

County*i*ssues

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82nd Legislature Set To Convene

TAC legislative staff identifies key county-related bills

TAC Staff Reports

The 82nd Legislative Session will soon be upon us and, as in every session, we must review all the bills filed, sort the wheat from the chaff, the good from the bad, and determine if the indifferent will remain that way or will they become something dangerous or damaging.

Included below is a selection of pre-filed bills from categories of importance to counties, including but not limited to transportation, health care, indigent defense, elections, unfunded mandates and law enforcement.

County Development Authority

HB 214 by Gallego: relating to a fee for an application filed with a county commissioners court to revise a subdivision plat. Current law allows a county operating under Subchapter A of Chapter 232 of the Local Government Code to charge an application fee to cover the cost of the county's review of a subdivision plat and the inspection of street, road, and drainage improvements described by the plat; this bill would allow a commissioners court in a Subchapter B county ("Subdivision Platting Requirements in County Near International Border") to impose a fee for filing an application to revise a plat. The amount of the fee would have to be based on the cost of

processing the application, including publishing the notices required.

HB 317 by Cook: relating to the authority of a county to regulate land use after a local option election. This would create a new Subchapter F in Chapter 232 of the Local Government Code, giving a commissioners court the authority to order and hold an election in the county on the question of granting the commissioners court the authority to regulate land use in the unincorporated area, specifically, requiring a buffer zone between unlike land uses.

SB 136 by Wentworth: relating to granting counties authority to regulate certain land use; providing penalties. Senator Jeff Wentworth, a former county commissioner, has once again

filed a couple of county development authority bills. This particular version makes a range of changes to the general authority provided counties in Subchapter A of Chapter 232 of the Local Government Code, including expanding the bond requirements to cover, if applicable, water supply and sewage collection and treatment systems, clarifying the section related to plat revision and amendment, and increasing the fire suppression system requirements.

SB 137 by Wentworth: relating to the authority of a county to regulate land development after a local option election. Like previous versions Wentworth has filed, this one creates a new Subchapter F in Chapter 232, Local

Key County Bills

continued on page 2

IN THIS ISSUE

Changes Coming

County Issues moves to electronic format. See page 3.

Fiscal Impact

TAC, LBB requests input on pre-filed bills. See page 4.

End of an Era

Legislative Director Carey Boethel retires. See back page.

Key County Bills

continued from page 1

Government Code, allowing a commissioners court to order and hold an election on the question of granting the commissioners court additional authority to regulate land development in the unincorporated area of the county. This additional authority would include requiring buffer zones between unlike land use and requiring the developer pay for the offsite road improvements attributable to the development.

SB 148 by West: relating to a limitation on the use of the power of eminent domain by certain water districts. As promised by the caption, this would restrict the use of the power of eminent domain by certain water districts (water control and improvement districts, freshwater supply districts, and municipal utility districts) to the confines of their district boundaries.

Elections

Bills filed requiring voters to present proof of identification: **HB 16 by Riddle, HB 112 by Harless, HB 178 by Fraser, HB 186 by Perry, HB 248 by Chisum, and HB 410 by Todd Smith.**

HB 318 by Alonzo: moves the general primary election date from the first Tuesday in March to the first Tuesday in February.

HB 139 by Wentworth: eliminates straight party voting.

SB 211 by Ellis: relates to the registration of voters at a polling place during early voting.

SB 213 by Ellis: allows a voter who has not registered to vote to submit a voter registration application at the polling place and be accepted to vote. Two voter registrars must be present at each polling place while the polls are open.

SB 214 by Ellis: relating to early voting by any qualified voter. Any qualified voter is eligible for early voting by mail or personal appearance.

KEY COUNTY DATES

December 2010

Before Dec. 31. Results of appraisal district election due to commissioners court from chief appraiser. TEX. TAX CODE, §6.03(k).

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

January 2011

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

January. District and county attorneys must notify attorney general of their post office addresses as soon as practicable after their election. TEX. GOV'T CODE, §41.002.

January. Commissioners court may appoint at least seven residents to the county historical commission during January of odd-numbered years. TEX. LOC. GOV'T CODE, §§318.002 and 318.003.

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

Jan. 3. Deadline for voter registrar to file annual registration report with secretary of state of number of persons whose registrations in the county and the county election precincts will be effective on Jan. 1. TEX. ELEC. CODE, §18.041(d). Deadline extended.

Jan. 11. 82nd Legislature convenes at noon. TEX. GOV'T CODE, §301.001

Jan. 18, 5 p.m. Deadline for semi-annual report of political contributions and expenditures by candidates and certain officeholders. TEX. ELEC. CODE, §§254.063(c), 254.093(c) and 254.095. If delivered by mail or carrier, cancellation or receipt mark before the deadline is proof of timeliness of filing. Deadline extended.

