

County*i*ssues

Volume 18, Issue 9 \ October 3, 2008

Published by the Texas Association of Counties



HURRICANE IKE

Legislative Department Helps Hurricane Counties Calculate Expenses



By Tim Brown

TAC Legislative Staff

Shortly after Hurricane Ike gave a devastating blow to the Texas coast, Governor Rick Perry requested TAC help counties gain essential financial reimbursements from the federal government.

TAC legislative staff spent the next several days communicating with county treasurers, auditors, judges, and emergency management coordinators in order to get an initial cost estimate for damage due to Hurricane Ike, as well as a cost estimate for county resources spent on housing evacuees and emergency response activities.

The cost estimate will be used in Washington, D.C. to arrange initial funding for counties; while there will be later opportunities and other means for counties to seek additional funding, the best chance to get necessary funds from Congress comes immediately following a disaster, Perry's office said.

After receiving several revised and new estimates, the final updated total of \$528,224,735.69 (from 44 counties) was sent to the Gov's staff on Tuesday, 9-23-2008. At that time data from three coun-

ties in the original estimate was left out since TAC staff could not re-categorize their numbers and had been unable to reach those counties at that time.

Brazoria County estimated that the storm caused about \$100 million in county road and bridge damages, and \$1.75 million in damages to other county infrastructure. In total, responding counties—which did not include Orange County—said they expected it will cost about \$101.2 million to repair county roads and bridges, \$2.66 million to repair other county infrastructure and \$442,625 to replace damaged county property such as vehicles. Other significant costs include roughly \$5 million for employee overtime, \$36.6 million for debris removal and \$1 million for care of displaced persons. Many counties were unable to predict how much their tax revenue would suffer due to damaged or destroyed property.

TAC is still getting more estimates in and staff is currently reworking the estimates already collected in order to match the figures up with new categories determined by the Governor's office.

Getting the initial cost estimate so quickly was a challenge, mainly because several counties at the time were still

without communications, and so much information was unknown.

TAC staff sought out the help of county officials around the state and asked that officials respond to a survey, posted online.

The survey asked officials to make a summary of the current and future estimated costs incurred because of Hurricane Ike, breaking down costs into several categories:

- Care of displaced and/or affected persons;
- Loss or repair of county roads and bridges;
- Loss or repair of other infrastructure, such as county buildings, radio towers, etc.;
- Loss or repair of other county property, such as vehicles;
- Debris removal;
- Loss of tax revenue;
- Loss of other revenue;
- Housing inmates outside of the county jail;
- Overtime for county employees; and
- Total other expenditures.

Other TAC departments and staff also had a hand in emergency preparedness

Hurricane Expenses *continued on page 2*

KEY COUNTY DATES

October 2008

October 1. Tax Assessor-Collector's deadline for mailing tax bills. TEX. TAX CODE, § 31.01(a).

October 6. 5:00 p.m. Deadline for opposed candidates in general election to file pre-election report of political contributions and expenditures. TEX. ELEC. CODE, § 254.064. *Actual receipt by deadline required. Deadline extended.*

October 5-27. Period during which County Judge to give notice of General Election by publication. TEX. ELEC. CODE, § 4.003(a). *Deadline extended.*

October 5-11. 2008 County Investment Officer Training, Level I, located at the Texas Association of Counties Events Center, 1210 San Antonio Street, 4th Floor, Austin 78701, 512-478-8753.

October 14. County Judge to post notice of General Election. TEX. ELEC. CODE, § 4.003(b).

Before October 15. Nominations for appraisal district directors due. TEX. TAX CODE, § 6.03(g).

October 15. Deadline for providing written notice of the fees of Sheriff and Constable (or changes) to the comptroller of public accounts. TEX. LOC. GOV'T CODE, 118.131(f).

October 20. First day of early voting by personal appearance for the General Election. TEX. ELEC. CODE, § 85.001.

Deadline for County Judge to deliver written notice of election to presiding election judges. TEX. ELEC. CODE, § 4.007.

October 27. 5:00 p.m. Deadline for opposed candidates in general election to file pre-election report of political contributions and expenditures. TEX. ELEC. CODE, § 254.064. *Actual receipt by deadline required.*

Before October 30. Ballots for directors of appraisal district due to County Judge. TEX. TAX CODE, § 6.03(j).

October 31. Last day of early voting by personal appearance for the General Election. TEX. ELEC. CODE, § 85.001.

November 2008

November 3-7. (RESCHEDULED) County Treasurers' Association of Texas Annual Conference, McAllen, Tx. (previously Sept 15-19, 2008). For more information, contact Norma Garcia, Hidalgo County Treasurer, at norma.garcia@treasurer.co.hidalgo.tx.us, or (956) 318-2508.

November 4. General Election Day. TEX. ELEC. CODE, § 41.002.

November 12-17. Period during which Commissioners Court must meet to canvass election returns. TEX. ELEC. CODE, § 67.003. [deadline extended]. After the canvass the County Judge shall promptly deliver a certificate of election to each candidate elected in the election, unless a recount petition has been filed for that office.

TEX. ELEC. CODE, §§ 67.016 and 212.0331.

Not later than 24 hours after the Commissioners Court canvasses the election, the county clerk must deliver county returns for statewide and district offices and statewide measures to the Secretary of State. TEX. ELEC. CODE, § 67.007.

November 18. Complete jury wheel due to Secretary of State. TEX. GOV'T CODE, § 62.001(c).

2008 Fall Administrative Workshop sponsored by The Texas Judicial Academy, a Partnership between the county Judges Education Committee of the Texas Association of Counties and Texas Tech University School of Law, Galveston. Workshop will be held at Moody Gardens Hotel & Convention Center, 7 Hope Boulevard, Galveston, Texas, (409) 741-8484.

November 19-21. 2008 Fall Judicial Conference sponsored by The Texas Judicial Academy, a Partnership between the county Judges Education Committee of the Texas Association of Counties and Texas Tech University School of Law, Galveston. Workshop will be held at Moody Gardens Hotel & Convention Center, 7 Hope Boulevard, Galveston, Texas, (409) 741-8484.

November 20-21. 2008 Texas Public Funds Investment Conference. Educational Co-Sponsor: Lyndon B. Johnson School of Public Affairs, University of Texas at Austin. The conference will be held at the Renaissance Houston Hotel, 6 Greenway Plaza, Houston, Tx. (713) 629-1200.

Hurricane Expenses

continued from page 1

and recovery, including TAC's Program Administration Department, Field Services Department and even the Information Resources Department: TAC's Chief Security Officer Dave Keene spent the week in Houston and other parts of Southeast Texas, helping to coordinate the restoration of communi-

cations in impacted areas.

