

County*i*ssues

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U.S. House Passes Mandatory Collective Bargaining Measure



By Laura Garcia,
TAC Legislative Staff

On July 1, the U.S. House of Representatives passed the Public Safety

Employer-Employee Cooperation Act, H.R. 413, as an amendment to the War Supplemental Appropriations legislation, H.R. 4899. It is now up to the Senate to consider whether to retain the measure.

The measure mandates that state and local governments enter into collective bargaining agreements with their public safety employees. The legislation prescribes minimum collective bargaining standards for state and local police, firefighters and emergency medical services personnel. There is presently no funding provided for implementation.

Under the legislation, every state must, at a minimum, ensure that its laws provide the following bargaining rights to public safety employees: grant public safety officers the right to form and join a labor organization; require



public safety employers to recognize the employees' labor organization and agree to bargain with the union; provide for bargaining over hours, wages, and terms and conditions of employment; and require enforcement through state courts of all rights, responsibilities and protections provided by state law.

Currently, the legislation would allow states to exempt political subdivisions with populations of less than 5,000, or

which employ fewer than 25 full-time employees, and would prohibit strikes and lockouts. The Federal Labor Relations Authority (FLRA) would determine whether state law meets the standards established by the legislation. As part of its authority, the FLRA would have the ability to determine the appropriateness of the bargaining units,

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KEY COUNTY DATES

August 2010

Counties with population of 500,000 or less.

Commissioners Court to appoint election judges for county election precincts at August term.

TEX. ELEC. CODE, §32.002(a).

Aug. 1: Certified appraisal roll, collection rate, debt taxes, etc., due to commissioners court from tax assessor-collector. TEX. TAX CODE, §26.04(b).

Aug. 7: Calculation and publication of tax rate, roll-back rate, etc., required unless governed simplified notice procedure in TEX. TAX CODE, §26.04(e) and 26.052(c).

Aug. 31: District and county attorneys' deadline to file with comptroller of public accounts or county treasurer, as applicable, a sworn account of all monies received during preceding year. TEX. GOV'T CODE, §41.005(d).

September 2010

Sept 1. District court order increasing salary, if any, of official district court reporter due to commissioners court for next budget year. TEX. GOV'T CODE, §52.051(c).

Sept. 1-3. 2010 TAC Annual Conference, Tools for Tough Times, Renaissance Austin Hotel, Austin.

Before Sept. 15. Final budget of appraisal district due to commissioners court from chief appraiser. TEX. TAX CODE, §6.06(b).

Before Sept. 30. Or the 60th day after the certified appraisal roll is received, whichever is later, is the deadline for adoption of the tax rate by commissioners court. TEX. TAX CODE, §26.05(a). The vote on the order setting the tax rate (levy) must be separate from the vote adopting the budget. TEX. TAX CODE, §26.05(b). The tax rate adopted (levied) may not exceed last year's levy unless the commissioners court has held two public hearings on the proposed tax rate and otherwise complied with TEX. TAX CODE, §26.06 and §26.065, if applicable. TEX. TAX CODE, §26.05(d).

Before Oct. 1. Deadline for setting fees of the sheriff and constable to be effective January 1. TEX. LOC. GOV'T CODE, §118.131(d).

October Fiscal Year Counties Order designating day of week on which court will convene in a regular term. TEX. LOC. GOV'T CODE, §81.005(a).

TAC to Offer Emergency Management Workshops

By Bruce Barr,
TAC Legislative Staff



The Texas Association of Counties will offer two emergency management related workshops before this

year's TAC Annual Conference. The morning conference will introduce attendees to two state web-based mapping systems and supporting federal data layers.

The Texas Department of Emergency Management (TDEM) developed and set up an information sharing system known as TxMAP to facilitate rapid dissemination of large volumes of information using a web-based, geospatial reporting process. TxMAP facilitates common awareness and understanding of evolving situations and provides the capability for multiple agencies to rapidly collaborate, coordinate and take decisive action.

Workshops

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conduct hearings to resolve disputes involving unfair labor practices, and supervise and conduct elections.

The National Association of Counties (NACo), the National League of Cities, and the National Sheriffs' Association, among other organizations, are opposed to the legislation.

