

County*issues*

Volume 20, Issue 10 \ Oct. 22, 2010

Published by the Texas Association of Counties

Recovery Plan for Gulf Oil Spill Released



By Laura Garcia,
TAC Legislative Staff

U.S. Secretary of the Navy Ray Mabus recently released a report outlining a

recommended long-term recovery plan for the Gulf Coast after the Deepwater Horizon oil spill.

Among the principal recommendations in the report is the establishment of a Gulf Coast Recovery Fund, funded by civil penalties recovered under the Clean Water Act from parties responsible for the Deepwater Horizon oil spill. Presently, the Clean Water Act requires that penalties related to oil spills be deposited in the Oil Spill Liability Trust Fund, which is intended to help ensure that there are funds available for response efforts in future oil spills. However, given the magnitude of the Deepwater Horizon spill, the report concludes that there is a necessity to establish a new mechanism to help fund overall Gulf restoration and recovery operations.

Specifically, the report finds a need for federal legislation to direct civil penalties to a separate Gulf Coast Recovery Fund managed by a Gulf Coast Recovery Council consisting of federal and state representatives. Additionally, the report recommends that Congress

require a portion of any Clean Water Act civil penalties bypass the Recovery Council and be apportioned directly to the Gulf states (Alabama, Florida, Louisiana, Mississippi and Texas) to

Oil Spill Recovery

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Oil washes ashore on the beach in Pensacola, Florida.

Credit: istockphoto.com

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Tough Times and Tough Choices Ahead



By Aurora Flores-Ortiz,
TAC Legislative Staff

County officials heard from influential state legislators at the 88th

Annual County Judges and Commissioners Conference in Waco earlier this month. The topic was the upcoming 82nd Legislative Session, but there wasn't much good news to share.

Sen. Steve Odgen, R-Bryan, chair of Senate Finance, told the audience the Legislature must pass a balanced budget and is facing up to a \$21 billion shortfall.

"There will be cutting, no doubt about that," Odgen said.

He explained the large shortfall includes \$9-10 billion of decreased

revenues and another \$10-12 billion needed to support growth in spending for public programs. In addition, Odgen said the session will be a lengthy one because of the added task of redistricting.

The steep shortfall will force legislators to decide where to make drastic cuts and how much to cut existing programs at the state and local levels. Recently released numbers show sales tax collections have been down from 2009, and the state comptroller is projecting a drop of almost 2 percent in property tax values for fiscal year 2010, followed by a projected 3.47 percent drop in FY 2011, with a gain of .67 percent in FY 2012. This combination, given the current school finance formulas, means the state will have to put up

more money, causing the increased budget shortfall.

In addition to worries of unfunded mandates, county officials expressed concerns that the Legislature will cut local government grant programs to find more money. When asked how much of the \$9 billion of the Rainy Day Fund will be used to help balance the budget, Odgen said, "Honestly, I think we'll probably have to use all of it...it's not my decision alone since both houses require a two-thirds vote."

Sen. Royce West, D-Dallas, chair of the Senate Intergovernmental Relations Committee, echoed the reasons for the difficult session ahead and added the regular session may extend to include two or three special sessions. He remarked that everyone will have to work together to pass this budget.

"It will be hard, very hard and we need to get our financial house in order," West said.

West, who made sure no revenue cap amendment was added to a bill on the floor last session, asked who in the conference audience would be in favor of caps and unfunded mandates. No hands were raised, which West then pointed out to those in attendance.

West, whose committee hears local government issues in the Senate chamber, told the judges and commissioners that this month they will gather the interim work group findings and begin making recommendations to the lieutenant governor.

Conference

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Sen. Royce West, Rep. Yvonne Gonzalez Toureilles and Sen. Steve Odgen (l-r) spoke at the 88th Annual County Judges and Commissioners Conference in Waco.

KEY COUNTY DATES

October 2010

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

Oct. 26: Last day to apply for ballot by mail. (Must be **received**, not merely postmarked.) TEX. ELEC. CODE, §84.007(c).

Oct. 29: Last day of early voting by personal appearance for the general election. TEX. ELEC. CODE, §85.001(a).

