

# County *issues*

Volume 13, Issue 9 \ June 6, 2003

Published by the Texas Association of Counties

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## Session Legislation Sought to Expand Authority and Create New Avenues for County Government

*By Jozette Maxwell, Legislative Liaison*

Legislation that covered a wide range of topics was introduced during the 78th Legislative Session. Following is a brief overview of a few bills of interest to county government (and their status) that sought to either limit or expand county government's ability to function.

TAC is in the process of compiling information for its bi-annual **Legislative Analysis Report** that will include a comprehensive summary of all bills relative to county government. The Legislative Analysis Report will be available at TAC's post legislative conference scheduled for August 13-15 at the Hyatt Regency (Town Lake) in Austin.

### Highlights of the 78th Legislative Session:

Local governments throughout the country are faced with the challenge of finding financial resources to cover unfunded mandates, and Texas is no exception. To date, states such as Nevada, Alabama and Oregon have been successful in implementing constitutional or statutory changes that require their state governments to provide funding sources for certain mandates being passed to local governments.

**House Joint Resolution 91 by Lewis** was a constitutional amendment that would have required the Texas legislature to reimburse counties for costs associated with implementing a state mandate or appropriate funds to support the mandate. HJR 91 was passed out of the House County Affairs committee, but later died in the House Calendars committee.

Another area that has historically been challenging for counties is the process of acquiring private roads. Prior to 1981, counties were able to use the common law doctrine of prescriptive easement to acquire roads (proving road maintenance for a consecutive 10-year period). However, implementation of Chapter 281 of the Transportation Code prevented counties from using the prescriptive easement method starting in 1981 for counties with populations of 50,000 or less. Since that time, affected counties have only been able to acquire roads via adverse possession, purchase, dedication or condemnation.

**House Bill 1117 by Keffer** seeks to add a road acquisition method that would allow counties to acquire roads via a county road map process. The bill adds a new chapter to the Transportation Code (Chapter 258) and would require counties to post and mail notices advising of road acquisition intent, as well as hold public hearings and post a map showing roads proposed for acquisition. The bill gives landowners two years to

*[Please see Legislative Overview, continued on page 2]*

## Probation Funding Mostly Restored

Following protests from probation departments around the state, funding cuts to adult probation programs were relatively minor, said Bonita White, head of the Community Justice Assistance Division of the Department of Criminal Justice.

The CJAD sentencing diversion line item saw \$4 million cut from its \$61.3 million maintenance-of-effort request, while the community corrections grants were reduced by \$2.4 million of its \$42.5 million biennium request, she said.

The overall CJAD budget is \$225 million, \$101 million of which is for basic offender supervision.

Also, funding was restored for the Texas Council for Offenders with Mental Impairments, which assists in diverting mentally ill patients from county jails.

At one point early in the legislative session, legislators proposed a roughly 50 percent reduction in probation funding, which would have required a reduction in force of some 2,000 probation officers statewide (one-third of the state's probation workforce). Similarly, major cuts would have closed numerous residential treatment and diversion programs. 🗝

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*[Legislative Overview, continued from page 1]*

respond in protest before a county could claim a road. HB 1117 passed both chambers with minimal opposition and was sent to the Governor on May 22. As of the date of this publication, the bill had not been signed into law.

Two bills that raised significant concern for counties were **House Bill 1687 by Chisum and Senate Bill 860 by Wentworth**. The companion bills would both have required commissioners' courts to perform drainage ditch maintenance (at the request of a private property owner under certain circumstances) before the 45th day from receipt of the property owner's request. The bills also stated that counties not meeting the deadline would be liable to the property owner and adjoining property owners for the cost of blockage removal and any property damage, personal injury or death that resulted from the blockage. Both bills died in committee.

Three bills filed during the session amended different sections in Chapter 152 of the Local Government Code (compensations, expenses and allowances chapter). **House Bill 554 by Chisum** added section 152.0165 to address when elected officials may file a lawsuit regarding salary and personal expenses. The bill requires elected county/precinct officers to first complete a salary grievance hearing before filing a lawsuit. **Senate Bill 189 by Carona** removes the January appointment requirement listed in section 152.014. Sen. Carona's bill allows commissioners' courts to appoint public members to a salary grievance committee any time during the year. The bill also sets timelines hearing dates. **House Bill 608 by Denny** allows county judges to select and create a list of alternate public members to serve on grievance committees. HB 554 was sent to the Governor on May 29, SB 189 was signed into law on May 28, and will become

effective on Jan. 1, 2004. HB 608 was sent to the Governor on May 22.

**House Bill 1660 by Flores** requires the Texas Commission on Jail Standards (TCJS) to conduct a statewide county study regarding the installation and operation of video camera surveillance systems in county jails. The bill requires TCJS to prepare a report for the legislature no later than December 1, 2004. The report must include information on the feasibility of installing video cameras in county jails, as well as available county revenue sources to support installation.

Senate amendments to the bill call for TCJS to include information on the number of inmate suicides, assaults, and inmate assaults against county jail employees that take place in each jail. Information on the number of lawsuits filed and judgments against the county as a result of suicides and assaults, as well as the costs incurred by the county in defending those lawsuits, must also be included. The bill received Senate approval on May 28 and the House concurred with Senate amendments on May 30.

**House Bill 1186 by Hegar** sought to add constables and deputy constables to the definition of "weight enforcement officer" in the Transportation Code. Currently, Section 621.401 lists Department of Public Safety officers, sheriffs, deputy sheriffs and certain municipal officers as eligible to enforce weight on highways. The bill also included a provision that authorized commissioners' courts in counties with populations of 40,000 or more to designate a constable or deputy constable as weight enforcement officer. The bill died in Senate committee.

For more information, contact Jozette Maxwell at 800-456-5974 or JozetteM@county.org. 🗝

# Some Bills Survive Others Die

With the 78th Legislative Session coming to an end there are numerous county related bills which appear headed to enactment and others which look as if they will have to wait until another legislative session.

## **BILLS PASSED AND SENT TO THE GOVERNOR:**

HB 136 and HJR 16 by F. Brown relating to authorizing a county, city or town to establish an ad valorem tax freeze on residence homesteads of the elderly and their spouses. If the voters approve the Constitutional amendment, the legislation authorizes counties and cities to establish a property tax freeze on persons over 65 similar to the freeze given by the school districts. The election on the constitutional amendment would be held on September 13, 2003.

HB 1940 by Luna, relating to longevity pay for assistant prosecutors. The bill would amend Government Code, Chapter 41 by creating a funding mechanism for assistant prosecutor longevity pay. A new court fee of \$15 would be assessed on each bail bond, excepting personal and cash bonds. The legislation requires that \$10 be sent to the comptroller for deposit into the Felony Prosecutor Supplement Fund and \$5 be deposited in the Fair Defense Account. Money from the Fair Defense Account would be distributed in the form of additional grants to counties from the Task Force on Indigent Defense.

