

County*i*ssues

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Constitutional Amendment Election: Five Propositions to Affect Counties



By **Nanette Forbes**
TAC Legislative Staff

During the 81st Legislative Session, 11 joint resolutions were passed proposing constitutional amendments to the state constitution. Five of these are of specific interest to counties. On Tuesday, Nov. 3, 2009, voters will go to the polls to vote for or against the proposed amendments.

Listed below are the five propositions with informational analysis from county officials. A sample ballot of the propositions can be found on the Texas Secretary

of State's Web site at www.sos.state.tx.us.

Proposition 1 – (HJR 132, Article III) by Corte (Wentworth)

"The constitutional amendment authorizing the financing, including through tax increment financing, of the acquisition by municipalities and counties of buffer areas or open spaces adjacent to a military installation for the prevention of encroachment or for the construction of roadways, utilities, or other infrastructure to protect or promote the mission of the military installation."

There are numerous military bases in Texas that contribute billions of dollars to the state's economy. As population growth continues in areas where military installations are domiciled, they risk infringement by surrounding developments that could inhibit the

installations' expansion or operation. In order to protect these areas, the proposition would give counties and municipalities the authority to issue bonds or notes to purchase land contiguous to the military installations to allow for their growth and provide infrastructure, if needed.

In *Amendments Proposed for November 2009 Ballot*, a publication put out by the House

Research Organization (HRO), a research arm of the Texas

House of Representatives, supporters say, "Proposition 1 is necessary to grant clear, specific authorization for cities and counties to use bonds or notes to buy land to create buffer areas around military installations." The

opposition states that they are not denying the advantages and benefits of having military installations in their areas but "cities and counties should not be

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KEY COUNTY DATES

September 2009

Before Sept. 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 Oct. 1: Deadline for setting fees of the Sheriff and Constable to be effective Jan. 1. TEX. LOC. GOV'T CODE, §118.131(d).

October 2009

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).

Oct. 1: Tax Assessor-Collector's deadline for mailing tax bills. TEX. TAX CODE, §31.01(a). Section 31.01(a) of the Tax Code was amended by SB 562 in 81st Legislative Session to authorize, rather than require, that the exterior of a tax statement contain, in all capital letters, "RETURN RECEIPT REQUESTED" if the tax bill is not deliverable as addressed. The bill became effective on Sept. 1, 2009.

Oct. 2, 14 and 19: 2009 CIRA Regional Meetings. Presented by the County Information Resources Agency, various locations.

Oct. 4-10: County Investment Officer Training, Level 1. Presented by the Texas Association of Counties, Austin.

Oct. 5-8: 87th Annual County Judges & Commissioners Association Conference. Omni Bayfront & Marina Hotel, 900 North Shoreline Boulevard, Corpus Christi,

Texas. For more information, contact San Patricio County Judge Terry Simpson at (361) 364-6120.

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

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

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

November 2009

Nov. 3: Uniform election date. TEX. ELEC. CODE, §41.002.

Nov. 3-12: HR Regional Workshops. Presented by the Texas Association of Counties. Correctional Management Institute of Texas, George J. Beto Criminal Justice Center, Sam Houston State University, various locations.

Nov. 15: First day to mail voter registration certificates to voters registered as of Nov. 14 and whose names are not on the suspense list. TEX. ELEC. CODE, §14.001.

Nov. 16: Fall Administrative Workshop. Sponsored by The Texas Judicial Academy, a partnership between the County Judges Education Committee of the Texas Association of Counties and Texas Tech University School of Law, Corpus Christi.

Nov. 17: Complete jury wheel due to Secretary of State. TEX. GOV'T CODE, §62.001(c).

Nov. 19-20: Texas Public Funds Investment Conference. Educational Co-Sponsor: Lyndon B. Johnson School of Public Affairs, University of Texas at Austin, Houston.

Propositions *continued from page 1*

given another reason to increase property taxes."

Taylor County Judge George Newman referred to the proposition as "an interesting piece of legislation." Taylor County is home to Dyess Air Force Base.

The judge's main concern is where the state's responsibilities fall.

"Once again legislation is pushed down to the local level from the state," Newman said. "Financing at the local level does increase property taxes and the state is constantly on counties to reduce property taxes."

Also, if Proposition 1 passes, it will still be necessary for area citizens to vote on whether bonds will be issued for the purpose of purchasing property to serve as a buffer around defense bases.

Newman expressed additional concerns as to what laws will be passed by the Legislature to enable cities and counties to implement Proposition 1. If eminent domain became a factor, "Katie, bar the door," Newman said, suggesting the real possibility of investors snatching up property to increase its value before selling it off to governmental entities.

HJR 132 was referred to the House Committee on Defense and Veteran's Affairs and Senate Committee on Veteran Affairs/Military Installation. No testimony was offered on the bill in either committee. The enabling legislation for Proposition 1, HB 4130 by Corte, did not pass the 81st Legislative Session. If Proposition 1 is passed by the voters on Nov. 3, the bonds and notes cannot be issued until enabling legislation is passed in a later session.

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TAC Annual Conference Recap:

TAC Honors Legislators, Members



By Elna Christopher

TAC Communications Staff

Three Texas legislators, a long-time Harris County constable and cities and counties with cooperative projects were honored by the Texas Association of Counties (TAC) at its annual conference Aug. 24-26 in Austin.

Leaders of many of Texas' 254 counties gathered at the conference to hear state legislators and local government experts discuss important issues affecting counties and their taxpayers, with TAC President J.D. Johnson, Tarrant County commissioner, presiding over the opening session.

Rep. René O. Oliveira of

Brownsville, chairman of the powerful House Ways and Means Committee, was honored as Legislator of the Year by TAC for his strong leadership skills and his willingness to communicate.

Sen. Royce West of Dallas, chairman of Senate Intergovernmental Relations, and **Rep. Garnet Coleman** of Houston, chairman of House County Affairs, were honored as Champions of County Government for their work during the 81st Session on county-related issues.

Bill Bailey, a long-time Harris County constable, was honored with the Sam Seale Trailblazer Award.

"Constable Bailey has a bedrock belief in the value of Texas county government and has spent his 27-year career telling the county story to anyone he could find, whether it be a local civic club or a state or a national or even international leader," said Karen Ann Norris, TAC executive

director. The award is named in honor of the late Sam Seale, longtime TAC executive director.