Jan. 24-28. Judicial Orientation for New County Judges. Overton Hotel & Conference Center, Lubbock, TX. (806) 776-7000.

Jan. 25-27. 9th Annual Courts and Local Government Conference. Embassy Suites Hotel and Conference Center, San Marcos. (512) 392-6450.

Jan. 30. Deadline for Road and Bridge expenditure report due to state comptroller. TEX. TRANS. CODE, §256.009.

Border Security

H B 48 by Pena: relating to authorizing the Department of Public Safety of the State of Texas to investigate the feasibility of and cooperate in the establishment of southbound checkpoints along the international border of this state. This bill originated after interim hearings on emergency preparedness were held around the state. House Bill 48 would allow DPS to set up southbound inspection stations within a certain parameter of the Texas-

Mexico border in order to look for illegal weapons and drug money.

Immigration

Illegal immigration is a politically divisive topic and one receiving much attention as pre-filing of bills for the 82nd Texas legislative session is underway. So far, the majority of immigration bills filed address law enforcement related duties, access to state benefits, and worker verification initiatives rather than border security.

Key County Bills

continued on page 5

Changes Are Coming to *County Issues* Newsletter in 2011

Electronic newsletter will be more timely during legislative time crunch



By Elna Christopher,
Director of Media Relations

Soon after the 82nd Session of the Texas Legislature opens in January, TAC's *County Issues* legislative newsletter will move from a snail-mailed paper copy to an emailed electronic version.

Several important reasons necessitated this change: saving money with less cost for printing and mailing, conserving the environment with less use of paper and — perhaps most important to you, our members — getting the newsletter to you in a timelier fashion.

The new electronic *County Issues* will catch you up on bills pertinent to your specific county official association and bills relevant to all county officials. We will give you highlights of actions during the past week and what is forthcoming the next week (as far as we know it, since legislative committees are well-known for setting hearings at the last minute).

We want you all to know, however, that we understand there are those

among you who still want to receive a printed copy of *County Issues*. In that case, please contact Joe Bredehoeft at (800) 456-5974.

You may receive a faxed copy by requesting it and giving your fax number. There is one catch you might consider

Legislature Online.

Another option to obtain a paper copy is to print it from the TAC website. The trail taking you there is the Homepage, Online Resources drop-down box, Legislative, Legislative Publications.

You may then download the current issue and/or print it from your computer.

There will be more details about the new electronic *County Issues* upcoming in January.

As a reminder, along with the *County Issues* newsletter, TAC also will contact you via e-mail with Legislative Alerts when action is needed on bills — such as contacting your lawmakers or certain committee members — or when committee hearings on county-related bills are set, often with only a day to spare. The heading on alerts will say "Legislative Alert," and these messages most often have a short

timeframe for action. Likewise, we will send alerts when special guests plan to attend TAC events, such as the Tuesday morning breakfasts. ★

County issues

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Juvenile justice technology to save counties money



By Laura Nicholes,
TAC Legislative Staff

A new comprehensive, web-based case management system designed for use in juvenile probation departments across the state will enable counties to coordinate their records and save money through software cost sharing.

The Juvenile Case Management System (JCMS) allows juvenile probation departments access to real time data, records, assessments and other reporting and case management tools between counties and, eventually, across agencies serving juvenile offenders. JCMS will be an effective and affordable replacement for the 20-year-old Caseworker System currently being used by the state and juvenile probation departments.

How will this new juvenile justice reporting and case management system improve information sharing and save counties money? For starters, JCMS Basic is an upgraded reporting system that meets all state standards and requirements. It is the work product



funded by three counties — but will be made available to all counties at no cost (thanks to funding from the 81st Legislature). Lisa Capers, Texas Juvenile Probation Commission (TJPC) deputy executive director and general counsel, testified about the software during a Sept. 29 joint hearing of the House Committee on Corrections and the Appropriations Subcommittee on Criminal Justice.

"Juvenile cases move quickly — they move in days or weeks as opposed to months or years in the adult system. In order to make good choices, timely information is needed," Capers said.

JCMS Basic will allow counties to access and share data so each county will know what services, assessments or programs have already been utilized and duplication of services can be avoided. This should allow counties to stretch their financial resources. Additionally, the system will eventually connect not only juvenile probation departments, but also prosecutors, judges, treatment professionals, schools, detention centers, and other agencies such as the Texas Youth

Justice Technology
continued on page 2

IN THIS ISSUE

Going Up
State sales tax collections show slight increase. **See page 4.**

Resources, Naturally
Commitment to transportation is timeless. **See page 5.**

Accessibility Concerns
Local government websites under review. **See page 6.**

TAC, LBB Request Fiscal Impact of Pre-filed Bills



By Tim Brown,
CIP Senior Analyst

As many county officials have no doubt already discovered, work on the 2011 Legislative Session has begun. The Legislative Budget Board (LBB) has contacted many county officials in hopes of finding out what fiscal impact certain pre-filed bills could have on your counties.

