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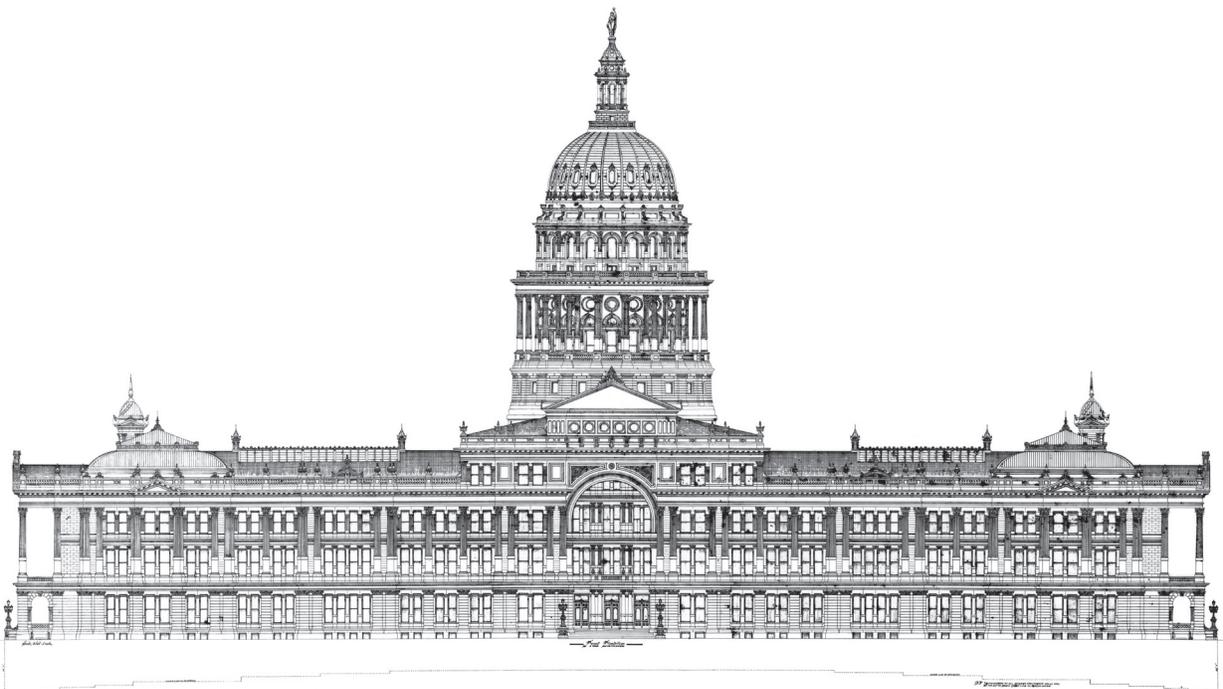
# INTERIM REPORT

TO THE

# 82ND TEXAS LEGISLATURE

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*House Committee on*  
**COUNTY AFFAIRS**  
January 2011



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**HOUSE COMMITTEE ON COUNTY AFFAIRS  
TEXAS HOUSE OF REPRESENTATIVES  
INTERIM REPORT 2010**

**A REPORT TO THE  
HOUSE OF REPRESENTATIVES  
82ND TEXAS LEGISLATURE**

**GARNET F. COLEMAN  
CHAIRMAN**

**COMMITTEE CLERK  
REVLynn LAWSON**

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Committee On  
COUNTY AFFAIRS

January 10, 2011

GARNET F. COLEMAN  
Chairman

P.O. Box 2910  
Austin, Texas 78768-2910

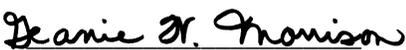
The Honorable Joe Straus  
Speaker, Texas House of Representatives  
Members of the Texas House of Representatives  
Texas State Capitol, Rm. 2W.13  
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

The Committee on COUNTY AFFAIRS of the Eighty-first Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Eighty-second Legislature.

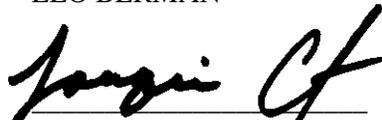
Respectfully submitted,

  
GARNET F. COLEMAN

  
GEANIE W. MORRISON

  
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\_\_\_\_\_  
WAYNE SMITH

\*Representative Leo Berman's signature on this report approves the entire report with the exception of Charge 2, Recommendations 1, 5 and 10 and Charge 5, Recommendations 3 and 4. Please refer to the comments section for additional information.

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## EXECUTIVE SUMMARY

County governments serve as the crossroads for innumerable public policies. In the committee's 11 interim hearings across the state of Texas, it became clear that the needs and resources of each county are as diverse as the landscape. It is evident that within the variant populations and locations, each county needs both tools and resources to provide effective services to their constituents while pursuing the most efficient use of taxpayer dollars.

The committee studied six charges relating to seemingly disparate issues. However, when taken as a whole, they illustrate the complex nature in which policies overlap. The Texas Constitution imbues counties with the responsibility of caring for indigent and poor residents. Counties also have the implicit responsibility to ensure that taxpayer dollars are spent in an efficient and accountable manner. As policy mandates from state and federal government intersect with real world applications and implementation, it is clear that the rubber meets the road at the county level.

Streamlining and strengthening county indigent care services and urban and rural delivery models provide better services for clients that are low-income, or have physical challenges or mental illness. Doing so diminishes the unfortunate pipeline that transports many individuals with mental illnesses along the path to prison and county jails. Effective and accountable pretrial release and diversion programs can ensure that certain nonviolent offenders are brought to justice while reducing their population in county jails. Both can reduce spending and ensure human success for Texans.

Councils of Governments are the catalysts for collaboration in various arenas - human services, public health, elder services, transportation and a myriad of other issues. When done correctly, they ensure that available dollars go broader and deeper than were ever possible, while guaranteeing better services for their constituents. They also play a part in fostering economic development in rural areas.

All of these issues ultimately guarantee that taxpayers receive more services for their money and achieve cost savings. While it is the government's duty to ensure that those dollars are used in the most efficient manner possible, it is also important to ensure that the government operates transparently with those dollars and manages local government debt effectively.

**CHARGE #1:** Study the current practices and tools available to counties to manage growth and development. Consider incompatible land uses and county rulemaking authority, including rulemaking authority bracketed to counties of a certain population.

### **BACKGROUND:**

This section identifies the challenges posed by rapid, unregulated growth, explores the proper balance between unrestrained development activity and over-reaching regulation, analyzes some tools that could be made available to county governments, and recommends reasonable reforms.

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**RATIONALE:**

For at least a decade, urbanizing counties have sought greater authority from the Legislature to manage growth in their unincorporated areas. The Legislature, when it has responded at all, has typically done so in a piecemeal fashion. None of these efforts addressed the larger problems of incompatible uses and taxpayer subsidization of new development. These recommendations would give counties the authority to adopt regulations that would suit the needs of their communities, without the use of zoning.

**RECOMMENDATIONS:**

1. The Texas Legislature should consider adopting limited and reasonable measures to protect against incompatible land uses in high growth areas outside of city jurisdiction. Such measures might include granting counties optional authority to adopt regulations for performance based buffer zones or the ability to designate reserved industrial land use areas, with appropriate safeguards for both new and existing homeowners as well as new and existing industry.
2. The Texas Legislature should consider granting counties optional authority to adopt regulations that would assess impact fees or "in lieu" fees for the proportional costs of widening or extending roads required to serve new development.
3. The Legislature should continue to monitor growth management issues in counties experiencing high rates of population growth and take steps to provide county governments with the tools necessary to protect private property rights, land values and development opportunities for all in the unincorporated areas of these counties.

**CHARGE #2:** Study county-level health care delivery models for indigent health care that emphasize community-based care to improve the continuity and quality of care. Compare urban and rural health care delivery models and make necessary legislative recommendations.

**BACKGROUND:**

This section of the interim report reviews the different health care delivery models for indigent health care. By law, counties are required to provide for the medical care of their indigent and poor inhabitants. This report reviews the different models of indigent health care in both urban and rural settings, highlights some of the innovative, collaborative and cost-savings programs in the state and addresses some of the challenges that inhibit better service delivery.

