

Sec. 114.022. COUNTY ANNUAL FINANCIAL EXHIBIT. (a) The county auditor or, in a county that does not have a county auditor, the county treasurer immediately after the first regular term of the commissioners court in the year shall publish an exhibit that shows the aggregate amount paid from each fund for the four preceding quarters and the balance to the debit or credit of each fund. The exhibit must also list:

- (1) the amount of the county indebtedness;
- (2) the respective dates of accrual of that indebtedness;
- (3) to whom the debt is owed;
- (4) the reason for the debt; and
- (5) the amount to the debit or credit of each officer or other person with whom an account is kept in the county finance records.

(b) The county official designated by Subsection (a) shall publish the exhibit once in a weekly newspaper that is published in the county. The commissioners court shall order the payment of the publication costs from the general fund of the county. If no paper is published in the county, the county official shall post a copy of the exhibit in each commissioner's precinct. One must be posted at the courthouse door, and one must be posted at public places in each of the other three commissioners' precincts.

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

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 207 (H.B. [398](#)), Sec. 2, eff. May 25, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 606 (S.B. [373](#)), Sec. 18, eff. September 1, 2011.

Sec. 114.025. COUNTY AUDITOR'S MONTHLY AND ANNUAL REPORTS

TO COMMISSIONERS COURT AND DISTRICT JUDGES. (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.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 114.026. COUNTY TREASURER'S REPORT TO COMMISSIONERS COURT AT REGULAR TERM. (a) At least once a month at a regular term of the commissioners court, the county treasurer shall make a detailed report of:

- (1) money received and disbursed;
- (2) debts due to and owed by the county; and
- (3) all other proceedings in the treasurer's office.

(b) At least once a month at a regular term of the commissioners court, the county treasurer shall exhibit the books and accounts of the treasurer's office for the inspection of the court and shall submit the vouchers relating to the books and accounts for audit and approval.

(c) After the commissioners court has compared and examined the treasurer's report and has determined that the report is correct, the court shall enter an order in its minutes approving the report. The order must separately state the amount received and paid from each fund since the county treasurer's preceding report and any balance remaining in the treasurer's custody. The court shall properly credit the treasurer's accounts.

(d) Before the adjournment of a regular term of the commissioners court, the county judge and each county commissioner shall give an affidavit stating that the requirements of Subsection (c) have been met at that term. The affidavit must state the amount of the cash and other assets that are in the custody of the county treasurer at the time of the examination. The affidavits must be filed with the county clerk and must be recorded in the minutes of the court for the term in which the affidavits are filed. The affidavits must be published once in a newspaper published in the county if there is such a newspaper or, if the county has an Internet website, on the county's website.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 934 (H.B. [3439](#)), Sec. 4, eff. September 1, 2007.

Sec. 114.041. STATEMENT OF FEES, COMMISSIONS, AND OTHER MONEY RECEIVED

**BY OFFICERS.** (a) In a county with a population of 190,000 or less, a district, county, or precinct officer shall keep, as part of a record provided for the purpose, a statement of the fees earned by the officer and of the money received by the officer as deposits for costs, trust fund deposits in the registry of a court, fees of office, and commissions. The officer must make an entry in the record when the fees or commissions are earned or the deposits are made and when the money is received. **The county auditor** or, if the county does not have a county auditor, the commissioners court shall annually examine the records and accounts of each officer and report the findings of the examination to the next grand jury or district court.

Sec. 114.044. **REPORT TO COMMISSIONERS COURT AT REGULAR TERM BY OFFICER WHO COLLECTS FINES, JUDGMENTS, OR JURY FEES.** (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 least once a month at a 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, or 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.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 934 (H.B. [3439](#)), Sec. 5, eff. September 1, 2007.

**Sec. 114.061. COUNTY TREASURER'S MONTHLY CLAIMS REPORT TO**

**COUNTY CLERK.** (a) At the end of each month, the county treasurer shall file in the office of the county clerk a claims report that shows the total amount of claims registered by the county treasurer during the month. **The treasurer shall report each class of claims separately.**

(b) The county clerk shall enter the claims report in the county finance ledger under the heading of "Registered indebtedness of the county." The clerk shall keep a separate account of each class of indebtedness.

