

# County*i*ssues

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## Texas House Issues Dozens of County-Related Interim Charges

TAC legislative staff analyses effect on counties

*From Staff Reports*

The Texas Association of Counties Legislative Department has identified more than two dozen House committee interim charges of special interest to counties. The department has compiled a list of these charges coupled with analysis of the impact each may have on county government.

The House committees will organize hearings based on these charges and will then form recommendations based on the expert testimony they have heard on the topics. The recommendations the House committees develop will form the basis for legislation for the 82nd Legislative Session in 2011.

"I look forward to holding public hearings and receiving input on the charges," said County Affairs Chairman Garnet Coleman. "Work on the charges will be carried out with the maximum amount of public input, along with the expertise and knowledge of all stakeholders. We will bring back a report that reflects the variety of views within the 254 counties in the state of Texas."

Please find select county-related charges and analysis in the right column and following pages.

### House Committee on County Affairs

Charge No. 1. Study the current practices and tools available to counties to manage growth and development. Consider incompatible land uses and county rulemaking authority, including rulemaking authority bracketed to counties of a certain population.

The concept of expanding county authority to allow for the prudent management of growth and development has shown incremental progress, but thanks to the continued efforts of county officials and legislators, the issue remains in front of the Legislature. Last session, efforts to give certain, bracketed counties additional authority over a range of growth-related matters, including regulating incompatible land use, were unsuccessful.

Compiled by TAC Legislative Staffer Paul Sugg

### **INTERIM CHARGES**

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## KEY COUNTY DATES

### December 2009

**Before Dec. 15:** Results of appraisal district election for appraisal district directors due from Commissioners Court from Chief Appraiser. TEX. TAX CODE, §6.03(k).

**Calendar Fiscal Year Counties:** Order designating day of week on which court will convene in a regular term. TEX. LOC. GOV'T CODE, §1.005(a).

### January 2010

**January:** Term in which Commissioners Court may designate a new site at which terms are to be held during that calendar year. Seven days notice is required. TEX. LOC. GOV'T CODE, §81.005(d).

**January:** Month voter registrar to begin mailing confirmation notices to voters whose names appear on the suspense list. TEX. ELEC. CODE, §14.023.

**Jan. 1:** Effective date of valuation of property on tax rolls. TEX. TAX CODE, §23.01.

**Jan. 1:** First day to apply for ballot by mail (does not apply to FPCA).

**6 p.m., Jan. 4:** Deadline for candidate filing for place on the general primary election ballot. *Actual receipt by 6 p.m. required.* TEX. ELEC. CODE, §172.023.

**Jan. 4:** Deadline for Voter Registrar to file annual registration report with Secretary of State of number of persons whose registrations in the county and the county election precincts will be effective on Jan. 1. TEX. ELEC. CODE, §18.041(d).

**Jan. 1-15:** Reconstitution of jury wheel. TEX. GOV'T CODE, §62.001.

**5 p.m., Jan. 15:** Deadline for semi-annual report of political contributions and expenditures by candidates and

certain officeholders. TEX. ELEC. CODE, §§254.063(c), 254.093(c), and 254.095. If delivered by mail or carrier, cancellation or receipt mark before the deadline is proof of timeliness of filing.

**Jan. 17: Counties with 100,000 or greater population.** Deadline for county clerk to mail two copies of personal financial statement forms to candidates for county judge, county commissioner, and county attorney in the general primary election. TEX. LOC. GOV'T CODE, §159.005.

**Jan. 17: Counties with 125,000 or more population.** Deadline for county clerk to mail two copies of personal financial statement forms to candidates for justice of the peace in the general primary election. TEX. LOC. GOV'T CODE, §159.005.

**Jan. 30:** Deadline for road and bridge expenditure report due to State Comptroller. TEX. TRANS. CODE, §256.009.

# Helping counties work together for Texans

## *What do counties get as members of the Texas Association of Counties?*

To name just a few services that only TAC provides:

- ★ Toll-free Legal Hotline at (888) ASK-TAC4 (888-275-8224);
- ★ County magazine and the TAC Website at [www.county.org](http://www.county.org);
- ★ Web site hosting and technology assistance through the County Information Resources Agency;
- ★ Leadership development and Best Practices recognition through the TAC Leadership Foundation;
- ★ First-rate continuing education programs that are

sanctioned by the International Association of Continuing Education Trainers; and

- ★ This handy, county-specific calendar that highlights legal must-do's and education opportunities.

The common thread in these dues-funded services is that they all represent efforts to *make county government better* for the citizens and taxpayers of Texas. Since its creation 40 years ago, TAC has been at the forefront of bringing county officials together under one tent to seek collaborative solutions that apply throughout the state. THAT'S what TAC does for you!

# TEXAS ASSOCIATION of COUNTIES

# House Committee to Study Troublesome Texas Ethics Commission Opinion

## House Committee on General Investigating and Ethics

Charge No. 1. Review state law in light of the effects of Texas Ethics Commission Advisory Opinion No. 484 relating to acceptance of benefits provided to officeholders. Recommend any necessary legislative changes.



**By Elna Christopher,**  
*TAC Communications Staff*

**T**he aforementioned opinion raises questions regarding whether elected

officeholders, including elected county officials, may have their transportation, meals and lodging expenses paid for or reimbursed by a corporation (including a non-profit corporation) or labor organization in return for addressing an audience or participating in a seminar when the reason they are asked to participate is their public positions or duties.

The following language is a reprint of the summary as stated and contained in the four-page opinion that will be studied:

*Anytime an officeholder benefits from money spent by a corporation or labor organization, a fact question arises as to whether the corporation has given a thing of value to the officeholder for purposes of one of the laws under the Ethics Commission's jurisdiction. Pursuant to Title 15 of the Election Code, an elected officeholder may not accept transportation, meals, and lodging from a corporation or labor organization in return for addressing an audience or*

*participating in a seminar if the officeholder's services are in connection with his or her duties or activities as an officeholder. This advisory opinion is intended to provide guidance for future activity and not intended to criminalize past activity.*

The House committee, chaired by Rep. Chuck Hopson (R-Jacksonville), does not have a definite timeframe for holding hearings on the interim charge, but a committee staff person said Chairman Hopson and the committee likely will meet first with interested parties.