**RATIONALE:**

Counties should continue to have the option to provide indigent health care services in a way that works best for their constituents. Some communities have been able to come up

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with innovative and cost-saving programs that best fit their needs. With a steadily increasing population combined with an increase in the number of people who will be able to access primary health care with the implementation of Health Care Reform, there is an even greater need for health care providers across the state. There is a current shortage of health care providers and it will only worsen as the population increases.

**RECOMMENDATIONS:**

1. The Texas Legislature should adopt measures that allow for the employment of doctors by rural hospitals.
2. The Texas Legislature should adopt measures that support enhanced loan repayment programs for all health professionals.
3. The Texas Legislature should adopt measures that create partnerships between teaching hospitals and small/rural communities to address the workforce needs of those areas.
4. The Texas Legislature should continue to monitor managed care and other delivery alternatives with the ultimate goal of quality care for patients and the efficient delivery of services by providers across the state.
5. The Texas Legislature should adopt measures that remove barriers to the full utilization of Nurse Practitioners (NPs), Physician Assistants (PAs) and other health providers.
6. The Texas Legislature should adopt measures which encourage Mental Health Mental Retardation (MHMR) authorities to work with hospital districts to utilize their 340B drug discount programs as a means of lowering the costs of medications for the mentally ill.
7. The Texas Legislature should adopt measures which create and expand programs for people with mental illnesses, intellectual disabilities and substance abuse challenges using existing models such as the Bexar County Jail Diversion Program and the Center for Health Care Services, the community MHMR center in Bexar County.
8. The Texas Legislature should adopt measures that encourage, allow and provide incentives to agencies and entities to collaborate by maximizing existing services and facilities. This reduces costs and maximizes existing services without creating a new system of care.
9. The Texas Legislature should adopt measures that further support the Federally Qualified Health Center (FQHC) Incubator Program, providing seed money for organizations seeking FQHC status and for existing FQHCs to expand.

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10. The Texas Legislature should adopt measures that encourage employers to invest in the health and coverage of their employees via wellness and prevention programs for employees and their family members.

**CHARGE #3:** Study county oversight related to pretrial release on bond in criminal cases.

**BACKGROUND:**

This section of the Interim Report explores the ways in which counties oversee pretrial release programs. This report examines whether county oversight of the pretrial release process is adequate, and makes recommendations for future legislative action.

**RATIONALE:**

While pretrial services offices are organized in a manner that gives jurisdictions the flexibility to use them to meet the needs of the local criminal justice system, in order to accurately measure the effectiveness of the various programs, there should be some level of standardized programming and reporting.

**RECOMMENDATIONS:**

1. The Texas Legislature should adopt measures that standardize pretrial services programs and reporting requirements.
2. The Texas Legislature should continue to monitor how the criminal justice system handles defendants during the pretrial phase, and in doing so monitor the role played by local pretrial services agencies (personal bond offices) as well as compensated surety companies (bail bondsmen).

**CHARGE #4:** Examine how local governments can better inform the public about local government debts.

**BACKGROUND:**

Local governments are granted debt authority by the Texas Constitution. The Attorney General's Public Finance Division is responsible by statute for collecting information on public securities issued by a municipal corporation or political subdivision of Texas. The Texas Bond Review Board is mandated by statute to submit a biennial report to the legislature that contains statistical information concerning the bonds and other debt obligations issued by local governments. However, the reporting requirements by local entities to the state agencies are not clear and projections are often not provided.

**RATIONALE:**

Local government entities are becoming increasingly financially transparent and are attempting to better inform the public about local government debt. Information from all

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governmental entities issuing debt should be readily available and transparent to the public. A government's decision to issue debt must be well thought out, documented and communicated in public forums. However, it is important to recognize that many counties are not equipped with the proper staffing or technology to impose more reporting requirements, which would amount to an unfunded mandate should that be required.

**RECOMMENDATIONS:**

1. Each taxing entity in Texas should be required to report all proposed bond initiatives and debt to the Texas Bond Review Board. The Legislature should ensure that implementation of this measure does not result in an unfunded mandate on the taxing entity.
2. The Texas Bond Review Board or the Comptroller's Office should have a tool on their website where a person can enter their zip code and find an immediate tally of how much debt is being carried by their local taxing entities.
3. Taxing entities should provide a projected ad valorem tax impact anticipated from bonds that will be issued in the current tax year and over the life of the outstanding bonds based on projected repayment schedules. The Legislature should ensure that implementation of this measure does not result in an unfunded mandate on the taxing entity.
4. Taxing entities should disclose the status of all existing bond projects and an accounting of expenditure of proceeds within two years of issuance and arbitrage compliance. The Legislature should ensure that implementation of this measure does not result in an unfunded mandate on the taxing entity.

**CHARGE #5:** Survey rural economic development programs. Analyze the economic relationship between rural communities and the agriculture industry and their combined impact on the state's economy. *Joint Interim Charge with House Committee on Agriculture and Livestock.*

**BACKGROUND:**

A number of state and federal agencies assist with administering programs aimed at promoting rural economic development. The primary agencies through which rural economic development funds are administered are the Texas Department of Rural Affairs (previously Office of Rural Community Affairs), Texas Department of Agriculture and the U.S. Department of Agriculture.

**RATIONALE:**

Through numerous local, state and federal programs, rural economic development has had some success across the state. These collaborative efforts must extend to the private industry as well in order to strengthen and grow rural communities.

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## **RECOMMENDATIONS:**

1. The Texas Legislature should continue to support Texas Department of Rural Affairs through general revenue funding in order to maximize available federal funds for rural community programs.
2. The Texas Legislature should continue to support public and higher education, transportation infrastructure and rural healthcare services. These institutions serve as important job sources for rural communities and help to stimulate economic development and employment.
3. The Texas Legislature should monitor and support the use of Tax Increment Finance (TIF) zones, county improvement districts, water districts and other special service districts as they are vital tools used to improve the quality of life and promote economic development.
4. The Texas Legislature should adopt measures that allow for the employment of doctors by rural hospitals. A single rural physician can generate more than five full time jobs and \$233,000 in local economic activity (same as Charge 2, Recommendation 1).
5. The Texas Legislature should adopt measures that create partnerships between teaching hospitals and small/rural communities to address the workforce needs of those areas. This helps to ensure that rural areas are able to cultivate economic development while maintaining and increasing jobs (same as Charge 2, Recommendation 3).
6. The Texas Legislature should adopt measures that further support the FQHC Incubator Program as this provides seed money for organizations seeking FQHC status and for existing FQHCs to expand. Spending on healthcare can have a 3.25 multiplier effect on a local economy, serving as an important economic development tool. FQHCs often can serve an important role in delivery of rural healthcare (same as Charge 2, Recommendation 10).

**CHARGE #6:** Monitor the agencies and programs under the committee's jurisdiction.

## **BACKGROUND:**

This section of the Interim Report explores the agencies and programs under the committee's jurisdiction:

- Regional Councils of Governments; and
- The Texas Commission on Jail Standards.

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### ***Regional Councils of Governments***

#### **RATIONALE:**

The twenty-four regional councils of governments (COGs) have worked to guide the development of their respective regions. In order to accomplish this they rely on facilitating cooperation and coordination amongst the cities, counties, school districts, and special districts that make up their regional community. They are a useful, voluntary instrument that enables local governments to determine public policy and provide essential services. Their general purpose is to make studies and plans to guide the unified, far-reaching development of a region, eliminate duplication, and promote economy and efficiency in the coordinated development of a region. Regional councils encourage their local government members to cooperate in order to improve the health, safety, and general welfare of their citizens and to plan for the future development of their communities. To that end, a member of the State Legislature should be offered the opportunity to be a member of the board of each Regional Council of Governments.

#### **RECOMMENDATION:**

1. The Texas Legislature should adopt measures that require Regional Councils of Governments to offer full board membership or ex-officio board membership to a member of the legislature on each of the Regional Council of Governments.

### ***The Commission on Jail Standards***

#### **RATIONALE:**

The Commission on Jail Standards came out of the Sunset Review process in very good standing. To further promote and support safety in jails, efforts should be made to reduce overcrowding through diversion programs for the mentally ill.

#### **RECOMMENDATIONS:**

1. The Texas Legislature should support measures that would assist the Commission on Jail Standards to lower jail populations via diversion programs for the mentally ill.
2. The Texas Legislature should adopt measures that prohibit waivers for counties not in compliance with Texas Jail Standards.