(c) From the reports made by the treasurer of disbursements, the clerk shall credit the accounts with the total amount of vouchers of each class of claims paid.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

**Sec. 116.117. STATEMENTS OF ACCOUNT.** A depository shall make a detailed monthly statement to the commissioners court at each regular term of the court. The statement must show the daily balance credited to each of the funds on deposit.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

### **DEFINITION OF DEPOSITORY:**

#### **depository**

[dih-**poz**-i-tawr-ee, -tohr-ee] Spell Syllables

- ◆ Examples
- ◆ Word Origin noun, plural **depositories**.

1. a place where something is deposited or stored, as for safekeeping: *the night depository of a bank.*
2. a depository; trustee. adjective
3. of or pertaining to a depository or depositories: *the depository role of a bank.*

Sec. 152.013. PROCEDURE FOR SETTING AMOUNTS FOR ELECTED OFFICERS. (a) Each year the commissioners court shall set the salary, expenses, and other allowances of elected county or precinct officers. The commissioners court shall set the items at a regular meeting of the court during the regular budget hearing and adoption proceedings.

(b) Before the 10th day before the date of the meeting, the commissioners court must publish in a newspaper of general circulation in the county a notice of:

(1) any salaries, expenses, or allowances that are proposed to be increased; and

(2) the amount of the proposed increases.

(c) Before filing the annual budget with the county clerk, the commissioners court shall give written notice to each elected county and precinct officer of the officer's salary and personal expenses to be included in the budget.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 152.017. EXCEPTIONS. This subchapter does not apply

to:

- (1) a judge of a court of record;
- (2) a presiding judge of a commissioners court in a county with a population of 3.3 million or more;
- (3) a district attorney paid wholly by state funds or the district attorney's assistants, investigators, or other employees;
- (4) a county auditor, county purchasing agent, or the auditor's or purchasing agent's assistants or other employees; or
- (5) a person employed under Section 10, Article 42.12, Code of Criminal Procedure.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 89, eff. Sept. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 70, eff. September 1, 2011.

SUBCHAPTER E. SPECIAL PROVISIONS APPLYING TO SHERIFFS DEPARTMENT

**Sec. 152.071. CLASSIFICATION OF POSITIONS; SALARY SCHEDULE.** (a) In a county with a population of more than 75,000, the county government shall classify all positions in its sheriff's department and shall specify the duties and prescribe the salary for each classification.

(a-1) A county government in a county that has a population of more than 7,500, is located on an international boundary, and contains no incorporated territory of a municipality may classify all positions in its sheriff's department and may specify the duties and prescribe the salary for each classification.

(b) A member of the sheriff's department who is required to perform the duties of a particular classification is entitled to be paid the salary prescribed for that position during the time the member performs those duties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.  
Amended by Acts 2003, 78th Leg., ch. 1225, Sec. 3, eff. July 1, 2003.

**Sec. 152.072. PETITION TO INCREASE SALARIES.** (a) The qualified voters of a county with a population of more than 25,000 may petition the commissioners court of the county to increase the minimum salary of each member of the sheriff's department.

(a-1) The qualified voters of a county that has a population of more than 7,500, is located on an international boundary, and contains no incorporated territory of a municipality may petition the commissioners court of the county to increase the minimum salary of each member of the sheriff's department.

(b) A petition under this section must:

- (1) state the amount of the proposed minimum salary for each rank, pay grade, or classification;
- (2) state the effective date of the proposed salary increase;

(3) designate five qualified voters to act as a committee of petitioners authorized to negotiate with the commissioners court under Subsection (g); and

(4) be signed by a number of qualified voters equal to at least 25 percent of the number of voters who voted in the most recent countywide election for county officers.

(c) When a petition is filed under this section, the commissioners court shall:

(1) adopt the proposed minimum salary stated in the petition;

(2) offer an alternative minimum salary proposal under Subsection (g); or

(3) call an election on the proposed minimum salary as provided by this section.

(d) If the commissioners court chooses to call an election, the only issue that may be submitted regarding the salaries of members of the sheriff's department is whether the proposed minimum salary should be adopted. The election shall be held on the first authorized uniform election date under Chapter 41, Election Code:

(1) that occurs after the 65th day after the date the petition was filed; and

(2) on which an election is scheduled to be held throughout the county for other purposes.

