

# County*i*ssues

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## Emergency Operations

### Hurricane Planning Now



**By Aurora Flores-Ortiz**  
*TAC Legislative Staff*

When it comes to the summer months, most Texans think about taking their vacation but residents of coastal and surrounding counties know the summer months mean hurricane season is underway. The 2008 season in the Atlantic runs from June 1 to November 30. Typically, activity is generally stronger in mid to late August, peaks once in early September and then again in October.

The National Oceanic and Atmospheric Administration (NOAA) has predicted an above-normal hurricane season for 2008 which means up to 16 named storms and five major hurricanes. A normal season has 11 named storms, six hurricanes and two of Category 3 or higher. This forecast falls in line with the noted Colorado State University (CSU) hurricane forecast team that predicts there is:

- A 69 percent chance that at least one major hurricane will make landfall on the U.S. coastline in 2008 (the long-term average probability is 52 percent).
- A 45 percent chance that a major hurricane will make landfall on the U.S. East Coast, including the Florida Peninsula (the long-term average is 31 percent).

- A 44 percent chance that a major hurricane will make landfall on the Gulf Coast from the Florida Panhandle west to Brownsville (the long-term average is 30 percent).

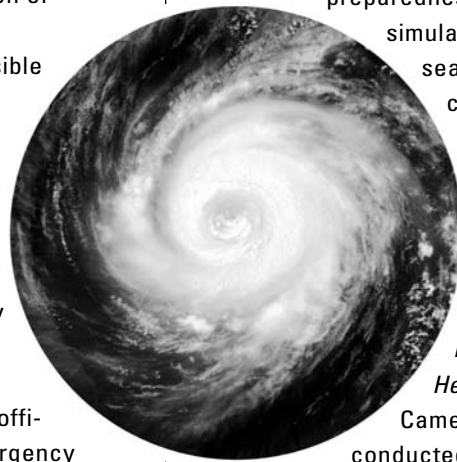
With the expected peak in hurricane activity just around the corner, how do counties prepare for the possibility that a hurricane may hit the Texas coast?

#### **Have a County Emergency Management Coordinator (EMC) in place**

The Governor's Division of Emergency Management (GDEM), which is responsible for assisting cities, counties and state agencies in implementing their own emergency management programs, has provided that mayors and county judges have responsibility for emergency preparedness and response within their jurisdictions. These officials may appoint an Emergency Management Coordinator (EMC) to manage day-to-day program activities, which can include among many items, emergency planning and conducting drills and exercises, and coordinating emergency response operations during incidents and disasters such as a hurricane. <http://www.txdps.state.tx.us/dem/documents/statelocalhsemorgsV4.doc>

#### **Have plans of action & information available**

Many counties with EMCs provide web page links to the office of emergency management to locate local evacuation plans and other vital information. According to *The Houston Chronicle*, Montgomery County has a high-tech emergency operations center to plan coordinated operations with other local entities. The county also approved plans to offer emergency preparedness, disaster



simulation and light search and rescue training to better prepare employees in disasters such as hurricanes.

The *Brownsville Herald* reported Cameron County conducted complete drills before hurricane season began, simulating an actual hurricane. Counties in such low-lying areas are prone to flooding from storm surges. Securing transportation contracts, evacuation routes and shelter sites were some of the priorities included in the emergency preparedness drill.

**Hurricane Planning** *continued on page 3*

## KEY COUNTY DATES

### August 2008

**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 5.** TAC Loss Control Regional Workshops: Safety Programs, Amarillo. Ashmore Inn & Suites, 2301 I-40 East Exit 72 A, (806) 374-0033. For more information, contact the Education Department at (800) 456-5974.

**August 5.** TAC Loss Control Regional Workshops: Safety Programs, Odessa. MCM Elegante, 5200 East University, (432) 368-5885. For more information, contact the Education Department at (800) 456-5974.

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

**August 7.** TAC Loss Control Regional Workshops: Safety Programs, Abilene. MCM Elegante Suites, 4250 Ridgemont Drive, (888) 897-9644. For more information, contact the Education Department at (800) 456-5974.

**August 7.** TAC Loss Control Regional Workshops: Safety Programs, Kerrville. Inn of the Hills, 1001 Junction Hwy, Kerrville, (830) 895-5000. For more information, contact the Education Department at (800) 456-5974.

**August 12.** TAC Loss Control Regional Workshops: Safety Programs, Corpus Christi. Holiday Inn Emerald Beach, 1102 South Shoreline, (361) 883-5731. For more information, contact the Education Department at (800) 456-5974.