Counties utilized County Information Resources Agency (CIRA) Web sites to share emergency preparedness information with their residents. CIRA Director Gayle Latham and her staff helped assist counties in putting their emergency notices on the sites, and also helped troubleshoot during and after the storm. Latham said the state learned at least one important lesson from Ike: many

county Web sites went down after Ike made landfall, because the Texas Regional Hostmaster — the registrar for any county domain that uses the standard co.county.tx.us Web address — is located in Houston. The Texas Department of Information Resources has now taken over that function, in order to prevent problems with the registrar during future hurricanes. 📍

Protecting the Safety of Public Funds



By Aurora Flores-Ortiz
TAC Legislative Staff

During the 80th Legislative session, Representative Dan Flynn filed HB 345, relating to the collateralization of certain public funds. In simple terms, this bill sought to change the collateralization of public funds by allowing the collateral to be pooled and managed by the State Comptroller of Public Accounts.

Collateralization of public funds means that for every public dollar held by a public depository, a dollar is pledged by that bank which would replace the public dollars held in the event a bank should fail. It is important that public entities closely monitor how much collateral is pledged so they can make certain the level of pledged collateral is correct. One reason for keeping a close watch on pledged collateral is the sometimes wide fluctuation in deposits, such as property taxes coming in or debt obligations coming due.

In 2007, the bill was voted out of committee and favorably from the House of Representatives but did not receive a hearing from the committee on Senate Finance. The bill as written last session contained several areas of concern for county treasurers, mainly, that it was written to include counties as one of the "participating institutions" that would participate in the pooled collateral program under the addition of Subchapter F of Chapter 2257 of the Texas Government Code.

The proposed draft for the 2009 Legislative session does not include counties at this point but does still include areas of concern. On September 11th, the Senate Finance subcommittee on General Government Issues met to discuss this and other interim charges. Several agencies and organizations testified including county treasurers Dolores Ortega Carter and Vivian Wood who stressed that,

- The collateral coverage of 102% is insufficient to cover daily fluctuations and would be better set at 110%.
- The present language of the draft is unclear in regard to responsibility and liability of the local elected treasurer should losses of pledge collateral occur, such as fraud.
- The proposed violation penalties are insufficient for participating financial institutions.
- The draft lacks language that would provide local governments' auditors the ability to obtain reports on a daily or as needed basis, which are necessary



Public Funds *continued on page 15*

Senate Committee Hears Indigent Health Care Funding Charge



By Rick Thompson
TAC Legislative Staff

On September 11, 2008, the Senate Finance Subcommittee on General Government

Issues held a hearing on interim committee charge #4: Study the funding of county public hospitals and the role neighboring counties without a county hospital should play.

The committee heard testimony from county officials and representatives of county associations which included a history of the indigent health care and treatment act, clarifying its evolution and original intent. Further testimony provided the committee with suggestions that could allow for different funding solutions for providing health care in the state. One proposed solution calls for a statewide funding mechanism which could then be used to bring down matching federal health dollars. This funding mechanism would require a waiver from the federal Centers for Medicare and Medicaid Services, allowing Texas to deviate from the established rules of the program. If a federal waiver were approved, state funds could be used to obtain 60 cents of every dollar spent on health services.

Generally, the common message given by county representatives emphasized the importance of removing the reliance of indigent health care on unmatched local property tax dollars and move towards a mechanism that would allow Texas to access more federal dollars. To see the handouts dis-

Indigent Funding *continued on page 6*

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. 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



Resources, Naturally

Albert Einstein and Water



By Paul J. Sugg
TAC Legislative Staff

As those of you who read the words found in this corner of the newsletter know, I spent the formative years of my childhood on a hundred-acre farm in Waller County. We ran cows, raised some corn and we children served as the primary muscle to assist my mother (who toiled the most of all) in tending her large vegetable garden. The garden was something less than a quarter-acre but back when I was a little one, and pulling weeds or killing bugs by hand, that garden seemed to go on forever. Those years helped to define me in a number of ways, and gave me a connection to the land, to the critters that live on it, and the stuff that grows and flows out of it. My father might even tell you that

he moved the whole crew (I'm one of seven children) to the country so we might have that connection to the land and even though this was back in 1970 and there were plenty of hippies "getting back in touch with nature", Major Joel Davis Sugg, Jr., formerly of the United States Marine Corps, would not have been then and will not now be confused with any flower child. He wanted his own child to experience something fewer and fewer people experience: a life more clearly tied to Mother Earth and her processes and cycles and, in that, learn about the value of hard work, teamwork, and self-sufficiency. These are not virtues exclusive to the rural life, but they are virtues long tied to the Arcadian myth, an idea that informed the thought and writing of many of the Founding Fathers and has persisted through our history and culture as part of the American ideal, of

American exceptionalism.

A week or so ago I attended a conference devoted to water law in our state. The best and brightest water experts talked about groundwater and surface water policy. A number of speakers properly placed their comments about water supply within the context of a growing population—it is likely we will see the state's population double in the next thirty to fifty years, but our water supply will increase by only 27 per cent. Many dedicated people have been planning how to address this shortfall (this process is the State Water Plan, begun in 1997 by Senate Bill 1) and the solutions include many things like additional reservoirs, innovative use of aquifers to store surface water, conservation, and the re-direction of water (generally, but not exclusively groundwater) from agriculture

Einstein & Water *continued on page 6*



The Frio River

House County Affairs Examines County Authority to Regulate Fireworks



By Laura Garcia
TAC Legislative Staff

The House Committee on County Affairs, chaired by Rep. Wayne Smith (R-Baytown), met on August 18 to hear testimony concerning its interim charge relating to the regulation of fireworks in urbanized, unincorporated parts of Texas counties. During the hearing, legislators and witnesses discussed a range of issues, including recent changes in Texas law pertaining to the regulation of fireworks and whether county governments needed additional authority to regulate fireworks in certain circumstances.

Tom Spencer with the Texas Forest Service provided testimony on the Keetch-Byram Drought Index (KBDI) and how drought conditions are measured for the purposes of fireworks restrictions imposed by commissioners courts pursuant to Section 352.051 of the Local Government Code. County representatives, including Don Lee with the Conference of Urban Counties and Jim Allison, General Counsel for the County Judges and Commissioners Association, also testified and provided an overview of the current laws authorizing the county regulation of fireworks, including the recent legislative revisions made to the Texas Disaster Act which clarify a county's authority to regulate fireworks through a local disaster declaration should circumstances warrant it. Specifically, Section 418.108(i) of the Government Code authorizes a fireworks ban through a local disaster declaration that exceeds a restriction authorized by Section 352.051 of the Local Government Code. However, any fireworks regulations established through a local disaster declaration are only effective for 60 hours, unless extended by the governor.

During the hearing, county representatives also expressed their support for legislation which would allow for the creation of urban zones in densely populated parts of the unincorporated areas, where counties could exercise authority similar to that of municipalities and ban the sale or use of fireworks to protect the public's welfare.

Additionally, the Bexar County Fire Marshal's Office provided testimony on the county's recent experience with the creation of safe zones during the July fireworks season. The Fire Marshal's Office indicated that due to the high volume of emergency calls and the estimated



Regulating Fireworks *continued on page 7*

Einstein & Water, *continued from page 5*

(rural areas) to municipal use (suburban and urban areas).