(e) The ballot for the election shall be printed to provide for voting for or against the proposition: "Adoption of the proposed minimum salaries of \_\_\_\_\_ for members of the Sheriff's Department at an annual cost of \_\_\_\_\_, which may or may not cause an increase in the county ad valorem property tax." The proposed salary for each rank, pay grade, or classification as stated in the petition and the total annual cost of the increases must be inserted in the blank spaces.

(f) If a majority of the votes cast at the election favor the adoption of the proposed minimum salary, the minimum salary shall take effect on or before the date specified in the petition as the effective date. If the date on which the

results of the official canvass of the election returns are announced is after the date specified in the petition as the effective date, the minimum salary shall take effect beginning with the first full pay period that begins after the date on which the election results are canvassed.

(g) If the commissioners court chooses to offer an alternative minimum salary proposal, the commissioners court shall confer with the committee of petitioners designated in the petition and offer the alternative salary proposal. If the committee accepts the alternative salary proposal, the commissioners court is not required to call an election.

(h) When an election has been held or an alternative salary proposal has been accepted under this section, a petition for another election under this section may not be filed until one year has elapsed after the date the election was held or the alternative salary proposal was accepted.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.  
Amended by Acts 1995, 74th Leg., ch. 808, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 272, Sec. 1, eff. May 26, 1997; Acts 2003, 78th Leg., ch. 1225, Sec. 4, eff. July 1, 2003.

**Sec. 152.073. PENALTY.** (a) A person who is a county official and who is in charge of the sheriff's department or is responsible for setting the compensation provided by Sections

152.071 and 152.072 commits an offense if the person violates Section 152.071 or 152.072.

(b) An offense under this section is punishable by a fine of not less than \$10 or more than \$100.

(c) Each day on which the county official causes or permits a violation of this section to occur is a separate offense.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.  
Amended by Acts 1995, 74th Leg., ch. 808, Sec. 2, eff. Aug. 28, 1995.

#### SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

**Sec. 152.901. TRAVEL EXPENSES FOR CERTAIN COUNTY AGENTS AND BOARD MEMBERS.** (a) The commissioners court of a county may

authorize the payment of reasonable travel expenses incurred by a person who:

(1) is an agent of the county, or is a board or committee member appointed by the commissioners court; and  
(2) is not a county or precinct officer or employee whose travel expenses may be set under Section 152.011.

(b) The travel expenses must be incurred by the person while performing county business authorized by the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 152.905. PROCEDURES FOR SETTING COMPENSATION BY DISTRICT JUDGES. (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 30th or later than the 10th 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.**

Added by Acts 1989, 71st Leg., ch. 1169, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 2003, 78th Leg., ch. 1225, Sec. 1, eff. July 1, 2003.

#### LOCAL GOVERNMENT CODE

#### TITLE 3. ORGANIZATION OF COUNTY GOVERNMENT

SUBTITLE B. COMMISSIONERS COURT AND COUNTY OFFICERS

CHAPTER 84. COUNTY AUDITOR

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 84.001. EFFECT OF REFERENCE TO "DISTRICT JUDGES"; MAJORITY VOTE REQUIRED. (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.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 84.002. APPOINTMENT OF COUNTY AUDITOR. (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.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.  
Amended by Acts 2001, 77th Leg., ch. 1167, Sec. 1, eff. Sept. 1,  
2001.

**Sec. 84.003. PROCEDURE FOR APPOINTMENT.** (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.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

**Sec. 84.004. TERM.** The term of office of a county auditor is two years.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

**Sec. 84.005. PROCEDURE FOR APPOINTMENT AND TERM IN POPULOUS COUNTY.** (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.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by Acts 1989, 71st Leg., ch. 1, Sec. 10(a), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 669, Sec. 48, eff. Sept. 1, 2001.

Sec. 84.006. QUALIFICATIONS. (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.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by Acts 1989, 71st Leg., ch. 1, Sec. 11(b), eff. Aug. 28, 1989.

