

House Interim Charges

The Texas House of Representatives, 80th Legislature, Interim Study Charges for 36 of the standing committees were issued November 28-30 by Tom Craddick, Speaker of the House. The standing committees will conduct studies and issue reports with recommendations for consideration by the 81st Legislature. As in the past, many of the interim charges recommendations will be used to draft legislation on particular issues. It is likely that many of the standing committees will create stakeholder work groups to examine the aspects of the charges. Therefore, if you have an interest in providing information for a study, please contact the TAC Legislative Department at 800/456-5974.

The interim study charges contained within this report are the most significant county-related charges. As the interim study charges progress, this list is subject to change. The TAC Legislative Department will closely monitor the progress of all studies for potential local government impact.

Complete reports for the Texas House of Representatives Interim Study Charges may be found on the Texas Association of Counties' website located at www.county.org.

HOUSE COMMITTEE ON AGRICULTURE AND LIVESTOCK

5. Examine the opportunities for increased economic development funding in rural Texas.

HOUSE COMMITTEE ON APPROPRIATIONS

1. As an oversight of all state agencies, assess all performance measures, operating budgets, budget transfers, and changes in full-time equivalents, major contracts, litigation, and debt financing, including assessing all rider provisions and evaluating budget structure effectiveness.
2. Examine alternative spending limit methodologies found among the various states as they impact state and local spending and recommend potential changes to the Texas budget process to bring long-term,

innovative strategies to control costs of major governmental programs.

3. Evaluate the process by which costs of statutory changes are determined and formalize a process by which contingency appropriations are provided and enhance the communication between standing committees and the appropriations committee.
5. With regard to the state's health-related institutions, research deficiencies with disproportionate share and upper payment limit methodologies; research collaboration with general academic institutions and between health-related institutions; review funding streams for University of Texas Medical Branch (UTMB), focusing on the issue of the need for reimbursement by counties using UTMB for

higher levels of indigent care; and study the methodology used to fund the state's two mission specific institutions.

6. Comprehensively review Medicaid provider reimbursement rate methodologies, including the impact of factors such as infrastructure concerns, federal minimum wage changes, and cost reports. The review should also address health care concerns such as access to care, quality of care, and value. Any recommendations should take into account current rate increases impacting the next fiscal year.
8. Examine settlement of federal and state lawsuits against Harris County Hospital District for false claims in the state Medicaid program. Recommend any measures needed to ensure compliance of

KEY COUNTY DATES

Before December 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 session. TEX. LOC. GOV'T CODE §81.005(a).

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: Month voter registrar to begin mailing confirmation notices to voters whose names appear on the suspense list. TEX. ELEC. CODE, §14.023.

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

January 2, 6:00 p.m. Deadline for candidate filing for place on general primary election ballot. *Actual receipt by 6:00 p.m. required.* TEX. ELEC. CODE, §172.023.

January 2, 6:00 p.m. Deadline independent candidates may file declaration of intent to run. *Actual receipt by 6:00 p.m. required.* TEX. ELEC. CODE, §142.002.

January 2: 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 January 1. TEX. ELEC. CODE, §18.041(d).

January 4: First day to submit application for ballot by mail for March 4 general primary, or both the general primary and the runoff primary. TEX. ELEC. CODE, §§84.001(d) and 84.007.

January 1-15: Reconstitution of jury wheel. TEX. GOV'T CODE, §62.001.

January 11. Deadline for county executive committee of party holding a primary to conduct drawing for candidate order on ballot at the county seat. *Unless committee provides by resolution that primary committee is to conduct drawing.* TEX. ELEC. CODE, §172.082(c).

January 15, 5:00 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.

January 17. Counties with 100,000 or greater population. Deadline for county clerk to mail two copies of personal financial statement forms to candidates for county judge, county commissioner, and county attorney in the general primary election. TEX. LOC. GOV'T CODE, §159.005.

January 17. Counties with 125,000 or more population. Deadline for county clerk to mail two copies of personal financial statement forms to candidates for justice of the peace in the general primary election. TEX. LOC. GOV'T CODE, §159.005.

January 30: Deadline for Road and Bridge expenditure report due to State Comptroller. TEX. TRANSP. CODE, §256.009.

February 1. Unpaid property taxes become delinquent if not paid before February 1 of the year after the taxes are imposed. TEX. TAX CODE, §31.02(a).

February 1 – Calendar Fiscal Year Counties. Fee basis officers required to file annual report with district court. TEX. LOC. GOV'T CODE, §114.046(a).

February 4. Last day a person may submit an application to register to vote in March 4, 2008 primary election. TEX. ELEC. CODE, §13.143. *Since the statutory deadline of the 30th day before primary election day falls on a Sunday, the deadline is extended to Monday, February 4, 2008.* TEX. ELEC. CODE, §§1.006, 13.143(e), and 15.025(d).

February 4, 5:00 p.m. Deadline for opposed candidates in general primary election to file pre-election report of political contributions and expenditures. TEX. ELEC. CODE, §254.064. *Actual receipt by deadline required. Deadline extended.* TEX. ELEC. CODE, §1.006.

February 11, 5:00 p.m. Counties with population 100,000 or more. Deadline for candidates for county judge, county commissioner, and county attorney to file personal financial statements. TEX. LOC. GOV'T CODE, §159.004.

Counties with population 125,000 or more. Deadline for candidates for justice of the peace to file personal financial statement. TEX. LOC. GOV'T CODE, §159.004.

February 19. First day of early voting by personal appearance for general primary election. TEX. ELEC. CODE, §85.001

February 25, 5:00 p.m. Deadline for opposed candidates in general primary election to file pre-election report of political contributions and expenditures. TEX. ELEC. CODE, §254.064. *Actual receipt by deadline required.*

February 29. Last day of early voting by personal appearance for general primary election. TEX. ELEC. CODE, §85.001.

Indigent Health Care Interim Studies



By Rick Thompson
TAC Legislative Staff

The House Committee on Appropriations and the House Committee on Public Health will be looking into the indigent health care program during the interim (see "House Interim Charges"). These studies will cover various areas of the pro-

gram, including funding streams and reviewing the act itself. Over the last few years many efforts have been made by various working groups and legislative committees to review and update the Indigent Health Care Act. These efforts will continue through these studies: HB 3154's region three review committee (see November 9, 2007 *County Issues*), and Sen. Nelson's SB 10 Medicaid review committee (see

September 21, 2007 *County Issues*.)

At the time of publication, no hearings or meetings have been scheduled but, when available, they will be posted on the TAC website throughout the interim - www.county.org For any questions regarding these issues, please contact Rick Thompson at 800-456-5974 or rickt@county.org. 🇹🇽

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- similar entities with rules and regulations of taxpayer-funded programs.
13. Monitor and examine the implementation of funding appropriated during the 80th Legislature to the Texas Youth Commission, Juvenile Probation Commission, Texas Department of Criminal Justice (TDCJ), and Correctional Managed Health Care Committee.
 14. Examine regulatory agencies and programs to consider aspects such as call center consolidation, strategies to allow access to greater revenue generated, and communication of best practice alternatives across agency lines.
 15. Analyze the current financial condition of the Texas Department of Transportation including but not limited to cash in bank, encumbered funds, use of bond capacity and projected needs for various funds allocated to the Texas Department of Transportation and their appropriation for major projects over the last five years. This analysis should include a review of revenues diverted from the State Highway Fund for non-transporta-

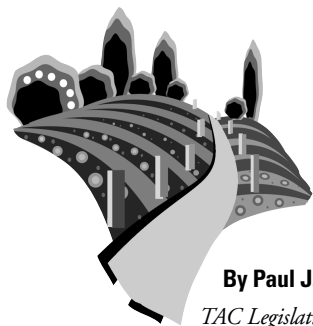
- tion applications. Examine alternative sources of revenue to sustain future transportation needs.
16. Study the state's current and long-range need for physicians, dentists, nurses, allied health and long-term care professionals. Make recommendations regarding strategies related to both geographic distribution and barriers to recruitment of high-need professions, especially for primary care providers and long-term care professionals. (Joint Interim Charge with the House Committees on Border and International Affairs and Public Health)
 18. Assess the relationship between mental illness and criminal behavior and offer reforms needed to address the proliferation of mental illness in the adult and juvenile criminal justice systems. This review should include an examination of data sharing between criminal justice and health and human services agencies, proper screening, assessments, treatment, discharge planning, post-release supervision, and community services. (Joint Interim Charge with the

