.12, Code of Criminal Procedure.
- (e) A municipality or county may not retain a service fee if, during an audit under Section 133.059 of this code or Article 103.0033(j), Code of Criminal Procedure, the comptroller determines that the municipality or county is not in compliance with Article 103.0033, Code of Criminal Procedure. The municipality or county may continue to retain a service fee under this section on receipt of a written confirmation from the comptroller that the municipality or county is in compliance with Article 103.0033, Code of Criminal Procedure.

## **Audit**

### **Local Government Code, Section 133.059**

- (a) The comptroller may audit the records of a county or municipality relating to fees collected under this chapter.
- (b) Money spent from fees collected under this chapter is subject to audit by the state auditor.

## **Meaning of Conviction**

### **Local Government Code, Section 133.101**

In this subchapter, a person is considered to have been convicted in a case if:

- (1) a judgment, a sentence, or both a judgment and a sentence are imposed on the person;
- (2) the person receives community supervision, deferred adjudication, or deferred disposition; or
- (3) the court defers final disposition of the case or imposition of the judgement and sentence.

## **Consolidated Fees on Conviction**

### **Local Government Code, Section 133.102**

- (a) A person convicted of an offense shall pay as a court cost, in addition to all other costs:
  - (1) \$133 on conviction of a felony;
  - (2) \$83 on conviction of a Class A or Class B misdemeanor; or
  - (3) \$40 on conviction of a nonjailable misdemeanor offense, including a criminal violation of a municipal ordinance, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle.
- (b) The court costs under Subsection (a) shall be collected and remitted to the comptroller in the manner provided by Subchapter B.
- (c) The money collected under this section as court costs imposed on offenses committed on or after January 1, 2004, shall be allocated according to the percentages provided in Subsection (e).
- (d) The money collected as court costs imposed on offenses committed before January 1, 2004, shall be distributed using historical data so that each account or fund receives the same amount of money the account or fund would have received if the court costs for the accounts and funds had been collected and reported separately.
- (e) The comptroller shall allocate the court costs received under this section to the following accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if court costs for the accounts and funds had been collected and reported separately, except that the account or fund may not receive less than the following percentages:
  - (1) abused children's counseling - 0.0088 percent;

- (2) crime stoppers assistance - 0.2581 percent;
  - (3) breath alcohol testing - 0.5507 percent;
  - (4) Bill Blackwood Law Enforcement Management Institute - 2.1683 percent;
  - (5) law enforcement officers standards and education - 5.0034 percent;
  - (6) comprehensive rehabilitation - 5.3218 percent;
  - (7) operator's and chauffeur's license - 11.1426 percent;
  - (8) criminal justice planning - 12.5537 percent;
  - (9) an account in the state treasury to be used only for the establishment and operation of the Center for the Study and Prevention of Juvenile Crime and Delinquency at Prairie View A&M University - 1.2090 percent;
  - (10) compensation to victims of crime fund - 37.6338 percent;
  - (11) fugitive apprehension account - 12.0904 percent;
  - (12) judicial and court personnel training fund - 4.8362 percent;
  - (13) an account in the state treasury to be used for the establishment and operation of the Correctional Management Institute of Texas and Criminal Justice Center Account - 1.2090 percent;
  - and
  - (14) fair defense account - 6.0143 percent.
- (f) Of each dollar credited to the law enforcement officers standards and education account under Subsection (e)(5):
- (1) 33.3 cents may be used only to pay administrative expenses; and
  - (2) the remainder may be used only to pay expenses related to continuing education for persons licensed under Chapter 1701, Occupations Code.

## **Time Payment Fee**

### **Local Government Code, Section 133.103**

- (a) A person convicted of an offense shall pay in addition to all other costs, a fee of \$25 if the person:
- (1) has been convicted of a felony or misdemeanor; and
  - (2) pays any part of a fine, court costs, or restitution on or after the 31<sup>st</sup> day after the date on which a judgment is entered assessing the fine, court costs, or restitution.
- (b) Except as provided by Subsection (c-1), the treasurer shall send 50 percent of the fees collected under this section to the comptroller. The comptroller shall deposit the fees received to the credit of the general revenue fund.
- (c) Except as provided by Subsection (c-1), the treasurer shall deposit 10 percent of the fees collected under this section in the general fund of the county or municipality for the purpose of improving the efficiency of the administration of justice in the county or municipality. The county or municipality shall prioritize the needs of the judicial officer who collected the fees when making expenditures under this subsection and use the money deposited to provide for those needs.
- (c-1) The treasurer shall send 100 percent of the fees collected under this section to the comptroller if, during an audit under Section 133.059 of this code or Article 103.0033(j), Code of Criminal Procedure, the comptroller determines that the municipality or county is not in compliance with Article 103.0033, Code of Criminal Procedure. The municipality or county shall continue to dispose of fees as otherwise provided by this section on receipt of a written confirmation from the comptroller that the municipality or county is in compliance with Article 103.0033, Code of Criminal Procedure.
- (d) The treasurer shall deposit the remainder of the fees collected under this section in the general revenue account of the county or municipality.

