

# County *i*ssues

Volume 19, Issue 5 \ June 29, 2009

Published by the Texas Association of Counties

## Bills That Passed

*Although hundreds of bills failed in the closing days of the Legislative Session, below are some measures that passed and survived the governor's veto pen. A more comprehensive list will be made available at the TAC Annual Conference*

*TAC Legislative Staff*

### APPRAISAL REFORM

**HB 8 by Otto** Relating to certain studies and reviews of appraisal districts conducted by the comptroller of public accounts. This allows the Comptroller to conduct the Property Value Study (PVS) every other year, rather than every year as required by current law. The PVS is used to estimate a school district's taxable value and to measure central appraisal districts' performance. In the off years, the Comptroller will conduct reviews of standards, procedures, and governance of central appraisal districts in order to promote professionalism and uniformity in appraisal districts across the state. *Effective 1-1-10.*

**HB 3611 by Otto** Relating to the consolidation of appraisal review boards. This allows the board of directors in two or more adjoining appraisal districts to consolidate appraisal review boards through inter-local contract. The goal of this is, in less populated areas, to create a greater talent pool, including those knowledgeable about real estate or property taxation, for ARB membership in those areas. *Effective 1-1-10.*

**HB 3612 by Otto** Relating to the creation of a pilot program that allows taxpayer appeals from certain appraisal review board determinations in certain counties to be heard by the State Office of Administrative Hearings. This establishes a pilot program in Bexar, Cameron, El Paso, Harris, Tarrant, and Travis counties for a three-year period beginning with the ad valorem tax year that begins January 1, 2010. The program will allow property owners to appeal appraisal review board (ARB) determinations for certain real or personal properties to the State Office of Administrative Hearings

**Passed Bills** *continued on page 2*



## Legislation Vetoed by the Governor

### HB 103 by Fred Brown

Relating to health benefit plans for students at institutions of higher education and the operation of certain health benefit plans through student health centers at certain institutions of higher education.

### HB 130 by Diane Patrick

Relating to an enhanced quality full-day prekindergarten program provided by public school districts in conjunction with community providers.

### HB 518 by Kolkhorst

Relating to programs to provide student loan repayment assistance for certain correctional officers, for certain speech-language pathologists and audiologists, and for certain mathematics and science teachers.

### HB 821 by Leibowitz

Relating to the sale, recovery, and recycling of certain television equipment.

### HB 1293 by Eiland

Relating to certain disclosure standards for certain annuity contracts.

### HB 1457 by Hochberg

Relating to procedures concerning verification of certain information submitted in a voter registration application.

### HB 2142 by McClendon

Relating to the promotion of toll projects by the Texas Department of Transportation.

**Vetoed Bills** *continued on page 3*

## KEY COUNTY DATES

### July 2009

**July.** Commissioners court to appoint election judges for county election precincts at July term. TEX. ELEC. CODE, §32.002.

**July 7-August 6. Loss Control Workshops,** Presented by the Texas Association of Counties, Various locations.

**July 14-15. TAC DWI Court Workshop,** Presented by the Texas Association of Counties, Various locations.

**July 15, 5:00 p.m.** Deadline for semi-annual report of political contributions and expenditures by candidates and certain officeholders. TEX. ELEC. CODE, §§254.063(b), 254.093(b), and 254.095. If delivered by mail or carrier, cancellation or receipt mark before the deadline is proof of timeliness of filing.

**July 25.** Certified appraisal roll due to Tax Assessor-Collector from the appraisal district. TEX. TAX CODE, §26.01(a).

### August 2009

**August 1.** Certified appraisal roll, collection rate, debt taxes, etc., due to Commissioners Court from Tax Assessor-Collector. TEX. TAX CODE, §26.04(b)

**August 7.** Calculation and publication of tax rate, roll-back rate, etc., required unless governed by simplified notice procedure in TEX. TAX CODE, §§26.052(c) and 26.04(e).

**August 24-26.** TAC Annual Conference & Trade Show, Presented by the Texas Association of Counties to be held at the Hilton Austin, Austin, Texas.

**August 31.** District and County Attorneys' deadline to file with comptroller of public accounts or county treasurer, as applicable, a sworn account of all monies received during preceding year. TEX. GOV. CODE, §41.005(d).

### September 2009

**September 1.** District Court order increasing salary, if any, of official district court reporter due to Commissioners Court for next budget year. TEX. GOV'T CODE, §52.05(c).

**Before September 15.** Final budget of appraisal district due to Commissioners Court from Chief Appraiser. TEX. TAX CODE, §6.06(b).

**Before September 30.** Or the 60th day after the certified appraisal roll is received, whichever is later, is the dealing for adoption of the tax rate by Commissioners Court. TEX. TAX CODE, §26.05(a). The vote on the order setting the tax rate (levy) must separate from the vote adopting the budget. TEX. TAX CODE, § 26.05(b). The tax rate adopted (levied) may not exceed last year's levy unless the Commissioners Court has held two public hearings on the proposed tax rate and otherwise complied with TEX. TAX CODE, §26.06 AND §26.065, if applicable. TEX. TAX CODE, §26.05(d).

**Before October 1.** Deadline for setting fees of the Sheriff and Constable to be effective January 1. TEX. LOC. GOV'T CODE, §118.131(d).

#### October Fiscal Year Counties

Order designating day of week on which court will convene in a regular term. TEX. LOC. GOV'T CODE, §81.005(a).

## Passed Bills *continued from page 1*

(SOAH). The program would be limited to 3,000 appeals in the three-year period. Owners of real or personal property appraised at more than \$1 million could protest to SOAH determinations of ARBs resulting from protests of appraised and market value or unequal appraisal. Mineral and industrial property would be excluded. A SOAH determination would preclude a district court appeal. *Effective 1-1-10.*

**HB 3613 by Otto** Relating to the determination of the market value of a residence homestead for ad valorem tax purposes on the basis of the property's value as a residence homestead. This requires the market value of a residence homestead be determined solely on the basis of the property's value as a residence homestead, regardless of whether the residential use of the property by the owner was considered to be the highest and best use of the property. The bill also allows for 100%

disabled veterans to be exempt from paying property taxes. *Effective 6-19-09.*

**HJR 36 by Otto** Proposing a constitutional amendment authorizing the legislature to provide for the ad valorem taxation of a residence homestead solely on the basis of the property's value as a residence homestead; authorizing the legislature to authorize a single board of equalization for two or more adjoining appraisal entities that elect to provide for consolidated equalizations; and authorizing the legislature to provide for the administration and enforcement of uniform standards and procedures for appraisal of property for ad valorem tax purposes. This constitutional amendment enables the provisions of HB 3611 and HB 3613 and also gives the state direct authority to enforce uniform appraisal standards and procedures, rather than requiring administrative and judicial enforcement to originate in the county where the tax is imposed. *Election 11-03-09.*

## CRIMINAL JUSTICE

**HB 107 by Phillips** Relating to allowing for certain criminal proceedings in the absence of certain defendants. The bill allows the rendering of a plea, judgment, and sentence for certain felonies in the absence of a defendant if the defendant is incarcerated in a penal institution. *Effective 9-1-09.*

**HB 498 by McClendon** Relating to the establishment of an advisory panel to assist with a study regarding the prevention of wrongful convictions. The legislation creates an advisory panel to assist the Task Force on Indigent Defense in conducting a study and preparing a report regarding the prevention of wrongful convictions. The Task Force on Indigent Defense, with the advice of the advisory panel, shall study causes of wrongful convictions, procedures and programs that may be implemented to prevent future wrongful convictions, the

**Passed Bills** *continued on page 5*

**Vetoed Bills** *continued from page 1*

**HB 2656 by Doug Miller**  
Relating to the composition of the board of trustees of the Teacher Retirement System of Texas.

**HB 2692 by Rodriquez**  
Relating to certain municipal requirements regarding sales of residential properties in certain areas.

**HB 2820 by Chisum**  
Relating to contracts by governmental entities for professional services relating to geoscience and landscape architecture.

**HB 2888 by Martinez**  
Relating to financial assistance administered by the Texas Department of Housing and Community Affairs.

**HB 3148 by Todd Smith**  
Relating to exempting certain young persons who are convicted of an offense involving consensual sex from the requirement of registering as a sex offender in this state.

**HB 3202 by Bonnen**  
Relating to authorizing the transfer of certain real property held by the Texas Department of Criminal Justice.

**HB 3346 by Farabee**  
Relating to gas utilities and gas storage facilities.

**HB 3481 by Veasey**  
Relating to the expunction of records and files relating to a person's arrest.

**HB 3485 by Coleman**  
Relating to certain county, municipal, district, and other governmental functions, procedures, powers, duties, and services, including certain criminal procedures.

**HB 3515 by Dunnam**  
Relating to the creation of the offense of failure to report barratry and solicitation of employment.

**HB 3983 by Rodriquez**  
Relating to the imposition of property taxes on the residential homesteads of low-income and moderate-income persons.