Before Oct. 30: Ballots for directors of appraisal district due to county judge. TEX. TAX CODE, §6.03(j).

November 2010

Nov. 2: General election day. TEX. ELEC. CODE, §41.002.

Nov. 10-15: Period during which commissioners court must meet to canvass election returns. TEX. ELEC. CODE, §67.003 [Deadline extended]. After the canvass, the county Judge shall promptly deliver a certificate of election to each candidate elected in the election, unless a recount petition has been filed for that office. TEX. ELEC. CODE, §67.007.

Nov. 16: Complete jury wheel due to secretary of state. TEX. GOV'T CODE, §62.001(c).

Nov. 16: 2010 Fall Administrative Workshop, sponsored by The Texas Judicial Academy, a partnership between the County Judges Education Committee of the Texas Association of Counties and the Texas Tech University School of Law. Doubletree Hotel, Austin.

Nov. 17-19: Fall Judicial Workshop, Doubletree Hotel, Austin.

Nov. 18-19: Texas Public Funds Investment Conference, Renaissance Houston Hotel, Houston.

Conference

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Rep. Yvonne Gonzalez Toureilles, who chairs the Agriculture and Livestock Committee in the House, also addressed the group. Gonzalez Toureilles noted rural economic development as her top priority. She stressed the need to address the issues of transportation, county road damage from overweight vehicles and water rights protection in the upcoming legislative session.

Although the Legislature faces the task of balancing an ever growing budget shortfall, Gonzalez Toureilles said, "We will not balance the budget on the backs of counties."

Gonzalez Toureilles received the Legislator of the Year award from CJAAT for excelling in the areas of preserving local control and promoting strong representative government.

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

Oil Spill Recovery

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enable them to jumpstart their own recovery efforts.

The report also provides recommendations on matters relating to long-term ecosystem restoration, health and human services recovery and general economic recovery.

The entire long-term recovery plan can be accessed at: www.restorethegulf.gov/sites/default/files/documents/pdf/gulf-recovery-sep-2010.pdf.

Funding Available for Regional Economic Development Projects

The U.S. Department of Agriculture (USDA) recently announced the availability of \$6.2 million in technical assistance funds to assist rural communities in developing their capacity to undertake various economic development, housing and community facilities projects. The funding will be channeled through USDA Rural Development's Rural Community Development Initiative, with a

concentration on projects that will aid the development of strong regional economies. Counties are eligible to apply for funding on their own or can receive technical assistance from awardees. The official grant opportunity announcement can be accessed here: <http://edocket.access.gpo.gov/2010/pdf/2010-23764.pdf>.

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

Resources, Naturally

Transportation Coalitions Support Common Cause



By Paul J. Sugg,
TAC Legislative Staff

Arthur Sulzbeger, who labored in his family's business, *The New York Times*, once made this observation: "Any coalition has its troubles, as every married man knows." But the chance or even likelihood of such trouble arising shouldn't stop us from entering into them, either.

Transportation Advocates of Texas, Inc. is a statewide coalition of businesses, associations, regional organizations, chambers of commerce, economic development entities and local governments, including counties. These disparate groups have joined together for a common cause: improving transportation in Texas. As is the case with all large, diverse coalitions, achieving consensus about how to improve transportation in Texas is not always easily accomplished. To that end, early indications are that in the upcoming session, the group will support a broad range of tools to help the state, regional and local entities address our pressing transportation needs. From the local perspective, the idea of a diverse set of tools available is attractive, as is the need for the flexibility to use one or more tools in combinations tailored to the needs of a particular county or region.

It would be a fine thing if the state had adequate resources to build new roads that growth demands and

maintain existing roads. Moving people and goods safely and efficiently is an expensive, ongoing and essential investment. Yet the Legislature has not increased its gas tax in almost 20 years nor has it seen fit to index the gas tax to inflation or some other factor. It is unlikely the Legislature will do so, although hope must spring eternal and these issues must remain in front of them. Absent these changes or, ideally, in tandem with these changes, some county officials (a diverse group with a range of ideas about and perspectives on, transportation) have testified about some additional tools needed for the collective tool box, whether alternative sources of local revenue for transportation, transportation reinvestment zones, toll authority, comprehensive development agreements or more efficient ways to use existing tools.