TAC and the Texas Municipal League also presented two City-County Cooperation awards to **Dallas County and the City of Irving** – for their successful Irving Health Center – and to **Wise County and the cities of Bridgeport and Decatur** – for joining forces to bring a branch campus of Weatherford College to Wise County located between the two cities.

Celebrating its 40th anniversary,

TAC held its annual conference with the theme of "Serving Texans: a focus on customer service in Texas counties."

About 600 elected and appointed officials from many of Texas' counties attended the conference, which included workshops on customer service, property tax reform, energy efficiency, transportation, homeland security, adult and juvenile justice, and unfunded mandates, among other issues. Many participants also earned hours of required continuing education at the conference. 🇹🇽



Rep. René Oliveira, D-Brownsville, (left) receives the 2009 Legislator of the Year award from the Texas Association of Counties President J.D. Johnson. Rep. Oliveira chairs the House Ways and Means Committee.

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Proposition 2 – (HJR 36, Article VIII) by Otto (Williams et al)

“The constitutional amendment authorizing the Legislature to provide for the ad valorem taxation of a residence homestead solely on the basis of the property’s value as a residence homestead.”

Kristeen Roe, Brazos County tax assessor collector, explained that the proposition comes in response to commercial industry moving into areas and impacting market values of residential properties.

“Homeowners are often pushed out of their homes because of drastic spikes in value that increase their property taxes to the point they are unable to continue living in the home,” Roe said.

Property being valued at its “highest and best use” has led to many hardships for homeowners. Proposition 2 seeks to remedy the situation.

“This amendment limits the appraisal of residence homestead to its value as a residence homestead, regardless of whether its residential use is the highest or best use,” said David G. Valle, chief appraiser for the Hays Central Appraisal District. “Its highest or best use could be commercial, but with this amendment, we have to value it as residential.”

Hays County Tax Assessor-Collector Luanne Caraway added that if the property is a homestead, it should be treated as such — regardless of the possible best use.

“The taxpayer is not benefiting from the ‘best use’ until the time that he sells his property,” Caraway said. “If it is his homestead, then his benefit is the same as any other person’s homestead, so why should he be penalized if the property where he has lived changes to commercial simply because of what happens around him?”

The cost of implementing the legislation should be minimal or no costs to counties. However, the county could lose value to tax under the new legislation in Proposition 2.

“If any costs are associated with this amendment, it will be at the appraisal district level,” Valle said.

The enabling legislation for Proposition 2 — HB 3613 by Otto — will take effect on Jan. 1, 2010, but only if HJR 36 is approved by the voters.

Proposition 3 – (HJR 36, Article VIII) by Otto (Williams)

“The constitutional amendment providing for uniform standards and procedures for the appraisal of property for ad valorem tax purposes.”

The Texas Constitution requires the administrative and judicial enforcement of uniform standards for property appraisals to originate in the counties where the taxes are imposed. Proposition 3 would shift that enforcement and appraisal procedures to the legislature.

The majority of appraisal districts currently follow International Association of Assessing Officers standards for appraisal.

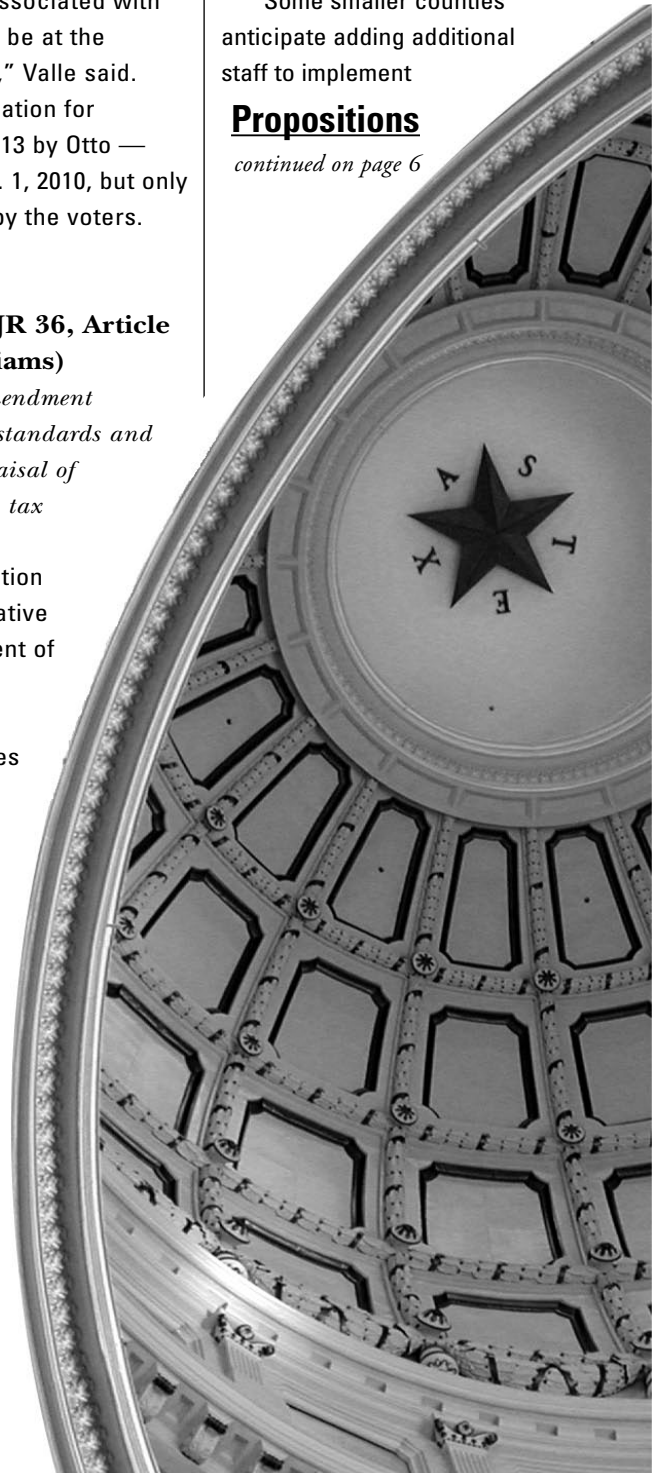
“From recent discussions, it seems that this legislation may be attempting to

also standardize appraisal office practices from county to county, such as specifics within agricultural use appraisal, or frequency of renewal of homestead applications,” Roe said.