A couple of the presenters talked about the legal and regulatory mechanics of how to assign a value to groundwater, what laws govern its pumping, how to enter into agreements to buy and export groundwater, generally, how to identify, value, sell, and move a commodity. Then spoke a wise man. He talked about the need for good science and good planning in developing groundwater, but, being a wise man, he recognized the limits of good science and recognized the limits of policy and planning in the face of strong market forces. He asked what would happen to many of the areas of origin and their easily-overtaxed aquifers if demands outstripped our vision of the future.

What happens to a world where we turn anything of value into a commodity? Albert Einstein said this: *"Not everything that can be counted counts, and not everything that counts can be counted."* 🇺🇸

Indigent Funding, *continued from page 3*

tributed at the hearing, please go to www.county.org.

The House Public Health Subcommittee on Indigent Health Care and Treatment will hear invited and public testimony on Oct. 13 in Austin on Interim Charge #2: Research issues relating to the the Indigent Health Care and Treatment Act (Chapter 61, Health and Safety Code) and related local health care initiatives (Chapter 534, Government Code), and make recommendations to address any imbalance between counties for the provision of health care.

For more information on this article or upcoming committee hearing, please contact Rick Thompson at (800)456-5974 or Rickt@county.org. 🇺🇸

20 Million Dollars at Stake for Juvenile Departments



By Laura Nicholes
TAC Legislative Staff

Juvenile probation departments across the state could lose approximately \$20 million of federal funding from their 2008 budgets due to rule changes regarding foster care services. This week, the Texas Juvenile Probation Commission (TJPC) was denied its request to receive federal foster care administrative reimbursements based on recently revised eligibility and reporting standards. There are 153 counties with juvenile probation departments and many of those rely heavily on the Title IV-E funds and included them in their 2008 budgets – county budgets which are falling short almost \$10 million per quarter and are unable to make up the difference.

In September 2007, the Texas Department of Family and Protective Services (DFPS) volunteered to partic-

ipate in a federal “pilot review” with the Administration for Children and Families (ACF) in an effort to assist the agency with developing audit tools for nationwide audits of Title IV-E foster care claims. Changes in federal Title IV-E laws and rules since Texas began participating in 1992, and the interpretation of existing laws and rules, caused the ACF to place a hold on

juvenile probation departments’ Title IV-E administrative claims and reimbursements while the review was being conducted.

The first quarter administrative claims and reimbursements for FY 2008 were approved and disbursed, the second and third quarters were placed

Juvenile Funding, continued on page 8



Regulating Fireworks

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200 fires that were reported in the county during the December fireworks season, it was directed by the commissioners court to work with the local fireworks industry to develop an alternative that would help keep citizens safe. In this regard, the Fire Marshal’s Office worked with local fireworks vendors in creating 10 safe zones in the county where fireworks could be used. Under the arrangement, fireworks vendors purchased or leased the land for the safe zones, and citizens were informed that they could only use fireworks in the specified safe areas on

July 3 and 4 or face potential fines. Fireworks, however, could still be sold by vendors prior to these days. Ultimately, according to the testimony, Bexar County found that the utilization of these safe zones led to a generally safer fireworks season for the public.

Representatives of the fireworks industry also testified during the hearing and expressed their ongoing concerns with county fireworks bans or restrictions infringing on their ability to sell fireworks or impacting the use of fireworks, when in their view, such bans or restrictions are not always necessarily authorized. Witnesses for the fireworks industry did not see a need

for any additional county regulatory authority with respect to fireworks and imparted their view that they are overly targeted for such additional regulations.

The House County Affairs Committee is expected to complete its interim report with legislative recommendations on all of its charges, including recommendations regarding the fireworks regulation matters discussed at this hearing, prior to the beginning of the next legislative session in January.

For additional information, please contact Laura Garcia at (800) 456-5974 or laurag@county.org. 🇹🇽

Juvenile Funding

continued from page 7

on hold until the TJPC, DFPS and the ACF clarified areas of discrepancy in administrative claiming and developed standards to meet the requirements of the new interpretations of laws and rules imposed by the ACF. TJPC required all 153 juvenile probation departments to participate in an instructional seminar to implement the claiming procedures process prior to the start of the fourth quarter. With revised reporting and claiming procedures underway for the fourth quarter, the TJPC encouraged the DFPS and ACF to approve using data collected in the fourth quarter as a guide for allowable expenditures for the 2nd and 3rd quarters even though the reimbursements could have been significantly lower than the anticipated \$20 million.

Based on a letter received from the ACF, this request was denied. On September 29th, TJPC met with DFPS to explore other possible options. As a result, two other options were formulated: 1) a cumbersome and time consuming accounting formula based on all youth on probation which would yield a minimal amount of money; or 2) appeal the ACF decision to place claims on hold during the pilot review process on the grounds that the ACF was operating beyond their scope and authority.