**August 12.** TAC Loss Control Regional Workshops: Safety Programs, Tyler. Holiday Inn Select, 5701 South Broadway, (903) 561-5800. For more information, contact the Education Department at (800) 456-5974.

**August 14.** TAC Loss Control Regional Workshops: Safety Programs, Waco. Waco

Hilton, 113 South University Parks Drive, (254) 754-8484. For more information, contact the Education Department at (800) 456-5974.

**August 14.** TAC Loss Control Regional Workshops: Safety Programs, College Station. Hilton College Station and Conference Center, 801 University Drive East, (979) 693-7500. For more information, contact the Education Department at (800) 456-5974.

**August 18-21.** Texas Jail Association Jail Management Issues, South Padre Island. Radisson Resorts, 500 Padre Boulevard, (956) 751-6511. For more information, contact the Texas Jail Association at (936) 294-1687.

**August 26.** Deadline for County Judge to order General Election. Tex. Elec. Code, §3.005.

**August 26-27.** The TAC Policy Analysis Group will meet in Austin to discuss the Counties' Role in the Legislative Fiscal Note Process and the impact that possible changes in the juvenile justice system could have on counties.

**August 27-29.** TAC Annual Conference & Trade Show, Austin. Renaissance Hotel, 9721 Arboretum Boulevard, (512) 343-2626. For more information, contact the TAC Education Department at (800) 456-5974.

**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't Code, §41.005(d).

### September 2008

**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, §52.051(c).

**September 11.** Fall Panhandle County Judges & Commissioners Association Conference, Amarillo. Texas A&M Agricultural & Extension Center, 6500 Amarillo Boulevard West, (806) 677-5600. For more information, contact Moore County Commissioner Lynn Cartrite at (806) 948-5431.

**September 11-13.** Texas College of Probate Judges, San Antonio. The Menger Hotel, (800) 345-9285. For more information, contact Travis County Probate Judge Guy Herman at (512) 854-9258.

**Before September 15.** Final budget of appraisal district due to Commissioners Court from Chief Appraiser. Tex. Tax Code, §6.06(b).

**September 15-18.** 86th Annual County Judges & Commissioners Association Conference, Fort Worth. Hilton Fort Worth, 815 Main Street, (817) 870-2100. For more information, contact Tarrant County Commissioner J.D. Johnson at (817) 238-4400.

**September 15-19.** 60th Annual County Treasurers Association Conference, McAllen. For more information, contact Norma Garcia the Hidalgo County Treasurer at (956) 318-2508.

**September 17-19.** Texas District & County Attorney Association Annual Criminal & Civil Law Update, Galveston. San Luis Resort, 5222 Seawall Boulevard, 409-744-1500. For more information, contact TDCAA at (512) 474-2436.

**Before September 30.** Or the 60th day after the certified appraisal roll is received, whichever is later, is the deadline 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 be 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).

**Hurricane Planning** *continued from page 1*

**Dial 2-1-1, Register Now**

An aging population, residents with disabilities or special health needs and those who cannot evacuate on their own because they lack transportation or monetary funds are another concern for local officials. The 2-1-1 registry is a state created transportation assistance registry to collect information on Texans who will need help during an evacuation. Getting these residents to register with 2-1-1 now will give officials an estimate for the number of those who will need assistance evacuating the storm zone and what type of services will be needed. The information is secure and only accessible to emergency officials. <http://www.txdps.state.tx.us/dem/pages/publicinformation.htm>.

Meeting the challenges of preparing for a major storm is no easy task but there are resources available to ensure the necessary steps are being taken to prepare for possible emergency operations. The GDEM website has hurricane awareness and more information links on its homepage: [http://www.txdps.state.tx.us/dem/pages/weather\\_aware\\_hurricane.htm](http://www.txdps.state.tx.us/dem/pages/weather_aware_hurricane.htm).

For more information on this article please contact Aurora Flores-Ortiz at (800) 456-5974 or [aurorafo@county.org](mailto:aurorafo@county.org). ➡

**Resource page:**

Governor's Division of Emergency Management (GDEM):  
<http://www.txdps.state.tx.us/dem/pages/index.htm>

**GDEM Useful Links:**

<http://www.txdps.state.tx.us/dem/pages/linkspage.htm>

**NOAA National Hurricane Center:**

<http://www.nhc.noaa.gov/>

**Emergency Management Coordinator information:**

<http://www.txdps.state.tx.us/dem/documents/tatelocalhsemorgsV4.doc>

**2-1-1 Registry Information:**

<http://www.txdps.state.tx.us/dem/pages/publicinformation.htm>

**Hurricane Awareness:**

[http://www.txdps.state.tx.us/dem/pages/weather\\_aware\\_hurricane.htm](http://www.txdps.state.tx.us/dem/pages/weather_aware_hurricane.htm)

# Code Red Report Update



**By Rick Thompson**

*TAC Legislative Staff*

In October of 2007, the Task Force on Access to Health Care in Texas held a conference with a number of health care stakeholders to update recommendations for increasing access to health care for uninsured Texans. In 2006, this task force representing 10 of the major academic health institutions in the state published *Code Red: The Critical Condition of Health in Texas*. This report was prepared to support recommendations for addressing the health care issues in Texas by a 19 member non-partisan volunteer task force. Included in their recommendations were mandates requiring counties to provide more services and expend more revenue in support of indigent persons.