For county officials with concerns about this measure, contact information for Senator Kay Bailey Hutchison and

Senator John Cornyn is listed below:

Senator Kay Bailey Hutchison

284 Russell Senate Office Building
Washington, DC 20510
(202) 224.5922

Website Contact Form:

<http://hutchison.senate.gov/contact.cfm>

Senator John Cornyn

517 Hart Senate Office Building

Washington, DC 20510

(202) 224.2934

Website Contact Form:

<http://cornyn.senate.gov/public/index.cfm?p=ContactForm>

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

Transparency: An Ongoing Issue for Counties



By Aurora Flores-Ortiz,
TAC Legislative Staff

Transparency fast became a buzz word during the 81st Legislative Session and continues to gain momentum during the interim as committees hold public hearings on the subject.

During 2009, Rep. Ken Paxton (R-McKinney) filed HB 2743, which mandated that counties with a population of 250,000 or more maintain the transaction register for the county's checking account in a readily available, searchable electronic spreadsheet format, such as a PDF or similar file type.

The legislation did not become law, but as a result of this bill and those like it, the issue has been brought to the public's attention.

Last month, Texas Association of Counties Assistant Executive Director Rex Hall spoke during a panel discussion on Local Government Transparency hosted by the Texas Public Policy Foundation.

"Counties understand and embrace open government," Hall said.

However, counties are now faced with the challenge of how to make that transparency obvious and available to the public online. Counties are working to provide expenditure information, but face financial and technological challenges.

Hall explained that several factors

drive the cost of online transparency for counties. For example, some counties don't have the software necessary for searchable formats, or personnel in the appropriate office to post complex information online. Questions also revolve around implementation: should an office scan the county's check register or should the financial information be made available in raw, searchable data form? The latter process requires redaction and raises possible privacy issues.

"Redacting confidential information prior to posting, which is required by law, also results in additional costs," Hall said.

Hall was joined in the panel discussion by Paxton and Bennett Sandlin, general counsel for the Texas Municipal League.

Paxton's comments reflected a commitment to expand traditional notions of open government. The representative expressed the idea that government should use the capability afforded by modern technology to make more information readily available to citizens.

Sandlin reported that an increasing number of city officials are taking steps to make more financial information available online. He attributed some of that progress to the Texas Comptroller's Leadership Circle program, which encourages and acknowledges progress toward the goal of fiscal transparency. Local officials prefer this approach rather than the imposition of any additional costly legal requirements.

TAC, CPA to Offer Round Table Transparency Discussion

Currently, transparency incentives are voluntary and the Comptroller of Public Accounts' office offers online recognition to local government for meeting certain standards of online transparency. During TAC's Annual Conference, Sept. 1-3, 2010, the topic of online transparency will be discussed during a round table session lead by Victor Gonzalez, chief technology officer for the Office of Comptroller of Public Accounts (CPA).

Gonzalez testified at interim hearings explaining the CPA's transparency initiative and the timeline of its efforts, which have resulted in annual recurring savings and increased efficiency for that agency. Round table participants will discuss the financial and technological challenges of placing county financial information online and other aspects of digital transparency. Much work remains to be done, but having open dialogue now about how to move toward cost-effective online transparency will be key to finding solutions prior to the 82nd Legislative Session.

Also joining the digital transparency discussion will be Brazos County District Clerk Marc Hamlin. Hamlin will discuss how local government offices are making information accessible to their citizens online.

For additional information on this article, please contact TAC Legislative Staffer Aurora Flores Ortiz at (800) 456-5974 or aurorafo@county.org. ★



At a Glance: 911 Services Fees



By Paul Emerson,
TAC State Financial Analyst

Just recently, the TAC County Information Project (CIP) was asked to prepare a synopsis about the Commission on State

Emergency Communications (CSEC), particularly 911 Emergency Services Fees (911 ESF) and the amount of money being generated and made available to CSEC.¹ Monies from 911 ESF are generated through a \$0.50 fee levied on land line and wireless phones. In addition, 2 percent of retail sales on prepaid wireless services are also a part of the 911 ESF collections, which started June 1, 2010.

