

1 AN ACT

2 relating to the selection of depositories for certain county funds,  
3 including funds held by a county or district clerk.

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

5 SECTION 1. Section 116.021, Local Government Code, is  
6 amended to read as follows:

7 Sec. 116.021. DEPOSITORY AND SUBDEPOSITORY CONTRACTS. (a)  
8 The commissioners court of a county [~~at its May regular term~~  
9 ~~immediately following each general election for state and county~~  
10 ~~officers~~] shall select by the process provided by this subchapter  
11 or by Subchapter C, Chapter 262, [contract with] one or more banks  
12 in the county and enter a contract with each selected bank for the  
13 deposit of the county's public funds. The county shall contract  
14 with a bank under this section for a two-year or four-year contract  
15 term. On expiration of a contract under this section, the contract  
16 may be renewed for two years under terms negotiated by the  
17 commissioners court.

18 (b) If the contract is for a four-year term, the contract  
19 shall allow the county [~~bank~~] to establish, on the basis of  
20 negotiations with the bank [~~county~~], new interest rates and  
21 financial terms of the contract that will take effect during the  
22 final two years of the four-year contract [~~if~~

23 [~~(1) the new financial terms do not increase the~~  
24 ~~prices to the county by more than 10 percent, and~~

1           ~~[(2) the county has the option to choose to use the~~  
2 ~~initial variable interest rate option or to change to the new fixed~~  
3 ~~or variable interest rate options proposed by the bank].~~

4           (c) On the renewal of a contract, the county may negotiate  
5 new interest rates and terms with the bank for the next two years in  
6 the same way and subject to the same conditions as provided by  
7 Subsection (b).

8           (d) If for any reason a county depository is not selected  
9 under Subsection (a), the commissioners court, at any subsequent  
10 time after 20 days' notice, may select, by the process described by  
11 Section 116.024 or by negotiated bid, one or more depositories in  
12 the same manner as at the regular time.

13           (e) If the commissioners court selects a depository by the  
14 process provided by Subchapter C, Chapter 262, the depository may  
15 be selected by:

16                 (1) competitive bidding; or

17                 (2) another method under that subchapter that the  
18 county is qualified to use.

19           SECTION 2. Section 116.022(a), Local Government Code, is  
20 amended to read as follows:

21           (a) Once each week for at least 20 days before the date to  
22 submit an application under Section 116.023(a) [~~May regular term of~~  
23 ~~a commissioners court at which the court will make a depository~~  
24 ~~contract~~], the county judge shall place over the judge's name in a  
25 newspaper of general circulation [~~published~~] in the county a notice  
26 that the commissioners court intends to receive applications from  
27 which to select a depository bank [~~make the contract~~]. A notice

1 shall also be posted at the courthouse door of the county.

2 SECTION 3. Section 116.023(a), Local Government Code, is  
3 amended to read as follows:

4 (a) A bank in the county that wants to be a county depository  
5 must deliver its application to the county judge or a designated  
6 representative of the judge on or before a date set by the  
7 commissioners court that is no later than the 60th day before the  
8 date of the expiration of the existing depository contract [~~the~~  
9 ~~first day of the term of the commissioners court at which~~  
10 ~~depositories are to be selected~~].

11 SECTION 4. Section 116.024(a), Local Government Code, is  
12 amended to read as follows:

13 (a) At the meeting [~~10 a.m. on the first day of each term~~] at  
14 which banks are to be selected as county depositories, the  
15 commissioners court shall:

16 (1) enter in the minutes of the court all applications  
17 filed with the county judge;

18 (2) consider all applications; and

19 (3) select the qualified applicants that offer the  
20 most favorable terms and conditions for the handling of the county  
21 funds.

22 SECTION 5. Section 117.021, Local Government Code, is  
23 amended to read as follows:

24 Sec. 117.021. APPLICATIONS. (a) The commissioners court  
25 of a county [~~at its May regular term after a general election for~~  
26 ~~state and county officers~~] shall select by the process provided by  
27 this subchapter or by Subchapter C, Chapter 262, [~~receive an~~

1 ~~application from~~ a federally insured bank or banks in the county to  
 2 be the depository for a special account held by the county clerk and  
 3 the district clerks. The county shall enter a contract with the  
 4 selected [a] federally insured bank or banks [~~under this section~~]  
 5 for a two-year or four-year [~~contract~~] term. The original term can  
 6 be renewed once for an additional two-year term. The contract may,  
 7 on request by the clerk and approval of the commissioners court,  
 8 include a provision that the funds in a special account earn  
 9 interest. A request from the clerk that an account earn interest  
 10 must be made, in writing, to the commissioners court not later than  
 11 the 30th day before the date the county gives notice under Section  
 12 117.022 and shall be entered in the minutes of the court.