SB 325 by Armbrister, relating to the implementation of a change in law imposing or changing the amount of certain court costs and fees. This legislation would require the comptroller to publish a list of new fees not later than the Aug. 1 after the end of the regular session of the legislature at which the law imposing or changing the amount of the cost or fee was enacted. The bill also

sets the implementation date of new or amended court costs and fees at the Jan. 1 after each regular legislative session, (unless the effective date is prior to Aug. 1 or after Jan. 1 of the next year) to give cities, counties, and the comptroller of public accounts four additional months to make the necessary changes and adaptations.

## **BILLS THAT DID NOT SURVIVE:**

HB 396 by Mowery, relating to appeals to small claims courts of certain ad valorem tax determinations. This legislation would have allowed a property owner to appeal an adverse appraisal review board decision to justice of the peace court, rather than to district court, if the amount of taxes due on the disputed appraised value did not exceed \$5,000.

HB 1981 by Puente, relating to indigent health care, including tertiary care. This legislation would have amended Chapter 61 of the Health and Safety Code to reduce the minimum eligibility standards from 21 percent of the federal poverty level to 100 percent. The legislation also attempted to remove the limitation of county liability, which is \$30,000 or 30 days in a hospital or skilled nursing facility.

HB 3223 and HJR 4 by Bohac, relating to limiting the maximum average annual increase in the appraised value of real property for ad valorem tax purposes to five percent. The legislation as proposed would have placed a five- percent cap on all real property, including both residential and nonresidential property, for all taxing units except school districts. The legislation was amended in the Senate to exclude mineral interest.

For more information, please contact Sue Glover at (800) 456-5974 or SueG@county.org. 📍

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## Audit Working Papers Senate Bill On Its Way; Auditor Salary Bill Bracketed

Senate Bill 1581 by Wentworth, a bill that would protect the audit work papers of county auditors from an open records request, has been sent to the governor. Another bill that would allow a county auditor's salary to exceed the current cap ("...the amount of compensation and allowances received from all sources by the highest paid elected county official...") is out of conference committee; any increase in salary would require approval of commissioners' court and

would only apply to auditors in counties of more than 500,000.

The House committee substitute to SB 1581 amends Section 552.116 of the Government Code by adding counties and municipalities to this section, which currently provides audit work papers protection to the state auditor, the auditor of a state agency and the auditor of an institution of higher learning.

*[Please see Audit Working Papers, continued on page 4 ]*

*[Audit Working Papers, continued from page 3]*

The Senate's version of the bill had amended Subchapter Z, Chapter 84, Local Government Code, to provide that an audit working paper of a county auditor is excepted from required public disclosure under the public information law, together with a definition of audit working papers.

The engrossed version of SB 1303 by Madla would have allowed an auditor's salary to exceed the current cap with the approval of commissioners' court, but a House committee amendment added the population bracket. A subsequent floor amendment added tightly-bracketed language related to salary and longevity pay for deputy sheriffs in certain counties.

For more information, contact Paul Sugg at 800-456-5974 or PaulS@county.org. 🗺️

## Fee Bills Pass House and Senate

A number of bills related to fees have passed both the House and Senate. This article contains a partial list of fee bills that are on their way to the Governor's desk.

Currently, district clerks can collect \$5 as part of their civil filing fees to be deposited in the county's records management and preservation fund. **House Bill 1905 by Rep. Farrar** would allow district clerks to collect an additional \$5 to be deposited in a new district clerk's record management and preservation fund. The commissioners' court will have the authority to approve all expenditures from this fund, and the district clerk can only use the funds for specific records management and preservation, including for automation purposes. This will help the office of the district clerk improve records management and technological capabilities which would better serve the public.

**House Bill 249 by Rep. Goolsby** would give a county clerk or county tax assessor the option of assessing a

*[Please see Fee Bills, continued on page 14]*



## Washington Watch

*By Sue Glover*

*Governmental Relations Manager*

### SMART GROWTH ACHIEVEMENTS RECOGNIZED

The U.S. Environmental Protection Agency is currently accepting applications from public sector entities for the Second Annual National Award for Smart Growth Achievement. The award program recognizes communities that have successfully created smart growth through their projects, policies or programs.

Activities submitted for an award must have been completed or enacted within the past five years (July 1, 1998 to June 30, 2003). Applicants must address as many as possible of the following 10 principles of smart growth:

- mix land uses;
- take advantage of compact building design;
- create housing opportunities and choices for a range of household types, family size and incomes;
- create walkable neighborhoods;
- foster distinctive, attractive communities with a strong sense of place;
- preserve open space, farmland, natural beauty, and critical environmental areas;
- reinvest in and strengthen existing communities and achieve more balanced regional development;
- provide a variety of transportation choices;
- make development decision predictable, fair and cost effective; and
- encourage citizen and stakeholder participation in development decisions.

If you believe your community has demonstrated the principles of smart growth and you are interested in applying for one of the five national awards, you must submit an application by June 30. To download an entry form or for further information on the categories, criteria and application process, go to [www.epa.gov/smartgrowth/awards.htm](http://www.epa.gov/smartgrowth/awards.htm). 🗺️

## How Will the State Budget Impact Counties?

From the beginning, the 78th Legislature was faced with a budget shortfall of approximately \$9.9 billion. This shortfall loomed through the halls of the Capitol and was a topic of conversation in probably every Texas courthouse. Even during the final days of the 140-day regular session, legislative members were still not thrilled with the outcome of the state's budget for 2004-2005. Critics of the budget, like Senator Eliot Shapleigh from El Paso, argued that the cuts in this budget will force local governments to pay for more services.

Listed on **pages 10-11** is a comparison of county related issues as they relate to current funding and the budget for 2004-2005 recently enacted by the Legislature. These are the amounts we currently have available to us and may not contain contingency appropriations based on the passage of other bills. This report only contains portions of information from four of the Articles, which were considered, of most importance to counties. The comptroller has to certify the budget prior to the Governor's approval. 🗺️

# New Financial Reporting Model

*A special workshop co-sponsored by the Lyndon B. Johnson School of Public Affairs, University of Texas at Austin*

County financial officers are working to implement the requirements of the new governmental financial reporting model established by the Governmental Accounting Standards Board (GASB). It's no easy job and they can't do it alone because many folks in the courthouse play important roles and will feel the impact of the new system. The news from GASB can be pretty overwhelming and as the last group of counties (those with budgets under \$10 million) fall under the requirements next budget year, it's time for practical nuts and bolts answers for the "GASB team" that every county needs for successful implementation. Assemble a team from your county and learn how to simplify the procedures. The workshops start at 8:30 a.m. and continue until 4:30 p.m.