Many groups and individuals could be affected by this opinion and should be considered interested parties, including non-profit corporations like the Texas Association of Counties (TAC), the State Bar of Texas and the Texas District and County Attorneys Association (TDCAA), not to mention the state courts such as the Texas Court of Criminal Appeals (CCA). For instance, TAC is required by state law and court rules to reimburse travel-related expenses incurred by elected officials to attend mandatory judicial education programs that TAC provides with state grant funds from the CCA. If the Ethics Commission opinion is taken literally, these

mandated reimbursements could be subject to prosecution.

Reimbursement as consideration for service on the board of an association, such as TAC, is not affected by the opinion, but county officials attending local civic events could have problems. As noted by Jim Allison, general counsel to the County Judges and Commissioners Association of Texas (CJCAT): "This circular reasoning (of the opinion) will surely lead to some absurd results. For example, if a (county elected official) is invited to address the annual chamber banquet and receive an award as Person of the Year, the (elected county official) may attend the event, address the audience and accept the award. However, both the chamber (a non-profit corporation) and the officeholder will commit a felony if the officeholder eats the meal."

The House committee staff person said it is way too early to know whether corrective legislation will be filed. "That hard to speculate on," he said. "The committee will do the background first." He said work on the interim charge "is an evolving task, as more information is gathered as to how this is affecting different groups."

In the meantime, elected county officials should consult with their local district and/or county attorneys prior to accepting, or agreeing to accept, reimbursement payments for expenses such as transportation, meals and lodging. 🗗

## **Interim Charges** *continued from page 1*

Charge No. 2. Study county-level health care delivery models for indigent health care that emphasize community-based care to improve the continuity and quality of care. Compare urban and rural health care delivery models and make necessary legislative recommendations.

**T**his charge could include a review of the indigent health care program and look for ways to increase the efficiency and effectiveness of the program. During the last few years, the Legislature has amended Chapter 61 of the Health and Safety Code to allow counties to determine medically necessary, cost-effective services or supplies that should be added to the list of eligible services. These changes have proven successful for the county programs and their clients.

Compiled by TAC Legislative Staffer Rick Thompson

## **House Committee on Border and Intergovernmental Affairs**

Charge No. 4. Analyze state laws and regulations and the efforts of the multiple state entities responsible for addressing the needs of Texas residents in colonias. Determine the effectiveness of such programs and suggest improvements.

**C**urrently, multiple entities oversee agreements between the state and counties that include colonias within their boundaries. The interim charge will review how well existing entities are providing for the needs of people residing in colonias and how programs can be more effective. Counties are affected by committee findings since

model subdivision rules are enforced at the county level.

Compiled by TAC Legislative Staffer Aurora Flores-Ortiz

## **House Committee on Criminal Jurisprudence**

Charge No. 1. Examine the deferred adjudication system in Texas and recommend legislative changes.

**C**haired by Rep. Pete Gallego, the committee plans to look at the whole structure of the deferred adjudication program and evaluate if it is accomplishing what it is intended to do. Article 42.12, Code of Criminal Procedure authorizes a judge to grant deferred adjudication probation if it serves the best interest of society and the defendant. By deferring further

proceedings and a finding of guilt, a defendant is allowed to remain in the community and is given the opportunity to make reparations for said offense.

Deferred adjudication is only a portion of the criminal justice system implemented by counties. Changes to the deferred adjudication system will have direct impact on several levels of county government and the judicial system, ranging from jails, courts and prosecutorial procedures to sentencing options and locally funded alternatives to incarceration. As part of evaluating the structure of the deferred adjudication system, the issue of funding will undoubtedly be addressed.

Compiled by TAC Legislative Staffer Laura Nicholes

Charge No. 2. Study how the state presently supports the establishment and maintenance of public defender offices.

**A**s an increasing number of counties are reviewing the possibility of establishing public defender offices, this interim charge is of particular importance. There are presently 16 public defender programs in the state, including regional, appellate, juvenile and mental health offices. These programs may receive some financial and/or technical support from the Texas Task Force on Indigent Defense, though counties continue to bear most of the costs. The House committee staff anticipates a study of all aspects of these offices to determine how the state can better support them in the future.

Compiled by TAC Legislative Staffer Laura Garcia



*Credit: Amber Novak*

**Interim Charges** *continued on page 5*

## Interim Charges *continued from page 4*

### House Committee on Public Safety

Charge No. 3. Monitor the Driver Responsibility Program and consider methods for overall improvement of the program.

The Driver Responsibility Program, which was established during the 78th Legislative Session, is a system that assigns points and assesses surcharges to offenders for certain offenses, including moving violations and Driving While Intoxicated convictions. Drivers not in compliance with the program may have their drivers licenses suspended, which has related consequences for the criminal justice system. A portion of the surcharges collected also helps fund trauma facilities and emergency medical services, upon which counties may rely.

Since its inception, the program has been continuously reviewed by subsequent legislatures, particularly in light of the dismal compliance and collection rates. In that regard, this session the Legislature passed HB 2730, the Department of Public Safety (DPS) sunset bill, which includes a provision requiring DPS to establish an indigency program for the Driver Responsibility Program by Sept. 1, 2011. Under the new law, DPS is required to waive all surcharges assessed for a person who is deemed indigent. DPS is in the process of developing the mandated indigency program. TAC staff will monitor the

implementation of this program, as well as the committee's study of this particular charge, for the potential impact to county government.

