

# County*i*ssues

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## Federal Updates

### \$75 Billion Local Jobs Bill Introduced in U.S. House



By **Laura Garcia**,  
*TAC Legislative Staff*

Rep. George Miller  
(D-California),  
Chairman of the House  
Committee on

Education and Labor, recently introduced H.R. 4812, also known as the Local Jobs for America Act. The legislation would allocate approximately \$75 billion over two years to aid local communities in hiring and retaining employees. Under the bill, funding distribution would be based on the Community Development

Block Grant (CDBG) program formula.

About \$52.5 billion of the funding would be allotted to communities with populations of at least 50,000, while \$22.5 billion would be allocated to states for distribution to communities with populations of less than 50,000. Additionally, the legislation provides \$1.18 billion for law enforcement jobs, \$500 million to hire and retain firefighters, and \$500 million for approximately 50,000 additional on-the-job training positions to help private businesses expand employment.

The bill presently has 151 cosponsors in the U.S. House of Representatives.

#### Transportation Infrastructure Funding Extended

On March 18, President Barack Obama signed the Hiring Incentives to Restore Employment Act (HIRE) into law, which includes a reauthorization of highway and transit programs and related funding. In addition to offering companies a tax break for hiring the unemployed, the legislation extends authorization for highway and transit programs through the end of the calendar year and allocates \$19.5 billion to the Highway Trust Fund. The bill also restores \$8.7 billion in highway contract authority to the states this fiscal year and expands the use of the Build American Bonds program, which aids state and local governments in funding capital construction projects.

For additional information on these matters and other federal legislation, please contact TAC Legislative staffer Laura Garcia at (800) 456-5974 or [laurag@county.org](mailto:laurag@county.org).

#### TDHCA Taking Applications for Administration of Weatherization Assistance Funds

The Texas Department of Housing and Community Affairs (TDHCA)

#### **Federal Updates**

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## KEY COUNTY DATES

### May 2010

**May 1.** *By this date or as soon thereafter as possible:* Chief appraiser to mail written notice of appraised values to property owners of property for which a notice was not required to be provided in April. Tex. Tax Code, §25.19(a).

**May 8.** Uniform election date. Tex. Elec. Code, §41.001.

**May 10-14.** 24th Annual Texas Jail Association Conference. Austin.

**Before May 15.** Voter registrar to submit to comptroller of public accounts a statement of registration information for previous voting year. Tex. Elec. Code, §19.001.

**May 18-June 2.** Risk Management Regional Workshops. Various locations.

**May 16-19.** North & East Texas County Judges & Commissioners Annual Conference. Killeen.

### June 2010

**June 1.** Deadline for commissioners court to file with comptroller of public accounts a resolution authorizing collection of additional fees and costs for county court at law. TEX. GOV'T CODE, §51.702.(f)(2).

**June 6-10.** Tax Assessor-Collectors Association of Texas Annual Conference. Abilene.

**June 6-11.** Texas Chief Deputies Annual Conference. Kerrville.

**No later than June 7.** Chief appraiser provides an estimate of taxable value in the county to the tax assessor collector, unless county elects not to receive the estimate. TEX. TAX CODE, §352.051(f).

**June 13-17.** County & District Clerks Association of Texas Annual Conference. Amarillo.

**Before June 15.** Proposed budget for appraisal district due to commissioners court from chief appraiser. TEX. TAX CODE, §6.06(a).

**June 14-17.** County Investment Officer Training, Level II. Omni Marina Hotel, Corpus Christi.

**June 21-24.** South Texas County Judges & Commissioners Annual Conference. San Marcos.

### Federal Updates *continued from page 1*

recently announced the release of a Request for Applications (RFA) for the American Recovery and Reinvestment Act Weatherization Assistance Program, which provides cost-effective weatherization services to income-qualified households. TDHCA is seeking applications from additional eligible entities, including interested counties, to help administer the program to qualified households.

In 2009, the American Recovery and Reinvestment Act (ARRA) allocated approximately \$327 million in funding for the Weatherization Assistance Program in Texas. The program is aimed at increasing the energy efficiency of residences owned or occupied by low-income individuals. It targets particularly vulnerable populations such as the elderly, persons with disabilities, families with children, high residential energy users, and households with high energy burdens. The services are provided free of charge to all qualifying households served by the program.

TDHCA is presently allocating these funds to an existing network of providers. However, the department has determined that an expansion of the current subrecipient network may be necessary and is now accepting applications to identify statewide, regional or local providers who could assist with administering the program if needed. Only units of government and non-profit organizations are eligible to be subrecipients and administrators of these funds.

The RFA is available at [www.tdhca.state.tx.us/recovery/detail-wap.htm](http://www.tdhca.state.tx.us/recovery/detail-wap.htm). Additionally, an application workshop will be held on Friday, May 7 in Austin, Texas.

Attendance at the workshop is mandatory to be eligible to apply under the RFA. The registration form for the workshop can be accessed at [www.tdhca.state.tx.us/recovery/detail-wap.htm](http://www.tdhca.state.tx.us/recovery/detail-wap.htm).

For questions regarding the RFA or application workshop, please contact Sharon Gamble, Energy Assistance Section Manager at TDHCA, at (512) 475-0471 or [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us). ★

# County Officials Testify on Oil and Gas

By Elna Christoper,  
*TAC Director of Media Relations*

and Aurora Flores-Ortiz,  
*TAC Legislative Staff*

**T**AC President and Roberts County Judge Vernon H. Cook and several judges and commissioners testified on the Senate Finance Committee's charge regarding oil/gas undervaluations on April 14, as did Jim Allison, general counsel to the Judges and Commissioners Association of Texas.