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## INTRODUCTION

At the beginning of the 81st Legislature, the Honorable Joe Straus, Speaker of the Texas House of Representatives, appointed nine members to the House Committee on County Affairs: Garnet F. Coleman, Chair; Geanie W. Morrison, Vice-Chair; Leo Berman; Valinda Bolton; Joaquin Castro; John E. Davis; Marisa Marquez; Ralph Sheffield; and Wayne Smith.

The House Rules adopted by the 81st Legislature as House Resolution 2 on January 28, 2009, give the House Committee on County Affairs its jurisdiction. Rule 3, Section 7 reads as follows:

**County Affairs** — The committee shall have nine members, with jurisdiction over all matters pertaining to:

- (1) counties, including their organization, creation, boundaries, government, and finance and the compensation and duties of their officers and employees;
- (2) establishing districts for the election of governing bodies of counties;
- (3) regional councils of governments;
- (4) multicounty boards or commissions;
- (5) relationships or contracts between counties;
- (6) other units of local government; and
- (7) the following state agency: the Commission on Jail Standards.

During the interim, the Speaker assigned charges to the Committee.

The Committee on County Affairs held the following hearings:

- April 15, 2010, Capitol Room E2.012, Austin
- April 27, 2010, Capitol Room E1.030, Austin (joint hearing with the House Committee on Agriculture & Livestock)
- August 17, 2010, Capitol Room E2.016, Austin
- October 12, 2010, City Council Chambers, San Antonio
- October 18, 2010, Outpatient Clinic Auditorium, John Peter Smith Hospital, Fort Worth
- October 20, 2010, Texas A&M Health Science Center Conference Room, McAllen
- November 4, 2010, University of Texas at Tyler, Tyler
- November 8, 2010, Harris County Commissioners Court Courtroom, Houston
- November 12, 2010, The University of Texas at El Paso, El Paso
- November 16, 2010, Capitol Room E2.016, Austin
- November 30, 2010, Texas AgriLife Research & Extension Center, Amarillo

The Committee thanks each of the agencies, associations and individuals who contributed their time, testimony and information to this report.

The Committee on County Affairs has completed its hearings and has adopted the following report.

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## HOUSE COMMITTEE ON COUNTY AFFAIRS

### INTERIM STUDY CHARGES AND SUBCOMMITTEE ASSIGNMENTS

1. Study the current practices and tools available to counties to manage growth and development. Consider incompatible land uses and county rulemaking authority, including rulemaking authority bracketed to counties of a certain population.
2. Study county-level health care delivery models for indigent health care that emphasize community-based care to improve the continuity and quality of care. Compare urban and rural health care delivery models and make necessary legislative recommendations.
3. Study county oversight related to pretrial release on bond in criminal cases.
4. Examine how local governments can better inform the public about local government debts.
5. Survey rural economic development programs. Analyze the economic relationship between rural communities and the agriculture industry and their combined impact on the state's economy. *Joint Interim Charge with House Committee on Agriculture and Livestock*
6. Monitor the agencies and programs under the committee's jurisdiction.

## TEXAS DEMOGRAPHY

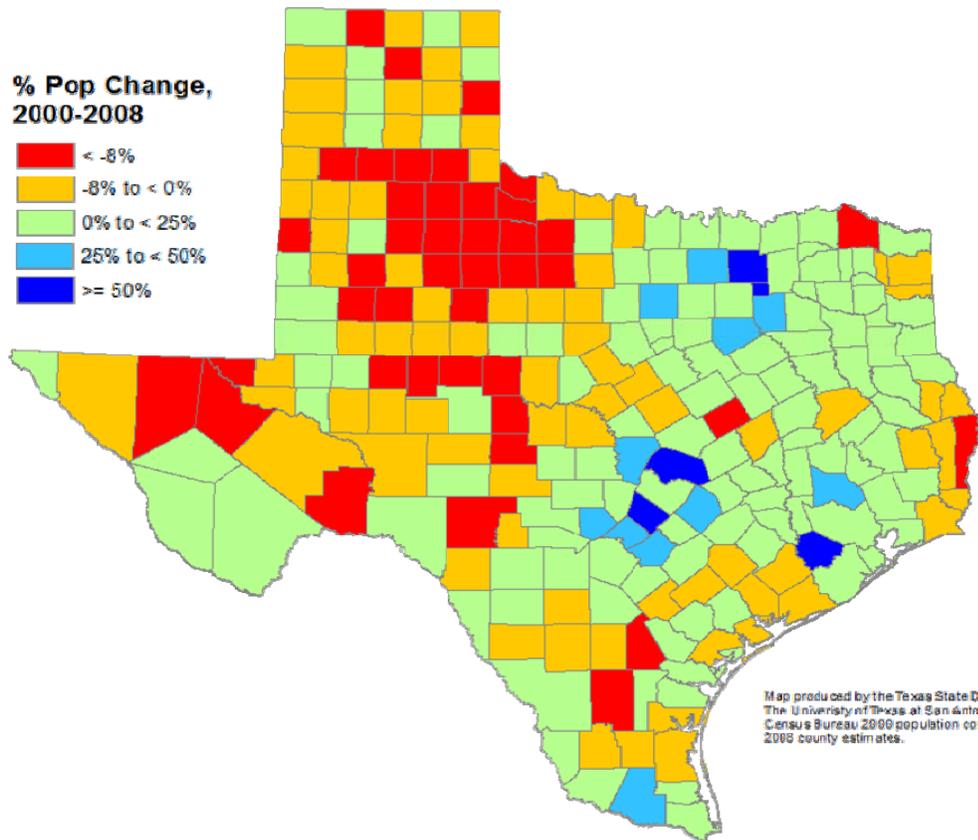
At the County Affairs Committee hearing on April 15, 2010 in Austin, Dr. Lloyd B. Potter, Director of the Institute for Demographics and Socioeconomic Research at the University of Texas at San Antonio presented data on population estimates and projections for Texas.

Texas is the second largest state with a population of 24,326,974 people estimated in 2008 and its growth has exceeded all other states in terms of the number of people (3,465,154 added to the population) from 2000-2008, accounting for a 16.7 percent change.<sup>1</sup>

Texas has both a high birth rate and high fertility rate, as well as a low death rate, which results in a young population with a median age of 33.2 years.<sup>2</sup> This, along with a significant increase in state-to-state migration and to a lesser extent international migration, accounts for most of the population growth in Texas.<sup>3</sup>