**Vetoed Bills** *continued on page 7*

# Recurring Questions



**By Tim Brown**  
*TAC Legislative Staff*

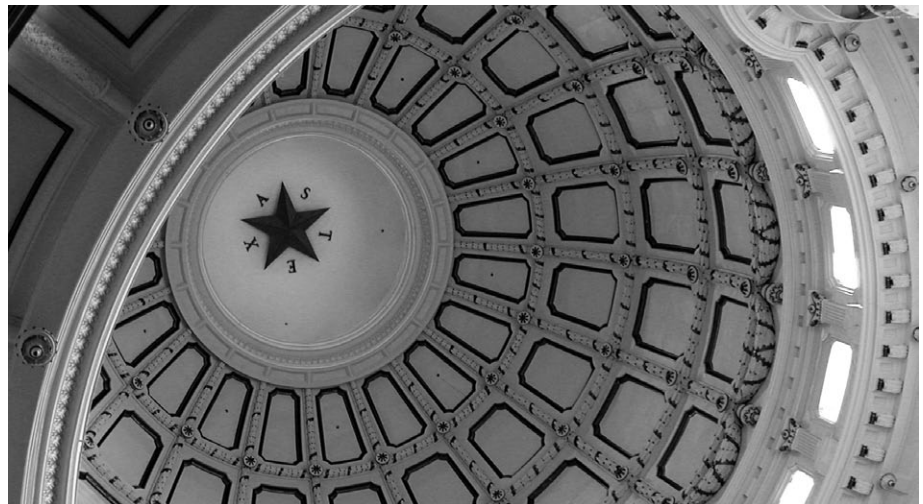
The legislative session is over now and the County Information Project is turning its attention from putting together fiscal notes to other projects such as reviewing the questions we've received, a process we go through on an irregular basis, to see what trends are developing. Have there been requests for updates on reports we've generated? Do we need to start collecting information that we haven't collected in the past? Are we continuing to see questions that we were unable to answer previously, but now might be able to answer?

The last question is the subject of this article. While plans are still being developed, one of the three needs we have identified so far is to update our report on which counties use the unit road system – basically, which counties have a road engineer to oversee road work throughout the county instead of having each commissioner oversee the road work in their individual precincts ([www.county.org/resources/countydata/products.asp#roads](http://www.county.org/resources/countydata/products.asp#roads)).

Of course, simply knowing which counties have either the unit system or the precinct system isn't going to be sufficient. As always, our customers, meaning county officials, are going to have other questions about those counties. So we're going to update an old survey form and get it sent out sometime later this summer – probably in August or September.

The second item that we would like to address is a bit more difficult. Every year we receive numerous questions about either rural or urban counties. Our response is always the same: we can tell you what information is available about those counties, if you can tell us how you want to define "rural" or "urban" counties. Almost everyone is surprised to learn that there are no generally accepted definitions

**Recurring Questions** *continued on page 18*





# Resources, Naturally

## The Living and the Dead

Below please find the bills we've been following in this corner of the newsletter. As with the rest of the publication, we include, the bills that passed and those that failed. The last action noted tells you a bill's status: if it has an effective date, or in case of HJR 14, an election date, if passed.



**By Paul J. Sugg**  
*TAC Legislative Staff*

### **EMINENT DOMAIN HJR 14 by Corte**

Relating to the limiting the public taking of private property, establishing the national research university fund to fund emerging research universities, and eliminating the higher education fund. Subject to approval by voters at an election to be held, this will amend the Texas Constitution to specify that the taking of public property is authorized only if it is necessary for: the ownership, use, and enjoyment of the state, a political subdivision of the state, the public at large, or an entity granted the power of eminent domain under the law; or the elimination of urban blight on a particular parcel of property. The definition of public use would be modified to not include the taking of property by the state or a political subdivision of the state for transfer to a private entity for the purpose of economic development or enhancement of tax revenues. Also, after 1-1-10, the legislature would be allowed to enact a general, local, or special law granting eminent domain authority to an entity only on a two-thirds vote of all the members elected to each house.  
*Effective 11-03-09.*

**COUNTY DEVELOPMENT AUTHORITY  
HB 2833 by Marquez** Relating to certain building code standards

applicable to the unincorporated areas of certain counties; providing a penalty. Originally applicable only to El Paso County, this applies to counties within 50 miles of the border and to any county with a population of more than 100. This gives those commissioners courts the permissive authority to require the inspection of new residential construction of a single-family house or duplex and the construction of an addition that would increase the size of the existing residential building by more than 50 percent. The applicable building code standard shall conform to the version of the International Residential Code published as of May 1, 2008 or the version of the International Residential Code that is applicable in the county seat of that county.

The county would not hire the inspector; rather, the builder would be

responsible for hiring a third-party inspector to conduct the required three inspections. The builder would be required to notify the county of the location of the new residential construction, the approximate date when construction would commence, and the version of the International Residential Code to be used. If the county chooses to require the builder to do so, the builder must submit notice of the inspections and their compliance to the county and to person for whom the residential construction is being built, if different from the builder. The subchapter created (Subchapter F, Chapter 233, Local Government Code) may not be construed to: require approval by the county before the beginning of new residential construction; authorize commissioners

**Resources, Naturally** continued on page 12



## **Passed Bills** *continued from page 2*

effects of state law on wrongful convictions, and whether the creation of an innocence commission to investigate wrongful convictions would be appropriate. *Effective 9-1-09.*

**HB 670 by Martinez Fischer** Relating to a qualified privilege of a journalist not to testify. The bill creates a qualified testimonial privilege for journalists. A journalist, as defined, may not be forced to divulge certain information obtained by the journalist except in an official proceeding under certain conditions. *Effective 5-13-09.*

**HB 1506 by Herrero** Relating to the imposition of conditions on certain defendants charged with an offense involving family violence. The bill authorizes a magistrate to require a defendant charged with a family violence offense to carry or wear a global positioning monitoring system device as a bond condition or as a condition of an emergency protective order. Defendants would pay the costs for the system. If a magistrate determines that a defendant is indigent, a magistrate may, based on a sliding scale established by local rule, require the defendant to pay less than the full costs associated with operating a global positioning monitoring system; however, any partial payment is considered payment in full and a county in which the magistrate is located is not responsible for any costs associated with operating such a system in relation to an indigent defendant. *Effective 9-1-09.*

**HB 2086 by Moody** Relating to the prevention, investigation, prosecution, and punishment for certain gang-related and other criminal offenses, including engaging in organized criminal activity, and to the consequences and costs of engaging in certain activities of a criminal street gang or certain other criminal activity; providing penalties. The bill creates new offenses and enhances

penalties for gang-related activities. It creates a new civil action against criminal street gangs for a violation of an injunction. A district, county, or city attorney or the attorney general would have authority to sue a gang member for money damages, including a civil penalty not to exceed \$20,000; any money collected would be deposited in an account for the benefit of the community harmed by the injunction violation. The bill also requires the Governor's Criminal Justice Division to administer a competitive grant program to support regional approaches to combat gang violence. Additionally, the legislation authorizes a county by order to require a property owner to remove graffiti upon notice if the county has offered to remove the graffiti free of charge and the owner has refused the offer; if the owner does not remove the graffiti within a certain timeframe, the county may remove the graffiti and charge the expenses of removal to the owner. *Effective 6-19-09.*

**HB 2730 by Kolkhorst** Relating to the continuation and functions of the Department of Public Safety of the State of Texas and the Texas Private Security Board; providing a penalty. Among the Department of Public Safety (DPS) Sunset bill provisions is a requirement that a county with an average "disposition completeness percentage" (percentage of arrest charges reported to DPS for which a disposition has been subsequently reported) of less than 90 percent establish a local data advisory board which would be responsible for preparing a data reporting improvement plan. The plan must describe how the county intends to improve its criminal history reporting to DPS and include a comprehensive strategy by which the county will permanently maintain its "disposition completeness percentage"

at or above 90 percent. The plan must be submitted to DPS by June 1, 2010. Additionally, the bill mandates that DPS establish an indigency program for driver's license holders who have been assessed a surcharge as part of the driver responsibility program; the department must waive all surcharges assessed on a person found indigent by a court. *Effective 6-19-09.*

**SB 328 by Carona** Relating to operating a motor vehicle or a watercraft while intoxicated or under the influence of alcohol. The bill authorizes the warrantless collection of a breath or blood specimen from suspected offenders arrested for certain alcohol-related offenses in certain circumstances; authorizes any magistrate who is an attorney licensed by this state to issue a search warrant for a blood specimen from a person for certain alcohol-related offenses; and, addresses liability issues relating to the taking of a blood specimen pursuant to a search warrant, among other provisions. *Effective 9-1-09.*

**SB 333 by Carona** Relating to the retention by a county or municipality of certain costs for maintaining and supporting a certified breath alcohol testing program. The legislation authorizes county courts that maintain their own certified alcohol testing programs to retain \$22.50 of the DWI court case fees and fines to help cover costs. *Effective 9-1-09.*

**SB 414 by Carona** Relating to conducting by electronic means a hearing to determine a defendant's ability to discharge certain fines and court costs. The bill authorizes courts to conduct hearings regarding the non-payment of fines and court costs via an electronic broadcast system. *Effective 9-1-09.*

## **Passed Bills** *continued from page 5*

**SB 633 by Seliger** Relating to the number of counties or municipalities necessary to establish a regional drug court program. The legislation reduces the number of counties required to create a regional drug court program from three counties to two counties.

