

County*i*ssues

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House Agriculture Committee Seeks Input on Farm Bill Reauthorization

Comments Due June 14



By Laura Garcia,
TAC Legislative Staff

With the current Farm Bill set to expire in 2012, the House Committee on Agriculture is preparing to consider its reauthorization. The committee, chaired by Rep. Collin Peterson (D-Minnesota), recently held a series of hearings throughout the country in an effort to gather input on U.S. agriculture policy. The committee is now accepting public comments, which will be considered a part of the official Farm Bill field hearing record, through June 14.

The National Association of Counties (NACo) is urging interested county officials to submit comments to the committee regarding matters important to county governments. The Farm Bill is a comprehensive piece of legislation which authorizes a broad range of programs particularly critical to rural counties. These programs include funding for rural

water/wastewater infrastructure, community facilities, broadband expansion, housing, renewable energy, support for new farmers and business development initiatives.

Specifically, NACo is encouraging officials to support the following through comments:

- Support an enhanced commitment to USDA Rural Development programs in the next Farm Bill, especially key infrastructure and business development programs

that support the agricultural sector and the retention and attraction of new businesses. USDA Rural Development's programs for water/wastewater infrastructure, community facilities, broadband, and business development are key ingredients for county economic development efforts.

- Support the proposed Rural Innovation Initiative or similar rural

Farm Bill

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development strategies that focus on making USDA's investments more efficient and effective by rewarding strategic regional approaches to rural development that allow counties and their regional partners to focus on their local economic assets, priorities and goals.

- Support enhanced funding for Renewable Energy development,

especially programs that assist local governments in their efforts to develop renewable energy and increase energy efficiency.

- Ensure all farm programs recognize that youth play a vital role in sustaining American agriculture and rural communities. New programs and updates to old programs are needed so that it is possible for

young and beginning farmers to survive and thrive in the modern agricultural economy.

Comments may be submitted using the House Agriculture Committee's online feedback form, which can be accessed at: <http://agriculture.house.gov/inside/feedbackform.html>. Comments are due by June 14.

Bill Proposes Creation of National Criminal Justice Commission

A bill that would create a National Criminal Justice Commission was recently introduced in both the US House and Senate. Under the legislation, a blue-ribbon bipartisan commission would be tasked with conducting an 18-month comprehensive review of the nation's criminal justice system, including costs, practices, and policies at the federal, state and local government levels. The bill directs the commission to conduct public hearings in various locations around the United States as part of the study. Upon completion of the review, the commission would make recommendations aimed at preventing, deterring, and reducing crime and violence, improving cost-effectiveness and ensuring the interests of justice. The National Association of Counties (NACo) and the National Sheriffs' Association are among approximately 100 organizations that have endorsed the legislation.

The bill, also known as the National Criminal Justice Commission Act of 2010, was introduced in the House as H.R. 5143 by Rep. Bill Delahunt (D-Massachusetts) and in the Senate as S. 714 by Sen. Jim Webb (D-Virginia).

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.★

KEY COUNTY DATES

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.

July 2010

Counties with the population of great than 500,000. Commissioners court to appoint election judges for county election precincts at July term. TEX. ELEC. CODE, §32.002.

July 15, 5 p.m. – Deadline for semi-annual report of political contributions and expenditures by candidates and certain officeholders. TEX. ELEC. CODE, §§254.063(b), 254.093(b) and 254.095. If delivered by mail or carrier, cancellation or receipt mark before the deadline is proof of timeliness of filing.

July 25 – Certified appraisal roll due to tax assessor-collector from the appraisal district. TEX. TAX CODE, §26.01(a).

Panhandle City-County Officials Convene on Shared Local Government Issues



By Elna Christopher,
*TAC Director of
Media Relations*

Texas Association of Counties President Vernon H. Cook,

Roberts County judge, hailed it as “a fascinating concept, getting cities and counties together. There is so much similarity between county and city needs,” he said.

Texas Municipal League President Debra McCartt, mayor of Amarillo, said local governments should “go as a united front” to the Legislature and show “cities and counties working together.”

On May 6, more than 55 city and county officials from throughout the area gathered in Amarillo for a Panhandle Local Government Leadership Forum hosted by the two elected leaders of TAC and TML.

After the welcomes by Cook and McCartt, TAC Executive Director Gene Terry and TML Executive Director Frank Sturzl discussed the state of local

government in Texas, and both noted that cities and counties are mandated to carry out responsibilities that benefit the state — whether it be the counties providing indigent defense, which Terry said “has become an enormous burden” on county coffers, or cities providing streets and collecting fees that go to the state.

Terry said the Panhandle group has “set a standard of cooperation that the rest of the state should aspire to,” adding he hopes other local governments in Texas will band together.

In discussing the upcoming 2011 legislative session, Sturzl said in 49 other states, local governments go to the state asking for funds but, in Texas, local governments say “leave us alone.”

Terry summed up a similar theme by saying, “The state is the big dog on the porch, sometimes pushing us away from the food bowl.”

Sturzl warned that believing the legislators will be too busy with redistricting and a troublesome state budget to mess with local governments is wrong. “They could attempt to push

things down on us, and they can pull revenue up...to them.”

The TML leader also reminded those attending that attempts to lower revenue caps on local governments could be an issue again, as they have since 2004.