- House Committee on Corrections)
19. Review and research the availability, coordination, efficiency, and allocation of substance abuse treatment resources for probationers, pretrial defendants, people in the custody of the TDCJ, and parolees. This review should include methods to reduce and improve current assessments, training, and referring protocols and the identification of any barriers that may be impeding all of the above. (Joint Interim Charge with the House Committee on Corrections)

HOUSE COMMITTEE ON BORDER AND INTERNATIONAL AFFAIRS

2. Review changes in border security and immigration on the state and federal level. (Joint Interim Charge with the House Committee on State Affairs)
3. Study the state's current and long-range need for physicians, dentists, nurses, and other allied health and long-term care professionals. Make recommendations regarding strategies related to both geographic distribution and barriers to recruitment of high-

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Resources, Naturally

Ideas for the 81st Regular Session

By Paul J. Sugg

TAC Legislative Liaison



The biennial tradition we observe about this time puts many in the spirit of the season: the tradition is the release of interim charges and the spirit

of the season involves preparing for the next legislative session in 2009. This brings out the Grinch in some, but these, perhaps like the Grinch before he reaches his epiphany on Mt. Crumpit that pivotal Christmas morning, must have hearts two sizes too small.

The Speaker of the House, as is found in this issue of our publication, has issued interim charges to House committees. Some of these are related to the ideas and topics we generally address in this spot and below please find some abbreviated comments on those particular charges. We'll be discussing them at greater length as the interim process unfolds.

House Environmental Regulation

The committee has six charges all related to the Green Chemistry initiative, such as examining and identifying "the environmental and economic benefits of promoting Green Chemistry initiatives" and one I like for its pithiness alone: "Examine the obstacles that must be overcome for Green Chemistry to be effective; identify solutions to such obstacles". The EPA defines Green Chemistry thusly: "Green chem-

istry, also known as sustainable chemistry, refers to environmentally friendly chemicals and processes that result in: reduced waste, eliminating costly end-of-the-pipe treatments; safer products; and reduced use of energy and resources—all improving the competitiveness of chemical manufacturers and their customers." Pumping fewer dangerous chemicals in our air, land, and water is a worthy goal.

The committee is directed to study the State Implementation Plan (SIP) to see if it is reaching the goal of meeting federal air quality standards and requirements. As populations continue to grow in the traditional patterns of suburban automobile culture (more roads and development further and further away from urban centers, more cars, more congestion, more pollution and waste), air quality challenges will continue. Industrial pollution sources will continue to grow as well, to keep pace with our demands for more stuff and more electricity. The SIP is the result of a whole lot of hard work on the part of federal, state and local officials—may it continue to progress as well.

Along the lines of electricity demand and air quality, Speaker Craddick has announced the creation of the Select Committee on Electric Generation Capacity and Environmental Effects, the stated goal of which is to "...study the state's demand for electric generation capacity over the next 50 years and determine the necessary infrastructure and

technology to meet this demand is available. The environmental effects of the existing electric generating facilities will also be examined, as well as the effects of global warming and climate change." Rep. Dennis Bonnen will chair the nine-member committee, all of whom are House members appointed by the speaker.

House Land and Resource Management

The committee shares a charge with County Affairs that represents the fascinating intersection of seemingly disparate ideas: municipal authority to regulate public nuisances; efforts to improve public health; free enterprise; and the very ancient idea of the commons, the shared natural resources that none in our village own but that all share. As villages grow, the commons get smaller and smaller.

House Natural Resources

The Legislature's preferred method of regulating groundwater is the groundwater conservation district. These have traditionally been organized along county, that is to say, political, rather than aquifer, boundaries. Recent legislative changes have moved toward more joint planning among groundwater districts covering the same aquifer. Districts, and the people they represent, may and do have different opinions about how the common resource should be managed. The committee will study the progress towards shared management and

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need professions, especially for primary care providers and long-term care professionals. (Joint Interim Charge with the House Committees on Appropriations and Public Health)

HOUSE COMMITTEE ON BUSINESS AND INDUSTRY

1. Study the problem of identity theft and the impact of identity theft legislation enacted in recent legislative sessions. Examine the problem of electronic data breaches, as well as the feasibility of requiring periodic destruction of records for businesses and state entities to limit exposure to identity theft. Examine the issue of personal information contained in publicly available government records. Recommend any legislative changes needed to combat the problem.
5. Monitor the Texas workers' compensation system, and the continued implementation of the reforms of HB 7, 79th Legislature, Regular Session, by the Texas Department of Insurance and other state agencies. Specifically evaluate the recent decision by the Texas Supreme Court in *Entergy v. Summers* in terms of its impact on the system. (Joint

Interim Charge with the House Committee on Insurance)

HOUSE COMMITTEE ON CIVIL PRACTICES

1. Study the cumulative effects of Texas civil justice reforms enacted since 2003, with particular attention toward effects on Texas job creation, judicial efficiency, medical access, and medical malpractice insurance rates.

HOUSE COMMITTEE ON CORRECTIONS

1. Explore the use of technology practices that improve efficiency, safety, and coordination of criminal justice activities on the state, local, and county levels.
2. Consider new strategies for meeting prisoner reentry challenges in Texas, including the evaluation of programs with documented success. This review should include the availability of housing and occupational barriers.
3. Provide a comprehensive analysis and study of the Texas state jail system, including original intent for use, sentencing guidelines, and effectiveness. Develop suggestions for changes and improvements in the state jail system.

4. Study the organizational structure of the Texas Youth Commission and the Texas Juvenile Probation Commission to determine if the current system is effectively and efficiently addressing the needs of the juvenile justice system in conjunction with the sunset review of these agencies. (Joint Interim Charge with the House Committee on Juvenile Justice and Family Issues)
5. Study Disciplinary Alternative Education Programs and Juvenile Justice Alternative Education Programs, including referral rates, age of students, whether parents have sufficient recourse to challenge a placement, funding, and course requirements. (Joint Interim Charge with the House Committee on Juvenile Justice and Family Issues)
6. Review and research the availability, coordination, efficiency, and allocation of substance abuse treatment resources for probationers, pretrial defendants, people in the custody of the Texas Department of Criminal Justice (TDCJ), and parolees. This review should include methods to reduce and improve current assessments, training, and referring protocols

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resolution of differences of opinion about "desired future conditions" of an aquifer.

The committee will monitor the next stages in the state-wide water planning begun by SB 1 in 1997: this session's HB 3, HB 4, and SB 3, as well as three committees looking at the dead-serious issues of keeping river

and bay systems healthy, finding cheap water (conservation, conservation, and conservation), and finally, finding the big pile of money at the state and local levels that will be needed to meet the state's water supply and infrastructure needs in the coming decades.

The committee will also study dams, levees and other such flood con-

trol devices. Many are getting older and are in need of fixing; questions exist about who owns them and who should pay for their repair.

See y'all next year. In the coming year, may all our efforts towards the common good be blessed. 🇹🇽

Technology Being Studied In Corrections Committee



By Laura Nicholes
TAC Legislative Staff

The House Committee on Corrections Interim Charge number #1 reads: "Explore the use of technology practices that improve efficiency, safety and coordination of criminal justice activities at the state, local and county levels." The task the committee has undertaken is to explore the challenges and benefits of sharing criminal justice information across all jurisdictions to ensure fast, accurate, timely data is available to those making key security decisions at various stages of the law enforcement and justice systems – from the routine traffic stop to jail/prison classification to emergency management and disaster operations.

The original concept of organizing Integrated Justice Information Systems (IJIS) in Texas emerged from a meeting on June 12, 2002, in Austin sponsored by Tarrant County and hosted by the Texas Association of Counties (TAC) and the County Information Resources Agency (CIRA). That meeting focused on developing a model regional information management system to enable counties and cities throughout Texas to share criminal justice and emergency management information. Over time, the group developed into the formal governance structure titled Texas Integrated Justice Information Systems advisory committee, or TIJIS.