As previously reported (*County issues*, July 2006), the task force recommendations included:

- Texas should authorize and encourage efforts to move indigent health care from a county-based model to a system based on regional multi-county health districts.
- The statewide federal poverty level should be increased from 21% to 100% as the mandated standard for county indigent care responsibility.
- A minimum of 8% of the general revenue tax levy, set aside for county indigent health care expenditures, should be fully exhausted notwithstanding the current requirement to expend only an amount that is necessary to fully comply with the IHCA.

While none of these county related initiatives made it into law, many of the recommendations made by the task force received considerable attention resulting in filed legislation. One of the most recognizable initiatives passed into law was the Health Opportunity Pool created by SB 10. To see the Code Red Recommendations Legislative Review and Summary, which includes a detailed list of the recommendations and the subsequent bill numbers of the 80th Legislative Session, go to <http://www.coderedtexas.org/files/CROverview06-07.pdf>. To look up the filed bills, go to <http://www.legis.state.tx.us/>.

The 2008 recommendation list does not include the aforementioned county related initiatives, but it does state that "the current county-based approach to delivery of health care in Texas is inadequate and inequitable." This updated list continues the support of important health care items such as optimizing all available federal dollars through the 1115 waiver process for uninsured Texans (SB 10 - Health Opportunity Pool initiatives), expanding ambulatory/disease management services, and supporting the development of new technology and continued increases in the education of health professionals.

The overall conclusion of the task force is that the long-term economic vitality and security of Texas depends on the health of its children and their parents built around patient-centered health homes which provide medical, dental, mental health, substance abuse and preventative services. To view the entire report, go to [www.coderedtexas.org](http://www.coderedtexas.org) or read the synopsis at [http://www.coderedtexas.org/files/code\\_red\\_synopsis.pdf](http://www.coderedtexas.org/files/code_red_synopsis.pdf).

For more information regarding this article, contact Rick Thompson at (800) 456-5974 or [rickt@county.org](mailto:rickt@county.org). ➡



# Resources, Naturally

## Rural Planning Organizations



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

Rural transportation planning in Texas (and in many other states) within the context of state transportation planning has long been an *ad hoc* process (using the connotation of *ad hoc* that describes a makeshift or improvised solution, rather than a formalized, institutionalized process). Transportation planning in urbanized areas is institutionalized in metropolitan planning organizations (MPOs): each urbanized area in the United States with a population of 50,000 or more is required by the federal government to have an MPO. These MPOs are responsible for the continuing, cooperative, and comprehensive planning process for their urbanized area. They are comprised of elected and appointed officials representing local, state and federal governments or agencies having an interest or responsibility in transportation planning and programming. An MPO is responsible for the development of a Long Range Transportation Plan (LRTP), the Transportation Improvement Program

(TIP), and a Unified Planning Work Program (UPWP) for its metropolitan planning area. The adoption of these documents is a prerequisite for the receipt of both federal transit and federal highway funding.

Whence then, rural planning? The Safe Accountable Flexible Efficient Transportation Equity Act - A Legacy For Users (SAFETEA-LU) provides for consultation with non-metropolitan officials when State Departments of Transportation make transportation decisions in their Statewide Transportation Planning and

required to be documented in writing. Every five years beginning in 2006, states are required to review and solicit comments from non-metropolitan local officials and other interested parties regarding this process in order to ensure that the process continues to be effective.

At a recent conference sponsored by the Texas Association of Regional Councils (and co-sponsored by TAC and others), local officials and state transportation department representatives from several other states discussed how rural planning organizations function in their states, e.g., providing local decision-making forums and integrating RPO planning with MPO planning, then fitting this into state transportation department planning and funding (a challenging prospect but more and more vital in this time of shrinking federal and state transportation funding and increasing demand). TxDOT rep-

resentatives spoke of their intent, via their rule-making authority, to recognize RPOs in Texas (via the councils of government, although a couple of COGs, including the Capital Area COG, have already developed or begun to

**RPOs** *continued on page 5*



Programming processes. (SAFETEA-LU authorizes the Federal surface transportation programs for highways, highway safety, and transit for the 5-year period 2005-2009). This consultation process, separate and discrete from the public involvement process, is

# Congressional Update



By Laura Garcia  
TAC Legislative Staff

## Energy Efficiency and Conservation Block Grant Program

On June 25, the House Appropriations Committee passed the Energy and Water Development Appropriations bill with \$295 million in funding for the Energy Efficiency and Conservation Block Grant (EECBG) program. The grant program was initially authorized by the Energy Independence and Security Act of 2007, which Congress passed last December; however, no appropriation was provided for the program at that time.