Compiled by TAC Legislative Staffer Laura Garcia

Charge No. 4. Study the statutory definition, duties, and authority of a Texas peace officer.

Chaired by Rep. Tommy Merritt (R-Longview), the committee will be tasked with reviewing the list of "Who Are Peace Officers" found in Article 2.12, Code of Criminal Procedure. The list continues to grow each legislative session. There are currently 35 different designations considered peace officers, not including rail road officers appointed by the Department of Public Safety.

Compiled by TAC Legislative Staffer Laura Nicholes

### House Committee on Defense and Veterans' Affairs

Charge No. 1. Investigate strategies to address incompatible land use surrounding Texas military installations. Study approaches that minimize conflict with neighboring landowners.

Last session, several bills were filed to address the challenges faced by military bases as they grew and/or the communities surrounding them grew. Not all were successful and the issue

remains to be addressed. In a state like ours, with military bases in rural, urban and suburban areas, county officials play significant roles, along with other community and military leaders, in finding ways to ensure military facilities are able to complete their current and future missions while accommodating growth and protecting public health and safety.

Compiled by TAC Legislative Staffer Paul Sugg

### House Committee on Environmental Regulation

Charge No. 1. Examine the regulation of air quality in the areas of permitting new and modified sources, public participation, and enforcement. Consider data and proposed federal standards and rules as they relate to the State Implementation Plan.

This charge relates to a developing dispute between the federal Environmental Protection Agency (EPA) and the Texas Commission on Environmental Quality (TCEQ). The question is whether TCEQ's enforcement of air quality rules is stringent enough or whether the federal government is getting overly involved in TCEQ's administration of federal air quality requirements through its State Implementation Plan. Air quality standards are a public health issue, are tied to federal transportation funding and are important to economic development efforts.

**Interim Charges** *continued on page 6*



## Interim Charges *continued from page 5*



*Credit: istockphoto.com*

Charge No. 2. Survey existing recycling programs and suggest needed improvements.

**E**ntities that recycle materials diverted from municipal solid waste streams (to include counties operating such recycling programs) should monitor this charge for any possible impact on their programs.

Charge No. 3. Monitor federal legislative and regulatory initiatives as they pertain to climate change. Consider Texas' response to proposals and make recommendations as to any further preparations.

**T**he concept of cap and trade is a central element in federal efforts to reduce greenhouse gases and limit the impact of global warming. Debate at the federal and state level centers on the economic damage caused by adding to the cost of energy and the long-term costs of failing to adequately address carbon emissions and their contribution to the earth's warming. The comptroller's office, in cooperation

with the University of Texas, Bureau of Economic Geology's Center for Energy Economics has conducted an analysis of federal legislative and regulatory initiatives and argues the primary federal bill, the American Clean Energy and Security Act of 2009 (HR 2454), could cost Texas significant numbers of jobs and decrease the Gross State Product over the next two decades.

Charge No. 4. Study the Texas Commission on Environmental Quality's use of supplemental environmental projects in its enforcement process.

**S**upplemental environmental projects are a tool used by TCEQ for directing fines, fees, and penalties for environmental violations toward environmentally beneficial uses. Instead of paying a fine directly into the Texas General Revenue Fund, a person, business or political subdivision may offset a portion of a monetary penalty by taking on an environmental-enhancement project or contributing to an existing

environmental project in or near the community where the violation occurred.

**Environmental Regulation Charges Compiled by TAC Legislative Staffer Paul Sugg**

## House Committee on Land and Resource Management

Charge No. 1. Evaluate the appropriateness of creating pedestrian-only areas on the public beaches of this state.

**T**exas has an Open Beaches Act (Chapter 61, Texas Natural Resources Code) and now, with the passage of Proposition 9 in November 2009, the right of the public to access Texas beaches is written in the Constitution. State and local governments share the responsibility of protecting the public's right to access and use beaches, with coastal counties adopting beach access plans to that end. Pedestrian-only beaches are allowed, but creating one requires parking be made accessible to the pedestrian-only beach.



*Credit: istockphoto.com*

**Interim Charges** *continued on page 7*

## **Interim Charges** *continued from page 6*

Charge No. 2. Examine the unresolved issues relating to eminent domain legislation introduced during the 81st Legislative Session. Monitor any pending legislation.

**T**he passage of Proposition 11 in November 2009 placed additional protections for private property owners in the Constitution and also placed additional requirements and responsibilities on condemning entities. The unresolved issues noted in the charge may include the question of compensation to landowners for lost or diminished access or the repurchase of condemned land not used for condemning purposes, both key issues to advocates of further reform of eminent domain law.

Charge No. 4. Study the causes of coastal erosion along the Texas coast. Evaluate current and alternate funding sources. Review federal programs and their current relationship to the state program.

**R**ecent hurricanes and tropical storms along the Texas coast have brought the issue of beach erosion to the forefront, with special emphasis on how erosion intersects with property rights, public access to beaches, county responsibilities related to beaches and beach replenishment. Although the Legislature passed a number of bills related to beach erosion, it will revisit the matter and review federal beach erosion programs and their relationship to the General Land Office's Coastal Erosion Planning and Response Program.

**Land and Resource Management Charges Compiled by TAC Legislative Staffer Paul Sugg**

## **House Committee on Natural Resources**

Charge No. 1. Evaluate groundwater regulations and permitting processes throughout the state, including the role of state agencies in groundwater management, the development of desired future conditions, and the adoption of groundwater management plans in relation to regional and state water planning.

**G**roundwater accounts for more than half of all water use in Texas — domestic, agriculture, industrial — and is regulated only where groundwater conservation districts exist. The challenges of integrating local groundwater management and unregulated groundwater and state-regulated surface water into the state water plan are ongoing. Groundwater conservation districts are required to define desired future conditions for the groundwater resources within their groundwater management area. (The state is divided into 16 groundwater management areas). A desired future condition is a quantifiable future groundwater condition, such as a particular groundwater level, level of water quality, or spring flows.