## **Fees for Services of Peace Officers Employed by the State**

### **Local Government Code, Section 133.104**

(a) Fees imposed under Article 102.011, Code of Criminal Procedure, for services performed by peace officers employed by the state shall be forwarded to the comptroller after deducting four-fifths of the amount of each fee received for a service performed under Subsection (a)(1) or (a)(2) of that article, in a manner directed by the comptroller.

(b) The comptroller shall credit fees received under Subsection (a) to the general revenue fund.

## **Fee for Support of Court-Related Purposes**

### **Local Government Code, Section 133.105**

(a) A person convicted of any offense, other than an offense relating to a pedestrian or the parking of a motor vehicle, shall pay as a court cost, in addition to all other costs, a fee of \$4 to be used for court-related purposes for the support of the judiciary.

(b) The treasurer shall deposit 60 cents of each fee collected under this section in the general fund of the municipality or county to promote the efficient operation of the municipal or county courts and the investigation, prosecution, and enforcement of offenses that are within the jurisdiction of the courts.

(c) The treasurer shall remit the remainder of the fees collected under this section to the comptroller in the manner provided by Subchapter B. The comptroller shall deposit the fees in the judicial fund.

## **Consolidated Civil Fee on Filing a Civil Suit in District Court**

### **Local Government Code, Section 133.151**

(a) In addition to each fee collected under Section 51.317(b)(1), Government Code, the clerk of a district court shall collect the following fees the filing of any civil suit:

(1) \$45 for family law cases and proceedings as defined by Section 25.0002, Government Code; and

(2) \$50 for any case other than a case described by Subdivision (1).

(b) The fees under Subsection (a) shall be collected and remitted to the comptroller in the manner provided by Subchapter B.

(c) The comptroller shall allocate the fees received under this section to the following accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if the fees for the accounts and funds had been collected and reported separately:

(1) the judicial fund to be used for court-related purposes for the support of the judiciary; and

(2) the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to an indigent.

## **Additional Filing Fees for Certain Actions and Proceedings in District Court for Basic Civil Legal Services for Indigents**

### **Local Government Code, Section 133.152**

(a) In addition to other fees authorized or required by law, the clerk of a district court shall collect the following fees on the filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee:

(1) \$5 in family law cases and proceedings as defined by Section 25.0002, Government Code; and



- (2) \$10 in any case other than a case described by Subdivision (1).
- (b) The fees under this section shall be collected and remitted to the comptroller in the manner provided by Subchapter B.
- (c) The comptroller shall deposit the fees to the credit of the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to an indigent.

### **Additional Filing Fees for Certain Actions and Proceedings in Courts Other than District Court for Basic Civil Legal Services for Indigents**

#### **Local Government Code, Section 133.153**

- (a) In addition to other fees authorized or required by law, the clerk of a court other than a district court, the courts of appeals, or the supreme court shall collect the following fees on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee:
- (1) \$5 for statutory and constitutional county courts; and
  - (2) \$2 for justice of the peace courts.
- (b) The fees shall be collected and remitted to the comptroller in the manner provided by Subchapter B.
- (c) The comptroller shall deposit the fees to the credit of the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to an indigent.

### **Additional Filing Fee in District Court, Statutory County Court, or County Court for Support of Judiciary**

#### **Local Government Code, Section 133.154**

- (a) In addition to other fees authorized or required by law, the clerk of a district court, statutory county court, or county court shall collect a fee of \$37 on the filing of any civil suit to be used for court-related purposes for the support of the judiciary.
- (b) The treasurer shall remit the fees collected under this section to the comptroller in the manner provided by Subchapter B. The comptroller shall deposit the fees in the judicial fund.

### **Procedures for Setting Compensation by District Judges**

#### **Local Government Code, Section 152.905**

- (a) This section applies only to the compensation of the county auditor, assistant auditors, and court reporters.
- (b) Before setting the amount of annual compensation of the county auditor, assistant auditors, and court reporters, the district judge or judges shall hold a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard.
- (c) Not earlier than the 30<sup>th</sup> or later than the 10<sup>th</sup> day before the date of the hearing, notice of the time, place, and subject of the hearing must be published in a newspaper of general circulation in the county.
- (d) At the hearing, the district judge or judges shall set the amount of compensation of the county auditor, assistant auditors, and court reporters considered at the hearing. The vote must be recorded, transcribed, and maintained as a public record.

