

State Mandates Specific Language, Procedure for Tax Rate Increase

The 81st Legislature enacted three new requirements that commissioners courts must follow when setting a tax rate that exceeds the effective tax rate. These requirements were effective in June and will be necessary when setting tax rates this year.

House Bill 2291 by Rep. Dan Gattis (R-Georgetown) and Sen. Steve Ogden (R-Bryan) includes the following:

- Specific language that must be used in making the motion to adopt a new rate that exceeds the effective tax rate;
- Mandated language for court orders when adoption of a tax rate will result in an increase in the effective maintenance and operations rate, including the dollar amount of increased taxes on a \$100,000 home; and
- Specific language that is required to be posted on a county's Internet Website when the effective maintenance and operations rate is increased, including the increase on a \$100,000 home (this section does not apply to counties that do not have Internet sites).

For specific details on the new mandate, a memo by Karen Gladney of the Texas Association of Counties Legal Department follows:

During the 81st Regular Session of the

Texas Legislature, Section 26.05 of the Tax Code was amended to prescribe the **specific language** that the commissioners court must use in the motion and order to adopt a tax rate that exceeds the effective tax rate. House Bill 2291 took effect on June 19, 2009, and it applies to the adoption of an ad valorem tax rate after that date.

Motion to adopt tax rate: A motion to adopt an order setting a tax rate that exceeds the effective tax rate must be made in the following form:

"I move that the property tax rate be increased by the adoption of a tax rate of (specify tax rate), which is effectively a (insert percentage by which the proposed tax rate exceeds the effective tax rate) percent increase in the tax rate."

Order to adopt tax rate: An order setting a tax rate that, if applied to the total taxable value, will impose an amount of taxes to fund the county's maintenance and operation expenditures that exceeds the amount of taxes imposed for that purpose in the preceding year, must include the following statement:

"THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE."

If the tax rate exceeds the effective maintenance and operations rate, the order must also include the following statement:

"THE TAX RATE WILL EFFECTIVELY

BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE EFFECTIVE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(Insert amount)."

Each of the statements must be printed in a type size that is larger than the type used in any other portions of the order.

Notice on Internet Website: If the county operates an Internet Website, the following statement must be included on its home page:

"(Insert name of county) ADOPTED A TAX RATE THAT WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE."

If the tax rate exceeds the effective maintenance and operations rate, the following statement must appear on the county's website home page:

"THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE EFFECTIVE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(Insert amount)."

For more information, please review HB 2291. ★

KEY COUNTY DATES

August 2009

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

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

August 24-25. TAC 2009 Annual Conference & Expo. Presented by the Texas Association of Counties.

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 2009

September 1. District Court order increasing salary, if any, of official district court reporter due to Commissioners Court for next budget year. Tex. Gov't Code, §52.051(c).

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

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

Health Care Reform Bill Advancing Through Congress

Reductions in DSH Payments Proposed



By Laura Garcia

TAC Legislative Staff

Health care reform legislation, with various provisions supported by the

National Association of Counties (NACo), is presently working its way through both chambers in Congress. Various portions of the legislation, H.R. 3200, also known as America's Affordable Health Choices Act of 2009, have been considered by several committees in both the House and Senate over the past few weeks.

In the Senate, the Health, Education, Labor, and Pensions Committee approved a version that significantly increases funding

for Federally Qualified Health Centers and community-based mental health services, and includes provisions intended to expand the healthcare workforce. The House version contains similar provisions, as well as an expansion of Medicaid to include all individuals below 133 percent of the federal poverty level; the federal government would bear the full costs of the increase.

However, one matter of particular concern for counties is a significant proposed cut to Medicaid disproportionate share hospital (DSH) payments. On July 8, Vice President Biden announced that three hospital industry groups had agreed to \$50 billion in cuts to Medicare and Medicaid disproportionate share hospital (DSH) payments over a 10-year span. DSH

payments help those hospitals that serve a significantly disproportionate number of low-income patients by providing funding for uncompensated care costs.

It is unclear when any reform legislation might pass, as both parties continue to negotiate a compromise. With respect to the proposed cuts in DSH payments, the National Association of Counties (NACo) is asking county officials to contact their members of Congress and oppose any reductions until the impact of health reform on Medicaid, the uninsured, and county hospitals can be studied further. For additional information, please contact Laura Garcia at (800) 456-5974 or laurag@county.org. ★

Passed Bills

In our last two issues, we published lists of significant bills affecting county government. This is our third installment. A combined list of bills affecting counties will be published in booklet form for distribution at TAC's Annual Conference Aug. 24-26 and then published on www.county.org.

ABANDONED/IMPOUNDED VEHICLES

HB 453 by Gonzalez-Tourelles: Relating to the use of auction proceeds from the sale of certain abandoned motor vehicles to compensate certain property owners. Amends Section 683.015, Transportation Code to allow a county law enforcement agency to use funds received from the sale of a motor vehicle abandoned as a result of a vehicular pursuit to compensate property owners whose property was damaged as a result of the pursuit (most commonly, fences). Before a law enforcement agency may compensate a property owner using funds transferred, the sheriff or constable must submit the transfer and payment to the commissioners court for consideration. (Currently, excess auction funds are directed to the county general fund and dedicated to law enforcement purposes). *Effective 6-19-09.*

HB 548 by Pickett: Relating to the impoundment of certain motor vehicles involved in the commission of the offense of racing on a highway. Section 545.420, Transportation Code is amended to permit law enforcement officers to impound certain motor vehicles involved in the commission of the offense of racing on a highway which results in an accident with property damage or personal injury. It requires that the vehicle be taken to the nearest licensed vehicle storage facility unless the vehicle is seized as evidence, in which case, the vehicle may be taken to a storage facility as designated by the peace officer. HB 548 provides that the owner of a motor vehicle that is removed or stored under this subsection is liable for all removal and storage fees incurred and is

Passed Bills *continued on page 5*

Unit Roads



By Tim Brown

TAC Legislative Staff

At TAC, particularly in the County Information Project (CIP), we send a number of surveys to county officials. While they can be time-consuming for you, they provide us with information we just can't get anywhere else. Since so many of you have helped us in the past, and continue to help us, by responding to our surveys, I thought it might be of interest to you to discuss one of our surveys in more depth.

To keep this article reasonably interesting, I've selected a survey the CIP is currently working on that involves a question that seems to come up every year. Although the frequency can vary, on average it seems like we get several calls asking about "unit roads" every month. While we have some data on which counties have a unit road system, that information has gotten a bit old since it was last updated in 2003.¹

On July 13, 2009 the CIP sent out a survey to find out which counties currently utilize the County Road Department System (aka "Unit Road System") to manage their county roads. The survey request was sent out to 240 counties.

FYI, the survey didn't go to all 254 counties since it turns out that either we were missing e-mail addresses for 14 county judges or they had previously requested not to be contacted by our online survey service. In addition, five of the addresses we had on hand turned out to be invalid for one reason or another. Since then we've made some corrections to our contact list and made more attempts to contact those county judges we missed the first time.

We contacted the county judges instead of the commissioners for several reasons. Mostly, we didn't want to send out 1,016 e-mail messages (254 x 4 = 1,016)! Doing so would have resulted in a lot of duplication as multiple officials replied from the same county. There probably wouldn't have been four responses per county given that we don't have e-mail addresses for many commissioners, but even two or three per county would have been wasteful. We considered sending the survey to just one commissioner per county, but didn't want to cause any heartburn by choosing one commissioner over the others in each county.

Unit Roads *continued on page 9*





Resources, Naturally

Wind and water, roads, and utilities

As we have done the last couple of times in this corner, we are taking a look at some of the laws passed by the Legislature that have some effect on how we arrange ourselves on our part of the planet's crust. As far as that crust goes, I found this fairly amusing definition from Ambrose Bierce (an American newspaperman and writer, who had an impact on a 15 year-old version of me when I first read his short story, "An Occurrence on Owl Creek Bridge"): "GEOLOGY, n. The science of the earth's crust — to which, doubtless, will be added that of its interior whenever a man shall come up garrulous out of a well. The geological formations of the globe already noted are catalogued thus: The Primary, or lower one, consists of rocks, bones or mired mules, gas-pipes, miners' tools, antique statues minus the nose, Spanish doubloons and ancestors. The Secondary is largely made up of red worms and moles. The Tertiary comprises railway tracks, patent pavements, grass, snakes, mouldy boots, beer bottles, tomato cans, intoxicated citizens, garbage, anarchists, snap-dogs and fools."