Sec. 84.007. BOND AND OATH. (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.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 84.008. JOINT EMPLOYMENT OF COUNTY AUDITOR. (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.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.  
Amended by Acts 1997, 75th Leg., ch. 541, Sec. 1, eff. May 31, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. [1303](#)), Sec. 16.001,  
eff. September 1, 2011.

**Sec. 84.0085. CONTINUING EDUCATION.** (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.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 11(b), eff. Aug. 28, 1989.

Sec. 84.009. REMOVAL. (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.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

## SUBCHAPTER B. ASSISTANTS

**Sec. 84.021. ASSISTANTS.** (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.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.  
Amended by Acts 1989, 71st Leg., ch. 1169, Sec. 3, eff. Aug. 28, 1989.

#### SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

**Sec. 84.901. SUPPLIES.** 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.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 84.902. AUDITOR TO KEEP CERTAIN HOSPITAL RECORDS IN COUNTY WITH POPULATION OF 190,001 TO 200,000. 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.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.  
Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(f), eff. Aug. 28, 1989.

## TITLE 6. RECORDS

### SUBTITLE C. RECORDS PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

#### CHAPTER 203. MANAGEMENT AND PRESERVATION OF RECORDS

##### SUBCHAPTER A. ELECTIVE COUNTY OFFICES

Sec. 203.001. RECORDS MANAGEMENT OFFICER. Each elected county officer is the records management officer for the records of the officer's office.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.002. DUTIES AND RESPONSIBILITIES OF ELECTED COUNTY OFFICERS AS RECORDS MANAGEMENT OFFICERS. The elected county officer **shall**:

- (1) develop policies and procedures for the administration of an active and continuing records management program;
- (2) administer the records management program so as to reduce the costs and improve the efficiency of recordkeeping;
- (3) prepare and file with the director and librarian the records control schedules and amended schedules required by Section 203.041 and the list of obsolete records as provided by Section 203.044;
- (4) prepare requests for authorization to destroy records not on an approved control schedule as provided by Section 203.045, requests to destroy the originals of permanent records that have been microfilmed as provided by Section 204.008, and electronic storage authorization requests as provided by Section 205.007;
- (5) identify and take adequate steps to preserve records that are of permanent value;
- (6) identify and take adequate steps to protect the essential records of the office;

(7) ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the policies and procedures of the records management program and the requirements of this subtitle and rules adopted under it; and

(8) cooperate with the commission in its conduct of statewide records management surveys.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.003. DUTIES OF COMMISSIONERS COURT. The commissioners court of each county **shall:**

(1) promote and support the efficient and economical management of records of all elective offices in the county to enable elected county officers to conform to this subtitle and rules adopted under it;

(2) facilitate the creation and maintenance of records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of each elective office and designed to furnish the information necessary to protect the legal and financial rights of the local government, the state, and the persons affected by the activities of the local government;

(3) facilitate the identification and preservation of the records of elective offices that are of permanent value;

(4) facilitate the identification and protection of the essential records of elective offices;

(5) establish a county clerk records management and preservation fund for fees subject to Section 118.0216 and approve in advance any expenditures from the fund; and

(6) establish a records management and preservation fund for the records management and preservation fees authorized under Sections 118.052, 118.0546, and 118.0645, Section 51.317, Government Code, and Article 102.005(d), Code of Criminal Procedure, and approve in advance any expenditures from the

fund, which may be spent only for records management preservation or automation purposes in the county.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 675, Sec. 4, eff. Sept. 1, 1993.

**Sec. 203.004. DIRECTOR AND LIBRARIAN.** The director and librarian shall provide advice and assistance to records management officers in establishing records management programs and in carrying out the other requirements of this subtitle and rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

**Sec. 203.005. RECORDS MANAGEMENT PROGRAM TO BE ESTABLISHED.** (a) On or before January 1, 1991, each elected county officer shall adopt a written plan establishing an active and continuing program for the efficient and economical management of the records of the elective office of which the elected officer is custodian.

(b) The plan must provide policies, methods, and procedures to fulfill the duties and responsibilities set out in Section 203.002 concerning the management and preservation of records. The plan may establish additional policies or procedures for the operation of the records management program that are consistent with the requirements of this subtitle and rules adopted under it.

