



# TACA

## *Texas Association of County Auditors*

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The Honorable, Juan "Chuy" Hinojosa, Chairman  
Senate Intergovernmental Relations Committee and  
Committee Members  
P.O. Box 12068-Capitol Station  
Austin, Texas 78711

Dear Chairman Hinojosa and Committee Members:

The Texas Association of County Auditors is pleased to provide the enclosed information to the Senate Committee on Intergovernmental Relations in anticipation of your hearing on ways to increase the efficiency and effectiveness of county government operations. County Auditors strive daily to work professionally with each and every elected official, so that together we can all strive for good county government. County Auditors perform a variety of duties in our unique position in Texas County government. Our core duties are delineated throughout the statutes and additional duties are at times delegated to us by the Commissioners Court. For example, additional duties may include budget, purchasing, investments, paymaster, human resources, accounts payable and information technology. Regardless of how each County chooses to operate locally, the County Auditor is part of a collaboration between the Commissioners Court, County Treasurer, and other elected officials to ensure adequate checks and balances, internal controls and segregation of duties to safeguard public funds and provide accountability to the taxpayers. The following points are provided to summarize our testimony on the nature of the position of County Auditor, and each of them is discussed in more detail on the pages that follow:

**History:** The position of County Auditor was created in 1905 by statute, as an adjunct to the Constitutional provisions giving the District Courts supervisory jurisdiction over County affairs. The County Auditor is appointed by the District Judges having jurisdiction in that County. This places the County Auditor in a position of independence.

**Independence:** Behind the position of County Auditor is the underlying concept that the Auditor is not appointed by any elected officer or body that is charged with administration or policy determination for the County. The independence of the County Auditor is assured by placing the authority of appointment, and dismissal, in the hands of the District Judges rather than the Commissioners Court. This is absolutely critical for the County Auditor to function properly as part of a system of checks and balances in County government. Independence is what allows the auditor to objectively make such decisions, within reason and absent abuse of discretion, without fear of reprisal, and without fearing for job or budget security.

**Statutory Duties and Audit Responsibility:** There are approximately 300 references to the County Auditor in the statutes, where the Auditor "shall," "must," or "may" take certain actions and perform various duties. Chief among these, the Auditor is to "see to the strict enforcement of the laws governing county finances." The County Auditor also has continual access to all books and records of any county officer, and the Auditor is required to examine the books and reports of county officers for correctness. The auditor also has a responsibility to verify the funds held in the bank for safekeeping by the County Treasurer and that those funds are invested according to law. However, the County Auditor is not alone in the responsibility to audit county funds. The Commissioners Court also must audit and settle all accounts against the county, direct the payment of those accounts, and also examine the reports that relate to county finances. Additionally, the Commissioners Court may employ external public accountants to audit all or part of the books, records or accounts of the County. This dual system of auditing and settling accounts provides a strong system of checks and balances. (See Appendix A, County Auditor's Authority and Audit Responsibilities, Source: County Auditor Handbook on TACA Website, [www.texascountyauditors.org](http://www.texascountyauditors.org))

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**Checks and Balances:** The County Auditor is given authority to oversee county finances and prescribe systems for the accountability of county funds, including the authority to disapprove the payment of claims against the County. The Commissioners Court is authorized to expend county funds with the approval of the Auditor, whose approval may not be arbitrarily withheld, nor made in contravention of law in approving a payment. When there is no legal justification for the auditor to withhold approval of a claim, and when a vendor is entitled to payment as a matter of law, the County Auditor can be mandated to approve payment of the claim. A refusal by the auditor in these instances would be considered an abuse of discretion. The auditor may not order the expenditure of county funds without the approval of the Commissioners Court. And, if the County Treasurer doubts the legality or propriety of any order directed by the Commissioners Court, the Treasurer may not make the payment pending further direction from the Court. Collectively these checks and balances ensure accountability.

**Accountability and Efficiency:** County Auditors often measure efficiency in terms of accountability to the taxpayer. The Texas Association of County Auditors believes that taxpayers deserve no less than a team of County officials working in unison to deliver services. The Texas Constitution established a strong system of checks and balances by creating elective offices in each county. At the heart of each county is the Commissioner's Court, which conducts the general business of the county and oversees financial matters. There are specific qualifications to hold the office of County Auditor, and more than ever, a County Auditor is often the best local resource to assist their County in complying with a large number of new accounting and reporting requirements, which will focus more attention than ever before on the accountability and effectiveness of County programs. Good county government will always be the result of a cooperative effort on the part of all county officials and county employees working towards common goals.

We sincerely hope that these points, and the following detail, will assist the Committee in evaluating its interim charge. We thank you for the opportunity to be a part of your work, and we thank you for your service to the State of Texas.

Very truly yours,



Edward A. Dion  
County Auditor  
2009-2010, TACA Past President, Law Study Committee

Attachments

## **Brief History of the County Auditor Position**

The Constitution of 1876 was written to ensure that county government included a system of checks and balances so as to ensure that no one branch of government would be without accountability in complying with the State's statutes.

Prior to 1891, no judicial court had authority to review any acts of the Commissioners Court unless the acts were clearly outside its jurisdiction and thus void. In 1891, however, the people approved an amendment to Article 5, Section 8 of the Texas Constitution granting district courts supervisory authority of review over the Commissioners Courts within their jurisdictions. This amendment specifically states "The District Court shall have appellate jurisdiction and general supervisory control over the County Commissioners Court, with such exceptions and under such regulations as may be prescribed by law."

In furtherance of the District Court's supervisory role, the County Auditor position was created by the 29th Legislature in 1905, Chapter 161, Section 2, 1905 Texas General Laws 381 (currently Texas Local Government Code Ann., Section 84.002). Created by statute rather than Constitutional amendment, the County Auditor emerged fourteen years after the granting of supervisory jurisdiction to the District Courts, and thus appears to be a legislative act by those responsible for creating the office of County Auditor intended as an adjunct to the District Courts exercise of supervisory jurisdiction over the Commissioners Court.