By Paul J. Sugg
Legislative Department

In the wake of Hurricane Ike, with memories of Rita and older, more ominous names some remember from the past (Alicia figures most prominently in my memory, but Carla sets the benchmark in the memory of my parents), it is not surprising the legislature addressed issues related to hurricanes and one their effects, **coastal erosion**. Below are several of the bills passed addressing aspects of this issue so important to the state and our coastal counties.

HB 2073 by Bonnen requires local governments subject to state laws governing the use of public beaches and protection of dunes to use the General Land Office's (GLO) historical erosion data and the coastal erosion response plan published by the GLO to prepare local plans for reducing public expenditures for erosion and storm losses to public and private property. This local plan may include a building set-back line that will accommodate a shoreline retreat. Amends criteria for granting of funds to local governments from the Coastal Erosion Response Account to include consideration of a local response plan adopted by a local government. *Effective 9-1-09.*

HB 2074 by Bonnen directs the General Land Office (GLO) in developing the coastal erosion response plan to include critical coastal erosion areas identified by the GLO. In order to determine which areas should be designated critical coastal erosion areas, authorizes the GLO a coast-wide analysis of the costs and benefits of coastal erosion avoidance, remediation, and planning. Such an analysis may consider the historical erosion rates in an area, the elevation of an area adjacent to the shoreline, the presence of critical infrastructure in an area adjacent to the shoreline, the presence of economic activity conducted in an area adjacent to the shoreline, the presence of critical natural resources in an area adjacent to the shoreline, anthropogenic contributors, and any other factors identified as relevant by the GLO. *Effective 9-1-09.*

HB 2387 by Bonnen authorizes the General Land Office (GLO) to use money in its Coastal Erosion Response Account to purchase real property on public beaches in order to assist coastal erosion response projects. Also authorizes the GLO to conduct at least one erosion response project per biennium without having to share the cost, provided the cost of the projects that do not have a cost share requirement do not exceed one-half of the total amount appropriated to the GLO for coastal erosion

planning and response. Such erosion response projects will no longer be limited to large-scale beach nourishment project on public beaches. *Effective 9-1-09.*

Some additional **transportation, right-of-way, and roads-related bills** the legislature passed include **HB 768 by Kolkhorst**, which repeals Sec. 251.054, Transportation Code, removing the requirement for a jury of view to be appointed to lay out a new road ordered by commissioners court. *Effective 6-19-09.*

HB 875 by Eissler authorizes a district attorney or county attorney to recover reasonable attorney's fees incurred in a civil action against a person who places or commissions the placement of certain unauthorized outdoor signs (so-called bandit signs) on public rights-of-way. *Effective 5-20-09.*

HB 2462 by Keffer states that Chapter 258, Transportation Code ("Clarification of Existence of Public Interest in Road by Adoption of County Road Map") applies only to a county that initiates or completes the compliance with the provisions of the chapter before September 1, 2011. *Effective 6-19-09.*

HB 2572 by Gonzalez Tourelles gives a gas corporation the right to lay and

Resources, Naturally
continued on page 5

Resources, Naturally

continued from page 4

maintain lines along and under a public road, provided the pipeline complies with all safety regulations adopted by the Texas Railroad Commission (TRC) and all federal regulations relating to pipeline facilities and pipelines, all Texas Department of Transportation (TXDOT) and TRC regulations regarding the accommodation of utility facilities in a right-of-way, (including regulations relating to the horizontal or vertical placement of the pipeline), and the owner or operator ensures that the public right-of-way and any associated facility are promptly restored to their former condition of usefulness after the installation or maintenance of the pipeline. In deciding whether to use a public easement or right-of-way, the gas corporation must consider whether the use is economically practicable, whether adequate space exists, and whether the use will violate or cause the violation of any pipeline safety regulations. *Effective 6-19-09.*

HB 4300 by Herrero allows the operator of a natural gas pipeline, if unable to arrange a meeting in person to provide information relating to pipeline facilities and responding to a pipeline emergency, to hold a telephone conference with local emergency management officials or to deliver the required information by certified mail. *Effective 9-1-09.*

SB 1059 by Hegar authorizes a commissioners court to remove a cattle guard from a county road of any class if the commissioners court notifies each person who owns land adjacent to the cattle guard by certified mail not less than 90 days before the proposed removal of the cattle guard. Commissioners court is not required to hold a public hearing on the proposed removal, but if a resident of the county requests a hearing, the court must hold one. A request for a public hearing must be in writing and must be made before the 75th day after the notice to affected land owners has been mailed. *Effective 9-1-09.*

SB 1609 by Hegar requires TXDOT to allow for appeals of its decisions regarding denial of a request for access to a specific location on a controlled access highway. Denial must be in writing and include the reasons for the denial. It also sets forth procedures and timelines for appeals. *Effective 6-19-09.*

SB 1614 by Wentworth requires that the order filed regarding title to a county road that is closed, abandoned, or vacated include: the name of each property owner who receives a conveyance of property under Sec. 251.058, Transportation Code; the dimensions of the property being conveyed to each property owner; and, be indexed in the deed records of the county that describes the county conveying the property as grantor and the property owner receiving the conveyance as grantee. *Effective 9-1-09.*

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Passed Bills *continued from page 3*

not entitled to take possession of the vehicle until those fees are paid. *Effective 9-1-09.*

ANIMAL CONTROL

HB 405 by Harless: Relating to the authority of an animal control officer to carry a bite prevention stick in the performance of official duties. An animal bite stick is similar in definition to that of a prohibited club in the Penal Code. HB 405 amends Sections 46.03 and 46.15, Penal Code, and Section 829.006, Health and Safety Code, to exempt an animal control officer who possesses or carries an instrument used specifically for deterring the bite of an animal while the officer is in the performance of official duties or is traveling to or from a place of duty. The bill requires both basic and continuing education courses to include certain topics, including principles and procedures to be followed with respect to an instrument used specifically for deterring the bite of an animal, on or after January 1, 2010.

AUTHORITY

HB 1063 by Farias: Relating to emergency vehicle access to certain gated communities and multiunit housing projects. This legislation authorizes the commissioners court of a county by order

to require that each electric gate to a gated community or multi-unit housing project be equipped with a gate-operating device that is approved by the county fire marshal or other similar authority having jurisdiction over fire prevention and will activate the electric gate on the sounding of an emergency vehicle siren. *Effective 9-1-09.*

HB 1445 by Bonnen: Relating to the authority of certain political subdivisions to erect or maintain shore protection structures and the location of the line of vegetation in relation to those structures. This adds a subdivision of the state that receives approval of the land commissioner to the list of entities that may establish and maintain shore protection structures on a public beach. Such a structure must be: designed to protect public infrastructure, including a highway or bridge; located on land that was submerged and owned by the state, that the state acquired for the purposes of building the structure, and that was located in or adjacent to the mouth of a natural inlet from the Gulf of Mexico; and extended at least 1,000 feet along the shoreline. In granting approval of such a structure, the land commissioner may specify requirements for the design and location of the structure or any required public parking area. It also defines the vegetation line on a public beach when the vegetation line is interrupted by such structures, provided a perpetual public easement has been granted

Passed Bills *continued on page 8*

Counties Seek Interim Study on Mineral Valuations

TAC Executive Director Karen Ann Norris has asked that the Texas House of Representatives undertake an interim study on how oil and gas properties are valued for property tax purposes. The following letter was sent to House Speaker Joe Straus with a copy to Ways and Means Chair René Oliveira:



Dear Speaker Straus:

"The Texas Association of Counties (TAC) joins with the County Judges and Commissioners Association of Texas (CJCAT) in respectfully requesting an important interim study by the House Ways and Means Committee, chaired so ably by Rep. René Oliveira. The study would look at effects of the amendment of Section 23.175 of the Tax Code as amended by HB 2982 in the 80th Regular Session.

"That 2007 amendment changed the 'market-factor condition' when valuing oil and gas properties for property tax purposes. The legislation inserted a new 'revenue estimating' factor in the appraisal of these properties and charged the Comptroller of Public Accounts (CPA) with the responsibility of implementing the new process. The initial LBB fiscal note indicated the change would have no significant fiscal impact upon counties, but we have since learned that the initial LBB assessment was flawed. Current indications are that the new formula has created a significant tax shift from oil and gas properties to local homeowners and businesses. In some counties, local budgets and services are being severely affected.

