

2018  
OATH & BOND REQUIREMENTS  
FOR COUNTY OFFICIALS

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## TABLE OF CONTENTS

|  |          |
|--|----------|
| <b>INTRODUCTION .....</b>  | <b>1</b> |
| <b>Historical Background.....</b>  | <b>1</b> |
| <b>Official Oath and Statement Required.....</b>                               | <b>2</b> |
| <b>Persons Who May Administer Oaths .....</b>                                  | <b>3</b> |
| <b>Who Must Take the Oath and Statement.....</b>                               | <b>3</b> |
| Generally .....  | 3        |
| Elected Officers.....  | 4        |
| <b>Voter Registration Required .....</b>                                       | <b>4</b> |
| <b>When an Elected Officer May Take the Oath .....</b>                         | <b>4</b> |
| Appointed Officers .....   | 4        |
| Assistants and Deputies .....  | 6        |
| <b>Conclusion .....</b>  | <b>7</b> |
| <b>General Requirements for County Officers .....</b>                          | <b>8</b> |
| <b>General Bond Filing Requirements for County Officers.....</b>               | <b>8</b> |
| <b>Self-Insurance Instead of Bond .....</b>                                    | <b>9</b> |
| <br>   |          |
| <b>OATH &amp; BOND REQUIREMENTS FOR SPECIFIC COUNTY OFFICERS.....</b>          | <b>9</b> |
| County Judge.....  | 9        |
| County Court at Law Judge .....  | 10       |
| Statutory County Probate Judge .....   | 11       |
| County Commissioner.....   | 12       |
| Ex Officio Road Commissioner .....   | 13       |
| County Road Commissioner (Road Commissioner System).....                       | 14       |
| County Road Superintendent (Road Superintendent System).....                   | 14       |
| County Engineer (Road Department System).....                                  | 15       |
| County Road Administrator (Road Department System) .....                       | 15       |
| Administrative Employees (Road Department System) .....                        | 16       |
| County Clerk .....   | 16       |
| Deputy County Clerk .....  | 17       |
| County Treasurer.....  | 17       |
| Assistant Treasurers, Deputies and Employees of the Treasurer's Office .....   | 18       |
| Additional Bond Requirements Which May Apply to Certain County Treasurers..... | 19       |
| County Tax Assessor – Collector .....  | 20       |
| Chief Deputy.....  | 21       |
| Other Assistants.....  | 21       |
| County Auditor.....  | 21       |
| Assistant County Auditor .....   | 22       |
| County Sheriff .....   | 22       |
| Deputy Sheriff .....   | 23       |
| Reserve Deputy Sheriff.....  | 23       |
| Deputy Constable.....  | 24       |
| Reserve Deputy Constable .....   | 25       |
| Justice of the Peace.....  | 25       |

|  |           |
|--|-----------|
| County Attorney .....  | 26        |
| Assistant County Attorney .....  | 26        |
| County Surveyor.....   | 27        |
| Deputy County Surveyor .....   | 27        |
| Chain Carriers and Markers .....   | 27        |
| County Fire Marshal .....  | 27        |
| County Purchasing Agent.....   | 28        |
| Election Judges, Alternate Election Judges, and Early Voting Clerks..... | 28        |
| <br>   |           |
| <b>REQUIREMENTS FOR DISTRICT AND OTHER LOCAL STATE OFFICERS.....</b>     | <b>29</b> |
| District Clerk.....  | 29        |
| Deputy District Clerk .....  | 30        |
| District Judge .....   | 31        |
| Official Court Reporter .....  | 31        |
| District Attorney.....   | 32        |
| Criminal District Attorney.....  | 32        |
| Assistant District or Criminal District Attorney .....                   | 33        |
| <br>   |           |
| <b>REQUIREMENTS FOR MEMBERS OF SOME COUNTY BOARDS AND</b>                |           |
| <b>COMMISSIONS .....</b>   | <b>33</b> |
| Director of a Jail District .....  | 33        |
| General Manager of a Jail District .....                                 | 34        |
| Employees of a Jail District .....                                       | 34        |
| Park Commissioner of a County Parks Board.....                           | 34        |
| Board of Park Commissioners – Island Parks.....                          | 35        |
| Joint Board of Park Commissioners.....                                   | 35        |
| <br>   |           |
| <b>APPENDIX .....</b>  | <b>37</b> |
| TEXAS CONSTITUTION, ARTICLE XVI, §1.....                                 | 37        |
| STATEMENT OF OFFICER FORM.....   | 39        |
| Statement of Officer for Officers Not Appointed by the Governor .....    | 41        |

The  symbol indicates sections that have been updated since the previous publication.

# OATH & BOND REQUIREMENTS FOR COUNTY OFFICIALS

## INTRODUCTION

This publication sets forth the oath and bond requirements for the majority of county and precinct officers and officials. Each reference contains the constitutional and statutory requirements that relate to the various offices. This outline is not intended as a comprehensive listing of all officers or their qualifications for office. The exclusion of requirements for a particular officer, therefore, does not mean that requirements do not exist. Any questions regarding the requirements for a particular officer should be addressed to your local county clerk, county or district attorney, the secretary of state, or the attorney general.

Also included are the requirements for some county boards and agencies as well as some local and regional political subdivisions. Once again, the outline is not intended to be comprehensive. There may be other boards, agencies and political subdivisions which have not been included.

If you detect errors, or think that the information stated in this publication is incorrect, please contact the legal department of the Texas Association of Counties.

## OFFICIAL OATH AND STATEMENT OF OFFICER

### Historical Background

The oath of office first appeared in the Constitution of 1845<sup>1</sup>. The clause requiring a denial of bribery first appeared in the present constitution<sup>2</sup> and was the direct outcome of the official corruption which had reached alarming proportions during the reconstruction period.<sup>3</sup> In 1956, Article XVI, §1 was amended to add an oath to be taken by the Secretary of State and all other appointive officers of the State.

The 1989 amendment to Article XVI, §1, separated the oath into an oath and a Statement of Officer, also known as the "bribery statement". Although characterized in the Constitution as a "statement", it is likewise an oath in the sense that it is sworn. The prior oath had contained the bribery statement within the oath itself. The present

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<sup>1</sup> TEX. CONST. of 1845, art. VII, §1

<sup>2</sup> TEX. CONST. art. XVI, §1

<sup>3</sup> TEX. CONST. art. XVI, §1, *Interpretive Commentary*

language of both the oath and the bribery statement are virtually identical to the language of the previous oath. The 1989 amendment also required that the bribery statement be filed with the Secretary of State prior to the taking of the official oath.

The Constitution was amended in 2001 to require only members of the Legislature, the Secretary of State, and all other elected and appointed state officers to file the statement with the Secretary of State. All other local officers are required to retain the signed statement with the official records of the office. The term “state officer” as used in Article XVI, §1(c) does not include local officers.<sup>4</sup>

### **Official Oath and Statement Required**

Before taking the oath of office, all elected and appointed state officials are required to sign the statement of officer (anti-bribery statement). A copy of the statement and the oath are included in the Appendix. They may be duplicated for your convenience.

Before entering upon the duties of office, all elected and appointed officials are required to take the official oath.<sup>5</sup> The oath requirement is repeated in many of the statutes relating to various officers. Some officers are required to take additional oaths related to their particular offices. These statutory oaths are often construed as required oaths in addition to the official oath.

Section 601.008(c), Texas Government Code provides that the official acts of a person who fails to qualify as an officer are void.<sup>6</sup> Additionally, a person who has not qualified for office is not entitled to receive payment as the officer or exercise the powers or jurisdiction of the office.<sup>7</sup> Without having qualified for office, a person has no right to the position.<sup>8</sup> However, where an officer has taken the oath and given a bond, which has been accepted without objection and not questioned at any time during the term, the officer may nonetheless be held to be a *de jure*<sup>9</sup> officer even if the qualification was not in strict compliance with the law.<sup>10</sup>

There are relatively few court cases regarding the failure to take an official oath. Several criminal cases hold that the failure of a judicial officer to take the oath renders his acts null and void. In other cases, however, courts have held that the failure of an

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<sup>4</sup> TEX. CONST. art. XVI, §1(c). Op. Tex. Atty. Gen. No. JC-0575 (2002).

<sup>5</sup> TEX. CONST. art. XVI, §1(a). See generally, 60 Tex. Jur. 3d, *Public Officers and Employees*, §§44, 46 (1988).

<sup>6</sup> TEX. GOV. CODE, §601.008(b) and (c) (official acts void)

<sup>7</sup> TEX. GOV. CODE, §601.008(a)

<sup>8</sup> *Flatan v. State*, 56 Tex. 93 (1882)

<sup>9</sup> Descriptive of a condition in which there has been total compliance with all requirements of law.

<sup>10</sup> See generally, 60 Tex. Jur. 3d, *Public Officers and Employees*, §§44, 46 (1988)

official to subscribe to the oath will simply render him a de facto officer and not invalidate his acts.<sup>11</sup> It should be noted that §601.008 is broad and appears to be applicable to all officers.

### **Persons Who May Administer Oaths**

Chapter 602 of the Government Code governs who may administer oaths.<sup>12</sup> An oath in this state may be administered and a certificate of the fact given by: 1) a judge or clerk of a municipal court, in a matter pertaining to a duty of the court; 2) a judge, retired judge, senior judge, clerk, or commissioner of a court of record<sup>13</sup>; 3) a justice of the peace or a clerk of a justice court; 4) a notary public; 5) a member of a board or commission created by a law of this state, in a matter pertaining to a duty of the board or commission; 6) a person employed by the Texas Ethics Commission who has a duty related to a report required by Title 15, Election Code, in a matter pertaining to that duty; 7) a county tax assessor-collector or an employee of the county tax assessor-collector if the oath relates to a document that is required or authorized to be filed in the office of the county tax assessor-collector; 8) the Secretary of State (or a former Secretary of State); 9) an employee of a personal bond office if the oath is required or authorized by Article 17.04 or by Article 26.04(n) or (o), Code of Criminal Procedure; 10) the lieutenant governor (or a former lieutenant governor); 11) the speaker of the house of representatives (or a former speaker); 12) the governor (or a former governor); 13) a legislator (or retired legislator); 14) the Attorney General; 15) the secretary or clerk of a municipality in a matter pertaining to the official business of the municipality; 16) a peace officer described by Art. 2.12, Code of Criminal Procedure, if: (A) the oath is administered when the officer is engaged in the performance of the officer's duties; and (B) the administration of the oath relates to the officer's duties; and 17) a county treasurer.<sup>14</sup>



### **Who Must Take the Oath and Statement**

#### ***Generally***

The major question that has arisen under Article XVI, §1, is which officers are required to take the constitutional oath.<sup>15</sup> Simply put, the oath is required of everyone who takes office under the authority of the state or its subdivisions.<sup>16</sup> The lack of a requirement for

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<sup>11</sup> See, *Texas Practice, County & Special District Law*, §7.4

<sup>12</sup> TEX. GOV. CODE, §602.002 (persons who may administer oaths)

<sup>13</sup> Commissioner of a "court of record" does not include county commissioners for purposes of this section. Op. Tex. Att'y Gen. No. JM-764(1987). In contrast, a commissioner appointed by the court of criminal appeals under Tex. Gov't Code §22.106 would have authority to administer an oath.