Paul Sugg, TAC legislative liaison, mentioned several interim studies that are occurring, including one on “transparency,” which counties and cities hope does not turn into a one-size-fits-all situation, due to the varied monetary, computer and staff capabilities of different-sized cities and counties.

Counties represented at the forum included Roberts, Oldham, Wheeler, Hansford, Hall, Potter, Randall, Ochiltree, Sherman, Deaf Smith, Dallam, Moore, Lipscomb and Swisher. Sen. Kel Seliger (R-Amarillo) and Rep. David Swinford (R-Amarillo) attended the meeting. Staff members of Sen. Robert Duncan (R-Lubbock) and Seliger also attended.

The Panhandle Regional Planning Commission coordinated the event for TAC and TML. ★



City and county officials gathered in Amarillo for a Panhandle Local Government Leadership Forum on May 6.

A Survey on Autopsy Costs in the Medical Examiner's Office

Editor's note: This article is part one of a three part series on the various related autopsy costs incurred by the 12 medical examiners' offices of Texas.



By Paul Emerson,
TAC State Financial Analyst

The purpose of this survey report is to determine the various cost factors

associated with performing autopsies within the medical examiners' (ME's) offices in Texas.

The survey questions were categorized into two main groups — general information and financial data. Each survey question was drafted from information that would typically be cited in a medical examiner annual report.

Initially, each ME's office was contacted by phone in order to verify a designated person responsible for filling out the survey.

The number of medical examiner offices has varied slightly during the past few years. But, at the time of this survey, only 12 ME's offices were identified and contacted, including the latest revamped medical examiner office in Lubbock.

This report is a follow-up to an earlier survey conducted by the County Information Project (CIP) in June 2006.

When a death occurs in a county, by a means other than normal circumstances, the ME's office or the justice of the peace is obligated by law



to determine the cause of death. All related costs in determining the decedent's death, including transporting the body to the nearest autopsy facility, are incurred by the county. In most instances, counties without an ME must transport the body to a medical facility outside the county.

Since MEs are a part of county government, their funding comes from the annual county budget. As counties continue to struggle with budgetary constraints, county officials are also noticing an increase in the cost of autopsies.

Highlighted below is a summary on the medical examiner's office in terms of statutory responsibilities and duties.

Summary of Medical Examiner's Offices Responsibilities

- Texas Code of Criminal Procedure, § 49.25 (Medical Examiners): The

statute requires that counties with a population of more than 1 million and without a reputable medical school as defined in articles 4501 and 4503 Revised Civil Statutes of Texas, shall establish and maintain a medical examiner's office.

- The statue also permits counties to enter into a joint agreement with other counties to create a medical examiners district, but there can only be one medical examiner per district. For many counties the expense of operating a ME's office is cost prohibitive.
- The 12 surveyed ME's offices are located in 15 of the state's largest counties. According to the Texas Data Center, the total population in these counties is approximately 13.1 million, which is 53.6 percent

Autopsy Costs

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Resources, Naturally

County roads and bridges and the property tax



By Paul J. Sugg,
TAC Legislative Staff

We've been writing quite a bit recently about transportation here in this corner of the newsletter, and we think for good reason. The Legislature thinks it's a pretty important issue as well. As many of you know, the standing House and Senate transportation committees, Senate Finance Committee, and the House Select Committee on Transportation Funding are looking at the perennial and nettlesome matter of funding our local and statewide transportation needs.

The county road system is an integral part of the state's transportation system, with the county share consisting of some 160,000 road miles and 17,000 bridges, with roadways ranging from gravel and dirt drives to asphalt and four-lane concrete roads. County roads serve both rural and suburban Texas. County roads serve as an important link in the transportation network serving our agricultural and oil and gas economies. County roads also serve the needs of both rural and suburban residential and attendant commercial development, carrying Texans to work, home, stores, and school.

Overweight trucks damage these roads to such an extent that roads must often be reconstructed, not just simply maintained. At a recent legislative hearing, a TxDOT commissioner noted one freight truck does the damage of 9,600 cars. The state has a stake in this because overweight trucks, permitted or otherwise, run on both county and state roads, including two-lane farm-to-market roads.

Improving our surface transportation infrastructure and reducing congestion has real-life implications. Many Texans

commute significant distances to work; added congestion increases the amount of fuel you burn up stuck in traffic, adds to the time you spend on the road, and reduces time spent with family or other worthwhile activities. Traffic delays can limit productivity as well and add to the time and expense of moving goods across the state.

Roads are not cheap, either to build or maintain. During the run-up to the economic bust, inflation and overseas competition for road materials drove up road building and maintenance costs, and even after our most recent steep economic decline, road construction and maintenance remains costly.

The cost of building and maintaining Texas county roads and bridges is borne primarily by the property tax. Besides the general fund maintenance and operations tax, a county may also adopt, following an election, the statutory special road and bridge tax (capped at 15 cents per \$100 evaluation — as of 2008, 68 counties had adopted this tax) and, following an election, the constitutional farm-to-market/flood control tax (capped at 30 cents per 100 evaluation — as of 2008, 120

counties had adopted this tax). Counties also receive a portion of the local motor vehicle registration fees they collect on behalf of the state, including the local optional motor vehicle registration fee (presently, 242 counties collect this local fee). TxDOT offers programs that provide welcome assistance, but they are limited in scope and again, local property taxpayers shoulder most of the burden for supporting the important county component of the state's surface transportation system.