(c) A copy of the plan must be filed by the elected county officer with the director and librarian within 30 days after the date of its adoption.

(d) A plan establishing or relating to a records management program adopted before September 1, 1989, must be amended if any provision of the plan is in conflict with this subtitle or a rule adopted under it. A copy of the amended plan

shall be filed with the director and librarian as provided by Subsection (c).

(e) A copy of an amended plan relating to the establishment or operation of the records management plan must be filed with the director and librarian within 30 days after the date of its adoption.

(f) The director and librarian or the designee of the director and librarian shall within a reasonable time bring to the attention of the elected county officer in writing any aspect of a plan filed in the office of the director and librarian or that otherwise comes to the attention of the director and librarian that is inconsistent with requirements of this subtitle or rules adopted under it.

(g) An elected county officer is authorized, instead of or in conjunction with submitting a plan and establishing an independent records program for the elective office, to participate in a county program established as provided by Subchapter B or in one or more specific components of a county program and to authorize the records management officer of the county program to act as the records management officer for the records of the elective office.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER B. ALL OTHER LOCAL GOVERNMENT OFFICES

**Sec. 203.021. DUTIES AND RESPONSIBILITIES OF GOVERNING**

**BODY.** The governing body of a local government, including a commissioners court with regard to nonelective county offices, **shall:**

(1) establish, promote, and support an active and continuing program for the efficient and economical management of all local government records;

(2) cause policies and procedures to be developed for the administration of the program under the direction of the records management officer;

(3) facilitate the creation and maintenance of local government records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the local government and designed to furnish the information necessary to protect the legal and financial rights of the local government, the state, and persons affected by the activities of the local government;

(4) facilitate the identification and preservation of local government records that are of permanent value;

(5) facilitate the identification and protection of essential local government records; and

(6) cooperate with the commission in its conduct of statewide records management surveys.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

**Sec. 203.022. DUTIES AND RESPONSIBILITIES OF CUSTODIANS.**

(a) Custodians of records in each local government shall:

(1) cooperate with the records management officer in carrying out the policies and procedures established by the local government for the efficient and economical management of records and in carrying out the requirements of this subtitle;

(2) adequately document the transaction of government business and the services, programs, and duties for which the custodian and the custodian's staff are responsible; and

(3) maintain the records in the custodian's care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the local government's records management program and the requirements of this subtitle and rules adopted under it.

(b) State law relating to the duties, other responsibilities, or recordkeeping requirements of a custodian of local government records do not exempt the custodian or the records in the custodian's care from the application of this subtitle and rules adopted under it and may not be used by the custodian as a basis for refusal to participate in the records management program of the local government whose establishment is required by this chapter.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

**Sec. 203.023. DUTIES OF RECORDS MANAGEMENT OFFICER.** The records management officer in each local government shall:

(1) assist in establishing and developing policies and procedures for a records management program for the local government;

(2) administer the records management program and provide assistance to custodians for the purposes of reducing the costs and improving the efficiency of recordkeeping;

(3) in cooperation with the custodians of the records:

(A) prepare and file with the director and librarian the records control schedules and amended schedules required by Section 203.041 and the list of obsolete records as provided by Section 203.044; and

(B) prepare or direct the preparation of requests for authorization to destroy records not on an approved control schedule as provided by Section 203.045, of requests to destroy the originals of permanent records that have been

microfilmed as provided by Section 204.008, and of electronic storage authorization requests as provided by Section 205.007;

(4) in cooperation with custodians, identify and take adequate steps to preserve local government records that are of permanent value;

(5) in cooperation with custodians, identify and take adequate steps to protect essential local government records;

(6) in cooperation with custodians, ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the policies and procedures of the local government's records management program and the requirements of this subtitle and rules adopted under it;

(7) disseminate to the governing body and custodians information concerning state laws, administrative rules, and the policies of the government relating to local government records; and

(8) in cooperation with custodians, establish procedures to ensure that the handling of records in any context of the records management program by the records management officer or those under the officer's authority is carried out with due regard for:

(A) the duties and responsibilities of custodians that may be imposed by law; and

(B) the confidentiality of information in records to which access is restricted by law.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

**Sec. 203.024. DIRECTOR AND LIBRARIAN.** The director and librarian shall provide advice and assistance to governing bodies, custodians, and records management officers in establishing records management programs and in carrying out the other requirements of this subtitle and rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

**Sec. 203.025. DESIGNATION OF RECORDS MANAGEMENT OFFICER.**

(a) On or before June 1, 1990, the governing body of each local government shall designate a records management officer by:

- (1) designating an individual; or
- (2) designating an office or position, the holder of which shall be the records management officer.