There is no one-size-fits-all solution to this and the other challenges counties face; our diversity, in large part, prevents oversimplified solutions. But a key theme keeps repeating: provide a range of solutions and the flexibility to pick and choose and weave together as local circumstances and capabilities permit. For counties, property taxes remain the primary source for building and maintaining county roads: finding additional resources to address the county road system is necessary. As we will continue to repeat, the challenges to local, regional and state surface

transportation systems are daunting. The condition of our roadways is declining as maintenance costs rise, traffic increases and pavement ages. Poorly maintained roads tear up vehicles wherever you are and congestion in high-growth areas wastes a lot of time and money (a 2007 estimate pegs it at \$6.7 billion). More and more people are coming to parts of our state and even where they aren't coming, commercial traffic and age wear out those long stretches of lonesome roads. Funding sources have not kept up with these demands.

We Texans used to point proudly to our roadways and compare them favorably to roadways in far-away and less-supremely blessed places like Oklahoma and Louisiana. We will favorably compare ourselves to others again, but it will take action on the part of the Legislature to find funds and provide additional tools. It will also take encouragement from a wide range of interest groups, counties included.

Expect more information and a website dedicated to the efforts of Transportation Advocates of Texas, Inc. within the next month and a half. Until then, for more information, contact Vic Boyer with the San Antonio Mobility Coalition (a good example of counties, cities, RMAs, MPOs, TxDOT, and others working together toward a common goal). He is providing staff support to the statewide effort and may be reached at (210) 688-4407 or vboyer@samcoinc.org. ★

Feds Reimburse Counties for Illegal Immigrant Jail Costs



By Laura Nicholes and Tim Brown,
TAC Legislative Staff

On Aug. 18, Denton County Judge Mary Horn testified before the House Committee on State Affairs that the county spent approximately \$65,000 – \$78,000 per year on indigent health care expenses for known, undocumented illegal immigrants from 2009-2010. Her testimony piqued the interest of some at the Capitol and resulted in an effort to determine the costs of holding illegal inmates in county jails.

Nationally, the issue of illegal immigration is receiving much attention, and in Texas, lawmakers have recently focused attention on the federal State Criminal Alien Assistance Program (SCAAP) in an effort to determine the total expenses, as well as the unreimbursed costs, of holding illegal inmates in county jails. Lawmakers will likely expand their focus in the upcoming legislative session and review the costs of providing other services to illegal immigrants as well.

Data submitted by local entities for the SCAAP reimbursement grants are the primary records of criminal aliens in county jails. SCAAP is

administered by the Bureau of Justice Assistance (BJA), part of the U.S. Department of Justice, in conjunction with the U.S. Department of Homeland Security (DHS) and provides federal payments to states and localities that incurred correctional officer salary costs for incarcerating criminal aliens with at least one felony or two misdemeanor convictions for violations of state or local law, and were incarcerated for at least four consecutive days during the reporting period. However, the amount of federal funding appropriated for SCAAP has varied greatly over the years, as has the percentage of costs reimbursed. Since FY 2007, SCAAP funds must be used for correctional purposes only.

Although the data available from BJA includes each county that received an award, not every county submits an application. During each of the years shown in the previous

table, less than half the counties in Texas received any federal SCAAP funds. To determine the award amount to each county, SCAAP administrators calculate a cost per day for holding criminal aliens in county jails and reimburse a percentage of that per diem cost according to the number of criminal aliens and the length of time they were held.