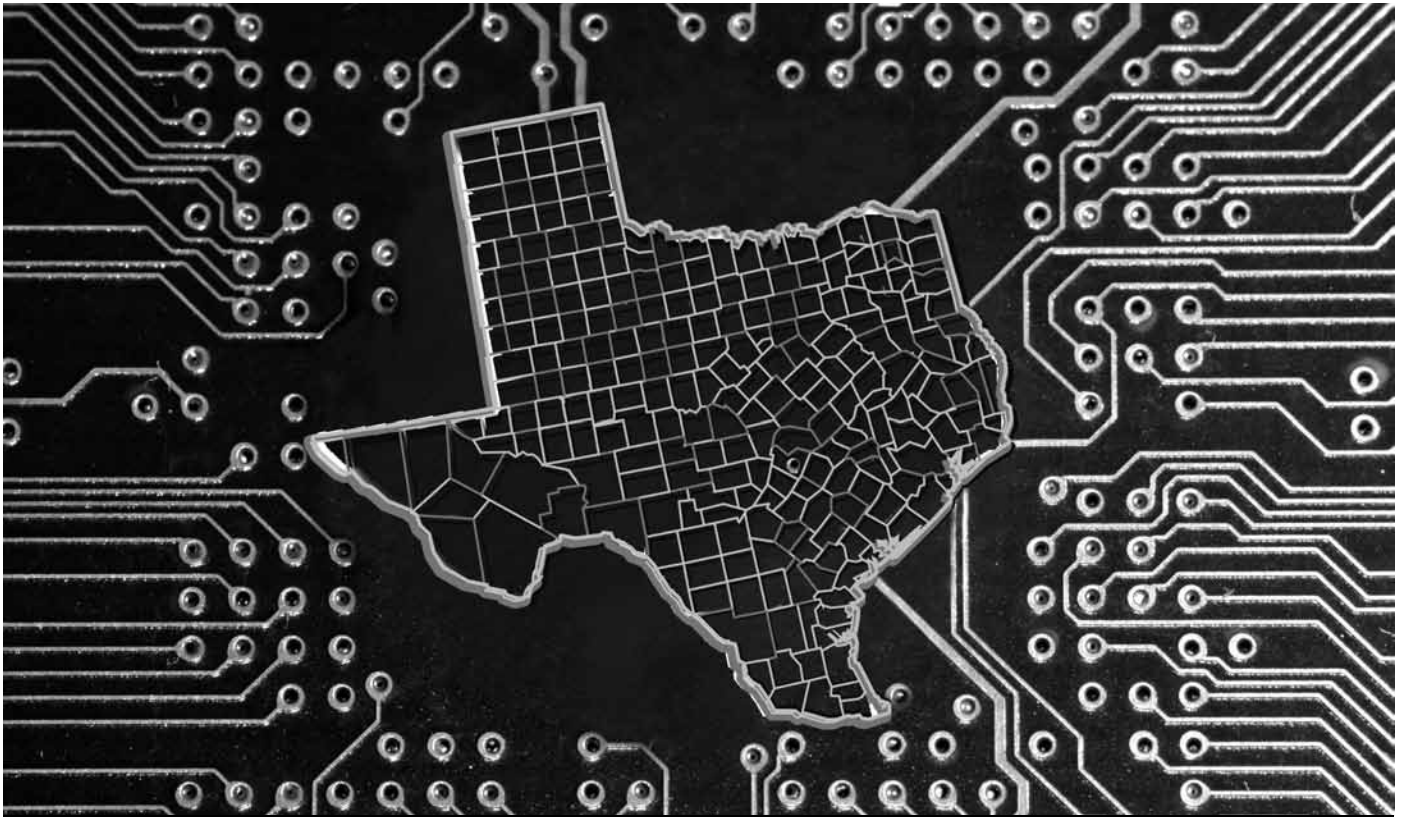
The TJPC has chosen to ask counties to submit 2nd and 3rd quarter claims using the old claiming methodologies. The 2nd and 3rd quarter claims are due to the TJPC by October 31, 2008 so that all claims can be submitted together. A long appeals process is anticipated so it may be some time before any money is returned to the counties, however, the returns could be greater than the other options.

The Texas DFPS works under the guidance of the federal ACF to administer foster care services to children in need. Juvenile probation departments sometimes find it in the best interest of a child to use direct foster care services or, more commonly, they expend time and resources on attempting to divert children from foster placements (administrative activities).

As the regulatory agency for juvenile probation services, Texas Juvenile Probation Commission reviews the federal benefit claims to ensure adherence of eligibility standards prior to submitting to the state and federal agencies for reimbursement. TJPC reports that, statewide, county juvenile probation departments receive about \$42 million annually from the federal government to provide these services. Approximately \$4 million covers expenses for direct placement services while the remaining \$38 million is applied to quarterly administrative claims.

For more information, contact Laura Nicholes at 800-456-5974 or LauraN@county.org. 📍





2009 Courts and Local Government Technology Conference

January 27-29, 2009 • Crowne Plaza Hotel in Austin • Educational co-sponsor: Lyndon B. Johnson School of Public Affairs, University of Texas at Austin

Connecting Counties

CONFERENCE ENCOURAGES OFFICIALS TO KEEP CURRENT IN TECHNOLOGY

The 2009 Courts and Local Government Technology Conference provides quality programs focused on technology specific to Texas courts and county and city governments. If you are in charge of the strategic direction of your county, city or just your office, or if you are simply passionate about technology, this is the one conference you can't afford to miss. Choose from six different breakout education sessions on the first day and fantastic general sessions for the remainder of the conference. We will talk about what works, what doesn't work, and what is in the works in new technologies for local governments.

Each year, our exhibitors showcase their latest technology products and services specific to local governments and courts.

CONTINUING EDUCATION

TAC has applied for continuing-education credits for judges, auditors, county and district clerks, commissioners, justices of the peace, purchasing agents, tax assessor-collectors and treasurers. PHP, SPHR and TCLEOSE hours will also be requested.

REGISTRATION

Registration for the entire conference, including the pre-conference sessions, is \$150 before Jan. 1 and \$175 after Jan. 1. Registration is transferable. Requests for refunds (minus a \$10 administration fee) should be submitted in writing by Jan. 1. After Jan. 1, refunds will be subject to an administrative fee equal to half the registration fee. Online registration is available at www.county.org.

HOTEL INFORMATION

The Conference will be held at the Crowne Plaza Hotel in Austin, 6121 North IH35. Request the Texas Association of Counties room block when reserving your hotel room to receive conference room rates: single \$85, double \$125. Rooms are limited, so please make your reservations as soon as possible. The reservation deadline is Jan. 12.

CO-SPONSORS

The 2009 conference is co-sponsored by the Texas Municipal Courts Education Center, the Texas Center for the Judiciary, the Texas Justice Court Training Center, the Judicial Committee on Information Technology, the Texas Judicial Academy, and the Texas Association of Governmental Information Technology Managers.

TEXAS ASSOCIATION of COUNTIES

Rural Forum to Tackle Energy Costs, Legislative Issues and Community Survival

Meetings feature state and national leaders on rural policy

The Texas Rural Innovators Forum has announced a Fall program that includes two rural issues forums and a community development workshop. The Texas Rural Innovators Forum or "TRIF" brings leading state and national speakers to Central Texas to share ideas and innovations with rural Texans. Local elected and volunteer leaders in all fields are invited to participate.

The Texas Association of Counties is a sponsor of the TRIF Forums.

On Oct. 15 three Texas experts will consider what higher energy costs mean for rural Texas.

"On the one hand, rural peo-

ple drive more and the cost of virtually every agricultural input, from fertilizer to irrigation gas – has soared," says Mike Williams, President of Texas Electric Cooperatives, Inc. "On the other hand, there is a real boom in wind energy and biomass, not to mention traditional oil and gas. Nobody knows quite where the balance will be," Williams says.

Debating whether rural Texas will "sink or soar" with higher energy prices will be noted economic forecaster Dr. Ray Perryman of the Perryman Group in Waco and Pat

Wood, the state and nation's former top electric utility regulator.

Rounding out the expert group is former Congressman Charlie Stenholm of Stamford, Texas and Washington, D.C. In over thirty years on Capitol Hill, Congressman Stenholm served on and was ranking member of the House Agriculture Committee; he brings an in-depth understanding of energy, agriculture and other rural issues.

A panel of local leaders will respond to the experts, bringing their own obser-

vations to the debate. They include the city administrator of Nacogdoches, the director of Institutional Advancement at Howard College in Big Spring, director of the Coastal Bend Council of Governments, and director of the Wood County Electric Coop.