This article will narrow the study focus and examine the available cash balances in fund 5050 reported in the Comptroller's annual cash reports. This particular fund is primarily made up of two revenue codes: 3647 (911 ESF) and 3851 (interest earned on state deposits). These revenue codes are reflected in the total revenue column below for each year. As of the new fiscal year beginning Sept. 1, 2009, the 911 ESF total collections were \$58.1 million, which also includes \$2.6 million in earned interest.

The chart below reveals several key points about this particular general dedicated fund. Total revenue has increased by 34.4 percent from FY2003 to FY2009, while expenditures have

increased considerably — 73.9 percent during the same time period. If this trend continues, expenditures will soon outpace revenues in the very near future. This is partially due to an unusual increase of \$11 million that occurred in FY2009 compared to expenditure amounts for previous years. However, 911 ESF has a healthy cash balance on hand — it has increased by 97.5 percent from FY2003 to FY2009. Most interestingly, FY2003 expenditures were equal to 73.5 percent of total revenue and by 2009, expenditures had grown to 95.1 percent of total revenue.

CSEC oversees the 911 service program, but how much funding is allocated to the program is determined by how much the Legislature appropriates to CSEC. It appears from the cash report a significant amount of funds are expended through intergovernmental payments — likely to the 24 Regional Planning Commissions (RPC).

CIP has requested additional information from the Comptroller's office via open record requests which had not been made available at the time of this report. Another update will be provided once CIP receives the information.

For more information on this article, please contact Paul Emerson, TAC state financial analyst, at (800) 456-5974 or paule@county.org. ★

¹ <http://www.county.org/resources/news/dynContView.asp?cid=481>. Included on this website is a briefing paper on "next generation" 911 systems by the National Conference of State Legislatures.

GENERAL REVENUE ACCOUNT: 911 SERVICE FEES — (Fund Account — 5050)

Fiscal Years	Total Revenue	Expenditures	Net Cash Balances (End of the FY)
2003	\$43,254,725	\$31,722,875	\$60,939,978
2004	\$49,116,151	\$38,884,446	\$71,171,683
2005	\$48,752,874	\$37,942,417	\$81,982,140
2006	\$52,658,654	\$42,777,833	\$91,862,962
2007	\$56,463,897	\$44,587,258	\$103,739,601
2008	\$58,053,884	\$44,296,617	\$117,496,869
2009	\$58,123,215	\$55,254,895	\$120,365,189

Source: Texas Comptroller of Public Accounts - Annual Cash Reports

Healthcare.gov Improves Online Access to Health Care



By Rick Thompson,
TAC Legislative Staff

The U.S. Department of Health & Human Services (HHS)

Secretary Kathleen Sebelius recently announced a new website, HealthCare.gov, which will help consumers access information about health care coverage.

"HealthCare.gov is the first website to provide consumers with both public and private health coverage options tailored specifically for their needs in a single, easy-to-use tool," Sebelius said.

This new website helps consumers access numerous variations of health care coverage, including Medicaid, Children's Health Insurance Program, operational high risk pool programs and coverage from more than 1,000 private carriers and more than 5,000 insurance plans.

Under the recently passed Patient Protection and Affordable Care Act, HHS was tasked with creating a new website designed to assist consumers — including uninsured consumers — to find and purchase insurance. This site is a "one-stop, easy-to-use resource where American consumers can see all their health care options in one place."

Healthcare.gov

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Resources, Naturally

Edmund Burke, the Little Platoons, the Red Tories and Texas Counties



By Paul J. Sugg,
TAC Legislative Staff

Edmund Burke was born in Dublin in 1729, educated at that city's venerable Trinity College and entered Parliament as a member of the House of Commons in 1765. A statesman, author, and political theorist and philosopher, he was described by Edward Gibbon (author of *The History of the Decline and Fall of the Roman Empire*) as "the most eloquent and rational madman that I ever knew."

In 1774, he strongly criticized the tax on tea, which had led to the Boston Tea Party, offering a motion to repeal the tax. During the American Revolution, he led much of the Whig criticism of the Tories' conduct during the war. Burke decried not only their ineptitude and corruption but also the authoritarianism used to wage a war against Englishmen in America fighting for liberation from tyranny.