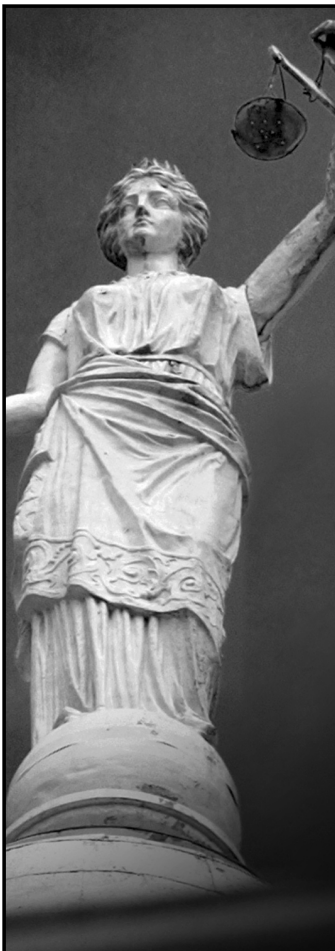
The National Information Exchange Model (NIEM) is the federal initiative leading the standardization effort and is a partnership between the U.S. Department of Justice and the U.S. Department of Homeland Security. NIEM represents a collaborative partnership of agencies and organizations across all levels of government (federal, state, tribal, and local), and with private industry. The partnership

goal is to effectively and efficiently share critical information at key decision points throughout the whole of the justice, public safety, emergency and disaster management, intelligence and homeland security enterprise. The result of NIEM is more efficient and expansive information sharing, more cost effective development and deployment of information systems, improved operations, better quality decision making as a result of more timely, accurate and complete information, and, as a consequence, enhanced public safety and homeland security.

The Path to NEIMS project has begun

in Texas. Recently, the Department of Public Safety in partnership with Department of Criminal Justice, Office of Court Administration and in collaboration with TIJIS procured the services of a private company to begin the information sharing project which will enable jurisdictions to share, exchange, accept and translate information using the National Information Model (NIEM) standards.

For more information on TIJIS and the Path to NEIMS project, visit the www.tijis.org web site or contact Laura Nicholes at 800-456-5974 or via email to LauraN@county.org. 🇹🇽



2008 Law Enforcement Regional Workshops

Inmate Rights and Privileges

In this two-day course, we will cover the evolution of correctional case law in order to understand the present context of prisoner rights and the courts' role in protecting those rights. We will discuss civil liability issues and various state and federal remedies available to inmates. There will also be a review of inmate rights in consideration of the First, Fourth, Fifth, Sixth, Eighth and 14th Amendments to the Constitution. This course is required for intermediate TCLEOSE certification. There will be 16 hours of TCLEOSE credit offered upon completion of this two-day workshop. You must have a valid PID# from TCLEOSE to receive proper credit.

January 8-9 Kerrville
February 19-20 Tyler
February 19-20 Odessa
February 26-27 Denton
February 26-27 Corpus Christi
March 4-5 College Station
March 4-5 Amarillo

Visit www.county.org to register. For more information contact the Education department at 800-456-5974.

TEXAS ASSOCIATION of COUNTIES

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and the identification of any barriers that may be impeding all of the above. (Joint Interim Charge with the House Committee on Appropriations)

7. Study policies and procedures related to illegal immigration and border security of the TDCJ, county probation departments, and local and county jail facilities, and make recommendations to improve coordination with international, federal, state, and local authorities. (Joint Interim Charge with the House Committee on County Affairs)
8. Assess the relationship between mental illness and criminal behavior and offer reforms needed to address the proliferation of mental illness in the adult and juvenile criminal justice systems. This review should include an examination of data sharing between criminal justice and health and human services agencies, proper screening, assessments, treatment, discharge planning, post-release supervision, and community services. (Joint Interim Charge with the House Committee on Appropriations)

HOUSE COMMITTEE ON COUNTY AFFAIRS

1. Study the issues surrounding the sale, use, and regulation of fireworks in urbanized, unincorporated parts of the county.
2. Examine county procurement statutes to identify areas for increasing efficiency without sacrificing internal controls.
3. Study policies and procedures related to illegal immigration and border security of the Texas Department of Criminal Justice, county probation departments, and local and county jail facilities, and

make recommendations to improve coordination with international, federal, state, and local authorities. (Joint Interim Charge with the House Committee on Corrections)

4. Examine recent attempts by municipalities to exert regulatory authority beyond city limits and extraterritorial jurisdiction. Evaluate the current relationship between and possible conflicts related to regulatory authority expressly given to state agencies by the legislature and regulatory authority delegated to home-rule municipalities. (Joint Interim Charge with the House Committee on Land and Resource Management)
5. Monitor the agencies and programs under the committee's jurisdiction.

HOUSE COMMITTEE ON CRIMINAL JURISPRUDENCE

1. Examine problems associated with the current system of deferred adjudication in Texas.
4. Study the prosecution and effectiveness of current drunk driving laws in Texas and recommend any legislative changes needed to further combat the problem.
6. Examine the current Texas law allowing dual trials for capital murder defendants.

HOUSE COMMITTEE ON CULTURE, RECREATION, AND TOURISM

5. Research and explore new ways to promote and improve economic development related tourism in the state.

HOUSE COMMITTEE ON DEFENSE AFFAIRS AND STATE-FEDERAL RELATIONS

1. Study and make recommendations to address the need to identify

essential personnel necessary to enter a disaster area to restore critical infrastructure.

2. Monitor the United States Congress for the enactment and rules regarding the Veteran's Mental Health Outreach and Access Act of 2007. Explore coordination with the community based clinics in Texas that would be able to provide the prescribed services to veterans.
4. Examine Chapter 431, Government Code, Chapter 431, to determine the feasibility of the Texas State Guard and Texas National Guard, while designated on state active duty, to assist in interagency planning and operational coordination under the Governor's Division of Emergency Management and the Texas Secretary of State.
5. Examine the State of Texas' preparedness level to handle a public health emergency. (Joint Interim Charge with the House Committee on Public Health)
6. Review the current requirements for driver's license and identification card holders in Texas in order to recommend legislative measures to prevent these documents from being used to further criminal activities and recommend ways to enhance homeland security. (Joint Interim Charge with the House Committee on Transportation)

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT

1. Study the performance of the Texas Enterprise Fund, the Texas Emerging Technology Fund, the Texas Economic Development Act, the Texas Enterprise Zone Program, and other economic development tools in promoting economic devel-

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U.S. Supreme Court to Hear Texas Right-to-Counsel Case



By Laura Garcia
TAC Legislative Staff

On December 3, the U.S. Supreme Court agreed to review a U.S. Fifth Circuit Court of

Appeals decision to clarify exactly when a defendant has a constitutional right to appointed counsel. In *Rothgery v. Gillespie County*, a case originating in Texas, the defendant, Walter Rothgery, was arrested without a warrant on a felony charge of possessing a firearm as a felon and was booked into the Gillespie County Jail. The next morning, Rothgery was brought before a magistrate where he was informed of the accusation against him and given the statutory warnings provided under Article 15.17 of the Texas Code of Criminal Procedure, including notice of his right to retain counsel and his right to have counsel appointed for him if he could not afford an attorney.

The defendant announced his intention to waive his right to counsel at that point in time so that bail could be set, and he was later released from jail on bond. Rothgery claims that he repeatedly requested counsel in the months following his release (as his initial waiver of counsel was limited for the purpose of setting bail), but no attorney was appointed. Six months after his arrest, a grand jury indicted Rothgery, and he was rearrested and brought before a magistrate. A few days later, a state district judge appointed counsel. Shortly thereafter, the appointed attorney obtained paperwork proving that the defendant was not, in fact, a felon, which was an ele-

ment of the underlying offense, and the charges were dismissed.