## **Employee's Request**

### **Local Government Code, Section 155.002**

- (a) A request for a payroll deduction must:
  - (1) be in writing;
  - (2) be submitted to the county auditor; and
  - (3) state the amount to be deducted and the entity to which the amount is to be transferred.
- (b) A request remains in effect until the county auditor receives a written notice of revocation signed by the employee.
- (c) A payroll deduction may not exceed the amount stated in the request.

## **Financial Disclosure Reporting System**

### **Local Government Code, Section 159.033**

- (a) The commissioners court of the county may adopt by order a financial disclosure reporting system for county officers, precinct officers, county judicial officers, candidates for those offices, and county employees.
- (b) The commissioners court shall prescribe the items required to be reported and the times the report is due.
- (c) If reporting is required, the commissioners court may restrict the reporting requirement to a limited part of county employees if all employees with similar jobs are required to report.

## **Filing Requirement**

### **Local Government Code, Section 159.034**

- (a) The commissioners court may require the report to be filed with the clerk of the commissioners court, the county auditor, or any other county officer. However, the commissioners court may require the report to be filed with the county clerk or other elected county officer only if the county clerk or elected county officer consents to the imposition of that duty. The commissioners court may contract with the secretary of state for the filing of reports under this subchapter.
- (b) The commissioners court may not require records filed under this subchapter to be maintained for more than one year and may require the authority with whom the records are filed to destroy the records after one year.
- (c) A person required by order of the commissioners court to file a report under this subchapter is considered to have complied with the order if the person files with the authority prescribed by the commissioners court a report that complies with the requirements of Chapter 572, Government Code.

## **Civil Penalty**

### **Local Government Code, Section 159.035**

- (a) If a report is determined to be late, the person responsible for filing the report is civilly liable to the county for \$100. The county attorney or the district or criminal district attorney with civil jurisdiction may not initiate suit for the penalty until the 10<sup>th</sup> day after the date a notice concerning the late report is mailed to the person. If the report is filed and the penalty is paid before the 10<sup>th</sup> day after the date of the mailing, the authority with whom the report is filed shall notify the county attorney or the district or criminal district attorney, and the civil suit under this section may not be initiated.
- (b) A penalty paid under this section shall be deposited to the credit of the general fund of the county.

## **Purchasing Agents in Counties with Population of More Than 100,000**

### **Local Government Code, Section 262.0115**

- (a) In a county with a population of more than 100,000, the commissioners court may employ a person to act as county purchasing agent. However, this section does not apply to a county that has appointed a purchasing agent under Section 262.011 and that has not abolished the position as authorized by law.
- (b) A purchasing agent employed under this section serves at the pleasure of the commissioners court.
- (c) The commissioners court may employ other persons necessary to assist the purchasing agent in performing the agent's functions.
- (d) Under the supervision of the commissioners court, the purchasing agent shall carry out the functions prescribed by law for a purchasing agent under Section 262.011 and for the county auditor in regard to county purchases and contracts and shall administer the procedures prescribed by law for notice and public bidding for county purchases and contracts.
- (e) A county that has established the position of county purchasing agent under this section may abolish the position at any time. On the abolition of the position, the county auditor shall assume the functions previously performed by the purchasing agent.

## **County Auditor as Purchasing Agents in Certain Counties**

### **Local Government Code, Section 262.012**

- (a) The commissioners court of a county that employs a county auditor jointly with one or more counties under Section 84.008 may require the auditor to act as the purchasing agent for the county, in addition to performing the regular duties of the auditor as required by law.
- (b) In a county with a population of 41,680 to 42,100, the county auditor shall act as the purchasing agent for the county in addition to performing the regular duties of the auditor as required by law.
- (c) This section applies only to a county in which a county purchasing agent has not been appointed under Section 262.011.

## **Comptroller**

### **Local Government Code, Section 293.025**

- (a) The county auditor shall appoint a comptroller for the authority, subject to the approval of the board and the commissioners court. The comptroller shall:
  - (1) work under the direction of the county auditor;
  - (2) institute budget, purchasing, and fiscal procedures that conform to accepted business and accounting practices; and
  - (3) make quarterly reports to the commissioners court.
- (b) The county auditor shall fix the comptroller's salary, subject to approval of the board and commissioners court, and the authority shall pay the salary.
- (c) The comptroller's employment may be terminated by an act of the county auditor and a majority of the board and commissioners court.
- (d) Before the beginning of each fiscal year the comptroller, under the direction of the board, shall prepare the authority's budget for the following fiscal year and submit it to the commissioners court. Within 15 days after the date the budget is submitted, the commissioners court may approve or revise the budget.