Continuing education hours have been approved for the following office holders:

**Commissioners:** 6hrs

**County Investment Officers:** 6 hrs

**Treasurers:** 6 hrs

**TCLEOSE:** 6 hrs

**Tax Assessor Collectors:** 5 hrs

**County & District Clerks:** pending

**Auditors/CPA's:** 6 hrs

## Registration Fees & Locations

1st County registrant: \$75.00

All other County registrants: \$50.00

**July 15, 2003**      **Doubletree Hotel**, 6505 North IH-35, Austin, TX, 800-347-0330

**July 17, 2003**      **Omni Marina Hotel**, 707 North Shoreline Blvd., Corpus Christi, TX 78401, 361-887-1600

**July 22, 2003**      **Holiday Inn Select** ( formerly Sheraton), 5701 S. Broadway, Tyler, TX 75703, 903-561-5800

**July 24, 2003**      **Holiday Inn Hotel & Towers**, 801 Avenue Q, Lubbock, TX 79401, 806-763-1200

The Texas Association of Counties has not blocked rooms for these hotels, but please ask for the state rate if you register for a room. In most cases the hotels will have rooms available at this rate.

## Cancellation Policy

The workshop registration fee is transferable to another person within your organization to attend this workshop.

## GASB Workshop Registration *(please return one form per county.)*

COUNTY

Name \_\_\_\_\_  
Title \_\_\_\_\_  
Email \_\_\_\_\_

Name \_\_\_\_\_  
Title \_\_\_\_\_  
Email \_\_\_\_\_

Name \_\_\_\_\_  
Title \_\_\_\_\_  
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Name \_\_\_\_\_  
Title \_\_\_\_\_  
Email \_\_\_\_\_

Name \_\_\_\_\_  
Title \_\_\_\_\_  
Email \_\_\_\_\_

We will attend this location:      ☐ Austin      ☐ Tyler      ☐ Corpus Christi      ☐ Lubbock

☐ Check enclosed      ☐ Please Invoice      ☐ I will bring fee to workshop

**Fax or mail your completed registration form to Texas Association of Counties, GASB WORKSHOPS, P.O. Box 2131, Austin, TX 78768, register on TAC website: [www.county.org](http://www.county.org) or fax form to 512-477-1324**

**QUESTIONS: Call Texas Association of Counties, Education Department at 800-456-5974. Ask for Alice Kanelos or Tiffany Thorndike.**



TEXAS ASSOCIATION of COUNTIES



## Land Development Bills Falter

Despite a flurry of activity as the session wound to a close, a number of significant efforts to address growth-related challenges failed this go-round, further limiting the ability of counties to protect property rights and values in unincorporated areas. However, a handful of additional counties will be able to use the authority granted to certain urban and surrounding counties by last session's Senate Bill 873 (Subchapter E, Chapter 232, Local Government Code) and an amendment to another bill clarifies and expands county authority to charge a plat application fee.

A bill intended to direct certain cities and counties to reach agreements regarding plat approval in certain municipal extra-territorial jurisdictions was passed by the Senate, but not before a number of county-friendly amendments were removed on the floor. House Bill 1204 by Rep. Todd Baxter was originally recommended for the Senate's Local/Uncontested Calendar on May 23 and was placed on the Senate Intent Calendar for May 27, but then failed to obtain the votes necessary to bring it to the floor. Senator Jeff Wentworth offered up floor amendments that struck amendments rolled into the committee substitute reported by Senate Intergovernmental Relations. The House refused to concur with the Senate's amendments, the bill went to conference committee and both houses accepted the conference committee report on June 1.

Last session's House Bill 1445 directed cities and counties (with certain exceptions) to reach agreements whereby a developer could make one plat application for a development in the ETJ and receive one response, rather than the dual review and approval by both city and county, as previous law dictated. Not all cities and counties met HB 1445's deadlines, and builders and developers have actively supported the passage of HB 1204. The final version of the bill would require certain cities and counties that had not yet reached such agreements to enter into binding arbitration to settle whatever disputes had prevented the required agreements (with varying deadlines, dependent on the extent of a municipality's ETJ).

The Senate committee substitute included a couple of amendments placed in the bill by Wentworth when it was heard in Senate Intergovernmental Relations. Removed on the Senate floor as noted above, the amendments

reflect language found in Wentworth's Senate Bill 1014 and Senate Bill 1631 (both companions by Rep. Carter Casteel—House Bill 2506 and House Bill 2486, respectively). SB 1014 would amend Subchapter B, Chapter 232, Local Government Code, to allow any county to operate under this colonias counties subchapter and add some other provisions currently found only in Subchapter A (groundwater availability, road standards). Senate Bill 1631 would add subchapter F to Chapter 232, allowing a commissioners' court (following an election on the question) to require central water and wastewater systems, fire suppression systems, roadway improvements, minimum open space or impervious cover limitations, and to levy impact fees (as found in Chapter 395, Local Government Code).

Two other amendments were added on the floor. One provided alternatives for plat revision for larger counties (population of 1.5 million or more) and allowed a person owning land within a subdivision to apply to commissioners' court for a plat revision. The second created a new Subchapter F to Chapter 232 that would give Johnson County additional powers (impervious cover limitations, population density, size, design, and construction of buildings, etc.). The special legislation for Johnson County did not survive the final version.

Despite these various setbacks, there were a couple of positive notes this session. The final version of HB 1204 did slightly expand the population bracket on Subchapter E, Chapter 232, LGC ("Infrastructure Planning in Certain Urban Counties"). The subchapter will also apply to a county next to a county of 700,000, that is not in the same metropolitan statistical area (MSA), but that has experienced a population increase of more than 40 percent between the 1990 and 2000 census. An amendment onto HB 2931 clarified the authority counties have to charge a plat application fee (the amendment originally existed as SB 954 by Madla and HB 1968 by Uresti). The amendment also provides that the fee may vary based on the number of proposed lots in the subdivision, the size of the plat, the type or extent of proposed streets and drainage improvements, or any other reasonable criteria as determined by commissioners' court.

For more information, contact Paul Sugg at 800-456-5974 or paulS@county.org. 📍

# September Election Date Set for Constitutional Amendments

During the last few weeks of the 78th Legislature, members made a successful effort of amending joint resolutions to reflect a uniform election date for the 2003 constitutional amendments, instead of having two different election dates, which would have been unfavorable to county budgets.

The typical November election ballot in odd-numbered years, commonly known as a "text ballot," includes constitutional amendments and any local propositions such as bonds. Because the content of this ballot is usually not very high-profile, and because constitutional amendments are written in a confusing manner, voter turnout is often very low.

About mid-way through the legislative session a committee substitute was adopted for HJR 3 which changed the election date for the constitutional amendment from Nov. 4 to Sept. 13 with the speculation that it would have a better chance of passing. Travis County Clerk Dana DeBeauvoir, also the elections subcommittee chair for the County and District Clerks Association, was concerned about the counties having to pay for two elections for constitutional amendments—

HJR 3 in September and others that still had the Nov. 4 date. DeBeauvoir said "Most counties are not geared up for a double election in the fall. County Clerks who run primaries in the spring specially plan for the chance of a runoff. Two elections in the fall would have meant an unplanned budget expenditure at the end of a tight fiscal year."