The County Auditor is charged with strictly enforcing the laws governing county finance, keeping books and records of the financial activities of a county, and reviewing the financial operations of county offices. When created, the auditor was the chief addition to the financial organization of the county since the adoption of the Constitution. There are specific qualifications required to be a County Auditor. Those include being an accountant with at least two years of experience in auditing and accounting, thoroughly competent in public business details, and a person of unquestionably good moral character and intelligence. All of these items are to be vetted by the district judges in the appointment process.

Initially, the auditor was appointed by the district judges and county judge having jurisdiction in the County. That was subsequently amended in 1917 to provide for the appointment of the County Auditor by only the district judges. This first established the auditor's independence from county officials who are charged with administering and conducting county business, and served as an adjunct to the district court's responsibility over county affairs. Over the course of the last 100 years, subsequent amendments have been made to the enabling statutes creating the position of County Auditor. As time progressed, amendments were made to further separate the auditor from the control or influence of county officials, to serve properly as part of a system of checks and balances in county government. In 1941, the district judges were first granted the authority to set the auditor's salary, within requirements that it not be higher than the tax assessor collector's and that Commissioners Court approval was necessary if the amount was higher than the 1940 level. In 1955, the Legislature removed the requirement for Commissioners Court approval and also made the auditor's bond payable to the district judges instead of the county judge. There were further amendments in later years to introduce some bracketed exceptions pertaining to the County Auditor, but generally the salary is set by the district judges and may not be higher than the highest paid county officer from all sources, excluding statutory court judges.

Over the course of time, the Legislature has also amended the statutes that require the appointment of an auditor based on population or county size. As originally created, an auditor was to be appointed in any county that contained a city with a population of 25,000 or more (this was in 1905). As this particular statute was amended throughout the history, generally the movement has been to lower the population requirements to address a need for auditors in more and more counties. This started in 1907 when the requirement changed to a county with a population of 40,000 or more. It was lowered to population requirements of 35,000, then 25,000, then 10,000 people in a county. This population requirement was last amended in 2001, when an amendment raised the population requirement from 10,000 to 10,200 people. In counties with less than that number of people, an auditor may still be appointed if the Commissioners Court certifies the need to the district judge(s). Today there are 199 County Auditors serving Texas Counties, including 32 counties below the population threshold.

## County Auditor – Position at a Glance

### Appointment

In counties with a population of 10,200 or more, an auditor is to be appointed by the district judge(s) of that county to serve a two year term of office. In counties with a population less than 10,200 an auditor may be appointed if the Commissioners Court certifies the need to the district judge. There are currently 32 counties in this category.

### Qualifications

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.

### Bond and Oath

A County Auditor must execute a bond to hold the office. The bond must be a good and sufficient surety bond in the amount of \$5,000 or more, payable to the district judges, and conditioned on the faithful performance of duties. A County Auditor must also take an official oath that he has the qualifications required by statutes and that he will not become personally interested in a contract with the county.

### Continuing Education

During each full term of office, a County Auditor must complete at least 40 hours of instruction relating to the duties of office and accredited by the Texas State Board of Public Accountancy.

### Removal from Office

A County Auditor may be removed from office if, after investigation by the district judges who appointed the auditor, it is proven that the auditor has committed official misconduct or is incompetent to faithfully discharge the duties of office.

### Responsibility and Authority

Authorities granted to the County Auditor by statute make it possible for the auditor to fulfill the responsibilities placed on the office. There are four types of statutory authority for the auditor:

- Oversight – Watch over county business details and see to the strict enforcement of the law governing county finances.
- Access – The County Auditor has continuous access to the books and records of the county to inspect, review, or look at anything that pertains to finances.
- Prescriptive – The County Auditor may adopt and enforce regulations necessary for the speedy and proper collection and accounting of revenue, so long as those are not inconsistent with the law. In counties with a population greater than 190,000 people, the auditor shall prescribe the system of accounting.
- Verification – Examine and approve claims, bills, or accounts against the county. The County Auditor is not allowed to approve a claim unless it was incurred as provided by law.

## **A General Overview of the Duties of the Texas County Auditor**

The title "County Auditor" only reflects part of the duties of the position, because in addition to auditing functions, the enabling legislation created "an auditor of accounts and finance." The duties assigned in the statutes also include major budgeting, accounting, reporting, and claims approval responsibilities plus other duties as delegated by the Commissioners Court. However, the overriding function of a County Auditor is to see to the strict enforcement of the laws governing county finances. County Auditors work to help ensure that all aspects of county finances operate as they should. To put it simply, if something is not operating as it should, we try to find out why and do what we can to get it fixed. Our 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 solid 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. This serves to detect any errors or irregularities in a timely manner, so that they can be resolved in good faith, and officials are not unnecessarily suspected or accused of wrongdoing.

The County Auditor is responsible for the financial information of the county as a whole to include accounting for:

- ✓ Outstanding obligations
- ✓ Cash on hand to the credit of each fund
- ✓ Funds received from all sources during the preceding fiscal year
- ✓ Funds available from all sources during the ensuing fiscal year
- ✓ Estimated revenues available to cover the proposed budget
- ✓ The estimated tax rate required to cover the proposed budget

The County Auditor also is required to certify to the Commissioners Court any additional sources of revenue available that were not included in the original budget:

- ✓ All grant or aid money
- ✓ Revenue from intergovernmental contracts
- ✓ Revenue from new sources that was not anticipated before budget adoption

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. County spending must be in strict compliance with the adopted budget (including appropriate budget amendments), and it is part of the auditor's duties to help ensure budget compliance by not allowing a department's expenses to exceed appropriations. 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. 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.

## A General Overview of Core Functions of the Texas County Auditor - Continued

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. In counties with a population of 190,000 or more, the authority is 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 but not inconsistent with generally accepted accounting principles as established by the Governmental Accounting Standards Board.