Unfortunately, neither SCAAP requests nor SCAAP reimbursements are considered accurate measures for actual expenses or unreimbursed costs. The impact of criminal aliens on the local court system, indigent defense, adult probation and other state or local services are not covered by SCAAP

awards, nor is the impact on the juvenile justice system. However, it should be noted that those juveniles with criminal allegations become the responsibility of local juvenile probation departments or the Texas Youth

Jail Costs

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Item	2005	2006	2007	2008	2009
SCAAP Award	\$7,871,501	\$8,810,887	\$9,712,045	\$10,446,677	\$11,463,511
# of Counties Receiving SCAAP Award	95	98	100	110	114

Results: Survey on Autopsy Costs



By Paul Emerson,
TAC State Financial Analyst

Editor's note: This article is the final segment of a three part series relating to autopsy costs within the Medical Examiner's (ME's)

offices that responded to the TAC survey. The first section of this series ran in the May 2010 County Issues and covered background information on the ME's office and how this particular survey came about. The second segment of the series ran in the September 2010 issue and gave a summarization of the results of survey questions one through five. The final portion of the series below gives the results of questions six through 10.

This is the final part of a three-part series relating to the survey results on autopsy costs within the Medical Examiner's (ME's) offices. The following five questions address various cost factors in operating an ME's office. Questions are highlighted below in gray boxes, followed by an explanation of the findings.

(6). What was the annual budget for the ME's office in FY 2009?

Bexar	\$4,039,623
Harris	\$26,174,706
Collin	\$1,161,171
Lubbock	\$450,000
Dallas	\$5,488,738
Nueces	\$799,675
Ector	\$130,000
Tarrant	\$6,960,535
El Paso	\$1,371,988
Travis	\$3,773,249
Galveston	\$1,500,000
Webb	\$424,533

For FY2009, Dallas County's annual budget included \$200,000 for a new crime laboratory building. While this survey was being conducted, Galveston County could only provide an estimate of its annual budget for FY2009. Harris County was only able to show its current year budget (\$26.2 million) for FY2010, which includes the operating costs for both the crime laboratory and forensic pathology facilities. Lubbock County provided data for only eight months during FY2009. All other offices were able to provide their actual budget amounts for FY2009.

(7). What was the cost for a complete autopsy in FY2009?

Bexar	\$2,000
Harris	\$2,250
Collin	Not known
Lubbock	\$3,500
Dallas	\$1,850
Nueces	No cost listed
Ector	\$1,850
Tarrant	\$1,100
El Paso	Not known
Travis	\$2,300
Galveston	Flat rate
Webb	\$1,500

Bexar and Nueces counties only charge for autopsies outside of their jurisdictions. Collin and El Paso counties were not able to provide this information. Galveston and Brazoria counties pay a yearly flat rate for autopsies to the University of Texas Medical Branch (UTMB), which is located on Galveston island. UTMB charges other counties seeking its services \$2,000 for autopsies and \$750 for external examinations.

(8). What did the ME's office charge to transport a body in FY2009?

Back in 2006, when the first autopsy survey was conducted by TAC, this question prompted a lot of discussion among local rural officials about how much other counties were being charged to transport a deceased body to the nearest ME's facility. Counties without a ME's office nearby were assessed an additional charge for transporting costs. For counties located in rural areas, this could become quite expensive. For instance, Ector County noted that it paid \$640 to transport a body to Tarrant County. No other explanation was given for this particular circumstance. Under normal circumstances, Ector County charges \$75 to transport a body within its jurisdiction.

Several ME's offices, such as Bexar and Dallas counties, contract with various vendors to pick up the decedent body — that charge is usually passed along to the county outside the ME's jurisdiction. Bexar and Dallas counties indicated their vendor charges \$122 and \$94 per body, respectively. These charges can also vary depending on the size of the body.

Galveston County also has a very similar program in which it contracts with a local funeral home every two years and the cost ranges from \$130 to \$165. Nueces County is charged \$100 per body by a third party contractor and Tarrant County mentioned that it charges \$95 for transport.

Depending on the particular county, these transportation charges

Autopsy Costs

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Integrating Technologies:

THE FUTURE IS NOW

TEXAS ASSOCIATION *of* COUNTIES

9th Annual Courts and Local Government Technology Conference

Jan. 25-27, 2011 • Embassy Suites Hotel and Conference Center • San Marcos, Texas

Education Co-Sponsor: Lyndon B. Johnson School of Public Affairs, University of Texas at Austin

The 9th Annual Courts and Local Government

Technology Conference provides technology education specific to Texas courts and county and city governments.