What to do, then? Some ideas previously discussed here and other places include the state raising its motor fuels tax, indexing the motor fuels tax in order to maintain a degree of its buying power, ending the diversion of revenue from the state highway fund (Fund 6) or allowing local governments to raise money locally for local projects and provide other tools counties can use to address local needs. It's going to be a tough legislative session for the state; counties need to be vigilant regarding any transfer of state responsibilities to the local level. Yet the demand for adequate funding of local and state transportation needs continues. ★



Special Needs Diversions Discussed in House Corrections Committee



By Lori Nicholes

TAC Legislative Staff

On April 28, Chairman Jim McReynolds called the House Corrections Committee to order to address interim charge No. 4, which will "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." Much testimony was provided by and in reference to the Texas Correctional Office on Offenders with Medical and Mental Impairments (TCOOMMI) and the partnership initiatives with county jails, state agencies and local probation and parole offices.

In 2007 the legislature passed

Senate Bill 839 (Duncan), which authorized the exchange of information between TCOOMMI and other entities responsible for the continuity of care for offenders. This exchange of information allows special needs offenders to be more quickly identified upon intake to county jails and be diverted or linked to an appropriate service plan as they move through the justice system. SB 839 required the Department of State Health Services (DSHS) to merge its statewide mental health client database with the Texas Law Enforcement Telecommunications System (TLETS) maintained by the Department of Public Safety (DPS). DSHS representative Mike Maples reported to the committee that technology challenges have slowed the implementation of the new system; however, some county jails received

training last fall and the "plan is to have [the software] completely operational in all county jails by the end of the year."

Maples also reported the new system will provide "real-time identification and records exchange between jails, local mental health authorities and TLETS." Adan Munoz, director of the Texas Commission on Jail Standards (TCJS), reports that his agency mandates the use of mental health screening instruments upon intake and that TCJS works closely with TCOOMMI to revise questions on the form and ensure special needs offenders are identified and receive appropriate services. If a jail inspection finds that the questionnaire is not being used correctly or information sharing is not occurring

Special Needs

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Autopsy Costs *continued from page 4*

of the state's entire population (estimated population for January 2009). The population estimate for Galveston County is not included due to the impact Hurricane Ike had on the area.

- Counties without ME's offices (239) use the justice of the peace as the official signer on the death certificate or contract the duties of an ME to the nearest medical school or to a neighboring county that has an ME's office.
- There is no oversight state agency for MEs, which means there is no central repository of records for

254 counties. Each county maintains its own records. In essence, Texas does not have coroners; those duties are delegated to the justice of the peace. The medical examiners are appointed locally by commissioners courts. However, medical examiners and physicians are licensed by the State Board of Medical Examiners. The National Association of Medical Examiners is the primary accrediting body for medical examiners in the country. As of May 2010, 70 medical examiner offices

nationwide are either fully or in the process of accreditation, including six medical examiner offices in Texas. These medical examiner offices are located in the following counties: Bexar, Dallas, Harris, Tarrant and Travis, including Nueces, which is going through the inspection process.

- Bexar County established the first ME's office in Texas in 1957, after a highly publicized automobile accident.

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

2010 TAC Salary Survey Available to Counties

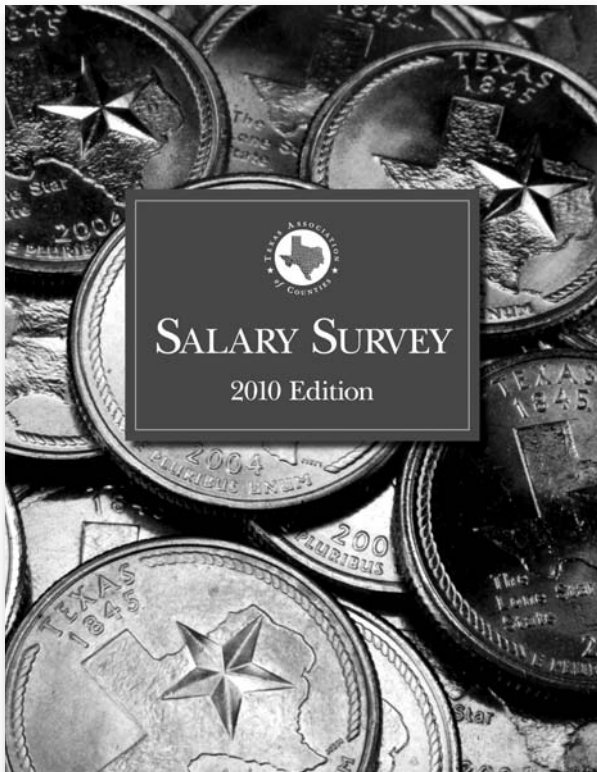


By Tim Brown,
CIP Senior Analyst

The TAC County Information Project completed the 2010 TAC Salary Survey and mailed out the report during the second week of May. The response rate was excellent this year. As a result, TAC was able to include salaries for elected county officials and county auditors from 243 counties.