<sup>14</sup> TEX. GOV. CODE, §602.002.

<sup>15</sup> 2 Braden, *The Constitution of the State of Texas: An Annotated and Comparative Analysis* (1977)

<sup>16</sup> *Id.* See also, Tex. Att'y. Gen. Op. No. O-322 (1939)

the official oath in the law creating the office is not a factor.<sup>17</sup> That is because article XVI, §1 would be meaningless if the prescribing of an oath were indispensable to the creation of an office, for by merely failing to prescribe that an oath should be taken, the legislature would be able to defeat the constitutional requirement.<sup>18</sup>

### *Elected Officers*

#### **Voter Registration Required**

A person may not qualify for a public elective office unless the person is a registered voter of the territory from which the office is elected.<sup>19</sup>

With regard to elected officers, the provision is clear – if elected, the oath and statement are required. Therefore, the applicability of Article XVI, §1 to elected officers should rarely be a question.

#### **When an Elected Officer May Take the Oath**

Section 601.003(b), Texas Government Code, states: “A person elected to a regular term of office shall qualify and assume the duties of the office on, or as soon as possible, after January 1 of the year following the person’s election.”<sup>20</sup>

A person elected to an unexpired term takes the oath as soon as possible after election to the unexpired term.

A person appointed to fill a vacancy in an office may take the oath and take other actions as necessary to qualify for the office as soon as possible after the appointment.

### *Appointed Officers*

Article XVI, §1 (a) and (b) also require that all *appointed* officers take the oath and statement.<sup>21</sup> While these requirements appear simple, the question of who is an “appointed officer” for purposes of the oath and statement is often difficult to determine. In making this determination, the first question that must be asked is whether the person holding a particular appointed position is a public “officer” or simply an employee. If an “officer”, then compliance with Article XVI, §1 is required.

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<sup>17</sup> Op. Tex. Atty. Gen. O-5005 (1943) (Official oath required of the Executive Director of Department of Public Welfare)

<sup>18</sup> Op. Tex. Atty. Gen. O-5085 (1943)

<sup>19</sup> TEX. GOV'T. CODE, §601.009.

<sup>20</sup> TEX. GOV'T. CODE, §601.003(b),

<sup>21</sup> TEX. CONST., art. XVI, §1 (a) and (b) (H.J.R. 75, 77<sup>th</sup> Leg. Reg. Sess., 2001). Op. Tex. Atty. Gen. O-322 (1939) (emphasis ours). Op. Tex. Atty. Gen. H-1027 (1977).

The determining factor which distinguishes a public officer from an employee is whether any sovereign function of the government is conferred upon the individual to be exercised by him or her for the benefit of the public largely independent of others' control.<sup>22</sup>

Elements which distinguish a public office from mere public employment are:

- a. The office is created by the Constitution or by the Legislature, or created by a municipality or other body through authority conferred by the Legislature. Offices are created by law, express or implied, and none can exist except by its sanction.<sup>23</sup> By contrast, an employment may be and frequently is, created by contract.<sup>24</sup>
- b. The office must possess a delegation of a portion of the sovereign power of government, to be exercised for the benefit of the public.<sup>25</sup>
- c. The powers conferred and the duties to be discharged must be defined, directly or impliedly, by the Legislature or through Legislative authority.<sup>26</sup>
- d. The duties must be performed independently and without control of a superior power, other than the law, unless they be those of an inferior or subordinate office, created or authorized by the legislature, and by it placed under the general control of a superior officer or body.<sup>27</sup>
- e. The office must have some permanency and continuity, and not be only temporary or occasional.<sup>28</sup>

Additional evidence of the existence of an office, rather than of mere employment:

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<sup>22</sup> *Aldine Independent School Dist. v. Standley*, 280 S.W. 2d 578, 583 (Tex. 1955). Op. Tex. Atty. Gen. MW-177 (1980) (Oath required of Directors of a Higher Education Authority because directors exercise governmental function in authorizing the issuance of revenue bonds). 60 Tex. Jur. 3d, *Public Officers and Employees*, §3 (1988); 2 Braden, *The Constitution of the State of Texas: An Annotated and Comparative Analysis* (1977) (Oath required of everyone who takes office under the authority of the state or its political subdivisions).

<sup>23</sup> *Aldine Independent School Dist. v. Standley*, 280 S.W. 2d 578, 583 (Tex. 1955) (Oath not required of tax assessor-collector of school board in part because applicable statute authorized, but did not require, the school board to appoint its own tax assessor-collector). Op. Tex. Atty. Gen. O-5085 (1943). See also, Op. Tex. Atty. Gen. MW-39 (1979). 60 Tex. Jur. 3d, *Public Officers and Employees*, §20 (1988) (office cannot exist without authority of law).

<sup>24</sup> 60 Tex. Jur. 3d, *Public Officers and Employees*, §1 (1988)

<sup>25</sup> Op. Tex. Atty. Gen. O-5085 (1943). *Aldine Independent School Dist. v. Standley*, 280 S.W. 2d 578, 583 (Tex. 1955).

<sup>26</sup> Op. Tex. Atty. Gen. O-5085(1943)

<sup>27</sup> Op. Tex. Atty. Gen. O-5085 (1943). *Aldine Independent School Dist. v. Standley*, 280 S.W. 2d 578, 583 (Tex. 1955).

<sup>28</sup> Op. Tex. Atty. Gen. O-5085 (1943). Op. Tex. Atty. Gen. O-731 (1931) (Oath not required for County Attorney Pro Tem).

- a. The creating law refers to the position as an officer.<sup>29</sup>
- b. The creating law requires the person to be appointed with the advice and consent of the Senate.<sup>30</sup>
- c. The creating law prescribes the qualifications for holding the position.<sup>31</sup>
- d. Service for a definite term.<sup>32</sup>
- e. The requirement of a bond.<sup>33</sup>

### *Assistants and Deputies*

The question of the applicability of Article XVI, §1 becomes even more difficult when attempting to determine whether a particular assistant or deputy of an official is required to take the oath and statement. It is important to recognize that “assistant” includes those who aid, whether sworn or not sworn, whereas a “deputy” implies only the sworn class.<sup>34</sup>

Ordinarily, the appointment of a deputy is required to be in writing and he or she is required to take the oath.<sup>35</sup> As a rule, a deputy may do anything that can be done by his or her principal, whereas an assistant’s duties are ordinarily to be performed in conjunction with and under the direction of the principal. If the principal is denominated an officer, the deputy is also an officer.<sup>36</sup> Deputy sheriffs, deputy constables, deputy county clerks, and departmental chief clerks have all been held to be “officers”.<sup>37</sup> Therefore, although the term “assistant” would include deputies, only those “assistants” that can be classified as “deputies” are required to be sworn.

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<sup>29</sup> TEX. GOV. CODE, §651.001 (In any state statute, “officer” means an officer of this state unless otherwise expressly provided). Op. Tex. Atty. Gen. O-5085 (1943).

<sup>30</sup> Op. Tex. Atty. Gen. O-5085 (1943)

<sup>31</sup> Op. Tex. Atty. Gen. O-5085 (1943). *See also*, Op. Tex. Atty. Gen. MW-39 (1979).

<sup>32</sup> 60 Tex. Jur. 3d, *Public Officers and Employees*, §1 (1988). *See generally*, Op. Tex. Atty. Gen. MW-39 (1979). Op. Tex. Atty. Gen. O-5058 (1943) (it is not necessary to the existence of an office that there be a fixed and definite term; an office may exist, though the person holding the office holds only at the pleasure of the appointing power). *Compare* TEX. CONST. art. XVI, §17 (Each officer, whether elected or appointed under the laws of this State, and the term provided by law and until his successor is elected or appointed and qualifies. This provision, however, is not applicable unless the individual is an “officer”).

<sup>33</sup> *See generally*, Op. Tex. Atty. Gen. MW-39 (1979). Op. Tex. Atty. Gen. O-5085 (1943) (The requirement of a bond is not determinative. Many officers of this state are not required to give bond).

<sup>34</sup> 60 Tex. Jur. 3d, *Public Officers and Employees*, §258 (1988)

<sup>35</sup> 60 Tex. Jur. 3d, *Public Officers and Employees*, §259 (1988)

<sup>36</sup> 60 Tex. Jur. 3d, *Public Officers and Employees*, §262 (1988)

<sup>37</sup> *Id.* *Compare* TEX. GOV. CODE, §601.002 (first assistant or chief deputy of a public office in which a physical vacancy occurs shall conduct the affairs of the office until a successor qualifies for the office, unless the vacancy is on a board or commission)

## **Conclusion**

Where there is doubt about the applicability of Article XVI, §1 to a particular appointed position, compliance should be considered. There is no harm in complying with Article XVI, §1, but there might be adverse consequences if there is no compliance and the Attorney General or a court later determines that Article XVI, §1 applies to the position. If an officer is one who is required to take the oath, his official actions may be void if he fails to do so. Based on the current case law, the failure of a judge in a criminal prosecution to subscribe to the oath will render all subsequent acts void. However, the failure of other officials to subscribe to the official oath may not invalidate their acts. It is important to note that §601.008(c) of the Texas Government Code, which states the official acts of a person who claims a right to exercise the power or jurisdiction of an office without being qualified are void, may be broadly construed by a court to apply to all officers.