Why is LBB working on bills when the session hasn't started yet? The LBB is getting a head start on the fiscal notes it has to prepare for thousands of bills during the session by identifying significant issues and collecting information now.

County officials enjoy a similar benefit. They get the chance to provide their input on bills before their own fiscal note workload gets heavy during the session.

Unfortunately, there is one drawback to working on bills before the session begins. December is already a very busy time for county officials. It includes major holidays celebrated by most Americans who often take time off work to be with their families or to travel. As a result, county offices are often short-handed during this period.

For a variety of reasons, it can be difficult to find county officials who have the time and inclination to respond to requests for fiscal impacts, whether that request comes from the

Pre-Filed Bills

The following includes a list of the bills on our radar as of Dec. 9. The list also includes the TAC point person working with the LBB on each particular bill — Tim Brown or Paul Emerson.

- HB 17 – Immigration (Brown)
- HB 18 – Immigration (Emerson)
- HB 87 – Metal recycling centers (Brown)
- HB 138 – Eminent Domain (Brown)
- HB 183 – Immigration (Emerson)
- HB 186 & HB 248 – Voter ID (Brown)
- HB 204 – Transportation reinvestment zones (Emerson)
- HB 247 – Immigration (Emerson)
- HB 296 – Immigration (Brown)
- HB 302 – Immigration (Emerson)
- SB 136 – County authority (Emerson)
- SB 178 – Voter ID (Brown)
- SB 180 – Eminent Domain (Emerson)

LBB or from the Texas Association of Counties. As of Dec. 9, the LBB contacted TAC for help on 14 bills. In return, TAC's Paul Emerson and Tim Brown have contacted county officials for their fiscal impact estimates.

Generally, we limit the number of officials contacted. This lets us spread the wealth (or pain) around a bit. Since multiple bills will often be filed on each issue, particularly during the pre-filing period, this offers a variety of counties the opportunity to comment on those issues. The corollary is that not every county receives an information

request on bills which may be very important to them.

With that in mind, if there is a bill that has been filed that you want to comment on, don't wait to receive a request from us or from LBB. Send us your estimated impact information as soon as you can — we'll get it to the LBB. Remember if you wait, you might miss your opportunity. Once the fiscal note is written, LBB does not revise it unless the bill is substantially altered, by a committee substitute, for example.

As you can see, several immigration bills have already been filed. Voter ID and eminent domain are two other hot issues for the pre-filing period. Many more bills have been filed on each of these issues, as well as others. These are only the bills for which we are gathering information on the fiscal impact to counties. Of course, at this point it is impossible to say whether any of these will be heard in committee. But each bill addresses a major legislative issue. The LBB and TAC are preparing for the session by collecting data on these bills now. If you have anything to share on these bills, or any other bills, please contact the Texas Association of Counties' Legislative Department.

To provide fiscal impact information, please contact Tim Brown at timb@county.org or call (800) 456-5974. Send information on Paul Emerson's bills to paule@county.org or (800) 456-5974. ★

Keeping a Close Watch on the State Budget



By Paul Emerson,
State Financial Analyst

Significant changes are about to occur this coming legislative session, largely centered on the state's anticipated revenue short fall of \$24 billion. This will be the largest budget short fall in recent memory — not even 2003's budget deficit of \$10 billion comes close. Uncertain about the proposed cuts and changes to the General Appropriations Act (GAA) and the impact they will have on county government, TAC County Information Project (CIP) will provide status updates in County Issues on the state budget and how these changes may impact counties. For starters, below is a high level summary of the GAA process.

The General Appropriations Act, also referred to as the state budget, is considered the only constitutional mandate the Legislature is required to enact every other year. The GAA is numerically assigned as HB 1 or SB 1 each legislative session with the House and Senate taking turns sponsoring the bill. For instance, during the 82nd Legislative Regular Session starting this coming January 2011, the GAA will be sponsored by the House as HB 1, even though both chambers hold separate hearing on their prospective appropriations bill.

Within the first few weeks in January, the Legislative Budget Board will lay out the GAA in both budget committees — House Appropriations and Senate Finance. The introduced version is considered the baseline appropriation or starting point for each budget committee.

State Budget

continued on page 7



Key County Bills

continued from page 2

HB 178 by Jackson and HB 140 by Laubenberg: require governmental entities and contractors to participate in the federal electronic verification of work authorization program, also known as E-Verify.