**(b) The name, office, or position of the records management officer shall be entered on the minutes of the governing body.**

(c) The name or the name and office or position of the records management officer shall be filed by the records management officer with the director and librarian within 30 days after the date of the designation.

(d) The designation of a new individual or a new office or position shall be entered on the minutes and reported by the records management officer to the director and librarian in the same manner as the original designation.

(e) If the order designating a records management officer designates an office or position rather than an individual, a new holder of that office or position must file the holder's name with the director and librarian within 30 days after the date of assuming the office or position.

**(f) Through an agreement or contract under The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes), a person may serve as records management officer to more than one local government if the person is employed by one of the local governments that is party to the contract or agreement or employed by an administrative agency that is created by the contract or agreement.**

(g) An elected county officer may not be designated as records management officer for the nonelective offices of a county without the county officer's consent.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

**Sec. 203.026. RECORDS MANAGEMENT PROGRAM TO BE ESTABLISHED.** (a) On or before January 1, 1991, each governing body by ordinance or order, as appropriate, shall establish a records management program to be administered by the records management officer.

(b) The ordinance or order must provide methods and procedures to enable the governing body, custodians, and the records management officer to fulfill the duties and responsibilities set out in Sections 203.021, 203.022, and 203.023 concerning the management and preservation of records. The ordinance or order may prescribe any policies or procedures for the operation of the records management program that are consistent with the requirements of this subtitle and rules adopted under it.

(c) A copy of the ordinance or order must be filed by the records management officer with the director and librarian within 30 days after the date of its adoption.

(d) An ordinance or order establishing or relating to a records management program adopted before September 1, 1989, must be amended if any provision of the ordinance or order is in conflict with this subtitle or a rule adopted under it. A copy of the amended ordinance or order shall be filed with the director and librarian as provided by Subsection (c).

(e) A copy of an amended ordinance or revised order relating to the establishment or operation of the records management program must be filed by the governing body with the director and librarian within 30 days after the date of its adoption.

(f) The director and librarian or the designee of the director and librarian shall within a reasonable time bring to the attention of the governing body in writing any aspect of an ordinance or order filed in the office of the director and librarian or that otherwise comes to the attention of the

director and librarian that is inconsistent with the requirements of this subtitle or rules adopted under it.

(g) The governing body in a records management program established under this section may require the mandatory destruction of any record of the local government when its retention period has expired on a records control schedule developed under Section 203.041.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

### SUBCHAPTER C. RECORDS CONTROL SCHEDULES

**Sec. 203.041. PREPARATION AND FILING OF RECORDS CONTROL SCHEDULES.** (a) On or before January 4, 1999, the records management officer shall prepare and file with the director and librarian:

(1) a records control schedule listing the following records and establishing a retention period for each as provided by Section 203.042:

(A) all records created or received by the local government or elective county office;

(B) any record no longer created or received by the local government or elective county office that is still in its possession and for which the retention period on a records retention schedule issued by the commission has not expired; and

(C) any record no longer created or received by the local government or elective county office that is still in its possession and for which the retention period on a records retention schedule issued by the commission has expired but which will not be destroyed as provided by Section 203.044; or

(2) the records management officer, in lieu of filing a records control schedule, may file with the director and librarian a written certification of compliance that the local government or the elective county office has adopted records control schedules that comply with the minimum requirements

established on records retention schedules issued by the commission.

(b) At the discretion of the records management officer the records control schedule may also list and provide retention periods for material that is excluded from the definition of a local government record by Section 201.003(8) and exempted records described by Section 202.001(b) if in the officer's opinion the inclusion of the material or records is necessary to ensure the periodic destruction of the material or records in the interest of efficient records management.