**EACH PERSON HOLDING AN "ELECTED OFFICE" SHOULD ALWAYS CONSULT WITH THE LOCAL COUNTY OR DISTRICT ATTORNEY AND THE SECRETARY OF STATE REGARDING CONSTITUTIONAL OATH REQUIREMENTS.**

## OFFICIAL BONDS

Officers required by law to give an official bond shall file the bond with the officer's oath of office.<sup>38</sup> Generally, the required bonds must be given before an officer begins performance of any duties of office. An officer who is required by law to give an official bond and who fails to execute the bond within the time prescribed by law may be removed from office.<sup>39</sup>

### General Requirements for County Officers

January 1 is the beginning of the regular term for county and precinct officers elected in the previous general election in November.<sup>40</sup> Those elected officers are to qualify and assume the duties of the office on, or as soon as possible after, January 1.<sup>41</sup> In order to qualify for office, each elected and appointed officer must:

1. Prior to taking the official oath, each officer must sign and file, in the official records of the office, the Statement of Officer, also known as the "anti-bribery statement".<sup>42</sup>
2. Take the official oath of office.<sup>43</sup>
3. If required, make and file a bond.<sup>44</sup>
4. Perform such other prerequisites as are required for the particular office.

### General Bond Filing Requirements for County Officers

If the official bond of a county officer is required by law to be approved by the commissioners court, then the bond, except as required by other law, must be made payable to the county judge and kept and recorded by the county clerk.<sup>45</sup> Except as provided by other law, the officer approving the bond of an officer required to give an official bond payable to the Governor or the State, shall deposit the bond with the Comptroller.<sup>46</sup> An officer required by law to give an official bond shall file the bond with the officer's oath of office.<sup>47</sup>

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<sup>38</sup> TEX. GOV. CODE, §604.001

<sup>39</sup> TEX. LOC. GOV. CODE, §87.014

<sup>40</sup> TEX. GOV. CODE, 601.003(a)

<sup>41</sup> TEX. GOV. CODE, 601.003(b)

<sup>42</sup> TEX. CONST., art. XVI, §1(b)

<sup>43</sup> TEX. CONST., art. XVI, §1

<sup>44</sup> TEX. GOV. CODE, §604.001

<sup>45</sup> TEX. LOC. GOV. CODE, §88.001

<sup>46</sup> TEX. GOV. CODE, §604.003

<sup>47</sup> TEX. GOV. CODE, §604.001

### **Self-Insurance Instead of Bond**

Notwithstanding any other law requiring a county officer or employee to execute a bond as a condition of office or employment, a county officer or employee is not required to execute the bond and may perform the duties of office or employment if: (1) the commissioners court by order authorizes the county to self-insure against losses that would have been covered by the bond; and (2) the county judge approves the order under subdivision (1), if the county judge was required to approve the bond under other law. An order adopted by the commissioners court under this provision shall be kept and recorded by the county clerk.<sup>48</sup>

## **OATH & BOND REQUIREMENTS FOR SPECIFIC COUNTY OFFICERS**

### **County Judge**

*Oath Requirement:* Before undertaking the duties of County Judge, a person must take the official oath. TEX. CONST., art. XVI, §1; TEX. LOC. GOV. CODE §81.002.

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1 (c).

*Additional Oath:* County Judge and Commissioners must swear in writing that they will not be interested, directly or indirectly, in a contract with or claim against the county (with certain exceptions). TEX. LOC. GOV. CODE §81.002(a).

*Bond Requirements:* Before undertaking the duties of the county judge, a person must execute a bond payable to the treasurer of the county in an amount set by the commissioners court of not less than \$1,000.00 nor more than \$10,000.00. The bond must be conditioned that the judge will faithfully perform all duties of office. TEX. GOV. CODE §26.001(a)(2)(A) and (3)(A). The bond is to be approved by the Commissioners Court. TEX. GOV. CODE §26.001(b). The bond shall be kept and recorded by the county clerk. TEX. LOC. GOV. CODE §88.001.



*Additional Requirements for Probate Jurisdiction.* A county judge who presides over guardianship proceedings as defined by Section 1002.015, Estates Code or over probate proceedings, as defined by Section 22.029, Estates Code, must instead execute a bond of not less than \$100,000 in a county with a population of 125,000 or less or \$250,000 in a county with a population of more than 125,000, conditioned on the faithful performance

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<sup>48</sup> TEX. LOC. GOV'T. CODE, §88.008<sup>49</sup> Gov't Code §26.001(a)(2)(B); [SB 40](#), 85th Leg. 2017. Effective September 1, 2017

of all duties of office and as required by the Estates Code. TEX. GOV'T CODE §26.001(a)(2)(B) and (a)(3).<sup>49</sup>

In lieu of this bond, the county may elect to obtain insurance against losses caused by the gross negligence of a county judge in performing the duties of office. The bond is to be approved by the Commissioners Court. TEX. GOV. CODE §26.001(b). The commissioners court shall pay the premium for the insurance out of the general funds of the county. TEX. GOV'T CODE §26.001(c).<sup>50</sup>

### **County Court at Law Judge**

*Oath Requirement:* Although there is no specific statutory requirement, it is an elected office, therefore, before undertaking the duties of County Court at Law Judge, a person must take the official oath. TEX. CONST., art. XVI, §1; TEX. LOC. GOV. CODE §81.002.

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1 (c).

*Bond Requirements:* The judge of a statutory county court must execute a bond as prescribed by law for county judges. TEX. GOV. CODE, §25.0006(a). The bond must be payable to the treasurer of the county in an amount set by the commissioners court of not less than \$1,000.00 nor more than \$10,000.00 conditioned on the faithful performance of all duties of office.



*Additional Requirements for Probate Jurisdiction.* A judges in a statutory county court that presides over guardianship proceedings as defined by Section 1002.015, Estates Code, or probate proceedings as defined by Section 22.029, Estates Code, must instead execute a bond in the amount of \$100,000 for a court in a county with a population of 125,000 or less or \$250,000 in a court with a population of more than 125,000. The bond must be conditioned that the judge will perform the duties of office and the duties required by the Estates Code. TEX. GOV'T CODE §25.0006(a-1)(3).<sup>51</sup>

In lieu of this bond, the county may elect to obtain insurance against losses caused by the gross negligence of a county judge in performing the duties of office. The bond is to be approved by the Commissioners Court. TEX. GOV. CODE §26.0006(a-2). The

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<sup>49</sup> Gov't Code §26.001(a)(2)(B); [SB 40](#), 85th Leg. 2017. Effective September 1, 2017

<sup>50</sup> Gov't Code §26.001(a)(2)(C); [SB 40](#), 85th Leg. 2017. Effective September 1, 2017

<sup>51</sup> Gov't Code §25.0006(a-1); [SB 40](#), 85th Leg. 2017. Effective September 1, 2017

commissioners court shall pay the premium for the insurance out of the general funds of the county. TEX. GOV'T CODE §25.0006(a-3).<sup>52</sup>



*Exceptions to Probate Bond.* The increased probate bond does not apply to a judge in a statutory county court who: does not preside over guardianship proceedings; executes a bond, obtains insurance, or self-insures pursuant to Government Code §25.00231; or presides over a county criminal court. TEX. GOV'T CODE §25.0006(a-4).<sup>53</sup>

### **Statutory County Probate Judge**

*Oath Requirement:* Although there is no specific statutory requirement, it is an elected office, therefore, before entering upon the duties of office, a statutory county probate judge is required to take the official oath. TEX. CONST., art. XVI, §1(a).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirement:* TEX. GOV. CODE, §25.00231. Before beginning the duties of office, a judge of a statutory probate court must execute a bond that is: (1) payable to the county treasurer or other person performing the duties of county treasurer; (2) in the amount of \$500,000; (3) conditioned on the faithful performance of the duties of the office; and (4) approved by the commissioners court. TEX. GOV. CODE, art. XVI, §25.00231(b). In lieu of the bond required by section (b), a county may elect to obtain insurance or self-insure in the amount required by subsection (b) against losses caused by the statutory probate court judge's gross negligence in performing the duties of office. TEX. GOV. CODE §25.00231(c). The commissioners court of a county shall pay the premium for the bond or the insurance required by this section out of the general fund of the county. TEX. GOV. CODE, §25.00231(d).



*Additional Requirements for Probate Jurisdiction.* A judges in a statutory county court that presides over guardianship proceedings as defined by Section 1002.015, Estates Code, or probate proceedings as defined by Section 22.029, Estates Code, must instead execute a bond in the amount of \$100,000 for a court in a county with a population of 125,000 or less or \$250,000 in a court with a population of more than 125,000. The bond must be conditioned that the judge will perform the duties of office and the duties required by the Estates Code. TEX. GOV'T CODE §25.0006(a-1)(3).<sup>54</sup>

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<sup>52</sup> Gov't Code §25.0006(a-3); [SB 40](#), 85th Leg. 2017. Effective September 1, 2017

<sup>53</sup> Gov't Code §25.0006(a-4); [SB 40](#), 85th Leg. 2017. Effective September 1, 2017

<sup>54</sup> Gov't Code §25.0006(a-1); [SB 40](#), 85th Leg. 2017. Effective September 1, 2017

In lieu of this bond, the county may elect to obtain insurance against losses caused by the gross negligence of a county judge in performing the duties of office. The bond is to be approved by the Commissioners Court. TEX. GOV. CODE §26.0006(a-2). The commissioners court shall pay the premium for the insurance out of the general funds of the county. TEX. GOV'T CODE §25.0006(a-3).<sup>55</sup>



*Exceptions to Probate Bond.* The increased probate bond does not apply to a judge in a statutory county court who: does not preside over guardianship proceedings; executes a bond, obtains insurance, or self-insures pursuant to Government Code §25.00231; or presides over a county criminal court. TEX. GOV'T CODE §25.0006(a-4).<sup>56</sup>

### **Public Probate Administrator**

*Oath Requirement:* There is no statutory oath requirement. Since the position appears to exercise some discretionary governmental functions, the oath may be required. TEX. CONST., art. XVI, §1(a); TEX. GOV'T. CODE, §25.00251.

