

Overview of the Authority,
Duties, and
Responsibilities of the County
Auditor

District Court Authority



- Article V of the Texas Constitution
- "Appellate jurisdiction & general supervisory control over the Commissioners Court..."
- Office of the County Auditor= District Court's exercise of authority over the County

Notable Quotes

U.S. Court of Appeals, 5th Circuit Court:

- "...Texas gives county auditors responsibility for guarding the public purse and using the authority of the auditor's office to ensure that local governments comply with the law."

Someone knew what they were doing; Tommy Tompkins:

- "The powers and responsibilities of the county auditor reach into every corner of the courthouse. It is no wonder that the job of a Texas county auditor is one of the most difficult positions in the state."

How do others describe us?

W.C. Murphy, *County Government and Administration in Texas*:

- "...the lynch pin around which the county government turns."
- "...one of the most important officers in the county organization."

Always remember:

- "the **power** to govern is vested in the **people**; the **duty** to govern is vested in **offices** created under the Constitution..."
 - - *Wiecek, "Republican Form of Government" 3 Encyclopedia of the American Constitution 1558 (1986)*

Legislative History

"a very great need and urgency"

1905 in the 29th Legislature:

Emergency clause

- A man of unquestionably good moral character and intelligence
- Appointed by county and district court judges
- Annual salary of \$2,400
- Counties with a population of 25,000 or more

Legislative History

Key dates

1917

Designated only the district court judges as the appointing authority

Added ability for commissioners court to certify to district judges the need to appoint a county auditor in counties not required to have one

Legislative History

Key dates

1941

District judges first granted authority to set auditor salary; subject to commissioners court approval if more than the 1940 amount.

1955

Removed authority of commissioners court to approve the county auditor's salary set by the district judges

Legislative History

Key dates

1981

Salary of the auditor may not exceed the amount of compensation and allowances from all sources of the highest paid elected officer, other than a judge of a statutory county court

2005

The 100th anniversary of the creation of the office of county auditor



SENATE RESOLUTION NO. 42

PURPOSE: The Senate of the State of Texas respectfully commemorates and pays tribute to the occasion of the 100th anniversary of the creation of the office of county auditor by the Texas Legislature.

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

WHEREAS: The qualifications of a county auditor shall include expertise in accounting, public administration, and the management of public funds; and

WHEREAS: The office of county auditor is entrusted with the vital duty of protecting the taxpayer, money and property that he invests in laws of Texas are strictly and fairly enforced;

WHEREAS: That the Senate of the State of Texas, 79th Legislature, do hereby pay tribute to the county auditors of the State of Texas for the service 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 appropriate and sent from the Texas Senate.



President of the Senate

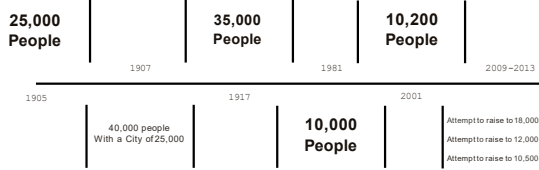
I hereby certify that the above Resolution was adopted by the Senate on March 31, 2005.

Secretary of the Senate

Member, Texas Senate

Legislative History

The population bracket



Legislative History

Other items of interest

Salary brackets - more compensation allowed in certain counties; amended several times

Joint employment and compensation of a county auditor by two or more counties; 1997

Case Law

Commissioners Court of Navarro County v. Tillos, 1922

Auditor duties cannot be delegated to others by commissioners court

Commissioners court cannot hire its own special auditor to do the job

Case Law

Harris County v. Fullerton, 1980

Commissioners court may reject the auditor's budget request only if it is excessive or unreasonable

Commissioners court cannot dictate what equipment would be used in the auditor's office

Subject to District Court review; entirely different than any other county office

Case Law

Agan v. Commissioners Court of Titus County, 1996

Commissioners court has authority to delegate functions that are not assigned to an officer by the law

Likewise, commissioners court has no authority to remove functions that are specifically assigned

Most authoritative listing of the duties of a county treasurer

Payroll is not a core function of Treasurer

Case Law

Guerrero v. Refugio County, 1997

Is the county auditor a county employee?