Once the counties were aware of this potential problem, a movement began to change all constitutional amendments to the Sept. 13 election date to avoid having an election for constitutional amendments both in September and November. Gradually, House joint resolutions and Senate joint resolutions were amended in the different chambers to reflect a Sept. 13 election date for the voters to decide on constitutional changes.

"The good news is that our counties won't have to take a fiscal hit late in the year. The bad news is that now we have to get the word out to voters that they should plan to vote in September instead of November, just for this year," said DeBeauvoir.

For more information regarding this article, contact Teresa Aguirre at 800-456-5974 or [TeresaA@county.org](mailto:TeresaA@county.org). 🗺️

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## Development Rights Bill Fails Its First Time Around

A bill that would have provided a tool to private and public entities for preserving open space passed out of its House committee but recently died on the House calendar; its Senate companion never made its way out of its committee. House Bill 954 by Rep. Charlie Geren (Senate companion-Senate Bill 992 by Sen. Ken Armbrister) would have created a Purchase of Development Rights (PDR) program in Texas. These PDRs are voluntary transactions between landowners and public or private entities in which the development rights to real property are sold in order to preserve the land in its natural state (this might be as strictly open land, as well as farmland or ranch land). The landowner continues to own the land; the purchaser of the development rights owns the right to develop the land. The analogy used is one of mineral rights attached to a piece of

land---the rights are bought and held by a second party, but the land itself remains in the possession of the landowner.

Supporters of the issue promise to continue to create such a program in Texas. According to Julie Shackelford, Texas Regional Director of the American Farmland Trust, "... although ultimately it [HB 954/SB 992] did not pass, it was an excellent first run that we can build on in the future."

For more information, contact Paul Sugg at 800-456-5974 or [paulS@county.org](mailto:paulS@county.org). 🗺️

# 2003 Post Legislative Conference

TEXAS ASSOCIATION OF COUNTIES

Education Co-sponsor:  
LBJ School of Public Affairs

August 13-15, 2003  
Hyatt Regency on Town Lake – Austin

## *Tentative Agenda\**

### TUESDAY, AUGUST 12TH

1:00 Pre-Conference Golf  
Tournament

### WEDNESDAY, AUGUST 13TH

8:00 — 12:00 Pre-Conference Board  
& Committee Meetings

1:30 — 3:00 Opening General  
Session

3:30 — 5:00 Mini-General Sessions  
7:00 Casino Night  
and Dance

### THURSDAY, AUGUST 14TH

8:00 — 12:00 Legislative Overviews:  
Sponsored by the  
County Officials  
Organizations of

Texas  
1:30 — 2:15 Concurrent Workshops  
on Key Issues

2:45 — 4:00 Concurrent Workshops  
on Key Issues

4:30 — 6:00 Open House at New  
TAC Building

7:00 — 9:00 Best Practices Awards  
at the Capitol

### FRIDAY, AUGUST 15TH

8:30 — 9:45 Concurrent Workshops  
on Key Issues

10:00 — 11:30 Closing General  
Session

\* Agenda subject to change due to  
availability of speakers.

Every two years the Texas Legislature makes changes that directly affect Texas counties. TAC's Post Legislative Conference is designed to help county officials evaluate the impact of new laws and provide explanations by peers, legislators and other professionals. General sessions explore issues of common interest and smaller meetings review changes specific to each county office. Austin's Hyatt Regency on Town Lake is the host hotel. With each registration, you receive a free copy of TAC's 2003 Legislative Analysis Report.

## *Hit The Links*

Plans are in the works for an organized golf outing on Tuesday afternoon, August 12th. To participate, golfers must register no later than July 18th. Fee is \$40.

## *Bring Your Spouse*

Registration fee for spouses is \$30 and provides admission to all conference programs including the Wednesday evening party and a special Thursday morning event.

## *Continuing Education*

Application will be made for continuing education credit for county commissioners, tax assessor-collectors, county and district clerks, sheriffs, treasurers and auditors.

## *Registration and Accommodations*

TAC will process both conference registration and hotel reservations. Conference registration is required to obtain reservations in the hotel room block.



Texas Association of Counties  
2003 POST LEGISLATIVE CONFERENCE  
August 13-15, 2003 • Hyatt Regency on Town Lake, Austin

## CONFERENCE REGISTRATION

Please complete and submit with applicable fees to Post Legislative Conference, Box 2131, Austin, Texas 78768 by July 18, 2003.

**Cancellation Policy:** Conference registrations are fully transferable to another individual but requests for refunds (less \$10 administrative fee) must be received in writing by Monday, August 4, 2003. Refunds after that date will be limited to one-half of the registration fee.

NO REFUND REQUESTS WILL BE HONORED AFTER SEPTEMBER 1, 2003.

Name \_\_\_\_\_  
County \_\_\_\_\_ Title \_\_\_\_\_  
Phone \_\_\_\_\_ Email \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_

**Staff:** For planning purposes please indicate the office/official that you work for: \_\_\_\_\_

## Spouse Registration

Spouse Full Name \_\_\_\_\_

Spouse registration fee includes admission to all General Sessions, Wednesday Evening Event and Thursday Spouse Activity.

## Registration Fees:

(Check space that applies)

	Earlybird By 7/18/03	Postmarked After 7/18/03 & At-door Registration
Member county attendee	_____ \$225	_____ \$250
TAC Associate member	_____ \$225	_____ \$250
Non-member — government	_____ \$275	_____ \$300
Non-member - corporate	_____ \$425	_____ \$450
Spouse	_____ \$30	_____ \$30
Extra tickets for Wednesday evening event	_____ \$30 /ticket	_____ \$30 /ticket
Tuesday golf tournament fee	_____ \$40	not available
Total	_____	_____

## HOTEL RESERVATIONS

DUE TO TAC NO LATER THAN JULY 18, 2003

To obtain hotel accommodations at special rates in the conference room blocks, your hotel reservation request and conference registration form must be received in the TAC offices no later than July 18th. Reservation requests after that date should be directed to the hotels. In most cases, non-conference rates will then apply if space is available. Registration and hotel reservations may be faxed to 512-477-1324. The Association reserves the right to reassign rooms if conference fees are not received within 30 days.

Please supply full information for hotel reservations:

Last Name \_\_\_\_\_ First Name \_\_\_\_\_  
Phone Number \_\_\_\_\_ Roommate Name \_\_\_\_\_

Arrival Date \_\_\_\_/\_\_\_\_/\_\_\_\_ Departure Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Preferences: Double/king bed; smoking/non-smoking, etc.  
\_\_\_\_\_

**Special Services:** To ensure our conference is ADA accessible to all, please contact the Education Staff at 1-800-456-5974 if you require special assistance.

## PLEASE CHECK YOUR PREFERRED HOTELS

Indicate first choice with 1. Then number other choices from 2-6 in the order of preference. If your first choice is unavailable, a reservation will be made at the next available hotel according to your ranking. Each reservation requires a one-night deposit and/or credit card guarantee in order to secure/guarantee the reservation. Please note, a one-night deposit may be charged to your credit card by the hotel at the time the reservation is made.