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 the following items:

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

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

Although statutes are for the most part applied consistently to counties unless otherwise bracketed, some County Auditors are tasked to perform significantly more duties and functions traditionally or by delegation as deemed appropriate by the Commissioners Court consistent with the statutes. As the chief financial officer of the county and in furtherance of strengthening checks and balances, emphasis must be placed on the fundamental element of internal controls which is the segregation of certain key duties. The basic idea is that no employee or group of employees should be in a position both to perpetrate and to conceal errors or fraud in the normal course of their duties. In general, the principal incompatible duties to be segregated include, (1) custody of assets, (2) authorization or approval of related transactions affecting those assets and (3) recording or reporting of related transactions. With that, traditional systems of internal control rely on assigning certain responsibilities to different individuals or segregating incompatible functions. The general premise of segregation of duties is to prevent one person from having both access to assets and responsibility for maintaining the accountability of those assets and therefore it is imperative duties not be delegated absent sufficient resources to adequately segregate duties.

Additional duties performed by County Auditors vary and may include the budget office, purchasing, investment officer, paymaster, human resources and accounts payable entry.

## Examining Independence and the Payment of Claims

Understanding the position of County Auditor requires examining the most critical and key element that enables the auditor to perform statutory duties, and that is the auditor's independence. In the *Weaver v. Commissioners Court of Nacogdoches County* case, the court discussed the purpose of the County Auditor. In its opinion, the Court stressed that "it is of the highest public concern that such officer [County Auditor] be left entirely free from the control of these officers [county commissioners]..." County Auditors strive daily to work professionally with each and every elected official, so that together we can all strive for good county government. However, it remains part of the duty of the auditor to see to the strict enforcement of the law concerning county finances. Inevitably, there will come a time in the career of each and every auditor when unfortunately the answer to a county finance question or the payment of a claim must be "no." Independence is what allows the auditor to objectively make such a decision, within reason and absent abuse of discretion, without fear of reprisal, and without fearing for job or budget security.

In view of this responsibility, it is not surprising that numerous situations of "ill will" toward the County Auditor have surfaced over the years, and likely will continue into the future. But, if the statutes had not been adopted to allow for the level of independence the County Auditor has today, the auditor would not be able to carry out these duties and responsibilities in a proper manner. The underlying concept is that the County Auditor is not appointed by, or responsible to, any elected officer or elected body charged with administration and policy determination for the county. Instead, the selection of the County Auditor is vested upon the district judge(s) with jurisdiction in the county. District judges are not primarily chosen with a view to their interest in, their knowledge of, or their policies toward local government. This was reviewed in detail in the *Guerrero v. Refugio County* case, where the appeals court determined that "When the appointment process was amended in 1917 to exclude the involvement of county judges, the legislature clearly intended that counties have no voice in the selection of County Auditors. This is evidenced by the fact that county judges do share appointment powers with district judges for other positions, such as the appointment of county purchasing agents."

In this way, the integrity of the county's financial administration is entrusted to a system of checks and balances for the control of county funds. The auditor's independence is perhaps spotlighted most acutely in the process of approving claims for payment, and this is one of the most litigated topics concerning County Auditors. In the case *Crider v. Cox*, the court wrote, "The statutory scheme assigns two independent county offices to examine the lawfulness of claims against the county; the intended protection would be circumvented if the Auditor's responsibility is merely ministerial. The legislative intent is manifest that the Auditor should exercise her discretion in examining and approving the claims submitted."

In *Smith v. McCoy*, the appeals court considered a case that brought into sharp relief the auditor's duties as part of a system of checks and balances, more specifically whether the auditor's duty to approve claims was ministerial or discretionary. From the judgment, "Under the constitution and legislative enactments, a delicate system of checks and balances exists to protect the funds of the county. The Commissioners Court is authorized to expend county funds but may not do so without the approval of the auditor whose approval may not be arbitrarily withheld; likewise, the auditor may not order the expenditure of county funds without approval of the Commissioners Court. To hold, as appellees would have us do, that the duty of the auditor under the statutes is ministerial rather than discretionary would remove one of the safeguards in this system of checks and balances and would permit a Commissioners Court to disburse county funds without restraint. This, of course, would be contrary to the clear public policy enunciated by the legislature in articles 1651, 1660, and 1661. We conclude, therefore, that these statutory requirements make the approval of a claim against the county (or payment thereof), a discretionary act of the auditor rather than a mere ministerial act."

However, in this same case, the appeals court also upheld that the auditor may neither arbitrarily, nor in contravention of law, withhold approval of payment. When there is no legal justification for the auditor withholding approval of a claim, and when a vendor is entitled to payment as a matter of law, the County Auditor can be mandamus-ed to approve payment of the claim. A refusal by the auditor in these instances would be considered an abuse of discretion.

## **Accountability to Taxpayers and Efficiency in County Government**

The Texas Association of County Auditors believes that each auditor has a duty beyond the statutes to learn all that they can about county government, to dedicate themselves to an education about all the aspects of their jobs, and to work as part of a team of county officials to deliver services in unison to the taxpayers. Despite the potential for conflict that is inherent in the role of the County Auditor, many auditors enjoy a positive and beneficial relationship with their commissioner courts. This is achieved through dedication, developing credibility in the workplace, and becoming a trusted resource for county officials on financial matters. This approach is most effective and efficient because it allows for potential problems to be recognized and averted or resolved before they ever become an issue. This type of approach obviously receives less attention and is less heard of in practice. The sensational stories can make the headlines when there is an auditor pitted against another official. We believe this is the exception though, and not commonplace as a whole. The day to day activities of the auditor such as, resolving problems, advising Commissioners Court and other county officials, establishing good internal controls, creating efficient procedures, and the like are not necessarily newsworthy. But in this way, auditors save their counties far more than the cost when things don't go according to plan. The County Auditor has the responsibility to be progressive and should continually strive to improve the financial record keeping and the financial reporting for the county. Many may not appreciate it, but the County Auditor has the responsibility to help provide honest, effective and efficient government for the commercial and residential taxpayers in the county. Good county government will always be the result of a cooperative effort on the part of all county officials and county employees working towards common goals.