TAC mailed copies of the report to the county judges from each county that participated in the survey. In addition, copies were mailed to the county officials whose offices worked on completing the survey form. In some cases, officials or staff from more than one office in a county provided data for the survey. A copy of the survey was sent to each of those offices, even if it meant that the county as a whole received more than two copies.

TAC also placed a PDF version of the report on the TAC Web site. The link can be found at www.county.org/resources/countydata/financl.asp. This is also the page where we will post any corrections, should we be notified of any errors in the report.



The County Information Project would like to thank the county officials and staff who assisted with this survey. We would not be able to complete the survey without your help, and many counties would not have this useful information available to them without your cooperation.

If there are any questions about the 2010 TAC Salary Survey or corrections, please contact Tim Brown at timb@county.org or (800) 456-5974. ★

Special Needs *continued from page 6*

as required, the county can be found in violation of jail standards.

Carey Welebob, director of the Community Justice Assistance Division (CJAD), provided the committee with information about mental health services in local Community Supervision and Corrections Departments (CSCDs). Welebob stated that in 2001, the Legislature provided courts with sentencing alternatives for mental health offenders by allocating funding for specialized officers in specialized case loads and by providing funding to TCOOMMI to assist local mental health authorities in partnering with CSCDs to provide treatment services; CJAD and TCOOMMI developed the "Mental Health Initiative."

There are 122 CSCDs in the state with 86 Mental Health Initiative caseloads in 35 departments receiving the dedicated legislative funding. Twelve departments have established non-initiative programs utilizing some of their regular formula funding and other sources. In addition to supervisory case loads, there are four Mentally Impaired Offender Facilities (MIOFs) in the state located in Lubbock, Bexar, Dallas and Harris counties. Lubbock has a capacity of 164 MIOF beds, Bexar and Dallas each have 60 beds, and Harris has 70. Welebob recognized Fort Bend and Travis county CSCDs for their mental health programs.

"CSCDs have noticed an increased need to reach out and expand services to the mental health population... in fiscal year 2009, more than 6,600 offenders were served on special [mental health] caseloads," Welebob said.

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

Senate Criminal Justice Hears Juvenile Justice Issues



By Lori Nicholes
TAC Legislative Staff

In late April, Chairman John Whitmire called the Senate Committee on Criminal Justice to order to discuss interim charges No. 5, 8 and 9; juvenile justice issues were a common component of each charge.

The majority of the hearing focused on interim charge No. 9, which relates to the impact of school disciplinary policies on the juvenile justice system. Various witnesses testified that thousands of Class C tickets are being written annually to students (and parents) for behaviors that could be addressed without involving law enforcement and the courts. Truancy is also an issue in municipal and justice of the peace courts. Sen. Whitmire stated there will be a follow-up meetings on the charge.

Charge No. 8 instructs the committee to study and evaluate the success of juvenile probation pilot programs aimed at community-based diversion of youth from Texas Youth

Commission (TYC) facilities and to make recommendations for needed legislative action and additional programs to increase the number of delinquent youth successfully rehabilitated in their home communities. In 2009, the Legislature provided funding to be distributed to local juvenile probation departments through the Texas Juvenile Probation Commission (TJPC) for the purpose of creating or enhancing community diversion programs.

The goal is to divert 1,783 kids from commitment to TYC each year of the biennium. Counties who applied to the TJPC for the grant money will receive \$140 per day per juvenile diverted for a maximum of \$51,100 per year. Counties who traditionally commit zero to one youth to TYC will be eligible for \$12,500 for the purpose of creating/enhancing programs or pooling with neighboring jurisdictions for increased resources. Counties traditionally committing two to four youth will be eligible to receive \$25,000, and counties with five or more commitments will be eligible for

\$51,100. Of the 165 juvenile probation departments in the state, 143 accepted the grant money (10 of those qualified for use in mental health services) and 22 departments declined the grant offer.

Determining the success of these new programs can be evaluated by comparing data from quarter to quarter in 2009 and 2010. In the first quarter of 2009 there were 430 commitments to TYC; in the first quarter of 2010 there were 242 — a decrease of 44 percent. In the second quarter of 2009 there were 372 commitments to TYC; in the second quarter of 2010 there were 259 — a decrease of 30 percent. In total, the first half of 2010 shows a 38 percent decrease in the number of juveniles committed to TYC compared to the same time last year.

The Texas Juvenile Probation Commission and a panel of chief juvenile probation officers stressed to the committee that continued funding of diversion programs will provide the opportunity for continued evaluation of