In July 2004, Rothgery sued Gillespie County in federal court alleging that the county violated his Sixth and Fourteenth Amendment right to counsel by following a policy of denying appointed counsel to arrestees released from jail on bond and by failing to adequately train and monitor those involved in the appointment of counsel process. Rothgery argued that counsel should have been appointed after his first appearance in the magistrate's court. The district court ruled in favor of Gillespie County and determined that Rothgery's right to counsel did not attach until his indictment, which marked the initiation of adversary judicial proceedings against him.

The U.S. Court of Appeals for the Fifth Circuit affirmed the district court's decision, determining that because prosecutors were not aware of or involved in Rothgery's arrest or appearance before a magistrate, that appearance did not initiate adversary judicial proceedings, and Rothgery's right to counsel did not attach at that appearance.

The U.S. Supreme Court has now agreed to review this Fifth Circuit

decision. Rothgery, represented, in part, by the Texas Fair Defense Project, argues in his appeal that the Fifth Circuit's decision conflicts with the decisions of other federal courts of appeals and state courts on this matter. Current case law generally holds that a defendant has a right to counsel when adversary judicial proceedings have been initiated against him; however, there is disagreement as to exactly when that occurs. Counsel for Gillespie County argues that the right to counsel in Texas does not attach at an appearance before a magistrate if prosecutors were not involved in the arrest or court appearance, while the defendant contends that the right to counsel attaches once the defendant appears before a magistrate (and not upon the filing of an indictment or information), even if the defendant is released on bail.

Depending on how the Supreme Court rules, its decision in this case could have implications for current county practices regarding the timing of appointment of counsel for indigent defendants. The Court will likely hear oral arguments in the case in March 2008. ➤

New Employer Laws Affecting Child Support

Recent changes to the Texas Family Code impact all Texas employers by adding requirements for withholding severance and lump sum payments, and by imposing penalties for failure to report new hires. The Child Support Division of the Office of the Attorney General has compiled information on these changes and they may be reviewed on the TAC website at www.county.org under "Legislative and County-Related News". ➤

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opment in Texas, and recommend any needed statutory changes.

2. Review the overall history, goals, and implementation of the various funds established by Article 5190.14, Vernon's Texas Civil Statutes. Identify and recommend any changes necessary to clarify or improve the statute.
3. Study the use of the Texas Economic Development Act since its enactment as HB 1200, 77th Legislature, Regular Session. Determine how the act may be enhanced to better attract significant capital investments by science and technology industries developing alternative energy sources. (Joint Interim Charge with the House Committee on Energy Resources)
4. Monitor the agencies and programs under the committee's jurisdiction.

HOUSE COMMITTEE ON ELECTIONS

1. Study the general issue of electronic voting technology, including the issues of general benefits and risks, security and accuracy, paper trails, etc.
2. Examine the prevalence of fraud in Texas elections, considering prosecution rates and measures for prevention. Study new laws in other states regarding voter identification, and recommend statutory changes necessary to ensure that only eligible voters can vote in Texas elections. Specifically study the Texas mail-in ballot system, the provisional voting system, and the various processes for purging voter lists of ineligible voters.
3. Monitor the continued implementation of the federal Help America Vote Act of 2002 by the Office of the Secretary of State, specifically

including the implementation of the Texas Election Administration Management system to maintain voter registration records, administer elections, and execute and report election results.

4. Study poll worker recruitment and training in Texas, and suggest possible statutory improvements.
7. Research the current Texas law prohibiting the use of public resources for political advertising, and determine whether the law needs to be amended to clarify that publicly funded e-mail systems may not be used for political communications.
8. Monitor the agencies and programs under the committee's jurisdiction.

HOUSE COMMITTEE ON ENVIRONMENTAL REGULATION

7. Study the Clean Air Act State Implementation Plan (SIP) to determine if:
 - Data is being collected adequately;
 - Recent changes to the SIP are bringing Texas closer to federal Environmental Protection Agency (EPA) requirements; and
 - There are any midcourse corrections necessary to achieve EPA requirements. As background, examine and document the trend in levels of air quality in Texas since 1980.
8. Examine the progress of the Texas Emissions Reduction Plan, the Low-Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program and the Texas Environmental Research Consortium.
9. Study the air permitting process to examine, define, or interpret the following:
 - The role of public input in the

standard air permitting process;

- The requirements and interpretation of what constitutes Best Available Control Technology;
- The requirements for monitoring ambient air in the beginning stages of the permitting process;
- The requirements for modeling future air pollution in the event that the proposed plant is constructed;
- The issue of the cumulative impact of different air pollution sources;
- The use of permits-by-rule and flexible permits in some cases; and
- The requirements for permit renewals and the process for granting or denying permit renewals.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS

2. Monitor the implementation of HB 716, 80th Legislature, Regular Session, to determine if there is a need to further legislate the protection of homebuyers in mortgage fraud schemes, emphasizing the impact in the foreclosure process.

HOUSE COMMITTEE ON GOVERNMENT REFORM

1. Research, investigate, and make recommendations on how electronic documents can be created, maintained, exchanged, and preserved by the state in a manner that encourages appropriate government control, access, choice, interoperability, and vendor neutrality. The committee shall consider, but not be limited to, public access to information, expected storage life of electronic documents, costs of implementation,

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Court Costs and Fees

Effective January 1, 2008



By Nanette Forbes
TAC Legislative Staff

The Comptroller of Public Accounts, pursuant to Government Code, §51.607, published a list of all court costs and fees imposed or changed during the 80th Legislative Session in the Texas Register. The Comptroller is required after each regular session to identify and publish a listing of new or amended court costs, fees, and their effective dates.

The court costs and fees appearing on the following list will become effective January 1, 2008. The information provided below has been taken from the Comptroller's report published in the Texas Register, August 3, 2007 issue:

- **House Bill 8, Sexual Abuse of a Child Fee.** The legislation known as the Jessica Lunsford Act, relates to the prosecution, punishment, and supervision of certain sex offenders.

The bill amends the Code of Criminal Procedure, §102.0186(a), by adding continuous abuse of a child to the list of offenses under which a person is required to pay a \$100 cost upon conviction. These costs are deposited in the child abuse prevention fund that is administered by the county.

- **House Bill 1267, Indigent Defense Court Cost.** The legislation adds

Government Code, §102.023, to create a new \$2 court cost for indigent defense. The fee applies to any offense other than an offense relating to a pedestrian or parking. The fee will apply in all municipal, justice, county, and district court convictions. The fee is to be remitted quarterly to the comptroller for deposit to the fair defense account to be used to fund indigent defense representation.

- **House Bill 1295, Supplemental Court-Initiated Guardianship Fee.** The legislation creates a supplemental court-initiated guardianship fee for the support of the judiciary in cases involving guardianships under Texas Probate Code, §683. The county clerk shall collect the \$20 fee, which the court imposes in certain probate original actions and adverse probate actions. The fee must be deposited into the county treasury to provide supplemental funding for compensation of court-appointed guardians ad litem and court-appointed attorneys ad litem and to fund local guardianship programs for indigent incapacitated person.
- **House Bill 1623, Administrative Fees for Dismissal of Certain Violations.** The legislation creates administrative fees and increases others relating to the dismissal of certain Transportation Code and Parks & Wildlife Code violations. The fees apply when a defendant

demonstrates that corrective action has been taken and the court chooses to dismiss the charge.

