

(b) If the auditor or treasurer finds that such money does exist, the auditor or treasurer shall report the findings of the examination to the commissioners court of the county at its next term for the purpose of instituting a suit for the recovery of the money.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 979, § 1, eff. Aug. 28, 1989.

## CHAPTER 116. DEPOSITORIES FOR COUNTY PUBLIC FUNDS

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### SUBCHAPTER A. GENERAL PROVISIONS

#### § 116.001. Definitions

In this chapter:

(1) "Bank" means a:

(A) bank organized under the laws of this state, another state, or federal law that has its main office or a branch office in this state; or

(B) savings and loan association or savings bank organized under the laws of this state, another state, or federal law that has its main office or a branch office in this state.

(2) "Demand deposit" means a deposit of funds that may be withdrawn on the demand of the depositor.

(3) "Time deposit" means a deposit of funds subject to a contract between the depositor and the depository under which the depositor may not withdraw any of the funds by check or by another manner until the expiration of a certain period following written notice of the depositor's intent to withdraw the funds.

(4) "Subdepository bank" means an authorized bank, other than a depository, that holds demand deposits, not exceeding the Federal Deposit Insurance Corporation's limit, of a district, county, or precinct officer.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 527, § 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 234, § 4, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 344, § 5.009, eff. Sept. 1, 1999.

## § 116.002

## LOCAL GOVERNMENT CODE

### § 116.002. Money Affected

(a) This chapter applies to money collected or held by a district, county, or precinct officer in a county and by the officers of a defined district or subdivision in the county, including the funds of a municipal or quasi-municipal subdivision or corporation that has the power to select its own depository but has not done so. The money shall be deposited under this chapter, and the money shall be considered in fixing and is protected by a county depository's bond.

(b) Warrants, checks, and vouchers evidencing the money deposited in the county depository under Subsection (a) are subject to audit and countersignature as provided by law.

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

Sections 116.003 to 116.020 reserved for expansion!

### SUBCHAPTER B. ESTABLISHMENT OF DEPOSITORY

#### § 116.021. Depository and Subdepository Contracts

(a) The commissioners court of a county shall select by the process provided by this subchapter or by Subchapter C, Chapter 262, one or more banks in the county and enter a contract with each selected bank for the deposit of the county's public funds. The county shall contract with a bank under this section for a two-year or four-year contract term. On expiration of a contract under this section, the contract may be renewed for two years under terms negotiated by the commissioners court.

(b) If the contract is for a four-year term, the contract shall allow the county to establish, on the basis of negotiations with the bank, new interest rates and financial terms of the contract that will take effect during the final two years of the four-year contract.

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

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

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

(1) competitive bidding; or

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

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 527, § 2, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 65, § 1, eff. Aug. 28, 1995; Acts 2007, 80th Leg., ch. 899, § 1, eff. June 15, 2007.

#### § 116.022. Notice

(a) Once each week for at least 20 days before the date to submit an application under Section 116.023(a), the county judge shall place over the judge's name in a newspaper of general circulation in the county a notice that the commissioners court intends to receive applications from which to select a depository bank. A notice shall also be posted at the courthouse door of the county.

(b) If a newspaper is not published in the county, the newspaper notice shall be placed in a newspaper published in the nearest county.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 65, § 2, eff. Aug. 28, 1995; Acts 2007, 80th Leg., ch. 899, § 2, eff. June 15, 2007.

#### § 116.023. Applications

(a) A bank in the county that wants to be a county depository must deliver its application to the county judge or a designated representative of the judge on or before a date set by the commissioners court that is no later than the 60th day before the date of the expiration of the existing depository contract.

(b) The application must state the amount of the bank's paid-up capital at the end of the previous year and the application must be accompanied by:

(1) a statement showing the financial condition of the bank on the date of the application; and

(2) a certified check or cashier's check for not less than one-half percent of the county's revenues for the preceding year.

(c) The certified or cashier's check that accompanies an application is a good-faith guarantee on the part of the applicant that if accepted as a county depository it will provide the bond required under this chapter. If a bank is selected as a depository and does not provide the bond, the county shall retain the amount of the check as liquidated damages, and the

county judge shall readvertise for applications, if necessary, to obtain a depository for the county.

(d) A bank in the county that wants to be a county subdepository must comply with Subsections (a) and (b)(1). The subdepository's application must include a proposal outlining its security for the county public funds to be held in addition to revenue offers.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 628, § 4, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 527, § 3, eff. Sept. 1, 1991; Acts 2007, 80th Leg., ch. 899, § 3, eff. June 15, 2007.

#### § 116.024. Selection of Depositories and Subdepositories

(a) At the meeting at which banks are to be selected as county depositories, the commissioners court shall:

- (1) enter in the minutes of the court all applications filed with the county judge;
- (2) consider all applications; and
- (3) select the qualified applicants that offer the most favorable terms and conditions for the handling of the county funds.

(b) The commissioners court may reject those applicants whose management or condition, in the opinion of the commissioners court, does not warrant placing county funds in their possession.

(c) After selecting one or more county depositories, the commissioners court shall immediately return the certified checks of the rejected applicants. The commissioners court shall return the check of a successful applicant when the applicant executes and files a depository bond that is approved by the commissioners court.

(d) The conflict of interests provisions of Section 131.903 apply to the selection of the depositories.

(e) After selecting one or more subdepositories, the commissioners court shall immediately notify each selected applicant of its selection. Within 15 days, the selected applicant must file a bond or other security as approved by the commissioners court.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 527, §§ 1, 5, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 268, § 29, eff. Sept. 1, 1993; Acts 2007, 80th Leg., ch. 899, § 4, eff. June 15, 2007.

#### § 116.025. Designation of Depository or Subdepository

When security is provided in accordance with Subchapter C<sup>1</sup> and is approved by the commissioners court, the commissioners court shall, by an order entered in its minutes, designate the bank as a depository or subdepository for the funds of the county. The designation is effective until the end of the 60th day after the date fixed for the next selection of a depository or subdepository.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 527, § 6, eff. Sept. 1, 1991.

<sup>1</sup>V.T.C.A., Local Government Code § 116.051 et seq.

#### § 116.026. Applicants Outside County

If no bank located in the county applies to be designated as the county depository, the commissioners court may advertise, in the same manner provided by Section 116.022 for advertising for a depository within the county, for applications from banks in an adjoining county or any other county in this state.

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

#### § 116.027. Selection of Nonapplicant Depository

(a) If no application to be a county depository is submitted, or if all of the applications are declined, the commissioners court shall deposit the funds of the county with any one or more banks in the county or in the adjoining counties in the amounts and for the periods as the commissioners court considers advisable.

(b) A bank that receives deposits under this section shall provide security in the manner and form, and subject to the same conditions, as is required for a depository of county funds. The penalty of the security must at least equal the total amount of county funds deposited with the bank.

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

[Sections 116.028 to 116.050 reserved for expansion]

### SUBCHAPTER C. SECURITY FOR FUNDS HELD BY DEPOSITORY

#### § 116.051. Qualification as Depository or Subdepository

Within 15 days after the date a bank is selected as a county depository or subdepository, the bank must qualify as the depository or subdepository by providing security for the funds to be deposited by the