(c) A records management officer, in lieu of filing an amended records control schedule, may file with the director and librarian an amended written certification of compliance that the local government or the elective county office has adopted amended records control schedules to comply with the minimum requirements established on records retention schedules issued by the commission including any revised schedules issued by the commission.

(d) The records management officer shall review the records control schedules of the local government or elective county office and prepare amendments to the schedules as needed to reflect new records created or received by the government or office or revisions to retention periods established in a records retention schedule issued by the commission. Amendments to records control schedules shall be filed with the director and librarian in the same manner as the original schedules.

(e) The governing body shall require in the ordinance or order establishing the records management program the review or approval of a records control schedule or amended schedule by the officers of the local government as it considers necessary. The records control schedule or amended schedule for an elective county office need only be approved by the elected official in charge of that office.

(f) Records control schedules may be filed on an office-by-office basis or on a department-by-department basis within each office.

(g) A local government that intends to retain all records permanently or that destroys only those records for which no retention periods have been established in a records retention schedule established under Section 441.158, Government Code, is not required to submit a records control schedule under this section.

(h) The director and librarian shall determine the form and manner of the filing of records control schedules, amended schedules, the written certification of compliance described by Subsection (a)(2), and the amended written certification of compliance described by Subsection (c). The director and librarian may request that the records management officer file with the written certification of compliance or the amended written certification of compliance any amendment that establishes a records series or retention requirement other than that issued on a commission records retention schedule.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 29, eff. Sept. 1, 1995.

**Sec. 203.042. RETENTION PERIODS.** (a) A retention period for each record on the records control schedule shall be determined by the governing body or under its direction or by the elected county officer, as applicable.

(b) A retention period may not be less than:

(1) a retention period prescribed by a state or federal law, regulation, or rule of court; or

(2) a retention period for the record established on a records retention schedule issued by the commission.

(c) If at the time a records control schedule is filed by a local government or elected county officer with the director and librarian as provided by Section 203.041, a records retention schedule for the records of that type of local government or elective county office has not been issued by the commission, the records control schedule filed with the director

and librarian must be amended to conform with the commission schedule when it is issued to the extent that any retention period on a records control schedule is less than a retention period for the same record on the commission schedule.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

**Sec. 203.043. FILING OF RECORDS CONTROL SCHEDULES.** (a)

If the director and librarian or the designee of the director and librarian accepts the records control schedule, amended schedule, written certification of compliance described by Section 203.041(a)(2), or amended written certification of compliance described by Section 203.041(c) for filing, the acceptable records control schedule may be used as the basis for the destruction of records listed on it without additional notice to the director and librarian.

(b) If the director and librarian or the designee of the director and librarian rejects the records control schedule, amended schedule, written certification of compliance described by Section 203.041(a)(2), or amended written certification of compliance described by Section 203.041(c) for filing, the reasons for the rejection shall be stated in writing within a reasonable time to the records management officer and the schedule, amended schedule, written certification of compliance, or amended written certification of compliance shall be corrected and resubmitted.

(c) The director and librarian or the designee of the director and librarian may reject a records control schedule or amended schedule for filing only if a retention period listed on it is less than a retention period for the same record established on a records retention schedule issued by the commission or if the schedule is in violation of this subtitle or a rule adopted under it. The director and librarian or the designee of the director and librarian may reject a written certification of compliance described by Section 203.041(a)(2)

or an amended written certification of compliance described by Section 203.041(c) for filing only if the records management officer files a written certification of compliance in a form and manner that has not been approved by the director and librarian.

(d) The director and librarian or the designee of the director and librarian may make it a condition of acceptance of a records control schedule or amended schedule for filing that a record listed on the schedule be transferred to the custody of the commission on the expiration of its retention period rather than being destroyed.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 30, eff. Sept. 1, 1995.

**Sec. 203.044. INITIAL DESTRUCTION OF OBSOLETE RECORDS.**

(a) In preparing a records control schedule required by Section 203.041, the records management officer may list separately those obsolete records no longer created or received by the local government or elective county office whose retention periods on a records retention schedule issued by the commission have expired and that the local government or elected county officer wishes to destroy.