HB 296 by Berman: relates to the enforcement of immigration laws, to the investigation, prosecution, and punishment of certain criminal offenses concerning illegal immigration, and to certain employment and labor practices and requirements regarding immigration and immigrants; providing civil and criminal penalties.

HB 302 by Berman requires governmental entities to enforce state and federal laws governing immigration, but also allows any citizen residing in a jurisdiction which does not fully enforce the state or federal immigration law to file a petition for a writ of mandamus to compel compliance. The bill also imposes a civil penalty between \$1,000-\$5,000 on an elected official who prohibits the enforcement.

HB 21 by Riddle: relating to reporting by state agencies on the financial effect of providing services to illegal immigrants. This bill requires state agencies that have distributed money to a local government entity to report as part of their legislative appropriations requests the amount spent by that entity on services for persons not lawfully present in the United States. In addition, that state agency may adopt rules requiring those local government entities to provide detailed information to the agency that enables the agency to comply with the bill's requirements. This financial reporting is an unfunded mandate.

Key County Bills

continued on page 6

Key County Bills

continued from page 5

Mental Health

Several bills relating to the transportation of a person with mental illness have been filed.

SB 44 by Zaffirini: establishes that a jail or similar facility used for detaining persons accused or convicted of crimes is not a suitable facility for a person with mental illness unless a suitable facility is not located within 75 miles. In that case, a jail or similar facility may house a person with mental illness no longer than 12 hours and that person must be kept separate from other inmates.

HB 167 by Raymond: authorizes, by order of priority, the transportation of mental health patients by certain persons: 1) a special officer for mental health assignment certified under Occupations Code, Section 1701.404; 2) a facility mental health facility administrator, unless the administrator or staff are unavailable; 3) a representative of a local mental health authority, which will be reimbursed by the county; 4) a relative or other responsible person with a proper interest in the patient; 5) the sheriff or constable.

Criminal Justice

HB 189 by Smith, Todd: relating to the punishment for certain intoxication offenses. The legislation would allow a judge to grant deferred adjudication to a defendant for certain intoxication offenses, including a defendant charged with a driving while intoxicated offense if he or she has not been previously convicted of such an offense (and did not hold a commercial driver's license or permit at the time of the offense). Under the bill, a deferred adjudication sentence for certain intoxication offenses could still be used for the purposes of enhancing penalties for subsequent intoxication offenses.

HB 299 by Berman: relating to the repeal of the driver responsibility program. The legislation would eliminate the Driver Responsibility Program, which presently assesses surcharges for certain moving violations and offenses, including driving while intoxicated convictions.

Ethics

SB 59 by Zaffirini: relating to the provision of assistance by the Texas Ethics Commission in the reporting of political contributions and expenditures made in connection with offices of and measures proposed by local governmental entities. The legislation would authorize the Texas Ethics Commission to allow the use of commission software and resources by a local government entity, a local government officer, a candidate for a local government office, or a specific-purpose committee to file political contribution and expense reports. The bill would also authorize the commission to assist local governments in developing software to facilitate electronic filing of campaign reports and assist in providing public access to these reports on the commission's website.

Fireworks

SB 134 by Wentworth: relating to the regulation of fireworks by counties; providing a criminal penalty. The legislation would authorize a commissioners court to order an election held in any defined unincorporated area of the county on the question of whether to prohibit the sale, possession, and use of fireworks in that area. If a majority of the votes cast at the election approve the proposition, the commissioners court would adopt an order establishing the prohibitions. A violation of a prohibition established by an order is a Class B misdemeanor.

Indigent Defense

SB 170 by Ellis: relating to the reorganization of powers and duties among agencies in this state that provide representation to indigent defendants in criminal cases and to the reorganization of funding sources for indigent defense. The legislation would reorganize the Task Force on Indigent Defense, including a change that would establish it as an independent agency and rename the Task Force as the Texas Indigent Defense Commission, and a change that would expand the governing board to include an additional criminal defense attorney and an additional representative of a public defender's office. The bill would also streamline procedures for establishing a public defender's office and authorize commissioners courts to establish an oversight board for a public defender's office. Additionally, it would prescribe guidelines and procedures for establishing and operating a managed assigned counsel program, among other changes.

Appraisal Caps

HJR 39 by Callegari/SJR 7 by Patrick: Proposing a constitutional amendment to authorize the legislature to set a lower limit on the maximum appraised value of a residence homestead for ad valorem taxation. This would create a 5 percent appraisal cap on residence homesteads.

