

OVERVIEW OF THE AUTHORITY, DUTIES AND RESPONSIBILITIES OF THE COUNTY AUDITOR

Presented by
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With special thanks to:
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Denton County Auditor James Wells,
Gaines County Auditor Rick Dollahan,
Former Navarro County Auditor Paula Tullos

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The County Auditor has been described as

⇒ ...one of the most important officers in the county organization.

W. C. Murphy, *County Government and Administration in Texas* (University of Texas Bulletin 1933)

⇒ ... the lynch-pin around which the county government turns.

Holman & Gough, *A Study of County Government in Texas* (1956)

District Court Authority

Article V of TX Constitution – “Appellate jurisdiction and general supervisory control over the Commissioners Court. The Auditor’s Office is the DC’s exercise of authority over the County.

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Since the Auditor has the authority to impose a budget upon the county because of his power to stop payment on all warrants not drawn strictly according to the law, he has been in a position to dominate county finances.

W. C. Murphy, *County Government and Administration in Texas*
(University of Texas Bulletin 1933)

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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, Former Harris and Bexar County Auditor

- "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."

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)

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LEGISLATIVE HISTORY



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⇒ **1905 – 29th Legislature**

Legislation establishing the office of County Auditor

*...chief addition to the financial organization of the county
since the adoption of the present constitution...*

David Brooks, Texas Practice, County and Special District Law

⇒ **1907 – 30th Legislature**

First amendment to original legislation

1915 – 34th Legislature

⇒ **1917 – 35th Legislature**

⇒ **1923 – 38th Legislature**

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⇒ 1941 – 47th Legislature

⇒ 1955 – 54th Legislature

⇒ 1987 – 70th Legislature

**2005 – 100th
Anniversary**



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HISTORY IN CASE LAW



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**Commissioners Court of Navarro County
v. Tullos (1922)**

The commissioners court of Navarro County, sued for mandamus action to compel the county auditor to turn his financial records over to a special accountant hired by the commissioners court.

- The Court of Appeals held that the auditor could not be mandamusd to turn his records over to a special auditor.
- The Court held that the duties of the county auditor cannot be delegated by the commissioners court to a special auditor.
- In other words, the commissioners court cannot hire its own auditor to do the job of the county auditor.

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**Commissioners Court of Harris County
v. Fullerton (1980)**

- Fullerton, the Harris County Auditor, sued to compel the Commissioners Court to approved his request for office equipment, supplies and other property and services which he considered necessary to operate his office.
- Commissioners court is under ministerial duty to approve office equipment requested by the auditor.
- The commissioners court may reject the auditor's request for only if it is excessive or unreasonable.
- The court stated that the auditor's office was "clothed with an impressive array of independent administrative duties and discretionary powers long recognized by our courts."

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**Agan v. Commissioners Court
of Titus County (1996)**

- Commissioners Court relieved the County Treasurer of payroll function (receiving time sheets, entering payroll data into the computer system and printing payroll checks) and transferred the employee who performed these duties to the Auditor's Office.
- Commissioners Court has the authority to delegate the payroll function to whatever county official it desired.
- Contains the most authoritative listing of the constitutional and statutory duties of the County Treasurer
- Reinforced the principle that any county functions that are not assigned to an officer by the constitution may be delegated to an officer by the legislature.

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**Guerrero v. Refugio County
Warnock vs. Pecos County
Lewis vs. Fuerrero
Smith v. McCoy
Crider v. Cox**

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HOW DID WE GET HERE?

Or

I must have lost my mind...

Or

show me the money !!!

- Political Appointment but no political ties
- Learn how to operate in a highly political environment
- A system of built in checks and balances

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APPOINTMENT

§ 84.002. Appointment of County Auditor

§ 84.003. Procedure for Appointment

§ 84.004. Term

§ 84.006. Qualifications

§ 84.007. Bond and Oath

§ 84.0085. Continuing Education

§ 84.009. Removal

§ 84.021. Assistants

§ 152.905. Procedures for Setting Compensation by District Judges

§ 152.031. County Auditor's Salary

§ 152.032. Limitations on County Auditor's Compensation and Allowances

§ 152.034. Salaries of Assistants to the County Auditor

Opinion No. DM-118 May 13, 1992

Auditor's salary increases are not included in "the amount budgeted for expenses of the county auditor's office..."