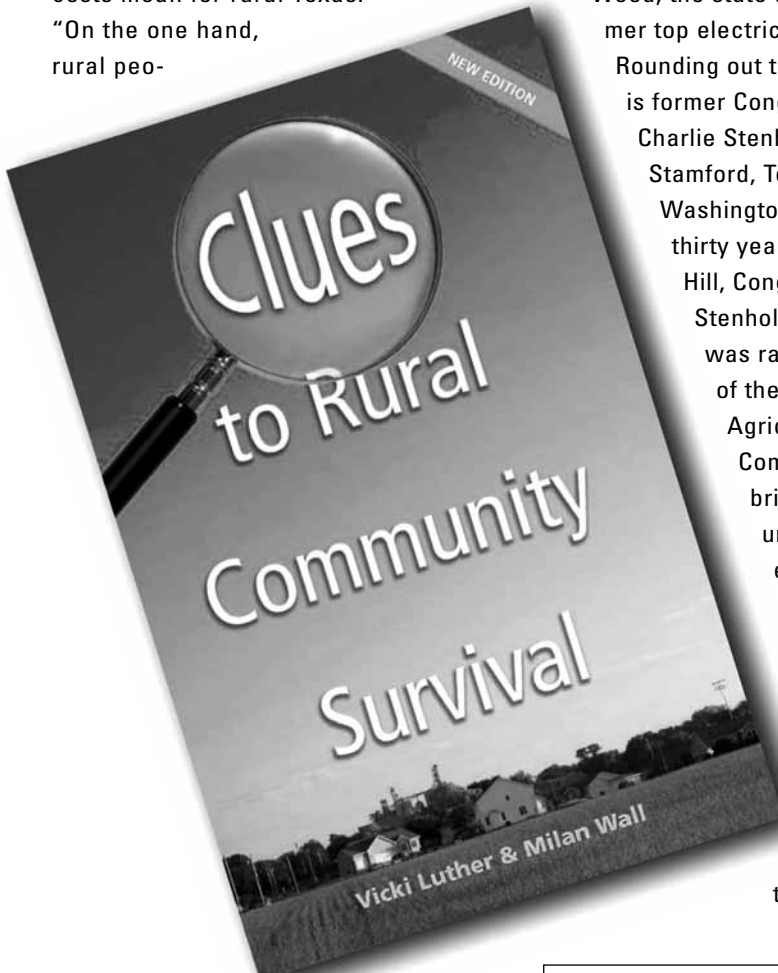
"We like to keep things grounded at the Forums," said Bobby Gierisch, Forum coordinator, "and there's no better way than to hear from people in the field, dealing with the realities of higher fuel and power costs on their institutions as well as their own families and neighbors."

On Nov. 18 distinguished rural legislators will discuss issues that will take center stage in the legislative session that convenes in January, 2009. "In January the rubber meets the road," said State Representative Warren Chisum of Pampa. "Rural, urban and suburban interests all vie for attention to their needs, and we want to be sure rural is not left behind."

Chisum is chair of the powerful House Appropriations Committee. He will be joined by State Representatives Lois Kolkhorst of Brenham, Jim McReynolds of Lufkin, with others pending.

Dr. Chuck Fluharty of the Rural Policy Research Institute and the German Marshall Fund will discuss national rural priorities; and Jerry Nagel of Northern Great Plains, Inc. will talk about his organization's experiences "starting productive conversations" in communities.

Rural Forum, continued on the next page



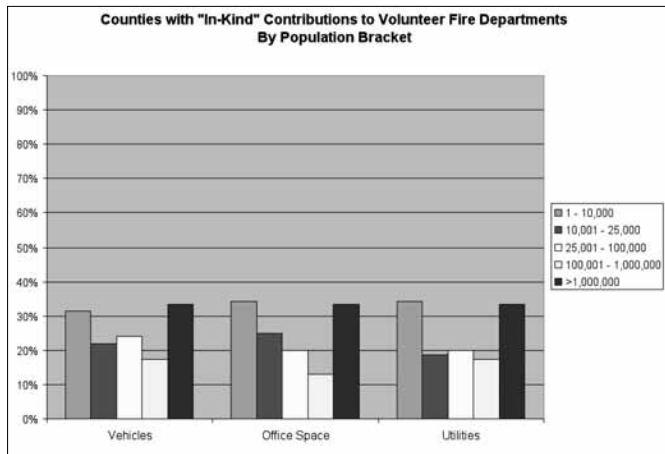
Volunteer Fire Departments



By Tim Brown
TAC Legislative Staff

From January to March of 2008 the Texas Association of Counties conducted its third County Expenditures Survey. This survey asked counties to provide several years worth of expenditures in a number of areas ranging from county fuel costs to services to veterans. In addition, TAC also asked about "in-kind" contributions for a number of activities and organizations including volunteer fire departments.

When anyone thinks about recipients of county in-kind contributions, generally the first thing that comes to mind is the volunteer fire department ("VFD").



The following chart shows that these organizations received contributions from a number of counties of all sizes during 2007.

To quickly illustrate how to read this chart, look on the left part of the chart where it shows 31.4 percent

of the responding counties in the 1 – 10,000 population bracket provided vehicles to local volunteer fire departments in 2007 compared to 33.3 percent of the counties in the over 1 million population bracket.

Of course, statewide there are only four counties in the over 1 million population bracket, of which only three were able to respond in time to be included in this report. While more counties in the other brackets responded to the survey, only the counties in the lowest population bracket (1 – 10,000) provided as much in-kind support on a percentage basis. The following table provides the number of counties contributing vehicles, office space, and/or other items as well as the total number of counties in each population bracket.

This article was adapted from the County Expenditures Survey report.

Population Bracket	vehicles	office space	other	Out of
>1,000,000	1	1	1	3
100,001 - 1,000,000	4	3	4	23
25,001 - 100,000	6	5	5	25
10,001 - 25,000	7	8	6	32
1 - 10,000	11	12	12	35

Future articles in this newsletter will discuss other county cost drivers from the survey. In the meantime, a copy of the report can be downloaded in PDF format from the TAC web site (www.county.org/resources/countydata/products.asp#reports). 📄

Rural Forum

continued from the previous page

On December 2, the Texas Rural Innovators Forum will host "Clues to Rural Community Survival," a one-day workshop in Fredericksburg. The workshop will draw on twenty years of study and experience of the Heartland Center for Leadership Development, a Nebraska-based non-profit that works with over 2500 leaders in over 300 communities each year.

"If you want to know why some communities thrive and others don't, these are the people with the answers," says Gierisch. "And their answers are based on decades of work in the field."

"This will be a hands-on, very interactive workshop for community leaders and people who just want to see their efforts be more productive," says Vicki Luther, co-founder of the Heartland Center and resident of Kerrville. Participants will get training they can put to use immediately in their home towns. The registration fee includes a workbook, a copy of the Heartland Center's new edition of *Clues to Rural Community Survival*, lunch and breaks.

The goal of the Texas Rural Innovators Forum is to bring the leaders of rural Texas into personal contact with spokespeople from the most successful and innovative rural development programs in America, and to bring leaders of rural Texas together with one another to share their own energy and ideas for improvement.