The term efficiency often is also construed to be an effort to make things easier. However, it should never be "easy" to expend taxpayer money. There should be checks and balances in place to create safeguards and a system of internal control. There should be accountability for every penny spent. County Auditors are well aware that no one enjoys oversight and on occasion questioning of their actions or decisions. But in today's environment, the auditor may be uniquely positioned as a safety net and advisor. We live in a society that is becoming more knowledgeable about and dependent upon access to public data through technology, and taxpayers today are demanding greater fiscal accountability from their State and local governments. Additionally, the Governmental Accounting Standards Board frequently promulgates new accounting and financial reporting requirements which focus more attention than ever before on the accountability and effectiveness of county programs. Texas counties can ill afford to expose themselves by failing to meet these requirements, and the County Auditor is the professional help that can meet these demands. There have been those that would argue that other county officials may assume the duties of the County Auditor in a county without one, however the statutes establishing the County Auditor set forth specific qualifications in order to hold this office and there is no other office in the county which possesses the level of independence to properly execute and enforce the duties of the role. Oversight and the other duties of the County Auditor, help ensure that Texas counties are able to meet the increasing demands of fiscal accountability in the future.

## **Recommendations for More Efficient County Government**

- ❖ Cooperation and collaboration among officials for the betterment of County government
- ❖ Maintain local control by the Commissioners Court to assign non-statutory duties
- ❖ Strong segregation of duties, checks and balances, and internal controls over County finances
- ❖ Continuing education and training on new accounting standards and requirements
- ❖ Maintain a level of financial transparency that best informs taxpayers



### Relevant Statutes and Sources

County Auditor – General Provisions and appointment	Local Government Code Chapter 84
County Budget	Local Government Code Chapter 111
County Financial Accounting	Local Government Code Chapter 112
County Financial Reports	Local Government Code Chapter 114
Audits of County Finances	Local Government Code Chapter 115
Texas Practice Series by David Brooks	Volume 36, Chapter 19 – The County Auditor
Senate Resolution No. 422	Copy enclosed
County Auditor Handbook	<a href="http://www.texascountyauditors.org">www.texascountyauditors.org</a>



# The Senate of The State of Texas

## SENATE RESOLUTION NO. 422

**WHEREAS**, The Senate of the State of Texas is pleased to recognize county auditors across the state on the occasion of the 100th anniversary of the creation of the office of county auditor by the Texas Legislature; and

**WHEREAS**, Created in 1905 by the 29th Legislature, the office of county auditor was given the critical responsibility of maintaining the financial well-being of each county; and

**WHEREAS**, The qualifications of a county auditor include expertise in accounting and business practices; an auditor must provide for the prompt collection, safekeeping, and proper disbursement of county funds; and

**WHEREAS**, The office of county auditor is entrusted with the vital duty of protecting the taxpayers' money and ensuring that the financial laws of Texas are strictly and fairly enforced; now, therefore, be it

**RESOLVED**, That the Senate of the State of Texas, 79th Legislature, hereby pay tribute to the county auditors of the State of Texas for the vital services they provide and extend to them best wishes for the future; and, be it further

**RESOLVED**, That a copy of this Resolution be prepared for them as an expression of esteem from the Texas Senate.

Wentworth

David Newhurst  
President of the Senate

I hereby certify that the above Resolution was adopted by the Senate on March 31, 2005.

Lacey Spaw  
Secretary of the Senate

Jeff Wentworth  
Member, Texas Senate



## **Appendix A**

# **County Auditor's Authority and Audit Responsibilities**

## County Auditor Authority

The County Auditor's authority stems from the oath of office (Texas Constitution, Article XVI, Section 1, with the added wording "will not become personally interested in a contract with the county") and the obligation to ensure strict enforcement of state laws and the duty to disallow any expenditures of county funds he believes to be unlawful.

It is often difficult to determine where "authority" stops and "responsibility" starts. Statutory authority establishes the legal rights that enhance the County Auditor's ability and make it possible to fulfill statutory responsibility. There are four types of statutory authority conferred upon County Auditors, all of which overlap with each other throughout the statutes.

- Oversight Authority
- Access Authority
- Prescriptive Authority
- Verification Authority

### Oversight Authority

#### **Local Government Code 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 law governing county finances.

Oversight generally means watchful and responsible care for. Watchful and responsible care for implies not only access to the books and records, but also the authority to help ensure that those books and records are properly maintained. In *Smith v. McCoy*, 533 S.W. 2d 457 (Tex. Civ. App., 1976), it was determined that the County Auditor has responsibility, before approving a claim against the county, to determine whether the claim strictly complies with the laws governing county finances.

### Access Authority

#### **Local Government Code 115.001**

The County Auditor shall have continual access to and shall examine and investigate the correctness of:

- The books, accounts, reports, vouchers, and other records of any officer;
- The orders of the Commissioners Court relating to county finances.

In many instances the authority established by the statutes are very broad, but they are specific. The above statute would include all reports made by all offices to the Commissioners Court and would include all evidentiary matter, i.e. books of original entry, accounts maintained, reports other than those made to the court, vouchers, and any other records deemed necessary. Financial records and documents would not be limited to fiscal evidence, but would also include internal policies and internal controls. Reports dealing with collection of money, bank reconciliations, deposits, disbursements, court records, and safeguarding of assets would be essential.

#### **Local Government Code 140.003**

- g. The County Auditor, if any, of the county that manages a specialized local entity's funds has the same authority to audit the funds of the entity that the auditor has with regard to county funds.

NOTE: A specialized local entity is a district, a criminal district attorney, a juvenile board, a juvenile probation office, an adult probation office, or a judicial district.

#### **Code of Criminal Procedure 103.011**

The County Auditor has the authority to examine the receipt books of officials collecting fines and fees in criminal cases for the county to determine whether the money collected has been properly disposed of.

Access generally means the liberty to enter, look at or review. This would include all specialized local entities. Generally speaking, the County Auditor may look at anything that pertains to county finances. See Attorney General's opinions M-756, H-1185, and H-1212.

### Prescriptive Authority

#### **Local Government Code 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 LGC 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.

## County Auditor Authority -Continued

### **Local Government Code 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. See Attorney General's opinions JM-1275 and Letter Opinion 92-050 for additional references.