Although a strong advocate for liberty and a supporter of the American revolutionaries, he was no radical and was appalled by the dramatic and destructive changes the French revolutionaries wrought beginning in 1789 and was equally appalled by the authoritarianism which characterized the worst aspects of that revolution. In a letter he wrote in 1790 (which came to be known as *Reflections on the Revolution in France*), Burke cautioned against dramatic changes based on abstract ideas like liberty and the rights of man to existing structures, pointing to the complexity and the organic character of both human nature and human society and the damage caused by radical change. He supported more gradual change,

with an emphasis on placing liberties within an existing constitutional framework and maintaining traditional relationships. Traditional relationships, in turn, were those formed with our most immediate neighbors, and these served as the bedrock and building blocks of society and its political and economic systems: *"To be attached to the subdivision, to love the little platoon we belong to in society, is the first principle (the germ as it were) of public*

is an effort to decentralize political decision-making: the Conservative Party's manifesto speaks of moving power from a centralized government to local communities, to push that power to the most appropriate local level: neighborhood, community and local government. Political theorists such as Phillip Blond talk about striking a balance between unfettered free-enterprise individualism (with its atomizing effect on traditional social structures) and the more traditional values of community, that is, Burke's little platoons. Blond argues the emphasis on individual liberty (necessary to counter absolute monarchy and other forms of authoritarianism) and individual autonomy requires the repudiation of society, damaging or destroying those civic, religious, political or social structures in the middle, so fundamental to the Burkean ideal. This idea is often called Red Toryism, an effort to overcome "a bureaucratic, centralized state that presides dysfunctionally over an increasingly fragmented, disempowered and isolated citizenry" and replace it with a "new localism."¹

Texas county governments are essential, elemental building blocks of representative self-government and are anchors of community. This government "closest to the people" has long served as that first link that binds us all together in our local, state and national communities. In an increasingly mobile and fractured world, may we all be reminded of this important "little platoon"—local representative self-government. ★



affections. It is the first link in the series by which we proceed toward a love of our country, and to mankind."

Many of the era's more progressive thinkers and politicians excoriated him for his opposition to the ideas underlying the French Revolution and he and his kind soon became Old Whigs, displaced by the New Whigs, who were supporters of these new ideas and became the new leaders.

After many years in the political wilderness, in 2010 the British Conservative party finds itself back in power, with its leader, David Cameron, serving as prime minister in a coalition government formed with the Liberal Democrats. Part of this Tory resurgence

¹ Phillip Blond, "The Rise of the Red Tories", Prospect, February 28, 2009.

Mental Health Updates: Budget Woes and Medical Clearance



By Lori Nicholes,
TAC Legislative Staff

The state's budget hurdle has been raised and, once again, mental health funding is at issue because it is one of the largest budget items in the Department of State Health Services' (DSHS) budget. The Legislative Budget Board (LBB) and the Governor's Office of Budget, Planning and Policy have directed each state agency to submit proposals detailing how they would reduce their general revenue by an additional 10 percent for the 2012-2013 biennium (in two 5 percent increments).

The DSHS presented its options for 10 percent reductions and included in those reductions are:

- \$80 million from Community Mental Health Services (\$33M and \$47M)
- \$10 million from MH Crisis Services and Transitional Services (\$5M and \$5M)
- \$4 million from Substance Abuse

Intervention (\$4M and \$0)

- \$44 million from State Mental Health Hospital Services (\$30M and \$14M)

With \$138 million in proposed cuts to the public mental health system, DSHS has estimated that more than 20,000 people — 11,000 adults, 2,600 children and 6,500 persons in need of crisis services — would be cut from the service system. The \$44 million reduction to state hospitals would result in 1,128 fewer patients being seen.

In testimony provided to DSHS at a July 6 hearing, Joe Lovelace, associate director for Behavioral Health at the Texas Council of Community MHMR Centers, cited statistics from a 2010 Texas A&M University report on the Evaluation of Crisis Services Redesign (CSR).