If you are in charge of the technical strategic direction for your county or city or are involved in making technology processes work, this is the one conference you can't afford to miss. Join us for sessions on the ethics behind social media, options in cloud computing, following data trails, legislative bills affecting technology, video magistration and more.

Choose from four break-out education tracks on day one and targeted sessions for the remainder of the conference. We discuss new technologies that work, don't work, or are in the works for courts and local government.

Stop by the vendor area to see exhibitors showcasing their latest technology products and services specific to local governments and courts.

CONTINUING EDUCATION

TAC has applied for continuing-education credits for auditors, county and district clerks, commissioners, justices of the peace, purchasing agents, tax assessor-collectors and treasurers. PHP, SPHR and TCLEOSE hours will also be requested.

REGISTRATION

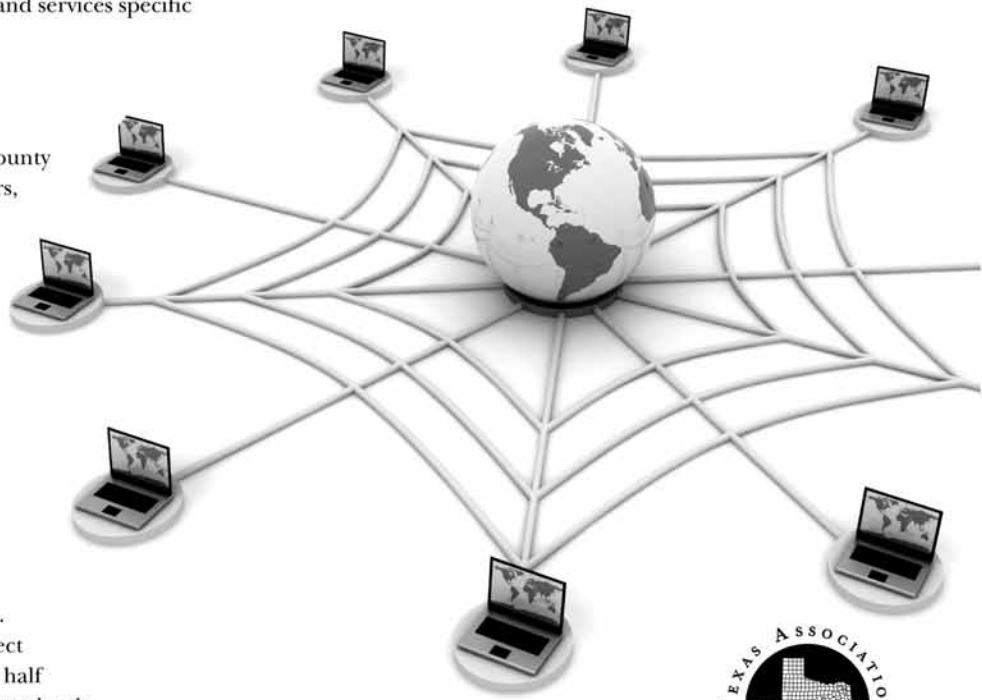
Registration for the entire conference is \$150 before Jan. 3 and \$175 after Jan. 3. Registration is transferable. Requests for refunds (minus a \$10 administration fee) should be submitted in writing by Jan. 3. After Jan. 3, refunds will be subject to an administrative fee equal to half the registration fee. Online registration is available at www.county.org.

HOTEL INFORMATION

The conference site is the Embassy Suites and Conference Center in San Marcos, 1001 E. McCarty Lane just off IH 35 at the Outlet Mall exit. To receive the conference room rate of \$109 when reserving your hotel room, please request the Texas Association of Counties room block. The hotel block reservation deadline is Jan. 7.

CO-SPONSORS

The 2011 conference is co-sponsored by the Texas Municipal Courts Education Center, the Texas Justice Court Training Center, the Judicial Committee on Information Technology, the County Information Resources Agency and the Texas Association of Counties.