The program authorizes formula grants for larger populated counties (those with populations of at least 200,000), as well as grants for the states, a portion of which must be passed through to less populated units of local government. Grants awarded under the program could be used for a broad range of innovative practices designed to achieve greater energy efficiency and lower energy usage, including: conservation programs for buildings and facilities; the development and implementation of programs designed to conserve the energy used in transportation, including the use of flex time by employees and satellite work centers; and, the purchase and implementation of technologies to reduce greenhouse gases. The Senate Appropriations Committee, however, recently declined to appropriate any funding for the program. The funding recommendations now move to the full House and Senate for consideration.



## JAG Reauthorization Bill Sent to the President's Desk

On July 22, Congress presented the President with legislation that reauthorizes the Edward Byrne Memorial Justice Assistance Grant (JAG) program. The JAG program provides funding for state and local governments for various crime prevention activities, including law enforcement and prosecution initiatives, corrections programs, drug treatment programs, and prisoner reentry services. The bill, S. 231, authorizes \$1.1 billion annually through fiscal year 2012 for the grant program. The President, however, has repeatedly proposed eliminating or consolidating the grants. It is unclear whether he will sign the legislation.

For additional information, please contact Laura Garcia at (800) 456-5974 or [laurag@county.org](mailto:laurag@county.org). 🗺️

## RPOs, continued from page 4

develop RPOs), to define RPO duties and responsibilities, to employ RPOs to assist TXDOT in rural transportation planning, to serve as a formal public input apparatus, and to provide transportation information to the general public.

[Forgive all the above acronyms, for even in the complex and variegated world of bureaucratic nomenclature that is the state and federal government, the cup overfloweth when it comes to the transportation field (*nomenclature* - a set or system of names or terms, as those used in a particular science or art, by an individual or community, etc. Originated in 1610, "a name," from Fr. *nomenclature*, from L. *nomenclatura* "calling of names," from *nomenclator* "namer," from *nomen* "name" + *calator* "caller, crier," from *calare* "call out" (see calendar). *Nomenclator* in Rome was the title of a steward whose job was to announce visitors, and also of a prompter who helped a stumping politician recall names and pet causes of his constituents. Meaning "list or catalogue of names" first attested 1635; that of "system of naming" is from 1664; sense of "terminology of a science" is from 1789.)]<sup>1</sup>

Our system of representative self-government requires involvement in the governing process. Rural planning organizations can provide more local officials with the opportunity to have their voices heard as state and local officials struggle with meeting transportation infrastructure demands.

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<sup>1</sup> *nomenclature*. Dictionary.com. *Online Etymology Dictionary*. Douglas Harper, Historian. <http://dictionary.reference.com/browse/nomenclature> (accessed: July 21, 2008).

# 2008 Texas Public Funds Investment Conference

Nov. 20–21

Renaissance Houston Hotel, Houston

Educational Co-Sponsor: LBJ School of Public Affairs at the University of Texas at Austin



## Piecing Together Your Portfolio

Find out what's new in investing and network with fellow government investment professionals at TAC's upcoming two-day conference. The conference, which satisfies the Public Funds Investment Act: section 2256.008, offers basic and advanced educational tracks for those responsible for local government investments.

### CONTINUING EDUCATION

Application has been made for continuing-education credit for auditors, certified public accountants, commissioners, county and district clerks, justices of the peace, treasurers and tax-assessor collectors. Ten hours of Public Funds Investment Act credit will be awarded for full attendance at this conference, as well as 10 hours for Certified County Investment Officers (CIOs).

### REGISTRATION AND ACCOMMODATIONS

The Texas Public Funds Investment Conference is open to anyone who wants to learn more about investing public funds. Register online at [www.county.org](http://www.county.org). For more information, please call the TAC Education Department at (800) 456-5974.



Fees are refundable, minus a \$10 administration fee, upon written request received in the Association's office by Nov. 10. After that date, refunds are limited to one-half the registration fee. No refund requests will be accepted after Nov. 24.