Some smaller counties anticipate adding additional staff to implement

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Resources, Naturally

Smart Growth from the County Perspective



By Paul J. Sugg
TAC Legislative Staff

Of several definitions gathered, this one was found (most subjectively and by a jury of one) to be the most useful (or, at least, the most pleasing to one particular world view):

Smart Growth: "A perspective, method, and goal for managing the growth of a community. It focuses on the long-term implications of growth and how it may affect the community, instead of viewing growth as an end in itself. The community can vary in size; it may be as small as a city block or a neighborhood, or as large as a city, a metropolitan area, or even a region. Smart Growth promotes cooperation between often diverse groups to arrive at sustainable long-term strategies for managing growth. It is designed to create livable cities, promote economic development, and protect open spaces, environmentally sensitive areas, and agricultural lands."

We've written about smart growth before and will certainly do so again. What prods us this time is SB 2169 by Senator Rodney Ellis, passed by the Legislature but vetoed by the governor this past session. The bill passed out of the Senate on its Local and Uncontested Calendar, passed in the House on its Local and Consent Calendar (early in May, before the House ground to a halt late in May), then fell to the veto pen in June. The idea of the bill was to create, at the

state agency level, a smart growth policy work group and begin the development of a smart growth policy for this state with this stated goal: "...for the state to prepare for the projected population growth in the state." Of course, projections are that areas of the state are seeing and will continue to see significant growth while other areas remain steady or in decline.

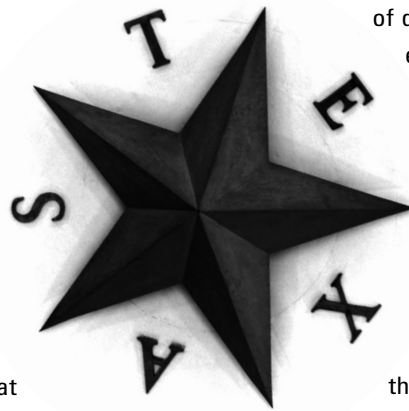
There is opposition aplenty to smart growth, often propelled by arguments that a market-driven approach provides better density results, government is not the solution to these problems, and so on. We might also sprinkle in a little history as well — land speculation has long driven how our state and our nation have developed. Development, then, has been influenced by the wisdom of the market (and the market's regular bouts of insanity), tempered by, at least at the county level, decidedly limited regulatory authority.

In his veto message, the governor notes "decisions about the growth of communities should be made by local governments closest to the people living and working in those areas..." and that this is one-size fits all, bottom-down approach won't work in our large and diverse Texas. The acknowledgement of the importance of local control is

laudable: local officials don't want to be told by the state government how their communities should grow. But shouldn't there be some connection between what state government and county governments are doing to address growth issues? An example of this is Section 232.0033, Local Government Code "Additional Requirements: Future Transportation Corridors," added in 2007. This allows for cooperative planning between TXDOT and counties to, at the very least, let someone know the home they are buying is right alongside a "future transportation corridor."

But this shouldn't be an all or nothing issue — as a people, we have long chosen the best elements of different political and economic, even social, systems to meld into our own systems. This harkens back to the Constitution and the Framers creating a polity, a mix of systems and elements of systems: this is their true genius.

They looked back to the Ancients as models, not the least of whom (at least so far as the idea of a polity, a mix of elements) was Aristotle. They valued the individual as well as the community, as do we, their descendents, and sought — as we continue to seek — to balance freedom and authority, individual and collective rights. 🗝



Propositions *continued from page 4*

procedures. But it is difficult to determine the true fiscal impact on counties because the enabling legislation will not be addressed until the 82nd Legislative Session.

Proposition 5 – (HJR 36, Article VIII) by Otto (Williams)

“The constitutional amendment authorizing the Legislature to authorize a single board of equalization for two or more adjoining appraisal entities that elect to provide for consolidated equalizations.”

Most appraisal districts are established in each county and appraise property located within that jurisdiction. There are more than 250 appraisal districts in this state and two counties, Randall and Potter, have a consolidated appraisal district and separate appraisal review boards. Proposition 5 will allow adjoining appraisal districts to consolidate and have one appraisal review board.

Deborah Hunt, Williamson County tax assessor collector, said she felt the idea could work. Consolidation could create a cost savings for counties because “smaller county appraisal districts ... can operate with a combined revenue source, allowing funding for mapping and computer aided appraisal software,” according to Hunt.

Smaller counties sometimes experience difficulty finding individuals qualified or willing to serve on appraisal review boards.

“By making the option of joining districts available, the pool of qualified eligible applicants is increased,” Roe said.

The enabling legislation for Proposition 5, HB 3611 by Otto, will take effect Jan. 1, 2010, but only if HJR 36 is approved by the voters.

Proposition 11 – (HJR 14, Article 1, sec. 17) by Corte (Duncan)

“The constitutional amendment to prohibit the taking, damaging, or destroying of private property for public use unless the action is for the ownership, use, and enjoyment of the property by the State, a political subdivision of the State, the public at large, or entities granted the power of eminent domain under law or for the elimination of urban blight on a particular parcel of property, but not for certain economic development or enhancement of tax revenue purposes, and to limit the legislature’s authority to grant the power of eminent domain to an entity.”

In the 79th Second Called Session (2005), the Legislature passed SB 7 which related to limits on the use of the power of eminent domain. The purpose of the legislation was to prevent governments from obtaining private property by eminent domain for economic development, with certain limitations.

According to the *Analysis of Proposed Constitutional Amendments* published by the Texas Legislative Council (TLC), supporters say, “The proposed amendment would enhance the property protections established statutorily in 2005 by placing in the Texas Constitution clear restrictions on the use of eminent domain and by specifying that ‘public use’ excludes the taking of property for the primary purpose of economic development or enhancement of tax revenues.”

The HRO published additional comments on the subject in its publication *Amendments Proposed for November 2009 Ballot*. Supporter viewpoints summarized in the

publication say, “Proposition 11 would add key protections against abuses of the power of eminent domain by defining in the Constitution the legitimate purposes for which property may be taken.”