The bill added or amended the following laws:

1. Added Transportation Code, §502.404(f) and (g);
 - dismissal of a violation for the operation of a vehicle without a license plate or registration insignia;
 - creates an administrative fee not to exceed \$10;
2. Amended Transportation Code, §502.407(b);
 - dismissal of a charge of driving with an expired motor vehicle registration;
 - increases administrative fee, from not to exceed \$10 to not to exceed \$20;
3. Added Transportation Code, §502.409(c);
 - dismissal of a violation for the operation of a vehicle with a wrong, fictitious, altered, or obscured license plate;
 - creates an administrative fee not to exceed \$10;
4. Added Transportation Code, §521.025(f);
 - dismissal of a violation for failing to carry a license and exhibit it on demand;
 - creates an administrative fee not to exceed \$10;
5. Amended Transportation Code, §521.026;

[Court Costs, continued on page 11]

[Court Costs, continued from page 10]

- dismissal of a charge of driving with an expired license;
 - increases administrative fee from not to exceed \$10 to not to exceed \$20;
6. Added Transportation Code, §521.054(d);
- dismissal of a violation for failing to change address or name on a drivers license;
 - creates an administrative fee not to exceed \$20;
7. Added Transportation Code, §521.221(d);
- dismissal of a violation of operating a vehicle in violation of a restriction imposed or without the endorsement required on the license issued to that person;
 - creates an administrative fee not to exceed \$10;
8. Added Transportation Code, §547.004(c) and (d);
- dismissal of the violation of operation, or allowing the operation of a vehicle that is unsafe or not in compliance with the vehicle standards and requirements or that is equipped in a prohibited manner;
 - creates an administrative fee not to exceed \$10;
9. Amended Transportation Code, §548.605(b);
- dismissal of a charge of driving with an expired inspection certificate;
 - increases the administrative fee from not to exceed \$10 to not to exceed \$20; and,
10. Added Parks and Wildlife Code, §31.021(f);
- dismissal of a violation for

the operation of a vessel with an expired certificate of number;

- creates an administrative fee not to exceed \$10.

- **House Bill 2151, Juvenile Delinquency Prevention and Graffiti Eradication Fee.** Code of Criminal Procedure, Article 102.0171(a), is amended to increase the local court cost from \$5 to \$50 for the graffiti offense in Penal Code, §28.08. The fee applies in constitutional and statutory courts and district courts.
- **House Bill 2949, Teen Court Dismissal Fee in the Texas Louisiana Border Region.** The legislation allows juvenile, justice, and municipal courts in the Texas-Louisiana border region, which is defined by Government Code, §2056.002, to charge a \$20 fee for the dismissal of a misdemeanor charge upon the completion of a teen court program. This is a new fee in addition to the fee previously authorized for the teen court programs.
- **Senate Bill 325, Ninth Court of Appeals District Appellate Judicial System Support Fee.** The legislation adds Government Code, §22.2101, to create an appellate judicial system for the Ninth Court of Appeals District. To fund the system, the county commissioners court in each county in the 9th District is required to set a court fee of \$5 for each civil suit filed in county court, county court at law, probate court, or district court in the county. The court costs fee does not apply to a suit filed by

the county or to a suit for delinquent taxes.

- **Senate Bill 600, Judicial Support Fee and Judicial Fund.** The legislation amends Local Government Code, §133.105 and §102.022, to increase the criminal court cost for the Judicial Support Fee from \$4 to \$6. The bill amends local Government Code, §133.154 and Government Code, §101.062 and §101.083, to increase the civil filing fee for Judicial Support from \$37 to \$42.
- **Senate Bill 1412, Civil Suits in Justice of the Peace Courts and Small Claims Court.** The legislation revises the civil suit filing fees in justice courts and small claims courts. It increases the fee for services rendered before judgment from \$15 to \$25 in justice court and from \$10 to \$25 in small claims courts. The bill amends Government Code, §101.141, and Local Government Code, §118.121.
- **Senate Bill 1083, Driving Records Fee.** The legislation amends Code of Criminal Procedure, Article 45.0511, relating to the fee for requesting a driving record when a defendant has requested a driving safety course or motorcycle operator training course dismissal. The court may charge the defendant the \$10 fee established by Transportation Code, §521.048, and the TexasOnline Fee that is currently \$12, for a total of \$22.

For more information concerning this article, please contact Nanette Forbes at 800/456-5974 or send via email to nanettef@county.org. 📧

[Interim Charges, continued from page 9]

and savings.

5. Review a wide variety of state agencies with an eye to streamlining state government. Recommend the amendment or repeal of unnecessary statutory requirements, the deregulation of certain industries if in the public interest, and ways to implement agency efficiency recommendations identified by the Legislative Budget Board, the State Auditor's Office, and the Sunset Advisory Commission.

HOUSE COMMITTEE ON INSURANCE

1. Examine states that have made the transition from heavily regulated health insurance markets to less regulated markets in order to assess the impact on market competitiveness, prices, consumer satisfaction, and regulatory costs in those states. Specifically, identify current barriers and possible enhancements to flexibility in purchasing health insurance, including the purchase of health insurance plans offered in other states. Review and evaluate state law and agency rules related to the use of health savings accounts and health reimbursement arrangements, particularly by small businesses. Review possible tax incentives for purchasing private insurance.
2. Study the practice of balanced billing by medical providers and determine which portions of the cost out-of-network care patients, insurers and providers should ultimately be responsible for paying.
3. Research state and federal law to determine whether Texas may enact legislation that mandates proof of financial responsibility for vehicles entering the United States through Texas, as Texas citizens are

required to provide when they enter Mexico. Study the possible benefits and costs of such legislation.

5. Make recommendations on potential alternatives to the Texas Health Insurance Risk Pool for providing private health insurance to otherwise uninsurable individuals.
10. Monitor the Texas workers' compensation system and the continued implementation of the reforms of HB 7, 79th Legislature, Regular Session, by the Texas Department of Insurance and other state agencies. Specifically, evaluate the recent decision by the Texas Supreme Court in *Entergy v. Summers* in terms of its impact on the system. (Joint Interim Charge with the House Committee on Business and Industry)

HOUSE COMMITTEE ON JUDICIARY

1. Examine the current Texas jury system. Consider possible changes to enhance the jury experience and increase citizen participation on juries.
2. Examine the current Texas court system, including its complex layers of trial courts with overlapping and varying jurisdiction. Consider whether the system needs modernization to improve judicial efficiency.
3. Study the issue of municipal sovereign immunity for damages to citizens' private property, and recommend any necessary statutory changes.
4. Monitor the agencies and programs under the committee's jurisdiction.

HOUSE COMMITTEE ON JUVENILE JUSTICE AND FAMILY ISSUES

2. Evaluate child support guidelines and formulas, considering whether

the current methods provide adequate support to a child. Also, study child support for the costs of college.

6. Study the use of police diversion under Chapter 52 of the Family Code for youth who are referred to the juvenile justice system, including those there as a result of incidents in school.
7. Study victim-offender mediation and neighborhood restorative justice panels.
8. Determine whether current mental health practices followed by the Texas Youth Commission are adequate or appropriate, and make recommendations for any needed changes.
9. Study the organizational structure of the Texas Youth Commission and the Texas Juvenile Probation Commission to determine if the current system is effectively and efficiently addressing the needs of the juvenile justice system in conjunction with the sunset review of these agencies. (Joint Interim Charge with the House Committee on Corrections)

HOUSE COMMITTEE ON LAND AND RESOURCE MANAGEMENT

2. Observe and study ongoing litigation and actions by condemning authorities in light of the Kelo decision and make recommendations for changes in eminent domain law needed to protect private property rights. Specifically, examine the body of law used to determine the amount of compensation property owners receive when their land is condemned, in whole or part, and determine the appropriateness of this scheme as compared to others.
4. Examine the effectiveness of the

[Interim Charges, continued on page 13]

[Interim Charges, continued from page 12]

Private Real Property Rights Preservation Act (Chapter 2007, Government Code).

6. Examine recent attempts by municipalities to exert regulatory authority beyond city limits and extraterritorial jurisdiction. Evaluate the current relationship between and possible conflicts related to regulatory authority expressly given to state agencies by the legislature and regulatory authority delegated to home-rule municipalities. (Joint Interim Charge with the House Committee on County Affairs)

HOUSE COMMITTEE ON LAW ENFORCEMENT

3. Study the funding of Texas 9-1-1 and poison control systems and the requirement to transition Texas 9-1-1 systems to the next generation of technology to meet future expectations for emergency communication systems.
4. Review the current requirements for receiving a Texas driver's license or ID card to determine whether they should be more stringent in order to prevent a criminal or terrorist from fraudulently obtaining an official form of Texas identification.
5. Monitor the report issued by the Independent Investigator for the Houston Police Department Crime Laboratory and Property Room, the independent panel review of certain criminal convictions prompted by the conclusions of this report, and the implementation by the City of Houston of any reforms recommended in this report. Also, monitor other urban crime laboratories and their compliance with state laws regulating their functions. (Joint Interim Charge with the House Committee on Urban Affairs)

HOUSE COMMITTEE ON LICENSING AND ADMINISTRATIVE PROCEDURES

3. Study current distance requirement provisions in the Alcoholic Beverage Code, and recommend any changes needed to promote clarity and uniformity.