Our host hotel for the conference is the Renaissance Houston Hotel, 6 Greenway Plaza East. The hotel, located near the Gallery Mall in Houston's downtown district, offers guests free transportation within three miles of the hotel. For hotel reservations, call (713) 629-1200 and ask for the Texas Association of Counties room block to receive our special conference room rates.

### REGISTRATION FEES

	Before Oct. 27	After Oct. 27
County officials and employees	\$125	\$150
City, school or special district	\$200	\$225
Non-government	\$500	\$500
Certified county investment officers	<i>No fee; covered in annual dues</i>	

# TEXAS ASSOCIATION of COUNTIES

# County Clerk's Records Management and Preservation Fund



By Nanette Forbes  
*TAC Legislative Staff*

Under what circumstances may a county clerk expend money in the county clerk's records management and preservation fund to supplement her deputies' salaries? May the clerk use a part of the fund for raises or to give staff bonuses? Must the county clerk obtain approval from the commissioners court to expend money in the fund for salaries? These questions are the subject of Attorney General Opinion GA-0638, issued to the Frio County Attorney on June 30, 2008. The attorney general opines that salaries and bonuses **may** be paid from the county clerk's records management and preservation fund **but only** when certain conditions have been met.

The county clerk records management and preservation fund is established by the commissioners court under Texas Local Government Code (LGC), §203.003(5). The fund is comprised of certain fees that are collected by the clerk and deposited in the fund. Section 118.011(b)(2) of the LGC authorizes the clerk to set and collect a records management and preservation fees in an amount not to exceed \$5 for non-court-related services. These fees, as well as other fees that are designated for deposit into the fund, are to be used "only to provide funds for specific records management and preservation, including automation purposes." Tex. Loc. Gov't Code, §118.0216(d). Section 203.003(5) of the LGC provides that any expenditure made by the county clerk from the fund require approval in advance by the commissioners court.

In accordance with the LGC provisions discussed above, the attorney general in GA-0638 determined that a county clerk may expend money in the clerk's records management and preservation fund to pay deputies' salaries, subject to the following conditions:

"A county clerk may expend money in the county clerk's records management and preservation fund to pay deputies' salaries, but only subject to the following conditions: First, a county clerk may not supplement salaries the county commissioners court has set in accordance with statutory budgeting procedures unless the county had in place, at the time the deputies were performing the work for which the clerk seeks to compensate them, a bonus or supplement plan. In addition,

**Manage & Preserve** *continued on page 11*



*"No one has ever drowned in sweat."*  
—Lou Holtz, the only coach in the history  
of college football to win five bowl games  
with different teams

# Get in the Game

## Encourage the Partnership 2008 ANNUAL CONFERENCE

August 27-29 • Renaissance Hotel, Austin

### Working Together to Get Things Done

Issues that face counties, cities, state and federal governments all affect the same taxpayers, and it's time to restore the partnership between all levels of government to provide services effectively for citizens. TAC's Annual Conference will explore ways for governments to cooperate and create common solutions as well as evaluate critical state legislative issues that may come up in the 2009 Texas Legislature.

The conference will provide a forum for county officials to discuss critical issues facing county government. The 2008 conference curriculum offers a diverse educational program with continuing-education credits for most county offices.

### Conference Features

**LEGISLATIVE TRACK** The tough legislative sessions that Texas counties experienced in 2007 may be just previews of 2009.

The Annual Conference will present legislative issues in anticipation of the regular legislative session beginning January 2009. Some of the hot topics include:

- Jail overcrowding;
- Environmental and stormwater regulations;
- Tax and revenue caps for counties;
- Groundwater quality;
- Eminent domain; and
- Indigent health care.

**TRADE SHOW** Vendors will feature products and technology designed with county government in mind.

**BEST PRACTICES AWARDS** The TAC Leadership Foundation will honor outstanding Texas counties for their best and brightest innovations.

### REGISTRATION AND ACCOMMODATIONS

TAC will process both conference registration and hotel reservations.

Conference registration is required to obtain reservations at the discounted conference rate. For more information visit [www.county.org](http://www.county.org), or contact the Education Department at (800) 456-5974.

### Continuing Education

Application will be made for continuing-education credit for county commissioners, tax assessor-collectors, county and district clerks, sheriffs, treasurers, attorneys, auditors and purchasing agents.

### Spouse Activities

Registration for spouses is \$30 and provides admission to all conference programs including the Wednesday-evening party and a special Thursday-morning event.