## **Law Library Fund**

### **Local Government Code, Section 323.023**

(a) A sum set by the commissioners court not to exceed \$35 shall be taxed, collected, and paid as other costs in each civil case filed in a county or district court, except suits for delinquent taxes. The county is not liable for the costs.

(b) The clerks of the respective courts shall collect the costs and pay them to the county treasurer, or to any other official who discharges the duties commonly delegated to the county treasurer, for deposit in a fund to be known as the county law library fund. The fund may be used only for:

- (1) establishing the law library after the entry of the order creating it;
- (2) purchasing or leasing library materials, maintaining the library, or acquiring furniture, shelving, or equipment for the library; or
- (3) purchasing or leasing library materials or acquiring library equipment, including computers, software, and subscriptions to obtain access to electronic research networks for use by judges in the county.

(c) Money in the fund may be used for the purposes described by Subsection (b)(3) only if the county's law librarian or, if the county has no law librarian, the person responsible for the county's law library, authorizes the use in consultation with the county auditor.

(d) Expenditures by a county auditor under Subsection (b)(3) may not exceed \$175,000 each year. Any unexpended and unobligated balance allocated by the county for Subsection (b)(3) purposes that remains at the end of the county's fiscal year remains available for use for Subsection (b)(3) purposes during subsequent fiscal years.

(e) The county law library fund shall be administered by or under the direction of the commissioners court.

## **Remission of Fines**

### **Parks and Wildlife Code, Section 12.107**

(a) A justice of the peace, clerk of any court, or any other officer of the state who receives a fine imposed by a court for a violation of this code or a regulation of the commission adopted under this code shall send the fine to the department within 10 days after the date of collection. A statement containing the docket number of the case, the name of the person fined, and the section of this code or the regulation violated must accompany the remission of the fine.

(b) The amount of the fine to be remitted to the department is 80 percent in county court or higher court cases and 85 percent in justice court cases.

## **Disposition of Fines**

### **Parks and Wildlife Code, Section 31.128**

(a) A justice of the peace, or a clerk of any court, or any other officer of this state receiving any fine imposed by a court for a violation of this chapter shall send the fine to the department within 10 days after receipt and shall note the docket number of the case, the name of the person fined, and the section or article of the law under which the conviction was secured.

(b) In justice court cases filed as a result of an arrest by a game warden, the amount to be remitted to the game, fish, and water safety account shall be 85 percent of the fine. In county court cases filed as the result of an arrest by a game warden, the amount to be remitted to the game, fish, and water safety account shall be 80 percent of the fine. All costs of the court shall be retained by the court having

jurisdiction of the offense and deposited as other fees in the proper county fund.

(c) In court cases filed as the result of an arrest by a marine safety enforcement officer other than a game warden, the amount to be remitted to the game, fish, and water safety account shall be 60 percent of the fine. All costs of the court shall be retained by the court having jurisdiction of the offense and deposited as other fees in the proper county fund.

(d) Not less than 50 percent of the amount remitted to the game, fish, and water safety account under Subsection (c) must be used for the administration and enforcement of this chapter.

## **Disposition of Fines**

### **Transportation Code, Section 542.402(a)**

A municipality or county shall use a fine collected for a violation of a highway law in this title to:

- (1) construct and maintain roads, bridges, and culverts in the municipality or county;
- (2) enforce laws regulating the use of highways by motor vehicles; and
- (3) defray the expense of county traffic officers.

## **Court Costs**

### **Transportation Code, Section 542.403**

(a) In addition to other costs, a person convicted of a misdemeanor under this subtitle shall pay \$3 as a cost of court.

(b) The officer who collects a cost under this section shall:

- (1) deposit in the municipal treasury a cost collected in a municipal court case; and
- (2) deposit in the county treasury a cost collected in a justice court case or in a county court case, including a case appealed from a justice or municipal court.

(c) In this section, "conviction" has the meaning assigned by Section 133.101, Local Government Code.

## **State Traffic Fine**

### **Transportation Code, Section 542.4031**

(a) In addition to the fine prescribed by Section 542.401 or another section of this subtitle, as applicable, a person who enters a plea of guilty or nolo contendere to or is convicted of an offense under this subtitle shall pay \$30 as a state traffic fine. The person shall pay the state traffic fine when the person enters the person's plea of guilty or nolo contendere, or on the date of conviction, whichever is earlier. The state traffic fine shall be paid regardless of whether:

- (1) a sentence is imposed on the person;
- (2) the court defers final disposition of the person's case; or
- (3) the person is placed on community supervision, including deferred adjudication community supervision.

(b) An officer collecting a state traffic fine under this section in a case in municipal court shall keep separate records of the money collected and shall deposit the money in the municipal treasury.