*Effective 6-19-09.*

**SB 1091 by Ellis** Relating to the establishment of the capital writs committee and the office of capital writs and to the appointment and compensation of certain counsel for indigent defendants in a capital case. The legislation establishes a State Office of Capital Writs, which will employ attorneys to represent indigent defendants in death penalty appeals involving writs of habeas corpus. *Effective 9-1-09.*

**SB 1940 by Van de Putte** Relating to the fund for veterans' assistance and to the establishment of pretrial veterans court programs. The bill authorizes a commissioners court to establish a veterans court program for certain veterans facing criminal charges. Defendants who complete the program may be eligible for a case dismissal. Additionally, the bill allows a court program to collect certain fees for program purposes. *Effective 6-19-09.*

### **ELECTIONS**

**HB 488 by Bohac** Relating to the eligibility requirements for volunteer deputy registrars. The legislation expands the eligibility requirements for volunteer deputy registrars. In addition to the requirement that an individual must be 18 years of age, the person must not have been finally convicted of a felony, or if convicted, the sentence must be fully discharged, or been pardoned, or otherwise released from the resulting disability to vote. *Effective 9-1-09.*

**HB 536 by Anchia** Relating to the voter registration of a person who submits

a federal postcard application to vote in an election. The legislation constitutes the federal postcard application (FPCA) to serve as a voter registration application, except for individuals who reside outside the United States indefinitely. The Secretary of State's Office is to prescribe the rules to implement the amendment to the Election Code and provide directions to court clerks concerning the inclusion on jury lists of persons who submit FPCAs. *Effective 9-1-09.*

**HB 551 by Madden** Relating to the electronic transmission of a federal postcard application used for voting. The legislation gives military personnel and their families, who are stationed overseas, the option to email a scanned version of a federal postcard application to vote by absentee ballot to the early voting clerk. *Effective 9-1-09.*

**SB 1134 by Duncan** Relating to the authority of certain high school students to serve as elections clerks. The legislation allows high school students, 16 years of age or older, who are attending an educational institution or home schooled to serve as election clerks. *Effective 9-1-09.*

### **EMERGENCY MANAGEMENT**

**HB 1831 by Corte** Relating to emergency management and to certain vehicles used in emergencies. As amended, this bill address certain issues that affect the state's ability to provide emergency relief, including evacuation and phased reentry, temporary home repairs, volunteer coordination and awareness, and agribusiness and public information awareness. Among many items, the legislation grants authority to county judges to order mandatory evacuations and exercise the use of reasonable force to ensure compliance. The bill also establishes civil liability for someone who requires rescue after defying a mandatory evacuation order and provides for immunity

for an officer or employee of a political subdivision who must evacuate someone. *Effective 6-19-09.*

### **FAMILY**

**HB 72 by Guillen** Relating to the waiting period for issuing a decree in certain suits for divorce. The legislation waives the 60-day waiting period before a divorce may be granted in cases where a spouse has been convicted or received deferred adjudication for an act of family violence or the petitioner has an active protective order against the respondent due to family violence. *Effective 6-19-09.*

### **FEES**

**HB 666 by Gutierrez** Relating to certain court costs used to fund drug court programs. The bill increases a court cost conviction fee to \$60 on offenses punishable as a Class B misdemeanor or higher under certain provisions of the Penal Code and the Texas Controlled Substances Act to help fund drug court programs. *Effective 9-1-09.*

**HB 3637 by Hughes** Relating to filing fees in civil actions and proceedings and the use of those fees, to costs on conviction in certain courts, to money paid into the registry of a court in certain counties, and to the appointment of counsel in certain suits. The bill adds a \$4 technology fee court cost to be collected from defendants convicted of a criminal offense in a county court, statutory county court, or district court. The fees collected may only be used for technological enhancements for those courts and administered by or under the direction of the commissioners court.

The bill also adds a filing fee of not more than \$10 on the filing of each civil action in county court, statutory county court or district court. The fees are to be used only to digitize court records and preserve the records from natural

**Passed Bills** *continued on page 7*

## **Vetoed Bills** *continued from page 3*

### **HB 4068 by Gonzales**

Relating to the conduct of judicial proceedings and transaction of other essential judicial functions in the event of a disaster.

### **HB 4685 by Homer**

Relating to the County Court of Titus County.

### **SB 223 by West**

Relating to allowing a person who successfully completes a term of deferred adjudication community supervision to be eligible for a pardon.

### **SB 434 by Wentworth**

Relating to the establishment and operation of a public transit motor-bus-only lane pilot program in certain counties.

### **SB 488 by Ellis**

Relating to the operation of a motor vehicle in the vicinity of a vulnerable road user.

### **SB 686 by Wendy Davis**

Relating to the installation, maintenance, or operation of natural gas pipelines on state highways and highway and county road rights-of-way.

### **SB 978 by West**

Relating to the creation and financing of public improvement districts.

### **SB 1206 by Hinojosa**

Relating to the release from the Texas Department of Criminal Justice of certain inmates who complete a rehabilitation program.

### **SB 1343 by Hinojosa**

Relating to the formula funding for public institutions of higher education for certain credit hours that do not count toward a degree.

### **SB 1440 by Watson**

Relating to orders and judgments rendered by associate judges in child support and child protection cases and to the investigation of child abuse and neglect.

## **Vetoed Bills** *continued on page 19*

## **Passed Bills** *continued from page 6*

disasters. The court record preservation account shall be administered and under the direction of commissioners court. *Effective 9-1-09.*

**SB 1685 by Hinojosa** Relating to the creation of a district court records technology fund. The commissioners court is authorized to adopt a district court archive fee of not more than \$5 for preservation and restoration of district court records. *Effective 6-19-09.*

### **JAILS**

**HB 1711 by Turner** Relating to requiring the Texas Department of Criminal Justice to establish a comprehensive reentry and reintegration plan for offenders released or discharged from a correctional facility. Among other provisions, the Texas Department of Criminal Justice shall coordinate the work of the task force with the Office of Court Administration, and by rule shall enter into a memorandum of understanding with various state agencies to establish a re-entry task force. The task force may identify gaps in services in areas such as employment, substance abuse treatment and housing. The Task Force may also coordinate services with local providers of reentry or reintegration programs, including those operated by a county, to make recommendations regarding comprehensive services upon release to urban or rural communities. *Effective 6-19-09.*

**SB 1009 by Deuell** Relating to the continuation and functions of the Commission on Jail Standards. This is the TCJS Sunset bill; the agency is continued in its current form and will be scheduled for another Sunset review in 2021. Most notable items that will impact counties include additional standards for the treatment of pregnant inmates and "guidelines" developed by the commission relating to contracts and avoiding the appearance of impropriety. Several floor amendments were attached to the bill and county officials were instrumental in contacting legislators to ensure the amendments would not impose unfunded mandates or increase hardships on counties. *Effective 9-1-09.*

### **JURY**

**HB 319 by Raymond** Relating to an exemption from jury service for certain persons with legal custody of a child. The legislation exempts a person from jury service if the person has custody of a child younger than 15 years of age who would not have adequate supervision if the person were to serve on a jury. *Effective 9-1-09.*

**HB 608 by Castro** Relating to posttrial psychological counseling for jurors in a criminal trial or juvenile adjudication hearing involving graphic evidence or testimony. The legislation authorizes posttrial psychological counseling for a juror or alternate juror in any criminal trial having graphic evidence or testimony. The bill also authorizes juvenile boards, with the approval of commissioners court, to establish a program in which the victim assistance coordinator may offer posttrial psychological counseling for a juror or alternate juror in an adjudication hearing involving graphic evidence and testimony. *Effective 9-1-09.*

**HB 1665 by King, Phil** Relating to the penalty imposed on defaulting jurors. The legislation increases the penalty imposed on defaulting jurors. The fine was increased to not less than \$100 nor more than \$500. *Effective 9-1-09.*

**SB 397 by Carona** Relating to methods of payment for reimbursement of jury service expenses. The legislation authorizes the county treasurer to reimburse citizens

## **Passed Bills** *continued on page 10*

# County-Related Bills That Failed

*A number of bills that would have affected county government operations failed through lack of consensus or because of procedural problems in the legislative process.*

TAC Legislative Staff

## COUNTY GOVERNMENT STRUCTURE

**HB 29 by Leibowitz** Relating to the qualifications for office of justice of the peace in certain counties. This bill would have required a justice of the peace in counties with a population over 1 million to be a licensed attorney.

**HB 1223 by Laubenberg** Relating to persons authorized to make payroll deductions for county employees. This bill, as substituted, would have required the county treasurer or a county employee or office assigned by the commissioners court to prepare payroll, or if another officer is specified by law, that other officer would make the deductions from, or take other similar actions with regard to the compensation of county employees as required. Treasurers testified the bill as filed added language that delegated authority of the county treasurer to someone not elected. The substitute language did not strengthen the statutory responsibility of the county treasurer.

**HB 3398 by Darby** Relating to the office of county treasurer. This bill would have solidified the statutory duties of the county treasurer.

**SB 320 by Wentworth** Relating to the qualifications for office of justice of the peace. This bill would have changed the qualifications for the office of justice of the peace in counties of 200,000 or more to require a candidate to be at least 25 years old and a licensed attorney.

## DISASTER RELIEF

**SB 181 by Gallegos** Relating to uniform reentry procedures for essential personnel entering an area evacuated during a disaster or other emergency. This would have required the governor, in cooperation with the Department of Public Safety, to create a task force to study and develop uniform reentry procedures for essential personnel entering a disaster area, including who can be admitted, the priority order of reentry for those personnel, and establish methods to authenticate the identity of those personnel.

## FIREWORKS

**HB 599 by Hughes** Relating to the sale of fireworks on and before Texas Independence Day. The legislation would have authorized a new fireworks selling season for Texas Independence Day.

**SB 1390 by Wentworth (HB 2857 by Miller, Doug)** Relating to the regulation of fireworks during a declared local state of disaster. The legislation would have repealed the 60-hour limitation on county disaster declarations that restrict fireworks.