Juvenile Justice

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Juvenile Justice

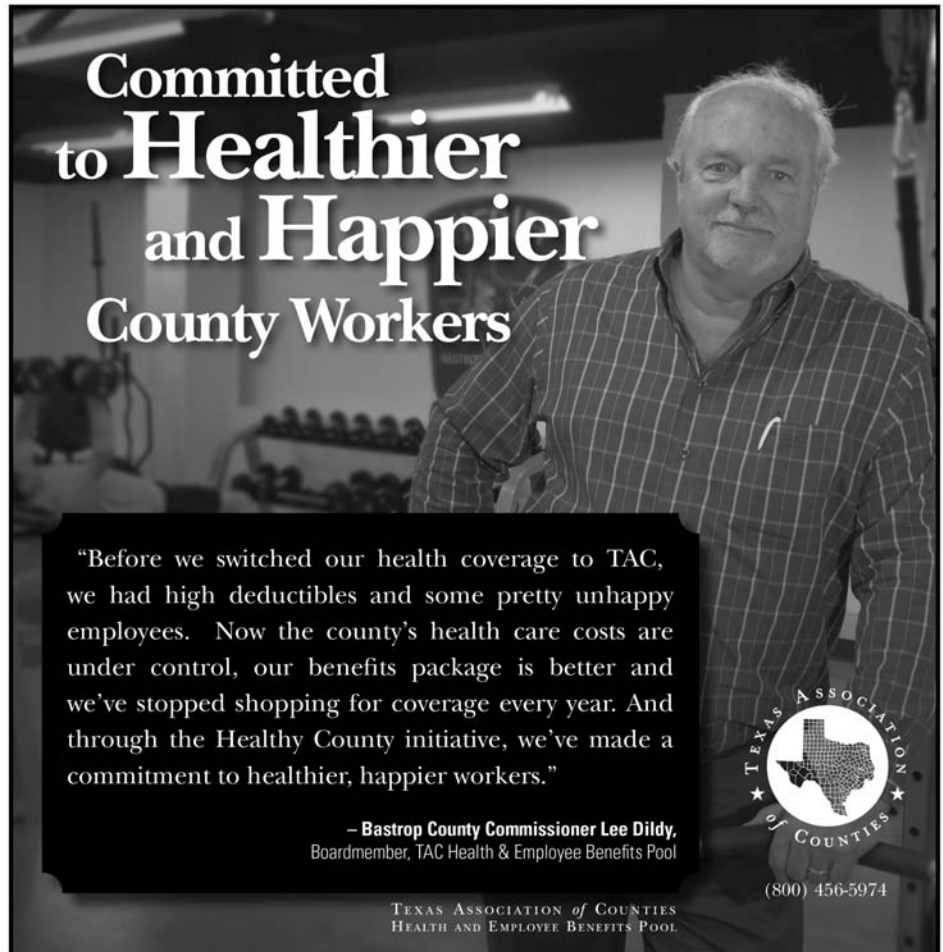
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the impact on the juvenile system. In addition, juvenile probation representatives also requested that the TJPC be exempt from the 5 percent state budget reduction, since approximately 95 percent of the funding flows directly to local departments. Sen. Whitmire said it was important to pass on that message to other legislators, committees and leadership.

Witnesses and the committee also agreed on the issue of flexibility with funding. Some counties receive multiple grants from the state, each with different rules and restrictions for use, and especially for small counties, it can be very difficult to find programs that meet the grant requirements. Increased flexibility with state funding streams may provide greater opportunity to divert youth from the system.

Charge No. 5 instructs the committee to review the detention of juvenile offenders in local jails, state jails, and Texas Department of Criminal Justice prison units by examining conditions of confinement, including quality of education, mental health treatment and medical services, rehabilitative treatment, and equality of access to services for young female inmates. Cherie Townsend, executive director of the Texas Youth Commission, reported that Senate Bill 103, which requires additional training for TYC guards and 12:1 guard/youth ratios, is fully implemented and TYC will be bringing information to update the committee.

Approximately 9 percent of the TYC population is female; there are 158 females in residential facilities and 121 on parole; females report a higher rate of need for mental health services and report a greater number



**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

(800) 456-5974

of incidents of abuse and neglect. Specialized treatment programs — such as capital and serious violent offender programs, substance abuse treatment and sex offender programs — are now available for young women in TYC. The programs were not necessarily available two years ago. In regard to re-entry, TYC is focusing on family involvement and family group therapy.

Brad Livingston, executive director of the Texas Department of Criminal Justice (TDCJ), reported having 141 juvenile offenders (defined as 14 years old to younger than 18) incarcerated as of the end of March. Most juvenile offenders are 17 years old and most are in prison rather than state jail; of the 141 incarcerated, 20 are in state jails, two are in Substance Abuse

Felony Punishment units and the remainder are in prison. Three offenders came from TYC while the rest entered through the trial process after being certified as adults.

TDCJ has a youthful offender program called COURAGE. The COURAGE program prepares for offenders for transition back into the “free world” or into regular general TDCJ population. The youthful offender program focuses on education, life skills and social development in a highly structured environment located at the Clemens Unit in Brazoria County. Juvenile offenders are housed in a separate section of the facility.

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

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 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 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.

State Task Force Supports Records Retention Efforts



By Nanette Forbes
TAC Legislative Staff

State law and state library rules require district clerks to maintain and preserve court records permanently. Complying with the mandate is a very costly requirement to the clerk's office. Until the 81 Legislative Session, the office received no additional funding to support preservation efforts, and the office must work with limited the technological capabilities available to preserve court records.

After the waters of Hurricane Ike caused in excess of \$80,000 in damage to Galveston County historic court records, Galveston County District Clerk Latonia Wilson began exploring options for protecting court records in the future. Wilson received a sheriff's escort to the courthouse to assess the damages to her office after the county received a direct hit from Hurricane Ike. Her worst fears were confirmed as she took a cursory glance through her office and realized water had seeped into and saturated the county's court records. Latonia then went to the warehouse where many historical court records were stored in plastic inside of boxes. Boxes on the bottom row were covered with silt from the building flood.