**Hotels** (indicate preference by number with #1 indicating first choice.)

	Single Rate	Double Rate	Office Use Only
<b>FULL</b> Hyatt Regency on Town Lake(HQ hotel)	\$133	\$133	
_____ Embassy Suites	\$149	\$169	
_____ Radisson Hotel & Suites	\$ 85	\$105	

**Hotel Deposit:** TAC will confirm your conference registration and hotel assignment within 5 working days of receipt. Hotel rooms must be appropriately guaranteed for reservations to be held. The fast and easy way to accomplish this is to supply complete credit card authorization information below OR mail a one-night deposit directly to the hotel after you receive your hotel room assignment.

## Credit Card Authorization:

\_\_\_\_\_ MasterCard \_\_\_\_\_ Visa \_\_\_\_\_ American Express \_\_\_\_\_ Discover

Expiration Date \_\_\_\_\_

Card Number \_\_\_\_\_

Cardholder's Name \_\_\_\_\_

The Texas Association of Counties is authorized to use the above card to guarantee my hotel reservation. I understand that one night's room charge will be billed through this card if I fail to arrive for my assigned housing on the confirmed date unless I have canceled my reservation directly with the hotel according to required cancellation procedures.

Cardholder's Signature \_\_\_\_\_

Please do not mail hotel deposit to TAC.

CI

[State Budget Impact on Counties, continued from page 4]

As you can see this is but only a small part of the overall state budget proposal. For more information on the entire budget, please visit the Legislative Budget Board's Web site at [www.lbb.state.tx.us](http://www.lbb.state.tx.us). Each section contains more information on what the funds are to be used for.

## ARTICLE I- GENERAL GOVERNMENT

<b>Attorney General's Office</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
Child Support Enforcement	\$223,626,925	\$212,548,014	\$244,719,461	\$244,018,420
<b>Comptroller of Public Accounts-Fiscal Programs</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
Lateral Road Fund	\$7,300,000	\$7,300,000	\$7,300,000	\$7,300,000
Commitment Hearings	\$10,000	\$ Unexpended Balance (UB)	\$4,000	\$ Unexpended Balance (UB)
<b>Commission on State Emergency Communications</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
911 Emergency Communication	\$ 26,830,758	\$33,087,478	\$43,353,179	\$45,177,350
<b>Office of the Governor -Trusted Programs</b>				
Criminal Justice Grants	\$144,409,811	\$130,254,088	\$131,048,295	\$130,568,465
County Essential Service Grants	\$500,000	\$500,000	\$500,000	\$500,000
Drug Courts Grants	\$750,000	\$750,000	\$750,000	\$750,000
Criminal Justice Planning Grants	\$3,878,407	\$3,898,843	\$3,878,407	\$3,898,843
<b>Historical Commission</b>				
Courthouse Preservation	\$49,753,600	\$253,600	\$25,000,000	\$20,000,000

## ARTICLE V-PUBLIC SAFETY AND CRIMINAL JUSTICE

<b>Department of Criminal Justice</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
Provide Prison Diversions	\$100,355,443	\$101,405,397	\$101,496,630	\$101,781,606
- Basic Supervision				
Diversions Programs	\$65,321,956	\$65,321,956	\$61,318,263	\$61,318,263
Community Corrections	\$44,906,752	\$44,906,752	\$42,544,637	\$42,544,637
Special Needs Offenders	\$15,879,733	\$15,879,733	\$15,450,259	\$15,450,259
- Special Needs Projects				
Contract/Temporary Capacity				
(Payments to counties and private entities)	\$36,372,394	\$29,966,363	\$0	\$0
Contract Prisons/Private State Jails	\$128,099,285	\$131,206,200	\$131,989,985	\$132,062,329
Ensure Adequate Facilities (Accept inmates in 45 days)-Facilities Construction	Unexpended Balance	\$80,000,000	\$71,900,000	Unexpended Balance
Lease Purchase of Facilities	\$18,812,395	\$18,821,108	\$18,815,940	\$18,838,180
Board of Pardons and Parole	\$9,390,603	\$9,446,930	\$9,155,671	\$9,155,669
Parole Selection	\$14,429,060	\$14,480,544	\$14,174,857	\$14,174,857
Parole Supervision	\$84,368,958	\$85,566,282	\$79,153,908	\$79,523,046
Residential Parole	\$43,348,890	\$43,365,895	\$64,353,102	\$64,353,103
<b>Commission on Jail Standards</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
Inspection and Enforcement	\$384,221	\$384,221	\$300,730	\$300,729
Juvenile Justice Survey	\$54,854	\$54,854	\$52,000	\$52,000
Construction Plan Review	\$150,582	\$150,582	\$210,523	\$210,523
Management Consultation	\$207,049	\$207,049	\$245,326	\$245,326
Auditing Population and Costs	\$207,050	\$207,050	\$84,932	\$84,932
<b>Juvenile Probation</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
Juvenile Justice Basic Probation	\$45,857,447	\$45,912,651	\$46,258,679	\$46,258,679
Juvenile Community Corrections	\$50,278,430	\$50,790,377	\$44,447,748	\$44,447,750
Juvenile Probation Assistance	\$14,048,295	\$14,544,988	\$32,140,478	\$32,141,018
Juvenile Justice Alternative Ed. Program	\$7,500,000	\$7,500,000	\$7,500,000	\$7,500,000
<b>Commission on Law Enforcement Office Standards and Education</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
Licensing	\$602,863	\$595,781	\$754,368	\$788,050
Course Development	\$854,746	\$851,064	\$540,295	\$509,699
Enforcement	\$461,130	\$466,886	\$857,478	\$862,451