"According to the TAMU Evaluation, the percentage of crises involving hospitalization has fallen from 17 to 11 percent. More people than ever before are receiving intervention locally and at a lower cost per crisis episode than before CSR," he said. "In the last two legislative

sessions, smart investments were made in the mental health system... and the investments are demonstrating reduced reliance on more expensive systems such as state hospitals, emergency rooms and local law enforcement. We know it is a fact that cuts to our system of care will cost tax payers in other more expensive areas of government."

Each of the 39 local MHMR centers has undertaken a grassroots effort to gather support from local county officials. County officials should expect a representative of the local MHMR center to ask the commissioners court to adopt a resolution recognizing the value of MHMR centers and asking the Legislature to continue existing funding.

AG rules on medical transport clearance

On Dec. 28, 2009, Attorney General Gregg Abbott released Opinion No. GA-0753 regarding whether a peace officer who has taken a person into custody is required to transport that person to a

Mental Health

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Workshops *continued from page 2*

TxMAP is an excellent tool for linking state and local governments in a spatial platform standardized at both ends. The Texas Natural Resources Information System's Geospatial Emergency Management Support System (GEMSS) was developed with the primary goal of establishing a geospatial data repository for emergency management in the state of Texas. The clearinghouse's principal ongoing activity is to acquire, organize, integrate, and disseminate geospatial data and resources to support mitigation, response, and recovery activities in the state and along its borders. While GEMSS is an emergency data repository, it is also a vibrant map delivery platform and houses the state's

ongoing floodplain mapping program layer in an interactive format.

Presenters will also cover the Homeland Security and USGS geographic data sets. Workshop attendants do not need to be GIS professionals to understand the programs offered.

The afternoon workshop gives elected officials a basic class on the National Flood Insurance Program (NFIP) floodplain management roles and rules for Texas county government and a look at the codes, statutes and rules associated with burn ban determinations. This workshop also takes a look at the various fire predictive tools available to counties.

During the floodplain management

session, state NFIP staff will discuss the minimum standards required by FEMA in county ordinance development and enforcement. The fire management session includes a presentation by county legal staff on the numerous legal components to burn bans and a class by Texas Forest Service staff on the tools and models used in fire risk determinations.

These workshops are scheduled for Tuesday, Aug. 31, 2010, the day preceding the TAC Annual Conference, and are open to all county elected officials and staff. To register for a workshop, please contact TAC Legislative Staffer Bruce Barr at (800) 456-5974 or bruceb@county.org. ★

Fill it Out: Motor Vehicle Registration Survey

Survey seeks to provide cost analysis to Legislature



By Tim Brown,
CIP Senior Analyst

Does revenue received from motor vehicle registrations cover the counties' costs for providing those registrations? To answer that question, the Texas Association of Counties and the Tax Assessor-Collectors Association of Texas are collecting information on the costs of county motor vehicle registration operations.

On July, 6, 2010, county tax assessor-collectors received a message informing them of an online survey collecting data about those costs. The message also provided a link to the survey form. Any tax assessor-collector who did not receive a message can contact Tim Brown at TAC for a new link to the online survey form. If you prefer, a copy of the survey form can be provided in PDF format, which can be printed, completed and then returned to TAC.

While the overall survey is fairly short, some of the questions are not easy to answer. In part, the difficulty lies in that the state report on motor



vehicle registration revenues provides data for the calendar year, while counties more commonly use Oct. 1 to Sept. 30 for their fiscal years. Another issue is that tax assessor-collectors perform many different duties, meaning respondents must determine which part of their overall costs are associated with motor vehicle registration.

Once we have the cost data from the survey, we will then compare those costs with the revenue reported by the state.

Preliminary results from the survey — those received by 5 p.m., July 15 — will be shared with certain members of

the Legislature. As of July 15, the preliminary report will use data from 42 counties.

A final report incorporating all responses received by July 30, 2010, is also planned. It, too, will be shared with the Legislature. TAC hopes the extra time will allow more counties to participate in the survey and provide a more detailed picture on motor vehicle registration costs.

If you have any questions about the Motor Vehicle Registration Operations Survey, please contact Tim Brown at timb@county.org or (800) 456-5974. ★

Healthcare.gov *continued from page 4*

The site provides many opportunities to find out information on topics including health system reform law, information about public programs, private insurance plans, coverage options for small businesses, lists of local individual health coverage plans, benefit

information, price estimates and performance data, grant opportunities and funding.