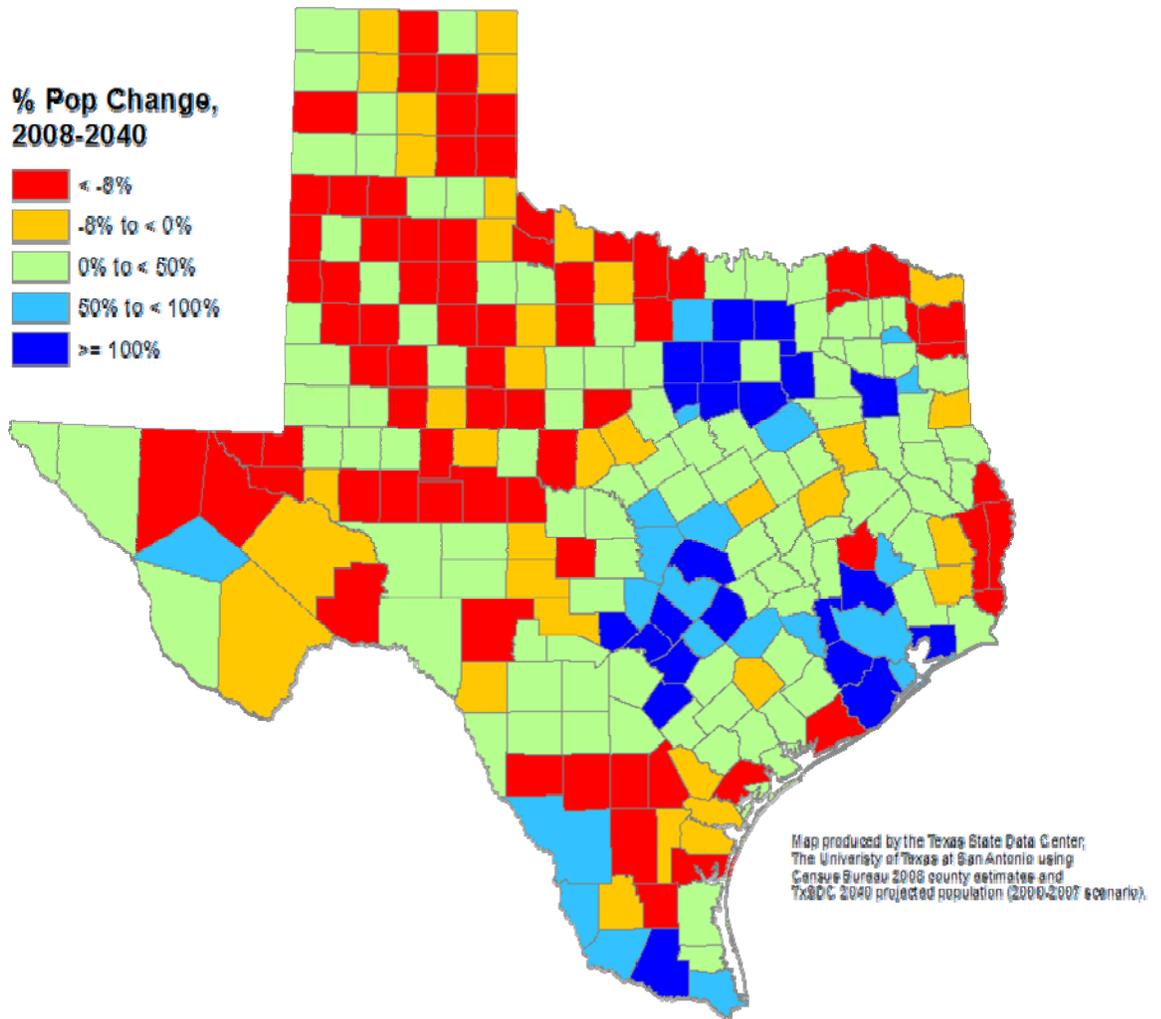
At the county level, the more rural, less populated counties experienced declines in population from 2000-2008, leading to a higher concentration of people in and around major urbanized areas. During this same period, most counties experienced increases within 25 percent while a smaller number experienced significant growth beyond 25 percent.

### Percent Change in Total Population in Texas Counties, 2000-2008



The Texas State Data Center population projections indicate the trends in population growth and decline will continue through 2040. Texas' overall population, as well as the population of the major metropolitan counties of Dallas, Harris, Travis, Bexar and Tarrant and the southern border region, will continue to rise due to natural increase and net migration (internal and international). More rural, less populated counties will continue to lose population.

### Projected Percent Change In Total Population In Texas Counties, 2008-2040



Understanding the population shift in the state sets the framework for determining how resources and services to the inhabitants of those areas can be allocated equitably. This data can be used to assess future planning needs for things such as roads, highways, schools and health care facilities.

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### CHARGE 1

Study the current practices and tools available to counties to manage growth and development. Consider incompatible land uses and county rulemaking authority, including rulemaking authority bracketed to counties of a certain population.

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## SCOPE OF CHARGE

This charge explores the challenges faced by urban and urbanizing counties to manage growth and development within the unincorporated areas of those counties so as to protect property values, environmental quality and the peaceful enjoyment of one's land. This section identifies the challenges posed by rapid, unregulated growth, explores the proper balance between unrestrained development activity and over-reaching regulation, analyzes some tools that could be made available to county governments, and recommends reasonable reforms.

## SUMMARY OF COMMITTEE ACTION

### Committee Hearings

The House Committee on County Affairs held several public hearings on Charge 1:

- April 15, 2010, Capitol Room E2.012, Austin
- August 17, 2010, Capitol Room E2.016, Austin
- October 12, 2010, City Council Chambers, San Antonio
- October 18, 2010, Outpatient Clinic Auditorium, John Peter Smith Hospital, Fort Worth
- October 20, 2010, Texas A&M Health Science Center Conference Room, McAllen
- November 4, 2010, University of Texas at Tyler, Tyler
- November 8, 2010, Harris County Commissioners Court Courtroom, Houston
- November 12, 2010, The University of Texas at El Paso, El Paso
- November 16, 2010, Capitol Room E2.016, Austin
- November 30, 2010, Texas AgriLife Research & Extension Center, Amarillo

### Witnesses

#### April 15, 2010 - Austin

- Lloyd Potter - Texas State Data Center
- Craig Smith - Envision Central Texas
- Scott Norman - Texas Association of Builders

#### August 17, 2010 - Austin

- Lloyd Potter - Office of State Demographer
- Nancy McDonald - The Real Estate Council of Austin
- Seth Terry - Texas Farm Bureau
- Hank Smith - Texas Association of Builders & Austin Home Builders Association
- Christopher Pepper - The Texas Aggregates & Concrete Association
- Haythem Dawlett - Legend Communities
- Tom Nuckols - Travis County
- Don Lee - Texas Conference of Urban Counties
- Donna Eccleston - Comal County
- Jay Millikin - Comal County Commissioners Court
- Donald Allee - Kendall County
- Gene Miertschin - Kendall County

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- Jim Allison - County Judges and Commissioners Association of Texas
  - Richard Evans - Bandera County
  - Robert Nettleton - Val Verde County
  - Jaime Orina
  - Anna Pena
  - Manuel Pena
  - James Brock
  - Sylvia Newsom
  - Kimly West - NoiseFreeTexas.org
  - Michael Weaver - U.S. Army

October 12, 2010 - San Antonio

- Tommy Adkisson - Bexar County, Texas
- Annalisa Peace - Greater Edwards Aquifer Alliance
- Michael Moore - Texas Association of Builders & Greater San Antonio Builders Association

October 18, 2010 - Fort Worth

- Gary Fickes - Tarrant County
- Ned Muñoz - Texas Association of Builders

October 20, 2010 - McAllen

- Raul Ramirez - Brooks County, Texas
- Scot Campbell - Texas Association of Builders & Texas Land Developers Association
- Emily Rickers - Equal Voice Network
- John Womack - Texas Land Developers Association

November 4, 2010 - Tyler

- Joel Baker - Smith County, Texas
- Bill Stoudt - Gregg County, Texas
- JoAnn Hampton - Smith County Precinct 4 Commissioner
- Joe Carlyle - Tyler Area Builders Association & Texas Association of Builders
- Cynthia Kent

November 8, 2010 - Houston

- Cathy Sisk - Harris County, Texas
- John Blount - Harris County, Texas
- Barbara Thomason - Alliance of North Houston Chambers & Houston Northwest Chamber of Commerce
- Jack Chandler Searcy, Jr. - Houston Northwest Chamber of Commerce
- Lisa Clark - Texas Association of Builders & Greater Houston Builders Association
- Nancy Hentschel - Self as an Anthropologist

November 12, 2010 - El Paso

- Jo Anne Bernal - County Attorney, El Paso County
- Erich Morales - El Paso County

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- Guillermo "Willie" Gandara, Jr. - El Paso County, Commissioner Precinct 3
  - Randy Boling - Texas Association of Builders & El Paso Association of Builders

#### November 16, 2010 - Austin

- Ryan Brannan - Texas Public Policy Foundation
- Richard Evans - Hill Country County Coalition
- Joe Daughtry - The Texas Fireworks Association
- Paul Jones
- Shannon Brinkley - Chairman, Texas Fireworks Association Harris County Chapter

#### November 30, 2010 - Amarillo

- Don Allred - Oldham County, Texas & County Judges and Commissioners Association of Texas
- Ron Connally - Homebuilder/developer
- Matt Richardson - Amarillo Hospital District

### **BACKGROUND**

Texas is a high growth state. Much of that growth has occurred outside the city limits. Facing frequent problems with inadequate infrastructure and incompatible land uses in the regulatory “no man’s land” of the unincorporated area, officials in high-growth counties have sought legislation to augment counties’ ability to manage growth. Those efforts have met with limited success.

To some extent, the issue is cultural: many Texans still cherish rural, self-reliant roots and prefer a lifestyle free from city government and the extra taxes that come with it. The issue is also economic: some industries are concerned that giving counties growth management powers, no matter how limited, will compromise their ability to do business. Consequently, Texas grants to its counties less authority to manage growth than any state in the Union.