However, opposition has expressed concerns that the amendment could create ambiguity surrounding legitimate uses of eminent domain, causing additional risks of litigation expenses to counties. In the TLC publication, the opposition argues the following:

“The proposed language referring to the ‘ownership, use, and enjoyment’ of condemned property is unclear and would leave to the courts the power to determine the legitimate scope of eminent domain in Texas. That language could lead to future litigation and give rise to varying court interpretations that might differ from the legislature’s intent, undermining decades of judicial precedent and costing taxpayer dollars. Statutory law, not the constitution, is the proper forum for testing experimental terms with uncertain implications.”

Paul Sugg with the Texas Association Counties’ Legislative Department agreed: “In addition to creating a higher constitutional standard for counties and other condemning entities to follow, the possibility of additional litigation could well add to the public’s cost of condemnation proceedings.”

The HRO and TLC publications are available in their entirety at www.hro.house.state.tx.us and www.tlc.state.tx.us. For more information on this topic, contact Nanette Forbes at (800) 456-5974 or nanettef@county.org. 📍

Collin County: Choose Your Polling Place November 3

During the upcoming Election Day, voters in Collin County will no longer be restricted to their precinct polling places. Collin County was recently approved by the Secretary of State's Office to give its voters the opportunity to cast their ballots at any county polling place for the Constitutional Amendment election to be held Nov. 3, 2009.

In a recent article in *The Dallas Morning News*, Collin County Judge Keith Self said he believes county voters "will like the ease and convenience."

Currently, three other counties have approved election plans to provide countywide polling places to their voters: Lubbock, Galveston and Erath counties.

Lubbock County was the pioneer county in the state approved to offer countywide polling places and convey the concept to their voters. The county received a 2009 Best Practices award on behalf of the Texas Association of Counties and its Leadership Foundation for achievement in technology.

The countywide voting pilot program in Collin County only includes the Nov. 3 election. 🗳️

DSHS Hosts Regional H1N1 Workshops



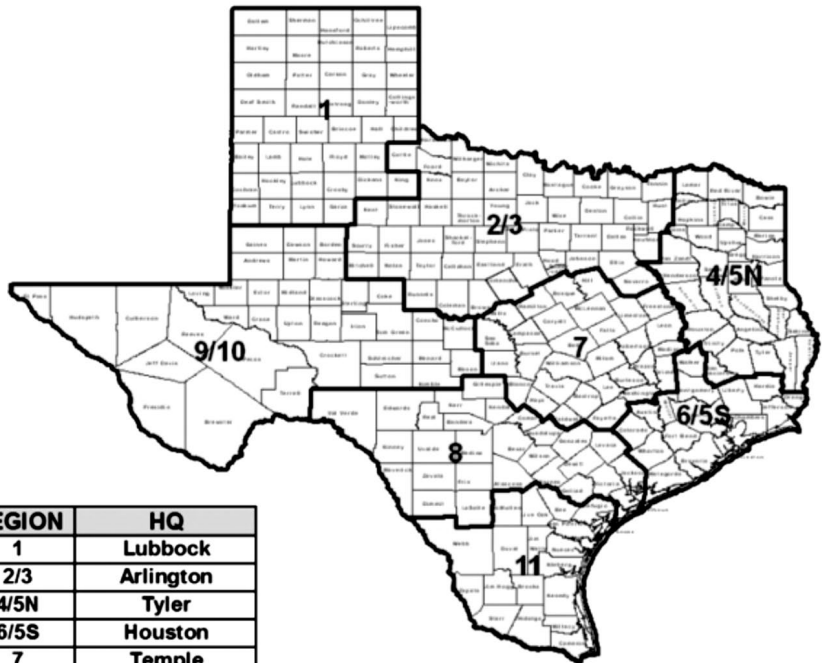
By Bruce Barr
TAC Legislative Staff

In an effort to be proactive in creating a knowledgeable, organized response to a fall "novel" H1N1 outbreak, the Texas Department of State Health Services (DSHS) just completed 14 regional workshops. Hosted across Texas, the workshops reached out to physicians, health care providers, educators, volunteer groups and elected officials to provide information on the history of pandemic influenza planning, a review of the spring outbreak response and to discuss the coordinated community preparation required to mitigate a second wave of H1N1. Unlike during the spring, the current response plan is built around community-based solutions directed by local elected officials, school boards and health officials. County judges and mayors are asked to take the lead in steering the local movement. Several steps recommended include reaching out to others in the community to develop a plan; effectively communicating with the media and public to encourage positive citizen

H1N1 Workshops

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Texas Public Health Service Regions



REGION	HQ
1	Lubbock
2/3	Arlington
4/5N	Tyler
6/5S	Houston
7	Temple
8	San Antonio
9/10	El Paso
11	Harlingen

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NACo Expresses Health Care Priorities to Federal Senate Finance Committee



By Rick Thompson
TAC Legislative Staff

In a recent letter to the Federal Senate Finance Committee, the National Association of Counties (NACo) laid out its top priorities for counties as the committee prepares to mark up legislation to reform our nation's health system. Each of the three listed priorities could assist Texas and its counties in their efforts to provide comprehensive health care in the most efficient manner.

The following include excerpts from the letter and analysis of NACo's priorities as they apply to Texas counties.

Priority 1

"NACo supports **expanding Medicaid** to increase coverage for low income Americans without shifting financing costs to county property taxpayers. Reimbursement rates should be enhanced and the federal medical assistance percentage (FMAP) for newly eligible populations should be 100 percent. Any other FMAP increases should be passed through to counties in states that require counties to contribute to the non-federal share."

In Texas, expanding Medicaid to include coverage for more low income citizens could help ease the intense distress put on all health care providers, including urban and rural hospitals. Ultimately, increasing eligibility would reduce the number of

uninsured — Texas leads the nation with more than 6 million — allowing more opportunities for formerly uninsured citizens to seek primary health care. Without insurance, patients often go without preventative care and finally seek medical attention from the most expensive source when their conditions worsen: emergency rooms. Emergency rooms, in many cases, are supported by local property tax dollars.

Federal medical assistance percentages are used by states to determine the amount of federal matching funds allocated annually to certain medical and social service programs such as Medicaid. Increasing the federal share to 100 percent would add more uninsured citizens to these programs at no cost to the state.

Priority 2

"NACo opposes mandatory "savings" from the **Medicaid disproportionate share hospital (DSH) program**.