# TEXAS ASSOCIATION *of* COUNTIES



## REGISTRATION FORM

2008 Texas Association of Counties Annual Conference & Trade Show  
August 27-29, 2008 • Renaissance Hotel, Austin

### CONFERENCE REGISTRATION

Please complete and submit with applicable fees to:

Texas Association of Counties Annual Conference | P.O. Box 2131 | Austin, Texas 78768

Forms may be faxed to: 512-477-1324

REGISTRATION FEES: Please check boxes that apply

Name: \_\_\_\_\_

Title/Office: \_\_\_\_\_

County/Company: \_\_\_\_\_

City/State/ZIP: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Spouse's Full Name: \_\_\_\_\_

	Before July 31 (postmarked)	After July 31 (postmarked)
County Member (employee)	<input type="checkbox"/> \$225	<input type="checkbox"/> \$250
TAC Associate Member	<input type="checkbox"/> \$225	<input type="checkbox"/> \$250
Non-Member (government)	<input type="checkbox"/> \$275	<input type="checkbox"/> \$300
Non-Member (corporate)	<input type="checkbox"/> \$425	<input type="checkbox"/> \$450
Spouse Fee (includes Wed. event)	<input type="checkbox"/> \$30	<input type="checkbox"/> \$30
Extra Ticket for Casino Night	<input type="checkbox"/> \$30/ticket	<input type="checkbox"/> \$30/ticket
TOTAL:	\$ _____	\$ _____

### CONFERENCE CANCELLATION POLICY

Conference fees are fully transferable to other participants. **All refund requests must be received in writing** BEFORE August 15 to receive a full refund minus a \$10 administrative fee. Refund requests received AFTER August 15 will be subject to an administrative fee equal to half the registration fee. Unfortunately, we're unable to honor any refund requests after September 1, 2008.

### HOTEL RESERVATION POLICY - \*\*The Renaissance Hotel block is full\*\*

Please ensure that the boxes below are checked so we may process your registration for the 2008 Annual Conference.

- ☐ I understand that the Renaissance Hotel (host hotel) block is full. I would like to be placed on the wait list. I further understand that should I receive a room at the Renaissance Hotel, I agree to email Jenny Holkesvik at [jennyh@county.org](mailto:jennyh@county.org) or call the Education Department at 800-456-5974 PRIOR TO canceling my reservation. Doing so will allow an attendee on the wait list to take advantage of the conference hotel rooming block.
- ☐ I understand the Renaissance Hotel block is full. I will make my own reservations at the overflow hotel.
- ☐ I do not need to reserve a hotel room.

### HOTEL INFORMATION

#### Renaissance Hotel (Host Hotel)

9721 Arboretum Boulevard | Austin, TX 78759 | 800-468-3571

#### Hotel Rates

Single Rate \$123.00/night

Double Rate \$123.00/night

Plus applicable taxes (15%) and parking fees

- The Hotel Block Code for the Renaissance Hotel will be provided to you upon conference registration.
- Availability at the Renaissance Hotel is limited.

#### Holiday Inn Hotel (Overflow Hotel)

8901 Business Park Drive | Austin, Texas 78759 | 888-465-4329

#### Hotel Rates

Single Rate \$119.00/night

Double Rate \$119.00/night

Plus applicable taxes (15%) and parking fees

- Reservations for the Holiday Inn can be made directly with the hotel.
- The hotel reservation policy does not apply to the Holiday Inn.

For questions, contact Jenny Holkesvik in the TAC Education Department  
at [jennyh@county.org](mailto:jennyh@county.org) or 800-456-5974

## Attorney General Opinions Issued



**GA-0638:** Honorable

Hector M. Lozano, Frio County Attorney, whether, without the approval of the

commissioners court, a county clerk may supplement her deputies' salaries with money from the clerk's records management and preservation fund. **Summary** A county clerk may expend money in the county clerk's records management and preservation fund to pay deputies' salaries, but only subject to the following conditions: First, a county clerk may not supplement salaries the county commissioners court has set in accordance with statutory budgeting procedures unless the county had in place, at the time the deputies were performing the work for which the clerk seeks to compensate them, a bonus or supplement plan. In addition, a county clerk may not supplement her deputies' salaries from the clerk's records management and preservation fund without the prior approval of the commissioners court and without considering whether the supplement is proportional to the amount of time each employee spends on specific management and preservation, including automation purposes. The county clerk's records management and preservation fund may be used to pay that portion of the salaries of any and all employees in the clerk's office who perform tasks that further specific records management and preservation purposes.

If the county treasurer receives a request from the county clerk for money from the clerk's records management and preservation fund to supplement salaries of deputies in the clerk's office, the treasurer must ensure that the claim is first approved by the county auditor and then by the commissioners court.

A county clerk may use the \$2.50 records management and preservation fee collected under Code of Criminal Procedure article 102.005(f) from defendants convicted of an offense in county court or county court at law for any purpose for which the clerk may use fees collected under Local Government Code sections 118.011(b)(2) and 118.0216. The use of the fee is subject to the conditions set out

above.