However, Texas' population continues to grow rapidly outside of city limits. A balance needs to be struck between traditional concerns over increased county regulatory authority and the evident need for high-growth counties to have appropriate tools to protect property owners’ expectations to maintain a general quality of life outside the city limits.

#### *Growth in Urban and Suburban Counties*

During the last decade, Texas’ population grew by over four million. Most of that growth was in urban counties and the counties that surround them. Moreover, in most of those counties, unincorporated areas grew as fast as, or faster than, incorporated cities.

In Harris, Dallas, Bexar, Tarrant and Travis counties, total population increased 18.55 percent between 2000 and 2009, but the population in unincorporated areas grew at the much faster rate of 31.81 percent. The “ring” counties surrounding the largest urban counties grew even faster than their urban neighbors. Chambers County grew by 20 percent between 2000 and 2009 – about the state rate – but the unincorporated areas of the county grew by 27 percent. The most astonishing example of this trend is Fort Bend County, which grew by a total of 57.11 percent between 2000 and 2009, and the unincorporated areas of the county almost doubled in

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population, from about 145,000 to over 280,000.<sup>4</sup>

### *Limited Nature of Current County Growth Management Authority*

Population growth brings with it land use and development issues. Municipalities have broad legal powers to deal with these problems. Counties have far less authority. Outside the city limits, the Legislature has historically been highly selective in authorizing counties to regulate development and land use. Only a few counties have been given broad authority, mostly in narrowly defined geographic areas.

All counties have limited authority to regulate subdivision platting.<sup>5</sup> For new residential subdivisions, counties can deal with issues such as design and construction of roads, management of storm water runoff and the adequacy of water supply and wastewater facilities. However, this does not include the power to regulate lot size, density and other criteria normally associated with municipal zoning.

To stem the proliferation of *colonias*, the Legislature gave some counties additional subdivision platting authority.<sup>6</sup> A list of these counties may be found in Appendix A of this report. Significantly, these authorities cannot be used to address development that does not require a subdivision plat, including most commercial and industrial development.

All counties have limited authority over construction in floodplains,<sup>7</sup> building and fire codes,<sup>8</sup> septic systems,<sup>9</sup> and development around airports.<sup>10</sup> All counties can regulate sale of alcoholic beverages,<sup>11</sup> sexually oriented businesses,<sup>12</sup> junkyards, flea markets, slaughterhouses,<sup>13</sup> landfills,<sup>14</sup> homeless shelters and correctional facilities.<sup>15</sup> In the case of the latter land uses, the Legislature has typically authorized counties to establish buffer zones and screening requirements. All counties can regulate the connection of driveways to public roads<sup>16</sup> and Harris, Bexar and Travis counties have broad authority to control storm water runoff.<sup>17</sup> However, a large number of development and land use issues arising in the unincorporated area simply fall outside the scope of any of these authorities.

Only Hood and Zapata counties have been granted broad, countywide land use authority equal to that of cities. Other counties have broad land use authority, but only in a narrowly defined area within a certain distance of some geographic feature, such as a park, a Gulf of Mexico beach, the El Paso Mission Trail and certain lakes.<sup>18</sup> A list of these counties may be found in Appendix B of this report.

## **DISCUSSION**

### *Significant Gaps in Authority for High-growth Counties*

While the Legislature has given counties some legal tools to address growth issues, proponents of greater growth management authority point out that Texas' high-growth counties do not have the tools needed to address two specific challenges facing those areas: incompatible land uses and taxpayer subsidization of new development.

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### *Incompatible Uses*

The number of commercial and industrial land uses increases as density increases. Whether because of noise, odor, dust, smoke, light, glare, traffic, or other factors, sometimes they affect nearby property owners' use and enjoyment of their homes or land. As one county official stated, "My constituents want to do whatever they want with their land, but I hear about it every time the guy next door is doing whatever he wants with *his* land."

Locating incompatible uses near each other can create public health and safety issues, adversely affect property values and quality of life, and disrupt property owners' future expectations for homes or land in which they have invested significantly. Cities are able to address these issues through zoning ordinances. The only counties that can address these issues are the few that have been legislatively granted land use powers equal to that of cities.

Granting counties with the option to adopt limited rulemaking authority already enjoyed by some counties and most cities is one option.

Another option is to build on the traditional model under which the Legislature has granted counties limited authority to require buffers and screening for various land uses. Dozens of land uses fall outside the scope of existing county buffer and screening authority. Some examples include nightclubs, lighted golf ranges, welding shops, foundries, incinerators, food processing plants, freight depots, metal shops, bulk storage facilities and warehouses. To address the compatibility issues from these activities, high-growth counties could be granted authority to require buffers and screening for broader categories of land uses. These requirements would be "performance based" and tied to the relative amount of noise, odor, dust, smoke, light, glare or traffic produced by each different type of land use.

The public interest served by growth management controls is to preserve each property owner's expectations for the use and value of each individual property. Consequently, counties could be given the ability not only to require nonresidential uses to buffer or screen themselves when locating near an existing residential area, but also to require new residential developments to buffer or screen themselves when they locate near an existing nonresidential use.

The last option would be an extension, to a broader set of land uses, of counties' current authorities over landfills. These allow a county to control the location of landfills only if existing landfills are exempt and there are designated areas where future landfills must be allowed. A county can neither prohibit existing landfills nor exclude future landfills. It can only steer the general area where they can be located. Any expansion of county buffering and screening authority should include similar safeguards to ensure nonresidential land uses have ample access to land for economic development and growth of the county.

A successful incompatible land use policy could benefit the regulated community by providing areas where business-related permits are expedited and opposition is negated because adjacent landowners' expectations have been set because the area has already been designated for nonresidential purposes. This would provide industry with greater regulatory certainty and homeowners with a measure of stability.

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### *Taxpayer Subsidization of New Development*

New development requires the construction of water and wastewater lines and treatment plants, the construction and widening of roads, the extension of electric and natural gas lines, and the creation of parks. Impact fees are a common growth management tool local governments use to help extend infrastructure to new developments.

An impact fee is a “user fee” levied on land when the owner develops it. It is a user fee because it places the cost of new infrastructure on the owner of the property that will use and benefit from that infrastructure, as opposed to the cost being born by all the taxpayers in the community. Chapter 395 of the Local Government Code strictly limits the amount of an impact fee to a property owner’s proportional share of the new infrastructure costs.

Cities, municipal utility districts, and eight counties<sup>19</sup> can assess impact fees to help finance the infrastructure required by new development. Most cities and several counties assess the functional equivalent of an impact fee for parks called an “in lieu fee.” It is collected from a developer in lieu of the developer building a park inside a new development and pays for new park land or park improvements near the development. While many cities assess impact fees to pay for road improvements in the city limits, Chapter 395 prohibits impact fees for roads outside the city limits.<sup>20</sup>

Financing road improvements supporting new development outside the city limits is very challenging for high-growth counties. Without impact fees or in lieu fees for roads, these counties must issue general obligation bonds to pay for these roads. This bond debt must be paid with county-wide property taxes. In other words, a general tax paid by all the taxpayers of the county subsidizes the cost of new infrastructure that benefits a very small part of the county’s population.

Many of the roads needed to accommodate new development are state farm-to-market and ranch roads. Until recently, when these roads needed to be widened or extended to accommodate new development, the Texas Department of Transportation (TxDOT) built the improvements using state gas tax funds. Gas tax funds are now insufficient to pay for improving these roads.

If TxDOT funding is not forthcoming, it will fall to the counties to pay for the improvements to state farm-to-market and ranch roads required by new development outside the city limits. Unless growth management tools such as impact fees and in lieu fees for roads are made available to counties, this amounts not only to a taxpayer subsidy for new development, but also an unfunded mandate to counties from the State of Texas.

Cities assess impact fees for roads inside the city limits. Eight counties are already authorized to assess impact fees for drainage infrastructure and many counties already assess in lieu fees for parks. One option is to build on this existing model by authorizing high-growth counties to assess impact fees or in lieu fees for roads outside the city limits.