The interim charge says the committee will study the current law on appraising oil/gas properties, which was changed in 2007. The change resulted in at least half of Texas counties being affected by the undervaluation, some significantly. When oil and gas properties are undervalued, it causes an unfair tax

## For more information

For more information on natural gas prices and collections, see the article on page 7.

shift to local homeowners and business owners who reside in the affected communities or requires seriously cutting services that county residents expect.

It was the second invited testimony on the subject by Cook and Allison, who both recently spoke at the House Ways and Means Committee. The 2007 change to the Tax Code prescribed a forward-looking component to forecasts by the Comptroller of Public Accounts (CPA). Before the change, the CPA looked back to the actual price for last year and moved it forward, according to earlier testimony by the CPA's office.

The problem, according to both Cook's and Allison's testimony, is that

the new way of valuing those properties resulted in undervaluations because of inaccurate methodology.

Cook told how his county lost \$68 million in oil/gas valuation last year and that the appraisal consultant used by Roberts County recently told him to expect a 50 percent cut in gas valuations this year, along with a potential 40 percent cut in utilities. As Cook explained to the committee, the current tax rate in Roberts County is 43 cents, but if the gas valuations drop as much as expected, the situation could cause potential tax hikes that could take the county to or above the constitutional limit on tax rates.

Allison presented the committee with a chart showing the average annual actual price of crude oil compared to the forecasted price published by the CPA. The CPA's forecasts have differed significantly from actual prices. The disparity in 2007 was 19 percent — with actual market value 19 percent above the CPA's forecast. Since 2007, the disparity has grown from almost 42 percent in 2008 to almost 60 percent in 2009.

Several county officials also testified on the oil/gas issue during public testimony, including Houston County Judge Lonnie Hunt, Milam County Judge Frank Summers, Oldham County Judge Don Allred, Brazos County Judge Randy Sims and Scurry County Commissioners Jerry House



Credit: istockphoto.com

## Oil and Gas

*continued on page 4*

# Call for 2010 County Expenditure Surveys



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

**O**nce again, the TAC County Information Project (CIP) is requesting your assistance in

completing the 2010 County Expenditure Survey. CIP uses the survey results to identify trends and major cost drivers that significantly impact counties.

Last year, 116 counties completed the 2009 County Expenditure Survey. The counties that participated last year represented 65.3 percent of the state's population. Above right is a table showing the number of counties that responded to last year's survey based on the population size of the county from the 2000 Census. Counties were categorized into five different population brackets to identify specific trend analyses relating to rural and urban areas and to simplify the process.

Population Range	Bracket Name	Number of Respondents
More than 1,000,000	Largest	3
100,001 – 1,000,000	Large	17
25,001 – 100,000	Mid-Sized	33
10,000 – 25,000	Small	28
Less than 10,000	Smallest	35

As of April 22, 62 counties have responded to the survey. This is an excellent start, and CIP encourages every county to submit whatever information they have available.

By now, each county's auditor's office or treasurer's office has a copy of this year's survey form. The 22 questions on this year's survey are identical to the 2009 survey, which covered an array of topics considered major cost drivers for rural and urban counties. Most of the questions expand over a five year period and

include the 2009 actual amounts spent and the 2010 budgeted amounts. As a caveat, adjustments may have to be made to reflect the actual

cost for the 2009 period.

Counties that participated in previous surveys will notice the prior year's data is included on this year's survey. This marks the sixth year CIP has conducted this particular survey.

Monday, May 11 is the survey submission deadline, so if you have not done so, please submit your survey as soon as possible.

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

## Need a Survey?

A blank survey form is available at [www.county.org/resources/countydata/index.asp](http://www.county.org/resources/countydata/index.asp).

## Oil and Gas *continued from page 3*

and Terry Williams. All mentioned the problem of unfair tax shifts to local homeowners, small businesses and farmers and ranchers if the 2007 law is not changed.

### Next Steps in the Interim Process

Once the interim committees finish with all scheduled hearings, they will work to finalize the interim committee reports. This process will likely be completed in October or November of 2010, once all members have signed off on the reports. Each interim

charge can involve a recommendation — either take action or no action on the charge. Some issues will receive recommendations, but others will only summarize the various sides of the testimony.

Minority reports may also be filed on some issues. A minority report is an opinion written by a member who disagrees with a recommendation or background in the filed interim report. Members may also choose to refuse to sign the report to show their formal disagreement.

As interim hearings draw to a close, TAC staff will continue to communicate with both committee members and staff to keep the methodology issue and tax shifts caused by oil and gas property undervaluation at the forefront of the committee's attention. This will enable further legislative recommendations to be made for the next regular session beginning in January 2011.

For more information, contact Aurora Flores Ortiz at (800) 456-5974 or [aurorafo@county.org](mailto:aurorafo@county.org). ★

## Resources, Naturally

# A New Infusion into the State Infrastructure Bank



By Paul J. Sugg,  
*TAC Legislative Staff*

**S**ources of transportation funding are increasingly hard to come by at the national, state and local

level. Last session and now during the interim, various standing and select committees of the Texas Legislature are looking for ways to fund our state's growing transportation needs, whether through the construction of new roads, the expansion of existing roads, and, as importantly, the maintenance of existing roads. The Texas surface transportation system, long the envy of other states and even other nations, needs help. Additional loan money from the State Infrastructure Bank (SIB) may help counties fill some of this funding gap.