## ARTICLE IV-JUDICIARY

<b>Court of Criminal Appeals</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
Judicial Education	\$8,727,500 & UB	\$8,727,500 & UB	\$9,257,955	\$9,032,955
Education for county courts performing judicial functions	\$297,500	\$297,500	\$475,000	\$475,000
Clerks and Court personnel Education	\$1,000,000	\$1,000,000 & UB	\$1,000,000	\$1,000,000 & UB
Prosecuting attorneys Education	\$1,400,000	\$1,400,000 & UB	\$1,400,000	\$1,400,000 & UB
Criminal Defense Attorneys Education	\$1,250,000	\$1,250,000 & UB	\$1,250,000	\$1,250,000 & UB
<b>Office of Court Administration, Texas Judicial Council</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
Title IV-D Masters and Assistants Program	\$4,747,345	\$4,780,925	\$5,661,596	\$5,754,132
Foster Care Courts Program	\$2,000,000	\$2,000,000	\$1,968,498	\$1,864,702
Indigent Defense Standards and Services	\$7,889,000	\$11,940,000	\$12,226,545	\$11,956,912 & UB
<b>Judiciary Section, Comptroller's Department</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
District Attorneys: Salaries	\$1,220,400	\$1,220,400	\$1,057,680	\$1,057,680
Professional Prosecutors: Salaries	\$13,729,500	\$13,729,500	\$14,034,600	\$14,034,600
Felony Prosecutors: Travel	\$291,750	\$291,750	\$280,000	\$280,000
Felony Prosecutors: Salary	\$215,580	\$215,580	\$215,580	\$215,580
Prosecutors: Expenses	\$5,217,950	\$5,217,950	\$5,110,988	\$5,110,988
Witness Expenses	\$1,100,000	\$1,100,000	\$600,000	\$600,000
Visiting Former Judges-Regions			\$602,891	\$602,891
Visiting Former Judges-Appellate			\$62,782	\$62,783
Visiting Retired Judges-Regions	\$5,509,425	\$5,509,425	\$2,759,458	\$2,759,458
Visiting Retired Judges-Appellate	\$938,300	\$938,300	\$236,181	\$236,182
County Judge General Revenue Supplement	\$1,080,000	\$1,080,000	\$1,080,000	\$1,080,000
Administrative Judge Supplement	\$45,000	\$45,000	\$45,000	\$45,000
County Attorney Supplement	\$4,254,450	\$4,254,450	\$4,279,875	\$4,279,875
Statutory County Judge General Revenue Supplement	\$810,000	\$810,000	\$740,000	\$740,000
Statutory County Judge 573 Supplement	\$4,974,851	\$4,974,851	\$4,974,851	\$4,974,851
County Judge 573 Supplement	\$1,216,665	\$1,216,665	\$1,216,665	\$1,216,665
Statutory probate judge supplement	\$608,866	\$608,866	\$923,311	\$923,311

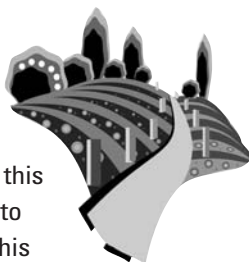
## ARTICLE II- HEALTH AND HUMAN SERVICES

<b>Department of Health</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
Border Health and Colonias	\$1,120,902	\$1,120,902	\$1,276,346	\$1,276,346
Public Health Preparedness (bioterrorism/emergencies)			\$442,240,250	\$442,240,250
Support of Indigent Health Care Services (Amounts for 2002 & 2003 included funding for tertiarycare facilities)	\$17,082,790	\$17,082,790	\$5,600,000	\$5,600,000
<b>Health and Human Services Commission</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
Total for Medicaid	\$7,428,343,755	\$7,364,685,898	\$9,355,582,514	\$9,162,899,225
**Total for Children's Health Insurance (CHIP)	\$502,267,488	\$523,358,407	\$403,950,000	\$403,950,000
<b>Department of Mental Health and Mental Retardation</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
Adult Mental Health Community Services	\$190,762,744	\$190,762,744	\$275,700,204	\$275,703,279
Children's Mental Health Community Services	\$32,499,104	\$32,499,104	\$60,999,474	\$60,995,118
Mental Health Community Hospitals	\$38,533,235	\$38,533,235	\$20,164,248	\$20,164,248
Mental Health In-Home & Family Support	\$5,536,937	\$5,536,937	\$0	\$0
Mental Health Assessment & Service Coordination	\$80,422,751	\$80,422,751	\$0	\$0
Mental Health State Hospital Services	\$207,061,388	\$205,732,172	\$274,250,705	\$273,352,078

**\*\* The CHIP Program keeps eligibility at 200% of the poverty level, but adds an asset limit to CHIP and eliminates most income disregards. Additionally, there are additional changes to the program which reduce benefits as follows: (1) a 90-day waiting period for enrollment, (2) reducing continuous eligibility to 6 months (from the current 12 months), and (3) requiring higher co-payments and premiums from clients. These changes are projected to reduce the number of children enrolled by 169,295 below projected enrollment in 2005 (or, 166,897 below May 2003 enrollment).**

# Resources, Naturally

By Paul J. Sugg  
Legislative Liaison



To employ one of the more hackneyed phrases one reads around this time every couple of years, it remains to be seen how our air and water fared this past session. The true reality of how legislation affects us can be apparent immediately in some instances, but because legislative change is often incremental and unintended consequences are by their nature not immediately decipherable, it can and often does take months or years to appreciate what the Legislature has done for us.

This time around, attempts were made (but it appears they were unsuccessful) to reduce the public's role in permit proceedings at TCEQ, arguably limiting the public's involvement in many of the agency's important decisions. Other attempts to limit who can prosecute who for what environmental offenses found success. Whether these bills and others like them are ways to stifle the public's role in environmental regulation and limit local control and enforcement, or are attempts to limit unnecessary and wasteful interference with a business legally conducting its affairs, is the stuff of which public policy is made. The most we can hope for in such discussions and the resulting legislation is a degree of balance and some vision for an economically and environmentally sustainable future. Please find below the fate of just a few bills that we've been following in this space this session.

House Bill 3035 by Robby Cook appeared for the longest time to be one of the primary groundwater bills this time but passed away rather abruptly late in its life. It included a range of measures affecting how groundwater conservation districts go about discharging their responsibility to preserve and protect that portion of the state's groundwater that lies under their boundaries. The bill ended up in a conference committee, but after the bill was laid out for discussion (on the last day the House had to adopt conference committee reports) the motion to consider the conference committee report was withdrawn. The bill was recommitted to conference committee and never found its way back out.

Senate Bill 1374 by Armbrister placed restrictions on permitting surface water strictly for in-stream purposes and created a commission to study the matter. Although

the bill died on the House calendar late in the session, the bill's language re-appeared in SB 1637 by Staples ("Relating to regulation of spacing and production of groundwater from aquifers by a groundwater conservation district"), and, after a couple of rules suspensions, points of order raised, and their subsequent rejections, both houses voted to adopt the conference committee reports. As we've said before and will say again, we hope such a study will not rot on a shelf somewhere but will be a real attempt to reconcile the irreconcilable (our consumptive, growth-oriented culture and the limits of Nature).

On a related note, Senate Bill 1094 created the Water Conservation Implementation Task Force. The law directs the Texas Water Development Board to lead this task force in fulfilling its mission of reviewing, evaluating and recommending optimum levels of water use efficiency and conservation for the state. These activities will include: identifying, evaluating and selecting best management practices for municipal, industrial, and agricultural water uses and evaluating the costs and benefits of the selected best management practices; evaluating the implementation of water conservation strategies recommended in state and regional water plans; considering the need to establish and maintain a state-wide public-awareness program for water conservation; evaluating the role of state funding for any water conservation incentive plans; advising TWDB and TCEQ on a standardized methodology for reporting and using per capita water use data and establishing per capita water use goals; and finally, evaluating appropriate state oversight and support of any conservation measures adopted by the Legislature. Membership will represent, among others, state agencies, regional water planning groups, federal agencies, municipalities, groundwater conservation districts, environmental groups, irrigation districts and industries. Let's hope this group can find ways to decrease waste and curtail our consumption, so that we and those after us will have water sufficient to continue to meet those needs.