## HEALTH CARE

**HB 490 by Jackson, Jim** Relating to indigent health care. This bill would have required counties and hospitals to report annually to the Department of State Health Services (DSHS). No later than the 30th day of the new year, a county would have had to report to the DSHS eligibility standards, application procedures and total county indigent

health care expenditures of the previous year. This bill also would have increased the minimum eligibility standard to 25% Federal Poverty Level and increases county liability per client from \$30K to \$35K per year.

**HB 515 by Vaught** Relating to the expansion of the boundaries of the Dallas County and Tarrant County Hospital Districts. This bill would have allowed citizens of surrounding counties to petition to join the Dallas or Tarrant County Hospital Districts. The committee substitute removed the Tarrant County Hospital District.

**HB 1436 by Burnam** Relating to depositing revenue received by this state from undocumented immigrants to the indigent emergency medical services and preventative health care reimbursement fund. This bill would have created a dedicated account in the state general revenue account called the Indigent Emergency Medical Services and Preventative Health Care Reimbursement Fund. The comptroller would have been directed to deposit \$424.7M of revenue annually to provide state assistance for a governmental entity or hospital district for the cost of emergency medical services, preventative health care services, and other health care services provided to indigent persons not reimbursed by Medicaid or any other state or federal funding source.

**HB 1744 by Jackson, Jim** Relating to employer liability for the cost of health care services provided to certain

**Bills Failed** *continued on page 9*



## **Bills Failed** *continued from page 8*

indigent employees. This bill would have made an employer who knowingly employed an illegal immigrant liable to the county, public hospital, or hospital district for providing services to illegal residents. This bill also would have allowed the entity to bring action against the employer for costs of the care.

**HB 1876 by Chisum (SB 2527 by Hinojosa)** relating to creating the health care access fund to recruit health care providers in health professional shortage areas and to support federally qualified health centers and to using for those purposes revenue from a tax imposed on certain tobacco products.

**HB 2205 by Gonzales (SB 2334 by Lucio)** Relating to a county's eligibility to receive state assistance for health care expenditures that exceed eight percent of the county's general revenue levy for the year. This would have allowed counties who make payments to Medicaid for health care services eligible for the state assistance program.

**HB 2614 by Heflin** Relating to county general revenue levy for indigent health care. This would have allowed for the county to exempt payments of principal or interest on county debt when calculating the general revenue tax levy.

**HB 2710 by Coleman** Relating to indigent health care services provided by a county. This bill would have increased county liability for indigent health care by requiring counties to include physical and occupational therapy services as a basic service. The committee substitute allowed counties the option to offer these services, instead of requiring them.

**HB 3408 by Gonzales** Relating to a county's liability for the costs of basic health care services. The as filed version of the bill would have increased the county's liability for indigent health care service by adding a number of services to the basic services requirements for counties. The committee substitute changed the bill to only allow counties to provide health

care services to a person in a county regardless of the person's income.

**HB 3474 by Coleman** Relating to indigent health care. This bill would have directed the commissioner of the Health and Human Services Commission to adopt rules relating to improving indigent health care (IHC) services provided in Texas. The commission would have been granted a number of areas of regulation which include authority to:

- require public and private hospitals to implement an IHC program as developed by the commissioner;
- regulate over contracts for entities providing indigent health care services;
- expand eligibility for indigent health care services by various methods, including raising the income level for eligibility;
- maximize available state and federal funding to be used for provision of indigent health care, including federal stimulus money
- utilize available private funding for provision of indigent health care;
- increase spending on indigent health care by matching county funds with state funds;
- expand the range of services offered to indigent patients through an indigent health care program, including dental services, physical therapy, and occupational therapy;
- increase access to preventative treatment, including dental treatment, vaccinations, regular physical examinations, and routine screenings for health conditions, to lower the cost of emergency treatment;
- develop incentives for providers of indigent health care to provide a wider variety of optional services;
- develop regulations for federally qualified health centers to assist those entities in providing indigent health care as efficiently as possible;
- develop outcome-based performance standards for indigent health care to improve the quality of care and lower the cost of care.

**HB 4494 by Eiland** Relating to

indigent health care costs related to a declared disaster. This bill would have allowed a county in response to a natural or manmade disaster to exempt from the county rollback rate all expenditures paid to a state agency in support of indigent health care services.

**HB 4503 by Coleman** Relating to charity care and government-sponsored indigent health care provided by certain hospitals. This bill would have required a for-profit hospital who receives a tax abatement from a county to provide charity care in an amount equal to at least 5% of the hospital's gross patient revenue.

**SB 188 by Deuell (Same as HB 142 by McClendon)** Relating to disease control programs to reduce the risk of certain communicable diseases. This would have authorized a local health authority to operate or contract with an organization to operate a disease control program that authorized one-for-one syringe exchanges; offered education on the transmission and prevention of communicable diseases; and assisted participants in obtaining health-related services, including substance abuse treatment services and blood borne disease testing. The bill would have authorized such programs to charge a fee for the new syringes and sets forth provisions relating to the distribution and handling of such syringes and reporting.

## **TRANSPARENCY**

**HB 2743 by Paxton** Relating to the availability of certain county financial information on certain counties' Internet websites. The committee substitute stated the treasurer shall maintain an electronic checking account transaction register in a searchable format for counties with a population of 250,000 plus. Costs for this unfunded mandate would have included purchasing software for counties that did not have it and or hiring personnel to maintain the input of information and to troubleshoot the software. Redaction of privacy and juvenile concerns would have been another cost to counties. 🇹🇽

## **Passed Bills** *continued from page 7*

for jury service on the same day of service by certain methods established by commissioners court. The jurors may be reimbursed by: electronic fund transfer; cash dispensing machine; debit card or stored value card; or another method that is determined by the county treasurer and commissioners court to be secure, accurate, and cost-effective. *Effective 9-1-09.*

### **JUVENILE JUSTICE**

**HB 3689 by McClendon** Relating to the functions and continuation of the Texas Youth Commission and the Texas Juvenile Probation Commission and to the functions of the Office of Independent Ombudsman for the Texas Youth Commission.

The final version of the bill maintains two separate agencies and two separate governing boards, with county commissioners courts retaining two seats on the board of the Juvenile Probation Commission. Both agencies will return in 2011 for a limited Sunset review focused on: reform initiatives mandated by Acts of the 80th Legislature in 2007; implementation of programs for the diversion of youth from TYC; communication and coordination of services and data collection between youth serving agencies; and any other recommendations the Sunset Commission considers appropriate. *Effective 6-19-09.*

**SB 1237 by Estes** Relating to the authority of certain juvenile probation officers to carry firearms. This bill authorizes juvenile probation officers to carry firearms in the course of an officer's official duties if the officer possesses a certificate of firearms proficiency, has one year of employment with the juvenile department, has not been designated as a perpetrator in an investigation by the TJPC, and is authorized to carry a firearm

by the chief juvenile probation officer. *Effective 9-1-09.*

### **LAW ENFORCEMENT**

**HB 55 by Branch** Relating to an offense of using a wireless communication device while operating a motor vehicle. The legislation prohibits a driver from using a wireless communication device while operating a motor vehicle within a school crossing zone unless the vehicle is stopped or the wireless device is used with a hands-free device, with certain exceptions; a violator is subject to a fine. A political subdivision that enforces this law must post a sign at each school crossing zone informing drivers about the prohibition. *Effective 9-1-09.*

**HB 3389 by Harper-Brown** Relating to the continuation and functions of the Texas Commission on Law Enforcement Officer Standards and Education; providing civil and administrative penalties. This is the TCLEOSE Sunset bill and it contains several sections of interest to counties. First, HB 3389 amends Occupations Code Chapters 1701.501 (a) and 1701.507 to include expanded reporting requirements for racial profiling data (SB 1120) and to authorize TCLEOSE to administer administrative penalties at a rate of up to \$1000 per day per violation for failure to comply with reporting requirements. Also, the commission has the authority to revoke, suspend, place on probation or reprimand a license holder for violations of reporting requirements.

The second most notable change in the bill amends the requirements for training programs from every two years to every four years for officers holding only basic proficiency certificates; scheduled topics will now include training on de-escalation and crisis intervention techniques to facilitate interaction with persons with

mental impairments, as well as, recent changes to the laws of this state and the United States pertaining to peace officers. Those holding intermediate proficiency certificates will be required to participate in education and training programs covering investigative topics, civil rights, racial sensitivity and cultural diversity. *Effective 9-1-09.*

### **PROPERTY TAX**

**HB 773 by Oliveira** Relating to extending the expiration date of the Property

Redevelopment and Tax Abatement Act. The legislation extends the expiration date of the Property Redevelopment and Tax Abatement Act through September 1, 2019. *Effective 6-19-09.*

**HB 3206 by Edwards** Relating to the implementation of the exemption from ad valorem taxation for pollution control property. The bill clarifies that the standards and methods adopted by the Texas Commission on Environmental Quality for determining property tax exemptions for pollution control property apply uniformly to all applications. *Effective 9-1-09.*

**HB 3646 by Hochberg** Relating to public school finance and programs. The bill includes a section which amends Section 31.06 (a) of the Tax Code to read "a collector shall accept United States currency or a check or money order in payment of taxes and shall accept payment by credit card or electronic funds transfer." *Effective 9-1-09.*

**HB3896 by Oliveira** Relating to the authority of a governing body of a municipality of the commissioners court of a county to enter into an ad valorem tax abatement agreement. This legislation amends current law to grant the authority to the governing body for the tax abatement agreement and