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AUTHORITY OF THE COUNTY AUDITOR



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AUTHORITY AND RESPONSIBILITY OF THE COUNTY AUDITOR

OR...

If not me – then who???

If not now – when???

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- It is often difficult to determine where “authority” gives way to “responsibility”.
- Statutory authority establishes legal rights that make it possible for the County Auditor to fulfill his statutory responsibility.
- A myriad of responsibilities are described in 62 separate statutes and over 300 specific references.
- There are four types of statutory authority, all of which overlap throughout the statutes:

Oversight Authority
Access Authority
Prescriptive Authority
Verification Authority

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OVERSIGHT AUTHORITY

- According to the *Texas Local Government Code* the county auditor has general oversight of county books and records. **Local Government Code § 112.006 (a)**
- Oversight generally means watchful and responsible care including, but not limited to:
 - Access to books and records; and
 - The authority to help ensure that those books and records are properly maintained.

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OVERSIGHT AUTHORITY

- The county auditor shall see to the strict enforcement of the law governing county finances.
LGC § 112.006 (b)
- In Smith v. McCoy (Civ. App. 1976) S.W. 2d 457, it was determined that the county auditor has the responsibility, before approving a claim against the county, to determine whether the claim strictly complies with the laws governing county finances.

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ACCESS AUTHORITY

- According to the *Texas Local Government Code* the county auditor has **continuous** access to county books and records. LGC § 115.001
- Access generally means the right or authority to enter, inspect or review.
- Generally speaking, the county auditor may look at anything that pertains to county finances. (ref. AG Op. M-756, 1970; H-1185, 1987; H-1212, 1978).

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PRESCRIPTIVE AUTHORITY

- County population of less than 190,000

The county auditor may adopt and enforce regulations, not inconsistent with law... that the auditor considers necessary for the speedy and proper collecting, checking, and accounting of the revenues and other funds and fees that belong to the county. **LGC § 112.001**

- County population of 190,000 or more

The county auditor shall prescribe the system of accounting for the county in addition to the adoption and enforcement of regulations as above. **LGC § 112.002**

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PRESCRIPTIVE AUTHORITY

- The county auditor shall determine:
 - 1) the time and manner for making reports to the auditor; and
 - 2) the manner for making an annual report of
 - A. office fees collected and disbursed; and
 - B. the amount of office fees refunded to the county in excess of those that the officer is permitted by law to keep. **LGC § 114.002**

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PRESCRIPTIVE AUTHORITY

- Prescriptive authority allows, and in some cases requires, county auditors to prescribe accounting and/or bookkeeping systems, and to prescribe frequency, format and content of reports.
- Attorney General opinions have extended this authority to the County Attorney's "hot check fund" and to the County Sheriff's "commissary fund".

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VERIFICATION AUTHORITY

- A claim, bill, or account may not be allowed or paid until it has been examined and approved by the auditor. The bill cannot be sent to Commissioners Court if not approved first by Auditor. **LGC § 113.064**
- The county auditor may require an affidavit from a county official indicating that the claim or bill is correct and valid. **LGC § 113.064**
- The county auditor may not audit or approve a claim unless the claim was incurred as provided by law. **LGC § 113.065**
- In counties over 125,000 in population, the county auditor is to verify the revenues available to the county in the budgeting process. **LGC § 111.034**
- Purchasing statutes and competitive bidding.

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RESPONSIBILITIES AND DUTIES OF THE COUNTY AUDITOR



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The basic responsibility of the county auditor spans a wide range of duties.