*Statement of Officer:* If the oath is required, the statement of officer is also required and must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirement:* The public probate administrator must execute an official bond of at least \$100,000 conditioned as required by law and payable to the statutory probate court judge who appointed the public probate administrator. TEX. ESTATES CODE, §455.002(a). In addition to the official bond of office, the statutory probate judge who appointed the public probate administrator may require the administrator to post an additional surety bond for individual estates. TEX. ESTATES CODE, §455.002(b). The additional bond shall bear the written approval of the judge requesting the additional bond. TEX. ESTATES CODE, §455.002(b). The county may choose to self-insure the public probate administrator for the minimum required bond amount. TEX. ESTATES CODE, §455.002(c).

### **County Commissioner**

*Oath Requirement:* Before undertaking the duties of a county commissioner, a person must take the official oath. TEX. CONST., art. XVI, §1(a). TEX. LOC. GOV. CODE, §81.002(b).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

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<sup>55</sup> Gov't Code §25.0006(a-3); [SB 40](#), 85th Leg. 2017. Effective September 1, 2017

<sup>56</sup> Gov't Code §25.0006(a-4); [SB 40](#), 85th Leg. 2017. Effective September 1, 2017

*Additional Oath:* County judges and commissioners must swear in writing that they will not be interested, directly or indirectly, in a contract with or claim against the county (with certain exceptions). TEX. LOC. GOV. CODE, §81.002(b).

*Note:* Chapter 171 of the Local Government Code authorizes a county to enter into contracts or take actions in which a member of the commissioners court has a pecuniary interest. Chapter 171 creates an exception in the oath required by Section 81.002 to the extent that it permits a county judge or commissioner to have a direct or indirect interest in a contract with or claim against the county. Tex. Att’y Gen Opinion No. DM-279 (1993).

*Bond Requirements:* Before undertaking the duties of a county commissioner, a person must execute a bond, payable to the county treasurer in the amount of \$3,000.00. The bond must be approved by the county judge and must be conditioned on the faithful performance of the commissioner’s official duties and that the commissioner will reimburse the county for all county funds illegally paid to the commissioner and will not vote or consent to make a payment out of county funds except for a lawful purpose. TEX. LOC. GOV. CODE, §81.002. The bond shall be kept and recorded by the county clerk. TEX. LOC. GOV. CODE, §88.001.

### **Ex Officio Road Commissioner**

*Oath Requirement:* In counties where the commissioners court has adopted the Ex Officio Road Commissioner System, no additional oath should be required of the county commissioners serving as Ex Officio Road Commissioners. TEX. TRANS. CODE §252.004, Subchapter A. A county commissioner is the ex officio road commissioner of the county commissioner’s precinct.

*Statement of Officer:* No additional statement required. Statement of office of county commissioner should be sufficient.

*Bond Requirements:* In all counties where the commissioners court has adopted the Ex Officio Road Commissioner System, each commissioner shall first execute a bond of \$3,000 payable to and approved by the county judge for the use and benefit of the road and bridge fund, conditioned that he will perform the duties required of him by law or by the commissioners court and that he will account for all money or other property belonging to the county that comes into his possession. TEX. TRANS. CODE §252.004, Subchapter A. The bond shall be kept and recorded by the county clerk. TEX. LOC. GOV. CODE, §88.001.

### **County Road Commissioner (Road Commissioner System)**

*Oath Requirement:* There is no statutory oath requirement. Since the position appears to exercise some discretionary governmental functions, the oath may be required. TEX. CONST., art. XVI, §1(a); TEX. TRANS. CODE §252.105 and §252.106.

*Statement of Officer:* If the oath is required, the statement of officer is also required and must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* In counties where the commissioners court has adopted the Road Commissioner System, each road commissioner appointed by the court must execute a bond, payable to the county judge and his successors in office, the sum of \$1000, with one or more good and sufficient sureties, to be approved by the county judge and conditioned on the faithful performance of his duties. TEX. TRANS. CODE §252.104.

*Note:* This system is not authorized for Angelina, Aransas, Blanco, Bowie, Calhoun, Camp, Cass, Cherokee, Comal, Delta, DeWitt, Fayette, Franklin, Galveston, Gillespie, Grayson, Gregg, Harris, Harrison, Henderson, Hill, Hopkins, Houston, Jack, Jackson, Jasper, Lamar, Lavaca, Limestone, McLennan, Milam, Montgomery, Morris, Nacogdoches, Newton, Parker, Rains, Red River, Refugio, Sabine, San Augustine, Shelby, Smith, Tarrant, Titus, Travis, Trinity, Tyler, Upshur, Van Zandt, Victoria, Washington, or Wood Counties. TEX. TRANS. CODE §252.101. Collin County and Dallas County and Van Zandt County may adopt this system instead of the special law for that county. TEX. TRANS. CODE §252.101.

### **County Road Superintendent (Road Superintendent System)**

*Oath Requirement:* In counties where the commissioners court has adopted the Road Superintendent System, each road superintendent appointed by the court is required to take the official oath before entering upon the duties of office. TEX. CONST., art. XVI, §1(a); TEX. TRANS. CODE §252.204.

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST. art. XVI, §1(c).

*Bond Requirements:* In counties where the commissioners court has adopted the Road Superintendent System, each road superintendent appointed by the court shall, not later than the 20<sup>th</sup> day after the day of his appointment, give bond payable to and approved by the county judge in an amount fixed by the commissioners court and must be conditioned that the road superintendent will faithfully perform the duties required of him by law or the commissioners court and disburse money under his control as the

law provides or the commissioners court directs. TEX. TRANS. CODE §252.204. The bond must be made payable to the county judge and kept and recorded by the county clerk. TEX. TRANS. CODE §252.204(a)(2); TEX. LOC. GOV. CODE § 88.001.

*Note:* This system is not authorized for Angelina, Aransas, Blanco, Bowie, Calhoun, Camp, Cass, Cherokee, Comal, Delta, DeWitt, Fayette, Franklin, Galveston, Gillespie, Grayson, Gregg, Harris, Harrison, Henderson, Hill, Hopkins, Houston, Jack, Jackson, Jasper, Lamar, Lavaca, Limestone, McLennan, Milam, Montgomery, Morris, Nacogdoches, Newton, Parker, Rains, Red River, Refugio, Sabine, San Augustine, Shelby, Smith, Tarrant, Titus, Travis, Trinity, Tyler, Upshur, Van Zandt, Victoria, Washington, or Wood Counties. TEX. TRANS. CODE, §252.101. Collin County and Dallas County and Van Zandt County may adopt this system instead of the special law for that county. TEX. TRANS. CODE, §252.201.

### **County Engineer (Road Department System)**

*Oath Requirement:* In counties where the voters have adopted the Road Department System, the county engineer must take the official oath before entering upon the duties of office. TEX. CONST., art. XVI, §1(a); TEX. TRANS. CODE §252.305.

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* In counties where the voters have adopted the Road Department System, the county engineer shall give bond, as required by the commissioners court in an amount and with a surety approved by the commissioners court. TEX. TRANS. CODE, §252.305(b). The bond must be made payable to the county judge and kept and recorded by the county clerk. TEX. LOC. GOV. CODE, §88.001. The county shall pay the premiums on the bond. TEX. TRANS. CODE §252.305(b).

### **County Road Administrator (Road Department System)**

*Oath Requirement:* In counties where the voters have adopted the Road Department System and the commissioners court, unable to employ an engineer, have appointed a road administrator, the road administrator must take the official oath before entering upon the duties of office. TEX. CONST., art. XVI, §1(a); TEX. TRANS. CODE §252.304(c) (*all references to Road Engineer include and apply to a Road Administrator*).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* In counties where the voters have adopted the Road Department System and commissioners court, unable to employ an engineer, have appointed a road administrator, the road administrator shall give bond, as required by the commissioners court in an amount and with surety approved by the commissioners court. TEX. TRANS. CODE §252.304(b); TEX. TRANS. CODE, §252.304(c) (*all references to Road Engineer include and apply to Road Administrator*). The bond must be made payable to the county judge and kept and recorded by the county clerk. TEX. LOC. GOV. CODE, §88.001. The county shall pay the premiums on the bond. TEX. TRANS. CODE, §252.305(b).

### **Administrative Employees (Road Department System)**

*Bond Requirements:* In counties where the voters have adopted the Road Department System, the administrative personnel of the county road department must give bond, as required by the commissioners court, in an amount and with surety approved by the commissioners court. TEX. TRANS. CODE §252.305(b). The bond must be made payable to the county judge and kept and recorded by the county clerk. TEX. LOC. GOV. CODE §88.001. The county shall pay the premiums on the bond. TEX. TRANS. CODE §252.305(b).

### **County Clerk**

*Oath Requirement:* The county clerk must take and subscribe the official oath. The oath shall be recorded in the county clerk's office and deposited in the office of the clerk of the district court. TEX. CONST., art. XVI, §1(a); TEX. LOC. GOV. CODE §82.001(d).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* Before beginning to perform the duties of office, the county clerk must execute a bond either with four or more good and sufficient sureties or with a surety company authorized to do business in the state as a surety. In lieu of the bond, the county may self-insure against losses that would have been covered by the bond. The bond must be approved by commissioners court, made payable to the county, conditioned that the clerk will faithfully perform the duties of office, and in an amount equal to at least 20 percent of the maximum amount of fees collected in any year during the term of office preceding the term for which the bond is to be given, but not less than \$5000.00 nor more than \$500,000.00. If a bond is required the taking of the official oath must be endorsed on the bond. The bond oath shall be recorded in the county clerk's office and deposited in the office of the clerk of the district court. TEX. LOC. GOV. CODE, §82.001.

*Additional coverage:* The county clerk is additionally required to obtain an insurance policy or similar coverage from a governmental pool operating under Chapter 119

covering the clerk and each deputy clerk against liability incurred through errors and omissions in the performance of their official duties. TEX. LOC. GOV. CODE §82.003(a). The policy or other coverage must be in an amount equal to the maximum amount of fees collected in any year during the term of office preceding the term for which the policy is to be obtained. TEX. LOC. GOV. CODE §82.003(b). However, the policy or other coverage document must be in an amount of at least \$10,000 but is not required to exceed \$500,000. If the policy or other coverage document provides coverage for other county officials, the policy or other coverage document must be in an amount of at least \$1,000,000. TEX. LOC. GOV. CODE §82.003(b). The commissioners court may establish a contingency fund to provide the coverage required if it is determined by the county clerk that insurance coverage is unavailable at a reasonable cost. TEX. LOC. GOV. CODE §82.003(c). An additional filing fee, not to exceed \$5, may be established to pay into the fund. TEX. LOC. GOV. CODE §82.003(c). When the fund reaches an amount equal to the coverage required, the clerk shall stop collecting the fee. TEX. LOC. GOV. CODE §82.003(c).