In 2007, the 80th Legislature adopted SJR 64, sponsored by that well-respected advocate for adequate transportation funding Senator John Carona of Dallas. This constitutional amendment, approved by voters as Proposition 12 in November 2007, authorized the Legislature to issue up to \$5 billion in general obligation bonds to finance highway improvement projects. However, the 80th Legislature did not enact the enabling legislation necessary to authorize issuance of these bonds. In its regular session, the 81st Legislature tried and failed to pass the necessary enabling legislation but succeeded in doing so in the first called session, when it passed HB 1. In part, this authorized \$1 billion in general obligation bond proceeds to be used to capitalize the SIB- "for the purpose of making loans to public entities."

A federal law passed in 1995 allowed the U.S. Secretary of Transportation to designate 10 states as pilot projects for

the SIB program. Texas was one of the original states to participate in the pilot program, which is administered by the Texas Department of Transportation (TxDOT). The SIB is designed to function as a revolving fund (a fund that makes loans, and then uses the loan payments — including interest — to make loans for additional projects) but also provide other types of financial assistance. The purpose of the SIB is to encourage public and private investment in transportation facilities, expand the availability of funding for transportation projects and reduce state direct costs, and improve the efficiency of the state transportation system. Qualifying activities include: planning and preliminary studies; feasibility, economic and environmental studies; right-of-way acquisitions; survey, appraisal and testing; utility relocation; engineering and design; construction; and inspection and construction engineering.

As noted above, the public entity

share of available SIB loans is \$1 billion. Granted, \$1 billion does not go as far as it once did, especially given the geographic size and population of a state like Texas, but this program could prove a valuable resource for counties. To address this additional loan money, TxDOT has put together a rules advisory committee to develop rules for what will be a separate Proposition 12 account in the SIB. Entities represented on the rules advisory committee include the Texas Association of Counties, the Texas Municipal League, the North Texas Tollway Authority, the Harris County Toll Road Authority, the Central Texas Regional Mobility Authority and the Alamo Regional Mobility Authority. The goal is to have rules in place by this summer, placing TxDOT in a position to invite loan applications by September of this year. TxDOT, however, plans to issue an earlier call for expressions of interest for SIB assistance for eligible projects later this spring. ★



# TAC Testifies on Tax Appraisal Process



**By Elna Christopher,**  
*TAC Director of  
Media Relations*

**T**he Texas Association of Counties (TAC) was represented by Executive Director Gene Terry's written testimony and by a Williamson County official's live invited testimony at a Senate Finance hearing on April 14 regarding interim charges on tax and appraisal issues.

Kicking off the hearing was the committee's charge to study methods to increase public participation in the tax rate-setting process and ensure fairness in appraisal protests and appeals. The committee is also studying the possibility of limiting property appraisal values to the level of inflation and/or population growth, or another amount to be determined by local taxing authorities, with a maximum increase of 10 percent.

Terry submitted written testimony on the three issues mentioned above.

Regarding the promotion of public participation in the tax rate-setting process, Terry wrote: "Promoting greater public participation in government is essential to effective representative democracy." He detailed law changes made in 2005 and 2007 that have created more opportunities for the public to participate and stricter truth-in-taxation requirements on local governments.

On the charge to ensure fairness in appraisal protests and appeals, Terry



wrote: "Counties supported the appraisal process reform measures passed by the Legislature last session and approved by voters last November. We believe these changes will ensure fairness in appraisal protests and appeals and that we will see positive results from these reforms as their use becomes more prevalent. For now, we believe the Legislature should wait to see the results before considering further reforms to the appraisal protest and appeal system."

About lower appraisal caps, Terry wrote that "efforts to further restrict the appraised value of residence homesteads would distort the property tax system in Texas, creating inequities and undercutting the long-standing

Texas constitutional standard of 'equal and uniform' taxation."

Deborah Hunt, Williamson County tax assessor-collector, testified on TAC's behalf regarding the taxation issues.

"County officials want to have their taxpayers informed and to have their participation in the process," Hunt said.

Like Terry, Hunt noted the progression of legislation in recent years that has aimed to increase transparency in the tax rate setting process. SB 18, passed in 2005 for example, requires counties to hold two public hearings and "clarify that if the proposed tax rate exceeded the