As the Patient Protection and Affordable Care Act is rolled out during the years ahead, this website can be used monitor the many changes to come in health care. If you are

interested in receiving email updates from HHS, visit to HealthCare.gov homepage and click on "Email Updates" in the right hand corner.

For additional information on this article, please contact TAC Legislative Staffer Rick Thompson at (800) 456-5974 or rickt@county.org. ★

TOOLS FOR TOUGH TIMES

Counties Sharing Solutions

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

Current economic conditions present Texas counties with unique challenges. The 2010 Texas Association of Counties Annual Conference & Expo 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 is \$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 Renaissance Hotel is full, and overflow hotels are now available. TAC has negotiated group rates at two overflow hotels approximately 1.5 miles from the Renaissance Hotel. Call the hotels directly and ask for

the "Texas Association of Counties" group rate. Both hotels offer a complimentary shuttle to and from the Renaissance Hotel until 6 p.m. upon request.

Hampton Inn Austin NW/Arboretum
3908 W. Braker Ln., Austin, TX 78759
(512) 349-9898
Single/Double Rate: \$99/night
Parking: complimentary

Homewood Suites Austin NW
10925 Stonelake Blvd., Austin, TX 78759
(512) 349-9966
Single/Double Rate: \$115/night
Parking: complimentary

Parking Rates at the Renaissance Hotel

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

Continuing Education

We are applying for credit for the following: 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.

WWW.COUNTY.ORG

Expo

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

Special Activities

2010 TAC Annual Conference & Expo Golf Tournament

Tee time is 1 pm on Tuesday, Aug. 31, at River Place Country Club. Registration is \$50 and includes a golf cart and range balls. Tournament fees need to be paid prior to Aug 31. Register online at www.county.org. Please indicate your playing partner and your handicap.

Opening night Casino & Dance

Entertainment provided by local Austin band, HEYBALE!

Speakers

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.

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.

Roundtable Topics & Discussions

Breakout sessions on Thursday, Sept 2 will feature roundtable topics on current issues pertinent to your office and your county. Spend the afternoon sharing ideas and developing solutions with other county officials and staff in this unique classroom environment. The four round table discussions are from 1-2:15p.m., and repeat at 2:45-4p.m.

Planning for Health Care in Texas

How will the federal health care reform bill or the anticipated state budget shortfall impact county indigent health care programs, public hospitals, hospital districts or health care insurance for county employees? As counties budget for 2011 and beyond, these questions remain unanswered. This session includes a panel of health care experts discussing how these changes could affect Texas counties.

Transparency

An increasingly prominent topic at all levels of government, transparency is being studied by several legislative interim committees. Participants will discuss the benefits and challenges of placing county financial information online and other aspects of digital transparency.

Criminal Justice

A county's role in the criminal justice system is very complex with responsibilities ranging from arrests to court appearances to prison transportation. This session lets participants talk to experts on indigent defense, community diversion programs and jail population management and share their successful practices.

Growth Management within County Government

Population growth stresses county infrastructure that counties build and maintain. Without proper planning, growth can cause many problems, like the need for additional personnel and facility capacity. Come talk to county officials who have experienced these challenges and the solutions they've found.

Conversation with Former State Representative Fred Hill

Join an informal discussion with an expert on legislation. Fred Hill served as chairman of the House Local Government Ways and Means Committee and is a strong supporter of local government. Hill discusses "big picture" issues in the upcoming 82nd Legislature including the effective tax rate calculation, the \$18 billion state budget gap, the likelihood of the state passing the buck to local governments via unfunded mandates, redistricting, proposals to lower local revenue and appraisal caps and tax base problems caused by a 2007 law changing oil and gas valuations.

Federal Firearm Reporting Causes Challenges for Clerks

OCA Publishes Support Publications for Compliance



By Nanette Forbes
TAC Legislative Staff

The 81st Legislature passed HB 3352 to bring Texas in closer compliance with the National Instant Criminal Background Check System Improvement Amendments Act of 2007 (NICS). The NICS was created under the Brady Handgun Violence Prevention Act of 1993 to provide federal firearms license issuers immediate information on persons who may be disqualified from purchasing firearms.