HJR 16 by Riddle: Proposing a constitutional amendment authorizing the legislature to provide for a local option election in a county to set a limit on the maximum appraised value of a residence homestead for ad valorem tax purposes of less than 110 percent. The commissioners court of a county may call an election in the county to permit the voters of the county to vote whether

Key County Bills

continued on page 9

TCJS Review Stresses the Importance of Communication

Commission requests input from local officials



By Laura Nicholes,
TAC Legislative Staff

The Texas Commission on Jail Standards (TCJS) hosted an Austin workshop in early December to evaluate the necessary processes and procedures for embarking on a full-fledged review of jail statutes and standards. TCJS, by statute, is required to review and re-adopt the standards every four years. Many changes to rules, statutes and standards have occurred during the last 30 years with the last major revisions implemented in 1997.

Burnet County Judge Donna Klaeger called the meeting to order and acknowledged the numerous sheriffs, county judges, county commissioners and jail personnel who were in attendance, as well as representatives from the American Civil Liberties Union (ACLU) and the Texas Jail Project, an inmate rights advocacy group.

The workshop began with a review of the mission statements set forth by the State of Texas and the Texas Commission on Jail Standards, both of which emphasize efficiency, fiscal responsibility, reducing regulatory burdens, promoting innovative programs and ideas, and empowering local governments to provide safe, secure and suitable local jail facilities. TCJS commission members acknowledged the distinction between local governments being required to maintain safe and suitable jails for the safety and security of inmates, employees and citizens, and the sheriffs' authority to operate the jails.

A background discussion of the TCJS, which was spurred by the

possibility of federal government takeover of Texas' prisons and jails back in the 1970s, was provided. Commission staff clarified that although statutes regarding county jail requirements were first introduced as far back as 1925 and expanded in the decades that followed, it was not until 1975 that the commission was created and authorized to adopt administrative rules providing guidance on how to achieve compliance in an effort to alleviate federal litigation. In 1979 the federal courts accepted the standards and administrative rules.

"Finding statutory details on the standards can be very confusing," Klaeger said. "This correlation will be

reviewed by commission staff for possible updating and easier access." Commission members also suggested reviewing the standards by section in order to focus on the subject matter.

Other items discussed included the 2009 Sunset Advisory Commission recommendation for collecting and cataloguing "best practices" in county jails in an effort to offer assistance to other counties. While the commission cannot endorse specific "best practices," it can act as a repository for innovative programs and facilitate the sharing of information among the counties.

TCJS Review

continued on page 8



State Budget

continued from page 5

After the bill is debated and amended on the house and senate floor, a panel of five members from each chamber is assigned to a conference committee to work out the differences between the two proposed budgets. After a compromise is reached by the conference committee members, the bill is presented to each chamber again for a final approval.

In order to meet the constitutional requirement "Pay as You Go," the conference committee's budget must also be submitted to the Comptroller of Public Accounts and certified as being within the spending limits. Finally, the governor's signature is required, assuming the state budget avoids being fully or partially vetoed by the governor.

By statute, the governor is also required to prepare a biennial appropriation budget which may set forth the policy goals of his office. The governor's state budget is submitted to each member of the Legislature — in the past the governor has even introduced a zero base budget.

The GAA takes effect on Sept. 1 of each odd numbered year following the regular legislative session.

For more information, contact Paul Emerson, state financial analyst, at (800) 456-5974 or via email at paule@county.org.★

TCJS Review

continued from page 7

Sheriffs in attendance voiced their concerns and offered ideas regarding the "pass or fail" certifications issued by TCJS for deficiencies other than life safety issues. Some form of an intermediary ruling, noting deficiencies with a corrective action plan, was discussed by the county officials and commission members. Commission staff has been asked to review nationwide staffing levels and report their findings for further discussion.

"The bottom line to make this review project successful is communication. It is important that the commission hear from local officials about what is working in the jail standards and what is not. There may be standards that are obsolete or perhaps the commission will be able to answer questions about why things must be done a certain way. We will take new innovations into consideration and review which standards may or may not be necessary," Klaeger said.

Review workshops will be held at the beginning of each quarterly commission meeting. The commission will set up a review schedule, publish it on the TCJS website and distribute it through the Texas Association of Counties' list serve to county judges, commissioners and sheriffs. Klaeger stated, "this will not be a rushed process; the goal is to thoroughly review jail standards and to make sure that ample time is allowed for input. There will be no deadlines until the official update process begins. Chances are, if your county has an issue, another one is experiencing the same problem. All input is welcomed.... by telephone, email, website, mail or in person."

TCJS is seeking to coordinate workshops at various conferences over the next year to give the state's

county officials the opportunity to discuss issues in forums including Judges and Commissioners conferences, the Sheriffs Association conference and Texas Association of Counties conferences.