Between September 1, 2003, and June 17, 2005, the records management and preservation fee collected under Code of Criminal Procedure article 102.005 was to be evenly split between the county's records management and preservation fund established under Local Government Code section 203.003(6) and the district clerk's records management and preservation fund, with \$10 going to each fund. The county clerk's records management and preservation fund was not at that time authorized to receive any portion of the fee collected under article 102.005.

A county clerk may not collect a records management and preservation fee under article 102.005(f) from a defendant whose case has been dismissed.

**GA-0639:** Honorable Hector M. Lozano, Frio County Attorney, whether the County Assessor-Collector may award additional compensation to her salaried deputies from monies collected under the Certificate of Title Act, section 501.138, Transportation Code.

**Summary** A county tax assessor-collector is not authorized to award the fee in section 501.138, Transportation Code, to office employees as compensation in addition to their salaries approved by the commissioners court. A county treasurer presented with a request for such compensation must report the matter to the commissioners court for the court's consideration and direction.

**GA-0640:** Honorable Kim Brimer, Chair, Committee on Administration Texas State Senate, applicability of chapter 1501, Texas Insurance Code, to certain health benefit "cafeteria" plans offered by employers.

**Summary** The payment of individual health benefit plan premiums through a cafeteria plan that is funded entirely by pre-tax deductions from employer-paid salaries and that is not offered or endorsed by the employer is a small or large employer health benefit plan under section 1501.003(3) or 1501.004(3), Insurance Code, if the plan (1) is a health benefit plan that provides health care benefits (2) to the requisite employees and (3) is an

employee welfare benefit plan under 29 C.F.R. section 2510.3-1(j) (i.e., does not fall within the safe harbor exclusion). Whether any particular plan meets these requirements involves questions of fact.

An individual who is eligible to participate in a cafeteria plan that is funded entirely by pre-tax deductions from employer-paid salaries and that constitutes a small or large employer health benefit plan under chapter 1501, may, depending upon the facts, be ineligible to participate in the Texas Health Insurance Risk Pool under chapter 1506 of the Insurance Code.

**AG Issued** *continued on page 11*

## Attorney General Opinions Requested



**RQ-0721-GA** Amadeo

Saenz, Jr., P.E., Executive Director, Texas Department of Transportation, whether

certain monies in the state highway fund may be transferred to a bank outside the state treasury that is administered by the Regional Transportation Council of the North Central Texas Council of Governments.

**RQ-0722-GA** Adan Muñoz, Jr., Executive Director, Texas Commission On Jail Standards, whether a bailiff may supervise an inmate who is temporarily incarcerated in a courthouse holding cell.

**RQ-0723-GA** Honorable D. Matt Bingham, Smith County Criminal District Attorney, whether a state judge is authorized to permit felony and misdemeanor probationers to travel temporarily outside the state or to reside outside the state.

**RQ-0725-GA** Robert Scott, Commissioner of Education, Texas Education Agency, whether subsection 11.051(a-1), Education Code, alters the common law rule for determining the number of votes necessary for a school district board of trustees to act in its official capacity. ■

## **AG Issued** *continued from page 10*

**GA-0642:** Honorable James L. Anderson, Jr., Aransas County Attorney, whether the creation of a county court at law and the related divestiture of the constitutional county court's probate, juvenile, civil, and criminal jurisdiction stripped a county judge of his powers as "magistrate." **Summary** The county judge of the Aransas County Court ("Court"), a constitutional court, retains the power to act as a magis-

## **Manage & Preserve** *continued from page 7*

tion, a county clerk may not supplement her deputies' salaries from the clerk's records management and preservation fund without the prior approval of the commissioners court and without considering whether the supplement is proportional to the amount of time each employee spends on specific management and preservation, including automation purposes. The county clerk's records management and preservation fund may be used to pay that portion of the salaries of any and all employees in the clerk's office who perform tasks that further specific records management and preservation purposes." Op. Tex. Att'y Gen. No. GA-0638 at 9.

The attorney general's opinion also discussed the \$2.50 fee collected from defendants convicted in a county court or county court at law under the Code of Criminal Procedure, §102.005(f)(2).

The Attorney General Opinion, GA-0638, may be found on the Attorney General of Texas' website at [www.oag.state.tx.us](http://www.oag.state.tx.us).

Contact Nanette Forbes at [nanettef@county.org](mailto:nanettef@county.org) if you have any questions or require additional information concerning this article. 🇺🇸

trate despite the fact that the Court was divested of its probate, juvenile, civil, and criminal jurisdiction.

