

- SUBJECT:** Requiring counties to post certain financial information on the Internet
- COMMITTEE:** County Affairs — committee substitute recommended
- VOTE:** 9 ayes — Coleman, Morrison, Berman, Bolton, Castro, J. Davis, Marquez, Sheffield, W. Smith
- 0 nays
- WITNESSES:** For — James Quintero, The Texas Public Policy Foundation; Caren Skipworth, Collin County; Peggy Venable, Americans for Prosperity; (*Registered, but did not testify:* Jonathan Saenz, Free Market Foundation; Keith Self (Collin County)
- Against — Craig Pardue, Dallas County; (*Registered, but did not testify:* Jim Allison, County Judges and Commissioners Association of Texas; Terry Simpson, San Patricio County)
- On — Victor Gonzalez, Comptroller of Public Accounts; (*On committee substitute:*) Lesa Crosswhite, County Treasurers Association of Texas; (*Registered, but did not testify:* Dolores Carter Ortega, County Treasurers of Texas)
- DIGEST:** CSHB 2743 would require a county treasurer of a county with a population of 250,000 or more to post and maintain the county’s electronic checking account transaction register in a searchable electronic spreadsheet format for public viewing and downloading on the county’s website. The spreadsheet could be in a portable document format (PDF) or a similar file type.
- The county could not charge a fee to view or download the register.
- Required information; phase-in provisions.** CSHB 2473 contains a “phase-in” provision that would require a county’s online transaction register to contain certain information by a particular date about each check issued from a county checking account.
- Beginning September 1, 2010, for each check dated on or after August 1, 2010, a county’s online register would have to contain the transaction

amount and the name of the payee.

In addition, beginning September 1, 2011, for each check dated on or after August 1, 2011, a county's online transaction register would have to include on the county's website a statement of purpose of the expenditure for which the check was written.

This phase-in provision would expire October 1, 2011.

Information excluded from public viewing. CSHB 2743 would prohibit a county from disclosing publicly information about an employee's salary, wages, or an employment stipend, or a worker's compensation income benefit, medical benefit, death benefit, or certain burial benefit.

Maintenance and updating requirements. A county would have to update its online transaction register at least once each month, not later than the 30th day after the closing date of the most recent monthly statement for the county's checking account. Each transaction or listing in the register would have to be maintained on a county's website until the first anniversary of the date of the transaction or listing.

Consultation with comptroller. A county treasurer could consult with the Comptroller of Public Accounts in developing an online transaction register.

Not applicable to counties with existing systems. CSHB 2743 would not apply to a county that maintained and posted a check registry or a similar comprehensive monthly financial report for public viewing and downloading on or before August 1, 2010.

Effective date. This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

SUPPORTERS
SAY:

CSHB 2743 would increase the public's trust in local governmental entities by allowing additional public scrutiny of a county's financial transactions. Taxpayers have the right to know how much their government pays for public services, and Texas has long pushed for state and local governmental units to make their financial transactions as open and transparent to the public as possible. The right to obtain public records under the Texas Public Information Act permits public accountability to a

certain extent, but the process of filing and obtaining an open records request can be time-consuming. This transparency legislation would make it easier for Texans to detect wasteful and fraudulent spending of taxpayer dollars and to hold public servants accountable for their expenditures.

The argument that CSHB 2743 would impose an onerous unfunded mandate upon counties overstates the costs of implementing an online transaction register. Six counties — El Paso, Harris, Collin, Guadalupe, Smith, and Coryell — already have made their transaction databases available online to the public for as little as \$900 in costs. Furthermore, because the bill would apply only to counties with populations of at least 250,000, any additional costs would be borne by counties with significant tax bases. Counties that already maintain electronic checking accounts would experience no fiscal impact, since the bill would not apply at all to counties that had satisfactory existing online transaction registers by August 1, 2010.

Concerns that CSHB 2743 would require counties to reveal certain private information prohibited from disclosure under other laws, such as the federal Health Insurance Portability and Accountability Act (HIPAA), could be addressed by a floor amendment that would prevent disclosure of information prohibited from disclosure by other law.

**OPPONENTS
SAY:**

This bill would impose an unfunded mandate upon counties. The expenses of implementing a searchable online database of a county's transactions could run into the thousands or even tens of thousands of dollars, straining county budgets and costing taxpayers during a time of economic recession. This bill also is unnecessary, since an increasing number of counties have moved on their own accord to implement online transaction registers.

CSHB 2743 would require counties to reveal sensitive, private information that is prohibited from public disclosure by other state and federal laws. For example, the HIPAA Privacy Rule forbids disclosure of certain health and medical information that is not excluded under this bill's disclosure requirements. As currently written, CSHB 2743 would force a county that wrote a check for a prescription medication for a child under the county's juvenile supervision to violate federal law in order to comply with state law. Counties should not be placed in the position of breaking one law in order to follow another. At the very least, CSHB 2743 should be amended to exclude protected private information from public disclosure.

NOTES:

Rep. Paxton intends to offer floor amendments that would prevent the public disclosure of certain information already prohibited from public disclosure by other laws.

The committee substitute differs from the original bill by making its provisions applicable to a county with a population of 250,000 or more, rather than 50,000 or more, as in the original. The committee substitute also differs by extending the phase-in provision for including certain information for each county transaction to September 1, 2010 and September 1, 2011, compared to September 1, 2009 and September 1, 2010 in the original bill. The phase-in provision would expire in October 1, 2011 in the committee substitute, rather than in October 1, 2010, as in the original bill.

The committee substitute added a provision that would bar a county from charging a fee to view or download the online transaction register, which was not included in the original bill. The substitute would require a county to preserve each transaction or listing in the online transaction register until the first anniversary of the date of the transaction or listing, while the original bill required the county to preserve the same information until the second anniversary.

Finally, the committee substitute added a provision not included in the original bill that would exclude counties that maintained a check registry or similar comprehensive monthly financial report on the county's website for public viewing and downloading on or before August 1, 2010.

According to the Legislative Budget Board, the bill's fiscal impact would vary by county depending on the county's existing electronic and Internet capabilities.