County hospitals will continue to depend on DSH to serve those who will remain uninsured and uninsurable even after reform and to compensate for Medicaid's low reimbursement rates. Experience shows that local taxpayers will continue to be called upon to make up shortfalls in order to preserve expensive essential services provided by county hospitals."

State and federal laws mandate that state Medicaid programs make special payments to hospitals that serve a disproportionately large

number of Medicaid, low-income, and indigent patients.

Our hospital system relies greatly on DSH for help with a large burden of the uncompensated and indigent care and recent proposals in federal health care overhaul legislation would eliminate some or all DSH funds. According to Texas Health and Human Services System, Texas paid \$1.5 billion in disproportionate share hospital funding to three state-owned teaching hospitals, one state chest hospital, 10 state psychiatric hospitals and approximately 165 non-state hospitals. Of this \$1.5 billion, more than \$960 million came from the federal government.

Priority 3

"NACo supports making conviction of a crime, and sentencing to secure detention the trigger for termination of federal health benefits. Coverage for persons in pre-trial custody and presumed innocent should not be withdrawn without due process. The provisions of **HR 2209, the Restoring the Partnership for County Health Care Costs Act of 2009**, which repeals the inmate exception for those in custody pending disposition of charges, should be incorporated into health reform legislation."

The cost of providing jail health care services has increased dramatically over the years due to a number of reasons, including infectious diseases, substance abuse treatment and mental illness. This legislation would help

Health Care Priorities

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State Juvenile Agencies to Use TAC Listserve



By Laura Nicholes
TAC Legislative Staff

County judges may notice more postings to the TAC Judicial Listserve addressing juvenile justice issues. During the Juvenile Justice Update session at the TAC Annual Conference, several county judges conveyed their concerns to the executive directors of the Texas Juvenile Probation

Commission (TJPC) and the Texas Youth Commission (TYC) that they do not receive direct communications from the agencies and must often rely on second-hand information from the juvenile board chairperson or from the juvenile probation chief. The judges suggested that important and timely information be distributed to all county judges through the TAC Judicial Listserve. TJPC Executive Director Vicki Spriggs and TYC Executive Director Cherie Townsend

acknowledged the judges' concerns and were willing to accommodate their requests by submitting important information to TAC for distribution on the list serve. Both directors indicated they value their working relationship with counties and seek to improve communications wherever possible.

For a review of recently posted items concerning new grant programs, secure felony placement facilities and the creation of DNA records, e-mail Laura Nicholes at LauraN@county.org. 🗺️

Health Care Priorities

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alleviate some of the county jail health care cost by allowing inmates who received Medicaid, Medicare, SCHIP and SSI to continue receiving benefits until they are convicted of a crime. Under current federal law, a person who is in custody pending disposition of charges loses benefits until the individual is no longer in custody. HR 2209 currently has 23 cosponsors including two member of the Texas delegation — Rep. Michael Burgess and Rep. Kay Granger.

For more information, contact Rick Thompson at (800) 456-5974 or rickt@county.org. 🗺️

Sunset Legislation Proposes Rule Changes for Texas Commission on Jail Standards



By Laura Nicholes
TAC Legislative Staff

Senate Bill 1009 by Senator Bob Deuell, the Sunset review bill for the Texas Commission on Jail Standards (TCJS), established several additional standards and requirements that went into effect Sept. 1. The most notable items impacting counties include additional standards and record keeping for the identification and treatment of pregnant inmates; additional records relating to in-custody deaths; enhanced mental health reporting requirements; and guidelines relating to awarding contracts and avoiding the appearance of impropriety.

At its quarterly meeting in August, the TCJS approved for publication the following seven proposed changes to

minimum standards to comply with the mandates in SB 1009: Deaths in Custody, Objective Classification Plan (pregnant inmates), Health Records (pregnant inmates), Identification (mental health inmates), Balanced Diet (pregnant inmates), and Work Assignment and Supervision (pregnant inmates). In addition, on Sept. 14 the Commission released its Guidelines for Sheriffs Regarding Food Service and Commissary Vendors as mandated by SB 1009. The guidelines are available on the TCJS Web site at www.tcjs.state.tx.us/docs/Commissary%20Guidelines.pdf.

House Bill 3653 and House Bill 3654 by Rep. Marisa Marquez were incorporated into SB 1009 and require changes to minimum jail standards, as well as amend statutes regarding the treatment and record keeping of pregnant women and female children in

Jail Standards

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\$20 Million Available Through Home-Delivered Meal Grant Program



By Paul Emerson
TAC Legislative Staff

The Texas Department of Agriculture (TDA) is now accepting applications for its Texans Feeding Texans: Home Delivered Meal Grant Program (HDM). During the 2010-11 biennium, about \$20 million will be made available in grant funding to eligible organizations supported by local county governments.

Texans Feeding Texans has grown in popularity during the past two years to become an extremely successful program. The program started in 2008 by awarding grants to 95 out of 98 applicants. In 2009, the number of applicants almost doubled from the previous year; 194 applied and TDA awarded grants to 182 of those organizations.

This year, it is TDA's goal to provide a grant to at least one organization in every county.

The information below includes a list of important dates and additional information about the HDM program.

Important Dates

- Applications accepted for the 2010 grant year beginning Sept. 1, 2009.
- Application must be postmarked by Nov. 1, 2009.
- Grants will be awarded by Feb. 1, 2010.

Role of the Counties

- Counties can bring TDA dollars to their communities by making qualifying grants to nonprofit meal providers.

Program Overview — Key Factors:

- Funding is based on last year's eligible meal numbers.
- Purpose is to expand and supplement the organizations' total meals.
- Funds are to be used during the grant period, not for previous expenses.

Allowable Expenditures

- Employee compensation
- Food and preparation cost
- Operational expenses
- Packaging
- Transportation
- Travel
- Rental costs

For more information about the HDM program, please visit www.TexasAgriculture.gov or contact Paul Emerson at (800) 456-5974 or paule@county.org. 📍

Jail Standards *continued from page 9*

county jails and certain youth correctional facilities. HB 3653 prohibits the use of restraints during labor or delivery unless safety or security is an issue. HB 3654 requires TCJS to establish specific minimum standards relating to the health and housing of pregnant women confined to a county jail. It also requires each county to report monthly to TCJS the number of inmates known to be pregnant.