Wilson knew something had to change. She worked her way up the state ladder, garnering support from the Galveston County Commissioners Court to the Texas Supreme Court.

For more information

Galveston County District Clerk Latonia Wilson was appointed to serve on the Texas Court Records Preservation Task Force and would like input from other county officials. Send comments via e-mail to Latonia.Wilson@co.galveston.tx.us or fax to (409) 766-2292.

Wilson partnered with Chambers County District Clerk Patti Henry and together they enlisted the help of Speaker Pro Tem Craig Eiland to enact legislation for the protection and preservation of historic court records. The County and District Clerks Association also supported the initiative.

In November 2009, the Texas Supreme Court issued Misc. Docket No. 09-9183 creating the Texas Court Records Preservation Task Force. The primary objectives of the task force are: (1) collecting data and other information from counties and other

Records Retention

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Dependent Coverage Extended to Age 26



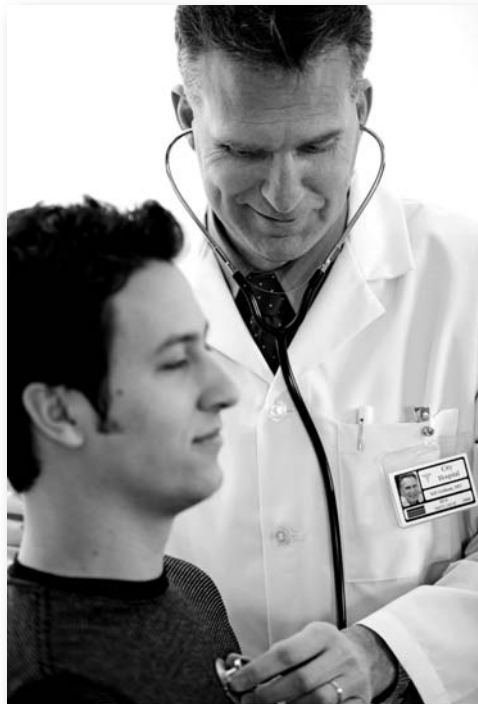
By Rick Thompson
TAC Legislative Staff

The federal Departments of Health and Human Services, Labor and Treasury recently promulgated rules allowing children to remain on their parents' health insurance plan until age 26. This provision of the recently passed federal health care legislation will go into effect Sept. 23, 2010.

Insurers will be required to make dependant coverage available to young adults regardless of their marital status, whether they live with their parents, are a dependent on a parent's tax return, or are no longer a student. This rule applies to all plans in the individual market, new employer plans and existing employer plans unless the adult child has another offer of employer-based coverage. In 2014, the provision will allow young adults to stay on their parents' plans even if they have another coverage option.

However, the legislation specifies enactment to begin six months after the law is signed, which creates a gap in coverage for those aging off their parents' policy prior to this effective date. This lead Health and Human Services Secretary Kathleen Sebelius to call on leading insurance companies to begin covering young adults voluntarily before the September implementation date. To date, more than 65 insurers have volunteered to do so.

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



For more information

To access more information about young adult coverage from the Department of Health and Human services, visit www.hhs.gov/ociio/regulations/adult_child_fact_sheet.html.

Records Retention

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state and local agencies across the state on the current status of Texas court records and related preservation activities; (2) analyzing the data and other information, including the identification of County and other archives with the most important historical records; (3) identifying important needs and areas of concern with regards to the preservation and protection of Texas court records, including enforcement and security issues; (4) and ultimately developing a plan to address the need to preserve and protect court records across the State of Texas.

The Texas Court Records Preservation Task Force will issue its report no later than June 1, 2011.

The clerk's office received additional support for records retention during the 81st Legislative Session, when the Legislature gave district clerks the authority to collect fees to support the maintenance and preservation of court records. The passage of SB 1685, which amended Chapter 51 of the Government Code and created the district court records technology fund fee, gave commissioners courts the authority to adopt up to a \$5 fee for the filing of various legal documents in the district clerk's office. The fees collected will flow to a specific county budget line item and be expended only for the preservation and restoration of the district court records archive, according to an approved written plan prepared by the district clerk.

As time progresses and the district court records technology funds accumulate money, the funds will allow district clerks across the state to safeguard and preserve court records for future generations. ★

Legislative Committees Hear Indigent Defense Issues



By Laura Garcia,
TAC Legislative Staff

Almost 10 years have passed since the enactment of the Fair Defense Act, and legislative committees are presently reviewing the status of matters relating to indigent defense in our state since that time.

Both the Senate Committee on Criminal Justice and the House Committee on Criminal Jurisprudence recently held hearings on the topic of indigent defense. The Senate Criminal Justice Committee, chaired by Sen. John Whitmire, was charged this interim to review the performance of the Fair Defense Act and the Task Force on Indigent Defense, including examining the Task Force's effectiveness in monitoring and enforcing standards, as well as design strategies to improve the delivery of services for indigent defense. The House Committee on Criminal Jurisprudence, chaired by Rep. Pete Gallego, was tasked with studying how the state presently supports the establishment and maintenance of public defender offices.