"The detrimental effects contained in the 2007 legislation began to become apparent during the 81st session. The CPA said her hands were tied without legislative changes. While all interested parties – including leaders of the oil and gas industry – agreed that a re-examination was in order, there simply was not time to complete legislation by the end of the session. Through CJCAT, you have received copies of resolutions supporting an interim study and changes to the law. Chairman Oliveira's committee certainly would be the most appropriate venue for an interim study, having successfully handled a heavy workload regarding complicated tax issues during the regular session.

"Thank you again for your outstanding leadership of the House, and please let us know what TAC can do to facilitate a solution to this problem for counties and their taxpayers. We stand ready to assist with testimony and gathering facts and figures for the Ways and Means Committee on an interim study on the 2007 changes to Section 23.175 of the Tax Code."

Sincerely,

Karen Ann Norris
Executive Director

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Karen Ann Norris, Executive Director

TAC and TWDB Providing more Floodplain Management Training

The Texas Association of Counties (TAC) and the Texas Water Development Board (TWDB) are teaming up again to offer floodplain management instruction geared towards local elected officials. This new class will cover floodplain management basics but will also include Flood Information Rate Map (FIRM) reading and Special Flood Hazard Area determination as well. Many Texas counties' unincorporated areas do not have FEMA "flood maps" (or FIRMS) so attention will be placed on using existing tools and information to determine a base flood elevation for those areas and incorporating those determinations into a court order. These classes are open to both county and city officials and provide an opportunity for a community approach to local floodplain management. Currently, a class is scheduled in Abilene on August 18th for the west-central Texas region, and a mid-September class will be held for north Texas. The 2010 scheduled will be released soon. If a county would like to host a training event please contact Bruce Barr at (800) 456-5974, (512)478-8753 or bruceb@conty.org. If you have questions about the classes, or class schedule, contact Bruce Barr at TAC (bruceb@county.org or 512-478-8753) or Rachel Andrews at the Texas Water Development Board at (512) 463-4350, or Rachel.Andrews@twdb.state.tx.us.

TAC Emergency Management Listserve and Website Respond



By Bruce Barr

TAC Legislative Staff

Scheduled to go on line June 1st, the start of the 2009 hurricane season, the TAC Emergency Management listserve and County Information Resources Agency (CIRA) Emergency Management website got pressed into service a month earlier than anticipated. On April 29th the State Operations Center was activated in response to the H1N1 (Swine Flu) outbreak in Texas. Since Hurricane Dolly came ashore, the TAC County Information Project (CIP) has been providing technical assistance to the Governor's Division of Emergency Management (GDEM) during subsequent disaster-related events. That relationship has led to the development of a communication infrastructure between TAC, GDEM and local emergency management authorities. In cooperation with the GDEM, the TAC emergency management listserve is designed to facilitate the distribution of critical information and dialogue across the spectrum of Texas governmental entities and supporting agencies, and ensure that the most accurate information is available to all emergency respondents. The CIRA website provides information and resources critical to responding effectively during an emergency event. Both goals are viewed by GDEM as essential tools in the continuity of government.

Because some school operations were immediately impacted, the response to the April H1N1 outbreak was led jointly by the Texas Education Agency (TEA) and the Department of State Health Services (DSHS) with GDEM providing logistical support. TAC staff posted the latest information as it was received and local emergency managers had an opportunity to exchange ideas in response to that information. For most jurisdictions and agencies, response to the virus brought up issues not considered in the course of usual emergency management planning.

Listserve *continued on page 9*

<div>FIGURE 1:</div> <div>School and School District Closure Scenarios for Influenza N1H1</div>															
Confirmed Case Scenario	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Day 7	Day 8	Day 9	Day 10	Day 11	Day 12	Day 13	Day 14	
															Confirmed Case School
															Confirmed Case School District
	Schools which have a confirmed case, in consultation with the local health district, are asked to close, and remain closed for a two week period from date of confirmation. School Districts with a confirmed case are asked to close for a one week period.														
New or Returning Student from Mexico Scenario	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Day 7	Day 8	Day 9	Day 10	Day 11	Day 12	Day 13	Day 14	
															Confirmed or Suspected Case
															Student not exhibiting symptoms
	Schools with a new student, or returning student, from Mexico who are not exhibiting symptoms are asked to hold that student from participation for a one week period. Students exhibiting symptoms should be held out for two weeks from date of first symptoms.														
Note: DSHA and TEA reports during State Operations Center conference call 050109 state that all cases exhibiting symptoms of N1H1 infection are to be treated like a confirmed case if no test results have been received to indicate a negative exposure.															

Passed Bills

continued from page 5

and the political subdivision has provided adequate public parking. *Effective 6-19-09.*

HB 1579 by Gonzales: Relating to a county's removal of flood water resulting from a natural disaster in certain communities. In the summer of 2008, parts of Hidalgo County suffered immense flooding during and after Hurricane Dolly, including several colonias. The county was not authorized to remove the water from some colonias, where the residents lived on private roads. This legislation authorizes a county to provide assistance for the removal from private property, including a road, of flood water resulting from a natural disaster in a colonia if the removal of the water is necessary to protect the health and safety of the colonia. *Effective 6-19-09.*

HB 1843 by Davis, John: Relating to the disposition of cash in possession of a deceased pauper. Current procedure states the medical examiner must identify next of kin when a body is brought into the morgue. Any property, including cash, found on the body is secured until kin arranges internment. If no family is identified, any property reverts to the state after three years. The county carries the burden of paying for any burial costs. This bill authorizes a county to use the cash discovered in the possession of a deceased pauper to pay the actual costs incurred by the county in disposing of the body. Any remaining property or cash will be placed in a trust so kin may have the opportunity to make a claim. *Effective 6-19-09.*

HB 2859 by Doug Miller: Relating to notice requirements for a county selling surplus or salvage property. Some counties have surplus items that need to be sold and now use the internet auction marketplace to sell to a much larger audience of buyers in a significantly shorter time frame, reducing the expense of storage and damage that can occur. This legislation authorizes a county to satisfy the notice requirement by

posting property for sale on an online auction site, rather than in a general circulation newspaper. The property posted is posted on the site for at least 10 days unless sold before the 10th day. No publication notice is necessary for property under \$500.00. *Effective 6-19-9.*

HB 3851 by Eiland: Relating to the authority of a political subdivision to suspend statutory deadlines during a disaster. Hurricane Ike caused considerable water damage to a variety of tax-related documents in the Galveston area. Lack of access to the island and communication difficulties resulted in missed statutory deadlines and the inability to notify the public of relevant hearings. This legislation provides that, upon request of a political subdivision, the governor may waive or suspend a deadline imposed by a statute or the orders or rules of a state agency on the political subdivision, including a deadline relating to a budget or ad valorem tax, if the waiver

or suspension is reasonably necessary to cope with a disaster. A deadline imposed by local law on a political subdivision, including a deadline relating to a budget or ad valorem tax, is suspended if the political subdivision is wholly or partly located in the area of a declared disaster and the political subdivisions governing body proclaims it is unable to comply with requirements because of the disaster. It authorizes the political subdivision's presiding officer or governing body to issue an order ending the suspension of the statutory deadline. *Effective 6-19-09.*

COURTS

HB 400 by Herrero: Relating to the dismissal of a charge of unlawfully parking a vehicle in a space designated specifically for persons with disabilities. This bill adds a grace period for motorists who are ticketed for illegally parking a vehicle with an expired disabled placard. Under current law, no grace period exist. This bill requires the court

Passed Bills *continued on page 9*

Listserve *continued from page 7*

With the closure of schools and daycare centers, emergency management coordinators, human resource managers and supervisors were challenged to come up with contingency plans that made sure day-to-day operations could be maintained with a minimum risk of exposure. The loss of "healthy" workers who had to stay home to care for a child, and how to "count" those lost days also raised questions. When TEA sent out verbal instructions on how schools and businesses should proceed in regard to the amount of time a student or employee returning from Mexico should stay away, CIP staff created a matrix describing the proposed scenarios and asked for TEA and DSHS review (*see figure1, on page 7*). Because of these and other questions TEA and DSHS amended their recommendations and loosened the closure requirements for schools and school districts.

The TAC emergency management listserve and website served as timely information sources for decision makers wrestling with when and where to close facilities and cancel events. Input from listserve members helped provide guidance and direction to the lead agencies that eventually led to suspension of closure activities by TEA and DSHS.