Charge No. 2. Monitor the effects of current and proposed federal initiatives that could impact the implementation of the State Water Plan. Evaluate the policies and investments developed by other states dealing with water issues similar to the State of Texas.

**S**ince the most recent State Water Plan was created in 1997, development and construction of new



Credit: istockphoto.com

reservoirs has been an ongoing and controversial policy issue, and the federal government plays a significant role in sighting and constructing new reservoirs as well as funding water plan strategies. Identifying proven solutions used by other states in addressing their water needs may also help the state and the regional planning groups move closer to the goal of a long-term, responsible solution to the state's water needs.

Charge No. 3. Monitor ongoing drought conditions and initiatives to promote water conservation through the review of the following: state requirements for the submittal of water conservation plans and annual reporting; the "trigger" for use of drought contingency plans; recommendations by state agencies and the Water Conservation Advisory Council; and progress toward the development of recycled water resources and desalination projects.

**D**espite recent rainfall, drought and the specter of drought remain a real concern for much of the state. Conservation is one the most economical, easily adopted solutions to addressing long-term water needs, in addition to other solutions such as re-used water and desalination of brackish groundwater and Gulf water.

**Natural Resources Charges Compiled by TAC Legislative Staffer Paul Sugg**

**Interim Charges** *continued on page 10*



## Resources, Naturally

# Looking Ahead to Interim Charges



By Paul J. Sugg,  
*TAC Legislative Staff*

**A**s you can tell from this issue of our newsletter, the Speaker of the House has released the interim charges; we expect the Senate to do so before too long. There are a range of charges given to the various House committees related to how we use this earth. The Committee on County Affairs will take the study of “the current practices and tools available to counties to manage growth and development.” Environmental Regulation will “examine the regulation of air quality” and “monitor federal legislative and regulatory changes as they pertain to climate change.” Land and Resource Management will study coastal erosion and pedestrian-only areas on public beaches.

Natural Resources will “evaluate groundwater regulations and permitting processes throughout the state” to include the role state agencies play in the management of groundwater and how the adoption of groundwater management plans relate to regional and state water planning. The committee is also

monitoring any federal initiatives that may affect the implementation of the State Water Plan and looking at what other states have done to address their long-term water needs. The committee will monitor drought conditions and efforts to promote water conservation. Despite some rain we have been blessed with, we must remember the old adage that the normal condition for Texas is drought, interrupted by flood.

All these matters to be studied by the House are worthwhile because they reflect an interest in and, we trust, a commitment to, looking ahead to see what impact we have and will have on the land and its resources.

Let’s keep an ear out for tocsins — for

### Keep an Ear Out for Tocsins

**Tocsin** — a noun, from the French, an alteration of *toquassen*, from the Old French *touque-sain*, from Old Provençal *tocasenh* : *tocar*, *to strike* (from Vulgar Latin *\*toccare*) + *senh*, *bell* (from Late Latin *signum*, from Latin, *signal*; see **sign**).

1. **a.** An alarm sounded on a bell.  
**b.** A bell used to sound an alarm.
2. A warning; an omen.

warning bells — and adjust our patterns and practices, lest the warning bells turn into alarms, and we find ourselves without time to change our ways. 🗝



# Summary of the General Appropriations Act

*State Budget — \$182.3 billion for the 2010-11 biennium*



**By Paul Emerson,**  
*TAC State Financial Analyst*

*Editor's note: This article is the last in a series on Senate Bill 1, also known as the General Appropriations Act (GAA). So far, this series has identified several state funded programs that name county government the primary beneficial recipient of funds. This last article will focus on Article VI, which is charged with protecting, managing and developing the state's most precious commodity — its natural resources.*

**E**ight environmental state agencies make up Article VI (Natural Resources), including the Texas Commission of Environmental Quality (TCEQ), Texas Parks & Wildlife Department (TPWD), and the Texas Water Development Board (TWDB), to name a few. Most of these agencies are funded by general revenue and general revenue - dedicated funds, while TCEQ is funded mainly through fees. However, federal funds do account for 29.3 percent of all agencies' funding in Article VI.

As noted in the pie chart, Article VI is one of the smallest articles in terms of appropriation amounts, which only make up 1.9 percent (\$3.4 billion in All Funds) of the state budget for 2010-11. This represents an increase of \$103.9 million (or 3.1 percent) from the 2008-09 biennium. There are several significant programs within Article VI where funding has played a vital role at the local level. One particular program, known as Texans Feeding Texans: Home Delivered Meal Grant Program (HDMGP), is under the auspices of the Texas Department of Agriculture (TDA).

## Article VI: Texas Department of Agriculture (HDMGP)

Texans Feeding Texans started in 2007 when the Legislature appropriated \$18.5 million for the

newly created program. Within a short period, this program became very popular among counties. Most importantly, the program allows counties the opportunity to leverage their contributions to various Meals on Wheels organizations with state funding in order to feed a greater portion of the elderly in their respective areas.