During the hearings, lawmakers heard testimony indicating that the

state pays approximately \$28 million of the \$186 million in costs for indigent defense, or just 15 percent of the total expense. Texas counties are generally responsible for the remainder of the costs. In testimony, Jim Allison, General Counsel of the County Judges and Commissioners Association of Texas, discussed the current financial constraints counties face and noted that the majority of current state funding is generated by court fees, with no general revenue dedicated to indigent defense.

Sen. Rodney Ellis, however, noted that with the expected state budget shortfall, it was unlikely that the state would be providing any additional money. Sen. Ellis mentioned that it was going to be a task in itself to ensure that the current level of state funding is maintained next session.

Other witnesses, including David Slayton, director of Court Administration in Lubbock County, addressed the rising costs, stating that indigent defense expenses in that county have increased from \$1.5 million in 2001 to \$3 million today. Slayton also discussed the successes of the regional public defender office for defendants in capital cases in that area and noted that grant funds provided by the Task

Force have helped support the initial start-up of the office, but expressed concerns about the sustainability of public defender offices once state funding runs out.

There was also testimony among advocates regarding the current adequacy of representation, with Andrea Marsh, executive director of the Fair Defense Project, highlighting the potential for litigation as funding declines, arguing that there might be a point when funding is so minimal that it is difficult to meet the constitutional responsibility to provide an adequate defense. In her testimony, Marsh advocated for more oversight of the indigent defense program to make certain that funds are used effectively and suggested that there be a shift toward an independent appointment of counsel system where judges are not involved in the selection of attorneys.

Both the House and Senate committees are expected to issue their interim reports with recommendations relating to these matters and other charges prior to the beginning of the 82nd Legislative Session.

For additional information, please contact TAC Legislative staffer Laura Garcia at (800) 456-5974 or laurag@county.org. ★

AG Opinions Requested

RQ-0878-GA: Honorable Jeff Wentworth, Chairman Jurisprudence, Texas State Senate, authority of a chief appraiser to grant a tax exemption under section 11.182(b), Tax Code, when the record owner of the property is either a for-profit limited partnership or a limited liability company.

RQ-0879-GA: Victor Vandergriff, Chairman, Board of Texas Department of Motor Vehicles, delegation authority of the governing board of the Texas Department of Motor Vehicles.

RQ-0881-GA: William Treacy, Executive Director, Texas State Board of Public Accountancy, application of the fee exemption for certain certified public accountants who are employees of governmental bodies.

RQ-0882-GA: Honorable Jo Anne Bernal, El Paso County Attorney, whether a county clerk may issue a marriage license when one of the parties is a female and the other was born a male but subsequently underwent sex change surgery.

RQ-0883-GA: Honorable Burt R. Solomons, Chair, State Affairs, Texas House of Representatives, whether a loss damage waiver in a rental only lease agreement constitutes the "business of insurance" as defined in section 101.051 of the Insurance Code.

RQ-0885-GA: Honorable Elizabeth Murray-Kolb, Guadalupe County Attorney, whether a home rule city is required to pay impact fees imposed by another political subdivision under chapter 395, Local Government Code. ■

AG Opinions Issued

GA-0772: Honorable Joe Shannon Jr., Tarrant County Criminal District Attorney, authority of the Texas Youth Commission to require certain juveniles to register as sex offenders. **Summary** Pursuant to Code of Criminal Procedure article 62.352, a juvenile court may defer a decision on sex offender registration of certain juveniles pending treatment while in a Texas Youth Commission facility. Following successful completion of treatment, a juvenile is exempted from registration unless a hearing is held on motion of the State.

Code of Criminal Procedure article 62.053 requires the Texas Youth Commission to register juveniles as sex offenders seven days before their release if they are subject to registration. A juvenile who has not successfully completed treatment is subject to registration absent a court order exempting him from registration or deferring a decision on the respondent's registration beyond the respondent's release date. Because volume 37, section 87.85(g)(3) of the Texas Administrative Code has valid applications, we conclude that a court would likely hold that section 87.85(g)(3) is not facially inconsistent with article 62.352.

GA-0773: Honorable Vince Ryan, Harris County Attorney, whether a district clerk may accept assignment of a defendant's cash bail bond refund as payment of the defendant's fines and costs. **Summary** Under article 17.02 of the Code of Criminal Procedure, a district clerk may not accept an assignment of a defendant's cash bail bond refund in payment of the defendant's fines and costs instead of refunding the deposited funds to the defendant.

GA-0774: Honorable Rob Eissler, Chairman, Committee on Public Education, Texas House of Representatives, whether school district resources may be used to process payroll deductions to fund political donations. **Summary** Under longstanding Texas case law, school districts have only that authority expressly or impliedly granted by the Legislature.

The Legislature expressly authorizes school districts to process school district employees' payroll deductions for health-

care expenses, child-care costs, security for indebtedness, and membership fees or dues to professional organizations. However, the Legislature has not expressly authorized school districts to process payroll deductions for contributions to political committees such as TSTA-PAC and NEA-Fund.

The Legislature impliedly authorizes school districts to undertake those activities that school districts would need to do in order to exercise the authority that the Legislature expressly granted them. However, the Legislature has not impliedly authorized school districts to process payroll deductions for contributions to political committees such as TSTA-PAC and NEA-Fund because doing so would not be necessary to perform school districts' expressly authorized functions.