To become a member of the TAC Emergency Management listserve contact Bruce Barr at (800) 456-5974, (512) 478-8753 or bruceb@conty.org, or signup at <http://list.county.org/lists/>. The listserve is open to all members of state or local government responsible for emergency management and response, as well as, Volunteer Organizations in A Disaster (VOADS). The TAC/ CIRA Emergency Management website is available at <http://www.recovertexas.org>. For information on the website contact Gayle Latham, CIRA Director at (512) 478-8753, (800) 456-5974, or gaylel@county.org, gayle.latham@cira.state.tx.us ★

Passed Bills

continued from page 8

to dismiss a charge if the defendant renews the expired disabled parking placard within 20 working days from the date of the offense or before the first court appearance date.

Effective 6-19-09.

HB 609 by Castro: Relating to the composition of the jury in certain adjudication hearings in juvenile court. This legislation requires that a jury in a juvenile adjudication hearing for a misdemeanor offense consist of the same number of jurors required in Code of Criminal Procedure, Article 33.01(b), which are six qualified jurors. *Effective 9-1-09.*

HB 765 by Hartnett: Relating to supplemental payments made to certain statutory probate court judges. This bill requires the commissioners court to pay certain statutory probate court judges who have served since 1995 or who have 16 years of longevity the salary of a district judge. *Effective 6/19/09.*

HB 1544 by Miklos: Relating to court proceedings for a plea of guilty or nolo contendere for a misdemeanor punishable by fine only. This bill allows a defendant to dispose of a pending misdemeanor case (punishable by fine only) without appearing before the court. The defendant may plead nolo contendere and waive the right to a jury trial, also known as the "mail box rule." *Effective on 9/1/09.*

HB 2027 by Zerwas: Relating to adoption of the Revised Uniform Anatomical Gift Act. This bill adopts the Revised Uniform Anatomical Gift Act (2006 UAGA) relating to the donation and use of parts or all of the human body after death. The 2006 UAGA language facilitates organ donation and strengthens the language expressly barring a person from "making, amending or revoking" an anatomical gift if the donor granted donation of certain parts. This bill also expands the list of individuals who are authorized to make a gift on a donor's behalf. *Effective 9/01/09.*

Passed Bills *continued on page 12*

Unit Roads

continued from page 3

For this survey, we're using an automated online service, www.SurveyMonkey.com, to run this survey and collect the responses.² For the unit road survey, we're only accepting one response per county. That's another reason we picked on the county judges instead of the commissioners. By accepting only one response per county, we don't have to de-conflict multiple responses from different officials in the same county. The judge can pass the survey on to one or more other people to fill out, but we receive only one response. (If the survey request is passed to more than one person, each of those individuals can access the application where they can both enter responses and edit each others' responses.)

The survey itself is very short. The first page asks for your name, e-mail address and phone number plus requires you to select the county. This is not always necessary, but it can prevent some potential headaches. Since the URL in each e-mailed survey request is unique, we can correlate the responses with the requests. Unfortunately, we can't tell who actually responded to the survey. That's why we ask for the contact information; if any questions come up later about the responses, then we can contact whoever completed the survey for that county.

In addition, for some surveys we send hard copies of the final report to the office of whoever actually completed the survey. We're not planning to print hard copies of the report for the unit road survey. However, with the contact data we can send soft copies via e-mail to those who completed the survey.

The second page simply asks what type of road management system is in use in the county. There are actually four different types available to choose from although technically some counties are restricted by statute and have fewer options.³

Depending on your answer to that question, you will next go to one of two pages. If you told us your county uses the Unit Road System, we ask you to tell us what year that system was adopted by the county. Otherwise you go to a page where we ask if your county ever had the Unit Road System and, if so, when your county stopped using that system. While we are interested in the answers and would like to have the information, we understand that answering these particular questions can be difficult. Therefore, answers are not required in order to proceed to the next page.

Finally, everyone goes to the last page of the survey. There we provide room for any comments you wish to make. And that's it; you're done with the survey!

As this article is being written, we are in the first phase of collecting responses. On July 22 we sent out a second request, again using the survey service's e-mail system. This request only went to those counties that had not completed the survey. Depending on how many counties respond to the second request, we may or may not send out a third request.

Eventually, however, we'll have to start making phone calls. Unlike some of our other surveys where a sample of county responses is sufficient, in this case we plan to ask for the information over and over until most of the counties have responded. Ideally, we'd like to get at least a 95% response rate, but will probably be happy with only 90%.

That means that we don't really know when the survey will be closed. At some point we'll decide that (a) we have enough responses and (b) getting more responses is more trouble than it's worth.

If you are interested and would like to see how the survey is progressing, go to <http://www.county.org/resources/countydata/products.asp#roads> and click on the "Unit Road

Unit Roads *continued on page 12*

A Whole NEW Counter Culture

a focus on customer service in counties



SERVING TEXANS

past, present, future

Texas Association of Counties 2009 Annual Conference & Expo

Hilton Hotel • Austin • Aug. 24-26

Conference Packed With Special Events and Exciting Sessions

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

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

methods to ensure customer service satisfaction;

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

Informative Sessions and Topics Scheduled

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

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



Casino Night and Spouse Event Provide Networking Opportunities



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

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

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

Conference Schedule and Agenda

MONDAY AUGUST 24, 2009

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

TUESDAY AUGUST 25, 2009

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

CONCURRENT SESSIONS

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

WEDNESDAY AUGUST 26, 2009

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

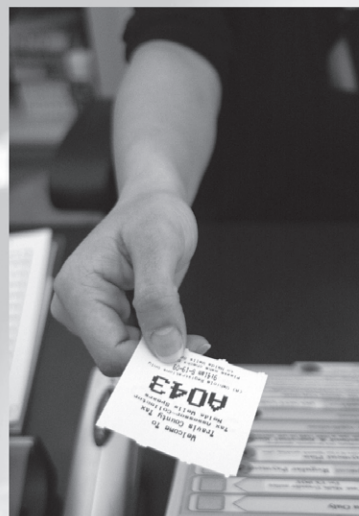
TAC Celebrates 40 Years of Service to Counties



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

Officials Receive Special Registration Rate

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



Hotel Information

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

Annual Conference Provides Opportunity for Continuing-Education Credit

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



www.county.org

Passed Bills

continued from page 9

SB 397 by Carona: Relating to methods of payment for reimbursement of jury service expenses. The legislation authorizes the county treasurer to reimburse citizens for jury service on the same day of service by certain methods established by commissioners court. The jurors may be reimbursed by: electronic fund transfer; cash dispensing machine; debit card or stored value card; or another method that is determined by the county treasurer and commissioners court to be secure, accurate, and cost-effective. *Effective 9-1-09.*

SB 935 by Seliger: Relating to authorizing a judge of a municipal court to conduct a marriage ceremony. This bill adds a municipal judge to the list of persons authorized to conduct a marriage ceremony. *Effective 9-1-09.*

CRIMINAL JUSTICE

HB 1003 by Bolton: Relating to notice provided to certain victims or witnesses regarding certain inmates or defendants who are electronically monitored. Amends Article 56.11, Code of Criminal Procedure to require TDCJ, the sheriff, or the community supervision and corrections department supervising a defendant to make a reasonable attempt to give any notice to certain victims or witnesses that an offender will be released from incarceration or released from electronic monitoring surveillance. A reasonable attempt to contact must be made not later than the 30th day before the date the defendant completes the sentence and is released or ceases to be electronically monitored as a condition of release, or immediately if the defendant escapes from the correctional facility. The bill provides authorization to give any notice by email, if possible, however it is up to the victim or witness to update mailing address, telephone numbers and email addresses. *Effective 9-1-09.*

HB 1060 by Miklos: Relating to certain

procedures for forwarding a warrant of arrest or a complaint in a criminal case. Previous statutes required arrest warrants to be forwarded by telegraph, the most efficient and modern technology when the statute was originally drafted. HB 1060 amends Articles 15.08 and 15.09 of the Code of Criminal Procedure by expanding the methods by which complaints or warrants may be transferred to include secure facsimile transmission or other secure electronic means. *Effective 9-1-09.*