Accounting and Financial Reporting

Accounts Payable

Auditing

Budgeting

Purchasing and Approval of Claims

Grants Management

Payroll

Benefits Administration

Emergency Management

Risk Management

Forecasting and Projections

Human Resources

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ACCOUNTING & FINANCIAL REPORTING

- Specify the system of accounting for the county as a whole and for individual fee offices.
- Responsibility for the chart of accounts and the design of the accounting system.
- Maintain the general ledger of the county throughout the year.
- Preparation of the annual financial report.
- Grant accounting and reporting.

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ACCOUNTS PAYABLE AND PAYROLL

- Optional duties by law.
- If processed by the county auditor these duties meet the auditor's duty for verification of financial transactions.
- These duties directly relate to the responsibility to manage the county budget and to verify the correctness and legality of claims against the county before they are processed.

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BUDGETING

- County auditor is the budget officer in some counties.
- LGC 111 – Subchapter A, B or C
- In smaller counties, the county auditor assists the county judge in preparing the budget.
- Estimate revenues from all sources in counties over 125,000 population.
- Exercise oversight authority to see that only properly budget expenditures are approved for payment by the county.

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AUDITING

- Internal auditing is a specific statutory duty of the county auditor.
- Examine all reports about the collection of money for the county.
- Examine books of county officials for correctness.
- Examine the county treasurer's books and reports.
- Examine the books and dockets of court clerks and justices of the peace for accuracy.
- Cash Counts
- Examine Commissioners Court orders related to County finances.

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PURCHASING & APPROVAL OF CLAIMS

- The auditor may not pay for supplies or materials that have not been properly requisitioned and approved.
LGC § 113.901
- The county auditor must co-sign disbursement checks to validate them as proper and budgeted expenditures.
LGC § 113.043

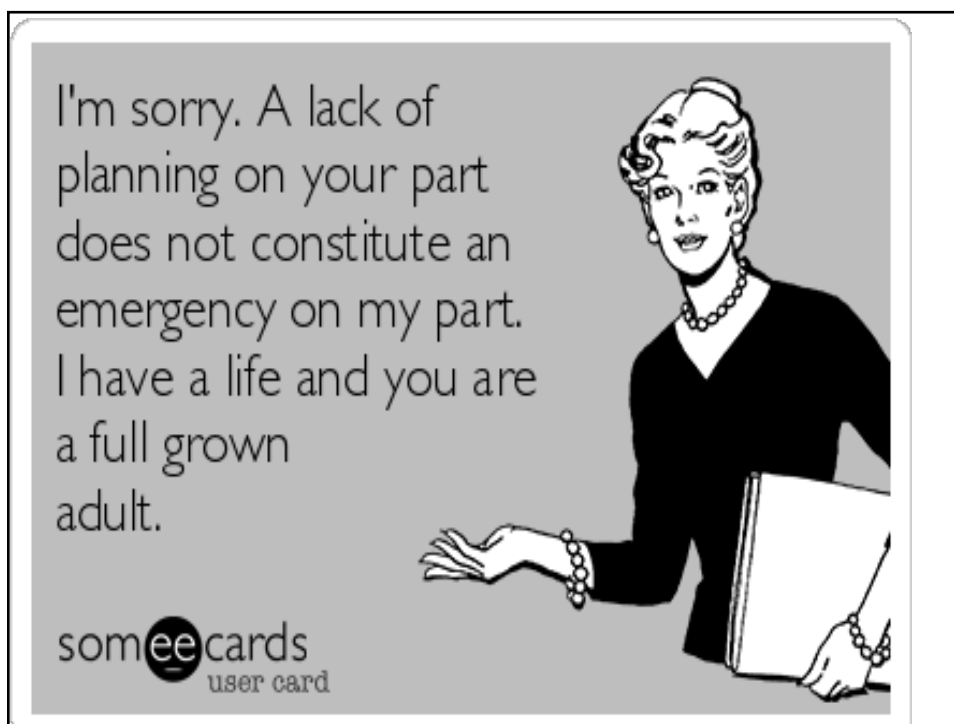
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CHALLENGES FACING THE COUNTY AUDITOR

OR...