Prescribe generally means to require or dictate, and this type of authority allows, and in some cases requires, County Auditors to prescribe accounting and/or bookkeeping systems, and to prescribe frequency, format, and content of reports. Attorney General's opinions have extended this authority to the County Attorney's "hot check fund" and to the Sheriff's "commissary fund."

### **Local Government Code 114.002**

The County Auditor shall determine:

- a. The time and the manner for making reports to the auditor, and
- b. The manner for making an annual report of:
  1. Office fees collected and disbursed, and
  2. The amount of office fees refunded to the county in excess of those that the officer is permitted by law to keep.

### **Local Government Code 130.902**

Any county official that collects public funds may request that the county make a change fund available, and the Commissioners Court may set aside funds from the general fund for such a purpose, once the County Auditor has approved the amount and the purpose.

### **Local Government Code 130.905**

In counties with a population of 1.3 million or more, the county may establish a welfare petty cash fund to provide support for paupers. The fund is established under a system provided and installed by the County Auditor.

### **Local Government Code 154.044**

In Counties with a population of more than 190,000, all district, county and precinct officers are required to file by the 5th day of the month a report (as specified by the county auditor) with the county auditor which details the fees and commissions collected for the previous month and an itemized sworn statement as to the expense claims paid during the period.

## **Verification**

### **Local Government Code 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.

Additional References:

Att. Gen. Op. M-955, 1971  
Att. Gen. Op. 0-6784, 1945  
Att. Gen. Op. JM-192, 1984

This type of authority relates to the claims approval process and allows auditors to obtain sworn statements or testimony relating to the validity of claims, bills or accounts.

### **Local Government Code 154.043**

In Counties with a population of more than 190,000, a payment may not be made from the salary fund to an employee for a service performed before the person has taken the constitutional oath of office, if applicable, and the authorized appointment and oath, if any, have been filed with the county clerk and the county auditor.

### **Tax Code 26.044**

The county auditor is required to certify the number of "paper ready" inmates and the number of inmate days that were spent in the county jail facility by "paper ready" inmates awaiting transfer to a division of the Texas Department of Correction. The county auditor is to verify the amount that the county spent in a twelve month period for the maintenance and upkeep of these prisoners that are awaiting transfer. The verification is based on a review of the records maintained by the county sheriff.

### County Auditor – Audit Responsibilities

There are three offices in county government which have the statutory responsibility to audit: Commissioners Court, county treasurer and the county auditor. All have the responsibility to ensure that:

1. All funds due to the county are being collected within some reasonable assurance;
2. All funds being held by the county are being adequately safeguarded;
3. All funds being collected are being disposed of properly;
4. All county property is being used and managed properly;
5. All county assets are accounted for; and
6. There are responsible parties held accountable for county property.

All are required to support the efforts of the other offices in strengthening the financial management and responsibility of the county. The responsibilities of the county auditor are much broader than those given to either the Commissioners Court or the county treasurer. Often the position of the county auditor is viewed as a bookkeeping function, rather than one of accounting and auditing.

The statutes contain three separate audit responsibilities for all county auditors:

#### **Local Government Code 115.002**

- a. The county auditor shall carefully examine and report on all reports 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 the reports of the county tax assessor, 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 LGC 114.026 by the county treasurer together with the cancelled warrants (checks) that have been paid. The auditor shall verify those warrants with the register of warrants issued as shown on the auditor's books.

In addition:

#### **Local Government Code 115.003**

The county auditor is required to verify that the funds maintained by the county treasurer are intact and correctly reported.

#### **Local Government Code 115.0035**

At least once each county fiscal year the county auditor is to fully examine the accounts of all precinct, county, and district officials. This statement seems to be repeated at:

#### **Local Government Code 114.041**

- 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 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 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.

#### **Local Government Code 115.004**

This section has special requirements for county auditors in counties with a population of more than 190,000.

#### **Local Government Code 115.901**

The county auditor shall examine the accounts, dockets and records of each clerk, justice of the peace, 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.

The word "accounts" is often used throughout the statutes and should be understood to mean all public funds subject to the control of any precinct, county or district official, including money seized by law enforcement agencies and the attorney for the state; but it does not include funds received by the attorney for the state from the comptroller under the General Appropriations Act, or federal or state grant-in-aid funds received by an official, LGC 115.0035 .

Money may be paid out of a registry fund maintained by a court, but these disbursements must be submitted to the county auditor for review, verification and countersignature, LGC 117.121. In addition to the auditing procedures of a county auditor, these funds held in a registry fund are to be audited annually by a independent certified public accountant or firm, and a written report delivered to the county judge, each commissioner, and the clerk of the court 90 days after the last day of the fiscal year. The audit is a public document and should be held available for public inspection, LGC 117.123.

## County Auditor – Audit Responsibilities - Continued

### **Local Government Code 351.0415 (d)**

At least once each county fiscal year, or more often if the Commissioners Court desires, the auditor shall, without advance notice, fully examine the jail commissary accounts. 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.

### **Human Resources Code 152**

Each county auditor should consult this chapter to understand how the juvenile board and its related activities are to be treated. Not all juvenile boards are the same in composition or subject to the same requirements of the statutes. This chapter deals with the creation and authority of the juvenile boards, and the collection and distribution of support service fees.

### **Auditing Other County Offices**

The extent of audits performed on other county offices depends on many factors. One of the most critical is personnel. The county auditor in a small county with a staff of one has the same responsibility (established by the statutes) and authority as does the county auditor that has a larger staff. The office is often called upon to perform many financial functions relating to personnel, payroll, purchasing, grants, insurance, etc. These functions are for the most part above and beyond the statutory responsibilities of the office; i.e. to produce financial reports, audit accounts payable records, audit payroll records, and ensure that there is strict enforcement of the laws governing county finances. Chances are if the county auditor is performing all the mandated responsibilities in a county with minimal staff, then audits of other offices are very possibly backlogged.