HB 1711 by Turner, Sylvester: Relating to requiring the Texas Department of Criminal Justice to establish a comprehensive reentry and reintegration plan for offenders released or discharged from a correctional facility. This bill amends Chapters 495 and 501 Government Code to require TDCJ to develop a comprehensive plan to reduce recidivism and ensure the successful reentry and reintegration of offenders into the community. It authorizes TDCJ to contract and coordinate with private vendors, units of local government, or other entities to implement the comprehensive reentry and reintegration plan, as well as, requires TDCJ to establish a reentry task force in the office of the governor. TDCJ must develop and implement the comprehensive reentry and reintegration plan not later than January 1, 2010. *Effective 6-19-09.*

HB 1985 by Martinez-Fischer: Relating to the requirement that certain defendants

(a person indicted or who waived indictment for an offense of continuous sexual abuse of a young person, indecency with a child, or sexual or aggravated sexual assault) undergo testing for HIV infection and other diseases. Amends Article 21.31, Code of Criminal Procedure to require certain defendants in a criminal case undergo testing for HIV infection and other diseases. The bill would require a judge to order defendants accused of certain sex offenses to undergo a HIV test or other tests for sexually transmitted diseases upon request of the victim of the offense. Currently, a judge may order such a test, but is not required to do so. The bill will modify judicial proceedings and could result in an increase in the number of diagnostic tests ordered. *Effective 9-1-09.*

SB 2048 by Williams: Relating to the establishment of a centralized sex offender registration authority in certain counties in this state. Adds Article 62.0045, Code of Criminal Procedure to allow the commissioners court of a county with a population of 100,000 or more to designate the office of the sheriff of the county or may, through inter-local agreement, designate the office of a chief of police of a municipality in that county to serve as a mandatory countywide registration location for persons subject to sex offender registration. *Effective 6-19-09.*

Passed Bills *continued on page 13*

Unit Roads

continued from page 9

System Survey Summary" link. This web page has a summary of the responses we've received. It is tied directly to the actual survey service so the information will be up to date. While the page will show you what selections have been made, you won't be able to see the text answers that have been provided. This will prevent anyone from seeing the e-mail addresses that have been provided, but will also keep the final comments hidden.

Please contact me at (512) 478-8753 or TimB@county.org if you have any questions or comments about this article, our surveys, or the online survey service that we use. ★

1 See <http://www.county.org/resources/countydata/products.asp#roads> for both the original report and the update.

2 If you are thinking about running your own survey, there is a small learning curve when you first use this service, www.surveymonkey.com, but the price is very reasonable.

3 Chapter 252, Transportation Code.

Passed Bills

continued from page 12

ELECTIONS

HB 401 by Raymond: Relating to the authority of certain political subdivisions to change the date of their general elections. The legislation provides that the governing body of a political subdivision, other than a county, that holds its general election for officers on a date other than November uniform election date may, not later than December 31, 2010, change its general election date to the November election date. *Effective 5-13-09.*

HB 559 by Hernandez: Relating to the nondisclosure of certain personal information in voter registration records, concealed handgun license records, and tax appraisal records that relates to a justice of the peace. The legislation adds the office of justice of the peace to the list of judicial officers currently protected by the statutory provisions requiring nondisclosure of certain personal information in public records relating to voter registration, concealed handgun licenses, and tax appraisals. *Effective 9-1-09.*

HB 567 by Miller, Sid: Relating to the eligibility of candidates for certain offices to serve as an election judge. The legislation modifies current law providing that candidates for public office are ineligible to serve as election judges or clerks by including political party offices, making the ineligibility apply only to contested races, and exempting the county clerk from the ineligibility as well as a precinct chair declared elected because no election is to be held for that office under Sec. 171.0221, Tex. Elec. Code. *Effective 9-1-09.*

HB 719 by Flynn: Relating to polling places for certain elections. The legislation provides that the Secretary of State (SOS) must implement a program allowing counties to eliminate county election precinct polling places and establish countywide polling places for the November general election,

each countywide election held on the May date, each constitutional amendment election, and each political subdivision election held jointly with any of those elections. The SOS must select participating counties that have held public hearings, submitted documentation about soliciting impact from appropriate organizations, have an appropriate computerized voter registration system, use DRE's, and are determined by the SOS to have appropriate technology. In addition, the legislation provides that the location signs for the polling places in a joint primary election must either contain the name of each political party or no names of the political parties. *Effective 9-1-09.*

HB 1448 by Allen: Relating to the requirements for voter registration. The legislation modifies the requirements for a voter registration application form by effectively eliminating two potentially confusing checkboxes relating to whether the applicant has been issued a driver's license or personal identification card by the Department of Public Safety. A voter who provides the last four digits of the social security number is also confirming that they have not been issued a driver's license or personal identification card. *Effective 6-19-09.*

HB 1493 by King, Tracy: Relating to the use of certain devices in a polling place. The legislation provides that an employee of the facility that serves as a polling place may use a cell phone in the normal course of the employee's job duties. *Effective 5-27-09.*

HB 1720 by Bohac: Relating to the use of public funds by a political subdivision for political advertising or communications that contain false information relating to a ballot measure. The legislation establishes the culpable mental state of "knowingly" in Sec. 255.003(a), Tex. Elec. Code, in regard to the prohibition on an officer or employee of a political subdivision from spending or authorizing spending of public funds for political advertising.

The bill clarifies and enhances the

current prohibition on using public funds for political advertising by adding language designed to prevent abuse of the current exemptions to the definition of political advertising for a communication that factually describes the purpose of a measure and does not advocate the passage or defeat of the measure. The new language includes a statement of a prohibition on including information known to be false and likely to entice a voter to vote one way or the other.

The bill adds an affirmative defense to prosecution for violation of the prohibition if there was reasonable reliance on an official written opinion issued by a court, the Attorney General, or the Texas Ethics Commission. On request, the Ethics Commission must prepare an advance written advisory opinion as to whether a particular communication complies with Sec. 255.003 of the Election Code. *Effective 9-1-09.*

This bill is quite similar to **SB 2085, by Wendy Davis**, which also passed in the 81st Legislative Session.

HB 2181 by Berman: Relating to the computation of a person's age under the Election Code. The legislation repeals Sec. 1.016 of the Election Code, which provided that age was calculated from the day before the anniversary of the person's birthday. The definition caused confusion as to when a person actually reached the age of 18 for determining a person's eligibility for voting. *Effective 9-1-09.*

HB 2401 by Keffer: Relating to the political activities of a person employed by a county election administrator. The legislation provides that the restrictions on the political activities of a full-time employee of a county elections administrator apply statewide instead of only in counties of one million or more. In counties with populations of one million or less, full time employees of election administrators are not restricted from making campaign contributions or publicly supporting a candidate or measure. *Effective 9-1-09.*

HB 2524 by Anchia: Relating to the

Passed Bills *continued on page 14*

Passed Bills

continued from page 13

accuracy, security, and reliability of certain electronic voting systems. The primary purpose of this bill is to codify the current Secretary of State's rules and directives on DRE system security matters. The legislation provides for pre-election acceptance and testing procedures, including hardware diagnostic testing, public testing of logic and accuracy, and security of test materials; and voting system security procedures, including pre-election security, transport of voting system equipment, access to voting system equipment, network connections and wireless technology, software condition, plan for machine failure, and use of DRE's in early voting. *Effective 9-1-09.*

HB 2847 by Riddle: Relating to using county election precincts for any election held on the November uniform election date. The legislation provides that the regular county election precincts must be used in an election held on the November uniform election date of any political subdivision other than a road or water district that is created under Art. III, Sec. 52, Texas Constitution, or a water conservation and reclamation district that is created under Art. XVI, Sec. 59, Texas Constitution, and that is located in Harris County or a county adjacent to Harris County. *Effective 9-1-09.*

HB 3062 by Bohac: Relating to the notice of an election provided to a voter registrar. The legislation provides that the governing body of a political subdivision, other than a county, must deliver an election notice to the voter registrar as well as to the county clerk. *Effective 9-1-09.*

HB 3069 by Bohac: Relating to streamlining voter re-registration across county lines. The bill provides that the Address Confirmation Notice and the Statement of Residence form contain the same information that is required for a person to register to vote. Additionally, should the voter complete a Confirmation

Notice or Statement of Residence Form that contains an address that is no longer in the county, the current voter registrar must forward the form to the new voter registrar of the county in which the new residence address is located. *Effective 9-1-09.*