### **Deputy County Clerk**

*Oath Requirement:* Before entering upon the duties of office, a deputy clerk must take the official oath. TEX. CONST., art. XVI, §1(a); TEX. LOC. GOV. CODE §82.005(b). An appointment of a deputy county clerk must be in writing, signed by the county clerk, and bear the seal of the county court. The appointment shall be recorded in the county clerk's office and shall be deposited in the office of the district clerk. TEX. LOC. GOV. CODE §82.005(a).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* If the county clerk has only a single deputy, the county clerk shall execute a surety bond to cover the deputy. If there is more than one deputy, the county clerk shall execute a schedule surety bond or a blanket surety bond to cover all the deputy clerks and all other employees of the office. In lieu of the bonds, the county may self-insure against the losses that would have been covered by the bond. The bond covering a deputy clerk or an employee must be conditioned in the same manner as the bond for the county clerk. The bond must be made payable to the county for the use and benefit of the county clerk. TEX. LOC. GOV. CODE §82.002.

### **County Treasurer**

*Oath Requirement:* Before entering upon the duties of office, the county treasurer is required to take the official oath. TEX. CONST., art. XVI, §1(a); TEX. LOC. GOV. CODE §83.002(b).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* Before beginning to perform the duties of the office, the county treasurer must execute a bond that must be approved by the commissioners court and made payable to the county judge in an amount not to exceed ½ of 1% of the largest amount budgeted for general county maintenance and operations for any fiscal year of the county beginning during the term of office preceding the term for which the bond is to be given except that the amount may not be less than \$5,000 or more than \$500,000; and conditioned the treasurer will faithfully execute the duties of office. TEX. LOC. GOV. CODE §83.002(a). The county judge may declare the office vacant if the bond is not given or the oath is not taken on or before assuming the office. The bond and oath shall be recorded in the county clerk's office. TEX. LOC. GOV. CODE §83.002(b).

### **Assistant Treasurers, Deputies and Employees of the Treasurer's Office**

*Oath Requirement:* The appointment of an assistant treasurer or treasury deputy must be in writing, be signed by the county treasurer, and bear the seal of the county court. TEX. LOC. GOV. CODE 83.009(a). Before beginning to perform the duties of office, an assistant treasurer or treasury deputy must take and subscribe the official oath, which must be endorsed on the appointment. The appointment and oath shall be deposited in the county clerk's office. TEX. LOC. GOV. CODE §83.009(b).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST. art. XVI, §1(c).

*Bond Requirements:* If a county treasurer employs only one assistant or deputy, the county treasurer shall execute a surety bond to cover the assistant or deputy and shall execute a schedule surety bond or a blanket surety bond to cover all other employees of the office. If a county treasurer employs more than one assistant or deputy, the county treasurer shall execute a blanket surety bond to cover the assistants or deputies and all other employees of the office. TEX. LOC. GOV. CODE §83.008(a). In lieu of a county treasurer obtaining a bond as required by subsection (a), the county may self-insure against losses that would have been covered by the bond. TEX. LOC. GOV. CODE §83.008(b). The bond under this section must be conditioned in the same manner and must be for the same amount as the bond for the county treasurer under §83.002. The bond must be made

payable to the county judge for the use and benefit of the county treasurer. TEX. LOC. GOV. CODE §83.008(c).

### **Additional Bond Requirements Which May Apply to Certain County Treasurers**

*Additional Bond Requirements – Counties with Levee Improvement Districts:* If the county treasurer of the county whose commissioners court has jurisdiction of a Levee Improvement District serves as the treasurer of the district, the county treasurer shall furnish good and sufficient bond, payable to the district, in an amount determined by the board to be sufficient to safeguard the district per TEX. WATER CODE §49.057(e). However, the board may obtain or require an officer, employee or consultant of the district to obtain insurance or coverage under an interlocal agreement that covers theft of district funds by officers, employees or consultants of the district in lieu of requiring a bond under Subsection (e) if the board determines that the insurance or coverage under an interlocal agreement would adequately protect the interests of the district. TEX. WATER CODE §49.057(i). The board may pay the premium on surety bonds required of officials, employees or consultants of the district out of any available funds of the district including proceeds from the sale of bonds. TEX. WATER CODE §49.057(f).

*Additional Bond Requirements – Counties with Article III, § 52 Navigation Districts:* The county treasurer of the county whose commissioners court has jurisdiction of an Art. III, §52 Navigation District shall be the treasurer of the district. TEX. WATER CODE §61.078. Before receiving the proceeds of any district bonds and before receiving any district funds from any source, the district treasurer shall execute a good and sufficient bond payable to the Navigation and Canal Commission of the District for the benefit of the district. TEX. WATER CODE §61.079(a). The bond shall be in an amount fixed and approved by the Navigation and Canal Commission of the district. TEX. WATER CODE §61.079(a). The bond shall be conditioned on the district treasurer's faithfully executing the duties of his office, paying over all money that comes into his hands as the treasurer, and rendering a just account to the commissioners court or the Navigation and Canal Commission of the district when required to do so. TEX. WATER CODE 61.079(b).

*Additional Bond Requirements – Counties with Article XVI, §59, Navigation Districts:* The county treasurer of the county with jurisdiction of an Article III, §59 Navigation District shall be the treasurer of the district. TEX. WATER CODE §62.073. The county treasurer shall execute a good and sufficient bond, approved and payable to the commissioners, conditioned on the faithful performance by the treasurer of his duties for the district and in an amount equal to twice the amount of funds he will hold at any time as treasurer of the district. TEX. WATER CODE §62.074(a). When any bonds are voted by the district, the county treasurer, before receiving the proceeds from the sale of the bonds, shall execute an additional good and sufficient bond, payable to the commissioners, in

an amount which is twice the amount of the bonds issued. This additional bond shall be conditioned and approved in the same manner as the first but shall not be required after the treasurer has disbursed the proceeds of the bond issue. TEX. WATER CODE 62.074(b).

### **County Tax Assessor – Collector**

*Oath Requirement:* Before beginning to perform the duties of office, a county tax assessor-collector is required to take the official oath. TEX. CONST. art. XVI, §1(a); TEX. TAX CODE §6.28(a). The Assessor-Collector's official oath shall be recorded in the office of the county clerk. TEX. TAX CODE §6.28(e).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* A person elected or appointed as county assessor-collector must, before beginning to perform the duties of the office, give bonds to the state and to the county, conditioned on the faithful performance of the person's duties as assessor-collector. TEX. TAX CODE §6.28(a).

The bond for state taxes must be payable to the Governor and his successors in office in an amount equal to five percent of the net state collections from motor vehicle sales and use taxes and motor vehicle registration fees in the county during the year ending August 31 preceding the date bond is given, except that the amount of the bond may not be less than \$2,500 or more than \$100,000. TEX. TAX CODE §6.28(b). To be effective, the bond must be approved by the commissioners court and the State Comptroller of Public Accounts. TEX. TAX CODE §6.28(b).

The bond for county taxes must be payable to the commissioners court in an amount equal to 10 percent of the total amount of county taxes imposed in the preceding tax year, except that the amount of the bond may not be less than \$2,500 or more than \$100,000. TEX. TAX CODE §6.28(c). The commissioners court of a county with a population of 1.5 million or more by order may set the maximum amount of the bond in an amount greater than \$100,000. To be effective, the bond must be approved by the commissioners court. TEX. TAX CODE §6.28(c).

Additionally, the assessor-collector's bonds for state and county taxes shall be recorded in the office of the county clerk, and the county judge shall submit the bond for state taxes to the State Comptroller of Public Accounts. TEX. TAX CODE §6.28(e); *see also* TEX. GOV. CODE §604.003.

### **Chief Deputy**

Where an assessor-collector of taxes dies or the office becomes vacant for any other reason, the duties immediately devolve upon the chief deputy. Tex. Atty. Gen. Op. M-1211 (1972). Such duties may not be performed, however, until the bond required of the chief deputy assuming the duties of assessor-collector of taxes shall have been given and approved. *Id.* The office must remain closed until such bond is given and approved. *Id.*

A county assessor-collector, with the approval of the commissioners court of the county, may deputize an individual or business entity, to: issue motor vehicle registration receipts as a limited-service deputy; or issue motor vehicle registration receipts and prepare or accept applications for title transfers as a full-service deputy. Such an individual or business entity is eligible to be deputized as a limited-service deputy if the person is trained by the county assessor-collector; and posts a bond payable to the county assessor-collector in an amount to be determined by the assessor-collector; and conditioned on the person's proper accounting and remittance of all fees the person collects. An individual or business entity is eligible to be deputized as a full-service deputy if the person: meets the requirement above; and has experience in title transfers. TEX. TRANS. CODE, §520.0091.

### **Other Assistants**

The Tax Assessor-Collector may require bonds of assistants. Tex. Atty. Gen. Op. O-5110 (1943).

### **County Auditor**

*Oath Requirement:* Before entering upon the duties of office, the county auditor is required to take the official oath. TEX. CONST., art. XVI, §1(a), TEX. LOC. GOV. CODE, §84.007.

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* Before taking office and within 20 days after the date of appointment, the county auditor must execute a good and sufficient surety bond or a bond secured by two or more good and sufficient personal sureties in the amount of \$5,000 or more, approved by and payable to the district judges, conditioned upon the faithful performance of the duties of the auditor. TEX. LOC. GOV. CODE, §84.007.

*Additional Oath:* The county auditor must take a written oath that lists the positions of public or private trust previously held and the length of service in each of those

positions and that states: (1) that he has the qualifications required by Chapter 84 of the Texas Local Government Code; and (2) that he will not be personally interested in a contract with the county. TEX. LOC. GOV. CODE, §84.007.

