



## 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





# 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 Newburn*  
President of the Senate

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

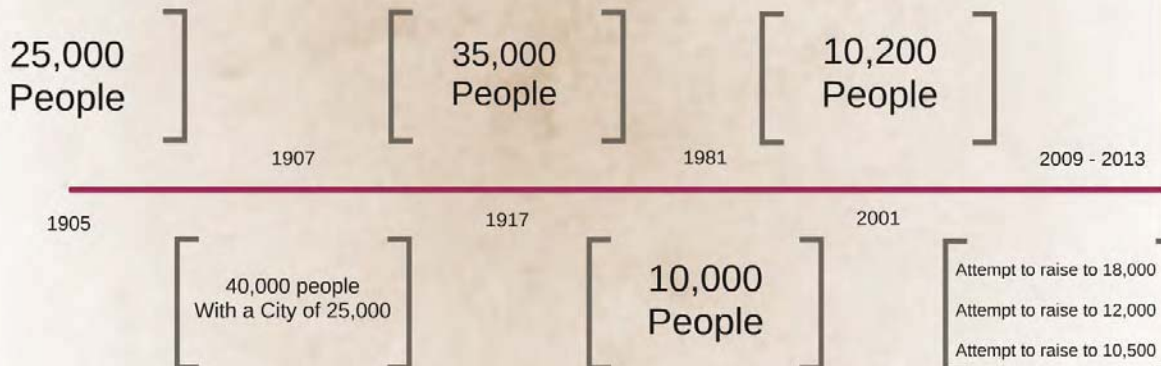
*Sally Law*  
Secretary of the Senate

*John Wentworth*  
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. Tullos, 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 [⇄]

Accounting & Financial Reporting [⇄]

Auditing [⇄]

Countersigning checks

Approving claims

Reporting

Purchasing

That infamous other...



## *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



# Purchasing

That infamous other...



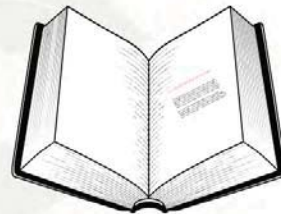
## Challenges facing the auditor

*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:*



Keep your district judge(s) informed

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



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## **Resources**

*Get familiar with these:*

Court financial management handbook;  
Office of Court Administration

Texas County Auditor Handbook;  
[www.texascountyauditors.org](http://www.texascountyauditors.org)

Texas Constitution and Statutes online

Brooks Texas Practice; Volumes 35, 36,  
and 36a



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