SB 1402 by Hinojosa: Relating to requiring certain political subdivisions to enter a contract with the county elections administrator to perform election services. The bill requires a political subdivision that is located in a county of more than 500,000 served by a county elections administrator and that does not contain a municipality of more than 150,000, and that is not an irrigation district created under the Texas Constitution, to request an election services contract with the county elections administrator if the political subdivision receives a petition of a number of registered voters of the political subdivision that is at least one percent of all votes cast in the most recent general election of the political subdivision. *Effective 6-19-09.*

SB 1970 by Duncan: Relating to certain election practices and procedures. The legislation is an omnibus bill that includes both substantive and corrective amendments to the Election Code. Among the substantive changes are amendments requiring: a) The election order and notice must include the location of each early voting polling place; b) or an election held on the May uniform election date, the early voting period for the runoff election begins on the 12th day before and ends on the 4th day before the runoff; c) the authority holding an election may request a voting system technician to be present at a polling place, a meeting of the early voting ballot board, or at a central counting location to repair, assemble, maintain or operate the voting system equipment; d) the filing deadline for certain special elections is moved to 5:00 p.m. on the 62nd day before election day; e) the authority with whom a candidate's application for a place on the ballot must post notice of the filing period not later than the 30th day before the first day

of the filing period; f) the county executive committee conducts the local canvass of the primary election on the 2nd Thursday after election day; and, g) a candidate requesting a recount of the ballots cast in an election must deposit \$60 for each precinct to be recounted in which regular paper ballots were used and \$100 for each precinct using an electronic voting system. *Effective 9-1-09.*

EMERGENCY MANAGEMENT/DISASTER RELIEF

HB 527 by Leibowitz: Relating to the removal of an appointed emergency services district board member by a county commissioners court. The legislation gives commissioners court the authority, only upon written request, to require the emergency service district board to provide a written report regarding the district's budget, tax rate, and debt service for the preceding fiscal year not later than February 1 of the following year. In addition, commissioners court is given the authority to remove one or more appointed board members if the board fails to provide the requested report within the allotted timeframe. *Effective 6-16-09.*

HB 1257 by Legler: Relating to the payment in installments of ad valorem taxes on certain property owned by a business entity and located in a disaster area and to the ad valorem taxation of a homestead rendered uninhabitable by a casualty or damage. Current law allows the owner of a residence homestead that was damaged by a natural disaster and is located in a declared disaster area to pay their property taxes in four installments. This legislation extends to disaster damaged business entities with \$5 million or less in gross receipts the option of paying property taxes in four installments over the course of the year. *Effective 6-19-09.*

HB 1998 by McCall: Relating to temporary housing and emergency shelters provided by a political subdivision for disaster victims. This bill provides state assistance for emergency shelters by authorizing the

Passed Bills *continued on page 15*

Passed Bills

continued from page 14

governor to assist the political subdivision that is the site of temporary housing or emergency shelters for disaster victims by acquiring sites necessary for the housing and shelters and to do everything required to prepare the sites by becoming a partner with the political subdivision. The assistance includes any resource available to the state, including the disaster contingency fund to ensure the political subdivision receives an advance or reimbursement of all expenses and the amounts paid for salaries and benefits of those performing duties with the movement or evacuation into, out of or through the political subdivision. *Effective 9-1-09.*

HB 2457 by Eiland: Relating to the duty of the General Land Office to clean, maintain and clear debris from a public beach affected by a declared disaster. The Natural Resources Code currently states that the duty and responsibility of cities and counties is to clean and maintain public beaches within their respective jurisdiction and provides for reimbursement by the state for a portion of the expenses incurred by local governments. But after Hurricane Ike left enormous amounts of debris on public beaches, local governments have been overwhelmed by the costs of debris removal, addressing critical infrastructure and storm victim needs. Local governments have had to bear the up-front costs. This piece of legislation requires the General Land Office to clean, maintain, and clear debris from a public beach located in an area designated as threatened area in a declaration of a state of disaster. This will allow the GLO to assume this responsibility and obtain reimbursement directly from FEMA in the event of a disaster declaration. *Effective 9-1-09.*

SB 359 by Patrick: Relating to punishment for certain offenses committed in a disaster area or an evacuated area. This bill provides that the punishment for

an offense of theft committed in evacuated or disaster areas is increased to the next higher category of offense if it is shown that the offense was committed in an area considered to be a disaster area by certain government officials. *Effective 9-1-09.*

SB 1112 by Estes: Relating to the provision of money from a county's general fund to disaster victims. Under current law, counties are unable to provide disaster assistance from local funds that would be distributed to a select group of residents. Therefore, with no federal or state aid, the county has no authority to provide financial assistance from locally available funds. This amends current law relating to the provision of money from a county's general fund to disaster victims. *Effective 6-19-09.*

HB 4102 by Eiland: Relating to the disaster contingency fund and relief for school districts located in a disaster area. This legislation amends the Government Code to add local governments that participate in disaster preparation or disaster recovery to the list of entities that may request and receive funding from the disaster contingency fund to pay for costs incurred by the state or local government entity in preparing for or recovering from a disaster.

In addition, a state or local government entity that receives funding from the disaster contingency fund for costs associated with disaster recovery, shall reimburse the fund for any reimbursed amounts received. The governor's division of emergency management shall prescribe the procedures to implement this section. *Effective 6-19-09.*

SB 2148 by Patrick: Relating to information and assistance provided by the chief appraiser to emergency management authorities. This requires the chief appraiser, if requested by the emergency management authorities of a federal, state, or local government agency, to provide information and assistance pertinent to disaster mitigation or recovery, including assisting in the estimation of damage from an actual or potential disaster event. *Effective 6-19-09.*

HEALTH CARE

HB 497 by Zerwas: Relating to a study to determine the effect on the health care infrastructure in this state if the state Medicaid program is abolished or a severe reduction in federal matching money under the program occurs. This bill directs the Health and Human Services Commission to conduct a study determining the effects on the Texas health care infrastructure should the Medicaid program be abolished or funding be severely reduced. *Effective 6-19-09.*

HB 1630 by Naishtat: Relating to the eligibility of certain individuals for child health plan coverage or medical assistance on release from certain facilities or other settings. This bill requires the Texas Health and Human Services Commission (HHSC) to ensure that each individual who were previously enrolled in the Children's Health Insurance Program (CHIP) or Medicaid and detained in Texas Youth Commission are re-enrolled prior to the individual's release from placement or detention. This bill will help eliminate gaps in coverage due to the requirement for the individual to reapply for coverage. *Effective 6-19-09.*

HB 2963 by Coleman: Relating to the authority of a county, hospital district, or public hospital to provide health care services to an indigent patient. This bill specifies that a county, hospital district, or public hospital is liable to pay the claim made by a provider for indigent health care services. This bill will also allow a county to arrange for the purchase of health coverage for eligible residents. *Effective 9-01-09.*

SB 202 by Shapleigh: Relating to provisional licensing of physicians to practice in underserved areas. This bill allows an out of state physician a provisional license to practice medicine until the Texas licensing board rules on the physicians license application. Physicians with provisional licenses will only be able to practice medicine in a location designated as a health professional shortage area (HPSA) or a

Passed Bills *continued on page 17*

Passed Bills

continued from page 15

medically underserved area (MUA). According to the U.S Department of Health and Services Administration, there are 64 million people living in HPSA requiring 16,336 practitioners to meet their need for primary care. In Texas, 117 counties qualify as HPSA representing 1,804,488 Texans. *Effective 9-01-09.*

SB 526 by Nelson: Relating to grants for federally qualified health centers. This bill removes the expiration date on the Department of State Health Services grant program for establishing new federally qualified health centers. This bill also allows for grants to help maintain existing facilities. The bill only allows for grants to support new or expanded services at the facilities. *Effective 8-31-09.*

HOUSING/COLONIAS

HB 1029 by Rodriguez: Relating to the development, rehabilitation, or expansion of affordable housing in a public improvement district established by a county or municipality. This bill amends the Local Government Code by adding the development, rehabilitation or expansion of affordable housing to the list of what public improvement projects may include. *Effective 6-19-09.*

HB 3358 by Turner: Relating to allowing municipal or county housing authorities in certain counties to create housing for veterans. This bill authorizes a county or municipal housing authority in a county with a population of more than 500,000 to borrow money, accept grants, and exercise its powers to provide safe and sanitary housing communities for veterans. It also authorizes these housing authorities to enter into a lease or purchase agreement or accept a conveyance regarding real property as part of a housing project that will benefit veterans. *Effective 9-1-09.*