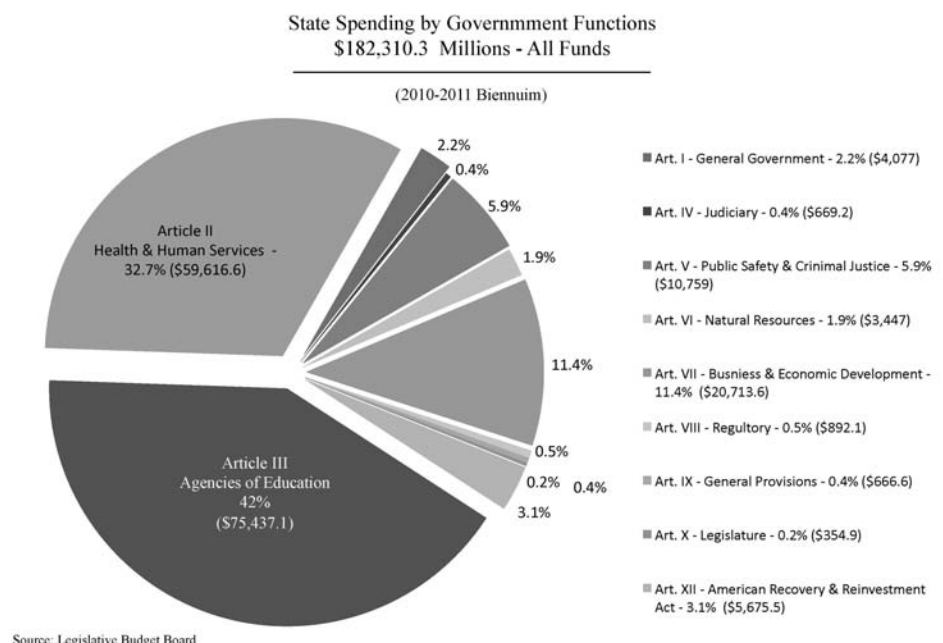
However, the underlying purpose of creating this program was to defray unfunded costs of existing home-delivered meal programs due to the anticipated rapid growth of the state's elderly population, which is currently well over 2.8 million. For this current

biennium (2010-11), approximately \$20 million was appropriated to the HDMGP.

## Article VI: Texas Parks and Wildlife Department (Local Park Grants)

Local Park Grants provide a 50 percent matching grant to counties, cities, and other political subdivisions (except school districts) for the acquisition and development of local parks, public boat ramps and regional trails. A portion of this program's funding is derived from the Sporting Goods Sales Tax. For the current

**Appropriations**  
*continued on page 14*



## Interim Charges *continued from page 7*

### House Committee on Agriculture and Livestock

Charge No. 2. Review efforts to manage feral hog populations and mitigate damage to agricultural and livestock operations.

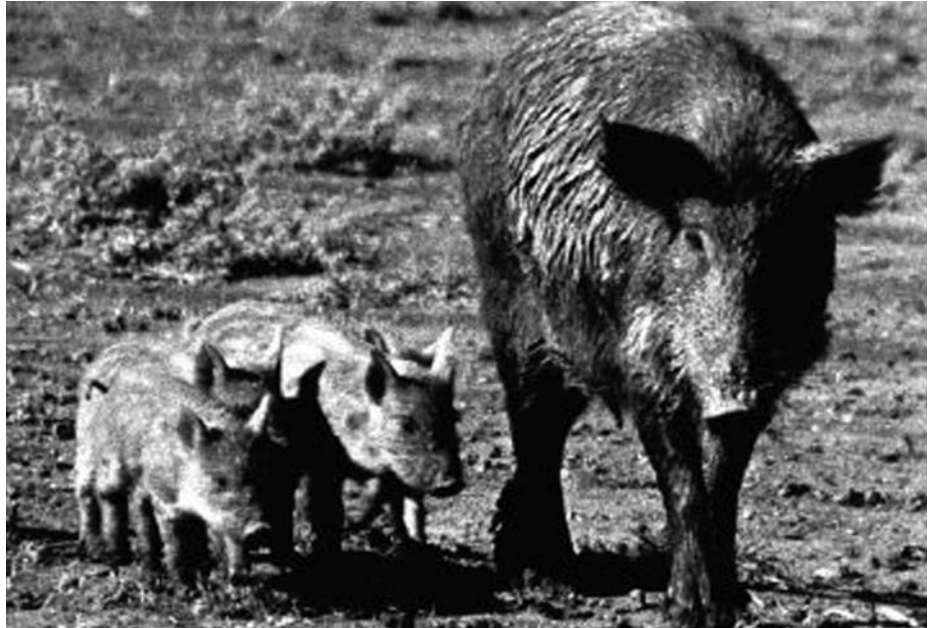
**T**he 81st Legislature appropriated \$1 million to the Texas Department of Agriculture (Article VI, Rider 23) for fiscal year 2010 to be used to implement a Feral Hog Abatement Program. The Texas Department of Agriculture will be required to submit a report to the Legislative Budget Board and the governor by Sept. 1, 2010, providing information on the number of feral hogs abated and the cost per abatement using certain technologies.

Compiled by TAC Legislative Staffer Laura Nicholes

### House Committee on Corrections

Charge No. 4. Examine policies and programs designed to identify, divert, and enhance the supervision and treatment of special needs offenders within local jails and state correctional facilities. Recommend changes to address appropriate alternatives to incarceration or institutionalization.

**C**haired by Rep. Jim McReynolds (D-Lufkin), the House Committee on Corrections will review the progress of juvenile justice and re-entry initiatives passed in the 81st Legislative Session. In addition, community based supervision and treatment programs will be evaluated for their impact on prison capacity and recidivism rates, while services provided to females in the adult and juvenile justice systems



Texas Parks & Wildlife Department (TPWD) considers feral hogs nuisance animals.

*Credit: TPWD*

will be reviewed to ensure responsiveness to gender-specific issues. All the interim charges in House Corrections will provide counties with insightful information; however, interim charge No. 4 will be of specific interest.

Addressing the medical, mental and other special needs of offenders in local jails is a long-standing issue. Costs for holding special needs offenders in county jails can create a burden on taxpayers as offenders requiring extraordinary medical care or expensive medications wait for more appropriate placements. Jail facilities are often not equipped to house those with special needs and jail staff, more often than not, lack professional training required to assist and appropriately attend to inmates with special needs. Jails must appropriately classify and separate inmates to ensure they are kept safe and receive adequate mental health and medical attention. Policies and programs designed for the diversion of particular offenders from jail to more suitable

facilities where special needs may be better addressed will be reviewed.

