

Help! Where Do I Find It?!?!



July 17, 2015

Presented By: Leo S. Caldera

Material Provided By: John Reynolds, James Wells, and Leo S. Caldera

Things to Know Before Getting Started

- Legal Terminology
- Know your county
- Legal research – hierarchy
- The Role of a County Auditor
- Good News - If the solution is out there, you can find it!

Bad News – The solution may not be out there.

Things to Know Before Getting Started

– Legal Terminology

- Law: A rule of conduct or action prescribed or formally recognized as binding or enforced by a controlling authority;
- Statute: A written law passed by a legislative body
- Legislation: The process through which statutes are enacted by a legislative body; law making
- Regulation: These are authorized by statutes and the State executive agencies carry out,
- Ordinances: State delegated authority to units of government

Things to Know Before Getting Started

– Legal Terminology

- Codification: to codify; arrange in a systematic order; to reduce to a code: (law) the collection of principles of system of law into one body. Restating the law of jurisdiction in certain areas – i.e. codification of GAAP
- Legal code: a code of laws adopted by a state or nation; a systematic and comprehensive compilation of laws rules or regulations

Things to Know Before Getting Started

– Know Your County

What is a County? - Definition: a political subdivision of the state; “[Counties] are the means whereby the powers of the State are exerted through a form and agency of local government for the performance of those obligations which the State owes the people at large...Their chief purpose is to make effective the civil administration of the policy of the State.” Bexar County vs Linden, 110 Tex.339,220 S.W. 761,762,763 (1920)

State Criminal Costs and Fees

Judicial Fund - Statutory County Court - A \$15 court cost shall be collected on each conviction of any criminal offense in statutory county court (Government Code, Section 51.702).

Motor Carrier Weight Violations (MCW) - Remit 50 percent of the fines collected on violations of Transportation Code, Section 621.506. Only the fines for Over Allowed Gross Weight single axle, tandem axle or gross weight and Over Allowed Gross Weight-Zoned violations should be reported. For offenses committed on or after Sept. 1, 1999, which occurred within 20 miles of an international border, the entire fine shall be deposited in the municipal or county treasury for the purpose of road maintenance.

Time Payment Fees (TP) - Report 50 percent of any portion of the \$25 fee collected from a person who pays any part of a fine, court cost or restitution on or after the 31st day after the date on which a judgment is entered assessing the fine, court cost or restitution (Local Government Code, Section 133.103).

Driving Records Fee (DRF) - Remit fee assessed by the judge when he orders a driving record from DPS for deferred disposition cases (Code of Criminal Procedure, Art. 45.0511, c-1).

Judicial Support Fee (JS) - A \$6 court cost assessed on convictions of all offenses except pedestrian or parking of a motor vehicle. Local jurisdiction retains \$0.60 of each fee and remits \$5.40 to the state (Local Government Code, Section 103.105). *Note: For offenses Dec. 1, 2005 through Dec. 31, 2007, only \$4 assessed on convictions.*

Things to Know Before Getting Started

– What is a County?

The county is not a city!

- Counties have limited authority; Texas counties can only do that which the law says they can do.
- Generally Texas cities can do anything unless the law says they cannot.

Things to Know Before Getting Started

– What is a County?

No Two Counties are the Same; differentiating characteristics include:

- Population brackets
- Geographical attributes
- Statutes for specific counties

Things to Know Before Getting Started

- Know Your County

Population Brackets: LGC – 115.004: (a) This section applies only to a county with a population of 190,000 or more. (b) At the end of the fiscal year...the county auditor shall audit...each county or precinct officer.

Geographical: LGC – 241.011: To prevent the creation of an airport hazard, a political subdivision in which an airport hazard area is located may adopt, administer, and enforce, under its police power, airport hazard area zoning regulations.

Things to Know Before Getting Started

– Know Your County

Statutes for specific counties :

- Govt. Code – Sec. 75.012. Presiding Civil Judge of Bexar County. (a) The district judges of Bexar County, ...shall elect one of the district judges as the presiding civil judge...
- Govt. Code – Sec. 44.001. ELECTION. The voters of each of the following counties elect a criminal district attorney: Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria...

Things to Know Before Getting Started

– Know Your County

Court Rulings: case decisions do not limit its rulings to a certain county (only exception - if the court was construing a statute that applied to a certain county)

- Case decisions coming out of the Texas Supreme Court and Texas Court of Criminal Appeals will be binding on all Texas Courts

Things to Know Before Getting Started

– Legal Research Hierarchy

Federal law trumps state law - US Constitution, Art. VI, clause 2, the “Supremacy Clause,” :

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any thing in the Constitution or Laws on any State to the Contrary notwithstanding

Things to Know Before Getting Started – Legal Research Hierarchy

Attorney General Opinions – AG Opinions are persuasive, but not binding authority; however, they can be very helpful if there is not a statute or a case addressing your legal issue. It should also be noted that in cases involving the Open Records Act, Attorney General opinions are to be considered by the courts and given great weight.