### **Assistant County Auditor**

*Oath Requirement:* Before entering upon the duties of office, an assistant county auditor is required to take the official oath for faithful performance of duty. TEX. CONST., art. XVI, §1(a); TEX. LOC. GOV. CODE, §84.021.

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, (c).

*Bond Requirements:* The county auditor may require an assistant to give a bond and may determine the terms of the bond. The bond must run in favor of the county and the county auditor as their interests indicate. The county shall pay for the bond. TEX. LOC. GOV. CODE, §84.021. An officer required by law to give an official bond shall file the bond with the officer's oath of office. TEX. GOV. CODE, §604.001.

Note: The attorney general has held that all employees of the auditor's office are assistant auditors. Op. Tex. Atty. Gen. O-832 (1939).

### **County Sheriff**

*Oath Requirement:* Before entering upon the duties of office, the county sheriff must take and subscribe the official oath. TEX. CONST., art. XVI, §1(a); TEX. LOC. GOV. CODE, §85.001.

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* Before beginning to perform the duties of office, a person elected as county sheriff must execute a bond with two or more good and sufficient sureties or a solvent surety company authorized to do business in this state. The bond must be approved by the commissioners court, made payable to the governor, and in an amount established by the commissioners court, not less than \$5,000 or more than \$30,000. Further, the bond must be conditioned that the sheriff will faithfully perform the duties of office established by law, account for and pay to the person authorized by law to receive them the fines, forfeitures, and penalties the sheriff collects for the use of the state or a county, execute and return when due, the process and precepts lawfully directed to the sheriff, and pay to the person to whom they are due or to the person's attorney, the funds collected by virtue of the process or precept, and pay to the county

any funds illegally paid, voluntarily or otherwise, to the sheriff from county funds. The official oath must be taken and subscribed and, together with the certificate of the officer administering the oath, must be endorsed on the bond.

TEX. LOC. GOV. CODE, §85.001.

The officer approving the bond of an officer required by law to give an official bond payable to the governor or the state shall deposit the bond with the comptroller. TEX. GOV. CODE, §604.003. An officer required by law to give an official bond shall file the bond with the officer's oath of office. TEX. GOV. CODE, §604.001.

Historically, there has been confusion among Texas courts, the Attorney General and Comptroller regarding the proper location for filing and maintaining the sheriff's bond. TEX. PRAC., COUNTY AND SPECIAL DISTRICT LAWS, §20.4; Op. Tex. Atty. Gen. No. V-637 (1948), and *Bachus v. Foster*, 122 S.W.2d 1058 (Tex. Com. App. 1939). The confusion comes from an apparent conflict between TEX. GOV'T. CODE, §604.003 and TEX. LOC. GOV'T. CODE, §88.001. A cautious approach may be to file duplicate originals with the comptroller and with the county clerk. As always, we recommend that you consult with your local county or district attorney for guidance.

### **Deputy Sheriff**

*Oath Requirement:* Before entering upon the duties of office, a deputy sheriff is required to take the official oath. TEX. CONST., art. XVI, §1(a); TEX. LOC. GOV. CODE, §85.003. *See generally*, Op. Tex. Atty. Gen. H-1027 (1977). The appointment of a deputy sheriff must be in writing, and the oath of the deputy sheriff, together with the certificate of the officer administering the oath, must be endorsed on the appointment. TEX. LOC. GOV. CODE, §85.003. The oath and the appointment shall be deposited and recorded in the county clerk's office. A list of the appointments shall be posted in a conspicuous place in that office. TEX. LOC. GOV. CODE, §85.003.

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* A sheriff is responsible for the acts of a deputy sheriff and may require that a deputy execute a bond or other security. TEX. LOC. GOV. CODE, §85.003.

### **Reserve Deputy Sheriff**

*Oath Requirement:* Before entering upon the duties of office, a reserve deputy sheriff is required to take the official oath. TEX. CONST., art. XVI, §1(a); TEX. LOC. GOV. CODE, §85.004; *see generally*, Op. Tex. Atty. Gen. H-1027 (1977). The oath must, at the time of appointment, be filed with the county clerk. TEX. LOC. GOV. CODE, §85.004.

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* A reserve deputy sheriff must at the time of appointment, execute and file a bond in the amount of \$2,000 payable to the sheriff. The bond shall be filed with the county clerk. TEX. LOC. GOV. CODE, §85.004(c). However, in lieu of the reserve deputy sheriff executing his or her own bond, if the sheriff appoints more than one reserve deputy sheriff, the sheriff instead may issue a blanket surety bond to cover the reserve deputy sheriffs. Additionally, instead of a reserve deputy sheriff executing his or her individual bond or the sheriff executing a blanket surety bond, the county may self-insure against losses that would have been covered by the bond. TEX. LOC. GOV. CODE, §85.004(c-1). An officer required by law to give an official bond shall file the bond with the official's oath of office. TEX. GOV. CODE, §604.001.

### **Constable**

*Oath Requirement:* Before entering upon the duties of office, a person who is elected constable must take and sign the constitutional oath of office. TEX. CONST., art. XVI, §1(a); TEX. LOC. GOV. CODE, §86.002(b).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* Before entering on the duties of office, a person who is elected to the office of constable must execute a bond with two or more good and sufficient sureties or a solvent surety company authorized to do business in this state. The bond must be payable to the governor and the governor's successors in office and conditioned that the constable will faithfully perform the duties imposed by law. The bond must be approved and set by the commissioners court in an amount of not less than \$500 or more than \$1,500. The oath of office must be endorsed on the bond along with the certificate of the officer who administers the oath. The bond must be deposited and recorded in the office of the clerk of the county court. TEX. LOC. GOV. CODE, §86.002.

### **Deputy Constable**

*Oath Requirement:* Before entering upon the duties of office, a deputy constable must take the official oath. TEX. CONST., art. XVI, §1(a); TEX. LOC. GOV. CODE, §86.011(b); *see generally*, Op. Tex. Atty. Gen. H-1027 (1977).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* A deputy constable must qualify in the manner provided for a deputy sheriff. TEX. LOC. GOV. CODE, §86.011(b). The constable may require a deputy to post a bond or security. TEX. LOC. GOV. CODE, §86.011(c).

### **Reserve Deputy Constable**

*Oath Requirement:* Before entering upon the duties of office, a reserve deputy constable is required to take the official oath. TEX. CONST., art. XVI, §1(a); TEX. LOC. GOV. CODE, §86.012(c). The oath must, at the time of appointment, be filed with the county clerk. TEX. LOC. GOV. CODE, §86.012(c).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. Tex. Const., art. XVI, §1(c).

*Bond Requirements:* A reserve deputy constable must, at the time of appointment, execute and file a bond in the amount of \$2,000 payable to the constable. The bond shall be filed with the county clerk. TEX. LOC. GOV. CODE, §86.012(c).

If a constable appoints more than one reserve deputy constable, the constable may execute a blanket surety bond to cover the reserve deputy constables. Instead of a reserve deputy constable executing an individual bond under Subsection (c) or the constable executing a blanket surety bond, the county may self-insure against losses that would have been covered by the bond. TEX. LOC. GOV'T. CODE ANN. §86.012(c-1).

### **Justice of the Peace**

*Oath Requirement:* Although there is no specific statutory requirement, it is an elected office, therefore, before entering upon the duties of office, a justice of the peace is required to take the official oath. TEX. CONST., art. XVI, §1(a).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* Each justice of the peace must give a bond payable to the county judge in an amount of not more than \$5,000 conditioned that the justice will faithfully and impartially discharge the duties required by law and promptly pay all money that comes into the justice's hands during the term of office. TEX. GOV. CODE, §27.001. If the official bond of a county officer is required by law to be approved by commissioners court, then the bond, except as required by other law, must be made payable to the county judge and kept and recorded by the county clerk. TEX. LOC. GOV. CODE, §88.001.

## **County Attorney**

*Oath Requirement:* Although there is no specific statutory requirement, it is an elected office, therefore before entering upon the duties of office, a county attorney is required to take the official oath. TEX. CONST., art. XVI, §1(a).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* Each county attorney shall execute a bond payable to the governor in the amount of \$2,500, with at least two good and sufficient sureties to be approved by the commissioners court of the county. TEX. GOV. CODE, §45.001(a). The bond must be conditioned on the county attorney faithfully paying over in the manner prescribed by law all money that he collects or receives for any county or the state. TEX. GOV. CODE, §45.001(b).

If the official bond of a county officer is required by law to be approved by the commissioners court, then the bond, except as required by other law, must be made payable to the county judge and kept and recorded by the county clerk. TEX. LOC. GOV. CODE, §88.001.

Historically, there has been confusion among Texas courts, the Attorney General and Comptroller regarding the proper location for filing and maintaining the county attorney's bond. TEX. PRAC., COUNTY AND SPECIAL DISTRICT LAWS §20.4; Op. Tex. Atty. Gen. No. V-637 (1948), and *Bachus v. Foster*, 122 S.W.2d 1058 (Tex. Com. App. 1939). The confusion comes from an apparent conflict between TEX. GOV'T. CODE, §604.003 and TEX. GOV'T. CODE, §88.001. A cautious approach may be to file duplicate originals with the comptroller and with the county clerk. As always, we recommend that you consult with your local county or district attorney for guidance.



*Note:* In a county in which the county attorney has retained the statutory and constitutional duties normally assigned to a district attorney, a separate district attorney bond is unnecessary. Op. Tex. Att'y Gen. No. KP-139 (2017).

## **Assistant County Attorney**

*Oath Requirement:* Before entering upon the duties of office, an assistant county attorney is required to take the official oath. TEX. CONST., art. XVI, §1(a).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. Tex. Const., art. XVI, §1(c).

*Bond Requirements:* A prosecuting attorney may require his assistant prosecuting attorneys, investigators, and secretaries to execute a bond. TEX. GOV. CODE, §41.104. The amount of the bond is set at the discretion of the prosecuting attorney.

### **County Surveyor**

*Oath Requirement:* Before entering upon the duties of office, a county surveyor is required to take the official oath. TEX. CONST., art. XVI, §1(a) and TEX. NAT. RES. CODE §23.013.