Compiled by TAC Legislative Staffer Laura Nicholes

### House Committee on Transportation

Charge No. 1. Monitor the Texas Department of Transportation (TxDOT) to ensure the agency is implementing recommended legislative, sunset, and Grant Thornton management audit changes.

**T**xDOT will go through the sunset process twice, with the 81st Legislature postponing passage of the agency's sunset bill until 2011. Nonetheless, TxDOT is implementing recommendations from the Sunset Commission staff and is also undergoing a review of the agency's organization and management structure, conducted by the Grant Thornton firm.

**Interim Charges** *continued on page 11*

## Interim Charges *continued from page 10*

Charge No. 2. Review the organization and operations of Metropolitan Planning Organizations (MPOs). Consider the relationship between MPOs and TxDOT regarding transportation planning and programming.

**M**POs serve as local transportation planning organizations; the integration of local planning efforts, TxDOT planning, and the availability of transportation dollars remains an ongoing policy issue across the state, especially with looming state and federal transportation funding shortfalls.

Charge No. 3. Study the practices and procedures used in the development of toll roads and make recommendations as necessary.

**T**oll roads are controversial but proponents argue they are effective tools to address transportation needs. The committee will continue to study how they are developed.

**Transportation Charges Compiled by TAC Legislative Staffer Paul Sugg**

## House Committee on Public Health

Charge No. 3. Determine how the state can best coordinate efforts to streamline health care delivery with health information technology (HIT). Identify areas in state law that affect the adoption and use of HIT. Recommend statutory changes as necessary.

**I**nformation technology continues to be an important part of improving the effectiveness and efficiency of health

care in Texas. This issue has been studied in many recent reports, including the Code Red Report, Senate and House interim committee studies and recent legislation such as SB 10.

**Compiled by TAC Legislative Staffer Rick Thompson**

## House Committee on Appropriations

Charge No. 6. Study the cost and caseload trends in the Texas Medicaid Program, including a review of cost drivers, factors affecting caseload increases, and regional variations. Evaluate the effectiveness of current Medicaid cost containment procedures and make recommendations for legislative changes to contain and control state costs and maximize federal funding without impacting services.

**O**f great interest to counties is how the state plans to control costs and maximize available federal dollars. It is important to see what role counties will be required to play as a result of this charge. For example, during the 80th Session, Senator Jane Nelson (R-Flower Mound) passed Senate Bill 10, which charged the Texas Health and Human Services Commission (HHSC)

with reviewing the Texas Medicaid program and making recommendations for improving the effectiveness of its services. Counties were asked to take an active role in the implementation of the bill, though ultimately the waiver failed. The nature of charge No. 6 implies counties could be asked to assume a similarly active role.

**Compiled by TAC Legislative Staffer Rick Thompson**

## Joint House Committee Charges

### House Committee on Appropriations Charge No. 14

### House Committee on Defense and Veterans' Affairs Charge No. 3

Monitor and review the disbursement and use of border and homeland security funds. Evaluate the effectiveness in meeting the state's border and homeland security program goals and objectives.

**T**he committees, working with the Division of Emergency Management, will look at how and where past funds were spent for border and homeland security program

**Interim Charges *continued on page 13***



*Credit: istockphoto.com*

# REALITIES OF LAW ENFORCEMENT

*Officer Safety in the Jail and on the Street*

## 2010 Law Enforcement Regional Workshops

**TEXAS ASSOCIATION of COUNTIES**



*This program is produced by the Texas Association of Counties (TAC) in cooperation with the Texas Jail Association. The education co-sponsor is the Correctional Management Institute of Texas, the George J. Beto Criminal Justice Center at Sam Houston State University.*

### OVERVIEW

This workshop focuses on officer safety and covers causes, factors and how to avoid on-the-job injuries. A video presentation, featuring defensive tactic expert Erwin Ballarta, promotes safe and effective methods to improve officer safety in the jail and on the street.

The class also emphasizes officer safety through interpersonal communications, physical fitness, and wellness. Being fit for duty protects you and your co-workers, improves your job performance and enhances your credibility. The components of physical fitness, such as building your muscular strength to generate maximal force and developing flexibility to increase your range of motion are covered. Practicing these principles decreases your department's potential liability and reduces

the risk of injury.

### OUTCOMES

Upon completion of the course, participants will:

- Understand the importance of physical fitness and self defense in successful performance of daily job tasks;
- Identify the factors that reduce job injury;
- Evaluate how stress affects job performance and personal health; and
- Demonstrate techniques for self protection and injury prevention.

### CONTINUING EDUCATION

This workshop offers eight (8) TCLEOSE hours. Please complete the form provided and return it to the information desk to receive credit

### WHO SHOULD ATTEND

All law enforcement personnel including sheriffs, chief deputies, jail administrators, deputies, jailers and jail staff.

### SCHEDULE OF EVENTS

7:30 a.m. Registration  
8 a.m. Program begins  
12 p.m. Lunch on your own  
5 p.m. Adjourn

### REGISTRATION

Space may be limited in some locations, so register early online at [www.county.org](http://www.county.org), or fax this registration form to (512) 477-1324

This program is FREE to all county employees. If you have questions contact Haley Click or Ashley Albers in the Education Department of the Texas Association of Counties at (800) 456-5974

**Please fill out the information below and check your preferred location by Jan. 20, 2010.**

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

Title: \_\_\_\_\_ County: \_\_\_\_\_

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

City/State/Zip: \_\_\_\_\_

Business Email: \_\_\_\_\_ PID#: \_\_\_\_\_

Business Phone: \_\_\_\_\_ Business Fax: \_\_\_\_\_

(check your preferred location)