Texas AG E-mail Notifications

From: Texas Attorney General [mailto:webmaster@texasattorneygeneral.gov]

Sent: Monday, April 29, 2013 4:45 PM

To: Caldera, Leo

Subject: Notification of Opinions (Texas Attorney General's Office)

Opinion: [GA-1002](#)

Re: Whether a county auditor has a right to access inmate property in a county jail to compare it with inmate property receipts (RQ-1096-GA)

Request for Opinion: [RQ-1096-GA](#)

Summary: Sections 112.006 and 115.001 of the Local Government Code authorize a county auditor to access inmate property that a sheriff stores at the county jail, subject to the sheriffs reasonable conditions on that access.

Things to Know Before Getting Started

– Legal Research Hierarchy

Statutory Construction Rules:

- A fundamental principle of statutory construction is that a more specific statute controls over a more general one
- The courts are to give effect to the intent of the Legislature
- A statute should be given its plain meaning, unless the application of the literal language of a legislative enactment would produce an absurd result

Things to Know Before Getting Started

- Role of the County Auditor
 - Responsibilities and job functions
 - Authority
 - Not an Attorney
- Roles and responsibilities of other officials

Things to Know Before Getting Started – Role of the County Auditor

- Many county officials will point to you as a legal expert
- Many county officials will be quick to point out you are NOT a legal expert
- Use careful wording

Remember you are not an Attorney!

Things to Know Before Getting Started

Good News - If the solution is out there, you can find it!

Bad News – The solution may not be out there.

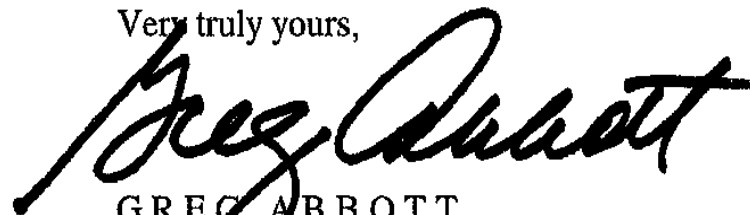
Things to Know Before Getting Started

The Honorable Hope Andrade - Page 3 (GA-0886)

S U M M A R Y

Some legal authorities suggest that a notary public is a state officer, and others suggest that a notary public is not a state officer. Accordingly, we cannot definitively determine whether a notary is a state officer.

Very truly yours,

A handwritten signature in black ink that reads "Greg Abbott". The signature is written in a cursive, flowing style.

GREG ABBOTT
Attorney General of Texas

There are Many Forms of Resources

- Vernon's Texas Statutes (the "Black Books") in your library or the law library
- CD ROM subscription services
- Internet law subscription services (Westlaw, Lexis/Nexis, etc.)
- Numerous free internet websites of state & federal agencies and others

Excellent “People Resources”

- District Judges and Court Administrators
- District Attorney
- County Attorney
- County Judge or other elected official involved in the question at hand
- Mentor

Organizational and Agency Resources

- State Comptrollers Office
- Attorney General's Office
- Texas Association of Counties (TAC) Legal Assistance
- Texas Association of County Auditors (TACA) list serve
- IRS – Federal, state, and local govt. division

Important Websites

- Texas Constitution and statutes website -
<http://www.statutes.legis.state.tx.us/>
- Attorney General of Texas website -
<https://www.oag.state.tx.us/index.shtml>
- Texas State Records Retention -
<https://www.tsl.state.tx.us/slr/recordspubs/rrs4.html#fields>
- Texas Legislature Online -
[http:// www.capitol.state.tx.us/](http://www.capitol.state.tx.us/)


84th Legislature Regular Session
Texas Legislature Online

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Legislative Process

[How a Bill Becomes Law](#)
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Open Records Request

- Texas Public Information Act
 - TAC: About the Public Information Act
 - AG: Public Information Handbook
 - 10 business days to reply back to requester
 - County need not comply with a “standing” request
 - Does not require you to prepare new info
 - County need not do legal research for requester
 - Get familiar with when and how much to charge