For more information on TRIF or the Fall programs, see www.ruraltx.org or call 512-499-8948. 📞



Wind Energy

Emerging as the New Source of Renewable Energy



By Paul Emerson
TAC Legislative Staff

In the June 2008 *County Issues*, the first of a series of articles on wind energy

focused on media coverage and how wind energy has caught the attention of several Texas House committees. Wind energy is once again making headlines. Recently, the legendary oil tycoon, T. Boone Pickens, met with senators in Washington, D.C. to unveil his alternative energy plan which entails reducing American's dependence on foreign oil by 30 percent over the next 10 years, and investing in enough wind turbines to provide at least 20 percent of the nation's energy.¹ Pickens has already spent \$58 million to advance what he calls the "*Pickens Plan*".² The day before Pickens revealed his energy plan in Washington, the Texas Public Utility Commission (PUC) approved a \$4.93 billion transmission plan to move wind energy from West Texas to the metropolitan areas of the state.³ The cost of this transmission plan is projected to increase each residential customer's electric bill by \$4.00 per month, once construction is completed and costs are reflected in the rates.

The Early Beginnings of Wind Energy

The concept of harnessing the energy of the wind can be traced back for several millennia. The earliest known windmill device was used in Persia (now known as Iran) around 200

B.C.⁴ However, it was not until the 7th century A.D. that the first practical windmills were built in Sistan, Afghanistan.⁵ These were vertical axle windmills which had long vertical drive-shafts with rectangle shaped blades.⁶ Centuries later, Holland came up with the basic design of the windmills where propeller-type blades were used. Windmills were also used by the American colonists to grind wheat and corn and to pump water.

It was not until 1887 where James Blyth in Scotland built the first windmill for electricity production. Around that same time across the Atlantic, Charles Brush from Cleveland, Ohio was the first American to construct a windmill for electricity production.⁷ Brush designed and operated a wind generator turbine with 144 blades to power lights and heavy machinery for his home factory. Brush operated his wind turbines from 1886 to 1900, until electricity became readily available through centrally-generated power plants.⁸

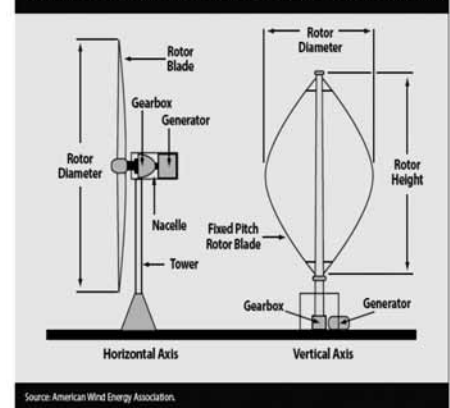
In the early 1930s, windmills became increasingly popular and were widely used to generate electricity on farms in the United States. Most of these windmills produced electricity from a two-bladed, horizontal-axis with a 200 maximum wattage capacity. By the middle of the 1930s the Rural Electrification Administration program was connecting rural residents to the network of power distribution stations which provided dependable electricity – but ultimately destroyed the use of wind mills for power generation.

The oil crisis of the early 1970s led to a renewed interest in alternative energy.⁹ Fossil fuel was still relatively cheap in the 1980s and 1990s which stifled the expansion and development of wind energy during that time. But by 1999, the demand for wind energy began to increase and was sparked by several factors such as growing concerns about energy security and the lingering fear over fossil fuel depletion. However, the most significant factor leading up to the increased demand of wind energy was the 2 cents per kilowatt-hour (kWh) production credit.¹⁰ With the rising cost of fuel prices today, finding alternative energy resources is becoming a greater concern for the local and national economy.

Types of Wind Turbines

There are two common types of wind turbines: horizontal-axis and vertical-axis (**Figure 1**). The size of wind turbines may vary greatly depending

Figure 1 - Wind Turbine Configuration
Horizontal-Axis and Vertical-Axis Wind Turbines



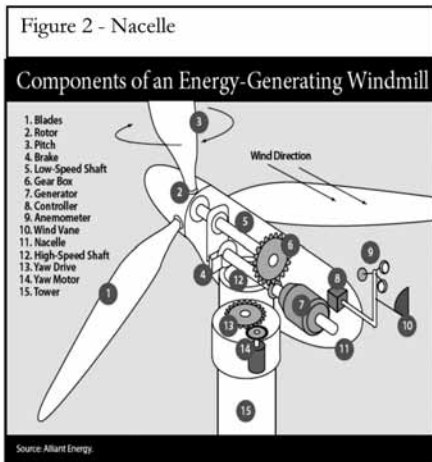
Wind Energy *continued on the next page*

Wind Energy

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on how it is used. Small turbines range from powering up batteries on a sailboat to providing power for single homes or farms in remote locations. These small turbines are able to generate up to 10 kilowatts. Large commercial wind turbines are used to provide power to the grid, and can generate up to several megawatts.

A typical horizontal wind turbine stands 328 feet tall (equivalent to a 20 story-building) with two or three blades (each blade is 112 feet long and made of fiberglass) that rotate like airplane propellers. In order to illustrate the magnitude of these machines, the blade alone is longer than a football field.¹¹ The nacelle that sets on top of



the tower houses the generator and the gearbox and resembles a large travel trailer, weighing 56 tons (**Figure 2**). The towers are mostly tubular and made of steel.

The most common type of vertical-axis wind turbine is known as the "Darrieus" which looks like a huge two-bladed egg beater. The Darrieus stands roughly 100 feet tall and 50 feet wide. Darrieus is named after Georges Jean Darrieus who patented his wind machine in 1931.

Wind Turbine Components:

- A *rotor*, or blade converts the wind's energy into rotational shaft energy;
- A *nacelle* (enclosure) contains a drive train, usually includes a gearbox and a generator (not all turbines have a gearbox);¹²
- A *tower* to support the rotor and drive train;¹³ and Electronic equipment such as controls, electrical cables, ground support equipment, and inter-connection equipment.¹⁴

Measurement of Electricity:

Trying to understand the measurement of electricity is fairly straightforward, until wind speed is put into the equation. Wind speed is a key component in determining how much electricity is generated from wind turbines. This section will only cover the basic measurement of wattage output as explained below.

- Electricity is measured in wattages, for example:
- Kilowatt (KW) equals 1,000 watts, megawatt (MW) equals 1 million watts, gigawatt equals 1 billion watts¹⁵ (similar to kilobytes, megabytes, and gigabytes on a computer hard drive);
- Electricity production and consumption are commonly measured in kilowatt-hour (KWH) which equals 1,000 watts. Example: one 50 watt light bulb left on for 20 hours consumes one kilowatt hour of electricity (50 watts x 20 hours = 1,000 watt hour = 1 kilowatt hour);¹⁶
- An average home consumes 10,644 KWH per year;¹⁷
- A 10 KW (small wind turbine) can generate roughly 10,000 KWH annually (with average wind speeds of 12 miles per hour), enough power for a typical household;¹⁸

- A 5 MW (large wind turbine) can generate more than 15 million KWH in a year – enough to power more than 1,400 households (1,400 x 10,655 (average home consumption) = 14.9 million KWH).¹⁹

The next article in this series will focus on how wind power has become a leading renewable energy in Texas, and what tax incentives are available for wind energy production.