(c) An officer collecting a state traffic fine under this section in a justice, county, or district court shall keep separate records of the money collected and shall deposit the money in the county treasury.

(d) Each calendar quarter, an officer collecting a state traffic fine under this section shall submit a report to the comptroller. The report must comply with Articles 103.005 (c) and (d), Code of Criminal Procedure.

(e) The custodian of money in a municipal or county treasury may deposit money collected under this

section in an interest-bearing account. The custodian shall:

- (1) keep records of the amount of money collected under this section that is on deposit in the treasury; and
  - (2) not later than the last day of the month following each calendar quarter, remit to the comptroller money collected under this section during the preceding quarter, as required by the comptroller.
- (f) A municipality or county may retain five percent of the money collected under this section as a service fee for the collection if the municipality or county remits the funds to the comptroller within the period prescribed in Subsection (e). The municipality or county may retain any interest accrued on the money if the custodian of the money deposited in the treasury keeps records of the amount of money collected under this section that is on deposit in the treasury and remits the funds to the comptroller within the period prescribed in Subsection (e).
- (g) Of the money received by the comptroller under this section, the comptroller shall deposit:
- (1) 67 percent to the credit of the undedicated portion of the general revenue fund; and
  - (2) 33 percent to the credit of the designated trauma facility and emergency medical services account under Section 780.003, Health and Safety Code.
- (h) Notwithstanding Subsection (g)(1), in any state fiscal year the comptroller shall deposit 67 percent of the money received under Subsection (e)(2) to the credit of the general revenue fund only until the total amount of the money deposited to the credit of the general revenue fund under Subsection (g)(1) and Section 780.002(b), Health and Safety Code, equals \$250 million for that year. If in any state fiscal year the amount received by the comptroller under those laws for deposit to the credit of the general revenue fund exceeds \$250 million, the comptroller shall deposit the additional amount to the credit of the Texas mobility fund.
- (i) Money collected under this section is subject to audit by the comptroller. Money spent is subject to audit by the state auditor.

### **Child Passenger Safety Seat Systems; Offense**

#### **Transportation Code, Section 545.412**

- (a) A person commits an offense if the person operates a passenger car or light truck and transports a child who is younger than five years of age and less than 36 inches in height and does not keep the child secured during the operation of the vehicle in a child passenger safety seat system according to the instructions of the manufacturer of the safety seat system.
- (b) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 or more than \$200.
- (c) It is a defense to prosecution under this section that the person was operating the vehicle in an emergency or for a law enforcement purpose.
- (d) Repealed by Acts 2003, 78<sup>th</sup> Leg., ch. 204, §8.01.
- (e) This section does not apply to a person:
- (1) operating a vehicle transporting passengers for hire, including third-party transport service providers when transporting clients pursuant to a contract to provide nonemergency Medicaid transportation; or
  - (2) transporting a child in a vehicle in which all seating positions equipped with child passenger safety seat systems or safety belts are occupied.
- (f) In this section:
- (1) “Child passenger safety seat system” means an infant or child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the National Highway Traffic Safety Administration.

(2) "Passenger vehicle" means a passenger car, light truck, sport utility vehicle, truck, or truck tractor.

(3) "Safety belt" means a lap belt and any shoulder straps included as original equipment on or added to a vehicle.

(4) "Secured," in connection with use of a safety belt, means using the lap belt and any shoulder straps according to the instructions of:

(A) the manufacturer of the vehicle, if the safety belt is original equipment, or

(B) the manufacturer of the safety belt, if the safety belt has been added to the vehicle.

(g) A judge, acting under Article 45.0511, Code of Criminal Procedure, who elects to defer further proceedings and to place a defendant accused of a violation of this section on probation under that article, in lieu of requiring the defendant to complete a driving safety course approved by the Texas Education Agency, shall require the defendant to attend and present proof that the defendant has successfully completed a specialized driving safety course approved by the Texas Education Agency under the Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes) that includes four hours of instruction that encourages the use of child passenger safety seat systems and the wearing of seat belts and emphasizes:

(1) the effectiveness of child passenger safety seat systems and seat belts in reducing the harm to children being transported in motor vehicles; and

(2) the requirements of this section and the penalty for noncompliance.

(h) Notwithstanding Section 542.402(a), a municipality or county, at the end of the municipality's or county's fiscal year, shall send to the comptroller an amount equal to 50 percent of the fines collected by the municipality or the county for violations of this section. The comptroller shall deposit the amount received to the credit of the tertiary care fund for use by trauma centers.

## **Safety Belts; Offense**

### **Transportation Code, Section 545.413**

(a) A person commits an offense if the person:

(1) is at least 15 years of age;

(2) is riding in the front seat of a passenger car while the vehicle is being operated;

(3) is occupying a seat that is equipped with a safety belt; and

(4) is not secured by a safety belt.