The authority and responsibility that is vested in the county auditor is derived from the Vernon's Texas Codes Annotated, which is a codification of the statutes and laws passed by the Texas legislature. From these statutes the county auditor has four derived audit objectives:

1. To ensure that an official has collected all the funds or other property that he/she is entitled to; the money/property is actually checked within the official's possession, making sure that the proper amounts have actually been received. This procedure should include the evaluation of supporting documentation for the amounts received, and a review of internal controls to evaluate if a diligent effort is being made to collect past due amounts.
2. To ensure that the funds collected by a county official are remitted to the appropriate party; to include the county treasurer, the state, refund claimants, and others. An effort should be made to insure that remittances are made in a timely manner in conformity with the statutes, contract, or the rapid deposit law. All refunds and dismissals should be handled in a timely manner.
3. All funds and property that is the responsibility of the county is properly managed and safeguarded (insured, bonded, safe deposit, internal controls). It should be documented that all investments and deposits are in compliance with the law and local depository and investment policies. All equipment and machinery owned by the county is being used solely for county purposes. And the county auditor is to ensure that all grant administrators are in compliance with grant provisions.
4. All funds and other property is properly expended, accounted for and reported. Ensure that all disbursements are made from the proper fund, in compliance with statutes, contracts and the budget. Ensure that all amounts disbursed are to the correct party, are legally owed, and are in compliance with the prompt payment act. The accounting system is established in accordance with statute and reflects what has actually occurred within the county. The bookkeeping systems employed throughout the county are to reflect the actual occurrences. Ensure that all reports are accurate and timely.

### **Purchasing and the Approval of Claims**

The county auditor has the authority to disapprove claims against the county, but this authority is not absolute. The statutes have established basic criteria for all claims against the county:

#### **Local Government Code 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 of 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 requirement 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 copy must be filed with the county auditor. The triplicate copy must remain with the officer requesting the purchase. This subsection does not apply to a county that operates an electronic requisition system.
- 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.

### County Auditor – Audit Responsibilities - Continued

- 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.

Note: This aspect of the county auditor's office is probably the most litigated, due to the authority of the county auditor to disapprove a claim.

The auditor shares the responsibility for approving claims against the county with the Commissioners Court. The county auditor may be required by the Commissioners Court to act as the purchasing agent, LGC 262.012(a). That responsibility normally falls to the county judge in counties where there has not been a purchasing agent designated by the district judge(s) or the Commissioners Court, LGC 262.011. It is the responsibility of the Commissioners Court to "audit and settle all accounts against the county" and to authorize their payment, LGC 115.021.

In counties with a population of greater than 100,000, the Commissioners Court may employ a person to act as the county purchasing agent, LGC 262.0115. When this option takes place then the person so appointed shall carry out the functions prescribed by law for the county auditor with regards to county purchases and contracts, and shall administer the procedures prescribed by law for notice and public bidding.

Each claim, bill and account against the county must be filed with the county auditor and approved by him before the Commissioners Court is allowed to authorize payment, LGC 113.064. The prerequisites for approval of these claims are established by LGC 113.065 and LGC 113.901. Any claim must have been "incurred as provided by law," and the purchase of all materials and supplies must have a pre-approved purchase order by the county judge (or purchasing agent). The issuance of any county warrant (check) must be co-signed by the county auditor, except for those issued in payment of jury service, LGC 113.043. The county auditor is required to keep a register of these warrants (checks) issued by the county judge and by the district and county clerks, LGC 113.046.

When the law requires the county to follow competitive bidding procedures in making a purchase in excess of \$50,000 and there is only one supplier from whom an item can be bought, the county auditor or other county officer or employee may not refuse payment for the purchase, because competitive bidding procedures were not followed, LGC 262.003.

The Commissioners Court is permitted to exempt various purchases from the competitive bidding requirement, LGC 262.024. In the event that an exemption is granted, a copy of the authorization is to remain in the purchasing office for at least one year, or until the county auditor has had an opportunity to review the transaction.

There is no procedure outlined or stated in the statutes that gives the county auditor a guide for disapproving a claim. His failure to approve a claim in a reasonable time has been determined to be the criteria to allow a vendor (claimant) to sue the county for recovery (McLennan County v. Miller, 257 S.W. 680, Waco 1923; AG Opinion O-6663). The county auditor is not authorized to require, as a prerequisite to his approval of a claim for items of expense, that a requisition be signed and approved by him at the time the purchase is made or the expense is incurred, AG Opinion LO93-91. In the competitive bid process the auditor is required to ensure that all bids are properly advertised as required by the County Purchasing Act, LGC 262. The statutes provide for the establishment of exemptions, emergencies and exceptions to the standard procedure, LGC 262.024 and AG Opinion O-2315, established that the county auditor did not have the authority to question the Commissioners Court decision that an emergency existed.

#### **Local Government Code 351.902**

The sheriff may purchase equipment and supplies for a "bureau of criminal identifications," but only in the manner prescribed by the county auditor.

#### **Accounting Responsibilities**

The county auditor has the responsibility to be progressive and should continually strive to improve the financial record keeping and the financial reporting for the county. Many may not appreciate it, but the county auditor has the responsibility to help provide honest, effective and efficient government for the commercial and residential taxpayers in the county. Good county government will always be the result of a cooperative effort on the part of all county officials and county employees working towards common goals.

#### **Local Government Code 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 LGC 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.

#### **Local Government Code 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.



## County Auditor – Audit Responsibilities - Continued

### **Local Government Code 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

### **Local Government Code 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 law governing county finances.

### **Local Government Code 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.

### **Local Government Code 113.023(b)**

The county treasurer is to ensure that a duplicate copy of all receipts issued shall be signed and rendered to the county auditor, who is responsible for seeing that the receipt is properly recorded in the general ledger and journals of original entry.

### **Local Government Code 113.903**

With the consent of the Commissioners Court and the official to whom funds are owed, a district, county or precinct officer authorized by law may receive funds or collect an amount due to another county, district, or precinct office. The county auditor is responsible for setting up the accounting procedures to ensure that the funds are properly handled and accounted for.

## **Reporting Responsibilities**

### **Local Government Code 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 the officer is permitted by law to keep.