## **Appraisals**

*continued on page 9*

# Natural Gas Tax Collections Down



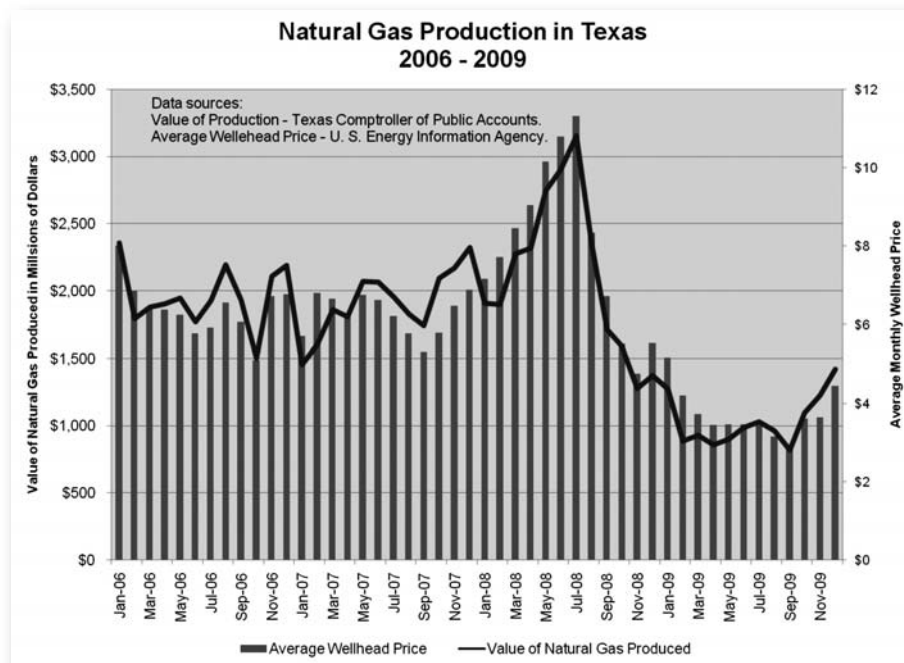
By Tim Brown,  
CIP Senior Analyst

**U**nfortunately for Texas, a drop in sales tax revenue is not the only collection

reduction affecting the state coffers. In fiscal 2009, production tax collections for natural gas were down 48 percent compared to fiscal 2008, according to the Texas Comptroller of Public Accounts (CPA). Although the dollar amount of the natural gas collections was not broken down in the press release, the state collected \$1.335 billion in combined oil and natural gas production taxes in FY2009, according to the *2009 Texas Comprehensive Annual Financial Report*. Not only was that amount \$2.7 billion less than that collected in 2008, the 2009 collections were the lowest for the state since 2002.

A bit more data is available on the CPA's *Tracking the Texas Economy* Web page, but the site does not provide sales prices or any other data from CY 2008, which makes it difficult to determine the reason for the decline in natural gas production tax collection.

However, pricing trends can be found on the Comptroller's Texas Ahead Web site, where there is a page that lists the national average monthly wellhead prices (the price at the mouth of the well) for natural gas going back to January 1992 in dollars per thousand cubic feet (MCF). Average monthly natural gas prices have dropped during that period, falling from a June 2008 high of \$10.82 to \$2.92 in September 2009 before starting to slowly climb again. As of November 2009, the average monthly price was \$3.64 for the state.



The price continued to increase until peaking at \$5.14 in January of this year. Since then, it has declined each month, falling to \$4.36 as of March, according to the U. S. Energy Information Administration's *Natural Gas Weekly Update* for April 7, 2010.

Statewide production is also down from its peak in January 2009, although it has not fallen as far on a percentage basis as the price has, according to the Texas Railroad Commission.

The term "natural gas production tax" is a bit of a misnomer, since the tax is actually a severance tax based on the value of the production, not the volume of production. Since this is a severance tax, it is clear that the primary cause for the decline in tax collections is the large drop in price. However, if production stays depressed, a simple recovery in price will not be sufficient to replace lost revenue from the natural gas production tax. In order for total collections to rebound, the price will

have to bounce back to levels well above those seen in the first three quarters of CY2009.

The drop in price is illustrated in the accompanying chart, which compares the change in the monthly value of statewide natural gas production from January 2006 through December 2009 to the average monthly wellhead price in the U.S. for the same period. The average monthly wellhead price of \$5.14 for January of this year (not shown) is the highest price seen for many months. However, it is well below the levels seen in 2008 or even the prices seen in 2006-2007.

An increase in natural gas prices might see production pick up statewide. Bringing tax collections back in line with FY2009, however, will require a large price increase.

For more information, contact Tim Brown, senior analyst, County Information Project, at [timb@county.org](mailto:timb@county.org) or (512) 478-8753. ★

# Sunset Staff Recommends Continuation of Commission on State Emergency Communications



**By Bruce Barr,**  
*County Information  
Project Staff*

In early April, the Sunset Advisory Committee held a public hearing and accepted a staff report on the continuance of the Commission on State Emergency Communications (CSEC) for the next 12 years. The Sunset Advisory Commission staff's key recommendations include statutorily authorizing CSEC to coordinate the development and implementation of an interconnected state-level 911 network and provide for its ongoing management.

According to the Sunset staff report, Emergency Communication Districts and Municipal Emergency Communication Districts provide 911 service to the majority of mostly urban populations. However, the Sunset staff report shows that though Texas "has a continuing need for the Commission on State Communications, the Commission lacks adequate tools to oversee an evolving 911 system." This lack of authority to oversee and enforce standards state-wide is contrasted with the future implementation of the Next Generation 911 (NG911) system, a system that will add text, video and picture capabilities to 911 call centers.