**Passed Bills** *continued on page 11*

## **Passed Bills** *continued from page 10*

contains the code extension of HB773. *Effective 6-19-09.*

**SB 1458 by Seliger** Relating to the authority of certain taxing units to enter into an ad valorem tax abatement. The bill, in part, clarifies issues raised in Attorney General Opinion GA-0600, regarding the eligibility of property owned by a lessee for a property tax abatement. The bill expressly grants county commissioners courts the authority to grant abatements for tangible personal property and clarifies existing law regarding the duration of an abatement granted under the Property Redevelopment and Tax Abatement Act. *Effective 6-19-09.*

### **PURCHASING**

**HB 987 by Creighton** Relating to competitive procurement requirements for local governments. This bill brings other governmental entities up to the same \$50,000 level to standardize requirements and to account for the devaluation of local dollars. The bill also allows governmental entities to designate one person to be in charge of change orders for work within an original contract that costs less than \$50,000. *Effective 6-19-09.*

### **SALES TAX**

**SB 636 by Seliger** Relating to the imposition of the franchise tax and local sales and use taxes, including the authority of a county or other local governmental entity to receive local sales tax information. The bill, in part, requires the Comptroller, upon request, to provide certain local sales tax information to a county that has adopted a sales tax. A county that has adopted a local sales and use tax would be entitled to information relating to the amount of tax paid to the county during the preceding or current year by businesses that remit state and local sales tax payments of more than

\$25,000 annually, among other information. *Effective 6-19-09.*

### **MISCELLANEOUS**

**HB 1831 by Corte** Relating to emergency management. This bill addresses certain issues that affect the state's ability to provide emergency relief, including evacuation and phased reentry, temporary home repairs, volunteer coordination and awareness, and agribusiness and public information awareness. *Effective 6-19-09.*

**HB 1843 by Davis, John and SB 530 by Patrick, Dan (Identical)** Relating to the disposition of cash in possession of a deceased pauper. The legislation authorizes the county to retain cash in the possession of a deceased pauper to use to pay the actual costs incurred in disposing of the pauper's remains. *Effective 6-19-09.*

**HB 3601 by Paxton** Relating to the authority of a county clerk to post official and legal notices by electronic display. The bill gives the county clerk authority to post an official or legal notice by electronic display instead of posting a physical document. Electronic display may be the county's Internet website, electronic kiosk, electronic bulletin board, or other similar device. The electronic display must meet the location, time and accessibility requirements provided by law for the posting of the notice. The electronic display of information posted on a county's Internet website must meet the time requirements stipulated by law for the posting of the notice. *Effective 6-19-09.*

**SB 1152 by Hinojosa** Relating to the making or acceptance of political contributions in a courthouse. The legislation prohibits the acceptance of political contributions in any courthouse. Currently the restriction only applies to the state capitol. Courthouse is defined as any

building owned by the state, county, or a municipality, or an office or part of a building leased to the state, a county, or a municipality, in which a justice or judge sits to conduct court proceedings. *Effective 9-1-09.*

**SB 1614 by Wentworth** Relating to the requirement that certain orders closing, abandoning, or vacating a county road be filed and indexed in the deed records of the county where the road is located. The legislation requires the orders to contain the name of each property owner who receives conveyance, dimensions of the property being conveyed, and for the orders to be indexed in a manner that describes the county conveying and the property owner receiving the conveyance. *Effective 9-1-09.*

**SB 2085 by Davis, Wendy** Relating to the unlawful use of public funds for political advertising by a political subdivision. The legislation requires the Ethics Commission to prepare an advanced written opinion as to whether a particular communication violates the restriction on expenditure of public funds for political advertising and provides an affirmative defense to an official or employee who relies on certain written legal opinions. The amendment was prompted by a recent Ethics Commission decision imposing a civil penalty on a city employee for language used to educate voters on a bond proposition. *Effective 9-1-09.*

**SB 2197 by Williams** Relating to fees paid to a constable for serving civil process. This bill clarifies that under any circumstance a constable serving civil process is considered to be in the constable's official capacity and may not keep a fee for serving the process. Any civil process service fee collected by a constable must be deposited with the county treasurer. *Effective 9-1-09.* ♣

## **Resources, Naturally** *continued from page 4*

court of a county to adopt or enforce zoning regulations; or affect the application of the provisions of Subchapter B, Chapter 232, to land development. *Effective 9-1-09.*

**SB 2553 by Hegar** Relating to the regulatory authority of counties, including granting certain counties authority to regulate the cutting of certain trees. This applies only to Aransas County and allows the commissioners court, by order, to prohibit or restrict the clear-cutting of live oak trees in the unincorporated area of the county. That anyone would think it is a good idea or economically feasible to clear cut coastal live oak trees shows how far removed we must be from our roots, so good for Aransas County to have the ability to preserve their irreplaceable resource: you can build a condominium complex in a few months but it takes many decades for coastal live oaks to grow to maturity. I have old black and white photographs of my grandfather, Norris Langston Causey, and his friends relaxing outside white clapboard cabins, surrounded by coastal live oaks, somewhere outside of Rockport. Let's maintain what matters. *Effective 6-19-09.*

**HB 2275 by Raymond** Relating to creating a task force to develop uniform standards for subdivisions in the unincorporated areas of counties near the international border and in economically distressed counties. This creates a task force to research and identify the conflicts and deficiencies in

current law regarding the regulation of subdivision development in the unincorporated areas of counties near the international border and in economically distressed counties (counties operating under Subchapters B and C, Local Government Code). The Task Force on Uniform County Subdivision Regulation will be composed of 23 members, including six county officials or employees responsible for regulating subdivisions under Subchapters B



(“Subdivision Platting Requirements in County Near International order”), appointed by the executive administrator of the Texas Water Development Board (TWDB) and from each of the following counties: El Paso, Webb, Starr, Hidalgo, Cameron, and Nueces. The TWDB’s executive administrator will also appoint three other county officials or employees responsible for regulating subdivisions under Subchapter C (“Subdivision Platting Requirements in Certain

Economically Distressed Counties”). Other county representatives are a representative of the Conference of Urban Counties and a representative of the County Judges and Commissioners Association of Texas.

Other representatives include three appointed by the Texas Association of Builders, a TWDB representative, a legal expert in subdivision regulation appointed by the attorney general to represent the interests of the state, a representative of the Secretary of State’s office, and six colonias advocates appointed by the executive director of the Texas Department of Housing and Community Affairs. The TWDB will provide administrative support to the task force.

The task force is directed to research and identify the conflicts and deficiencies in current law, develop recommendations and draft proposed legislation to create uniform standards for subdivision regulation in Subchapters B and C counties. No later than Dec. 1, 2010, the task force must submit its findings, recommendations, and proposed legislation to the standing senate and house committees having primary jurisdiction over border regions or county affairs. The task force will be abolished on September 2, 2011. *Effective 6-19-09.*

**HB 1680 by Gallegos** Relating to an application filed with a county commissioners court to revise a subdivision plat. This would have allowed Subchapter B counties

**Resources, Naturally** *continued on page 13*

# Federal Clean Water Bill Could Be Costly Mandate for Counties



**By Laura Garcia**  
*TAC Legislative Staff*

On June 18, the U.S. Senate Environment and Public Works Committee approved S.787 by Sen. Feingold (D-Wis.), also known as the "Clean Water Restoration Act." The legislation revises the Clean Water Act, broadening its jurisdiction by removing the word "navigable" from the definition of "waters of the United States." The change could have the effect of authorizing federal jurisdiction over waters usually regulated at the state or

local levels.

According to the National Association of Counties (NACo), this proposed change could impose a substantial unfunded mandate on counties, as it may require every county to obtain a Clean Water Act permit for a project that would impact any "waters of the United States," including infrastructure projects related to roads, ditches, and stormwater detention and facilities. Counties with a project subject to the permitting process may be required to mitigate any environmental impact of that project.

NACo remains opposed to the

removal of the term "navigable" from the Clean Water Act and is urging all officials to contact their members of Congress and ask them to oppose the legislation. Other groups, including the American Farm Bureau Federation and the U.S. Chamber of Commerce, are also opposed to the definition change, contending that it will spur delays in permitting and result in increased federal oversight of local decisions.