Senate Bill 1557 by Senator Robert Duncan was included in the TCJS Sunset bill and seeks to enhance the identification of mental health patients in county jails by requiring additional reports to TCJS. SB 1557 requires the sheriff to provide written or electronic notice of mental health information collected on a defendant by peace officers or jail personnel, including previous assessments, to a magistrate within 72 hours. Mental health information is required to be used during the punishment phase after the conviction for the offense for which the defendant was arrested, as part of a presentence investigation report, or in connection with the impositions of conditions following placement on community supervision, including deferred adjudication. This article does not prevent the court from releasing a mentally ill or mentally retarded defendant from custody on personal or surety bond, or ordering an examination regarding the defendant's competency to stand trial.

The proposed changes to jail standards will be published in the Oct. 2, 2009 edition of the Texas Register, accessible online at www.sos.state.tx.us/texreg/index.shtml.

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

H1N1 Workshops *continued from page 7*

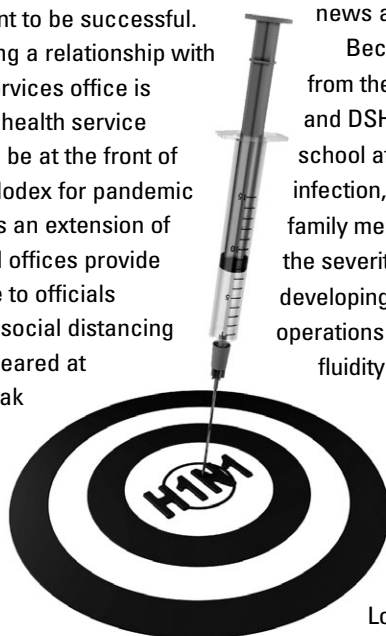
involvement; and engaging in continuity of operations planning for government, business and healthcare services.

A major factor in any community based response is an effective communication network between local elected leaders, school districts and the local/regional health officials. Another component to a positive outcome is an inclusion of volunteer groups and business and local church leaders in the planning discussion. The effectiveness of most non-pharmaceutical interventions, including infection control and social distancing, is dependent on varied community participation. According to the fall response plan, the triggers for enacting social distancing measures, like the cancelation of public events and school closures, are to be established at the local level based on local stakeholder input. Volunteer groups, churches and business leaders are encouraged to provide information to members and employees on household and individual infection control and be a conduit for the dispersal of other guidelines and flu control information. For counties without a pharmacy or a drug distribution infrastructure, the state and federal antiviral distribution plan must have local leadership involvement to be successful. In all cases, developing a relationship with the regional health services office is important. The public health service regional office should be at the front of the elected official rolodex for pandemic response planning. As an extension of the state, the regional offices provide support and guidance to officials charged with making social distancing and other decisions geared at controlling the outbreak or spread of H1N1. County officials are advised to work closely with the local and regional health authorities

and local school districts to develop a response that best suits the community.

The workshops also stressed using the media to spread information — the right way. “To all elected officials, county judges, mayors or whomever, when you are talking with the media, please remove the word ‘swine’ from the conversation,” advised Jack Colley, Chief of the Governor’s Division of Emergency Management. This request emphasizes the need for concise, accurate and timely communication with the media, and through the media to the public. Chief Colley’s plea is in response to the negative effect the “swine” connotation has had on the Texas pork industry and shows how a seemingly harmless reference can have serious, widespread implications. Conversely, carefully thought out communication with the media may provide officials the upper hand in controlling a media led reaction to H1N1, as well as deliver essential messages to the public on matters regarding local control of influenza through non-pharmaceutical interventions. During the spring outbreak, many counties held regular, scheduled press briefings to present local H1N1 news and updates to the media.

Because of changing guidelines from the Centers for Disease Control and DSHS on returning to work and school after recovering from H1N1 infection, considerations of non-ill family members and questions about the severity of the H1N1 strain, developing a static continuity of operations plan is impossible. With the fluidity of the pandemic and the influence of local education and business stresses, a continuity plan has to be flexible enough to allow for alternatives to “normal” activity to be successful. Local leaders must plan for a



More Info

Visit www.RecoverTexas.org for a PDF copy of the “Texas Pandemic Influenza Conference Presentations and Documents” and links to other Pandemic Flu resources.

potential loss in an in-office workforce, and at the same time, an increased demand for healthcare services especially in the uninsured and underinsured populations. Again, developing an effective continuity of operations plan requires the input of local health, education and business leaders.

While leadership response to the spring outbreak of the “novel” H1N1 was directed by the Texas Education Agency and DSHS in Austin, the fall response plan counts on strong local leadership to make the decisions that guide their communities. County judges and mayors are encouraged to develop networks before an event and have a plan based on that network interaction in place before H1N1 impacts their neighborhood. Leaders are asked to reach out to the local media market to help manage the message to the public regarding non-pharmaceutical interventions and personal responsibility. In rural counties, the responsibilities for county leadership are even more critical to safeguard the “safety net” citizens. To help officials manage the return of the H1N1 cycle this fall, DSHS has established www.TexasFlu.org. On the Texas Flu Web site, community leaders will find the latest federal and state guidelines for schools, business and government, and the different mitigation strategies in place. For additional information on the Texas H1N1 response and county leadership, please contact TAC Legislative staffer Bruce Barr at bruceb@county.org or (800) 456-5974. 🗺️

Lost on the Technology Superhighway?

**Texas Association of Counties
2010 Courts and Local Government
Technology Conference**

**Jan. 26-28, 2010 • Crowne Plaza Hotel in Austin • Educational Co-Sponsor:
Lyndon B. Johnson School of Public Affairs, University of Texas at Austin**

Jump on the Right Technology Road

Getting where you want to be requires optimizing your technology resources. This year's technology conference focuses on managing and investing in technology to keep you on the right track. Learn new ways to consolidate processes, interface with Web 2.0 for better customer interaction, access new technology fund sources, and build online training specific to your needs. Bring your employees, your IT personnel, your law enforcement specialists - everyone that uses technology. Move over to the fast lane and learn to leverage your technology - make it work for you!