(b) A person commits an offense if the person:

(1) operates a passenger vehicle that is equipped with safety belts; and

(2) allows a child who is younger than 17 years of age and who is not required to be secured in a child passenger safety seat system under Section 545.412(a) to ride in the vehicle without requiring the child to be secured by a safety belt, provided the child is occupying a seat this is equipped with a safety belt.

(c) A passenger car or a seat in a passenger car is considered to be equipped with a safety belt if the vehicle is required under Section 547.601 to be equipped with safety belts.

(d) An offense under Subsection (a) is a misdemeanor punishable by a fine of not less than \$25 or more than \$50. An offense under Subsection (b) is a misdemeanor punishable by a fine of not less than \$100 or more than \$200.

(e) It is a defense to prosecution under this section that:

(1) the person possesses a written statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;

(2) the person presents to the court, not later than the 10<sup>th</sup> day after the date of the offense, a

statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;

(3) the person is employed by the United States Postal Service and performing a duty for that agency that requires the operator to service postal boxes from a vehicle or that requires frequent entry into and exit from a vehicle;

(4) the person is engaged in the actual delivery of newspapers from a vehicle or is performing newspaper delivery duties that require frequent entry into and exit from a vehicle;

(5) the person is employed by a public or private utility company and is engaged in the reading of meters or performing a similar duty for that company requiring the operator to frequently enter into and exit from a vehicle; or

(6) the person is operating a commercial vehicle registered as a farm vehicle under the provisions of Section 502.163 that does not have a gross weight, registered weight, or gross weight rating of 48,000 pounds or more.

(f) The department shall develop and implement an educational program to encourage the wearing of safety belts and to emphasize:

(1) the effectiveness of safety belts and other restraint devices in reducing the risk of harm to passengers in motor vehicles; and

(2) the requirements of this section and the penalty for noncompliance.

(g) In this section, “passenger vehicle,” “safety belt,” and “secured” have the meanings assigned by Section 545.412.

(h) A judge, acting under Article 45.0511, Code of Criminal Procedure, who elects to defer further proceedings and to place a defendant accused of a violation of Subsection (b) on probation under that article, in lieu of requiring the defendant to complete a driving safety course approved by the Texas Education Agency, shall require the defendant to attend and present proof that the defendant has successfully completed a specialized driving safety course approved by the Texas Education Agency under the Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon’s Texas Civil Statutes) that includes four hours of instruction that encourages the use of child passenger safety seat systems and the wearing of seat belts and emphasizes:

(1) the effectiveness of child passenger safety seat systems and seat belts in reducing the harm to children being transported in motor vehicles; and

(2) the requirements of this section and the penalty for noncompliance.

(i) Notwithstanding Section 542.402(a), a municipality or county, at the end of the municipality’s or county’s fiscal year, shall send to the comptroller an amount equal to 50 percent of the fines collected by the municipality or the county for violations of Subsection (b) of this section. The comptroller shall deposit the amount received to the credit of the tertiary care fund for use by trauma centers.

### **Dismissal of Charge; Administrative Fee**

#### **Transportation Code, Section 548.605**

(a) In this section, “working day” means any day other than a Saturday, a Sunday, or a holiday on which county offices are closed.

(b) The court shall:

(1) dismiss a charge of driving with an expired inspection certificate if:

(A) the defendant remedies the defect within 10 working days; and

(B) the inspection certificate has not been expired for more than 60 days; and

(2) assess an administrative fee not to exceed \$10 when the charge of driving with an expired inspection certificate has been remedied.



(c) Notwithstanding Subsection (b)(1)(B), the court may dismiss a charge of driving with an expired inspection certificate that has been expired for more than 60 days.