HOUSE COMMITTEE ON LOCAL GOVERNMENT WAYS AND MEANS

1. Study whether Texas law should be amended on the methods used to determine the "place of business" of retail operations under Chapter 321, Tax Code, governing municipal sales taxes, and whether better-defined procedures and limitations should be enacted to assist the comptroller in determining reallocation of sales tax revenues from one municipality to another.
2. Review provisions for local government notices on potential tax rate increases and clarify potentially conflicting statutes. Look at requiring two (rather than one) public hearings on the tax rate increase.
3. Examine the addition of members to the board of directors of appraisal districts who are not appointed by the taxing jurisdictions of the district. Determine methods for appointing these additional directors.
4. Examine the system for appraising property for property tax purposes:
 - Study the implementation and effects of HB 1010, 80th Legislature, Regular Session.
 - Consider whether the statutory system for choosing the Central Appraisal District Board of Directors and governing the board's operation adequately protects the public interest.
 - Evaluate whether the authority of the chief appraiser should be

limited.

- Consider alternative methods and procedures for conducting the Comptroller's School Value Study to ensure both the equitable distribution of state school aid and a more stringent review of local appraisal practices.
 - Examine constitutional and statutory constraints on the enforcement of uniform appraisal standards across the state and the ability of the state to provide oversight of appraisal districts.
 - Consider ways to improve appraisal district efficiency, transparency and services, including, but not limited to, the reconfiguration of appraisal districts.
 - Evaluate changes in the property valuation appeal system that could expedite and reduce the cost of dispute resolution.
5. Research the policies and procedures by which local tax appraisers value rent-restricted affordable housing properties and authorize legislatively established tax exemptions. Evaluate application and interpretation of existing statutes by local appraisal districts to affordable housing properties throughout the life cycle of developments. Make recommendations for statutory changes. (Joint Interim Charge with the House Committee on Urban Affairs)
 6. Monitor the agencies and programs under the committee's jurisdiction.

HOUSE COMMITTEE ON NATURAL RESOURCES

1. Monitor ongoing efforts related to joint planning in groundwater man-

[Interim Charges, continued on page 17]

TEXAS ASSOCIATION of COUNTIES

CONVERGING Technologies

2008 Courts and Local Government Technology Conference

January 29–31, 2008 • Crowne Plaza Hotel in Austin • Educational co-sponsor: Lyndon B. Johnson School of Public Affairs, University of Texas at Austin

COLOGO IS COMMITTED TO KEEPING COUNTY OFFICIALS INFORMED

Technology is always changing, growing and becoming more sophisticated. The only way to stay abreast of new and useful technologies is through a consistent effort to continually learn. The annual Courts and Local Government Technology Conference (CoLoGo) offers county officials and employees an opportunity to stay informed of digital and electronic trends. The conference features concurrent tracks for county judges, justices of the peace, municipal judges, IT professionals and general technology users.

FEATURED SPEAKERS



Peter S. Vogel is the co-chair of the Internet and Computer Technology Practice Group at Gardere Wynne Sewell. He has a master's degree in computer science, and for more than 29 years, he has represented buyers and sellers of computer technology and Internet services, including many local governments. Since 1997, Vogel has been chair of the Texas Supreme Court Judicial Committee on Information Technology. He also teaches courses on the law of e-commerce at Southern Methodist University's Dedman School of Law.



John Bradley is the district attorney for Williamson County. He graduated from the University of Houston Law Center in 1985. Bradley helped rewrite the penal code in 1993 and served as general counsel for the Senate Criminal Justice Committee. In 1996, he served on Governor George

W. Bush's Committee to rewrite the Code of Criminal Procedure. Bradley also contributes to legal publications and has appeared on Court TV, the Jim Lehrer News Hour and National Public Radio.

A SPECIALIZED CONFERENCE

In past years, the CoLoGo Technology Conference has shared space with the Southwest Government Technology Conference (GTC). This year, the CoLoGo Technology Conference will be conducted at the Crowne Plaza Hotel with an agenda focused on technology for courts and local governments. The agenda includes a visit to the GTC trade show at the Austin Convention Center.

KEY TOPICS

- Electronic payments
- Digital archiving
- Web publishing
- Electronic evidence
- Video-magistration demonstration
- Paperless courtrooms
- Courthouse security
- Electronic court recordings
- Online legal research
- Innovative traffic technologies
- Policies and procedures for electronics usage
- Allowable expenditures of court technology and security funds

CONTINUING EDUCATION

The Jan. 29–31 conference will apply for continuing-education credits for county judges, commissioners, county tax assessor-collectors, county auditors and CPAs, county and district clerks, county treasurers, county attorneys and justices of the peace. TCLEOSE hours will also be requested. Municipal court clerks can also receive continuing-education credit.

HOTEL INFORMATION

This year's conference will be hosted at the Crowne Plaza Hotel at 6121 North IH 35 in Austin. CoLoGo Technology Conference attendees will receive a special room rate of \$85 for a single occupancy room, \$125 for a double. Please call 512-323-5466 and request the "Courts and Local Government Technology room block" when reserving your room for the conference. The hotel has a limited number of rooms available at the special rate, so please make reservations early. The guaranteed reservation deadline is Jan. 11.

REGISTRATION

Registration for the entire conference, including the pre-conference sessions, is \$150 before Jan. 1, and \$175 after Jan. 1. Registration is transferable. Requests for refunds (minus a \$10 administration fee) should be submitted in writing by Jan. 1. After Jan. 1, refunds will be subject to an administrative fee equal to half the registration fee. You may register online at www.county.org or by submitting the registration form.

CO-SPONSORS

The 2008 conference is co-sponsored by Texas Municipal Courts Education Center, Texas Center for the Judiciary, Texas Justice Court Training Center, Judicial Committee on Information Technology, Texas Judicial Academy and the Texas Association of Governmental Information Technology Managers.

TEXAS ASSOCIATION of COUNTIES Converging Technologies

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Attorney General Opinions Issued



GA-0578: Honorable Rick Perry, Governor of Texas, whether a vacancy exists in the newly-created 444th and 445th Judicial

Districts, and if so, whether those positions are required to be funded. **Summary** The courts for the 444th and 445th Judicial Districts were created on September 1, 2007, and a vacancy currently exists in each court such that the Governor is required to make an appointment to each court. By virtue of article V, section 7 of the Texas Constitution, persons appointed as judges of the 444th and 445th Judicial Districts are entitled to an annual state salary. The degree to which the judges are at this time entitled to supplemental salary payments, office space, staffing, and other perquisites of office depends upon a showing of essentiality, which requires factual determinations not amenable to the opinion process.

GA-0580: Honorable Jana Duty, Williamson County Attorney, whether a county that chooses to operate under subchapter C of chapter 111, Local Government Code, may appoint its county judge as its county budget officer. **Summary** Under Texas common law, a county commissioners court cannot appoint one of its members to an office over which the commissioners court has appointment authority. Subchapter C of chapter 111, Local Government Code, authorizing a county commissioners court of an eligible county to appoint a county budget officer, does not abrogate the common law. Accordingly, a county that chooses to operate under subchapter C is not authorized to appoint its county judge to serve as its county budget officer.

GA-0581: Mr. Timothy K. Irvine, Administrator, Texas Real Estate Commission, whether an applicant for a real estate inspector license is required to carry general liability insurance, professional liability insurance, or both. **Summary** The Eightieth Legislature amended Occupations Code sections 1102.114 and 1102.203 to require liability insurance coverage for persons applying for a real estate inspector's license or renewal of such license. The insurance must have a minimum limit of \$100,000 per occurrence to protect the public against negligence or incompetence in violation of chapter 1102, subchapter G. The insurance requirement does not apply to intentional acts.

If a real estate inspector has more than one insurance policy applicable to the same occurrence,

a combined coverage of \$100,000 for that occurrence under all policies would comply with section 1102.114(c).