The law has a significant impact on county and district clerks, who must report information on the following types of cases by September 2010:

- Commitments for temporary or extended inpatient mental health services;
- Acquittals in criminal cases for reasons of insanity or lack of mental responsibility, whether or not the person was ordered to receive inpatient treatment or residential care under Chapter 46C, Code of Criminal Procedure;

For More Information

The Q&A publication can be read in its entirety at
www.county.org/resources/legis/informz/pdf/HB3352ReportingRequirementsQA.pdf.

For a sample administrative order in PDF format, visit
www.county.org/resources/legis/informz/pdf/HB3352AdminOrder.pdf.

To fill out the OCA clerk survey, visit
www.county.org/resources/legis/informz/pdf/ReportingMentalHealthCasesRequiredbyHB3352.pdf.

- Commitments of a person determined to have mental retardation for long-term placement in a residential care facility under Chapter 593, Health and Safety Code;
- Adult guardianships; and,
- Cases in which a person is found to be incompetent to stand trial under Chapter 46B, Code of Criminal Procedure.

The most challenging aspect of the new law is the required reporting of orders issued by the court for the preceding 20 years. Each clerk of the court must prepare and forward the required information in electronic format to the Texas Department of Public Safety's (DPS) Criminal Justice Information System website. For current court orders, court clerks are required to

submit the information to DPS no later than the 30th day after the date of each new applicable court order.

DPS then forwards the data to the Federal Bureau of Investigation who inputs the information into the NICS database system. DPS also sends any corrected or updated information received from the courts to the FBI.

The Office of Court Administration (OCA) has prepared a publication titled "Frequently Asked Questions: Reporting Mental Health Cases Required by HB 3352 (Q&A)" to assist clerks by providing answers to general questions and background on the necessary reporting. In addition, OCA developed a survey, "Reporting Mental Health Cases Required by HB 3352," to collect information to provide "policy makers with concrete information about the extent to which the requirements of the bill will be successfully implemented by Sept. 1 and about the difficulties that clerks may be facing in trying to report the required information."

In compiling case information for older cases, many clerks have encountered difficulties with information on mental health cases due to confidentiality requirements. The Department of State Health Services (DSHS) may have the

Firearms

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Attorney General Opinions Issued

GA-0782: Honorable Todd Hunter, Chair, Committee on Judiciary & Civil Jurisprudence, Texas House of Representatives, whether section 271.118 of the Local Government Code prohibits a company from being selected as a construction manager-at-risk for a municipal project if a related company has been selected as the project manager and design engineer.

Summary Neither subsection 271.118(c) nor subsection 271.118(d) of the Local Government Code prohibits selection of a company as a construction manager-at-risk for a city project if a related company has been selected pursuant to a separate procurement process as the design engineer for the project.

GA-0783: Honorable Hope Andrade, Secretary of State, whether a deposit is required for certain local option liquor elections. **Summary** The county in which a local option election is held is required to pay the expense of the first election during a one-year period to legalize the sale of alcoholic beverages and the first election in a one-year period to prohibit the sale of alcoholic beverages in a municipality

wholly within the county, but it may require reimbursement in whole or part from the municipality for the election expenses. In these circumstances, where the county is required to pay the expense of a local option election in a municipality wholly within the county subject to reimbursement, the county clerk is not required to collect a deposit from the persons applying for a petition to call the local option election.

GA-0784: Honorable Bill Moore, Johnson County Attorney, whether a sheriff has a conflict of interest under Local Government Code chapter 171 concerning certain bail-bond duties of the sheriff, when the Sheriff's stepson and his stepson's wife are employed as agents of a bail bond surety. **Summary** The conflict of interest provisions of section 171.004 of the Local Government Code do not apply to a sheriff's performance of bail bond and forfeiture duties under sections 1704.201 and 1704.2535 of the Texas Occupations Code and articles 17.16 and 22.13 of the Texas Code of Criminal Procedure when the sheriff's stepson or stepson's wife are agents of a bail bond surety. ■

Attorney General Opinions Requested

RQ-0894-GA: Honorable Don Allee, Kendall County Attorney, regarding Texas State Comptroller's assessment of internet access service sales and use tax.