Because the Legislature has not expressly or impliedly authorized school districts to process payroll deductions for contributions to political committees such as TSTA-PAC and NEA-Fund, Texas law prohibits school districts from processing such contributions.

The Legislature's decision not to authorize school districts to process payroll deductions for contributions to political committees would likely withstand a constitutional challenge.

Proof of a public servant's culpable mental state is a fact question that cannot be resolved in the opinion process. Thus, we cannot determine as a matter of law whether the processing of payroll deductions for contributions to political committees by school district staff on school district computers would violate section 39.02(a)(2) of the Penal Code.

GA-0775: Honorable Rob Eissler, Chair, Committee on Public Education, Texas House of Representatives, authority of a school district to set property tax rates under section 26.08, Tax Code. **Summary** Tax Code subsection 26.08(a) prohibits a school district from adopting a tax rate (the "adopted rate") that exceeds the rollback tax rate (the "rollback rate") for the district unless the adopted rate is approved by the district's registered voters at an election held for that purpose (the "rollback election"), except in the event of certain disasters. The rollback rate is calculated in

accordance with subsection 26.08(n) and has a maximum maintenance and operation ("M&O") tax rate component and a current debt rate component.

Based on an examination of the subsection 26.08(n) formula for calculating the rollback rate and its operation, the Legislature intended an increase in the adopted M&O tax rate above the maximum M&O tax rate component calculated for the purposes of the rollback rate calculation to be approved by the district's registered voters. Thus, subsections 26.08(a) and (n), considered together, do not authorize a school district to increase the adopted M&O tax rate above the maximum M&O tax rate component calculated for the purposes of the rollback rate without a rollback election.

Subsection 26.08(a) requires a school district to hold a rollback election to approve a rate previously adopted under the disaster exception in order to adopt that rate in a year subsequent to the year following the year in which the disaster occurred, if the rate exceeds the district's rollback rate for that subsequent year.

Subsections 26.08(b) and (c) require the voters in a school district to approve the district's adopted rate if it exceeds the rollback rate, i.e., a specific tax rate rather than a maximum rate. Accordingly, these subsections do not authorize a school district to adopt a tax rate that is lower than the adopted rate approved by the district's registered voters at a rollback election.

Under subsection 26.08(n), voter-approved increases to the M&O tax rate become part of the rollback rate calculation and potentially increase the M&O tax rate component of the rollback rate. However, a school district's authority to adopt a particular M&O tax rate in subsequent years will necessarily depend on a district's maximum M&O tax rate calculated for the purposes of the rollback rate for those subsequent years.

A school district is not expressly or impliedly authorized to calculate its rollback rate based on a district-generated projection of taxable value of property in the district when the district has not received the certified appraisal roll from the appraisal district. ■



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From the Legislative Desk

By Carey "Buck" Boethel, Director of Governmental Relations

County Officials Asked to Comment on Stormwater Regulations Questionnaire

Jim Allison, general counsel for the County Judges and Commissioners Association of Texas, called this item to our attention. The Environmental Protection Agency (EPA) has submitted a proposed Information Collection Request (ICR) to the Office of Management and Budget for review and approval. EPA is seeking approval to distribute multiple mandatory questionnaires to inform rulemaking to strengthen national stormwater regulations and to establish a comprehensive program for public comment on the proposed questionnaires, which EPA revised to address comments received during the first Federal Register comment period that ended on Dec. 30, 2009.

The mandatory questionnaires will be sent to county departments of transportation. You can view or download the complete text of the Federal Register notice, the questionnaires and the ICR Support Statement, or EPA's announcement of this rulemaking at the following link: www.epa.gov/npdes/stormwater/rulemaking. The comment period on the questionnaires ends June 9, 2010.

EPA developed a short and long version of the questionnaires. Both are designed to gather information on building and real estate improvement projects, long term stormwater management and controls associated with these projects, and financial conditions. Some engineering firms have estimated that it will take, on average, more than 50 hours to respond to the long form questionnaire. Jim Allison's firm served as the law firm representing counties that registered with TAC during the Phase I of the NPDES Stormwater program in 1990.

If you object to this unfunded mandate, please submit comments to the EPA with copies to your U.S Representative, Sen. Kay Bailey Hutchison and Sen. John Cornyn. ★

Temporary Taxes Overstay Their Welcome

Temporary taxes? Some states have been collecting revenue from short-term, makeshift taxing arrangements while others are just now putting the issue to a vote. Just last week Arizona voters overwhelmingly approved a 1-cent increase in the state sales tax to stave off substantial cuts in education and other services. The tax increase will stay in effect for a period of three years and hikes the rate from 5.6 to 6.6 percent with well over half of the new revenue earmarked for public education.

A rate of 6.6 percent is comparatively moderate, but not when you consider the additional taxpayer burden of a state income tax that ranges from 2.59 to 4.54 percent. Arizona joins other states that have raised taxes to offset substantial cuts in state government services, particularly in the area of education. In the past, temporary taxes have proven to be problematic because they rarely go away.

In 1861 the US Congress passed an income tax to pay for the Civil War. Although the tax was abolished in 1872, it reappeared by the year 1913 and introduced us to the infamous "Form 1040" as the standard tax reporting form — a relic that has been around for nearly a 100 years. ★