**Lack of planning on your part
does not create an automatic
crisis for me!!!**

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MAINTAINING INDEPENDENCE

- The office of county auditor was created to provide independent oversight of the financial transactions of the county.
- Independence in appointment, budget and staffing is necessary to insure that the functions of the office are handled in a professional manner.

**MASTERING DIVERSE FUNCTIONS INCLUDING
POLITICS**

Stupid People
Are My
Job Security

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**JUST A FEW
WORDS OF WISDOM**

Or...

**BEEN THERE...
DONE THAT!!!**



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DO

- Keep the district judges informed.
- Communicate frequently with all officials.
- Know your statutory duties and authority and keep current on all legislative changes.
- Use technical assistance of state offices (i.e., State Comptroller, Attorney General, State Auditor).
- Use local resources, especially the District Attorney and County Attorney.
- Use the media often and facilitate information.

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DO

- Discuss critical issues in advance with the County Judge and individual Commissioners prior to public agenda presentation.
- Attend all Commissioners Court meetings for first-hand knowledge of all actions taken.
- Participate in continuing education programs and include your assistants.
- Be available at all times.
- Create and protect a positive image for your office and yourself.
- Use plain old Common Sense!!!

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DON'T

- Embarrass your district judges.
- Embarrass yourself or anyone else in public or private.
- Argue with any public official in any public meeting.
- Refuse assistance to any reasonable request.
- Bad-mouth any official, employee or department at any time.
- Encourage gossip.
- Abuse your authority.

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DON'T

- Ignore staff recommendations and ideas.
- Overlook any details related to the public business of the county.
- Compromise your principles or ethics.
- Procrastinate on or ignore any issue placed before you.
- Lose your composure under any circumstance.



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Texas Association of County Auditors

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3. VERNON'S CIVIL STATUTES TITLE 34. COUNTY FINANCES
4. VERNON'S CIVIL STATUTES CHAPTER 11. COUNTY SCHOOLS
5. VERNON'S CIVIL STATUTES CHAPTER 6. PARTICULAR COUNTIES, LAW RELATING TO
6. ELECTION CODE CHAPTER 31. OFFICERS TO ADMINISTER ELECTIONS
7. ELECTION CODE CHAPTER 66. DISPOSITION OF RECORDS AND SUPPLIES AFTER ELECTION
8. GOVERNMENT CODE CHAPTER 45. COUNTY ATTORNEYS
9. GOVERNMENT CODE CHAPTER 46. PROFESSIONAL PROSECUTORS
10. GOVERNMENT CODE CHAPTER 76. COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENTS
11. GOVERNMENT CODE CHAPTER 79. TEXAS INDIGENT DEFENSE COMMISSION
12. GOVERNMENT CODE CHAPTER 402. ATTORNEY GENERAL
13. GOVERNMENT CODE CHAPTER 511. COMMISSION ON JAIL STANDARDS
14. GOVERNMENT CODE CHAPTER 1431. ANTICIPATION NOTES
15. GOVERNMENT CODE CHAPTER 1477. OBLIGATIONS FOR OTHER COUNTY PURPOSES
16. HUMAN RESOURCES CODE CHAPTER 152. JUVENILE BOARDS
17. HEALTH AND SAFETY CODE CHAPTER 715. CERTAIN HISTORIC CEMETERIES
18. HEALTH AND SAFETY CODE CHAPTER 775. EMERGENCY SERVICES DISTRICTS
19. LOCAL GOVERNMENT CODE CHAPTER 84. COUNTY AUDITOR
20. LOCAL GOVERNMENT CODE CHAPTER 111. COUNTY BUDGET
21. LOCAL GOVERNMENT CODE CHAPTER 112. COUNTY FINANCIAL ACCOUNTING
22. LOCAL GOVERNMENT CODE CHAPTER 113. MANAGEMENT OF COUNTY MONEY