☐ **JAN. 13: COLLEGE STATION, TX**  
Holiday Inn & Suites

☐ **FEB. 4: KERRVILLE, TX**  
YO Ranch Resort

☐ **FEB. 11: SAN MARCOS, TX**  
Embassy Suites

☐ **FEB. 18: ABILENE, TX**  
Abilene Civic Center

☐ **FEB. 2: ODESSA, TX**  
MCM Elegante

☐ **FEB. 5: WACO, TX**  
Holiday Inn & Suites  
Northwest

☐ **FEB. 11: LUBBOCK, TX**  
Holiday Inn & Towers

☐ **FEB. 18: LUFKIN, TX**  
Angelina College, Community  
Service Building, Room CS104

☐ **FEB. 2: TYLER, TX**  
Smith Co. Peace Officer  
Training Center

☐ **FEB. 9: CORPUS CHRISTI, TX**  
Omni Hotel Bayfront

☐ **FEB. 16: WICHITA FALLS, TX**  
Howard Johnson Plaza Hotel

☐ **FEB. 16: GREENVILLE, TX**  
Fletcher Warren Civic Center

☐ **FEB. 3: TYLER, TX**  
Smith Co. Peace Officer  
Training Center

☐ **FEB. 9: BORGER, TX**  
Frank Phillips College,  
CAI Building

*Please fax this completed form to the TAC Education Department at (512) 477-1324.*

## Interim Charges *continued from page 11*

goals and objectives. The committee will determine if more money may be needed for future programs and if more guidance will be needed to meet those goals. Local law enforcement may have an interest in learning whether additional funds will be spent next session.

Compiled by TAC Legislative Staffer Aurora Flores-Ortiz

## Joint Interim Charges

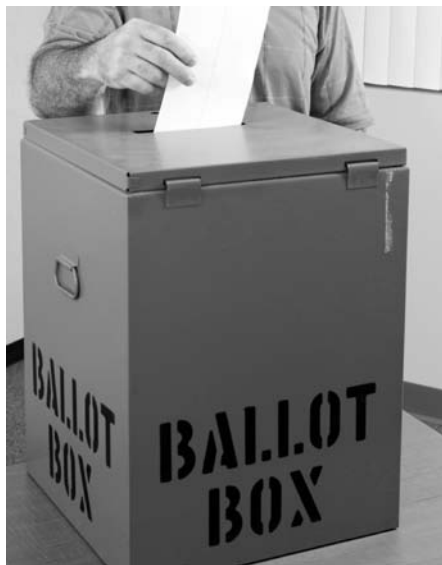
### House Committee on Elections Charge No. 1

#### House Committee on Defense and Veterans' Affairs Charge No. 4

Study ways the state can enhance military and overseas voters' ability to obtain and return balloting materials and reduce burdens on those voters' exercise of their right to vote.

Under a joint interim charge, the House Committee on Defense and Veterans' Affairs and the House Committee on Elections will study ways to enhance military and overseas voters' participation in federal elections by reducing the difficulties such voters face in obtaining and returning their ballots within the 60-day timeframe prescribed by state election law.

Studies show that overseas military personnel and their family members participate in federal elections at much lower rates than the general voting population. With the goal of increasing overseas voter turnout, in 2007 the Legislature established a pilot program through which participating counties voluntarily e-mailed balloting materials to overseas voters at secure military e-mail addresses. The secretary of state reported that 19 counties participated in the one-time program, but only 154 voters statewide requested e-mail



*Credit: istockphoto.com*

ballots, and fewer than 70 of those voters actually returned their voted ballots by regular mail.

Legislative efforts in 2009 to mandate and expand the overseas ballots by e-mail program in counties of 100,000 or more and to authorize the procedures in less populous counties were unsuccessful. The interim study will consider ways to reduce the burdens faced by military personnel and other overseas voters while maintaining secure election processes.

Compiled by TAC Legislative Staffer Nanette Forbes

### House Committee on Agriculture and Livestock Charge No. 3

#### House Committee on Transportation Charge No. 6

Study the safety and efficiency of the existing agriculture-related transportation infrastructure. Consider the air, ground, and rail transportation needs of rural Texas and analyze the effect on economic development.

Texas is the second largest agricultural state in the country, and according to the Texas

Department of Agriculture, accounts for about 7 percent of the total U.S. agricultural income. Agriculture has an economic impact of about \$100 billion on the Texas economy, with almost 80 percent of the total land area in Texas involved in some type of agricultural production. Without an adequate transportation infrastructure, the impact of the state's agricultural economy on the state's overall economy could be lessened at a time where state and federal transportation dollars are hard to come by.

Compiled by TAC Legislative Staffer Paul Sugg

### House Committee on Agriculture and Livestock Charge No. 4

#### House Committee on County Affairs Charge No. 5

Survey rural economic development programs. Analyze the economic relationship between rural communities and the agriculture industry and their combined impact on the state's economy.

Local economic development programs are an important link in the chain connecting local economies to the state economy, and evaluating and strengthening these local efforts deserves the Legislature's attention. The committee plans to inventory and evaluate state and local economic development efforts and identify and promote the most effective ones as best practices.

Compiled by TAC Legislative Staffer Paul Sugg

## AG Opinions Requested

**RQ-0837-GA:** Honorable C. R. (Kit) Bramblett, Hudspeth County Attorney, whether fees collected on behalf of a company that contracts with a county for the provision of solid waste disposal services may be included on a person's county water bill.

**RQ-0838-GA:** Honorable Jeff Wentworth, Chair, Jurisprudence, Texas State Senate, whether the transfer of certain duties and funds from the Texas Department of Transportation to the Texas Department of Motor Vehicles in section 17.30 of article IX of the 2011-12 General Appropriations Act constitutes an "item of appropriation."

**RQ-0839-GA:** Honorable Rob Eissler, Chair, Public Education, Texas House of Representatives, authority of an independent school district to set property tax rates under section 26.08, Tax Code.

**RQ-0841-GA:** Honorable Richard P. Bianchi, Aransas County Attorney, use and management of a county jail commissary fund under section 351.0415, Local Government Code.