Rising Above an Uncertain Economy

TEXAS ASSOCIATION of COUNTIES

2010 Texas Public Funds Investment Conference Nov. 18-19

Renaissance Houston Hotel, Houston
Education Co-Sponsor: LBJ School of Public Affairs
at the University of Texas at Austin

Is the uncertainty of the current economy getting you down? Do you want to know more about making prudent decisions and secure investments with your county's public funds? The Texas Public Funds Investment Conference helps you rise above the turbulent economy and improve your ability to plan for the future by providing expert insight about economic trends.

This annual conference features basic and advanced tracks with topics to meet your investing needs. The format is informal and interactive to encourage networking.

Continuing Education

The LBJ School of Public Affairs, University of Texas at Austin is the education co-sponsor of the 2010 Texas Public Funds Investment Conference.

The conference presents 10 hours of investment education required by the Public Funds Investment Act: Section 2256.008. Ten hours of continuing education credit are available for Public Funds Investment Act compliance and certified county investment officers (CIOs). Credit approval is pending for commissioners, county and district clerks, tax assessor-collectors, treasurers, auditors and CPAs.

Registration

The Texas Public Funds Investment Conference is open to anyone who wants to learn more about investing public funds. Space is limited so please register by Oct. 27. Visit TAC's website www.county.org to register online and find information on agenda

items and instructors. For more information please call the TAC education department at (800) 456-5974. Fees are refundable, minus a \$10 administration fee, upon written request received by Nov. 9. After that date refunds are limited to one-half the registration fee.

Registration Fees

	Early	After Oct. 27
County officials and employees	\$195	\$220
City, school, or special district	\$250	\$275
Non-government	\$500	\$500

Certified county investment officers *Fee covered in annual dues*

Hotel Information

The host hotel is Renaissance Houston Hotel, 6 Greenway Plaza East, Houston. To receive the \$118 single/ double conference room rate call (800) 468-3571 or (713) 629-1200 and ask for the Texas Association of Counties' Texas Public Funds Investment Conference room block. You may also make your reservation from the link at www.county.org. Self-parking at the hotel is \$12 overnight and \$6 for day parking.



If special accommodations are needed, please contact Angela Laidacker at (800) 456-5974.



The Texas Association of Counties is approved as a CEU Sponsor member of the International Association for Continuing Education and Training and a CPE sponsor member of the Texas State Board of Public Accountancy.

Jail Costs

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Commission until their cases are resolved. At that point, state and local entities coordinate with federal services to address the needs and placement of juvenile illegal immigrants.

The information on illegal immigrants is impossible to compile at the local level because the information on inmate status (illegal or not) is not generally available to local officials. The federal government, usually Immigration and Customs Enforcement (ICE) but sometimes the Border Patrol, determines at the local level whether there is probable cause to believe an immigration law has been violated. Once a determination of probable cause has been made, inmates become SCAAP eligible on the fourth day of incarceration and only if meeting specific criminal history criteria.

Inmate rosters containing names of those who might meet SCAAP eligibility are sent to Washington,

D.C. as part of the SCAAP application process; the administrators make the final determination on the status of submitted inmate records for undocumented alien purposes and apply a reimbursement formula to the application.

Consequently, a final determination is made for each inmate only after the county submits its inmate roster. Therefore the county's SCAAP application will contain the names of many inmates who are not criminal aliens. As a result, the counties may never know whether or not certain inmates were illegal immigrants.

If the number of illegal inmates is known, a cost per day for housing each inmate could be applied and a reasonable total cost estimate obtained (less any extraordinary costs for medical care, etc.).

According to the State Comptroller's December 2006 report Undocumented Immigrants in Texas: a Financial Analysis of the Impact to the

State Budget and Economy,

"The absence of the estimated 1.4 million undocumented immigrants in Texas in fiscal 2005 would have been a loss to our gross state product of \$17.7 billion. Undocumented immigrants produced \$1.58 billion in state revenues, which exceeded the \$1.16 billion in state services they received. However, local governments bore the burden of \$1.44 billion in uncompensated health care costs and local law enforcement costs not paid for by the state."