GA-0582: Honorable Geoffrey I. Barr, Comal County Criminal District Attorney, whether a county judge may issue a single mass gathering permit for multiple events. **Summary** A county judge may not issue a single mass gathering permit for multiple events.

GA-0583: Honorable Elizabeth Murray-Kolb, Guadalupe County Attorney, Authority of a county to lease a generator to a radio station. **Summary** The purchase and lease of a generator in conjunction with a county's emergency communications to the public may be permissible under certain provisions of the Texas Disaster Relief Act and the Texas Health and Safety Code.

Article III, section 52 and article XI, section 3 of the Texas Constitution prohibit the gratuitous application of public funds for a private purpose. As to the lease of a county generator to a local radio station, neither constitutional provision precludes the lease if the commissioners court determines: (1) the lease has as its predominant purpose the accomplishment of a public, rather than a private, purpose; (2) the county retains sufficient control over the generator to ensure accomplishment of the public purpose and to protect the generator; and (3) the public receives a return benefit.

GA-0584: The Honorable James L. Keffer, Chair, Committee on Ways and Means Texas House of Representatives. Nature of the offices of President Pro Tempore of the Texas Senate and Speaker of the Texas House of Representatives for purposes of removal from office. **Summary** The Texas Constitution and state statutes are silent as to whether the President Pro Tempore of the Senate and the Speaker of the House are "officers of this State" for purposes of removal from office under article XV, section 7 of the Texas Constitution. Thus, any interpretation of this question must be governed by court decisions. The Texas Supreme Court has issued one opinion and adopted one opinion concerning article XV, section 7 removal—the Dorenfield and Knox cases. Although neither decision is a model of clarity, they are the best authority available.

In both Dorenfield and Knox, the courts found the officers in question—the San Antonio State Hospital Superintendent and a member of the Texas Review Commission—to be state officers. Although not purporting to lay out an

exhaustive list of potential factors, the two decisions examined, inter alia, whether the officials' offices were created by law, whether the officers performed sovereign or governmental functions that affect the public as a whole and are continuing in their nature, whether they served terms fixed by law, and whether they took constitutional oaths of office.

Applying this analysis, we believe a court would likely conclude that the President Pro Tempore of the Senate is not a state officer. Although the President Pro Tempore's office is created by law and requires a constitutional oath, the office's relevant duties are primarily provisional in nature, having effect only in the absence of the Lieutenant Governor, and the term of office is not fixed by law.

Applying the same analysis, however, a court would likely conclude that the Speaker of the House is a state officer. The Speaker's office is created by the Texas Constitution. The Speaker performs numerous sovereign and governmental functions that affect the general public, including the substantial and ongoing statutory responsibility of serving as Joint Chair of the Legislative Budget Board. The Speaker most likely serves for a fixed term: his tenure explicitly begins when the House first assembles and temporarily organizes, and, due to his ongoing duties imposed by law, must continue until the next session commences. Finally, the Speaker takes the constitutional oath of office in addition to his oath as a House member.

The Texas Supreme Court has concluded that a Texas Review Commission member and the Superintendent of the San Antonio State Hospital are state officers. Given those holdings, we believe a court would likely conclude that the Speaker's substantial sovereign and governmental functions affecting the general public as a whole exceed those exercised by the Texas Review Commission member and the Superintendent of the San Antonio State Hospital and, as such, the Speaker is an officer of the state.

As a state officer, the Speaker is subject to impeachment under article XV, section 7 of the Texas Constitution. But the fact that the Speaker can be impeached under article XV, section 7 does not mean that impeachment is the only means of removing a Speaker.

At a minimum, both the Speaker and the President Pro Tempore are subject to expulsion under article III, section 11 of the Texas

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- agement areas, including progress toward setting desired future conditions for aquifers. Examine and evaluate the process relating to an appeal challenging the approval of desired future conditions.
4. Monitor the implementation of legislation enacted by the 80th Legislature, including HB 3, HB 4 and SB 3; work in conjunction with legislatively created committees, such as the Environmental Flows Advisory Group, the Water

Conservation Advisory Council, the Bexar Metropolitan Water District Oversight Committee, and the Joint Interim Committee on State Water Funding.

5. Evaluate creating a uniform template for the creation of Municipal Utility Districts or other special districts with addendums for special powers to expedite the creation of new districts.
7. Study issues related to the current efficacy of flood control devices in

Texas, including the condition of aging infrastructure, liability issues, and the legal authority and financing needed to make repairs.

HOUSE COMMITTEE ON PENSIONS AND INVESTMENTS

2. Explore options for funding other post-employment benefits, and examine strategies employed by other governmental entities in addressing these obligations.
6. Examine eligibility criteria for mem-

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Constitution or exclusion under article XVI, section 2 of the Texas Constitution. Indeed, section 665.007 of the Government Code expressly provides that “the remedy of impeachment as provided in this chapter is cumulative of all other remedies regarding the impeachment or removal of public officers.” Tex. Gov’t Code Ann. § 665.007 (Vernon 2004) (emphasis added).

Accordingly, impeachment is not the only way to remove a Speaker.

If the Speaker were impeached, the Texas Constitution allows the impeachment judgment to extend to, but need not include, removal from office or disqualification from holding office. And if the Speaker were legally removed from office, article III, section 9(b) of the Texas Constitution—

on its face—neither requires nor precludes the election of a new Speaker by the House.

Finally, this office will adhere to the Texas Constitution’s separation of powers doctrine and longstanding precedent in declining to answer questions requiring an interpretation of Senate and House Rules or questions regarding legislative parliamentary decisions. ■

Attorney General Opinions Requested



RQ-0637-GA Honorable Mike Krusee, Chairman, House Committee on Transportation, Texas House of Representatives, whether a foreign commercial

motor vehicle registered in another state is required to register in Texas.

RQ-0638-GA Don McLeroy, D.D.S., Chair, Texas State Board of Education, constitutionality of section 51.413, Natural Resources Code, which purports to authorize the School Land Board to transfer proceeds from the sale of land held within the Permanent School Funds to the available School Fund.

RQ-0640-GA Honorable Dan W. Heard, Calhoun County Criminal District Attorney, authority of a county auditor to refuse payment to employees of a county hospital on the ground that such payment is unconstitutional.

RQ-0641-GA Honorable James M. Kuboviak, Brazos County Attorney, whether a county attorney is required to issue an identification card provided by Government Code, section

614.122 to unpaid investigators of the county attorney’s office.

RQ-0643-GA Honorable Rex Emerson, Kerr County Attorney, status of the Kerr County Airport Authority.

RQ-0645-GA Honorable Craig Watkins, Dallas County Criminal District Attorney, whether DNA testing information introduced in a criminal trial is subject to disclosure under the Public Information Act, chapter 552, Government Code.

RQ-0646-GA Honorable Jana Duty, Williamson County Attorney, county payment to vendors under the Low Income Vehicle Repair Assistance, Retrofit and Accelerated Retirement Program (LIRAP), and reimbursement to county from the Texas Commission on Environmental Quality.

RQ-0648-GA Peggy D. Rudd, Director and Librarian, Texas State Library and Archives Commission, authority of a library district to assess and collect ad valorem taxes.

RQ-0649-GA Brian C. Newby, Chief of

Staff, Office of the Governor, constitutionality of section 41(e)(3) of the Probate Code, which permits a probate court to declare that the parent of a child under the age of 18 years may not inherit from the child if the parent has been convicted of one of several crimes against a child who is not the child of that parent.

RQ-0650-GA Honorable A. J. (Jack) Hartel, Liberty County Attorney, whether an appraisal district’s board of directors may contract with a company that employs the son of the chief appraiser.

RQ-0651-GA Honorable Ralph J. Bernsen, Sr., Medina County Attorney, whether a county is required to competitively bid the transfer/resale of personal property under particular circumstances.

RQ-0652-GA Ann S. Fuelberg, Executive Director, Employees Retirement System of Texas, whether an open enrollment charter school is a governmental entity, and whether the state may enter into an agreement with the Social Security Administration on the school’s behalf. ■

[Interim Charges, continued from page 17]

bership and possible inclusion of additional employees in the Law Enforcement and Custodial Officers Supplemental Retirement Fund (LECOSRF). Evaluate the effect of diversion of funds from the auto registration fee on the unfunded liability of the LECOSRF, and explore the possibility of creating a similar supplemental retirement program as part of the Teacher Retirement System of Texas for those members performing law enforcement duties.