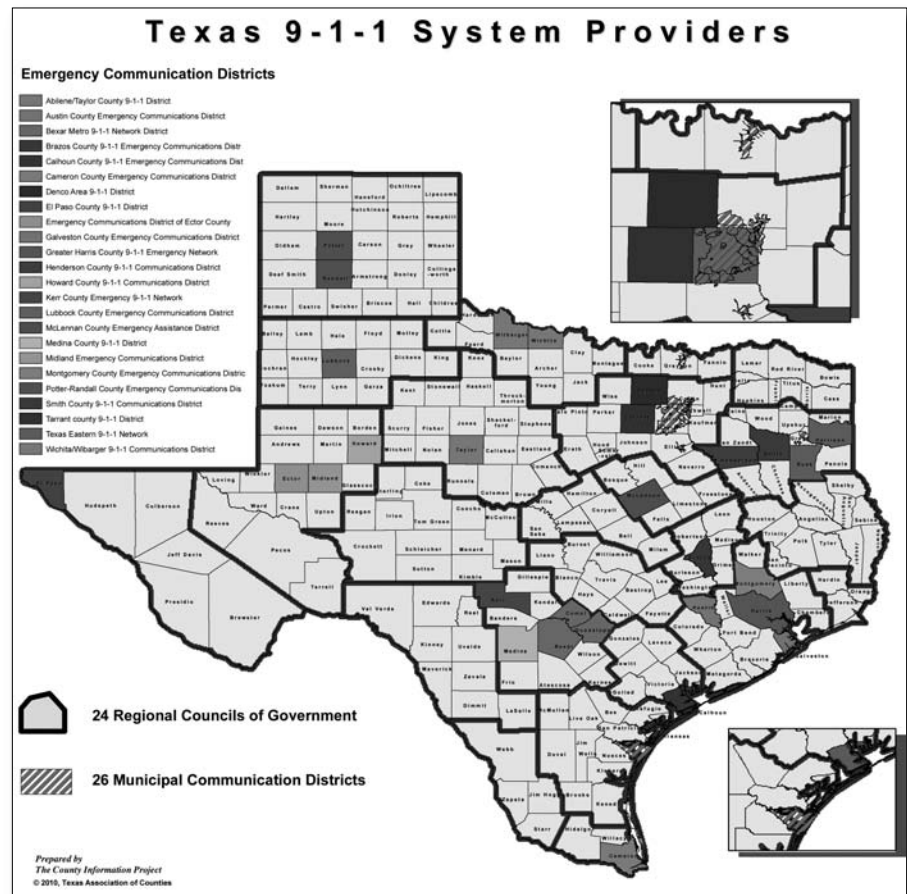
Staff also recommends that CSEC be required to establish an advisory committee to provide input on the various aspects of the NG911 system. Digital networks, called Emergency

Services Internet Protocol-enabled Networks (ESInets) are being developed regionally. Eventually, these regional systems will be connected through a statewide system called the Texas Next Generation Emergency Communication System. While national standards are directing most network generation efforts, Sunset staff recommends CSEC be responsible for the development and governance of a state-level network. To be effective, CSEC will need to establish protocols for regional connectivity to the state network, policies for information networking and sharing, and the minimum functional standards required

to "speak" across disparate systems statewide.

CSEC was formed to preserve and enhance public safety and health in Texas through reliable access to emergency telecommunications services. CSEC works with the telecommunications industry, local 911 authorities and the Regional Poison Control Centers to administer the statewide 911 program and the Texas Poison Control Network. By contracting with the 24 Regional Planning Commissions, CSEC provides 911 service to about one-third of the

**Sunset** *continued on page 9*





**Committed  
to Healthier  
and Happier  
County Workers**

"Before we switched our health coverage to TAC, we had high deductibles and some pretty unhappy employees. Now the county's health care costs are under control, our benefits package is better and we've stopped shopping for coverage every year. And through the Healthy County initiative, we've made a commitment to healthier, happier workers."

— Bastrop County Commissioner Lee Dildy,  
Boardmember, TAC Health & Employee Benefits Pool

TEXAS ASSOCIATION of COUNTIES  
HEALTH AND EMPLOYEE BENEFITS POOL

TEXAS ASSOCIATION  
of COUNTIES  
(800) 456-5974

## **Sunset**

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Texas population.

The Sunset Advisory Commission was created to identify and eliminate waste, duplication and inefficiency in government agencies. The process is guided by a 12-member body appointed by the Lieutenant Governor and the Speaker of the House of Representatives. The Sunset Advisory Committee has a staff whose reports provide an assessment of an agency's programs, giving the Legislature the information needed to draw conclusions about program necessity and workability.

For more information, contact TAC Legislative and County Information Project staff member Bruce Barr at [bruceb@county.org](mailto:bruceb@county.org) or (800) 456-5974. ★

## **Appraisals** *continued from page 6*

effective rate by even 1 cent or more, that it is a tax increase."

Hunt also mentioned HB 3195, passed in 2007, which tightened the requirements on publications in another effort to provide transparency and understanding by the public on the rate adoption process.

"Williamson County currently publishes the information on our Web site," she said. "Additionally, officials have open communication with the media on the proposed tax rate throughout the adoption process."

Regarding appraisal caps, Hunt testified: "Your charge is to consider changing the current 10 percent cap to follow the CPI and population growth. The CPI is a measure of the price changes of consumer goods such as food, clothing and other services and is

not typical of government expenditures. However, the biggest problems with arbitrary appraisal caps are 1) the inequities created between owners of like properties, where new neighbors are taxed at market value while neighbors who have been in the same house are taxed below market value, and 2) that it creates a regressive system, by helping wealthier owners of high-end homes to the detriment of owners in average valued housing. Also, lower appraisal caps would interfere with the free market by discouraging real estate market activity and home purchases. This occurred in California and in Florida; people stayed in their old homes, where their taxable value was way below market value due to the caps, instead of buying newer homes that would be taxed on the true market value."

As a final note on arbitrary appraisal caps, Hunt said that this year, in many places in Texas, property values are going down.