### **Offense of Operating or Loading Overweight Vehicle; Penalty; Defense**

#### **Transportation Code, Section 621.506**

- (a) A person commits an offense if the person:
- (1) operates a vehicle or combination of vehicles in violation of Section 621.101, 622.012, 622.031, 622.133, 622.953, or 623.162; or
  - (2) loads a vehicle or causes a vehicle to be loaded in violation of Section 621.503.
- (b) An offense under this section is a misdemeanor punishable:
- (1) by a fine of not less than \$100 and not more than \$150;
  - (2) on conviction of an offense involving a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than 5,000 but not more than 10,000 pounds heavier than the vehicle's allowable weight, by a fine of not less than \$300 or more than \$500;
  - (3) on conviction of an offense involving a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than 10,000 pounds heavier than the vehicle's allowable weight, by a fine of not less than \$500 or more than \$1,000; or
  - (4) on conviction before the first anniversary of the date of a previous conviction under this section, by a fine in an amount that is twice the amount specified by Subdivision (1), (2), or (3).
- (c) On conviction of a violation of an axle weight limitation, the court may assess a fine less than the applicable minimum prescribed by Subsection (b) if the court finds that when the violation occurred:
- (1) the vehicle was registered to carry the maximum gross weight authorized for that vehicle under Section 621.101; and
  - (2) the gross weight of the vehicle did not exceed that maximum gross weight.
- (d) A judge or justice shall promptly report to the Department of Public Safety each conviction obtained in the judge's or the justice's court under this section. The Department of Public Safety shall keep a record of each conviction reported to it under this subsection.
- (e) If a corporation fails to pay the fine assessed on conviction of an offense under this section, the district or county attorney in the county in which the conviction occurs may file suit against the corporation to collect the fine.
- (f) A justice or municipal court has jurisdiction of an offense under this section.
- (g) Except as provided by Subsection (h), a governmental entity that collects a fine under this section for an offense involving a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than 5,000 pounds heavier than the vehicle's allowable weight shall send an amount equal to 50 percent of the fine to the comptroller in the manner provided by Subchapter B, Chapter 133, Local Government Code.
- (h) If the offense described by Subsection (g) occurred within 20 miles of an international border, the entire amount of the fine shall be deposited for the purposes of road maintenance in:
- (1) the municipal treasury, if the fine was imposed by a municipal court; or
  - (2) the county treasurer, if the fine was imposed by a justice court.

## **CHAPTER 706. DENIAL OF RENEWAL OF LICENSE FOR FAILURE TO APPEAR**

### **Definitions**

#### **Transportation Code, Section 706.001**

In this chapter:

- (1) “Complaint” means a notice of an offense as described by Article 27.14(d) or 45.019, Code of Criminal Procedure.
- (2) “Department” means the Department of Public Safety.
- (3) “Driver’s license” has the meaning assigned by Section 521.001.
- (4) “Highway or street” has the meaning assigned by Section 541.302.
- (5) “Motor vehicle” has the meaning assigned by Section 541.201.
- (6) “Operator” has the meaning assigned by Section 541.001.
- (7) “Political subdivision” means a municipality or county.
- (8) “Public place” has the meaning assigned by Section 1.07, Penal Code.
- (9) “Traffic law” means a statute or ordinance, a violation of which is a misdemeanor punishable by a fine in an amount not to exceed \$1,000, that:
  - (A) regulates an operator’s conduct or condition while operating a motor vehicle on a highway or street, or in a public place;
  - (B) regulates the condition of a motor vehicle while it is being operated on a highway or street;
  - (C) relates to the driver’s license status of an operator while operating a motor vehicle on a highway or street; or
  - (D) relates to the registration status of a motor vehicle while it is being operated on a highway or street.

### **Contract With Department**

#### **Transportation Code, Section 706.002**

- (a) A political subdivision may contract with the department to provide information necessary for the department to deny renewal of the driver’s license of a person who fails to appear for a complaint or citation or fails to pay or satisfy a judgment ordering payment of a fine and cost in the manner ordered by the court in a matter involving any offense that a court has jurisdiction of under Chapter 4, Code of Criminal Procedure..
- (b) A contract under this section:
  - (1) must be made in accordance with Chapter 791, Government Code; and
  - (2) is subject to the ability of the parties to provide or pay for the services required under this contract.

### **Warning; Citation**

#### **Transportation Code, Section 706.003**

- (a) If a political subdivision has contracted with the department, a peace officer authorized to issue a citation in the jurisdiction of the political subdivision shall issue a warning to each person to whom the officer issues a citation for a violation of a traffic law in the jurisdiction of the political subdivision.
- (b) The warning under Subsection (a):
  - (1) is in addition to any other warning required by law;
  - (2) must state in substance that if the person fails to appear in court as provided by law for the

prosecution of the offense or if the person fails to pay or satisfy a judgment ordering the payment of a fine and cost in the manner ordered by the court, the person may be denied renewal of the person's driver's license; and

(3) may be printed on the same instrument as the citation.

### **Denial of Renewal of Driver's License**

#### **Transportation Code, Section 706.004**

(a) If a political subdivision has contracted under this article with the department, on receiving the necessary information from the political subdivision, the department may deny renewal of the person's driver's license for failure to appear based on a complaint or citation or failure to pay or satisfy a judgment ordering the payment of a fine and cost in the manner ordered by the court in a matter involving an offense described by Section 706.002(a).