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* The county surveyor shall execute a bond conditioned on the faithful performance of the duties of office. The amount of the bond shall be fixed by the commissioners court and shall not be less than \$300 nor more than \$10,000. TEX. NAT. RES. CODE, §23.013. If the official bond of a county officer is required by law to be approved by the commissioners court, then the bond, except as required by other law, must be made payable to the county judge and kept and recorded by the county clerk. TEX. LOC. GOV. CODE, §88.001.

### **Deputy County Surveyor**

*Oath Requirement:* Before entering upon the duties of office, a deputy county surveyor is required to take the official oath. TEX. CONST., art. XVI, §1(a) and TEX. NAT. RES. CODE, §23.014.

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* The deputy county surveyor shall give bond to the county surveyor in the sum of not less than \$500 nor more than \$10,000 conditioned on the faithful performance of the duties of office. TEX. NAT. RES. CODE, §23.014(b).

### **Chain Carriers and Markers**

*Oath:* The county surveyor shall administer an oath to each chain carrier and marker employed by him to faithfully perform his duties in accordance with the instructions given him. TEX. NAT. RES. CODE, §23.015.

*Bond Requirements:* No bond requirement.

### **County Fire Marshal**

*Oath Requirement:* Before entering upon the duties of office, a county fire marshal is required to take the official oath. TEX. CONST., art. XVI, §1(a) and TEX. LOC. GOV. CODE, §352.012(a).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* Before entering upon the duties of office, a county fire marshal shall post a bond as required by the commissioners court conditioned that the marshal will faithfully and strictly perform the duties of the office. TEX. LOC. GOV. CODE, §352.012(a). A county fire marshal may not be directly or indirectly interested in the sale of fire-fighting equipment and may not be engaged in any type of fire insurance business. TEX. LOC. GOV. CODE, §352.012. If the official bond of a county officer is required by law to be approved by the commissioners court, then the bond, except as required by other law, must be made payable to the county judge and kept and recorded by the county clerk. TEX. LOC. GOV. CODE, §88.001.

### **County Purchasing Agent**

*Oath Requirements:* Although there is no specific statutory requirement for the oath, a county purchasing agent may be either appointed or employed. If the individual is appointed for a two-year term, he must take the oath of office. TEX. CONST., art. XVI, §1(a) and TEX. LOC. GOV. CODE, §262.011. A county with a population in excess of 100,000 may choose to employ a county purchasing agent instead of appointing one. (*emphasis added*) TEX. LOC. GOV. CODE, §262.0115.

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* Each appointed county purchasing agent must execute a bond in the amount of \$5,000, payable to the county, conditioned that the individual will faithfully perform the duties of office. TEX. LOC. GOV. CODE, §262.011(c).



### **Election Judges, Alternate Election Judges, and Early Voting Clerks**

*Oath Requirements:* A court would likely conclude that election judges, alternate election judges, and early voting clerks must take the constitutional oath of office before entering upon the duties of office. Op. Tex. Att’y Gen. No. KP-140 (2017); TEX. CONST., art. XVI, §1(a). In addition to the constitutional oath of office and the statement of appointed officer, election judges, alternate election judges, and early voting clerks

must repeat aloud the statutory election officer oath prior to opening the polls. Texas Election Code §§62.003(a); 81.002.

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* No bond requirement.

*Note:* An constitutional oath or statement or an oath set out in the Election Code that is required to be taken by an election officer before entering the duties of office may be administered by the following: (1) the secretary of state, a member of the secretary of state's staff, or a state inspector appointed by the secretary; 2) a county or municipal court or the clerk's deputies; 3) a county tax assessor-collector or the county tax assessor-collector's deputies; 4) a city secretary; 5) a member of a county election commission or county election board; 6) the secretary of the governing body of a political subdivision other than a county or city or the authority performing the duties of a secretary under this code; a presiding election judge or alternate presiding judge who has already entered service; 10) a member of an early voting ballot board or signature verification committee who has already entered service; or 11) a presiding judge, manager, or tabulation supervisor of a central counting station who has already entered service. Tex. Elec. Code §1.016(a)<sup>57</sup>

## REQUIREMENTS FOR DISTRICT AND OTHER LOCAL STATE OFFICERS

### District Clerk

*Oath Requirement:* Before entering upon the duties of office, a district clerk must take and sign the oath prescribed for officers of this state. TEX. CONST., art. XVI, §1(a) and TEX. GOV. CODE, §51.302(a).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* Before entering upon the duties of office, each district clerk must give a bond with two or more sufficient sureties or with a surety company authorized to do business in this state. TEX. GOV. CODE, §51.302(a). In lieu of the bond, a county may self-insure against losses that would have been covered by the bond. TEX. GOV. CODE, §51.302(g). The bond must be payable to the governor, be conditioned on the faithful performance of the duties of office, be approved by the commissioners court,

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<sup>57</sup> Added by [HB 1735](#), 85<sup>th</sup> Leg. Effective Sept. 1, 2017.

and be in an amount equal to not less than 20 percent of the maximum amount of fees collected in any year during the term of office immediately preceding the term of office for which the bond is given, except that the bond may not be in an amount less than \$5,000 nor more than \$100,000. TEX. GOV. CODE, §51.302(a). The oath of office must be endorsed on the bond, if a bond is required, and must be filed and recorded in the office of the county clerk. TEX. GOV. CODE, §51.302(b).

*Insurance Requirements:* Each district clerk shall obtain an insurance policy or similar coverage from a governmental pool operating under Chapter 119, Local Government Code, or from a self-insurance fund or risk retention group created by one or more governmental units under Chapter 2259, Texas Government Code, to cover the district clerk and any deputy clerk against liabilities incurred through errors or omissions in the performance of official duties. The amount of the policy or other coverage document must equal the maximum amount of fees collected in any year during the term of office immediately preceding the term for which the insurance is obtained, except that the amount of the policy or other coverage document must be at least \$20,000 but not more than \$700,000. If the policy or other coverage document provides coverage for other county officials, the amount of the policy must be at least \$1 million. TEX. GOV. CODE, §51.302(c). If the district clerk determines coverage is unavailable at a reasonable cost, the commissioners court must establish a contingency fund to provide the coverage and may set an additional filing fee not to exceed \$5 to be paid into the contingency fund. TEX. GOV. CODE, §51.302(d).

*Additional Insurance Requirements:* Each district clerk shall obtain an insurance policy or similar coverage to cover losses due to burglary, theft, robbery, counterfeit currency, or destruction. The amount of the policy must be at least \$20,000 but not more than \$700,000. TEX. GOV. CODE, §51.302(d).

### **Deputy District Clerk**

*Oath Requirement:* Before entering upon the duties of office, a deputy district clerk is required to take the official oath. TEX. CONST., art XVI, §1(a); TEX. GOV. CODE, §51.309(a). The appointment of a deputy district clerk must be in writing and recorded in the office of the county clerk. TEX. GOV. CODE, §51.309(a).

*Statement of officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* The district clerk shall obtain a surety bond to cover a deputy clerk or a schedule surety bond or a blanket surety bond to cover more than one deputy and all employees of the office. A deputy clerk and an employee must be covered on the

same conditions and the same amount as the district clerk. The bond shall be made payable to the governor for the use and benefit of the district clerk. TEX. GOV. CODE, §51.309(b). In lieu of the bond, a county may self-insure against losses that would have been covered by the bond. TEX. GOV. CODE, §51.309(c).

### **District Judge**

*Oath Requirement:* Although there is no specific statutory requirement, it is an elected office, therefore, before entering upon the duties of office, a district judge is required to take the official oath. TEX. CONST., art. XVI, §1(a).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* No bond requirement.

### **Official Court Reporter**

*Oath Requirement:* Before entering upon the duties of office, an official court reporter is required to take the official oath. TEX. CONST., art. XVI, §1(a); TEX. GOV. CODE, §52.045(a).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* No bond requirement.

*Additional Oath:* In addition to the official oath, each official court reporter must sign an oath administered by the district clerk stating that in each reported case the court reporter will keep a correct, impartial record of the evidence offered in the case, the objections and exceptions made by the parties to the case, and the rulings and remarks made by the court in determining the admissibility of testimony presented in the case. TEX. GOV. CODE, §52.045(b).

### **Deputy Court Reporter**

*Oath Requirement:* Before entering upon the duties of office, a deputy court reporter is required to take the official oath. TEX. CONST., art. XVI, §1(a); TEX. GOV. CODE, §52.045(b).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* No bond requirement.

*Additional Oath:* In addition to the official oath, each official court reporter must sign an oath administered by the district clerk stating that in each reported case the court reporter will keep a correct, impartial record of the evidence offered in the case, the objections and exceptions made by the parties to the case, and the rulings and remarks made by the court in determining the admissibility of testimony presented in the case. TEX. GOV. CODE, §52.045(b).

### **District Attorney**

*Oath Requirement:* Although there is no specific statutory requirement, it is an elected office, therefore, before entering upon the duties of office, a district attorney is required to take the official oath. TEX. CONST., art. XVI, §1(a).

*Statement of Officer:* Must be filed with the Office of the Secretary of State. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* Before assuming the duties of the office, a district attorney must give a bond that is payable to the governor, in the sum of \$5,000, has two or more good and sufficient sureties, is approved by the district judge, and is conditioned that the district attorney will, in the manner prescribed by law, faithfully pay over all money that he collects or that comes into his hands for the state or county. TEX. GOV. CODE, §43.002(a). Instead of the bond required under Subsection (a), a district attorney may obtain coverage from a county government risk management pool created under Chapter 119, Local Government Code. Coverage obtained under the pool must be in the same amount and satisfy the same bond conditions otherwise required by this section. TEX. GOV. CODE, §43.002(c). A district attorney is not required to execute the bond required under Subsection (a) and may perform the duties of office if the commissioners court of each county in the district by order authorizes the county to self-insure against losses that would have been covered by the bond. An order adopted by a commissioners court under this section shall be kept and recorded by the county clerk. TEX. GOV. CODE, §43.002(d). Each district attorney's bond shall be deposited in the office of the Comptroller of Public Accounts. TEX. GOV. CODE, §43.002(b); TEX. GOV. CODE, §604.003.

### **Criminal District Attorney**

*Oath Requirement:* Although there is no specific statutory requirement, it is an elected office, therefore, before entering upon the duties of office, a district attorney is required to take the official oath. TEX. CONST., art. XVI, §1(a).