### **Local Government Code 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.

In counties with a population of more than 225,000 there is a monthly reporting requirement, LGC 114.023, which includes a publication requirement. However, all county auditors are required to present to Commissioners Court at its regular monthly meeting a tabulation of the county's receipts and disbursements by fund for the month, and a tabulation of accounts, LGC 114.024.

The county auditor is required to make monthly and annual reports to the Commissioners Court and to the district judge(s) of the county. These reports are to show the aggregate amounts received and disbursed from each county fund; the condition of each account on the books; the amount of county funds on deposit in the county depository; the amount of county bonded indebtedness and any other county indebtedness; and, any other point of interest that the county auditor feels is proper and informative, or that the Commissioners Court or the district judge(s) may require, LGC 114.025(a).

The annual report that the county auditor shall prepare must include a record of all transactions made during the fiscal year. The county auditor shall file the annual report at the regular monthly meeting on the Commissioners Court in April of the year following the end of the year. The county auditor shall file the same report with the district judge(s). At the time the report is rendered to the Commissioners Court and to the district judge(s), the county auditor shall send to the bonding company of each district, county and precinct officer a report indicating the condition of that person's office, LGC 114.025(b),(c).

### **County Auditor – Audit Responsibilities - Continued**

In addition to the reporting requirements placed on the county auditor, the county auditor has the authority to require reports to be made by a district officer, county officer, or precinct officer. The county auditor may require these officers to provide monthly and annual reports regarding any money collected for taxes, fines, or fees, as well as money disbursed and remaining cash on hand. The county auditor may at any time count the cash in the custody of these officers and verify the amount of funds on deposit at the bank and in the custody of the officer, LGC 114.043.

Any county officer that receives compensation based on fees collected must file an annual report by the first day of the second month following the end of the fiscal year setting out the fees collected and compensation paid. The report is to be filed with the county clerk, who must file a copy of the report with the county auditor within 30 days of the date that the report is filed in the county clerk's office, LGC 114.046. The county auditor is required to annually (for the year ending December 31<sup>st</sup>) file the *Texas County Road and Expenditures Yearly Report* with the comptroller of public accounts for the State, Transportation Code 256.009.

In counties of more than 190,000 county officers who hold funds in trust shall be required to make a report as prescribed by the county auditor, which details the money received and disbursed for the period under report. All disbursements from these trust funds must be issued under order of the court and properly countersigned by the county auditor, LGC 117.058.

### **External Audits and Reports**

In addition, there are audit and reporting responsibilities that lie with the Commissioners Court. Should the commissioners feel it is justified, they can employ a disinterested, competent public accountant to audit all the books of the county, including those maintained by the county auditor, LGC 115.031. If the county does not have a county auditor, then the Commissioners Court is required to have an independent audit conducted of the county's records and books at least once every two years, LGC 115.041. In counties with less than 25,000 in population, one or more counties may jointly employ competent personnel to perform an audit in whole or in part, LGC 115.042. In counties of 239,000 to 242,000 the Commissioners Court shall have a biennial (in each even numbered year) independent audit performed of all county records, books and finances, LGC 115.044.

In counties with a population of 350,000 or more an annual independent audit is required, LGC 115.045. These audits as described are to be done in addition to those required by the county auditor. In counties with a population of 40,000 to 100,000, the district judge(s) on the request of a grand jury may appoint an auditor to examine the condition of records and county finances in a broad or a specific character, LGC 115.043.

### **Budget Responsibilities**

Among the county auditor's more significant duties and responsibilities is preparation of the county's budget. In a county with a population of 225,000 or less the county budget officer is the county judge, who serves for the Commissioners Court, LGC 111.001 and LGC 111.002. The county auditor assists the budget officer. The two working together prepare a budget to cover all proposed expenditures of the county government for the succeeding fiscal year, LGC 111.003. In counties that have a population of more than 225,000 the county auditor serves as budget officer for the Commissioners Court of the county, LGC 111.032. Commissioners Court has the ability to appoint a budget officer. Once appointed, if the office is ever abolished, the county auditor shall immediately assume the duties of the budget officer, LGC 111.062.

### **Local Government Code 111.034**

- a. The county auditor shall itemize the budget to allow as clear a comparison as practical 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.

In the budget preparation process the county auditor and/or the budget officer may require any district, county, or precinct officer of the county to provide information necessary for the auditor to properly prepare the budget, LGC 111.036 and LGC 111.065. Once the proposed budget is prepared the county auditor will file a copy with the county clerk who will make it available for public inspection, LGC 111.037. The budgeted expenditures that are approved by the Commissioners Court may not exceed the funds available at the beginning of the fiscal year and the estimated revenues for the fiscal year as provided by the auditor, LGC 111.039. Therefore it is

## County Auditor – Audit Responsibilities - Continued

very important that the county auditor have a good understanding of unencumbered fund balances for all funds. Once the budget is approved the Commissioners Court is required to file a copy of the approved document with the county auditor and the county clerk, LGC 111.040, LGC 111.066 and LGC 111.069.

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, LGC 111.043. Duties which have not been expressly conferred to the budget officer by the statutes remain with the county auditor, LGC 111.072.

On the final 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. The county auditor shall enter to an appropriation account each warrant (check) drawn against that appropriation. The county auditor shall periodically inform the Commissioners Court of the status of the appropriation accounts, LGC 111.091. The county auditor is to oversee the warrant process to ensure that expenses of any department do not exceed the budget appropriations for that department, LGC 111.092.

In counties with a population of more than 225,000, the county auditor shall charge all purchase orders, requisitions, contracts, and salary and labor allowances to the appropriate accounts. Such a requisition, contract or purchase order is not binding on the county until the county auditor certifies that the budget contains ample provision for the obligation and that funds are or will be on hand to pay the obligation. The amount allocated in the budget for a requisition, contract or purchase order or labor account may not be allocated for any other purpose unless an unexpended balance remains in the account after full discharge of the obligations or unless the original charge is cancelled in writing by the order of the Commissioners Court for a valid reason, LGC 111.093.