The full-funding bill for 2001's Texas Emissions Reduction Plan (TERP), House Bill 1365 made its way through conference committee. Some of its more important revenue-generating provisions include increasing the cost for an application for a certificate of title for an automobile from \$13 to \$33 for residents in affected counties and to \$228 in all other counties. After Sept. 1, 2008, the fee statewide will be \$28 and these monies will go to the Texas

*[Please see Resources, Naturally, continued on page 13]*

## State Budget Reductions Will Impact Counties That Receive Indigent Health Care Assistance

In 2002, 25 Texas counties received a total of \$7.2 million in state reimbursement for indigent health care, assistance triggered when those counties had to spend more than the mandated 8 percent of their general revenue to provide health care services for the poor.

In fiscal 2004 and again in 2005, under the budget just passed by the 78th Legislature, there will be \$1.6 million less available in state assistance than the 25 counties received in 2002 – meaning some counties may find themselves in budget dilemmas.

The final state budget appropriates \$5.6 million per year of the biennium – or \$11.2 million total – for indigent health care assistance. It does not include any tertiary care funds.

The \$11.2 million that was appropriated is better than proposed earlier versions of the budget. At one point in early May, the House had appropriated only \$3.8 million for indigent health care assistance, and the Senate had no allocation at all – which would have decimated the local budgets of several counties.

The Texas Association of Counties and its members worked diligently to recoup at least part of the funds for the hard-hit counties. They pointed out to legislators that counties would be forced either to raise property taxes to make up the difference – a route unfair to local taxpayers – or to shut down their indigent health care programs, an extremely complicated decision, since counties are mandated by the state to provide indigent health care.

The state's indigent health care assistance program began in 1985, when counties not served by public hospitals or hospital districts became eligible to receive reimbursement once they went over the 8 percent set aside mandated by the state. Currently, 138 of Texas' 254 counties operate such indigent health care programs,

including the 25 counties that received assistance in 2002.

In particular, several South and North Texas counties received state reimbursement for indigent health care costs in 2002. The top 10 counties and their 2002 reimbursements were:

- Hidalgo, \$3,349,800;
- Cameron, \$780,741;
- Kleberg, \$480,547;
- San Patricio, \$453,406;
- Johnson, \$437,930;
- Atascosa, \$286,829;
- Grayson, \$271,429;
- Medina, \$232,404;
- Fannin, \$227,390;
- Tom Green, \$197,399.

The 15 other counties that received 2002 reimbursements, each less than \$100,000, were Aransas, Austin, Brown, Callahan, Crosby, Delta, DeWitt, Eastland, Jasper, Kinney, Montague, Morris, Runnels, Trinity and Van Zandt. The total reimbursements were \$7,223,212.

The exact impact on those counties, and others of the 138 with like programs, remains to be seen, but the state's having \$1.6 million less per year for indigent health care reimbursement will definitely affect some counties. Overall state budget cuts in Medicaid and the Children's Health Insurance Program could force more low-income persons onto the indigent rolls, thereby increasing the cost of indigent health care overall.

TAC will work with the affected counties during the upcoming biennium, collecting data from the counties so that legislators will have complete and accurate information by the start of the next regular legislative session in 2005. 🗺️

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*[Resources, Naturally, continued from page 12]*

Mobility Fund. The surcharge on the sale, lease, or rental of certain types of equipment is set at 2 percent (up from 1 percent in an earlier version). The bill also imposes a 1 percent surcharge on the retail sale, lease, or use of an on-road diesel motor vehicle weighing more than 14,000 pounds and built in 1997 or later. The bill prohibits TxDOT from determining a speed limit for environmental purposes, but grandfathers existing speed limit reductions. The final

version also allows state agencies and local governments to require or give preference to vendors who meet or exceed state or federal air quality standards, but restricts such preferences to costs that will not exceed 105 percent of the cost of goods or services obtained from another provider.

It's a mixed bag, to be sure, and time will tell, but do we have the time? 🗺️



[Fee Bills, continued from page 4]

fee similar to what the treasurers collect for returned checks. Currently, the treasurer can charge a fee ranging from \$15 to \$30 on insufficient checks, and the county clerk and tax assessor can assess a fee ranging from \$15 to \$25 for the same. This bill would simply allow county clerks and tax assessors the same option as county treasurers. This would result in a slight increase in county revenue.

Last session a bill was passed to allow the counties adjacent to the Mexico border to collect a records archive fee of up to \$5 under Local Government Code Section 118.011(e). This session, **Senate Bill 1731 by Sen. Gallegos** proposes to open up this statute to the entire state, allowing all counties the option of adopting, as part of their budget, a records archive fee of up to \$5. The county clerk collects this fee from any person who presents a public document in their office for recording or filing. County clerks can use this revenue for restoring and preserving any record the county clerk is authorized to accept for filing and that was filed before Jan. 1, 1990. Current statute sets the collection of this fee to expire Sept. 1, 2008. This additional revenue will help county clerks focus on preserving older records.

**House Bill 1945 by Rep. Hartnett** requires the uniform collection of criminal fees in order to avert the issue of unconstitutionality raised by *Caldwell v. Rylander*. The bill provides that a county is not considered a participating county in the state contribution/supplemental salary program unless it collects both civil and criminal fees. (For further information see the May 16 edition of *County Issues*, "Fee Bills Moving Slow this Session.")

**House Bill 3167 by Rep. Goolsby** would affect Government Code Sec. 51.317 by increasing the fee for filing a suit or action from \$45 to \$50. The bill also creates five levels of filing fees for class action lawsuits, depending on the number of plaintiffs in each suit. The fees are to be used to cover the cost of services provided by the district clerk.

A recommendation by an interim committee study resulted in **Senate Bill 1180 by Sen. Royce West**, which is intended to organize all court costs, fees and penalties under the Government Code. Currently, court costs, fees and penalties fall under an assortment of Texas statutes, making them difficult to locate and follow.

**House Bill 1885 by Rep. Goolsby** adds that clerks can collect \$15 for a motion to modify or motion for contempt. The district clerk can currently collect this

\$15 for various court filings, but this legislation includes the same fee for motions to modify and for contempt filed with the district clerk.

Fee bills that have been defeated include the courthouse security fee bills – House Bill 494 and House Bill 1037. Also HB 538, related to the collection of a fee for alternative dispute resolution systems, has failed.

To view the text of these bills, go to <http://www.capitol.state.tx.us> and look for the "Enrolled" version under "Text."

For more information, contact Teresa Aguirre at 800-456-5974 or [TeresaA@county.org](mailto:TeresaA@county.org). 🗺️

## Attorney General Opinions



**GA-0074:** Mr. Edward A. Dion, El Paso County Auditor, authority of a bail bond board to hire outside legal counsel over the objection of the county attorney (RQ-0005-GA). **Summary:** The El Paso County Bail Bond Board is a county entity. Government Code section 41.007 imposes a duty on the El Paso county attorney to provide legal counsel to the Board. See Tex. Gov't Code Ann. § 41.007 (Vernon 1988). The Board may not seek outside legal counsel without the consent of the county attorney, and the El Paso county auditor may not pay any claim for such outside representation. There is no inherent conflict of interest in the dual roles of the county attorney in collecting bail bond forfeiture judgments and advising the Board.

