

- SUBJECT:** Authorizing certain county employees to prepare payroll
- COMMITTEE:** County Affairs — committee substitute recommended
- VOTE:** 6 ayes — Coleman, Berman, Castro, J. Davis, Marquez, W. Smith
0 nays
3 absent — Morrison, Bolton, Sheffield
- WITNESSES:** For — Monika Arris, Collin County; Cynthia Jacobson, Collin County;
(*Registered, but did not testify:* Donald Lee, Texas Conference of Urban Counties)

Against — Dolores Ortega Carter, Dianna Spieker, County Treasurers Association of Texas; (*Registered, but did not testify:* April Bacon, Texas Association of County Auditors, Travis County Auditor’s Office)
- BACKGROUND:** Local Government Code, sec. 155.021 permits a county treasurer or another officer specified by law to make payroll deductions for employee contributions to social security or a retirement plan, to purchase annuities or savings bonds for the employee, or for employee participation in a deferred compensation plan.

Local Government Code, sec. 113.003 states that the county treasurer shall receive all money belonging to the county from whatever source it may be derived. Sec. 113.001 provides that the county treasurer, as chief custodian of county funds, shall keep them a designated depository and must account for all money belonging to the county.
- DIGEST:** CSHB 1223 would allow a county commissioners court to assign a county employee or office other than the county treasurer to make payroll deductions or take other similar actions relating to the compensation of county employees.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

**SUPPORTERS
SAY:**

CSHB 1223 would align Local Government Code, sec. 155.021 and 155.062. Sec. 155.062 states that payroll deductions related to insurance must be submitted to the county officer authorized by the commissioners court to administer payroll deductions. The Texas Supreme Court has ruled that since payroll preparation responsibilities are not core functions of the county treasurer, the commissioners court can reassign payroll preparation responsibilities. The bill would allow administration and preparation of payroll deduction to be delegated to another county employee, but not actual disbursements of funds, which are the responsibility of the county treasurer. It is not uncommon for commissioners to do payroll functions, and the bill would update the law to reflect the practice.

**OPPONENTS
SAY:**

The county commissioners court already possesses the ability to assign certain human resource duties to another county employee if the county does not have a treasurer, rendering CSHB 1223 unnecessary. This bill would have a negative impact on counties with a treasurer because it would allow a county commissioners court to reassign arbitrarily the duties of the county treasurer. It would conflict with existing provisions in the Local Government Code which enumerate the duties of the county treasurer and grant statutory responsibility to manage payroll deductions. The appointment of a non-elected official to manage preparation of payroll deduction would interfere with the duties of an elected official. The Supreme Court identified Local Government Code, ch. 113 as enumerating the statutory responsibilities of the county treasurer, and these responsibilities cannot be taken away. As such, the bill should clarify that the provisions apply only to counties without a county treasurer.