*Statement of Officer:* Must be filed with the Office of the Secretary of State. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* A criminal district attorney must give the bond required of a district attorney. TEX. GOV. CODE, §44.002. Before assuming the duties of the office, a criminal district attorney must give a bond that is payable to the governor, in the sum of \$5,000, has two or more good and sufficient sureties, is approved by the district judge, and is conditioned that the criminal district attorney will, in the manner prescribed by law, faithfully pay over all money that he collects or that comes into his hands for the state or county. TEX. GOV. CODE, §43.002(a). Instead of the bond required under Subsection (a), a criminal district attorney may obtain coverage from a county government risk management pool created under Chapter 119, Local Government Code. Coverage obtained under the pool must be in the same amount and satisfy the same bond conditions otherwise required by this section. TEX. GOV. CODE, §44.002(b). A criminal district attorney is not required to execute the bond required under Subsection (a) and may perform the duties of office if the commissioners court of each county in the district by order authorizes the county to self-insure against losses that would have been covered by the bond. An order adopted by a commissioners court under this section shall be kept and recorded by the county clerk. TEX. GOV. CODE, §44.002(c). Each criminal district attorney's bond shall be deposited in the office of the Comptroller of Public Accounts. TEX. GOV. CODE, §44.002(b); TEX. GOV. CODE, §604.003.

#### **Assistant District or Criminal District Attorney**

*Oath Requirement:* Before entering upon the duties of office, an assistant district or criminal district attorney is required to take the official oath. TEX. CONST., art. XVI, §1(a); TEX. GOV. CODE, §41.103(a).

*Statement of Officer:* Must be filed with the Office of the Secretary of State. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* A prosecuting attorney may require his assistant prosecuting attorneys to have a bond in the amount that the prosecuting attorney sets. TEX. GOV. CODE, §41.104.

## **REQUIREMENTS FOR MEMBERS OF SOME COUNTY BOARDS AND COMMISSIONS**

### **Director of a Jail District**

*Oath Requirement:* Before entering upon the duties of office, a director of a jail district is required to take the official oath. TEX. CONST., art. XVI, §1(a); TEX. LOC. GOV. CODE, §351.131(a).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* No bond required. TEX. LOC. GOV. CODE, Chapter 351.

### **General Manager of a Jail District**

*Bond Requirements:* The general manager of a jail district shall execute a bond in an amount determined by the Board, payable to the District, and conditioned on the faithful performance of the general manager's duties. TEX. LOC. GOV. CODE, §351.132(b). The District shall pay for the bond. TEX. LOC. GOV. CODE, §351.132(b).

### **Employees of a Jail District**

*Bond Requirements:* The board shall require each employee who collects, pays, or handles any funds of the district to furnish a bond. TEX. LOC. GOV. CODE, §351.132(g). The bond must be payable to the district, in an amount sufficient to protect the district from financial loss resulting from actions of the employee, conditioned on the faithful performance of the employee's duties, and on accounting for all money and property of the district in the employee's hands. TEX. LOC. GOV. CODE, §351.132(g). The district shall pay for the bond. TEX. LOC. GOV. CODE, §351.132(g).

### **Park Commissioner of a County Parks Board**

*Oath Requirement:* Before entering upon the duties of office, and within 15 days after the date of appointment, a county park commissioner is required to take the official oath. TEX. CONST., art. XVI, §1(a); TEX. LOC. GOV. CODE, §320.023(a). A certificate of appointment executed by the county judge and attested by the county clerk shall be filed in the office of the county clerk. TEX. LOC. GOV. CODE, §320.024.

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* Before entering upon the duties of office, and within 15 days after the date of appointment, a county park commissioner must file a good and sufficient bond with the county clerk. TEX. LOC. GOV. CODE, §320.023(a). The bond must be payable to the county judge, approved by the commissioners court, in an amount prescribed by the commissioners court of \$5,000 or more, and conditioned that the person will faithfully perform the duties of park commissioner, including the proper

handling of all money that comes into the hands of the person in the person's capacity as park commissioner. TEX. LOC. GOV. CODE, §320.023(b). TEX. LOC. GOV. CODE, §88.001. The board shall pay the cost of the bond. TEX. LOC. GOV. CODE, §320.023(c).

### **Board of Park Commissioners – Island Parks**

*Oath Requirement:* Before entering upon the duties of office, and within 15 days after the date of appointment, a park commissioner is required to take the official oath. TEX. CONST., art. XVI, §1(a); TEX. LOC. GOV. CODE, §321.023(a). A certificate of appointment executed by the county judge and attested by the county clerk shall be filed in the office of the county clerk. TEX. LOC. GOV. CODE, §321.024.

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* Before entering upon the duties of office, and within 15 days after the date of appointment, a county park commissioner must file a good and sufficient bond with the county clerk. TEX. LOC. GOV. CODE, §321.023(a). The bond must be payable to the county judge, approved by the commissioners court, in an amount prescribed by the commissioners court of \$5,000 or more, and conditioned that the person will faithfully perform the duties of park commissioner, including the proper handling of all money that comes into the hands of the person in the person's capacity as park commissioner. TEX. LOC. GOV. CODE, §321.023(b). TEX. LOC. GOV. CODE, §88.001. The board shall pay the cost of the bond. TEX. LOC. GOV. CODE, §321.023(c).

### **Joint Board of Park Commissioners**

*Oath Requirement:* Before entering upon the duties of office, and within 15 days after the appointment by the Governor, a park commissioner is required to take the official oath. TEX. CONST., art. XVI, §1(a); TEX. LOC. GOV. CODE, §322.023(a).

*Statement of Officer:* Must be filed in the official records of the office before the oath can be taken. TEX. CONST., art. XVI, §1(c).

*Bond Requirements:* Before entering upon the duties of office, and within 15 days after the date of appointment by the governor, a park commissioner must file a good and sufficient bond with the county clerk of the county the commissioner represents. TEX. LOC. GOV. CODE, §322.023(a). The bond must be payable to the county judge of the county that the commissioner represents, approved by the commissioners court of that county, in an amount prescribed by that commissioners court of \$5,000 or more, and conditioned that the person will faithfully perform the duties of park commissioner, including the proper handling of all money that comes into the hands of the person in

the person's capacity as park commissioner. TEX. LOC. GOV. CODE, §322.023(b). If the official bond of a county officer is required by law to be approved by the commissioners court, then the bond, except as required by other law, must be made payable to the county judge and kept and recorded by the county clerk. TEX. LOC. GOV. CODE, §88.001. The board shall pay the cost of the bond. TEX. LOC. GOV. CODE, §322.023(c).

**APPENDIX**  
**TEXAS CONSTITUTION, ARTICLE XVI, §1**

(a) All elected and appointed officers, before they enter upon the duties of their offices, shall take the following Oath or Affirmation:

“I, \_\_\_\_\_, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of \_\_\_\_\_ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God.”

(b) All elected or appointed officers, before taking the Oath or Affirmation of office prescribed by this section and entering upon the duties of office, shall subscribe to the following statement:

“I, \_\_\_\_\_, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.”

(c) Members of the Legislature, the Secretary of State and all other elected and appointed state officers shall file the signed statement required by Subsection (b) of this section with the Secretary of State before taking the Oath or Affirmation of office prescribed by Subsection (a) of this section. All other officers shall retain the signed statement required by Subsection (b) of this section with the official records of the office.

The following page contains a sample form of the Official Oath of Office which may be duplicated.

In the name and by the authority of  
**The State of Texas**

OATH OF OFFICE

I, \_\_\_\_\_, do solemnly swear  
(or affirm), that I will faithfully execute the duties of the office of  
\_\_\_\_\_ of the  
State of Texas, and will to the best of my ability preserve, protect, and defend the  
Constitution and laws of the United States and of this State, so help me God.

\_\_\_\_\_  
Affiant

SWORN TO and subscribed before me by affiant on this \_\_\_\_\_ day of  
\_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signature of Person Administering Oath

(Seal)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

## **STATEMENT OF OFFICER FORM**

The following form may be duplicated and retained in the official records of the office holder.

# STATEMENT OF ELECTED/APPOINTED OFFICER

*(Pursuant to Tex. Const. art. XVI, §1(b), amended 2001)*

I, \_\_\_\_\_, do solemnly swear (or affirm), that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.

***UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING STATEMENT AND THAT THE FACTS STATED THEREIN ARE TRUE.***

\_\_\_\_\_  
Officer's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Position to Which Elected/Appointed

\_\_\_\_\_  
City and/or County

**Form 2201 – General Information**  
**(Statement of Officer for Officers Not Appointed by the Governor)**

The attached form is designed to meet minimal constitutional filing requirements pursuant to the relevant provisions. *This form and the information provided are not substitutes for the advice and services of an attorney.*

**Commentary**

Article XVI, § 1 of the Texas Constitution requires all elected or appointed state and local officers to take the official oath of office found in § 1(a) and to subscribe to the anti-bribery statement found in § 1(b) before entering upon the duties of their offices. While local officers must retain the signed anti-bribery statement with the official records of the office, state-level officers must file the signed statement with the secretary of state before taking the oath of office required by § 1(a). This form is designed for filing the anti-bribery statement by state-level officers who were not appointed by the governor.

State-level officers required to file the anti-bribery statement with the secretary of state include members of the Legislature, the Secretary of State, and all other officers whose jurisdiction is coextensive with the boundaries of the state or who immediately belong to one of the three branches of state government. Op. Tex. Att'y Gen. No. JC-0575 (2002).

Questions about whether a particular officer is a state-level officer may be resolved by consulting relevant statutes, constitutional provisions, judicial decisions, and Attorney General opinions. Questions regarding this form should be directed to the Statutory Documents Section at (512) 463-5705.

**Delivery Instructions**

The statement may be submitted by mail, hand delivery, or facsimile. Send submissions by mail, except for overnight mail, to P.O. Box 13550, Austin, Texas 78711-3550. Overnight mail or hand deliveries should be directed to the James Earl Rudder Office Building, 1019 Brazos, Austin, Texas 78701. Fax transmissions should be directed to **(512) 475-2815**. Do not fax the statement to any other fax number listed for the secretary of state. Faxed documents received after business hours, on weekends, or on holidays will be deemed received on the next business day. The statement is considered filed once it has been received by this office.

Revised 06/09