**GA-0077:** Honorable Ed C. Jones, Angelina County Attorney, whether a member of the board of directors of a water control and improvement district may simultaneously serve as an employee of that district (RQ-0012-GA). **Summary:** A member of the Board of Directors of the Central Water Control and Improvement District of Angelina County is prohibited from serving as an employee of the District in any capacity other than that of general manager.

**GA-0078:** Honorable C.E. "Mike" Thomas, III, Howard County Attorney, whether a commissioners' court may contract for online legal research services for the general public and local attorneys with fees collected under section 323.023 of the Local Government Code (RQ-0006-GA). **Summary:** A commissioners' court may use fees collected under section 323.023 of the Texas Local Government Code to provide online legal research services for the general public, judges, and attorneys, and incidental benefit to private attorneys would not render the expenditure unconstitutional under article III, section 52(a) of the Texas Constitution. ■



**RQ-0054-GA:** Honorable Mike Fetter, Criminal District Attorney, Upshur County, whether a county may perform work within the right-of-way of a county road; and whether a county may use its personnel and equipment to pave a private parking lot. ■

# Open Records Legislation to Safeguard Personal Information

A number of bills were introduced this session to prevent personal information from being revealed under the Public Information Act. Of all the places a person can find personal information (i.e. Social Security number, date of birth, driver's license number etc.), the county courthouse is only one of many. Despite this, the legislature is set to pass a number of bills that would guard personal information.

The most pronounced work has been on the military discharge records (DD-214 forms) after an article was published in a military magazine about a lawyer who allegedly acquired thousands of Social Security numbers, with the most common source being the county courthouse. To alleviate the identity theft concerns of military veterans, the legislature worked with county officials and other interested parties on a solution to this problem. The end result is **House Bill 545 by Rep. Wohlgemuth** which includes provisions for military discharge records filed both before and after Sept. 1, 2003.

If a military discharge record is filed on or after Sept. 1 it will remain confidential for 75 years from the date of filing. Inspecting or copying the military discharge record during this time period is restricted, except by persons listed in the bill (such as the veteran or legal guardian, etc.). For discharge records filed with the county clerk before Sept. 1, 2003, the veteran or legal guardian "may direct, in writing, that the county clerk destroy all copies of the record" available to the public. The clerk will then have 15 business days to comply with the direction. "The county clerk's compliance does not violate any law of this state relating to the preservation, destruction, or alienation of public records."

If someone other than a veteran or legal guardian makes an inspection or duplication request of a record filed before

Sept. 1, 2003, the county clerk will only be required to search those records that are readily available to the public. The bill has been sent to the governor for his consideration.

Other bills that are headed for the governor's desk include: **Senate Bill 1559/House Bill 2930**, which would give the public an opportunity to remove any Social Security or driver's license numbers from a document before filing it with the county clerk's real property or official public records. **Senate Bill 1388** is intended to protect the personnel information of former Texas Department of Criminal Justice employees from public disclosure (e.g. address, phone number, Social Security number). The bill affects Government Code Sec. 552.117. The records held by county and district clerks are exempt from the SB 1388 requirements because of the arduous and costly task of locating and redacting personal information of former TDCJ employees in courthouse records. Currently, birth certificates are considered confidential records for a period of 50 years. **Senate Bill 861** increases this time period to 75 years. **Senate Bill 174** makes Social Security numbers confidential on a marriage license application, or any document submitted with the application. If a request for a copy of a marriage license application is made, SB 174 gives the county clerk authority to redact the portion of the application revealing the Social Security number. The intent of **Senate Bill 84** is to direct public information officers to produce requested information that is readily available "as soon as possible under the circumstances, that is, within a reasonable time, without delay." This language was taken directly from a Feb. 2000 Open Records Decision (ORD-664) issued by the Office of the Attorney General. SB84 would codify the language into Section 522.221(a) of the Government Code. 🗺️

*[From the Desk, continued from page 16]*

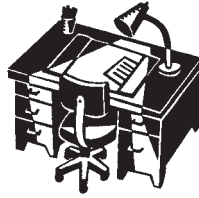
about specific recommendations on the feasibility of the recent legislative initiatives. **Coming attractions** – the prospect of a special session in the months to come is high. The complicated funding issues surrounding school finance remain unresolved. And, recently the issue has ripened even more so by virtue of a decision by the Texas Supreme Court which opened the litigation gates to challenge the existing system. Furthermore, the leadership doesn't appear to be completely satisfied with its efforts on government reorganization. **Sneak preview** – you've got to believe that congressional redistricting will reappear on the

radar screen, especially if a special session is called during late summer or early fall, which would allow time for court challenges and compliance with the federal Voting Rights Act. **Foolishness** – Six wise, blind elephants were discussing what humans were like. Failing to agree, they decided to determine what humans were like by direct experience. The first wise, blind elephant felt the human, and declared, "Humans are flat." The otherwise blind elephants, after similarly feeling the human, agreed. **County Government – it's the pulse of the real people.** 🗺️

## From the Legislative Desk

By Carey "Buck" Boethel

Director of Governmental Relations



**Sine Die** – the 78th general session of the Texas Legislature ended at 8 p.m. on June 2. **Sorting it all out** – because the inherent challenges of the severe economic downturn shaped the character and features of the session's yield, it will take the practical application of legislative policies to finally determine how things will shake out for Texas counties. **Not a pretty thing to see** – not all proceedings of the recent session were cordial or necessarily pleasant to watch. There were tense times and tempers often flared, particularly in the House. But, that's part of the process – rival interests competing. "But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary." [Federalist Papers, No. 51.] **Rough times** – working within extremely limited

revenue corridors and without the benefit of reliable economic predictors, members of the Texas Legislature painstakingly worked their way through unprecedented issues. **Mixed reviews** – comments on the outcome of the session, in terms of success or breakdown, will run the entire gamut from taxpayer victory to outright loss for uninsured children and the poor. **The blame game** – the tendency to blame others and engage in finger-pointing is so widespread that it has become extremely common in our culture, almost universal. Beside the fact that blaming and whining take an enormous amount of mental energy, the practice also leads us to believe that we are never responsible for our own actions and problems. We must be mindful that assertions of blame are not costless and that political assessments of fault are often inaccurate. **Making the best of what we have** – now, the real challenge for Texas counties will be to sort out our responsibilities and priorities and develop intelligent operational policies in the areas we have the discretion to do so [counties have mandatory responsibilities in many instances]. By the time the next regular session comes up, counties will have experienced a period of implementation sufficient to bring

*[Please see From the Desk, continued on page 15]*



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