In the absence of county authority, coupled with an increased demand for roads in newly developed areas, some developers have partnered with local entities to meet the needs of the community that is being developed. One example of this is Haythem Dawlett, Principal with

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Legend Communities, who partnered with Travis County to build connective roads in an area where the lack of roads was quickly becoming a public safety issue. By using a combination of private loans, land that he donated and existing county bond money, roads were built at a reduced cost in this rapidly growing area. As a result, emergency services response times were significantly decreased and it created greater safety for school travel as well as reduction in drive time for many residents.

### *Opposition to Greater County Growth Management Authority*

There has been, and continues to be, significant opposition to greater growth management authority for counties. Arguments against an approach to county growth management authority that reflects today's population demographics are three-fold:

Some development and homebuilding industries perceive any "land use" issue as resulting in city-type zoning regulations that dictate aesthetic considerations and that unnecessarily drive up costs and reduce profits. In their view, residential development in unincorporated areas promotes affordable housing because it is free from these inner-city zoning dictates. Even if growth management authority is limited to addressing the problems of poor planning, incompatible land uses, inadequate infrastructure, and traffic congestion, they view any expansion of county growth management authority in the current economic climate as counterproductive. An oft quoted study by the Real Estate Center at Texas A&M found that for every \$1,000 that a home increases in price, 20,013 are no longer able to afford a home in the \$150,000 to \$190,000 price range. The full chart can be found in Appendix C of this report.

In some cases the natural resource extraction (mining, oil and gas) industries have been operating in rural areas for a long time and urban and suburban encroachment is perceived as a threat to them. While there may be policy approaches, such as those described above, that create a "win-win" situation for rural industrial landowners and expanding urban and suburban communities, some industries feel safer with the current state of little to no regulation at all. However, the extractive industries are only one of the dozens of land uses that raise compatibility issues outside the city limits. The problem becomes whether the issues attendant with a single category of land use should stand in the way of high-growth being able to address the many other types of land uses that raise compatibility problems.

Many Texans view land use authority as an infringement of private property rights. They even look askance at municipal land use authority, and cite Houston as an example of a city that has prospered without enacting the commonly used zoning regulations found in most other municipalities. They oppose any expansion of growth management authority to unincorporated areas, even in high-growth counties.

However, government is not the only threat to private property rights. As County Judge Richard Evans of Bandera County, a lifelong rancher and resident of the county stated, "You can lose your property rights, really, in two ways: government can take them away from you, or government cannot have the ability to protect you and somebody else can take them away from you."

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## **CONCLUSION**

The challenges posed by rapid development in Texas' high-growth counties have been obvious for some time, at least to those counties. For at least a decade, urbanizing counties have sought greater authority from the Legislature to manage growth in their unincorporated areas. The Legislature, when it has responded at all, has typically done so in a piecemeal fashion, as in 2007 when it gave counties located near military installations the power to regulate outdoor lighting.<sup>21</sup>

This Committee studied county growth management and related issues in each of the last three interims. Other committees of the Texas House of Representatives and the Texas Senate have also issued interim reports examining issues related to land use and growth management in unincorporated areas. None of these efforts addressed the problems of incompatible uses and taxpayer subsidization of new development identified by the Committee and discussed in this report.

## **RECOMMENDATIONS**

1. The Texas Legislature should consider adopting limited and reasonable measures to protect against incompatible land uses in high growth areas outside of city jurisdiction. Such measures might include granting counties optional authority to adopt regulations for performance based buffer zones or the ability to designate reserved industrial land use areas, with appropriate safeguards for both new and existing homeowners as well as new and existing industry.
2. The Texas Legislature should consider granting counties optional authority to adopt regulations that would assess impact fees or "in lieu" fees for the proportional costs of widening or extending roads required to serve new development.
3. The Legislature should continue to monitor growth management issues in counties experiencing high rates of population growth and take steps to provide county governments with the tools necessary to protect private property rights, land values and development opportunities for all in the unincorporated areas of these counties.

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## CHARGE 2

Study county-level health care delivery models for indigent health care that emphasize community-based care to improve the continuity and quality of care. Compare urban and rural health care delivery models and make necessary legislative recommendations.

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## SCOPE OF CHARGE

This section of the interim report reviews the different health care delivery models for indigent health care. By law, counties are required to provide for the medical care of their indigent and poor inhabitants. This report reviews the different models of indigent health care in both urban and rural settings, highlights some of the innovative, collaborative and cost-savings programs in the state and addresses some of the challenges that inhibit better service delivery.

## SUMMARY OF COMMITTEE ACTION

### Committee Hearings

The House Committee on County Affairs held several public hearings on Charge 2:

- April 15, 2010, Capitol Room E2.012, Austin
- October 12, 2010, City Council Chambers, San Antonio
- October 18, 2010, Outpatient Clinic Auditorium, John Peter Smith Hospital, Fort Worth
- October 20, 2010, Texas A&M Health Science Center Conference Room, McAllen
- November 4, 2010, University of Texas at Tyler, Tyler
- November 8, 2010, Harris County Commissioners Court Courtroom, Houston
- November 12, 2010, The University of Texas at El Paso, El Paso
- November 16, 2010, Capitol Room E2.016, Austin
- November 30, 2010, Texas AgriLife Research & Extension Center, Amarillo

### Witnesses

#### April 15, 2010 - Austin

- Lloyd Potter - Texas State Data Center
- Eric Beverly - Texas Department of Rural Affairs
- Don McBeath - Texas Organization of Rural & Community Hospitals
- John Guest - Teaching Hospitals of Texas
- Jim Allison - County Judges & Commissioners Association of Texas

#### October 12, 2010 - San Antonio

- George Hernandez - University Health System
- Charles Boone - Center for Health Care Services
- Linda Werlein - Hill Country Community MHMR Center
- Ernesto Gomez - Texas Association of Community Health Centers
- Clifford Gay
- Lynda Woolbert - Coalition for Nurses in Advanced Practice

#### October 18, 2010 - Fort Worth

- Roy Brooks - Tarrant County Commissioners Court & The People of Tarrant County
- Gary Floyd - JPS - TCMS, TMA COL
- Christopher Dougherty - JPS Health Network
- Alan Podawiltz - John Peter Smith Hospital & Gary Floyd MD

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- David Capper - Tarrant County Medical Society & Christian Community Health Services
  - Jim McDermott - MHMR of Tarrant County
  - Jennifer Gilley - Tarrant County Challenge
  - Kathleen Donaldson - Consortium of Texas Certified Nurse Midwives
  - Leonor Marquez - Texas Association of Community Health Centers & Los Barrios Unidos Community Clinic

#### October 20, 2010 - McAllen

- Larry Gamm - Texas A&M Health Science Center School of Rural Public Health
- Gary Puckrein - National Minority Quality Form
- Timothy McVey - Mission Regional Medical Center & Hospital Coalition of South Texas
- Teresa Lightner - Valley Baptist Health System
- Lynda Woolbert - Coalition for Nurses in Advanced Practice
- Sandra Gaulke - Coalition for Nurses in Advanced Practice
- E. Linda Villarreal
- Lucy Ramirez - Nuestra Clinica del Valle & TACHC
- Fausto Meza - Doctors Hospital at Renaissance
- Guillermo Ramirez, MD - Valley AIDS Council
- Terry Crocker - Tropical Texas Behavioral Health, the Community MHMR Center for Cameron, Willacy & Hidalgo Counties
- Robert Mehl - Texas Psychological Association
- Joseph McCoy, PhD - Texas Psychological Association
- Dee Yates - Texas Psychological Association
- Jose Ioga
- Sherry Griffin - Valley Baptist Health System

#### November 4, 2010 - Tyler

- Joel Baker - Smith County, Texas
- JoAnn Hampton - Smith County Precinct 4 Commissioner
- George Roberts - Northeast Texas Public Health District
- Kirk Calhoun - President of UT Health Science Center in Tyler
- Mary Elizabeth Jackson - Trinity Mother Frances Health System

#### November 8, 2010 - Houston

- George V. Masi - Harris County Hospital District
- Janet Donath - Texas Association of Community Health Centers
- Rose Childs - MHMRA of Harris County
- Lynda Woolbert - Coalition for Nurses in Advanced Practice
- Carol Moore - Health Director, TX State NAACP