The Texas Commission on Jail Standards has the responsibility to follow the statutes and can have no input on their creation, other than providing facts as requested. The commission is charged with creating minimum standards and the regulation

of those standards as directed by the legislative statutes. County officials, however, have the ability to communicate with policy makers and influence statutory and administrative changes which can have significant impact on local authority and budgets. As Klaeger emphasized throughout the workshop, "Communication is the key."

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



TEXAS ASSOCIATION *of* COUNTIES

invites you to a

TUESDAY MORNING BREAKFAST WITH TAC

The legislative staff of the Texas Association of Counties cordially invites you to participate in an informal conversation with us regarding legislative matters important to you and your county.

Tuesday, Jan. 11

Breakfast at 7:15 a.m.

Discussion at 7:30 a.m.

Texas Association of Counties

TAC Board Room • Fourth Floor

1210 San Antonio Street • Austin, Texas 78701



Key County Bills

continued from page 6

to lower the appraisal cap between 10 and 3 percent. A commissioners court may call an election to repeal or amend the lower limitations.

SJR 11 by Nichols: Proposing a constitutional amendment to authorize the legislature to limit the maximum appraised value of a residence homestead for ad valorem tax purposes to 105 percent or less of the appraised value of the property for the preceding preceding tax year and to permit the voters of a county to establish a higher limitation not to exceed 110 percent on the maximum appraised value of a residence homestead in the county. This would lower the appraisal cap to 5 percent and permit the commissioners court of a county to call an election to allow the voters to set the appraisal cap for all political subdivisions in the county at a number between 5 and 10 percent.

Health Care & Human Services

HB 57 by Martinez: relating to the restoration of the medically needy program under the state Medicaid program. Requires the program to serve recipients in the same manner and same level as in 2003.

HB 70 by Martinez: relating to telemedicine medical services, telehealth services and home telemonitoring services provided to certain Medicaid recipients. This bill allows for reimbursement for home telemonitoring services for persons who meet certain eligibility requirements, which include two or more hospitalizations in the prior 12-month period or frequent emergency

room admissions.

HB 85 by Simpson: relating to the state's or a state governmental entity's provision of support for the performance of an abortion or abortion-related services. This bill prohibits the use of local tax revenue to support a person or facility that performs abortions or abortion related services.

HB 303 by Berman: relating to the imposition of a fee for money transmissions sent to certain destinations outside the United States. This bill adds an 8 percent fee to all money transmissions sent from the Texas to Mexico or South America. All proceeds are to be deposited into the newly created Indigent Health Care Support Account operated by the Health and Human Services Commission for payment of indigent health services.

HB 117 by McClendon: relating to disease control outreach programs to reduce the risk of certain communicable diseases. This bill would allow a county with a population of 300,000 more to contract with an entity to establish a disease control program which would include providing anonymous exchange of hypodermic needles and syringes.

HB 139 by Laubenberg: relating to drug testing of certain persons seeking financial assistance benefits. This bill requires a drug test for each adult applicant applying for financial assistance from the Aid to Families with Dependent Children program. If applicants fail the drug test, they will be ineligible for assistance for 12 months.

Commissioners Court Authority

HB 230 by Phillips: relating to the authority of a county to regulate the location of halfway houses in the unincorporated areas of the county; providing a penalty.

HB 109 by Brown: relating to the temporary lowering of prima facie speed limits at a vehicular accident reconstruction site. This bill allow the commissioners court by order to give a designated official discretion to temporarily lower speed limits for a county road outside the municipality at the site of an investigation using vehicular accident reconstruction. This authority does not include state highways.

HB 165 by Raymond: relating to a cost-of-living increase in compensation for district court judges. This bill allows a commissioners court to give an annual cost of living increase of no more than 10 percent of the district court judge's combined salary from state and county sources.

HB 330 by Guillen: relating to the dissolution of a bail bond board by the commissioners court of certain counties. This bill allows the commissioners court of counties with a population less than 110,000 to dissolve the bail bond board by a majority vote.

Surplus Equipment Donation

SB 74 by Nelson: relating to the disposition of surplus or salvage data processing equipment of a university system or an institution or agency of higher education. This bill allows a university to donate surplus data processing equipment to a rural county. ★

Attorney General Opinions Issued

GA-0817: Honorable Jo Anne Bernal, El Paso County Attorney, whether the El Paso County Attorney may provide legal advice and representation to the El Paso County Ethics Commission. **Summary** Pursuant to section 161.061 of the Texas Local Government Code, the county attorney of El Paso County is required to represent the El Paso County Ethics Commission in all legal matters. It could be an improper usurpation of the county attorney's authority under section 161.061 if outside legal counsel were hired solely pursuant to section 161.101(d) of the Local Government Code to represent the Commission over the objection of the county attorney.