(b) The lists of obsolete records to be destroyed must be reviewed or approved in the same manner as records control schedules must be reviewed or approved under Section 203.041(e).

(c) The lists shall be submitted to the director and librarian for approval. If the director and librarian or the designee of the director and librarian approves the list, the records listed on it may be destroyed. If the director and librarian or the designee of the director and librarian disapproves the list, the director and librarian or the designee shall state in writing within a reasonable time to the records management officer the record or records on the list that must

be retained by the government or elective county office or transferred to the custody of the commission.

(d) The director and librarian shall determine the form and manner of submission of requests to destroy obsolete records.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

**Sec. 203.045. DESTRUCTION OF UNSCHEDULED RECORDS.** (a)

Before the filing of a records control schedule or a written certification of compliance as provided by Section 203.041, a local government record may be destroyed only with the prior approval of the director and librarian.

(b) After the filing of a records control schedule, amended schedule, written certification of compliance as provided by Section 203.041(a)(2), or amended written certification of compliance as provided by Section 203.041(c), a record that does not appear on a records control schedule or amended schedule may be destroyed only with the prior approval of the director and librarian.

(c) Requests for authorization to destroy unscheduled records shall be submitted by the records management officer or under the officer's direction. However, if the request is submitted before the filing of a records control schedule or a written certification of compliance as provided by Section 203.041 and a records management officer has not yet been designated as provided by Section 203.025, the request shall be submitted by the custodian.

(d) If the director and librarian or the designee of the director and librarian approves the request, the records listed on it may be destroyed. If the director and librarian or the designee disapproves the request, the director and librarian or the designee shall state in writing within a reasonable time to the records management officer or custodian the record or records on the list that must be retained by the government or transferred to the custody of the commission.

(e) The director and librarian shall determine the form and manner of submission of requests to destroy unscheduled records.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 31, eff. Sept. 1, 1995.

**Sec. 203.046. RECORDKEEPING REQUIREMENTS.** As the governing body may require, the records management officer shall keep accurate lists of records destroyed, their volume, and other information of records management activities.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.047. NEW LOCAL GOVERNMENTS. A local government established after September 1, 1989, shall fulfill the requirements of Sections 203.025, 203.026, and 203.041 within one year after the date of its establishment.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.048. CARE OF RECORDS OF PERMANENT VALUE. The commission shall adopt rules establishing standards for the proper care and storage of local government records of permanent value. The commission may require that certain local government records of permanent value be created on permanent-durable paper, the standards for which shall be established by rule. The rules must be approved as required by Section 441.165, Government Code.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

**Sec. 203.049. TRANSFER OF RECORDS OF PERMANENT VALUE.** (a)

The governing body or elected county officer may offer to transfer records of permanent value not needed in the day-to-day business of the local government to the custody of:

(1) the commission; or

(2) another local government that operates an archives, library, or museum that meets standards for the care and storage of permanent records established by the commission as provided by Section 203.048.

(b) Transfers of permanent records to another local government require the prior approval of the director and librarian.

(c) In a transfer of permanent records under this section, title and control of the records and all rights pertaining to the records granted by law to the original custodian or elected county officer are vested in the commission or the local government that receives the records.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

**Sec. 203.050. INSPECTION OF PERMANENT RECORDS.** (a)

The director and librarian or the authorized representative of the director and librarian is entitled to inspect in the offices of any local government or elected county officer the condition of any permanent record to which access by the director and librarian or the representative is not restricted by law. The inspection is not a release of a record to a member of the public under Chapter 552, Government Code.

(b) The director and librarian, in writing, shall bring to the attention of the governing body or elected county officer, any aspect of the storage, handling, or use of the record that

imperils its survival and state what measures must be taken to properly care for and preserve the record.

(c) If, after having been notified by the director and librarian as provided by Subsection (b), the governing body or the elected county officer fails to take required measures to preserve the record, the director and librarian may:

(1) if the record is an obsolete record whose creation is no longer required by law, demand and receive delivery of the record to the custody of the commission; or

(2) if the record is required for current use by the local government, make copies of the record for the purpose of preservation by the commission.

(d) The cost of transferring or copying records under this section shall be paid for out of funds of the commission.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.