#### November 12, 2010 - El Paso

- Jesus Medrano - University Medical Center of El Paso (EPCHO)
- Christy Blanco - Coalition for Nurses in Advanced Practice
- Rachel Harracksingh - Texas Ambulance Association & Life Ambulance
- Monica Reyes - El Paso Healthcare Heroes (EPHH)

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- Bill Schlesinger - Project Vida Health Center
  - Robert Gonzales - Centro de Salud Familiar La Fe, Inc.
  - Gary Larcenaire - El Paso MHMR
  - Veronica Escobar - El Paso County
  - Edward Sosa - University Medical Center of El Paso, TX
  - Jaime Rodarte
  - Edward Sanchez, Jr.
  - Russell Wyatt
  - Anjelica Wyatt
  - Dusty Warden - Immunize El Paso - ProAction Emergency Services Institute

November 16, 2010 - Austin

- Jan Maberry - Texas Department of State Health Services
- Dennis Andrulis - Texas Health Institute & University of Texas School of Public Health
- Lynda Woolbert - Coalition of Nurses in Advanced Practice (CNAP)
- Lara Boyett - Coalition of Nurses in Advanced Practice (CNAP)
- David Evans - Texas Council of Community Centers
- Patricia Young-Brown - Central Health
- David Vliet - CommUnityCare
- Clifford Gay
- Bride Roberts - Williamson County and Cities Health District
- Rita Kelley - Bell County, Texas

November 30, 2010 - Amarillo

- Matt Richardson - Amarillo Hospital District
- Don Allred - County, Texas & County Judges and Commissioners Association of Texas
- Rowdy Rhoades - Moore County, Texas
- Sandy Skelton - Texas Panhandle MHMR
- Bud Schertler - Texas Panhandle MHMR

## **BACKGROUND**

Article 9, Section 14 of the Texas Constitution authorizes counties to care for their indigent and poor inhabitants. An 1876 statute then required counties "to provide for the support of paupers," which the courts have interpreted to include medical care.

There are three ways in which counties can establish health care services:

1. Creating a hospital district
2. Operating a public hospital; or
3. Operating a county indigent health care program.

The Texas Constitution (Article 9, Section 9) authorizes counties to create a hospital district, which is a special taxing district. Voters within that established district must first approve a special taxing district and the Legislature must create it statutorily. The hospital district may be made up of one or more counties that can raise revenue through a property tax of up to 75 cents

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per \$100 valuation of all taxable property within the district. The established hospital district must "assume full responsibility for providing medical care for needy inhabitants," but the Constitution does not define eligibility levels, required services or payment schedules.

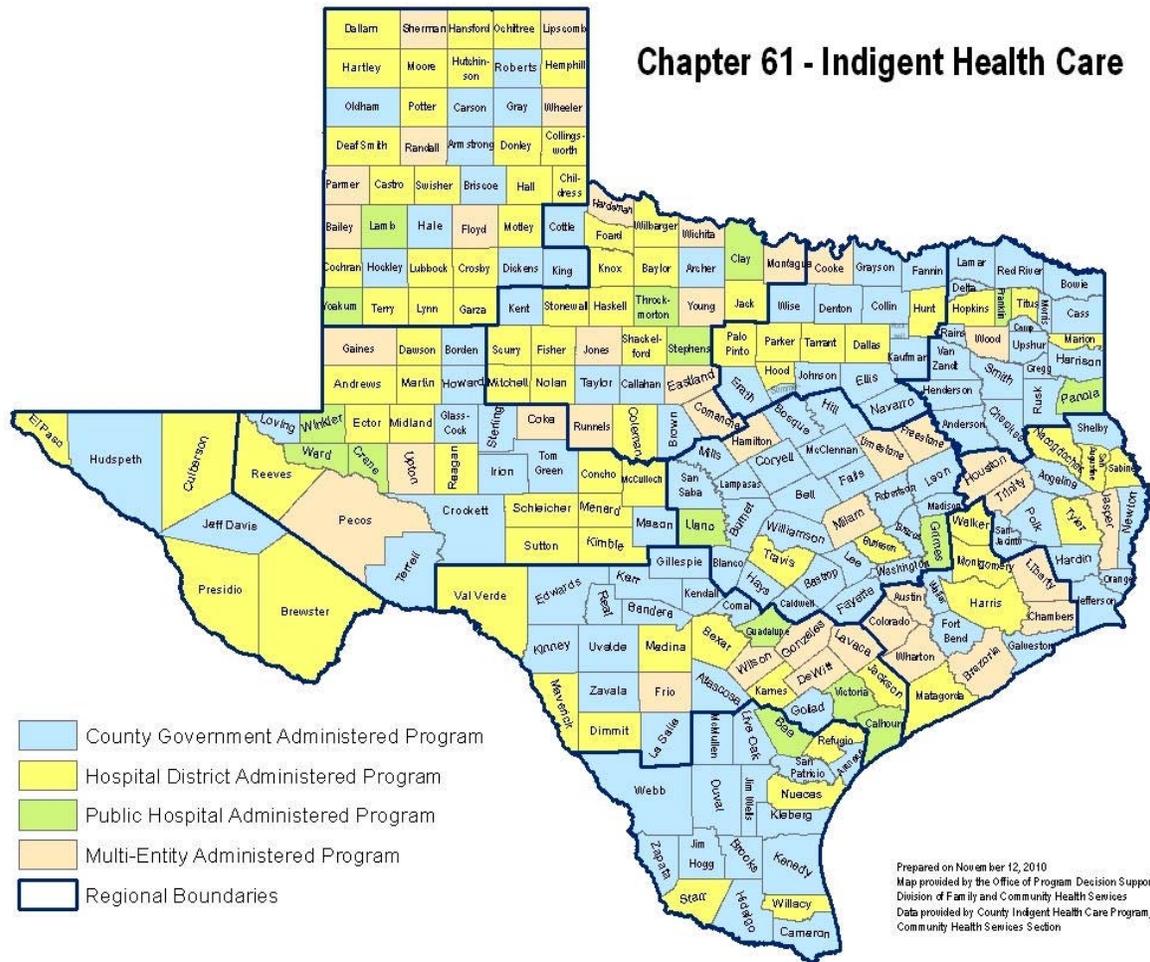
A public hospital can be owned or leased by the local government and has some discretion in eligibility levels and basic services offered under state law. However, public hospitals generally cannot be more restrictive in eligibility or services than county indigent care programs.

The Indigent Health Care and Treatment Act of 1985 requires counties that are not completely covered by a hospital district or public hospital to provide basic health services to indigent residents through a county run County Indigent Health Care Program (CIHCP). CIHCP is a health care program that is administered locally by the counties, hospital districts and public hospitals to provide health care services to eligible residents in Texas. The Indigent Health Care and Treatment Act, Chapter 61 of the Health and Safety Code, sought to define the responsibilities for counties without a public hospital or hospital district so that all counties would be able to pay for indigent care in a more equitable manner.

This statute, revised in 2001, provides minimum eligibility standards at 21 percent Federal Poverty Level (FPL); however the counties and hospitals may expand their requirements if they choose. Counties are required to offer basic health services as defined by law to indigent residents as the payor of last resort, meaning that residents who have private insurance, Medicaid or another form of health insurance are not eligible. Counties are also authorized, but not required, to offer optional services such as dental care, emergency care and counseling.

Counties' liability for indigent health care is capped in statute, and the state reimburses counties for a portion of their costs. Each state fiscal year, a county is liable, per eligible county resident, for \$30,000 or 30 days of hospitalization or nursing-home care, whichever comes first. The state established county indigent health care fund, which is administered by the Texas Department of State Health Services, reimburses counties for a portion of their indigent-care costs. Counties must spend at least 8 percent of the county general revenue tax levy (GRTL) for that year on basic health services. Once a county reaches that level, it must notify the state and is then eligible for reimbursement of 90 percent of the actual payments for health services for the remainder of the fiscal year. If the state fails to provide assistance, the county is not liable for payments after it has reached the 8 percent expenditure level.<sup>22</sup>

Following is a map which shows the current status of indigent health care by county in the state:



## DISCUSSION

### *Hospital Districts*

The Harris County Hospital District (HCHD) is a community owned healthcare system for the nation's third most populous county. It includes 3 hospitals, 13 community health centers including the nation's first free-standing HIV/AIDS treatment center, 13 homeless shelter clinics, 9 school based clinics, 5 mobile health clinics providing immunization and medical outreach programs, a dialysis center and a free-standing dental center. With a tax base of \$528.6 million, HCHD provided \$862.5 million in charity care during 2010.