**GA-0643:** Honorable Chris G. Taylor, Tom Green County Attorney, whether the conduct of a constable implicates the resign-to-run provisions of article XVI, section 65 of the Texas Constitution. **Summary** Election Code section 251.001(1)(A) provides that the filing of a campaign treasurer appointment does not constitute candidacy or an announcement of candidacy for another elected office for the purposes of the automatic resignation provisions of Texas Constitution article XVI, section 65. A court would likely conclude that section 251.001(1)(A) is constitutional.

Because the facts presented are not legally dispositive as to whether a particular constable orally or in writing stated that he was a candidate or running for the office of county commissioner, this office cannot determine as a matter of law that the constable announced his candidacy for another office when more than one year remained in his current term of office.

**GA-0644:** Honorable Kim Brimer, Chair, Committee on Administration Texas State Senate, whether, under section 70.001 of the Texas Property Code, an auto repair shop may assert a mechanic's lien for administrative and overhead charges when the shop does not repair the vehicle.

**Summary** Section 70.001(a) of the Texas Property Code authorizes only a worker "who by labor repairs" a vehicle to possess the vehicle until the worker is compensated for the repairs. Tex. Prop. Code Ann. § 70.001(a) (Vernon 2007). If an auto repair shop does not perform any repairs on a vehicle, it may not assert a lien under section 70.001(a).

**GA-0645:** Mr. Sidney "Buck" LaQuey, Grimes County Auditor, whether a county commissioner may be paid while working for the county sheriff in the jail division.

**Summary** Local Government Code section 81.002(a) precludes a county commissioner

from being paid for employment in the county sheriff's department.

**GA-0646:** Honorable Laurie K. English, 112th Judicial District Attorney, meaning of the term "previously captured" for purposes of section 42.092 of the Penal Code, which prohibits cruelty to nonlivestock animals.

**Summary** Section 42.092 of the Penal Code defines "animal" to include any wild living creature "previously captured." Under the facts described, a wild living creature has been previously captured if it has been confined against its will at some time prior to the act of inflicting torture, death, or serious bodily injury to the creature.

**GA-0647:** Mr. James A. Cox, Jr., Chair, Texas Lottery Commission, Constitutionality of Government Code section 467.025(a)(5), which provides that a Lottery Commission member "may not . . . directly or indirectly coerce, attempt to coerce, command, or advise a person to pay, lend, or contribute anything of value to another person for political purposes," and its applicability in specific circumstances.

**Summary** Depending on the particular facts, Government Code section 467.025(a)(5) could apply to prohibit a member of the Lottery Commission from inviting a person to a political fundraising event, authorizing the inclusion of the member's name as a sponsor or host of a political fundraising event, or soliciting a contribution to a candidate for a federal office. The applicability of the statute does not depend on the current status of the candidate as a state officeholder.

A court would not likely find section 467.025(a)(5) unconstitutional on its face, although a court could possibly conclude that it is unconstitutional as applied in particular circumstances. ■



# From the Legislative Desk

By Carey "Buck" Boethel, Director of Governmental Relations

**Remedial legislation**—efforts to amend statutes which have, for whatever reason, become ineffectual are quite common. A law, important to counties, that is in need of repair is the section of the Human Resources Code relating to children in the Texas Medicaid program which limits the period of enrollment to six months. Clients (children) who do not reapply are purged from the rolls of the system immediately upon the expiration of their six month term. Senator Zaffirini will file a bill during the next session that will extend enrollment to one year and in doing so will eliminate administrative inefficiencies and provide a more effective system of treatment. Children who are purged from the

current short term Medicaid system will, at their next health event, invariably end up being treated in a public hospital or other county supported health care facility. Counties should strongly support the Senator's efforts to prevent waste and streamline this segment of the health care system.

**Reduced legislation**—for many people, there are far too many bills introduced each session. The number of bills could perhaps be reduced by an extraordinary act of self restraint on the part of the members, but that prospect is unlikely and untenable since any exception could set in motion a plethora of friendly, but retaliatory initiatives. The Oklahoma legislature has a limit of

eight, however there are nine exceptions. Colorado is more restrictive with a filing limit of five bills, unless they result from the deliberations of an interim committee, in which case the maximum number is eight (with exceptions). First the Legislature would have to pass such an amendment by a two-thirds vote and then a majority of the people of Texas would have to approve—fewer laws, less government—? **A little Levity**—four year old Billy explains to his teacher what he thinks love is: "When someone loves you, the way they say your name is different. You just know that your name is safe in their mouth." **County Government—the pulse of the people.** 🗺️

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



TEXAS ASSOCIATION OF COUNTIES  
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