Continuing Education

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

Registration

Registration for the entire conference, including the pre-conference sessions, is \$150 before Jan.1 and \$175 after Jan.1. Registration is transferable. Requests for

refunds (minus a \$10 administration fee) must be submitted in writing or fax by Jan.19. Refund requests later than Jan.19 will have an administrative fee equal to half the registration fee. Online registration is available at www.county.org.

Hotel Information

The conference will be held at the Crowne Plaza Hotel in Austin, 6121 North IH 35. Request the Texas Association of Counties room block when reserving your hotel room to receive conference room rates: single \$85, double \$125. Rooms are limited, so please make your reservations as soon as possible. The reservation deadline is Jan.12.

Co-Sponsors

The 2010 conference is co-sponsored by the Texas Municipal Courts Education Center, the Texas Center for the Judiciary, the Texas Justice Court Training Center, the Judicial Committee on Information Technology, the Texas Judicial Academy, the County Information Resource Agency and the Texas Association of Counties.



Treasury Notes: News Laws Affecting Fees and Funds

Though it seems the 81st session just ended, its laws have already gone into effect — and many will affect your budgeting for the new fiscal year. A few important changes involve fees and funds collected by counties, including specifications for where funds may be deposited, for what fees may be used and how funds may be disbursed. To help you plan, we've included highlights of this legislation below.



By Aurora Flores-Ortiz
TAC Legislative Staff

NEW FEES COLLECTED HB 3637 by Hughes: increases filing fees for civil actions to fund

basic legal services

HB 3637 authorizes fees to be used for two important causes — the county and district court technology fund and funds for county records preservation.

County/district court technology fund

This bill authorizes a \$4 county and district court technology fee as a cost of court for any defendant convicted of an offense in a county court, statutory county court or district court. The county clerks shall collect the costs and pay them to the county treasurer for deposit in a fund to be known as the county and district court technology fund.

The fund may be used to finance the cost of continuing education and training for county judges and clerks regarding technological enhancements for those courts, as well as the purchase and maintenance of technological enhancements for those courts. The commissioners court shall administer and direct the fund.

County records preservation fee

Also within this bill is an additional filing fee collected for civil cases by the clerk of a county, statutory county, or district court. This filing fee, not to exceed \$10 in each civil case filed in the

court, is to be used for court record preservation. The clerk shall send the fees collected to the county treasurer at least monthly. The treasurer shall deposit the fees in a court record preservation account in the county treasury and the money may be used only to digitize court records and preserve records from natural disasters.

CLARIFICATION OF DEPOSITS

SB 2197 by Williams: relates to fees paid to a constable for serving civil process

This bill amends the local government code to clarify that all civil process fees collected by a constable

are presumed to be collected in the constable's official capacity and requires that any fee received must be deposited with the county treasurer.

SB 1675 by Hinojosa: offers new jury service disbursement and donation options

Jurors currently have the option of donating jury service reimbursements to one of several causes. This legislation amends the government code to expand the types of allowable entities to include child protective services or a county child services board that serves abused and neglected children.

SB 397 by Carona: relates to payment methods for reimbursement of jury service expenses

The government code outlines the criteria for reimbursement of jury expenses but does not identify a method for reimbursement of jury service other than by a "check drawn on the jury fund." This bill authorizes the county treasurer to reimburse citizens for jury service on the same day of service by methods established by the commissioners court. The jurors may be reimbursed by electronic fund transfer; cash dispensing machine; debit card or stored value card; or another method determined by the county treasurer and commissioners court to be secure, accurate and cost-effective.

For more information, please contact Aurora Flores-Ortiz at (800) 456-5974 or aurorafo@county.org. 🗺️



AG Opinions

ISSUED

GA-0734: Honorable Tom Maness, Jefferson County Criminal District Attorney, calculation of the maximum time allowable for tax abatement under Tax Code section 312.204(d). **Summary:** The maximum ten-year tax abatement period authorized under Tax Code section 312.204(a) may commence in a year subsequent to the year in which an agreement providing for the tax abatement is entered into by the taxing unit and the owner of the property subject to the agreement.

GA-0735: Honorable Armando G. Barrera, 79th Judicial District Attorney, authority of a county bail bond board to assess a fee to bail bond companies to recover the cost of employing a bail bond administrator. **Summary:** A county bail bond board may not impose a fee on bonding companies to pay for the cost of employing a bail bond administrator.

GA-0737: Honorable Elizabeth Murray-Kolb, Guadalupe County Attorney, whether a municipality engaged in the process of annexing territory may use section 43.052(h) (1) of the Local Government Code under various circumstances. **Summary:** While the statute would benefit from legislative clarification, we conclude that section 43.052(h)(1) of the Local Government Code does not require that a residence be located on each tract of the area proposed for annexation. An annexation undertaken pursuant to section 43.052(h) is not void if the municipality fails to adopt a three-year annexation plan. Whether a service plan requires a

landowner to fund a capital improvement in a manner inconsistent with Local Government Code chapter 395 requires the resolution of questions of fact that cannot be determined in an attorney general opinion.

GA-0739: Honorable Richard R. Hicks III, Caldwell County Criminal District Attorney, whether premiums paid for group health insurance by the Caldwell County Employee Benefit Trust are subject to insurance premium taxes under section 222.002 of the Insurance Code. **Summary:** Subsection 222.002(c)(5)(A) of the Insurance Code creates a tax exemption for certain premiums paid on group health, accident, and life insurance policies by a single nonprofit trust established to provide coverage for employees of municipalities, counties, or hospital districts. The Legislature has not defined the term single nonprofit trust, and the Comptroller of Public Accounts, as the agency charged with administering and enforcing the premium tax statute, has interpreted the term to mean a trust established for the single purpose of paying insurance premiums. Although the Comptroller's construction of this ambiguous phrase is reasonable, the Comptroller is too narrowly defining single purpose such that the trust can only pay insurance premiums. As long as the trust funds are used to further the purpose of providing insurance coverage for employees and their dependents, their use is not contrary to the limitations placed on a trust created under subsection 222.002(c)(5)(A). ■

REQUESTED

RQ-0812-GA: Honorable Patrick M. Rose, Chair, Human Services, Texas House of Representatives, jurisdiction over land that is annexed by two separate special districts.

RQ-0813-GA: Honorable Veronica Gonzales, Chair, Border and Governmental Affairs, Texas House of Representatives, whether a member of the board of directors of the Agua Special Utility District may simultaneously serve as a member of the board of trustees of South Texas College.