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23. LOCAL GOVERNMENT CODE CHAPTER 114. COUNTY FINANCIAL REPORTS
24. LOCAL GOVERNMENT CODE CHAPTER 115. AUDIT OF COUNTY FINANCES
25. LOCAL GOVERNMENT CODE CHAPTER 117. DEPOSITORIES FOR CERTAIN TRUST FUNDS AND COURT REGISTRY FUNDS
26. LOCAL GOVERNMENT CODE CHAPTER 118. FEES CHARGED BY COUNTY OFFICERS
27. LOCAL GOVERNMENT CODE CHAPTER 130. MISCELLANEOUS FINANCIAL PROVISIONS AFFECTING COUNTIES
28. LOCAL GOVERNMENT CODE CHAPTER 140. MISCELLANEOUS FINANCIAL PROVISIONS AFFECTING MUNICIPALITIES, COUNTIES, AND OTHER LOCAL GOVERNMENTS
29. LOCAL GOVERNMENT CODE CHAPTER 151. COUNTY EMPLOYMENT AUTHORITY
30. LOCAL GOVERNMENT CODE CHAPTER 152. AMOUNT OF COMPENSATION, EXPENSES, AND ALLOWANCES OF COUNTY OFFICERS AND EMPLOYEES
31. LOCAL GOVERNMENT CODE CHAPTER 153. COMPENSATION OF COUNTY OFFICERS ON FEE BASIS
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40. LOCAL GOVERNMENT CODE CHAPTER 291. GENERAL BUILDING PROVISIONS AFFECTING COUNTIES

43. LOCAL GOVERNMENT CODE CHAPTER 323. COUNTY LIBRARIES
44. LOCAL GOVERNMENT CODE CHAPTER 324. PARK AND RECREATION DISTRICT AND PARK BONDS: COUNTIES WITH FRONTAGE ON GUADALUPE AND COMAL RIVERS
45. LOCAL GOVERNMENT CODE CHAPTER 351. COUNTY JAILS AND LAW ENFORCEMENT
46. OCCUPATIONS CODE CHAPTER 901. ACCOUNTANTS
47. SPECIAL DISTRICT LOCAL LAWS CODE CHAPTER 1030. FRIO HOSPITAL DISTRICT
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49. SPECIAL DISTRICT LOCAL LAWS CODE CHAPTER 5001. ARANSAS COUNTY NAVIGATION DISTRICT
50. SPECIAL DISTRICT LOCAL LAWS CODE CHAPTER 5007. PORT OF HOUSTON AUTHORITY OF HARRIS COUNTY, TEXAS
51. SPECIAL DISTRICT LOCAL LAWS CODE CHAPTER 6602. BRAZORIA COUNTY DRAINAGE DISTRICT NUMBER FIVE
52. SPECIAL DISTRICT LOCAL LAWS CODE CHAPTER 6604. FORT BEND COUNTY DRAINAGE DISTRICT
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54. SPECIAL DISTRICT LOCAL LAWS CODE CHAPTER 6902. CRANE COUNTY WATER DISTRICT
55. SPECIAL DISTRICT LOCAL LAWS CODE CHAPTER 9501. SEAWALL COMMISSION IN MATAGORDA COUNTY
56. TRANSPORTATION CODE CHAPTER 252. SYSTEMS OF COUNTY ROAD ADMINISTRATION
57. TRANSPORTATION CODE CHAPTER 256. FUNDS AND TAXES FOR COUNTY ROADS
58. TAX CODE CHAPTER 26. ASSESSMENT
59. WATER CODE CHAPTER 60. NAVIGATION DISTRICTS--GENERAL PROVISIONS
60. WATER CODE CHAPTER 61. ARTICLE III, SECTION 52, NAVIGATION DISTRICTS
61. WATER CODE CHAPTER 63. SELF-LIQUIDATING NAVIGATION DISTRICTS

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CREDITS

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