Requests for opinions regarding the propriety of a county attorney's representation under the Texas Disciplinary Rules of Professional Conduct should be addressed to the Texas Committee on Professional Ethics. Questions about actions of the county attorney under the County Ethics Code are for the Commission, in the first instance.

GA-0818: Honorable Joe Deshotel, Chair, Committee on Business and Industry, Texas House of Representatives, whether a civilian advisory committee to the police chief may review information maintained in a police department personnel file under Local Government Code, section 143.089(g). **Summary** Whether a civilian advisory committee may review information maintained in a police department personnel file under Texas Local Government Code section 143.089(g) will depend on specific facts establishing the committee as part of the department and limiting the committee's use of the files to department purposes only.

GA-0819: Honorable Mark Homer, Chair, Committee on Culture, Recreation and Tourism, Texas House of Representatives, whether the Development

Corporation Act of 1979 permits a 4A economic development corporation to grant or use sales tax funds for certain purposes in connection with a nonprofit corporation that provides affordable housing assistance. **Summary** It is for the board of directors of a development corporation to determine, in the first instance, whether a project or expenditure is authorized under the Development Corporation Act.

GA-0820: Mr. Victor Vandergriff, Chairman of the Board, Texas Department of Motor Vehicles, delegation authority of the governing board of the Texas Department of Motor Vehicles. **Summary** The Board of the Department of Motor Vehicles is authorized to issue a final order in a contested case under Occupations Code chapter 2301, except for cases under chapter 2301, subchapter M, the "Lemon Law." The director of the Motor Vehicle Division of the Department is authorized to issue final orders in cases under the Lemon Law and under Transportation Code chapter 503.

The Board has no implied authority to delegate its authority to issue final orders in contested cases to the director of the Motor Vehicle Division.

Board members are subject to conflict-of-interest provisions found in Transportation Code section 1001.028, Government Code chapter 572, and any other law that regulates the ethical conduct of state officers and employees. The application of these statutes to a Board member must be decided on a case-by-case basis in view of the relevant facts.

GA-0821: Honorable Elizabeth Murray-Kolb, Guadalupe County Attorney, whether a political subdivision, including a home-rule city, is required to pay impact fees imposed by another political subdivision under chapter 395, Local Government Code. **Summary** Local Government Code chapter 395 does not give political subdivisions or governmental

entities, other than school districts in some instances, the discretion to not pay impact fees as required under the chapter.

GA-0822: Honorable Eddie Lucio Jr., Chair, Committee on International Relations and Trade, Texas State Senate, eligibility for health insurance of survivors of a public servant killed in the line of duty. **Summary** Given the latent ambiguity in section 615.073, Government Code, as well as the nature of the circumstances by which a surviving spouse becomes eligible for benefits under chapter 615, we will not speculate on the construction a court would give to the phrase "continued health insurance benefits."

GA-0823: Ms. Gail Lowe, Chair, State Board of Education, public school textbook adoption under recent legislative amendments to the Education Code.

Summary Section 31.101(c-1) of the Education Code requires a school district or an open-enrollment charter school to purchase "a classroom set of textbooks" according to the statute's terms. Tex. Educ. Code Ann. § 31.101(c-1) (West Supp. 2010). We cannot address whether the State Board of Education ("SBOE") has appropriately implemented the section without information about the SBOE's specific legal concerns and its interpretation of its rules. However, university open-source textbooks adopted pursuant to Education Code section 31.023 or 31.035 may serve as a classroom set of textbooks under section 31.101(c-1). Also, a classroom set under section 31.101(c-1) may include textbooks on the nonconforming list that do not cover the entire state curriculum. Education Code section 26.006(c), which requires a school district or charter school to honor a parent's request to allow the student to

Opinions Issued

continued on page 11

Attorney General Opinions Requested

RQ-0930-GA: Jeff May, Collin County Auditor, authority of a commissioners court with regard to working hours, overtime and compensatory time and timekeeping by county employees.

RQ-0931-GA: Honorable Todd Hunter, Chair, Judiciary and Civil Jurisprudence, Texas House of Representatives, whether section 271.121, Local Government Code, prohibits a governmental entity from requiring a contractor or other vendor to sign a project labor agreement.

RQ-0932-GA: Honorable R. Lowell Thompson, Navarro County Criminal District Attorney, whether a sheriff or a fire department is responsible for determining where to land a helicopter during the investigation of a traffic accident.

RQ-0933-GA: Cheryl N. K. "Cherie" Townsend, Executive Director, Texas Youth Commission, information that must be provided by the Texas Youth Commission to an independent school district as a "statement of offense" required by article 15.27(b), Code of Criminal Procedure.