RQ-0814-GA: Honorable Mark Homer, Chair, Culture, Recreation, and Tourism, Texas House of Representatives, qualifications for service on the board of directors of the Logan Slough Creek Improvement District; elections to the District board; and applicability of the Open Meetings Act and Public Information Act to the District.

RQ-0815-GA: Honorable René O. Oliveira, Chair, Ways and Means, Texas House of Representatives, whether the South Texas Water Authority may adopt an effective tax rate under the provisions of chapter 26 of the Tax Code.

RQ-0816-GA: Honorable Lynda K. Russell, Shelby County

District Attorney, whether a district attorney may use asset forfeiture funds to pay for her defense in a federal civil suit filed under 42 U.S.C.A. section 1983.

RQ-0817-GA: Honorable Kip Averitt, Chair, Natural Resources, Texas State Senate, status of property located in more than one groundwater conservation district.

RQ-0818-GA: Honorable Garnet F. Coleman, Chair, County Affairs, authority of a school district to access and use a county's right-of-way for the installation of fiber optic cable.

RQ-0819-GA: Honorable Vince Ryan, Harris County Attorney, whether a district clerk may accept assignment of a defendant's cash bail bond refund in payment of the defendant's fines and costs.

RQ-0820-GA: Robert Scott, Commissioner of Education, Texas Education Agency, authority of a licensing agency to obtain criminal history information regarding an applicant.

RQ-0821-GA: Honorable Rodney Ellis, Chair, Government Organization, Texas State Senate, reporting and accounting of charity care by non-profit hospitals. ■

TEXAS ASSOCIATION of COUNTIES
2009 HUMAN RESOURCE REGIONAL WORKSHOP



You are a Piece OF THE HR PUZZLE

ARE YOU READY FOR CHANGE?

Human Resource Management has been rapidly changing at the federal level with new and amended employment laws and regulations. Elected officials, department heads and supervisors need to stay informed in order to keep complaints and litigation in check. This interactive seminar will cover the basics of the Family Medical Leave Act, Military Family Leave Act and the Fair Labor Standards Act. The seminar will also dispel some employment myths in the workplace and show supervisors a practical way to deal with employees. Change continues to be inevitable and seems to be occurring faster than any time in our history. This seminar will help you in coping with the fast-paced changes in the workplace with an enlightening and interactive session.

Objectives

Participants successfully completing this course will understand:

- How to administer the Family and Medical Leave Act;
- How to administer the Military Family Leave Act;
- The basics of the Fair Labor Standards Act;
- How to calculate some complex payroll situations;
- The complexities of the termination process;
- The impact of new federal regulations in the workplace; and
- How to cope with change in the workplace.

Locations

Nov. 3 - Amarillo	Nov. 3 - Corpus Christi
Nov. 5 - Abilene	Nov. 5 - The Woodlands
Nov. 10 - Odessa	Nov. 10 - Longview
Nov. 12 - Kerrville	Nov. 12 - Waco

Who Should Attend

County officials, management staff and department heads.

Continuing Education

Office	Hours*
Attorneys	<i>Not approved</i>
Auditors	<i>6.25 hours</i>
County & District Clerks	<i>6 hours</i>
Commissioners	<i>5.75 hours</i>
Justice of the Peace	<i>Pending</i>
PHR and SPHR	<i>Must submit hours on your own</i>
Tax Assessor-Collector	<i>Pending</i>
TCLEOSE	<i>6 hours</i>
Treasurer	<i>6.25 hours</i>

Registration

Each workshop is free and is limited to the first 90 registrants, so reserve your spot today. For additional information or to register for this essential one-day workshop visit www.county.org, or contact the Education Department at (800) 456-5974.



www.county.org



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From the Legislative Desk

By Carey "Buck" Boethel, Director of Governmental Relations

Counties to Receive Energy Grants

— the federal government is going to provide \$20,000-\$150,000 in grant money per non-entitlement county to fund energy efficient programs and projects that will reduce energy use and fossil fuel emissions and improve energy efficiency in the communities of most counties in Texas. Non-entitlement counties include those that did not receive a direct allocation from the U.S. Department of Energy. The Comptroller of Public Accounts began sending informational packets to eligible counties with relevant program details, as well as allocation amounts, on Sept. 25. According to a Sept. 2 letter from the comptroller's office, non-entitlement counties will be eligible to use the funds for "building energy audits and retrofits; installation of distributed energy technologies, including combined heat and power and district heating and cooling systems; installation of energy efficient traffic signals and street lighting; and, installation of renewable energy technologies on government buildings." The Office of the State Comptroller will administer the Energy Efficiency and Conservation Block Grant Program through its Office of State Energy Conservation. The program is one of many initiatives funded through

the American Recovery and Reinvestment Act. Interested county officials may call (800) 531-5441, extension 3-4679 for program details. Eligible counties can also visit www.seco.cpa.state.tx.us/arra/eecbg/index.php to view their particular allocations and obtain additional information.

Economies of Scale — Senator Eliot Shapleigh wrote the following in a Sept. 10 column posted to his Web site: "If done right, consolidation can do more than just help local government weather tough economic times — consolidation can revitalize government, making it more responsive to the needs of local communities, lower taxes, provide better services and meet the challenges of the 21st century." There are efficiencies to be realized by consolidating certain local government services, particularly those that are not dependent on personnel. "Functional consolidation" of local government duties is best evidenced by the terms and conditions of the inter-local agreements entered into among representatives of local governments. Examples of these consolidated services include emergency medical services, a wide range of communication facilities and many other common provisions of local governments. In contrast,

Stimulus Reporting Deadline: Oct. 10

Recipients of Recovery Act (economic stimulus) funding have until Oct. 10 to submit their first report to the federal government regarding the use of the funds. For more information and answers to frequently asked questions about this reporting requirement and its applicability, please visit www.federalreporting.gov.

"structural consolidation" is usually manifested by virtue of a legislative grant of authority for the issuance of a charter that prescribes the general structure for a government that represents the joinder or merger of two or more existing local governments, such as a city and a county.

A good deal of services provided by local governments, such as law enforcement, prisoner care and the administration of justice, are labor intensive. Economies of scale do not call for increased efficiencies when such local government activities are consolidated. County government — it's the pulse of the people. 🗝