Core Resources for Texas County Auditors – By Source

Appendix A

APPENDIX A Core Resources for Texas County Auditors By Source

Resource Types:
I = Internet
H = Hardcopy
P = Personal Contact

TYPE	WHERE TO FIND IT	STRENGTHS / ATTRIBUTES	WEAKNESSES
VICA Texas Statutes and the Texas Constitution – The backbone of County and Local Government			
H	The volumes frequently called the "Black law" can be found in the County Law Library, the County/District Attorney's Office, a college library, or the County Auditor's Office, if the Auditor subscribes to the service.	<ol style="list-style-type: none"> 1) Helpful footnotes referencing legislative history, court cases, AG opinions and related statutes. 2) If user uses library copies the cost is virtually non-existent, but highlighting must be done on photocopies 	<ol style="list-style-type: none"> 1) User must rely on index's that are not very user friendly 2) Subscription can be costly and takes up considerable shelf space 3) Volumes are updated with "pocket parts" until changes justify reprint of hard volume User must look in both places
I	Texas Legislatures website. http://lo2.tlc.state.tx.us	<ol style="list-style-type: none"> 1) Has a good search engine 2) Access is free 	<ol style="list-style-type: none"> 1) Provides the text of the statutes, but no footnote data except for legislative history
I	Texas Association of Counties http://www.county-laws.org/ hitsver2.blo?data=ABCCOD2&site=TAC&styp=P&stern=&smode=and&pgno=0&par=0&dlevel=2&lb=	<ol style="list-style-type: none"> 1) Has a good search engine 2) Provides index and access to AG opinions, Texas Rules & Regulations, etc. 2) The user can create a free account, and can maintain "sticky notes", a history of searches, make bookmarks, and extract reports 	<ol style="list-style-type: none"> 1) Provides the text of the statutes, but no footnote data except for legislative history
Texas Administrative Code – A compilation of State Agency rules frequently seen in grant agreements, etc.			
I	Secretary of State Website www.sos.state.tx.us/tac	<ol style="list-style-type: none"> 1) Primary source for agency rules on grants, etc. 	<ol style="list-style-type: none"> 1) None

Core Resources for Texas County Auditors – By Subject Matter

Appendix B

APPENDIX B Core Resources for Texas County Auditors By Subject Matter

TYPE	DESCRIPTION	COMMENTS
Multi-Subject Sources for General Information and Current Events		
I	Texas Association of Counties www.county.org	This site is the window to a great deal of information regarding Texas counties with links to many State and Federal agencies at the "About Texas Counties" / "Related Sites" dropdown boxes.
I	Texas Online Website – Official Portal of Texas www.texasonline.com/category.jsp?language=en&categoryid=6.2	A virtual goldmine of information for and about counties
I	Texas State Library and Archives Commission Texas Trail Website – Texas Records and Information Locator www.tsl.state.tx.us/trail/	The primary value of this site is that it serves as a search engine to search through the web servers of 180 State agencies
I	Texas Association of Counties – Resources www.county.org/resources/legal/public.asp	Downloadable publications on several subjects
Ad Valorem Tax Issues		
I	State Comptrollers of Public Accounts – Property Tax Assistance www.window.state.tx.us/taxinfo/proptax/	Comprehensive ad valorem tax information and FAQ's (Frequently Asked Questions)
Vehicle Taxes		
I	Texas Department of Transportation http://www.txdot.gov/	Motor Vehicle Registration and Titling FAQ's, fees, forms, etc. Also, under News/Correspondence section of web site there is an option for Registration & Title Bulletins. A search for "RTS" will yield updates about the RTS system use in automobile registration
Investment Issues		
I	Texas Association of Counties – County Investment Officer Certification http://www.county.org/education/CIOprogram/	Certified Investment Officer program

Local Government Code Index – Appendix C

<u>LOCAL GOVERNMENT</u> <u>CODE INDEX</u>	
<u>CHAPTER</u>	
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153	Compensation of County Officers on Fee Basis
154	Compensation of District, County, and Precinct Officers on Salary Basis
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159	Financial Disclosure By County Officers and Employees
160	Grievance Procedures for County Employees

Duties and Reporting Responsibilities of the County Auditor – Appendix D

**APPENDIX D
DUTIES AND REPORTING RESPONSIBILITIES OF THE COUNTY AUDITOR
CODE OF CRIMINAL PROCEDURE**

Art. 17.441. CONDITIONS REQUIRING MOTOR VEHICLE IGNITION INTERLOCK.

- (a) Except as provided by Subsection (b), a magistrate shall require on release that a defendant charged with a subsequent offense under Sections 49.04-49.06, Penal Code, or an offense under Section 49.07 or 49.08 of that code:
- (d) The magistrate may designate an appropriate agency to verify the installation of the device and to monitor the device. If the magistrate designates an agency under this subsection, in each month during which the agency verifies the installation of the device or provides a monitoring service the defendant shall pay a fee to the designated agency in the amount set by the magistrate. The defendant shall pay the initial fee at the time the agency verifies the installation of the device. In each subsequent month during which the defendant is required to pay a fee the defendant shall pay the fee on the first occasion in that month that the agency provides a monitoring service. The magistrate shall set the fee in an amount not to exceed \$10 as determined by the county auditor, or by the commissioners court of the county if the county does not have a county auditor, to be sufficient to cover the cost incurred by the designated agency in conducting the verification or providing the monitoring service, as applicable in that county.

Art. 103.011. AUDIT.

An officer shall deliver the receipt book or a copy of any receipt records contained in a computer database to the county auditor at the end of each month's business or at the end of each month shall allow the county auditor electronic access to receipt records contained in the computer database. The county auditor shall examine the receipt book or computer records and determine whether the money collected has been properly disposed of. If each receipt in a receipt book has been used, the county auditor shall keep the book. If any receipt in the book has not been used, the auditor shall return the book to the officer. The county auditor may keep a copy of computer generated receipt records delivered to the county auditor. Any person may inspect a receipt book or a computer generated receipt record kept by the county auditor.

Contact Information

Leo S. Caldera

Bexar County Auditors Office

Phone #: 210-335-2550

Email: lcaldera@bexar.org

Thank You for Your Time – God Bless!