RQ-0934-GA: Honorable Jeff Wentworth, Select Committee on Veterans Health, Chair, Texas State Senate, requirements for real property to qualify as an "ecological laboratory" under section 23.51, Tax Code. ■

Attorney General Opinions Issued *continued*

take home any textbook used by the student if it is available, applies to a textbook that is part of a classroom set of textbooks.

The SBOE has no authority under section 31.0241 of the Education Code to decline to place an open-source textbook on the conforming or nonconforming textbook list if the SBOE disagrees with an eligible institution's determination that the textbook qualifies for placement on the conforming or nonconforming list. Assuming that a university is properly characterized as a publisher with respect to an open-source textbook, the SBOE has authority to impose an administrative penalty on such a university for violations under subchapter D, chapter 31 of the Education Code. If an open-enrollment charter school or school district acquires a university open-source textbook at a cost below the cost limit established under section 31.025(a) of the Education Code, the school or district is entitled to a credit.

Section 31.102 of the Education Code, which provides that "[e]ach textbook purchased as provided by this chapter is the property of this state," does not include technological equipment as property of the state. Id. § 31.102(a) (West 2006).

GA-0824: Honorable Joe Shannon, Jr., Tarrant County Criminal District Attorney, whether a court investigator appointed by a statutory county probate judge is covered by the Tarrant County civil service system. **Summary** A court investigator appointed by a county probate judge is covered by the Tarrant County civil service system.

GA-0825: Mr. William H. Kuntz, Jr., Executive Director, Texas Department of Licensing and Regulation, scope of licensed pool-related electrical service under chapter 1305 of the Occupations Code. **Summary** A residential appliance installer licensed under Occupations Code chapter 1305 may work only on pools that are installed as a unit in a single-family or multifamily dwelling that does not exceed four stories. The residential appliance installer's license does not authorize an individual to work on commercial pools.

GA-0826: Honorable Chuck Hopson, Chair, Committee on General Investigating and Ethics, Texas House of Representatives, whether a member of the city council of Texarkana, Texas, may simultaneously serve as a paid municipal fire fighter in Texarkana, Arkansas. **Summary** Generally, a municipality is not a "business entity" for purposes of the conflict of interest provisions of chapter 171 of the Texas Local Government Code. The self-employment aspect of the Texas common-law incompatibility doctrine does not apply to preclude a person from serving simultaneously in two positions when neither position supervises the other.

GA-0827: Honorable Robert F. Deuell, M.D., Chair, Committee on Nominations, Texas State Senate, taxable status of real property owned by the City of Greenville and leased to a private company. **Summary** To the extent all of your questions seek a determination about the tax status of various interests in a parcel of property in the City of Greenville, they all involve fact issues that are inappropriate to the attorney general opinion process. Moreover, the initial determination about eligibility of tax exemptions rests with the chief appraiser. We thus cannot address your specific questions.

We can advise you generally with respect to the tax exemption of a leasehold interest under section 25.07, Tax Code, that a maintenance hangar intended for the safe and efficient operation of a municipal airport constitutes a public transportation facility. ■



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From the Legislative Desk

By Carey "Buck" Boethel, Director of Governmental Relations

Legislative Beginnings and Endings

Telling the "county story" is among the most important legislative duties we have. We're about to begin a very challenging legislative session — one with far too many complications. Counties fully realize property taxes are high and the taxpayers have been through very tough times, especially the last few years. That's why it is important to note that only 16 percent of all property taxes in Texas are attributable to county government! People know how important it is to be secure in their homes, to have a clean environment, safe drinking water and good roads and bridges — they just may not always know who provides those services and at what cost.

We are very fortunate in Texas to have such hard working men and women representing counties.

They make every effort to accomplish difficult responsibilities even though, for the most part, there are few, if any, occasions for glitzy celebrations or high profile ribbon cutting events. They persevere in the performance of their public service despite routinely dealing in so very many uninviting sectors of human behavior and misfortune — counties work with the sickest of the sick, the poorest of the poor, the incorrigible young in detention, the collection of taxes, the development, repair and maintenance of roads and bridges, the incarcerated and unrepresented indigent, to underscore just some of the more forceful divisions of county government services.

End of an Era - This article brings to an end 13 years of

writing about, from a "not-too-serious" perspective, county officials and the system of governance they inherited. I've always admired the levity in the expressions by Will Rogers and I think Oscar Wilde was spot on with his personal outlook: "life is too important to be taken seriously!" Of course, this philosophy doesn't always suit every reader, but even then, one can find some value in censure. I am very grateful for the recent kind words and thanks and for those made over these many years. Keep the faith and remember that county government represents the pulse of the people!

Carey Boethel