"Since there is no more difficult decision for local elected officials than voting to raise taxes, many local governments will cut budgets and services, just like the state is wrestling with due to the drop in sales tax revenue," Hunt said. "The bulk of county services are mandated by the state — jails, indigent defense, indigent health care, so those services may not be cut. Instead, for counties, it means cutting discretionary services — library hours, services for the elderly, road maintenance, law enforcement patrols, emergency services. These services protect our safety and the quality of life that make communities worth living in..." ★

# TOOLS FOR TOUGH TIMES

*Counties Sharing Solutions*

TEXAS ASSOCIATION of COUNTIES  
**2010 Annual Conference & Expo**  
Renaissance Hotel • Austin • Sept. 1-3



## **Conference Information**

Current economic conditions present Texas counties with unique challenges. The 2010 Texas Association of Counties Annual Conference provides an environment for county officials to network and use peer resources to develop ideas and create tools to get through these tough times.

Breakout sessions feature roundtable discussions on county issues where attendees discuss their

challenges and share ideas. The conference also prepares attendees for the next legislative session by highlighting proposed laws and interim charges that affect counties.

## **Registration and Accommodations**

TAC now accepts credit cards for your registration fee! Visit [www.county.org](http://www.county.org) today to register online.

Early registration is now open with a special fee of \$230. After Aug. 16, the registration fee increases to \$255. Spouse registration is \$30 and provides admittance to all conference programs, including the opening evening reception and a special spouse event on Thursday afternoon.

The host hotel is the Renaissance Austin Hotel, 9721 Arboretum Blvd., Austin, 78759. When you register for the conference you will be able to make your hotel reservations.

If you register for the Annual Conference online, a link for reserving a room at the Renaissance Hotel will be provided with your registration confirmation.

## Hotel Rates

Single Rate \$126/night  
Double Rate \$126/night  
Plus applicable taxes (15 percent)  
and parking fees

## Parking Rates

Self-Parking: free  
Overnight Valet: \$11  
Day Only Valet: \$14

## Continuing Education

We are applying for credit for the following offices - county and district attorneys, auditors, county and district clerks, commissioners, justices of the peace, PHR and SPHR, purchasing agents, tax-assessor collectors, TCLEOSE and treasurers. Visit the Education Center at [www.county.org](http://www.county.org) for updates on continuing education credits as they are approved.

## Expo

The Conference Expo showcases more than 100 companies will be on hand with a wide variety of goods and services designed specifically for counties.

## Agenda Highlights

### Opening Keynote Speaker



**Ben Philpott** is a senior reporter for KUT-FM, Austin's National Public Radio affiliate. Ben has covered state politics and dozens of other topics for the station

since 2002. He's been recognized for outstanding radio journalism by the Radio and Television News Directors Association, Public Radio News Directors Incorporated, the Houston Press Club and the Texas AP Broadcasters. Before moving to Texas, he worked in public radio in Birmingham and Tuscaloosa, Alabama, and at several television stations in Alabama plus Tennessee. Born in New York City and raised in Chattanooga, Tennessee, Ben graduated from the University of Alabama with a degree in broadcast journalism.

### Opening night Casino & Dance

Entertainment provided by local Austin band, HEYBALE!

### Closing Keynote Speaker



**J. Mark Warren** is the training coordinator and consultant with the Texas Association of Counties in his hometown of Austin, Texas.

He assists the Association with the vision, development and delivery of training for both the internal and external customers of Texas county government. Since 2007, Mark has traveled more than 30,000 miles across Texas delivering a training message of inspiration, motivation and new direction. His presentations revolve around leadership, interpersonal communication, relationship skills, workplace diversity and professionalism, bridging the generations and customer service excellence. In addition to his teaching, training and traveling duties, Mark works with the TAC Leadership Foundation and has served as the coordinator of its Leadership class since 2003. After graduating from St. Edward's University in 1977, Mark spent 23 years with the Texas Department of Public Safety, retiring in 2000 as the assistant commander of the Training Academy in Austin.

# Joint Committee Hears Review of Federal Health Care Impact



By Rick Thompson  
*TAC Legislative Staff*

**T**he Senate Committee on State Affairs recently held a joint hearing with the Senate Committee on Health and Human Services to discuss the impact of the recently passed federal legislation on health care reform.

Tom Suehs, executive commissioner for the Health and Human Services Commission, provided testimony to the committee regarding changes in eligibility requirements for the Medicaid program. According to the handout provided to the committee, Medicaid expansion will begin in 2014 and will include individuals younger than 65 with incomes up to 133 percent of the Federal Poverty Level (FPL). The

## For more information

For more information on Suehs' presentation, visit [www.hhsc.state.tx.us/news/presentations/2010/FedHlthReform\\_0310.pdf](http://www.hhsc.state.tx.us/news/presentations/2010/FedHlthReform_0310.pdf).

largest expansion includes childless adults who are currently not covered by Medicaid.

Suehs estimates that out of the 6.1 million Texas residents without insurance, 1.5 million are undocumented immigrants, which leaves 4.5 million eligible for insurance. When asked about the future cost to the state required by the new legislation, Suehs said for the first three calendar years of the mandated expansion, the federal government bears responsibility for the full cost of coverage for new eligibles in most states, but for Texas, cost estimates for the general revenue fund for all

programs will require almost \$27 billion from state FY 2014 – 2023.

“State policymakers will need to consider the impact to current funds supporting health care programs including trauma funds, tobacco settlement funds, the County Indigent Health Care Program and other programs administered by the Department of State Health Services,” Suehs said.

