

BILL ANALYSIS

Senate Research Center
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S.B. 356
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Intergovernmental Relations
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Registry funds are funds tendered to a county or district clerk for deposit into the registry of a county or district court. Such funds are held by the court, pending the outcome of a matter before the court on behalf of an individual. An example of registry funds would be a legal settlement given to a minor that a court order requires be held until the minor reaches the legal age of adulthood.

A county's management of registry funds is governed by Chapter 117 of the Local Government Code, which contains general provisions applicable to all counties, as well as Subchapter E of Chapter 117, that applies to counties with a minimum population of 1.3 million residents.

While the general provisions of Chapter 117 allow a county to audit registry funds internally through its county auditor, Subchapter E requires that a third-party auditor be hired to perform this function. Specifically, Subchapter E, Section 117.123, requires a commissioners court to hire an independent certified public accountant (CPA) or a firm of independent CPAs of recognized integrity and ability to perform an annual audit of registry funds. The results of that audit must be provided in written form to the county judge, each commissioner, and a clerk within 90 days after the last day of the fiscal year.

This requirement has proven problematic and there are a number of factors that support the elimination of the third-party audit requirement in Subchapter E. The cost of outside audits must be paid by the county, averaging \$17,500 for each clerk responsible for registry funds (county and district) in the county each year. Also, the resultant third-party audit report is not beneficial to county commissioners, county or district clerks, or constituents because independent CPAs are trained to audit income statements and balance sheets, rather than the audit required for a governmental entity's compliance with statutory requirements relating to the management of funds.

County auditors are employees of a county and are available to perform the necessary annual financial audits at no extra cost to the county. They are appointed and have their salaries set by district judges, which addresses any concern over conflicts of interest with their respective commissioners court. Also, county auditors are already familiar with the structure and process of the management of registry funds, and have experience performing the specific type of audit required for registry funds.

S.B. 356 amends Section 117.123 of the Local Government Code to provide a commissioners court the authority to determine whether an outside auditor or county auditor would be more appropriate to audit funds held in the registry funds section of the general fund of a county.

As proposed, S.B. 356 amends current law relating to the audit of court registry funds in certain counties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 117.123, Local Government Code, as follows:

Sec. 117.123. AUDIT. (a) Requires the county auditor to audit the registry funds at the end of each county fiscal year. Authorizes that the registry funds be audited, rather than requires, in addition to the regular auditing procedures of the county, that the registry funds be audited, at the end of each county fiscal year by an independent certified public accountant or a firm of independent certified public accountants of recognized integrity and ability selected by the commissioners court.

(b) Requires that a written report of the audit be delivered to the county judge, each county commissioner, and a clerk not later than the 180th day, rather than within 90 days, after the last day of the fiscal year.

SECTION 2. Effective date: upon passage or September 1, 2013.