13 (b) If the contract is for a four-year term, the contract  
 14 shall allow the county [~~bank~~] to establish, on the basis of  
 15 negotiations with the bank [~~county~~], new interest rates and  
 16 financial terms of the contract that will take effect during the  
 17 final two years of the four-year contract [~~if~~

18 [~~(1) the new financial terms do not increase the~~  
 19 ~~prices to the county by more than 10 percent, and~~

20 [~~(2) the county has the option to choose to use the~~  
 21 ~~initial variable interest rate option or to change to the new fixed~~  
 22 ~~or variable interest rate options proposed by the bank].~~

23 (c) On the renewal of a contract, the county may negotiate  
 24 new interest rates and terms with the bank for the next two years in  
 25 the same way and under the same conditions as provided by Subsection  
 26 (b).

27 (d) A bank must file its application on or before a date set

1 by the commissioners court [~~10 a.m. on the first day of the term~~].  
2 The application must be accompanied by a certified check or  
3 cashier's check for at least one-half of one percent of the average  
4 daily balance of the registry funds held by the county clerk and the  
5 district clerk during the preceding calendar year, as determined by  
6 the county clerk and the district clerk on or before the 10th day  
7 before the date the application is required to be filed. A  
8 certified check or cashier's check that complies with this section  
9 is a good-faith guarantee on the part of the applicant that if its  
10 application is accepted it will execute the bond required under  
11 this subchapter. If the bank selected as depository does not  
12 provide the bond, the county shall retain the amount of the check as  
13 liquidated damages and the county shall select another depository  
14 as provided by this subchapter.

15 (e) [~~(d)~~] If for any reason a county depository is not  
16 selected under Subsection (a), the commissioners court, at any  
17 subsequent time after 20 days' notice, may select, by the process  
18 described by Section 117.023 or by negotiated bid, one or more  
19 depositories in the same manner as at the regular term.

20 (f) If the commissioners court selects a depository by the  
21 process provided by Subchapter C, Chapter 262, the depository may  
22 be selected by:

- 23 (1) competitive bidding; or  
24 (2) another method under that subchapter that the  
25 county is qualified to use.

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

1           (a) At the meeting [~~10 a.m. on the first day of each term~~] at  
2 which banks are to be selected [~~the commissioners court is required~~  
3 ~~to receive applications~~] to serve as the depository for registry  
4 funds held by the county clerk and the district clerk, the  
5 commissioners court shall enter the applications in the minutes of  
6 the court and select a depository.

7           SECTION 7. Section 117.025(b), Local Government Code, is  
8 amended to read as follows:

9           (b) A designation under Subsection (a) is effective until  
10 the designation and qualification of a successor depository or  
11 until April 15 following the expiration of the contract [~~term in~~  
12 ~~which a depository must be selected under this subchapter~~],  
13 whichever is earlier. If the term of a depository ends before the  
14 designation and qualification of a successor, the depository shall  
15 pay to the clerk in whose name the account is carried all registry  
16 funds due or on deposit.

17           SECTION 8. To the extent of any conflict, a change in law  
18 made by this Act to Chapter 116 or 117, Local Government Code,  
19 controls over a change made by H.B. No. 892, Acts of the 80th  
20 Legislature, Regular Session, 2007, regardless of the relative  
21 dates of enactment.

22           SECTION 9. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all the members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect September 1, 2007.

David Dewhurst  
President of the Senate

Jim Caddick  
Speaker of the House

I certify that H.B. No. 2641 was passed by the House on April 25, 2007, by the following vote: Yeas 143, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2641 on May 25, 2007, by the following vote: Yeas 139, Nays 0, 1 present, not voting.

Robert Haney  
Chief Clerk of the House

I certify that H.B. No. 2641 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 31, Nays 0.

Aetsy Jew  
Secretary of the Senate

APPROVED: 15 JUN 07  
Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
6 PM O'CLOCK  
JUN 15 2007  
Roger Williams  
Secretary of State