Of course, the \$1.44 billion estimate includes other local governments, such as cities, as well as other costs such as uncompensated health care and law enforcement beyond simply the cost of holding illegal immigrants in county jails.

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

Autopsy Costs

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may be assessed by the ME's office or the actual vendor.

(9). What was the cost for performing an autopsy for counties that are outside the ME's jurisdiction?

Bexar	\$2,000
Harris	\$2,250
Collin	\$2,000
Lubbock	None

Dallas	\$1,850
Nueces	\$2,100
Ector	\$1,850
Tarrant	\$1,850
El Paso	Not shown
Travis	\$2,300
Galveston	\$2,200
Webb	\$1,500

Bexar County does not charge for in-county autopsies, but only for

counties outside its jurisdiction, as noted above. Collin County indicated a price range — \$2,000 for homicide cases and from \$1,000 to \$1,500 for other types of autopsies. In 2009, Lubbock County underwent a reorganization of its ME's office and suspended all outside jurisdiction contracts.

Autopsy Costs

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Attorney General Opinions Issued

GA-0799: Honorable R. Kelton Conner, Hood County Attorney, Compensation of judges serving on a juvenile board. **Summary** Pursuant to section 152.0034(b) of the Human Resources Code, the Hood County Commissioners Court has the authority to establish, increase, decrease, or eliminate the compensation paid to the judges serving on the Hood County Juvenile Board.

GA-0800: Mr. Steven C. McCraw, Director, Texas Department of Public Safety, whether the exemption for a person engaged exclusively in the business of repossessing property, provided by section 1702.324(b)(3) of the Occupations Code, applies only to investigative services or to all services regulated under the Private Security Act. **Summary** The Private Security Act provides for licensing and regulating investigations companies and security service providers, which include locksmiths. Repossession agents are exempted from licensing under the Act for investigative and security services, but only while "performing services directly related to and dependent on the provision of the exempted service that does not otherwise require licensing under" the Act. Tex. Occ. Code Ann. § 1702.324(c) (West Supp. 2010). This exemption applies to security services as well as investigative services. Whether any locksmith services are "directly related to and dependent on the provision of" repossession services involves questions of fact, which cannot be addressed in an attorney general opinion.

GA-0801: Honorable Ronald D. Hankins, Somervell County Attorney, whether an individual or company in the business of breeding certain birds, rats, mice, hamsters and similar animals for sale to pet shops may register a vehicle or trailer used to transport the animals as a "farm vehicle" under section 502.163 of the Transportation Code. **Summary** Section 502.163 of the Transportation Code does not authorize the owner of a vehicle used to transport non-poultry birds, rats, mice, hamsters, and similar

animals for sale to pet shops to register the vehicle as a "farm vehicle" under the statute.

GA-0802: Honorable Frank J. Corte Jr., Chair, Committee on Defense and Veterans' Affairs, Texas House of Representatives, whether an abortion facility may use either a prerecorded telephone message or a one-way conference call to furnish the information required to be provided by section 171.012 of the Health and Safety Code. **Summary** While the statutory text is ambiguous, a court would likely conclude that an abortion facility may not use either a prerecorded telephone message or a one-way conference call to furnish the information required to be provided to the patient by section 171.012 of the Health and Safety Code.

GA-0803: Honorable Frank J. Corte Jr., Chair, Committee on Defense and Veterans' Affairs, Texas House of Representatives, Whether a facility must have a license to perform medical abortions, and whether drugs to induce an abortion must be ingested in the presence of the prescribing physician. **Summary** Except as expressly exempted, chapter 245, Health and Safety Code, requires an abortion facility to be licensed. The prescribing or providing of a drug, not otherwise excluded as a birth control device or oral contraceptive, and done with the requisite intent to terminate a medically verified pregnancy, may be an abortion under section 245.002

(1). Whether the prescribing or providing of a particular drug is an abortion is a fact question that must be determined by the Texas Department of State Health Services in the first instance.

Texas statutes do not require a patient to ingest drugs that are provided to the patient with the intent to induce an abortion in the presence of the prescribing physician.