The bill now heads to the Senate calendar for possible floor debate. For additional information, please contact Laura Garcia at (800) 456-5974 or laurag@county.org. 🗺️

## **Resources, Naturally** *continued from page 12*

(counties near an international border) to impose a fee for plat revision in order to defray the cost of providing notice to affected landowners. *5-27-09 Placed on Senate Intent Calendar.*

**HB 3265 by Rose** Relating to granting Hill Country counties regulatory authority and the authority to impose certain development fees. This would have applied to various Hill Country counties, providing additional authority (following a vote of the people) to commissioners courts in those counties. These authorities would have included density of development, reasonable building and set-back lines, and infrastructure cost recovery fee. A good many county officials concerned about the future of that Texas jewel, the Hill Country, worked for a year and half to get some additional authority to preserve that special area. The bill died in Calendars, but we trust it will return next session and be signed into law. *Last action: 4-27-09 Reported from committee as substituted House County affairs.*

**HB 4474 by Callegari** Relating to the applicability of a fire code in an unincorporated area of a county. This would have defined "commercial establishment" and "public building" for the purposes of fire code enforcement. It also would have amended the definition of "substantial improvement" to include alterations valued at 50 percent or more of the building's value and to enlargements of an existing building. *5-7-09 Bill pronounced dead by procedural action. Companion: SB 1898 by Gallegos 3-24-09 Introduced and referred to committee Senate Intergovernmental Relations.*

### **TRANSPORTATION**

**SB 1383 by Carona** Relating to the creation and administration of the Texas Local Participation Transportation Program. The program's intent was to encourage local transportation sponsors (including counties) to participate in the delivery of eligible projects (using tools such as pass-

through financing and transportation reinvestment zones) by providing the sponsors financial assistance from the Texas Local Participation Transportation Fund (to be administered by the Comptroller). *5-23-09 Set on House Calendar. House companion: HB 3917 by Wayne Smith 4-23-09 Committee action pending House Transportation.*

**SB 855 by Carona** Relating to local options regarding transportation and mobility improvement projects in certain counties. Its original D-FW area counties bracket expanded to include many high-growth counties in the state, it would have given local commissioners courts and local voters a range of permissive funding options, always subject to that vote of the people, to help meet transportation infrastructure demands. *5-23-09 Set on House Calendar. Companion: HB 9 by Truitt 5-11-09 Reported from committee as substituted House Transportation.* 🗺️

# A Whole NEW Counter Culture

*a focus on customer service in counties*



## SERVING TEXANS

*past, present, future*

### Texas Association of Counties 2009 Annual Conference & Expo

Hilton Hotel • Austin • Aug. 24-26

#### Conference Packed With Special Events and Exciting Sessions

Each year, Texas county officials gather in Austin to discuss legislative changes, plan for the future and network with one another. This year's Annual Conference provides officials with three days of focused interaction with seasoned, experienced speakers, special events and exciting sessions, including:

- An opening general session with live music from the Groove Labs and entertaining keynote speaker Tony Brigmon;
- Educational sessions covering legislative changes as well as

methods to ensure customer service satisfaction;

- Association meetings for each county office;
- Expo showcasing county-oriented products and services from more than 100 vendors;
- Presentation of the Sam Seale Award and the City/County Coalition Award;
- An afternoon reception in the vendor hall for you to network and discover new products while enjoying cold beer and live jazz; and
- Casino night with craps, black jack and Texas hold'em tables.

#### Informative Sessions and Topics Scheduled

Counties represent the face of local government. For many in your community, you are the first, and sometimes the only, contact they'll ever have with county government. The 2009 TAC Annual Conference & Expo focuses on improving your ability to provide sound county services with outstanding customer service.

You'll also discover the issues that shaped the 81st legislative session, and discuss legislative changes that affect your county and office. State leaders, state legislators and key legislative staff will guide you through a complete discussion of issues from the 81st session.



#### Casino Night and Spouse Event Provide Networking Opportunities



This year's casino night and dance features Austin's own, **Dale Watson**. He's frequently recognized as one of country music's last authentic voices. In a recently released documentary on Watson's life, a fan declares, "Son,

you play country like country was, when country was country."

Spouses are invited to attend a luxurious lunch Tuesday at Parkside restaurant located on historic 6th Street, in the heart of the city, embracing the vibe and energy of downtown Austin. After lunch, spouses will enjoy a shuttle ride to the eclectic area of South Congress for a unique shopping experience.

## Conference Schedule and Agenda

### MONDAY AUGUST 24, 2009

- 8 am Registration
- 9 am Board Meeting
- 10:30–12:30 pm Past Presidents Luncheon
- 11 am Vendor Hall opens
- 12:30–4:30 pm Opening General Session with music from Groove labs
- 1:15–2:30 pm Keynote Speaker “Are We Having Fun Yet?”  
Speaker: Tony Brigmon, Ambassador of Fun
- 2:30–2:45 pm Awards Presentation
- 2:45–3:15 pm Break
- 3:15–3:45 pm Awards Presentation
- 3:45–4:30 pm The Future of the Economy  
Speaker: Don Reynolds, founder of 21st Century Forecasting
- 4:30–6 pm Celebrate Service in the Vendor Hall with the Jazz Combo
- 6–7 pm TAC Associates Meet and Greet
- 7–11 pm Casino Night and Dance with Dale Watson

### TUESDAY AUGUST 25, 2009

- 8–10 am Affiliate Meetings
- 10–10:30 am Break
- 10:30–12 pm Legislative General Session
- 12–1:30 pm TAC 40th Anniversary Celebration in Vendor Hall

#### CONCURRENT SESSIONS

- 1:30–2:30 pm You Aren't Paranoid—They Are After You  
Juvenile Justice Update  
Texas County & District Retirement System  
The Passion of the Work, in Six Words  
Best Practices for Worksite Wellness
- 2:30–2:45 pm Break
- 2:45–3:45 pm Property Tax Reform  
Eminent Domain  
Strategies for Energy Efficiency—Learn How Your County Can Access Funding and Save on Energy Costs  
The How Behind Wow, Establishing a Culture of Service  
Conflict Resolution in the County Court House
- 3:45–4 pm Break
- 4–5 pm Indigent Defense: State Funding, Cost-Effective Strategies and a Review of National Developments  
County Development Authority  
Deferred Compensation  
Customer Relations on the Telephone  
Ways to Reach the Public
- 5:30–7 pm Leadership Graduation and Alumni Celebration

### WEDNESDAY AUGUST 26, 2009

- 7:30–9 am Leadership Board Meeting
- 8:30–11 am Closing General Session
- 8:30–9 am Awards Presentation
- 9–9:30 am Federal Update on Counties  
Speaker: Glen Whitley, Tarrant County Judge
- 9:30–11 am Closing Keynote  
Customer Service Excellence in the Public Sector  
Speaker: Brian Muir, President of the James Madison Group
- 11 am Adjourn

## TAC Celebrates 40 Years of Service to Counties



It's been our honor to serve you for 40 years. We invite you to celebrate with us. We'll provide snacks and drinks as we commemorate our years in service to you and recognize former TAC presidents.

### Officials Receive Special Registration Rate

County officials and staff receive a special early registration rate of \$225 for the entire conference until July 27 and \$250 after July 27. Spouse registration is \$30 and provides admission to all conference programs, including the Monday evening reception and the Tuesday spouse event. Visit the Education Center on [www.county.org](http://www.county.org), or call the Education Department at (800) 456-5947 for more information or to register.



### Hotel Information

The conference host hotel is the Hilton at 500 E. 4th St. in Austin. Hotel accommodations for the Hilton will be reserved and managed through TAC. Reservation information may be completed on the conference registration form. Conference registration is required to obtain the group rate.

### Annual Conference Provides Opportunity for Continuing-Education Credit

Applications for continuing education credit have been sent to county commissioners, county and district clerks, treasurers, tax assessor-collectors, sheriffs, attorneys and auditors. Visit the Education Center on [www.county.org](http://www.county.org) for updates on continuing-education credits as they're approved.



## Comptroller Announces Teleconferences on Energy Efficiency Grants

Through the American Recovery and Reinvestment Act (ARRA), the Comptroller of Public Accounts' State Energy Conservation Office (SECO) will receive approximately \$45 million under the Energy Efficiency and Conservation Block Grant (EECBG) Program to administer to cities and counties not receiving direct EECBG allocations from the U.S. Department of Energy (DOE). To see if your city or county received a direct EECBG allocation, please go to the following Web site:

<http://www.eecbg.energy.gov/grantalloc.html>.

The EECBG program provides funds to units of local and state government, Indian tribes, and territories to develop and implement projects to improve energy efficiency and reduce energy use and fossil fuel emissions in their communities. This program is administered by the Office of Weatherization and Intergovernmental Programs (WIP) in the Office of Energy Efficiency and Renewable Energy (EERE) of the DOE. While this program was authorized in Title V, Subtitle E of the Energy Independence and Security Act of 2007 (EISA) and signed into Public Law (PL 110-140) on December 19, 2007, it is being funded for the first time through ARRA. More information on this program can be found at the EECBG DOE Web site, <http://www.eecbg.energy.gov/>.

SECO will conduct a series of teleconferences to educate officials from cities and counties not eligible for direct DOE allocations on SECO's proposed process to redistribute the funding it is receiving under this program as well as provide an update on other SECO ARRA activities including the State Energy Program.

### The schedule for teleconferences is below.

- July 7, 3-4 p.m.
- July 8, 3-4 p.m.
- July 9, 10-11 a.m.
- July 10, 10-11 a.m.

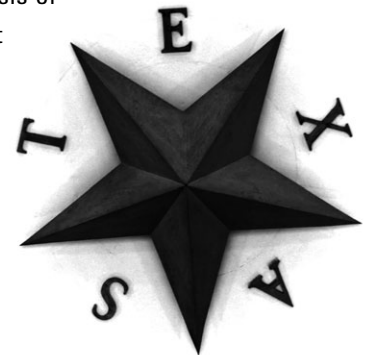
More information on how to sign up for the teleconferences is available on SECO's ARRA Web site, [http://www.seco.cpa.state.tx.us/arra/arra\\_events.php](http://www.seco.cpa.state.tx.us/arra/arra_events.php) ↘

## High Level Summary of the General Appropriations Act

### Senate Bill No. 1, (2010 – 2011, Biennium)

The General Appropriations Act (GAA), also referred to as the state budget, is considered as the only constitutional mandate that the Legislature is required to enact every other year. The GAA is numerically assigned as SB 1 or HB 1 each legislative session with the house and senate taking turns sponsoring the bill. For instance, during the 81st Legislative Regular Session, the GAA was sponsored by the senate as SB 1, even though both chambers hold separate hearings on their prospective appropriations bill. After the bill is debated and amended on the house and senate floor, a panel of five members from each chamber are assigned to a conference committee to work out the differences between the two proposed budgets. After a compromise is reached by the conference committee members, the bill is presented to each chamber again for a final approval. In order to meet the constitutional requirement "pay as you go" the conference committee's budget must also be submitted to the Comptroller of Public Accounts (CPA) and certified as being within the spending limits. The Governor's signature is also required. The budget for 2010-2011 is \$182.3 billion which is a \$12.6 billion increase (7.4%) from the 2008-09 biennial level. Of the \$182.3 billion, only \$87.1 billion is from General Revenue Funds which is a slight decrease of \$1.6 billion (-1.8%) from the anticipated 2008-09 biennial spending level.