If the county plans to use "anticipation notes" to fund expenditures for which the notes may be used, then usually a recommendation for such use is made by the county auditor, Government Code 1431.002.

### Other Areas of Responsibility and Authority

#### **Local Government Code 152.051**

By definition the county payroll officer means the county auditor unless the Commissioners Court has designated another county official to issue paychecks to county personnel.

#### **Local Government Code 154.045**

If a notice of indebtedness has been filed with the county auditor evidencing the indebtedness of a person to the state, the county, or a salary fund, a warrant may not be drawn on a county fund in favor of that person, or an agent, or an assignee, until the person owing the debt is notified that the debt is outstanding and the debt is paid.

Previously, the attorney general had ruled that delinquent taxes were not to be construed to be a debt for purposes of this chapter. The statutory language was recently amended however, and now specifically defines "debt" to include delinquent taxes, fines, fees, and indebtedness arising from written agreements with the county.

#### **Local Government Code 155.002**

A request for a payroll deduction is to be in writing, submitted to the county auditor, and state the amount to be deducted and the entity to which the amount is to be transferred. The request will remain in effect until the county auditor receives a written notice of revocation signed by the employee. A payroll deduction cannot exceed the amount stated in the request.

#### **Local Government Code 156.003**

The county is authorized to establish and operate an electronic fund transfer system and the county auditor shall establish the procedures for operating the system.

#### **Local Government Code 233.094**

In a county where the sheriff has the authority to regulate alarm systems, and a permit is required to operate an alarm system as prescribed by Commissioners Court, then the sheriff may authorize the county auditor to assess and collect such fees.

#### **Local Government Code 291.006**

A county official or an agent, deputy, or employee of a county official may not operate a private business on public property unless the person: files a report of receipts and disbursements with the county auditor on or before the 1<sup>st</sup> of January each year; the person must maintain accurate and detailed records; and, all records of receipts and disbursements are to be available for the county auditor to review. The net operating income from the operation (on a cash basis) is to be delivered to the county treasurer at various intervals along with required reports.

## County Auditor – Audit Responsibilities - Continued

*Note: From time to time, it may be necessary for a county auditor to seek clarification concerning the statutes. The county auditor has several sources for such clarification including, but not limited to:*

1. Other county auditors,
2. The Texas Association of County Auditors,
3. The Local Government Division of the State Comptroller's Office,
4. Oral information from the Attorney General's Office,
5. The county's independent legal counsel,
6. The county or district attorney.

### **Government Code 402.042**

- a. On request of a person listed in subsection (b), the attorney general shall issue a written opinion on a question affecting the public interest or concerning the official duties of the requesting person.
- b. An opinion may be requested by:
  1. A county auditor, authorized by law. In practice, the county auditor must first request an opinion from his county or district attorney. If the county or district attorney refuses to issue an opinion or if the county auditor disagrees with the opinion, the county auditor may then send a request for a formal written attorney general's opinion.

### **Government Code 511.016**

- a. Each county auditor shall provide the commission (on Jail Standards) with a copy of each audit of the county jail's commissary operations the auditor performs under LGC 351.0415, and a copy of the annual financial audit of general operations of the county jail. The county auditor shall provide a copy of an audit not later than the 10<sup>th</sup> day after completing the audit.

### **Water Code 60.204**

In counties where there is a navigational district organized under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, the county auditor is to insure that each year the commission that controls the district set aside no more than 5% of its gross income from operations for the promotion and development fund. The county auditor may audit the disbursements from the fund, and is entitled to a monthly report.

### **Water Code 61.174**

In counties where there is a navigational district created under Article III, Section 52, of the Texas Constitution, the county auditor is required to be the auditor for the district, and in this capacity make such additional reports and perform such accounting services in addition to those now required by law as may be reasonably incident to the proper conduct of the business district.

### **Water Code 63.224**

In a "self liquidating" navigational district, the county auditor (or a certified public accountant) is required to perform on an annual basis an audit of all books maintained by the district, and to report the results of the audit to the district as soon as practical after January 1.

### **Civil Statutes Article 1676**

(a,b) In counties having a county auditor and in which the population is not less than 75,000, nor more than 83,350 as shown by the last preceding federal census, and in which there are navigation districts, water improvement districts and water control and improvement districts, the county auditor shall not exercise any control over the financial affairs of these districts. But, annually between July 1 and October 1 the county auditor is required to conduct an audit of all books and accounts maintained by the district. Each month the districts will file with the county auditor a monthly report for the preceding month.

### **Local Government Code 159.034**

A county or district officer or a candidate for a county or district office may be required to file a financial statement and other disclosures as required by subchapter A with the county clerk or the county auditor.

### **Counties with a Population of 500,000 or More**

#### **Local Government Code 151.903**

The county auditor is required to prescribe the forms and systems to be used by elected officials and department heads for documenting departmental personnel and requests for pay.

#### **Local Government Code 157.002**

The Commissioners Court may adopt a rule to provide medical care, hospitalization and compensation for various county employees and other related parties. Such a rule is subject to the approval of the county auditor.

**County Auditor – Audit Responsibilities - Continued**

**Local Government Code 157.902**

The district judges in a county may by a majority vote establish rules to be applied to hours of work and the related benefits of probation officers, court reporters, and county auditors. Once the rule is adopted it must be evidenced as an order of the court and filed for record.

**Local Government Code 291.005**

The Commissioners Court has the authority to direct and control employees hired to operate and maintain the county courthouse and criminal court buildings. Such personnel so employed will be done so in writing and approved annually by the Commissioners Court. The number of employees appointed under this section is subject to the approval of the county auditor.

**Counties with a population of 600,000 or More**

**Local Government Code 293**

The Commissioners Court may put before the voters the proposition to establish a building authority. The purpose of the authority is to review existing county facilities, develop plans for the expansion of county facilities, perform surveys, create preliminary plans, and to make recommendations to the Commissioners Court. In the event the authority is created, the county auditor shall appoint a comptroller to the authority subject to the approval of the board and the Commissioners Court, LGC 293.025.