GA-0804: Honorable Edmund Kuempel, Chair, Committee on Licensing and Administrative Procedures, Texas House of Representatives, whether a particular activity constitutes an offense

under chapter 47 of the Penal Code, which proscribes certain forms of gambling. **Summary** A participant paying an amount of money to purchase a square in the game activity you describe does not make a bet under chapter 47 of the Texas Penal Code. Absent a bet, we cannot conclude that the activity you describe implicates sections 47.02 and 47.03 of the Penal Code.

GA-0805: Honorable Kurt Sistrunk, Galveston County Criminal District Attorney, proper method of appraising the value of residence homesteads damaged by Hurricane Ike in 2008. **Summary** Calculation of the 2010 appraised value of a residence homestead damaged by Hurricane Ike in 2008 and renovated to its pre-storm status is determined by section 23.23(f) of the Tax Code so long as the structure was "rendered uninhabitable or unusable." If the structure was not rendered uninhabitable or unusable, calculation of the 2010 appraised value is dependent upon whether the renovations may reasonably be said to constitute a mere "repair" or a "new improvement" under section 23.23(e). If the structure was rendered uninhabitable or unusable, calculation of the 2010 appraised value is dependent upon the appraised value the property would have had in 2009 but for the storm damage, together with the market value of all new improvements to the property as described by subdivision (f)(2).

GA-0806: Mr. Robert Scott, Commissioner of Education, Texas Education Agency, whether section 11.059 of the Education Code prohibits an independent school district from changing the length of terms of its board of trustees after it changes the election date pursuant to section 41.0052(a-1) of the Election Code. **Summary** We believe that a court would likely conclude that pursuant to Election Code section 41.0052, a school district may change the date on which it holds its general election for officers to the November uniform election date and adjust the terms of office to conform to the new election date on or before December 31, 2010. ■

Attorney General Opinions Requested

RQ-0917-GA: Honorable Paul Johnson, Criminal District Attorney, whether information in a pre-sentence investigation report may be released to the Department of Family & Protective Services under particular circumstances.

RQ-0918-GA: Honorable Glen Hegar, Chair, Sunset Advisory Commission, Texas State Senate, validity

and enforceability of certain types of restrictive covenant.

RQ-0919-GA: Honorable Richard Ramos, Maverick County Attorney, municipality's selection of a local newspaper for the purpose of publication of official notices.

RQ-0920-GA: Gail Lowe, Chair, Texas State Board of Education, whether

the State Board of Education may, in the absence of an appropriation, pay attorney's fees out of the corpus of the Permanent School Fund.

RQ-0922-GA: Honorable James M. Tirey, Hale County Attorney, Deadline for the initiation of a salary grievance proceeding by a county or precinct officer. ■

Autopsy Costs

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(10). Does the county offer a burial assistance program?

Bexar	Yes
Harris	Yes
Collin	Yes
Lubbock	Yes
Dallas	No
Nueces	Yes
Ector	No
Tarrant	Yes
El Paso	Yes
Travis	Yes
Galveston	Yes
Webb	Yes

According to the above chart, only two counties indicated they did not offer a burial assistance program — Dallas and Ector counties. Dallas County hires vendors to either bury or cremate the decedent's body. Ector County usually handles its indigent burial cases by cremating the body in-house.

The ME's offices that responded affirmatively to this question either provide some form of burial assistance or the county in which the ME's office resides has a pauper program.

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

Maintain No Gain Holiday Challenge

Coming This Fall!



Healthy County, the Texas Association of Counties Health and Employee Benefits Pool (TAC HEBP) wellness program, encourages covered members to participate in the Maintain No Gain Holiday Challenge.

The average Texan gains 8-10 pounds during the holiday season! Excess weight contributes to increased risk of heart disease, diabetes, hypertension and some cancers. This free six-week weight management program is designed to keep members from gaining weight (no more than two pounds)

during the holiday season by encouraging healthy eating choices, increase knowledge about food choices and physical activity.

If you are a TAC HEBP member and want to learn more about joining Healthy County please contact a member from our team at (800) 456-5974 or check out our website, www.county.org/MaintainNoGain.html



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