Much of the discussion during the testimony revolved around doctor reimbursement rates and access to care. A concern with the newly insured population is the ability to find enough primary physicians to care for this group. The number of doctors who will serve this population is limited by low reimbursement rates provided by Medicaid.

“Without a proper Medicaid reimbursement rate you are not going to have participation,” Suehs said. Access to care will continue to be an important issue for Texas counties, which lead the nation with 119 counties designated as health professional shortage areas (HPS). This figure is more than double that of second-ranked Georgia, a state with 58 HPS counties.

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



# Legislation Improves Mental Health-Based Restrictions to Gun Purchases



**By Nanette Forbes**  
*TAC Legislative Staff*

**T**he 81st Legislature passed HB 3352 to bring Texas closer in compliance with the National Instant

Criminal Background Check System Improvement Amendments Act of 2007 (NICS Improvement Act). The NICS Improvement Act amended the Brady Handgun Violence Prevention Act of 1993 and was enacted in response to the Virginia Tech shooting massacre in April 2007.

The Virginia Tech shooter was able to purchase firearms from a federal firearms licensee because his mental health history was not available to NICS. NICS seeks to bridge the gap of information reported and require states to report additional information necessary to prohibit the issuance of firearms.

Since the implementation of the new law, 64 counties have reported 27,038 "Federally Prohibited Persons" to the Department of Public Safety (DPS). The legislation also allows persons with "relief from disabilities in mental health cases" to have their firearm rights restored. No reports have been received by DPS removing the person's disability and restoring their right to purchase a firearm.

Texas law mandates that counties report information on all convicted felons and domestic violence perpetrators to DPS. The DPS then



forwards the data to the Federal Bureau of Investigation who inputs the information into the NICS database system. The law does not require the reporting of individuals who have been determined by the court to be mentally incompetent or mentally incapacitated to NICS.

HB 3352 amended the Government Code, Chapter 411, by adding sections 411.052 and 411.0521 and the Health and Safety Code, Chapter 574, by adding section 574.088. The clerk of the court is required to report the following: individuals ordered by a

court to receive inpatient mental health services; a person acquitted in a criminal case by reason of insanity or lack of mental responsibility; a person determined to have mental retardation and committed by a court for long-term placement in a residential care facility; an incapacitated adult individual for whom a court has appointed a guardian; and a person declared incompetent to stand trial.

For additional information, please contact TAC Legislative staffer Nanette Forbes at (800) 456-5974 or [nanettef@county.org](mailto:nanettef@county.org). ★



# Supervisory Skills for Managing County Risk

## TAC 2010 Risk Management Regional Workshops

The Texas Association of Counties is offering a new workshop for county managers, supervisors, department heads and elected officials. This workshop is provided by the Texas Association of Counties Risk Management Pool. Participants learn about interaction and communicating with others by applying these skills in interactive exercises focusing on common county government risk management issues. Registration is limited to the first 70 registrants, so register today at [www.county.org](http://www.county.org).

### LEARNING OUTCOMES:

Upon completion of this class, participants will be able to:

- Use personal communication skills to address risk, including employment and compliance issues;
- Recognize personal and professional work styles with the DISC™ Personal Insights Profile;
- Identify strengths and weaknesses of behavior styles in the workplace;
- Use effective methods in supervisory communications;
- Recognize the characteristics, behaviors and common practices of effective leaders;

- Identify solutions for personnel-related risks in your county; and
- Communicate with employees regarding their actions that may place the county at risk.

### CONTINUING EDUCATION:

We are applying for continuing education credits for most county officials and staff. Visit the Education Center at [www.county.org](http://www.county.org) for updates on continuing education credits approval.

### AGENDA:

7:30 a.m. Registration  
4:30 p.m. Adjourn

This one-day workshop is free to county employees and is presented by the Texas Association of Counties.

If you have any questions, please contact the TAC Education Department at (800) 456-5974.

## REGISTRATION FORM

### TEXAS ASSOCIATION of COUNTIES Supervisory Skills for Managing County Risk 2010 Risk Management Regional Workshops

Please fill out the information below and fax to (512) 477-1324. Registration will open at 7:30 a.m. at each location.

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

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

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

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

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

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

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



### (check your preferred location)

- |   |   |
|---|---|
| <input type="checkbox"/> May 18: Borger – Frank Phillips College  | <input type="checkbox"/> May 25: Corpus Christi – Omni Bayfront Tower |
| <input type="checkbox"/> May 18: Waco – Holiday Inn Waco          | <input type="checkbox"/> May 27: Abilene – Hilton Garden Inn          |
| <input type="checkbox"/> May 20: Lubbock – Holiday Inn and Towers | <input type="checkbox"/> May 27: Conroe – La Torretta Lake Resort     |
| <input type="checkbox"/> May 20: Tyler – Holiday Inn Select       | <input type="checkbox"/> June 2: Granbury – Hilton Garden Inn         |
| <input type="checkbox"/> May 25: Odessa – Holiday Inn Hotel       | <input type="checkbox"/> June 2: Kerrville – Inn of the Hills         |

## AG Opinions Issued

**GA-0763:** Honorable Jane Nelson Chair, Health and Human Services Committee, Texas State Senate, whether a municipality is required to receive a petition signed by twenty percent of its qualified voters before calling an election to withdraw from a regional transportation authority. **Summary** A municipality is not required to receive a petition signed by twenty percent of its qualified voters before calling an election to withdraw from a regional transportation authority.