**RQ-0843-GA:** Honorable Glenn Hegar, Vice Chair, Government Organization, Texas State Senate, constitutionality of section 5.017(b), Property Code, when applied to restrictive covenants that were recorded and in existence prior to the effective date of that statute. ■

## Sen. Davis Honored with TAC Award



*Credit: Ann Farmer/Tarrant County*

The Texas Association of Counties and the Tarrant County Commissioners Court honor Sen. Wendy Davis (center, left) with the Friend of County Government award Dec. 8 in the Tarrant County Commissioners Court. Also pictured with the legislator are, from left, TAC Legislative Staff Rick Thompson, TAC President and Tarrant County Commissioner J.D. Johnson, and TAC President-Elect and Tarrant County Tax Assessor Betsy Price. Davis was honored for her support of county government.

## Appropriations

*continued from page 9*

2010-11 biennium, the Legislature allocated \$36.2 million (in All Funds) for the local park grants program. The \$12.2 million decrease from the previous biennium was mainly due to reallocation of funding within various accounts, including the use of \$5.5 million for a special needs park in Bexar County.

Of the overall funding for this program, 40 percent is set aside for 13 urban areas: Houston, Harris County, Dallas, Dallas County, Fort Worth, Tarrant County, Austin, Travis County, San Antonio, Bexar County, El Paso, El Paso County and Hidalgo County.

Counties and cities with a population of 20,000 or less are eligible to participate in the Small Community Park Grant Program. Funding is available up to \$75,000.

For more information, contact Paul Emerson, TAC State Financial Analyst, at (800) 456-5974 or [paule@county.org](mailto:paule@county.org). 🗺️

# AG Opinions Issued

**GA-0744:** Honorable Scott Brumley, Potter County Attorney, whether a county auditor may require the county treasurer to obtain prior approval of a transfer of county funds from one account in the county depository to another, or from one investment to another. **Summary:** A county auditor may adopt regulations and procedures for transferring county funds from one account in the county depository to another that include preapproval by the auditor. The county auditor may adopt procedures for transferring county funds between county investments to the extent that it does not usurp or unreasonably interfere with the county treasurer's investment authority.

**GA-0745:** Mr. Sidney "Buck" LaQuey, Grimes County Auditor, whether a justice of the peace may defer the adjudication of a charge of violating the Parks and Wildlife Code and impose a special expense without assessing a fine and, if so, whether any portion of the special expense must be remitted to the Parks and Wildlife Department. **Summary:** A justice of the peace may defer the adjudication of a charge of violating the Parks and Wildlife Code and impose a special

expense fee without assessing a fine. A special expense fee imposed under article 45.051, Code of Criminal Procedure, is not a fine under section 12.107, Parks and Wildlife Code, that must be sent to the Parks and Wildlife Department.

**GA-0747:** Mr. Robert Scott, Commissioner of Education, Texas Education Agency, whether a school district may expend district funds to pay a civil penalty imposed by a municipality. **Summary:** If the College Station Independent School District is liable for a civil penalty imposed upon it pursuant to chapter 707 of the Texas Transportation Code and the City of College Station's Code of Ordinances, its payment of the penalty would not contravene article III, sections 51 and 52(a) of the Texas Constitution. However, if the District is not liable for a civil penalty, payment of that penalty by the District may violate article III, sections 51 and 52(a), unless the payment accomplishes a public purpose of the District, with a clear public benefit received in return, and there are adequate public controls in place to ensure that the public purpose is accomplished.

**GA-0748:** Mr. Douglas Oldmixon, Administrator, Texas

Real Estate Commission, whether under chapter 1102 of the Occupations Code, the Texas Real Estate Commission has jurisdiction to take disciplinary action against a licensed inspector who performs a real estate inspection for a person who is not a buyer or seller of real property. **Summary:** The Texas Real Estate Commission does not have authority under section 1102.401(a), Occupations Code, to take disciplinary action against a person licensed under chapter 1102 if the person has not accepted employment to perform a real estate inspection for a buyer or seller of real property.

It is necessary to define the terms "buyer" and "seller" in the context of chapter 1102 in order to determine whether a person, in a particular factual context, constitutes a buyer or seller of real property for which a real estate inspector has accepted employment. As the agency charged with administering chapter 1102 and authorized to establish the standards of conduct and ethics for persons licensed under chapter 1102, the Commission must determine, in the first instance, the meaning of these terms. ■



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# From the Legislative Desk

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

## Government Transparency Requires Funding

**O**penness in government — nowadays there's a lot of chatter about the need for transparency in local governments. Transparency in government can be a real good thing. As another measure of accountability, hardly anyone opposes the provision of a system that openly informs the public about what its government is doing.

A survey of our citizens in most, if not all, communities would likely indicate strong support for a government system based upon

openness and candor. However, you might get an entirely different outcome if the survey posed a condition on having transparency, such as an increase in taxes to pay for it — in the case of county government transparency, a corresponding increase in ad valorem taxes.

Survey responses largely depend on how a specific question is framed. Because counties rely rather substantially on revenue derived from ad valorem taxes, it is fair to characterize state unfunded mandates as *an increase in property taxes*. Certainly there is support for

in the private sector, the opportunity to achieve a viable and effective system of transparency is much better than without it. When the venture is a collaborative one, government gets first-hand information on what works best and what is useful, and the taxpayer has the opportunity to

experience government's challenges. There is a good bit of the puzzle missing in terms of how much an electronic transparency system would cost a

county and whether those costs would vary among counties.

**Happy holidays** — as we head into the last leg of this first decade of the 21st century, may all your efforts to serve the public be successful, productive and appreciated. 🇺🇸

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*Certainly there is support for transparency in county government, but the cost of implementing it should not cause taxes to go up.*

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transparency in county government, but the cost of implementing it should not cause taxes to go up.

**A joint venture is the preferred method of collaboration** — if there is strong collaboration among government representatives and businesses, non-profits and individuals