HOUSE COMMITTEE ON PUBLIC HEALTH

1. Monitor and evaluate the full array of wellness initiatives undertaken by the State of Texas to include the newly adopted state employee wellness and prevention legislation (HB 1297, 80th Legislature, Regular Session) and a pilot program to encourage healthy lifestyles, such as smoking cessation within the Medicaid program (SB 10, 80th Legislature, Regular Session) and for state employees. Develop strategies for maximizing potential health benefits and optimizing the return on the State of Texas' investments in wellness. Include a review of other state and private sector programs for employee wellness that result in prevention cost savings.
2. Research issues relating to the Indigent Health Care and Treatment Act (Chapter 61, Health and Safety Code) and related local health care initiatives (Chapter 534, Government Code), and make recommendations to address any imbalance between counties for the provision of health care.
7. Examine the State of Texas' pre-

paredness level to handle a public health emergency. (Joint Interim Charge with the House Committee on Defense Affairs and State-Federal Relations)

8. Review the effectiveness of the Driver Responsibility Program, and provide recommendations for increasing the collection rate of assessed penalties. Provide recommendations for amnesty and incentive programs established by the passage of SB 1723, 80th Legislature, Regular Session. Examine the status of Texas' current statewide trauma system infrastructure and how the system may be optimized to meet future trauma care needs in a rapidly growing state with overburdened emergency rooms. (Joint Interim Charge with the House Committee on Transportation)
9. Study the state's current and long-range need for physicians, dentists, nurses and other allied health and long-term care professionals. Make recommendations regarding strategies related to geographic distribution and barriers to recruitment of high-need professions, especially for primary care providers and long-term care professionals. (Joint Interim Charge with the House Committees on Border and International Affairs and Appropriations)

HOUSE COMMITTEE ON REDISTRICTING

1. Consider the need for modifications to judicial districts in Texas.

HOUSE COMMITTEE ON REGULATED INDUSTRIES

1. Examine the impact of broadband Internet access on economic development, focusing on potential

updates that would create incentives to help spur investment by network providers across a variety of platforms. Recommend changes to Texas law that would emphasize economic development through policy formulation.

4. Study and review information on the Internet and other communications services, and how Texas can best prepare for potential changes to Internet and communications services, and infrastructure demands. Recommend policy changes to encourage greater infrastructure investment while ensuring the continued growth and development of the Internet. Study the current state and local communications tax structure, including an analysis of the tax burdens imposed on consumers and providers of communications services.

HOUSE COMMITTEE ON STATE AFFAIRS

1. Research and recommend the best ways to require governmental entities in Texas, both state and local, to develop reasonable investment strategies that will help the Texas economy and increase jobs and resources brought to the state.
2. Study the cost/benefit to the state for projects approved by school districts for a limitation on appraised value under the Texas Economic Development Act (Chapter 313, Tax Code).
3. Study the merits of developing a coherent state policy of offering incentives to local governments for activities relating to recruiting and hosting special events.
5. Examine the current state of the nanotechnology industry in Texas and the impact and potential that

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[*Interim Charges, continued from page 18*]

the industry has on economic development. Review any current federal and state regulations that are designed to ensure the safety of the development, use and disposal of nanotechnology-related materials and waste products.

6. Study and make recommendations to encourage authorization for political subdivisions to enter into agreements with the United States Department of Homeland Security under Section 287(g), Immigration and Nationality Act, to perform the functions of immigration officers.
7. Study the issue of using state funds to advertise government programs and services to discern if taxpayer dollars are being spent appropriately, and to consider legislation that will ensure that these dollars are not spent to coerce, but rather benefit the public through honest educative efforts.
8. Review changes in border security and immigration on the state and federal level. (Joint Interim Charge with the House Committee on Border and International Affairs)

HOUSE COMMITTEE ON TRANSPORTATION

2. Study the concept of using corridor planning organizations to provide a mechanism for local involvement in the Trans-Texas Corridor.
5. Examine the role of metropolitan planning authorities in state law, as well as the creation of rural planning authorities to address the planning needs outside of metropolitan planning organizations but within council of government boundaries.
7. Review the effectiveness of the Driver Responsibility Program and provide recommendations for increasing the collection rate of

assessed penalties. Provide recommendations for amnesty and incentive programs established by the passage of SB 1723, 80th Legislature, Regular Session.

Examine the status of Texas' current statewide trauma system infrastructure and how the system may be optimized to meet future trauma care needs in a rapidly growing state with overburdened emergency rooms. (Joint Interim Charge with the House Committee on Public Health)

8. Review the current requirements for driver's license and identification card holders in Texas in order to recommend legislative measures to prevent these documents from being used to further criminal activities, and recommend ways to enhance homeland security. (Joint Interim Charge with House Committee on Defense Affairs and State-Federal Relations)
9. Monitor the continued implementation of the Texas Financial Responsibility Verification Program authorized by SB 1670, 79th Legislature, Regular Session, and determine whether any further statutory enhancements are needed to reduce the number of uninsured motorists in Texas. (Joint Interim Charge with the House Committee on Insurance)

HOUSE COMMITTEE ON URBAN AFFAIRS

2. Research and update legislation that permits residential neighborhoods whose deed restrictions have lapsed to reinstate those deed restrictions or create needed deed restrictions through a petition committee by expanding them to more areas.

5. Examine the development and implementation of a physical standards (asset oversight) rating system for multifamily residential rental facilities, to be used by all local and state issuers of tax-exempt bonds and tax credits, to determine eligibility for future financing and for compliance enforcement purposes.
6. Examine the policies and procedures by which local tax appraisers value rent-restricted affordable housing properties, and authorize legislatively established tax exemptions. Evaluate application and interpretation of existing statutes by local appraisal districts to affordable housing properties throughout the life cycle of developments. Make recommendations for statutory changes. (Joint Interim Charge with the House Committee on Local Government Ways and Means)

HOUSE COMMITTEE ON WAYS AND MEANS

1. Monitor the receipts of the franchise tax.
2. Examine fiscal implications of the list of items eligible for the sales tax holiday.
3. Study the policy and benefits of current sales tax treatment for information technology services, including research and development.
4. Monitor the agencies and programs under the committee's jurisdiction. 🗺️



From the Legislative Desk

By Carey "Buck" Boethel, Director of Governmental Relations

2008—the Policy Analysis Group marks its tenth year of government studies. In January of 1998, the first PAG assembled and decided to take up and study the structure of county government and the responsibilities of county officeholders. In the beginning, the subject matter of the Group's work included leadership training and instruction. A few years later, the TAC Leadership Foundation program was formed and the study content of the Policy Group narrowed to significant substantive issues affecting county government. Today, both programs operate with notable success and prominence by improving county government.

"The education of a man is never completed until he dies."— Robert E. Lee.

Educational pudding—people are more likely to accept as true, information that has been appropriately documented.

That's because, other than the inconveniences of additional time, being a matter of confidentiality and taking up coveted print space, why would writers be reluctant to disclose their authorities?

Citations, which direct the reader to the source of the supporting information, gives the reader the opportunity to evaluate; otherwise, there should be a general caveat—let the reader beware! It's not always bad whenever the writer doesn't share the roots of his work—what he has to say may indeed be very reliable and useful notwithstanding the fact that he is among the unscrupulous who seek to represent someone else's work as his

or her own. **Public debt**—the national debt increases almost 1.5 billion dollars a day. It's estimated that the national tab, which is the total of all annual budget deficits, is expected to reach ten trillion at the beginning of 2009—the numerical expression of that number is displayed as \$10,000,000,000,000.00.¹ Good judgment comes from experience; experience comes from bad judgment. — Fred Brooks. If youth but knew, and age were able, then poverty would be a fable—twelfth century proverb. County Government—it's the pulse of the people. 🗺️

¹ *Jacksonville Daily Progress*, December 3, 2007
"Experts see future issues with government's soaring debt."



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