**GA-0764:** Honorable Burt R. Solomons, Chair, Committee on State Affairs, Texas House of Representatives, whether the Governor is required to appoint a judge to the newly created 431st District Court in Denton County. **Summary** Texas Constitution article V, section 28 provides that the Governor shall fill a vacancy in a district court until the next succeeding general election for state officers when "the voters shall fill the vacancy." Tex. Const. art. V, § 28(a). The Governor may not be compelled by mandamus to fill a vacancy in the office of district court judge. He is authorized to fill the vacancy in a new district court from the time the court is created until the office is filled by election. "[T]he voters shall fill the vacancy for the unexpired term" at the next succeeding general election for state officers, whether or not the Governor has appointed anyone to the court. Id.

The Denton County Commissioners Court must provide funding for the 431st Denton County District Court, which comes into existence on January 1, 2011.

January 1, 2011 is the earliest date that the Governor may fill the vacancy by appointment and thus is the earliest date at which the appointee might take the oath of office. A person appointed by the Governor to the vacancy in the district court may take the oath of office immediately, if the appointment is made during the interim between legislative sessions. If the person is appointed during the session, pursuant to Texas Constitution article IV, section 12, he must be confirmed by two-thirds of the Senate present before he may be sworn in as district judge. A person appointed to fill the vacancy in the 431st District Court would serve until the person elected to fill the vacancy qualifies for and assumes the duties of office.

**GA-0765:** Honorable James A. Farren, Randall County Criminal District Attorney, concerning a possible defense to prosecution under section 43.24, Penal Code. **Summary** A district attorney's prosecutorial determination regarding the initiation of criminal proceedings is within the prosecutor's substantial discretion.

**GA-0769:** Honorable Geoffrey I. Barr, Comal County Criminal District Attorney, whether a county commissioner has announced his candidacy or become a

candidate in fact for election to another office, thereby automatically resigning the office of county commissioner by virtue of article XVI, section 65 of the Texas Constitution. **Summary** The facts as presented in the request do not suggest that the county commissioner has applied for a place on the ballot for another office. As a result, they do not establish that he has become a candidate in fact under article XVI, section 65 of the Texas Constitution.

The facts presented in the request indicate a pronounced disagreement about the content of statements made and actions taken by the county commissioner as well as the circumstances in which they occurred. Consequently, we cannot determine as a matter of law whether the county commissioner has announced his candidacy for another office, thereby automatically resigning his current office.

**GA-0770:** Honorable C. R. (Kit) Bramblett, Hudspeth County Attorney, whether a utility company that contracts with a county to collect the fees for the county's solid waste disposal service may suspend its own utility service for nonpayment of the solid waste disposal fee. **Summary** Subsection 364.034(d)(2), Health and Safety Code, authorizes a utility company contracting with a county to collect the fees for the county's solid waste disposal service to suspend its own utility service for nonpayment of the county's solid waste disposal fee. ■

## AG Opinions Requested

**RQ-0870-GA:** Honorable Florence Shapiro, Chair, Education, Texas State Senate, authority of the Dallas County Commissioners Court to retain independent legal counsel in particular circumstances.

**RQ-0872-GA:** Honorable J. Russell Ash, Reagan County Attorney, County attorney's use of the hot check fund to supplement his secretary's salary.

**RQ-0873-GA:** Marta Galarza, CPA, Cameron County Auditor, authority of a county attorney to use forfeiture funds to pay a private law firm for representation in litigation he has filed against the county.

**RQ-0876-GA:** Honorable Paul Johnson, Denton County Criminal District Attorney, authority of a commissioners court to regulate traffic on roads located in an unincorporated area of

the county but within the boundaries of a fresh water supply district.

**RQ-0877-GA:** Honorable Mark Homer, Chair, Culture Recreation and Tourism, Texas House of Representatives, whether the Development Corporation Act of 1979 permits a 4A economic development corporation to use sales tax funds to support an affordable housing program. ■



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# From the Legislative Desk

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

## State Budget Situation Mirrors the Past

**A**rchives — in December of 1994, a From the Desk article in the TAC legislative newsletter referred to a projected state budget shortfall of \$2-3 billion and came with a caveat for local governments

to be ready to

demonstrate their steadfastness in stopping additional burdens placed upon their taxpayers' backs. Fast forward to 2010, the newsletter warns that counties must stay vigilant against fiscal

adjustments engineered by the state in order to reduce the estimated state budget shortfall of \$9-18 billion. Aside from the amount of the shortfall and a strong intervening campaign by counties about the perils of state unfunded mandates a few years back, not a great deal has

changed when it comes to preparing for the next general session of the Texas Legislature. However, counties do have a much better relationship with the state and a solid rapport with many individual

government, a finding which some political prognosticators now argue is likely to manifest itself as an abrupt wake-up call for incumbents in the forthcoming November elections. The extent of anti-

government sentiment was revealed when only 19 percent of those asked expressed satisfaction with it (Source Pew Research Center). In a letter to Abigail Adams in 1787, President Thomas Jefferson shared his perspective on the

*The spirit of resistance to government is so valuable on certain occasions, that I wish it to be always kept alive.*

— President Thomas Jefferson

members of the Legislature, especially those who are particularly interested in the workings and efficiencies of local government.

**Electorate anger** — poll results released April 18 revealed "epic" discontent with the federal

matter: "The spirit of resistance to government is so valuable on certain occasions, that I wish it to be always kept alive. It will often be exercised when wrong but better so than not to be exercised at all. I like a little rebellion now and then. It is like a storm in the atmosphere." ★