RQ-0895-GA: Honorable Richard J. Miller, Bell County Attorney, whether a local governmental body subject to the Public Funds Investment Act, chapter 2256, Government Code, may invest in money market accounts.

RQ-0897-GA: Honorable Robert F. Deuell, M.D., Texas State Senate, taxable status of real property owned by the City of Greenville and leased to private company.

RQ-0898-GA: Honorable Senfronia Thompson, Chair, Local & Consent Calendars, Texas House of Representatives, whether certain business practices, which may be used by charities that conduct bingo to maximize their net proceeds, comply with Chapter 2001, Occupations Code, and other applicable law. ■

Firearms *continued from page 10*

information needed to assist in reporting.

"The department maintains a data base of information on individuals committed to the state hospitals and is willing to provide information for your county for the time period mandated by the bill," according to the OCA. "A judge responsible for commitments in your county (whether it is the county judge, statutory county judge, statutory probate judge or a district judge) must issue an order requesting the information from DSHS. To make this process as simple as possible, the judge only needs to issue an order requesting

the information specified in 'Appendix A' and attach 'Appendix A' to the order."

Appendix A is located in the OCA publication Q&A.

In 2009 and 2010, federal grant funds have been made available to assist states in providing the required information to the NICS, and "prescribes grant penalties for non-compliance with the Act's record completeness goals." In order to apply for grant funds, a state must satisfy substantial reporting compliance in advance of receiving funds. State grants "shall be used by the states ... in conjunction with

units of local government and state and local courts, to establish or upgrade information and identification technologies for firearms eligibility determinations."

It is important for counties to submit the required information by the Sept. 1 deadline to show substantial compliance with the NICS reporting requirements. This will give the state the opportunity to apply for federal grant funds in 2011.

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



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From the Legislative Desk

By Carey "Buck" Boethel, Director of Governmental Relations

A Note on Local Mental Health Authorities

The 80th Legislature appropriated \$82 million to the Department of State Health Services (DSHS) for the Fiscal Year 2008-09 biennium to redesign the community mental health crisis system. The purpose was to improve responses to behavioral health crises. To verify the effectiveness of funding and the impact on crisis services, the Legislature also required



a two year evaluation report by Texas A&M University.

One of the 10 recommendations contained in the report provided the

following: "Direct and measurable cost savings associated with crisis redesign more than cover the cost of the program, even while supporting a 24 percent increase in crisis episodes from 2007 to 2008."

See Laura Nicholes' article herein for details on the Department of State's Health Services recommended funding cuts for the next biennium. ★

Mental Health *continued from page 6*

medical facility for evaluation prior to taking that person to a mental health facility (RQ-0809-GA).

The summary of the response from the AG states "An inpatient mental health facility or a mental health facility is not statutorily authorized to require a peace officer to transport a person in custody under chapter 573, Health and Safety Code, to a medical facility for a medical evaluation prior to taking that person to the mental facility."

In an effort to alleviate medical clearance issues around the state, a Medical Clearance Workgroup was formed by mental health stakeholders, such as community MHMR centers,

county and city law enforcement, state mental hospitals and local medical hospitals.

"We give great regard to the enormous public safety responsibility law enforcement has in our community," Lovelace said. "To address this issue, the Texas Council is working with a broad group of statewide stakeholders to improve local practices and alleviate the time required for medical clearance wherever possible, which will complement the investments made by the Legislature to improve crisis services in communities across our state."

A suggested guideline for medical clearance issues has been approved by

mental health stakeholders represented on the workgroup; training on the use of the new Psychiatric Emergency Flowchart as a reference tool will soon be made available to law enforcement officers, medical hospitals, mental health agencies and facilities charged with transporting, evaluating and serving persons experiencing mental health issues.

The 2010 TAMU Evaluation of Crisis Services Redesign is available online at www.dshs.state.tx.us/mhsacsr. For additional information on this article, please contact TAC Legislative Staffer Laura Nicholes at (800) 456-5974 or lauran@county.org. ★