A more detailed analysis of the state budget and what impact it has on counties will be published in the next series of County Issues. For more information, contact Paul Emerson at (800) 456-5974 or via email at [PaulE@county.org](mailto:PaulE@county.org) ↘



## Attorney General Opinions Issued



**GA-0713:** Honorable Rodney W. Anderson, Brazos County Attorney, authority of a justice of the peace in a proceeding under section 25.094, Education Code. **Summary**

A justice court may use an electronic monitoring device as a condition of deferment of final disposition or probation for an individual found to have committed an offense under section 25.094, Education Code, if the justice court determines that the use of the device in a given proceeding is reasonable.

**GA-0714:** Honorable Jeff Wentworth, Chair, Committee on Jurisprudence, Texas State Senate, authority of a county to contract with a private entity for the collection of delinquent fines, fees, and court costs. **Summary** Code of Criminal Procedure article 103.0031, which authorizes the commissioners court of a county to enter into a contract with a private attorney or a public or private vendor for the provision of collection services, does not violate article V, section 21 of the Texas Constitution by depriving the criminal district attorney of the authority to prosecute suits by the state.

**GA-0715:** Honorable Joseph D. Brown, Grayson County Criminal District Attorney, whether members of a county juvenile board may participate in the county's group health insurance program. **Summary** A district judge serving as a juvenile board member and who is paid a supplemental income by the county for service on the board may be provided county medical insurance pursuant to Local Government Code section 157.002. A commissioners court, however, has discretion to discontinue, by rule, coverage for board members. Moreover, the Grayson County Commissioners Court has authority to determine whether members of the Juvenile Board of Grayson County are provided medical insurance because of the Commissioners Court's express authority to set the compensation of Board members.

**GA-0716:** Honorable Armando R. Villalobos, Cameron County District and County Attorney, whether an assistant county or assistant district attorney may lawfully and ethically practice as a criminal defense attorney in federal court and in the state courts of a neighboring county. **Summary** Article 2.08 of the Code of Criminal Procedure does not prohibit an assistant county or assistant district attorney from practicing as a criminal defense attorney

in federal court or in the state courts of a neighboring county, although, under certain circumstances, section 46.005 of the Government Code bars such practice by an assistant county attorney. Rules 1.06 and 1.10 of the Texas Disciplinary Rules of Professional Conduct caution against any such representation of a private client, although such inquiries must ultimately be addressed to the Committee on Professional Ethics.

**GA-0717:** Honorable Kenda Culpepper, Rockwall County Criminal District Attorney, validity of a city charter provision that permits a majority of council members to call a special meeting. **Summary** We cannot conclude, as a matter of law, that a charter provision of the City of Rockwall permitting a majority of members of the city council to call a special meeting violates the Open Meetings Act on its face.

**GA-0718:** Honorable Don Allee, Kendall County Attorney, authority of justice of the peace and county court at law to cause the amendment of a death certificate concerning the cause of death. **Summary** A justice of the peace's decisions in carrying out discretionary duties under chapter 49 of the Code of Criminal Procedure are subject to an abuse of discretion standard and, in the proper case, a writ of mandamus may issue to correct a clear abuse of discretion. Whether a county court at law has jurisdiction to issue an order to the Texas Department of State Health Services, Vital Statistics Unit, cannot be determined without reference to the pleadings and proceedings in the particular case. It is unlikely that a court order that is not directed to a justice of the peace could be enforced against the justice of the peace.

**GA-0719:** Honorable Mike Jackson, Chair, Committee on Nominations, Texas State Senate, whether an attorney who acts as an unpaid advisor to the board of trustees of an independent school district may also represent the district for compensation in the collection of delinquent taxes. **Summary** The attorney's services to the Pasadena Independent School District as an unpaid advisor and collector of delinquent taxes do not appear, in this instance, to implicate laws pertaining to dual office holding, the common-law doctrine of incompatibility, or the general conflict of interest provisions contained in chapter 171 of the Local Government Code.

However, the provision of free legal services to a school district by an attorney under or in conjunction with a contract for the collection of delinquent taxes may contravene Tax Code section 33.07. Whether a donation

of legal services by an attorney under a particular contract violates section 33.07 is a question of fact not appropriate for the attorney general opinion process.

The Texas Disciplinary Rules of Professional Conduct also may need to be considered in relation to the attorney's services to the school district. Questions about any potential conflicts of interest arising from the attorney's conduct must be addressed by the Committee on Professional Ethics.

**GA-0720:** Mr. Charles G. Cooper, Banking Commissioner, Texas Department of Banking, whether an agent under a statutory durable power of attorney may alter the method of disposition of a person's body previously specified by that person in a prepaid funeral contract. **Summary** Where an individual specifies the method of disposition of his or her remains in a fully paid funeral contract of which he or she is the purchaser and beneficiary, the individual's agent under a statutory durable power of attorney may not change the method of disposition. If the agent under a statutory durable power of attorney cancels a prepaid funeral contract purchased by the principal for him or herself, the principal's written directive in the contract regarding disposition of his or her remains is not canceled.

**GA-0724:** Honorable Jeff Wentworth, Chair, Committee on Jurisprudence, Texas State Senate, authority of local taxing units or central appraisal districts to collect special assessments imposed in public improvement districts. **Summary** A special assessment to finance a public improvement is imposed only upon the property that is specially benefitted by the improvement, and its amount is based on the special benefits accruing to the property. A special assessment is imposed under the taxing power, but it is not an ad valorem property tax within the Texas Constitution, nor does the term "taxation" in statutes ordinarily include special assessments. Tax Code section 6.24 authorizes contracts between a municipal governing body and another taxing unit or an appraisal district board to collect ad valorem taxes, but it does not authorize contracts to collect special assessments imposed under the Public Improvement District Assessment Act, Local Government Code chapter 372, subchapter A.

Pursuant to the Interlocal Cooperation Act, a municipal governing body may contract for the collection of a special assessment it imposes in a public improvement district with another local governmental entity that is authorized to collect assessments for public improvements. ■

## Attorney General Opinions Requested



**RQ-0797-GA** Honorable Jon Whitmire, Chair, Criminal Justice, Texas State Senate, whether the section 143.023(c), Local Government Code, prohibition against certifying a person 45 years

or older for a beginning position in a police department applies to the reappointment of a police officer under section 143.0251, Local Government Code.

**RQ-0798-GA** Honorable Mark Homer, Texas House of Representatives, authority of a city to reacquire extraterritorial jurisdiction that it

previously relinquished pursuant to chapter 42 of the Local Government Code.

**RQ-0799-GA** Lamar Beckworth, Director, Texas Department of Public Safety, whether a county's disclosure on its website of driver license photographs received from the Department of Public Safety would violate the Motor Vehicle Records Disclosure Act or the Driver Privacy Protection Act.

**RQ-0800-GA** Honorable Scott Brumley, Potter County Attorney, whether a county auditor may require the county treasurer to obtain prior approval of a transfer of county funds from one

account in the county depository to another, or from one investment to another.

**RQ-0802-GA** Sidney "Buck" LaQuey, CPA, Grimes County Auditor, whether a justice of the peace deferring the adjudication of a charge of violating the Parks and Wildlife Code may impose a special expense without assessing a fine and, if so, whether any portion of the special expense must be remitted to the Parks and Wildlife Department.

**RQ-0807-GA** Honorable H. Michael Bartley, Delta County Attorney, Whether a passenger who is not a county employee may be transported in a county vehicle. ■

## Improving the CIP Fiscal Note Process

By Tim Brown

TAC Legislative Staff

During the 81st Regular Session, the volume of requests from the LBB was much, much greater than in any previous session. The CIP worked on 220 separate requests from the Legislative Budget Board – and we anticipate that the 82nd Regular Session will be even more hectic! Technological advances continue to allow more and more bills to be filed each session. In addition, by federal law, the Census Bureau must release redistricting data from the 2010 Census by April 1, 2011. These two factors indicate that we can anticipate an increased work load during the next session.

During the past session, it wasn't just CIP staff working on those replies. A recent article in the TAC staff newsletter thanked 23 employees by name for their assistance with those replies.

Given the amount of effort involved, it is imperative that we review our work processes and capture our own "best practices" in order to prepare for 2011. When it comes to our fiscal note process we already recognize the need to increase the participation of county officials.

There are many bills filed for which we just do not have adequate data or knowledge to respond directly to the LBB. In those cases, we have to send out our own information requests to counties in order to determine a response for the LBB. It is almost always the case that we get only a small number of responses; typically only from those county officials who are highly motivated by that particular bill. More than one official told us point-blank that they will not respond unless a bill affects their county significantly.

This practice presents us with a bit of a problem. It is not uncommon to contact a dozen counties about a bill and only receive

**Fiscal Note Process** *continued on page 19*

## **Recurring Questions** *continued from page 3*

for rural or urban when applied to counties.

