

SUBJECT: Modifying requirements for court registry fund audits

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 6 ayes — Coleman, Farias, Hunter, Kolkhorst, Krause, Simpson
1 nay — Stickland
2 absent — M. González, Hernandez Luna

SENATE VOTE: On final passage, April 4 — 31-0 on Local and Uncontested Calendar

WITNESSES: For — Craig Pardue, Dallas County; (*Registered, but did not testify:* Jim Allison, County Judges and Commissioners Association of Texas; Donald Lee, Texas Conference of Urban Counties; Mark Mendez, Tarrant County; Seth Mitchell, Bexar County Commissioners Court)
Against — None

BACKGROUND: Registry funds are monies relating to a matter before a court that are tendered to a county or district clerk for deposit in the registry of that court. A registry can hold deposits of monies from lawsuits, interpleaded funds, disputed funds, cash bonds, and funds awarded to a minor.

Local Government Code, ch. 117, subch. E sets out provisions that apply to funds paid into a court registry in a county with a population of more than 1.3 million (Bexar, Dallas, Harris, and Tarrant counties). Sec. 117.123 requires registry funds for these counties to be audited at the end of each fiscal year by an independent certified public accountant or a firm of accountants selected by the commissioners court. It also requires that a written report of the audit be delivered within 90 days after the last day of the fiscal year to the county judge, each county commissioner, and a clerk.

DIGEST: SB 356 would allow the county auditor, rather than an independent accountant, to perform the required audit of court registry funds in a county with a population of more than 1.3 million.

A written report of the audit would be delivered to the county judge, each

county commissioner, and a clerk no later than 180 days after the last day of the fiscal year.

The 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, 2013.

**SUPPORTERS
SAY:**

SB 356 would yield more thorough audits and could save the governments of Bexar, Dallas, Harris, and Tarrant counties unnecessary costs by allowing the county auditor to perform the state required fiscal examination of court registry funds. In Dallas County, the combined cost for auditing registry funds held by district and county clerks averages about \$34,000 each year. This money could be spent on other county government services.

County auditors already perform a variety of unbiased examinations of a government's departments and funds, so they are best qualified to perform an audit of county registry funds. Typically, third-party auditors are better suited to examining businesses. The bill simply would afford the state's largest counties the same discretion that smaller counties already enjoy. All the work performed by the county auditor is scrutinized by the commissioners court, which is made up of elected officials accountable to voters. This scrutiny also would take place if the county auditor was chosen instead of an accountant to examine court registry funds.

**OPPONENTS
SAY:**

SB 356 would remove an important safeguard that ensures court registry funds are safe from any possible impropriety related to an audit. Using a third-party auditor achieves a high level of impartiality when conducting an examination of a court registry. Because the county auditor is an employee of the county government, the bill would introduce the possibility of a conflict of interest that could put the funds of a registry at risk.