(b) The information must include:

- (1) the name, date of birth, and driver's license number of the alleged violator;
- (2) the nature and date of the alleged violation;
- (3) a statement that the person failed to appear as required by law or failed to satisfy a judgment ordering the payment of a fine and cost in the manner ordered by the court in a matter involving an offense described by Section 706.002(a); and
- (4) any other information required by the department.

### **Clearance Notice to Department**

#### **Transportation Code, Section 706.005**

(a) A political subdivision shall notify the department that there is no cause to continue to deny renewal of a person's driver's license based on the person's previous failure to appear or failure to pay or satisfy a judgment ordering the payment of a fine and cost in the manner ordered by the court in a matter involving an offense described by Section 706.002(a), on payment of a fee as provided by Section 706.006 and:

- (1) the perfection of an appeal of the case for which the warrant of arrest was issued or judgment arose;
- (2) the dismissal of the charges for which the warrant of arrest was issued or judgment arose;
- (3) the posting of bond or the giving of other security to reinstate the charges for which the warrant was issued;
- (4) the payment or discharge of the fine and cost owed on an outstanding judgment of the court; or
- (5) other suitable arrangement to pay the fine and cost within the court's discretion.

(b) The department may not continue to deny the renewal of the person's driver's license under this chapter after the department receives notice:

- (1) under Subsection (a);
- (2) that the person was acquitted of the charge on which the person failed to appear; or
- (3) from the political subdivision that the failure to appear report or court order to pay a fine or cost relating to the person:
  - (A) was sent to the department in error; or
  - (B) has been destroyed in accordance with the political subdivision's records retention policy.

## **Payment of Administrative Fee**

### **Transportation Code, Section 706.006**

(a) A person who fails to appear for a complaint or citation for an offense described by Section 706.002(a) shall be required to pay an administrative fee of \$30 for each complaint or citation reported to the department under this chapter, unless the person is acquitted of the charges for which the person failed to appear. The person shall pay the fee when:

- (1) the court enters judgment on the underlying offense reported to the department;
- (2) the underlying offense is dismissed; or
- (3) bond or other security is posted to reinstate the charge for which the warrant was issued.

(b) A person who fails to pay or satisfy a judgment ordering the payment of a fine and cost in the manner the court orders shall be required to pay an administrative fee of \$30.

(c) The department may deny renewal of the driver's license of a person who does not pay a fee due under this section until the fee is paid. The fee required by this section is in addition to any other fee required by law.

## **Records Relating to Fees; Disposition of Fees**

### **Transportation Code, Section 706.007**

(a) An officer collecting a fee under Section 706.006 shall keep records and deposit the money as provided by Subchapter B, Chapter 133, Local Government Code.

(b) The custodian of the municipal or county treasury may deposit each fee collected under Section 706.006 as provided by Subchapter B, Chapter 133, Local Government Code.

(c) The custodian shall keep records of money received and disbursed under this section as provided by Subchapter B, Chapter 133, Local Government Code, and shall provide an annual report, in the form approved by the comptroller, of all money received and disbursed under this section to:

- (1) the comptroller;
- (2) the department; and
- (3) another entity as provided by interlocal contract.

(d) Of each fee collected under Section 706.006, the custodian of a municipal or county treasury shall:

- (1) send \$20 to the comptroller on or before the last day of each calendar quarter; and
- (2) deposit the remainder to the credit of the general fund of the municipality or county.

(e) Of each \$20 received by the comptroller, the comptroller shall deposit \$10 to the credit of the department to implement this chapter.

## **Contract With Private Vendor; Compensation**

### **Transportation Code, Section 706.008**

(a) The department may contract with a private vendor to implement this chapter.

(b) The vendor performing the contract may be compensated by each political subdivision that has contracted with the department.

(c) Except for an action based on a citation issued by a peace officer employed by the department, the vendor may not be compensated with state money.

## **Vendor to Provide Customer Support Services**

### **Transportation Code, Section 706.009**

(a) A vendor must establish and maintain customer support services as directed by the department, including a toll-free telephone service line to answer and resolve questions from persons who are denied renewal of a driver's license under this chapter.

(b) The vendor shall comply with terms, policies, and rules adopted by the department to administer this chapter.

## **Use of Information Collected by Vendor**

### **Transportation Code, Section 706.010**

Information collected under this chapter by a vendor may not be used by a person other than the department, the political subdivision, or a vendor as provided by this chapter.

## **Liability of State or Political Subdivision**

### **Transportation Code, Section 706.011**

(a) An action for damages may not be brought against the state or a political subdivision based on an act or omission under this chapter, including the denial of renewal of a driver's license.

(b) The state or political subdivision may not be held liable in damages based on an act or omission under this chapter, including the denial of renewal of a driver's license.

## **Rules**

### **Transportation Code, Section 706.012**

The department may adopt rules to implement this chapter.