JUVENILE JUSTICE

HB 1425 by Lewis: Relating to the determination of the population of a county

required to develop a juvenile justice alternative education program. Amends Education Code, Section 37.001, to allow a county that would become a mandatory JJAEP county (population of 125,000 or more) due to the 2010 Census to be considered as a non-JJAEP county if the juvenile board and each school district within the county enter into an MOU subject to TJPC's approval; the MOU must address responsibilities of each party in minimizing the number of student expulsions without receiving alternative education services; and the MOU must include coordination procedures addressing supervision and rehabilitation services, probation officers at the DAEP, recruitment of volunteers and coordination of social services. *Effective 6-19-09.*

LAW ENFORCEMENT/GANGS

HB 2086 by Moody: Relating to the prevention, investigation, prosecution, and punishment for certain gang-related and other criminal offenses, including engaging in organized criminal activity, and to the consequences and costs of engaging in certain activities of a criminal street gang or certain other criminal activity; providing penalties. This is the omnibus gang bill that was passed and which changes several gang-related statutes. Some of the issues addressed in the bill include criminal solicitation of a minor, gang-free zones, database information, civil actions and injunctions, asset forfeitures, roving wire taps, consecutive sentencing and county graffiti abatement authorizing liens on property. *Effective 6-19-09.*

SB 379 by Carona: Relating to the duties of the Texas Fusion Center, including an annual report by the center regarding criminal street gangs. This amends the Government Code to require the Texas Fusion Center to annually submit to the governor and the legislature a report regarding criminal street gangs and gang-related crime. The bill requires that the report include: an evaluation of the threat that criminal street

gangs and gang-related crime pose to communities in Texas that are at or near the international border between Texas and the United Mexican States; an evaluation of the threat posed to other areas of Texas; identification of any law enforcement strategies in Texas or another jurisdiction that have been effective in preventing the growth or proliferation of criminal street gangs or gang-related crime; reduce criminal street gang violence and prevent growth throughout Texas with specific recommendations concerning reduction of criminal street gang violence at or near the border, and ensure that law enforcement personnel receive the necessary training and education to effectively deal with the problems created by criminal street gangs and gang-related crime. The bill requires a state criminal justice or juvenile justice agency to provide information relating to criminal street gangs and gang-related crime to the Texas Fusion Center on request. The bill requires the Texas Fusion Center to submit the first annual report not later than September 1, 2010. *Effective 6-19-09.*

SB 418 by Carona: Relating to the compilation, maintenance, and release of information in a criminal street gang intelligence database by law enforcement agencies and criminal justice agencies. Amends Article 61.02, Code of Criminal Procedure to mandate a law enforcement agency in a county with a population of 100,000 or more to compile and maintain in a local or regional intelligence database, information for the purpose of investigating or prosecuting criminal street gangs. *Effective 9-1-09.*

LAW ENFORCEMENT/PERSONNEL

HB 1177 by Guillen: Relating to the eligibility of certain peace officers and firefighters for legislative leave. Section 614.002, Government Code, is amended and applies only to a peace officer or fire fighter employed by the state; a municipality with

Passed Bills *continued on page 18*

Attorney General Opinions Issued



GA-0728: Honorable

Joe Black, Harrison County Criminal District Attorney, whether a judge of a

statutory county court, the jurisdiction of which is limited to misdemeanor cases, is among the group of judges described in section 76.002 of the Government Code. Summary The judge of a statutory county court who is trying criminal cases in the county or counties served by the judicial district and who has jurisdiction over only misdemeanor cases is likely among the group of judges described in Government Code section 76.002(a).

GA-0729: David L. Lakey, M.D., Commissioner, Texas Department of State Health Services, Authority of the Department of State Health Services to enforce state asbestos regulations against municipalities. Summary The term "person" in the Texas Asbestos Health Protection Act, chapter 1954 of the Occupations Code, includes a municipality. However, we think it unlikely that a court would conclude the inclusion of a municipality in the

definition of person constitutes a clear and unambiguous waiver of immunity from suit for a violation of section 1954.259(b). Even if governmental immunity is retained, it does not mean that every enforcement action about which you ask is necessarily barred.

GA-0730: Honorable Heather Hollub, 25th Judicial District Attorney, whether a district attorney's occupation of office space leased by the county from the district attorney's spouse constitutes a conflict of interest. Summary A district attorney's occupation of office space leased by the county commissioners court from the spouse of the district attorney under the factual scenario described in the requestor's brief does not constitute a conflict of interest under chapter 171 of the Local Government Code.

GA-0731: Honorable Rex Emerson, Kerr County Attorney, whether the Kerr County Sheriff is required to maintain a room in the jail dedicated to recording the interrogation of a person arrested for driving while intoxicated. Summary Section 24 of the Act of May 27, 1983,

68th Leg., R.S., ch. 303, requires counties with a population of 25,000 or more to purchase and maintain electronic devices to make visual recordings of persons arrested within the county for the offense of driving while intoxicated. Section 24, which remains in effect, does not require a county to maintain a room dedicated to videotaping the arrested persons, nor does it specify the location where the equipment is to be used.

GA-0733: Honorable Hope Andrade, Texas Secretary of State, effect of a final conviction for a felony or misdemeanor crime involving moral turpitude on a notary public's application or commission. Summary The Secretary of State is precluded from appointing or commissioning as a notary public an applicant with a conviction of a felony or a crime involving moral turpitude. The Secretary of State may, but is not required to, initiate commission revocation proceedings against a notary public on the basis of a conviction of a felony or a crime involving moral turpitude. ★

Attorney General Opinions Requested



RQ-0808-GA Honorable

Mark Homer, Chair, Culture, Recreation and Tourism, Texas House of

Representatives, inclusion of multiple contiguous lots as part of a homestead exemption under section 11.13(j), Tax Code.

RQ-0809-GA Honorable Rex Emerson, Kerr County Attorney, whether a peace officer who has taken a person into custody under chapter 573 of the Health & Safety Code is required to transport that individual to a medical facility for



evaluation prior to taking that person to a mental health facility.

RQ-0810-GA Honorable Rodney Ellis, Chair, Government Organization, Texas State Senate, authority of the Governor to grant a posthumous pardon.

RQ-0811-GA Amadeo Saenz, Jr., P. E., Executive Director Texas Department of Transportation, authority of a magistrate to issue a certificate of title to a motor vehicle under article 47.02, Code of Criminal Procedure. ★

Passed Bills

continued from page 16

a population of 50,000 or more (presently 200,000 or more) ; or a county with a population of 190,000 or more (presently 500,000 or more). The bill entitles these employees to request legislative leave to serve in, appear before, or petition a governmental body during a regular or special session of the body. In addition, it authorizes a county or city in which the fire fighters and peace officers are entitled to seek legislative leave to require the fire fighters and peace officers to reimburse the government entity for wages, pension, or other costs the employer will incur as a result of the leave. *Effective 9-1-09.*

MISCELLANEOUS

HB 1554 by Gallegos: Relating to the authority of officers in certain counties to designate a person to receive fees, commissions, or costs. The bill amends the Local Government Code to permit an officer in a county with a population greater than 190,000 who receives fees, commissions, or costs to designate a person to perform such duties on the officer's behalf. *Effective 5-27-09.*

HB 2004 by McCall: Relating to a breach of computer security involving sensitive personal information and to the protection of sensitive personal information and certain protected health information. This bill requires that in the event of a security breach, a local government that owns, licenses or maintains computerized data that includes sensitive personal information comply with the disclosure requirements of Sec. 521.053, Business & Commerce Code to the same extent as a person who conducts business in this state. *Effective 9-1-09.*

HB 3872 by Gattis: Relating to the qualification to be a veterans county service officer. Current law sets forth the qualifications a person must possess to be appointed as a veterans county service officer. A person must either have certain military service experience, or be a widowed

Gold Star Mother or un-remarried widow of a serviceman or veteran whose death resulted from service. This legislation expands the list of people who are eligible to be considered for appointment as veterans county service officers to include the spouse of a disabled veteran who has a total disability rating based either on having service-connected disability of 100 percent or on individual unemployment as an alternative requirement to the service credit requirement. *Effective 6-19-09.*

SB 1152 by Hinojosa: Relating to the making or acceptance of political contributions in a courthouse. The legislation prohibits the acceptance of political contributions in any courthouse. Currently the restriction only applies to the state capitol. Courthouse is defined as any building owned by the state, county, or a municipality, or an office or part of a building leased to the state, a county, or a municipality, in which a justice or judge sits to conduct court proceedings. *Effective 9-1-09.*