Sovereign functions

Your rights

Other cases to read

Warnock v. Pecos County, 1997

Lewis v. Fuerrero, 1997

Smith v. McCoy, 1976

Crider v. Cox, 1997

How did we get here?

By political appointment

District judges have an interest in appointing an auditor with no political ties

But, we have to learn right away how to operate in a political environment

A system of checks and balances that works

Authority of the Auditor

Four types of statutory authority

Myriad of responsibilities described in 62 separate statutes and over 320 specific references

Overlapping throughout:

- Oversight
- Access
- Prescriptive
- Verification

Oversight Authority

Watchful and responsible care

General oversight of county books and records; LGC 112.006(a)

See to the strict enforcement of the law governing county finances; **LGC 112.006(b)**

Approval of claims and the discretion to refuse; Smith v. McCoy

Access Authority

Right to enter, inspect, review

The county auditor has continuous access to county books and records; LGC 115.001

- Defining "continuous"

Attorney general opinions have generally upheld that the auditor may look at anything that pertains to county finances

- **M-756; H-1185; H-1212**

Prescriptive Authority

Adopt and enforce regulations

Population <190,000

- Adopt regulations, not inconsistent with law, that are necessary for the speedy and proper collecting, checking, and accounting of revenues; LGC 112.001

Population=190,000 or more

- In addition to above, prescribe the system of accounting; LGC 112.002

Determine the time and manner of making reports to the auditor; LGC 114.002

Verification Authority

Confirm the correctness

A claim, bill, or account may not be paid until examined by the auditor; LGC 113.064

- Condition "precedent" to commissioners court approval

May not approve a claim unless it was incurred as provided by law; LGC 113.065

Purchasing statutes for competitive bidding

Duties of the Auditor

The buck stops here...

| | |
|----------------------------------|------------------------|
| Budgeting | Reporting |
| Accounting & Financial Reporting | Purchasing |
| Auditing | That infamous other... |
| Countersigning checks | |
| Approving claims | |

LGC 111

Subchapter A, B, or C counties

Many budget duties the same regardless of size

Exercise oversight authority to enforce budget compliance

The buck stops here...

Budgeting

Accounting & Financial Reporting

Auditing

Countersigning checks

Approving claims

Keep a detailed set of records

Responsibility for the chart of accounts and the design of the financial system

Maintain the general ledger throughout the year

Detail to show transactions relating to accounts, contracts, indebtedness, receipts, and disbursements

Internal Audit

Audit books and reports of county officials at least quarterly

Audit the commissioners court orders relating to finances

Surprise cash counts - quarterly for the treasurer; at least annually for all others

Audit the dockets of court clerks, justices of the peace, constables, sheriff, and tax assessor to make sure they aren't holding money belonging to the county

Your monthly report

- Report to the commissioners court
- amounts budgeted
 - amounts received
 - amounts expended
 - balances
 - statement of indebtedness
 - all receipts and disbursements for the month

Challenges facing the auditor

It's the nature of the job

- Maintaining independence
- Mastering diverse functions
- Politics

In God we trust, all others we audit...

County government is, for many people, the primary, most accessible level of government. In true democratic fashion, officials are elected from among the populace to represent citizens, provide a variety of services, and act as a bridge to span the gap between local citizens and State government.

In the midst of these elected positions is one, apolitical, appointed official - the County Auditor. In addition to a broad scope of duties and responsibilities, the County Auditor serves as a check on the financial operations of other county offices.

By all means, do:

- Communicate frequently with other officials
- Know your job better than anyone else
- Use your district and county attorney
- Facilitate information to the media
- Attend all commissioners court meetings
- Use common sense

But, DON'T:

- Embarrass your district judge(s)
- Argue with any official in a public meeting
- Bad-mouth any official, employee, or department at any time or encourage gossip
- Refuse assistance to any reasonable request
- Ignore staff recommendations or ideas
- Compromise your principles or ethics
- Procrastinate

Resources

Get familiar with these:

- Court financial management handbook;
Office of Court Administration
- Texas County Auditor Handbook;
www.texascountyauditors.org
- Texas Constitution and Statutes online
- Brooks Texas Practice; Volumes 35, 36,
and 36a

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