For more information concerning this article, please contact Paul Emerson at (800) 456-5974 or via email at paule@county.org. 📍

¹ <http://www.latimes.com/news/print/edition/asection/la-na-pickens23-2008jul23.0.1091303.story>; by Vimal Pater (Los Angeles Times Staff Writer).

² <http://www.dallas.bizjournals.com/dallas/stories/2008/07/21/daily31.html>.

³ Public Utility Commission of Texas; (PUC Update – Weekly Publication), July 17, 2008; <http://www.puc.state.tx.us/nrelease/2008/071708.pdf>

⁴ http://en.wikipedia.org/wiki/History_of_wind_power.

⁵ Id.

⁶ Ahmad Y Hassen, Donald Routledge Hill (1986). *Islamic Technology: An Illustrated history*, p 54. Cambridge University Press.

⁷ James Blyth – Britain's first modern wind power pioneer; By Trevor Price, 2003, *Wind Engineering*, vol 29 no. 3, pp 191-200.

⁸ 1944: Rural Electrification Act Amendments PL 78-425, 78-563. The Rural Electrification Administration (REA) was a federal government agency created in 1935 through the efforts of President Franklin D. Roosevelt to promote electrification in rural areas.

⁹ Andrew Swift and Jamie Chapman, "A Primer on Wind Energy: Meteorology, Technology, Economics and Transmission," (presented at the University of Texas School of Law 2007 Wind Energy Institute Conference, Austin Texas, P1.).

¹⁰ Id.

¹¹ <http://www.eia.doe.gov/kids/energyfacts/sources/renewable/wind.html>.

¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

Attorney General Opinions Issued



GA-0656: Honorable Bill Burnett, San Jacinto County Criminal District Attorney, whether a county policy prohibiting the rehire of an individual within one year after terminating an employment relationship with the county applies to the hiring of a deputy constable. **Summary** A county policy adopted by the commissioners court that prohibits the rehire of an individual whose employment relationship with the county terminated within the past year does not apply to a constable.

GA-0658: Honorable David H. Aken, San Patricio County Attorney, maximum distance that a county may require that a sexually oriented business be located from a residence, church, elementary school, and other designated facilities. **Summary** Local Government Code section 243.006(a) authorizes a county to, among other things, prohibit a sexually oriented business from locating "within a certain distance of a school, regular place of religious worship, residential neighborhood, or other specified land use . . . [found] to be inconsistent with the operation of" such a business. Tex. Loc. Gov't Code Ann. § 243.006(a) (Vernon 2005). Section 243.006(a) does not establish any particular distance requirement between sexually oriented businesses and other land uses, but implicitly leaves this decision to the discretion of the governing body adopting the restriction. That discretion must be exercised within the confines of the federal and state constitutions, as interpreted by the courts. The exact distance that a county may require a sexually oriented business be located from other land uses is a fact-sensitive inquiry.

GA-0659: Honorable R. Lowell Thompson, Navarro County Criminal District Attorney, legal status of a portion of a road originally built as an Ellis County road but which a later survey established as located in Navarro County. **Summary** An order of the Navarro County Commissioners Court adopting a resurvey report does not establish as a matter of law that a portion of a road previously thought to be located in Ellis County but actually located in Navarro County is a Navarro County road.

GA-0660: Honorable Jeri Yenne, Brazoria County Criminal District Attorney, whether a municipal court may hear compliance applications filed under section 822.042(c) of the Health and Safety Code and appeals of dangerous-dog determinations under section 822.0421(b) of the same code. **Summary** A municipal court established under Government Code chapter 29 has jurisdiction under Health and Safety Code section 822.042(c) over a compliance application filed under that section if the court also has territorial and personal jurisdiction. Such a municipal court also has jurisdiction under Health and Safety Code section 822.0421(b) over an appeal of a municipal animal control authority's dangerous-dog determination made under section 822.0421(a) if the court also has territorial jurisdiction. The phrase "court of competent jurisdiction" in section 822.0421(b) refers to a court with territorial jurisdiction over the matter.

A municipal court may not, on the grounds of a lack of subject-matter jurisdiction, refuse to hear an appeal of a dangerous-dog determination by a municipal animal control authority if the court has territorial jurisdiction. The court may, however, determine that it does not have territorial jurisdiction. A dog owner may file an appeal of a municipal animal control authority's dangerous-dog determination with any municipal court, justice court, or county court—all of which have jurisdiction under section 822.042(c)—that also has territorial jurisdiction. A municipal court may not transfer a dangerous-dog-determination to a county or justice court and is obligated to hear the appeal. A municipality may not, by order of its animal control authority or otherwise, dictate the court to which a dog owner may appeal a dangerous-dog determination if more than one court has subject-matter, including territorial, jurisdiction.

GA-0661: Honorable Russell W. Malm, Midland County Attorney, whether a county is authorized to pay a performance-based bonus to elected officials. **Summary** A bonus plan that is premised on accomplished performance goals set by a commissioners court may improperly interfere with an elected official's constitutionally based sphere of authority. Thus, we cannot advise that a commissioners court is authorized to adopt such a plan.

GA-0662: Honorable Tony Goolsby, Chair, Committee on House Administration, Texas House of Representatives, application of Local Government Code section 143.014(c) to municipalities that have adopted Local Government Code chapter 174, the Fire and Police Employees Relations Act. **Summary** Section 143.014 of the Local Government Code, a provision of the Fire Fighter and Police

Attorney General Opinions Requested



RQ-0731-GA Honorable Roy L. Cordes, Jr., Fort Bend County Attorney, formula by which a commissioners court must set the salary of a statutory county court judge.

RQ-0732-GA Honorable Frank J. Corte Jr., Chair, Defense Affairs and State-Federal Relations, Texas House of Representatives, constitutionality of proposed legislation that would provide for the suspension or revocation of the business license of employers of undocumented persons.

RQ-0733-GA Honorable Frank J. Corte Jr., Chair, Defense Affairs and State-Federal Relations, Texas House of Representatives, authority of the Legislature to prohibit local governmental entities from serving as "sanctuaries" for undocumented persons.

RQ-0734-GA Honorable Kenneth Magidson, Harris County District Attorney, authority of a district attorney to restrict the carrying of a firearm into a courtroom by an assistant district attorney who holds a concealed handgun license.

RQ-0736-GA Honorable Leo Berman, Chair, Elections, consequences attending a legislator's announcement of his candidacy for governor during the first year of a two-year term.

RQ-0737-GA Honorable Warren Chisum, Chair, Appropriations, Texas House of Representatives, whether the Edwards Aquifer Authority may prohibit the granting of permits to certain recharge facilities; and whether the Authority may prohibit itself from contracting with certain recharge facilities.