OFFENSES

HB 537 by Berman: Relating to the transportation of children in motor vehicles; creating an offense. This bill amends Transportation Code, Section 545.412(e) and (f), to modify the definition of passenger vehicle and to require all passengers 17 years and younger to be secured with individual seat belts when riding in a passenger van. (current law is confined to front seats) Section 545.416 (d) and (e) are also amended to allow a motorcycle operator to carry a child who is at least 5 years of age as a passenger and does not prohibit carrying a person younger than five years of age who is seated in a sidecar attached to the motorcycle. The bill imposes a misdemeanor fine range of \$100 - \$200 for violations. *Effective 9-1-09.*

OPEN GOVERNMENT

HB 3601 by Paxton: Relating to the authority of a county clerk to post official and legal notices by electronic display. The bill gives the county clerk authority to post an

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

SB 1068 Wentworth: Relating to allowing a governmental body to redact certain personal information under the public information law without the necessity of requesting a decision from the attorney general and allowing information about a public officer or public employee to be withheld if disclosure would pose a substantial risk of physical harm. The bill amends Sections 552.024, 552.1175, 552.138, and 552.151 of the Government Code. The legislation requires governmental bodies that withhold or redact information without an Office of the Attorney General (OAG) opinion to provide certain information to the requestor about the withholding or redacting of the information. The requestor has a right to request a review and opinion on the matter from the OAG. The OAG is required to develop procedures and deadlines for receiving information and to promptly render (not later than 45 business days of a request) and deliver a written decision requested under the amended Sections. The requestor or the governmental body may appeal the decision of the OAG under these amended Sections to a Travis County district court. *Effective 6-04-09.*

PROBATION

SB 727 by Patrick, Dan: Relating to the creation of DNA records for the DNA database system. Amends Article 102.020, Code of Criminal Procedure and Family Code, Section 54.0409 to require courts to order

Passed Bills *continued on page 19*

Passed Bills

continued from page 18

DNA testing as a condition of probation for adults convicted of a felony and placed on community supervision, and juveniles adjudicated as having engaged in conduct constituting a felony and placed on juvenile probation. The bill would require the agency that has custody or supervision of the person to collect the sample. Adults and juveniles placed on probation will pay \$34 cost of court and juveniles sentenced to Texas Youth Commission will pay \$50 disposition fee; fees will be remitted to the Comptroller and are intended to defray Department of Public Safety costs associated with the tests. *Effective 9-1-09.*

PURCHASING

SB 229 by West: Relating to the procurement methods authorized for public projects by certain local governments. In 2007, legislation was passed allowing certain local government entities to use the design-build procurement method for the construction, rehabilitation, alteration, or repair of civil works projects but not beyond September 2009. Design-build is a method where the entity may contract with a design-build team of an engineer and contractor. It differs from the traditional method of design-bid-build where the design and construction services are performed by separate contractors. This bill extends the date for local government entities with a population of 100,000 or more to use the design-build procurement methods after September 1, 2009. *Effective 6-19-09.*

PROPERTY TAXES

HB 406 by Rodriguez: Relating to the disposition of excess proceeds of a tax sale of real property or foreclosure of a tax lien on real property. HB 406 has been referred to as a consumer protection bill and seeks to regulate the practices of distributing excess proceeds after a property tax sale. Chapter

34, Tax Code, is amended to require a person conducting a sale for the foreclosure of a tax lien, within 10 days of the sale, to pay any excess proceeds after payment of all amounts due all participants in the sale to the clerk of the court that issued the order authorizing the sale. It also seeks to regulate fees and place restrictions on those taking an assignment or other transfer of an owner's claim to excess proceeds unless certain conditions are met. Establishes eligibility requirements for a former property owner and other claimants seeking recovery of excess proceeds from a tax sale of real property. The practice of locating property owners and purchasing their property interests prior to a tax sale was previously an unregulated practice. *Effective 9-1-09.*

HB 986 by Villarreal: Relating to the appeal of ad valorem tax determinations. The legislation grants a taxpayer 60 days to appeal a final order of the appraisal review board in district court. It establishes tax refund procedures to be followed if the appeal results in a decrease in the property owner's tax obligation. After the final determination of the appeal that decreases the property tax owner's tax obligation, any tax refunds may not be mailed earlier than 21 days post determination and the taxing unit shall send a refund to property owner at address on comptroller's form until written revocation of where to send refund is provided to taxing unit. *Effective 6-19-09.*

HB 1407 by Geren: Relating to the redemption of real property sold at an ad valorem tax sale. Section 34.21(f), Tax Code is amended to require an owner of real property purchased at a tax sale to state in an affidavit that the owner's redemption period has not expired and that the tax assessor collector is relieved from making fact determinations. The bill also reinforces that an assessor-collector is not liable for acting in reliance upon the statements made in the affidavit. *Effective 9-1-09.*

HB 1465 by Paxton: Relating to the joinder of a tax lien transferee in a suit to collect a delinquent ad valorem tax. The 2007 80th Legislature passed SB 1520 which sought to clarify tax lien transfer procedures; in some instances, it has inadvertently hampered the efforts of taxing units to deliver free and clear titles at foreclosure sales. HB 1465 amends Sections 32 and 33, Tax Code, to require a taxing unit to also join a tax lien transferee when it files suit to foreclose its own lien for delinquent property taxes. In addition, H.B. 1465 authorizes a transferee to pay all taxes, penalties, interest, court costs, and attorney's fees owing to the taxing units in the suit. *Effective 9-1-09.*

HB 1804 by Hughes: Relating to service of process for delinquent taxes on a nonresident. Under current law counties have a difficult time serving notice of a tax delinquency to nonresident owners of property who reside outside the state. For example, these nonresident owners will sometimes refuse the certified letter of delinquency leaving the county with the more expensive route of using formal process. This bill requires the clerk of the court in which the suit is pending to make copies of the process and serve the Secretary of State (SOS) who shall by certified mail, send a copy of the process to the nonresident with return receipt requested and postage prepaid. The SOS is also required to notify the court that the process has been issued in compliance with this section. *Effective 9-01-09.*

TRANSPORTATION

SB 1218 by Averitt - Relating to the collection of data by the Texas Department of Transportation regarding bridge collapses. The bill requires a medical examiner or justice of the peace acting as a coroner to report bridge collapses to the Texas Department of Transportation, and requires the Department to include information on collapsed bridges in the periodic statistical reports of certain accidents published by the department. *Effective 9-1-09.*



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From the Legislative Desk

By Carey "Buck" Boethel, Director of Governmental Relations

An old aviation expression — this past March at the annual legislative conference in New Braunfels, one of the presenters was speaking on the risks of making serious and costly mistakes in judgment because of the rapid pace that is so characteristic of today's business environment. He was pointing out the futility of using traditional methods of negotiating multiple party transactions nowadays. "In many instances, about all we can do in this hurried technological context is to **fly by the seat of our pants**," he explained. As he described the seemingly unavoidable consequences of the predicament, it became increasingly apparent that in no other venue is the foregoing more applicable than within the process of making laws—the legislative world. If you talk with some of the Capitol veterans about effective methods that were used decades ago, they speak of days when the legislative clock was set back in order to meet a deadline; when bills and files were temporarily "misplaced," or at times, forever lost; and the critical junctures of the process when the printing press was

down. Then fast forward to our times of today where refined methods of information management, such as "contingent alternative outcomes" for committee proceedings are sometimes utilized and exhaustive "in specie" conceptual searches

check off and eliminate possible language combinations leaving all that remains which is to **fly by the seat of one's pants**. In case you're curious, a bit of internet research on the origin of that well known phrase indicates it means to do or take action

without a plan, to go by feel, to make decisions in the moment. Its' origin dates from the early years of aviation when airplanes had no flight control aids or navigational systems. The pilots relied heavily on their own keen senses to determine the plane's position, and even to find their way. They flew by personal experience, touch and intuition. "With the seat being the largest point of contact between the pilot and the plane, it was from the seat of his or her pants that the pilot could feel how the airplane was reacting to his or her controls and how well the engine was operating." **Sound familiar** — in 1938 nearly 200,000 Texas were on direct relief, with about 100,000 working on Federal Relief projects as the nation experienced a recession. On August 12, 1936 the highest recorded temperature in Texas of 120 degrees occurred at Seymour in Baylor County, Texas. ★