The federal government, through the U.S. Census Bureau, defines urban and rural areas ([www.census.gov/geo/www/ua/ua\\_2k.html](http://www.census.gov/geo/www/ua/ua_2k.html)); but, areas do not equal counties. The U.S. Department of Agriculture's Economic Research Service uses "Rural-Urban Continuum Codes" to classify counties into three metro and six non-metro groupings ([www.ers.usda.gov/Briefing/Rurality/RuralUrbCon/](http://www.ers.usda.gov/Briefing/Rurality/RuralUrbCon/)).

In 2002, the Texas Legislative Council found numerous definitions of rural in Texas statutes and the Texas Administrative Code ([www.tlc.state.tx.us/pubspol/ruraldefinition.pdf](http://www.tlc.state.tx.us/pubspol/ruraldefinition.pdf)). While it does not address urban counties or areas, this document does note eight distinct definitions for rural counties. We've recently done some work on updating that research, but it gets us no closer to a definition of either urban or rural counties.

This past session we were asked, "How does TAC define rural counties?" The blunt answer is that we don't. To be even blunter, we don't believe that you can define a county as either urban or rural. We think you need at least one more category. For example, in a survey conducted several years ago, we asked county officials if their county was rural, urban or suburban.

As best we could tell, population was not a major consideration in answering this question. Counties of well over 100,000 were reported to be rural, while counties under 50,000 were described as urban. This may explain why the Census Bureau does not provide a definition.

It is no secret that Texas is changing; there have been numerous articles over the last few years discussing the urbanization of the state. As a result, we've asked ourselves about transitional counties – those that recently have been considered rural, but that are now becoming urban.

In the past, I've taken a stab at trying to come up with a method for categorizing counties as either urban or rural. As you might guess, success has been elusive. While I've spoken to a number of people familiar with numerous counties, mostly TAC employees, the only criteria that has anything close to universal acceptance is the familiar refrain, "I'll know it when I see it."

What do you think? Is it possible to classify counties? If it is possible, is your county urban, rural or something else? If it is something else, what is it? How do you know? What criteria did you use to make that determination? I would be interested in hearing from any county official with an opinion on this subject.

Please contact me at [TimB@county.org](mailto:TimB@county.org) if you have any questions or comments. As previously mentioned, I will be away for two weeks in June on active duty, so responses will be delayed!

The third item the CIP wants to address this interim is our fiscal note procedures. The need to address this issue is discussed more fully in the article "Improving the CIP Fiscal Note Process" which can be found in this newsletter. 🗺️

## **Vetoed Bills** *continued from page 7*

### **SB 1760 by Watson**

Relating to the administration of the Texas Save and Match Program to assist qualifying beneficiaries and to the treatment of a beneficiary's assets in determining eligibility for student financial assistance and other assistance programs.

### **SB 2038 by Duncan**

Relating to the construction of nonsubstantive codifications and revisions of statutes.

### **SB 2141 by Wentworth**

Relating to the statute of repose for engineers and architects.

### **SB 2169 by Ellis**

Relating to the establishment of a smart growth policy work group and the development of a smart growth policy for this state.

### **SB 2325 by Hinojosa**

Relating to the confidentiality of certain information pertaining to the State Commission on Judicial Conduct.

### **SB 2468 by Gallegos**

Relating to the postemployment activities of certain local government officers in certain counties.

### **SB 2558 by Gallegos**

Relating to the promotion and marketing of alcoholic beverages.

*The Governor's veto statements may be found at <http://governor.state.tx.us/news/bills/>. 🗳️*

## **Fiscal Note Process** *continued from page 18*

one or two responses. Does that mean that the remaining counties foresee no significant impact or are the officials just too busy to respond? If one county says the bill will cost nothing and a second responding county says the same bill will cost them a million dollars, how do we determine the statewide impact on counties?

If time allows, we can send out a second information request. Given the time constraints, that is generally not an option when working on fiscal notes. As a result, although there is no hard and fast rule, we'll try to extrapolate to the 254 counties if we have more than a handful of responses. It really comes down to a judgment call. We have to ask ourselves two questions. First, do we have a sufficient number of quality responses that are in agreement, more or less? Second, how do the non-responses affect our response?

If we are truly uncomfortable with the number of responses we merely report the data to the LBB. That doesn't really solve anything; it just moves the burden from our shoulders to theirs. Of course, typically the LBB analysts then merely add our information to the fiscal note which will then state the impact on those few counties rather than to counties in general.

But what should we do with the non-responses? Our practice this past session was to ignore them; there was really no other option at the time; but now the session is over and there is hopefully some time before the

next one starts. There are actually a number of reasons why this issue is of some concern.

Not responding when a bill will have little or no impact skews the statewide extrapolation. For example, we receive four responses after attempting to contact twelve counties. All four responses come from counties with a population over 150,000 each of which states the bill will have significant fiscal impact. What will the impact be to small counties?

That's a hard one, let's try an easier question. What will be the statewide impact on counties? One-third of the contacted counties say the bill will have a significant impact. But, two-thirds of the counties may not have responded simply because they didn't see any significant impact from the bill.

By ignoring the non-responding counties, are we throwing away data? Clearly, by failing to obtain responses from all of the contacted counties, we have introduced a statistical bias into whatever answer is provided to the LBB.

We exacerbate that bias when we rely on the same counties or same county officials over and over for assistance. For the most accurate fiscal note, we should choose the counties at random. But doing so provides a very poor response rate. As a result we tend to overburden some county officials in order to have at least some usable data.

If you think those fiscal note questions are tough, here's one that will really make

you think. If we get widely varying responses from counties, who do we believe? What if one county says this bill will be very expensive while another says there is no way this bill could possibly have a significant impact? What if we get two responses from the same county and the two county officials have widely diverging estimates of the bill's impact? Should we attempt to verify responses? Which ones?

The question is largely academic; during a session there simply is no time to verify responses, we have to accept the data at face value. Even if there was time, there is no reasonable method that we can see to verify responses. The best answer we have found so far is to obtain data from as many counties as possible so that individual responses, no matter how extreme, have less influence on the overall fiscal note.

If you think those are all hypothetical questions about our fiscal note process, think again. They all came up at one time or another during the session.

The LBB seemed satisfied with our work product this session – they sent a very nice thank you note. We think we should be able to do better – we can do better – but only with your continued support.

Please contact me at [TimB@county.org](mailto:TimB@county.org) if you have any questions or comments about this article. I'd appreciate hearing from you. 🗳️



TEXAS ASSOCIATION OF COUNTIES  
P.O. Box 2131  
Austin, Texas 78768

Return Service Requested

PRESORTED  
FIRST CLASS MAIL  
US POSTAGE  
**PAID**  
AUSTIN TEXAS  
PERMIT NO. 1183

Leg. Ad. Texas Association of Counties, Karen Ann Norris, Executive Director, 1210 San Antonio, Austin, TX 78701



# From the Legislative Desk

*By Carey "Buck" Boethel, Director of Governmental Relations*

**The Texas Legislature** adjourned on June 1, 2009, Sine Die—a Latin term which means without appointing a day on which to appear or assemble again. It is a tradition which accounts for the prospect of the governor issuing a proclamation convening the members in special session—a discretionary action which was taken by Governor Perry just a few days ago in order to reauthorize the continuation of certain state agencies and related financing business. **Just the Governor**—the duration of a special session is limited to thirty days, and only those subjects stated in the governor's proclamation or those submitted by him after the body meets may be considered as legislation subjects. Traditionally, governors have been on the stingy side about opening up the call to a variety or number of legislation subjects. Counties are asking Governor Perry to include under-valuation of oil and gas properties in the forthcoming special session because all efforts in the recent general session to repeal a state tax law provision passed back in 2007 failed. Since the initial proclamation didn't include the oil and gas under-valuation subject, counties are now

relegated to the Governor's supplemental call, if there is one. H.B. 2982 (80th General Session) which became effective in January of 2008, has caused a great deal of concern and uneasiness among counties, particularly the ones that depend upon a majority of their tax revenue to come from ad valorem taxes on oil, gas and minerals in place. **The dilemma**—because the 2007 changes in the law will result in an estimated 300 million dollar revenue shortfall for all taxing entities, the choices for counties will be either to substantially underfund essential services or shift the resulting tax burden over to other taxpayers—a situation considered to be catastrophic. **Every night a school night**—the Legislative Budget Board, citing the state Comptroller's office as the source agency, issued a written statement which is typically relied upon by House and Senate members alike: *No fiscal implications to units of local government is anticipated*—nothing could be farther from the case. While the foregoing is certainly bad enough, an unwillingness to acknowledge the patently erroneous fiscal impact statement and refusal to do the right thing by repealing section 23.175 of the Texas Tax Code would be

far worse! So, for now and as long as it may take to get this mess cleaned up, every night for counties will be a school night. **Energy block grants**—certain counties with populations of 200,000 or more and cities with populations of 35,000 or more (known as entitlement communities) will be eligible for about \$163 million in formula grants funded through the American Recovery and Reinvestment Act (Energy Efficiency and Conservation Block Grant Program). Likewise, participating communities (counties less than 200,000 and cities less than 35,000) will be eligible to receive an estimated \$45 million from the same federal act, but these grants will be administered by State Comptroller Susan Combs' office of State Energy Conservation. Eligible uses for grant funding include various energy efficiency projects and conservation strategies. The Comptroller's office plans on conducting a series of teleconferences regarding this program and available funding. For dates and details, please see the article in this newsletter. Support county government, it's the pulse of the people. ➡