RQ-0738-GA Honorable Kevin Bailey, Chair, Urban Affairs, Texas House of Representatives, authority of a sheriff to accept a fee from a private organization that contracts with the sheriff's county to operate the county jail.

RQ-0739-GA Honorable Armando R. Villalobos, Cameron County and District Attorney, Whether court interpreters appointed pursuant to article 38.30, Code of Criminal Procedure are responsible for transcribing and/or translating foreign language video, audio, and written recordings of testimony in preparation for a criminal proceeding.

RQ-0740-GA Allan B. Polunsky, Chair, Public Safety Commission, whether the Public Safety Commission may authorize statewide drivers license checkpoints.

AG Issued *continued on page 15*

AG Requested *continued on page 15*

AG ISSUED *continued from page 14*

Officer Civil Service Act, authorizes a municipal governing body to allow a fire chief to appoint a limited number of persons to the classification immediately below him without following the usual civil service appointment process. When a municipality that is subject to the civil service act adopts Local Government Code chapter 174, the Fire and Police Employees Relations Act, subsection 143.014(c), limiting the number of deputies who may be appointed, becomes inapplicable to the municipality. These limits may be reimposed if the municipality specifically adopts them through the collective bargaining process.

For purposes of subsection 143.014(c), the Fire and Police Employees Relations Act is adopted by an election held pursuant to section 174.051 of the Local Government Code. The limits in subsection 143.014(c) on the number of deputies who may be appointed become inapplicable in the municipality at this time.

GA-0663: Honorable Jana A. Jones, 271st Judicial District Attorney, Jack and Wise Counties, whether the members of a discretionary bail bond board may dissolve the board.

Summary Occupations Code chapter 1704 creates a bail bond board in a county with a population of 110,000 or more and authorizes the creation of a bail bond board in a county with a population of fewer than 110,000. Because neither chapter 1704 nor another law authorizes it, a bail bond board created in a county with a population of fewer than 110,000 may not dissolve itself by a vote of the members of the board or by another method.

GA-0664: Honorable James L. Keffer, Chair, Committee on Ways and Means, Texas House of Representatives, whether a county may grant funds to a school district or charter school. **Summary** Article III, section 52(a) of the Texas Constitution does not permit a county to gratuitously grant county funds to an independent school district or open-enrollment charter school. A county may make a payment to such a school district or charter school only to accomplish a county purpose. A court would likely determine that a county does not have the authority to grant county funds for general purposes of an independent school district or open-enrollment charter school.

GA-0665: Honorable Susan Combs, Comptroller of Public Accounts, whether an applicant who has a leasehold interest in "qualified property" is eligible to apply for a limitation on the appraised value of the qualified property. **Summary** Tax Code section 313.025(a) authorizes "the owner of qualified property" to apply to a school district for a limitation on the appraised value of the qualified property for the purposes of school district-imposed maintenance and operation property taxes. Under Tax Code section 313.021(2), land, building or other improvement, and tangible personal property each constitute "qualified property." Accordingly, a person that owns a building or other improvement or tangible personal property is an "owner of qualified property" under section 313.025(a). Thus, a person meeting the other requirements of chapter 313 who owns such qualified property—building or other improvement or tangible personal property—is eligible to apply for a limitation on the appraised value of the person's qualified property irrespective of whether the person owns or leases the land on which the qualified property is to be placed.

GA-0666: Honorable Beverly Woolley, Chair, Committee on Calendars, Texas House of Representatives, whether the Texas Association of Appraisal Districts is a "governmental body" for purposes of chapter 552 of the Government Code, the Public Information Act. **Summary** Whether an entity is a "governmental body" under the Public Information Act, chapter 552 of the Government Code, depends largely upon whether that entity is supported in whole or in part by public funds. The extent to which an entity is supported by public funds requires an analysis of the facts surrounding each entity. Inquiries as to whether a particular entity is a governmental body are particularly appropriate to the Attorney General's open records process under the Public Information Act.

GA-0667: Honorable Sherri K. Tibbe, Hays County Criminal District Attorney, whether a county bail bond board may suspend or revoke an individual surety's license for that licensee's activity relating to an out-of-county bond. **Summary** A county bail bond board may revoke or suspend the license of a bail bond surety licensed in that county if the surety violates chapter 1704 of the Occupations Code or a rule adopted under that chapter on a bond executed in that county on a warrant issued by another county. ■

Public Funds

continued from page 2.

for auditing purposes.

- The draft removes local control and responsibility of collateral funds from local entities.
- The draft does not specify that the cost of the system will not be passed on to public entities.

Testimony emphasized that the need to protect the safety of public funds and maintenance of local control are vitally important. Because more input on the pooled collateralization issue is needed and many important details are absent in the draft, meetings and conversations will continue to take place.

In the meantime, you can keep in touch with your local representatives and keep open the lines of communication. If you are not already a member, you can also become part of the TAC Core Legislative Team. As a member of this legislative arm, you can be a valuable asset by providing informational emails, phone calls, letters or personal visits to your legislators on critical issues.

For more information on TAC's Core Legislative Team and this article, please contact Aurora Flores-Ortiz at 800-456-5974 or at aurorafo@county.org. ➡

AG REQUESTED *continued from page 14*

RQ-0741-GA Robert Scott, Commissioner, Texas Education Agency, authority of a home-rule city to enforce zoning ordinances against a school district for the purpose of aesthetics and the maintenance of property values.

RQ-0742-GA Honorable Leo Berman, Chair, Elections, Texas House of Representatives, whether, under the federal Constitution, the state of Texas may permit undocumented persons to receive the benefit of in-state tuition at Texas state colleges and universities.

RQ-0743-GA Honorable John Corona, Chairman, Senate Committee on Transportation and Homeland Security, Texas State Senate, conditions under which a foreign commercial motor vehicle is exempt from registration in this state. ■



From the Legislative Desk

By Carey "Buck" Boethel, Director of Governmental Relations

Eltife for President—take a moment to read, on the TAC website, Senator Kevin Eltife's comments made August 20th during a hearing of the Texas Senate Finance Subcommittee on Property Appraisal and Revenue Caps. You will find a profoundly honest and straightforward statement by the Senator that sure clears up a bunch of funky blame business that has been put on counties and



Senator Kevin Eltife

cities for a long, long time—particularly on the issue of high property taxes. **Subject matter fatigue**—property tax reform has endured as a mainstream, almost perennial, legislative subject for over a decade now. During each consecutive session, the subject, which includes the lesser issues of appraisal and revenue caps, develops its own unique character. Even though everyone is tired of the subject, counties will stay engaged and eager to provide educational materials and services about the perils of high property taxes. **Big Government**—most people are against a large, pervasive

system of governance because it is expensive, unnecessary and destructive of our free enterprise system. Those issues aside, one of our most highly honored national statesmen admonished us to take heed in yet another, but more fundamental fact: *A government big enough to give you everything you want, is strong enough to take everything you have.* —Thomas Jefferson. 🗺️

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



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