Bexar County Hospital District, doing business as University Health System, is Texas' third largest public health system and includes University Hospital, the teaching hospital for the University of Texas Health Science Center at San Antonio (UTHSCSA), the only civilian Level I trauma center in South Texas, 16 primary, specialty and preventive care health centers, a non-

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profit HMO, Community First Health Plans, a non-profit multi-specialty physician practice, Community Medical Associates and joint ownership of San Antonio AirLIFE.

University Health System operates under the CareLink Model of Care, a unique, sustainable and local program which expanded health care to those populations who did not meet Medicaid, Medicare, or other federal and state safety-net programs. These populations included the indigent, lower-income working families, low income children and parents, pregnant women and the disabled.<sup>23</sup> This is a financial assistance program that creates a payment plan for services rendered within the University Health System and its network of providers. It is not an insurance plan, but there is a defined Provider Network. The members must be Bexar County residents and below 200 percent FPL.

CareLINK's features include six principles:

1. Promoting patient responsibility and program viability;
2. Providing a medical home for members;
3. Making evidence-based health care decisions;
4. Paying providers on a fee-for-service basis;
5. Assuring members receive medications; and
6. Developing community partnerships.

George Hernandez, President and Chief Executive Officer of University Health System testified that in 2007, revenue collected in the form of member payments totaled \$13.8 million and outpatient copayments was \$1.7 million. This is an example of a financial impact where there was no previous program in place.

University Medical Center is the largest public health system on the US-Mexico border. The Health Care Options Program is an improved care management program from the El Paso County Hospital District that was created in 2004 (and then revised in 2007 to increase the FPL threshold from 50 percent to 100 percent) to provide primary care services to the indigent residents of El Paso County. It currently has over 12,000 members and assigns each one a primary care home. A key function of the program is to provide increased level of primary care where members have access to preventative care and disease management programs. This has resulted in a reduction in the escalation of illnesses and a reduction in emergency room visits. UMC is eligible as a Disproportionate Share Hospital and therefore able to participate in the 340B prescription program and discounted drugs.<sup>24</sup> Jesus Medrano, Director of Managed Care Contracting, testified that some of their current challenges include: Medicaid and Medicare reductions, an increase in the number of charity cases and severe workforce shortages.

Central Health, the healthcare district in Travis County, was created in 2004. Unlike other urban hospital districts, Central Health does not operate a hospital; has a relatively low tax rate; holds status as a Federally Qualified Health Center (FQHC) as a co-applicant with CommUnityCare and places emphasis on primary care. Its operations include:

1. Owning and leasing University Medical Center Brackenridge (UMCB) to the Seton Family of Hospitals;
2. Owning and leasing Austin Women's Hospital to the University of Texas Medical Branch at Galveston;
3. Funding and having budget control of CommUnityCare (20 health center locations);

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4. Operating a health benefits program for uninsured and underinsured residents of Travis County that pays for care at UMCB, CommUnityCare, People Community Clinic, El Buen Samaritano and several other network locations; and
  5. Funding a variety of mental health programs.

Patricia A. Young Brown, President and CEO testified that a little over 90 percent of their expenses are for healthcare delivery and of that 50 percent accounts for primary and specialty care.

As a result of the Amarillo Hospital District's 1996 sale of the Northwest Texas Hospital to Universal Health Services (UHS), the district ceased its role in providing direct patient care for the indigent residents of the City of Amarillo and Potter County. According to Matt Richardson, Director of Public Health with the City of Amarillo, all indigent care services are currently provided by UHS via the Northwest Texas Healthcare Systems while the City of Amarillo provides a measure of oversight and auditing. Qualification for indigent healthcare services is outlined in the contract between the Amarillo Hospital District and UHS. To qualify for the Wyatt Health Plan applicants must meet requirements regarding residency and not have private or public health benefits, but they must have an income below 150 percent of the FPL and resources of less than \$5,000 available to them. Once qualified, the patient has full access to the Wyatt Health Plan including services such as health, dental and specialists. Most that qualify are the working poor, meaning that they are usually uninsured or under-insured.

#### *County Indigent Health Care Programs*

Dr. Kirk Calhoun, President of The University of Texas Health Science Center at Tyler, testified that correcting the inadequacies of the county-based indigent health care system in Texas will require a combination of bold steps, effective organization, expertise, research, collaboration health workforce development and financial resources. One such example of innovative programming and collaboration was provided by George Roberts, CEO of the Northeast Texas Public Health District, who highlighted 3 programs that the Tyler community has developed to become more engaged in the area of healthy living for its residents.

1. "Fit City Challenge" was enacted to get a handle on the current epidemic of obesity. Clear statistics show that over 2/3 of East Texas residents are overweight or obese and the level of diabetes is approaching 10 percent.
2. In 2008, the City of Tyler passed a strong smoke-free ordinance. Verbal reports are that the heart attack rate is down for the area. If smoking can be reduced, health care costs can drop.
3. East Texas Council of Government provided a \$300,000 grant to renovate a public health building so that residents could go to a comfortable, well-equipped and clean environment to receive services and information related to public health.

Rita Kelly, of Bell County, commented that "it all connects: mental health, homelessness, health issues. We need the capacity to do collaborations." She stated that agencies and providers in her community need the ability to provide services to dependent parents of those serving in the military as they often move with the enlisted child to provide care for the grandchildren.

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Hidalgo County Commissioners Court established its current indigent care program through its county health department in 2006 to deal with a lack of funds for indigent care. The program is funded through the county, for-profit hospitals and state and federal agencies. The county must commit up to 8 percent of its tax levy to draw down extra federal Medicaid funds for the hospitals. In return for the county's contribution to the Medicaid program, the participating hospitals pay for the eligible indigent care services. This reduces the number of indigent residents who go directly to the emergency room for all of their health care needs.

Dr. Gary Puckrein, President and Chief Executive Officer of the National Minority Quality Forum which developed a comprehensive database that links vital statistics and other elements, including demographic, environmental, claims, prescription, laboratory, hospital and clinic data, in a centralized data warehouse, around organized zip codes. This information allowed for the development of the Health Assessment Tool which is used to stratify communities by geographic and health-status referents to illuminate health-disparities by communities. This information shows that McAllen has a high prevalence of diabetes in the US and is one of the most expensive health-care markets in the country.

Dr. Larry Gamm, Director of the Center for Health Organization Transformation and Professor and Head of the Department of Health Policy and Management at Texas A&M Health Science Center testified that the Texas Rio Grande Valley and specifically Hidalgo County face the highest poverty rate in America. As a result, the Valley lags far behind in education, public health services and treatment for chronic diseases such as asthma, diabetes and obesity. Uninsured rates, at over 35 percent, are nearly three times as high as for the entire state of Texas.

### *Public Hospitals*

While the Committee did not visit or receive testimony from any counties that have them, it should be noted that the numbers have decreased over the last 20 years. Public hospitals are self-funded by the county. Therefore, it is more cost-effective for counties to have hospital districts or provide indigent health care through county collaborative programs.

### *Federally Qualified Health Centers(FQHC)*

Bill Schlessinger, the Executive Director of Project Vida an FQHC in El Paso stated, "Care is not sick care but community care" which clearly articulates the basic premise of FQHCs.

Research shows that the FQHC Model is cost-effective in Medicaid. A Brandeis University study of Texas FQHCs in the fee-for-service Medicaid program for the years 1999 to 2004 found that Texas Medicaid patients served by FQHCs cost less than hospital based primary care by \$7,500 per patient per year and private practice primary care physicians by \$240 per patient per year. Additionally, inpatient costs for FQHC patients are less: 48 percent less for health center patients compared to hospital primary care, 34 percent fewer admissions for primary care sensitive conditions compared to hospital based primary care and 16 percent fewer admissions for primary care sensitive conditions compared to private practice primary care physicians.<sup>25</sup>

In a 2009 national health center patient survey, FQHCs received very high ratings:

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- More than 80 percent of patients rated the quality of FQHC services as "excellent" or "very good";
  - More than 80 percent of patients reported they were "very likely" to refer friends and relatives to FQHCs; and
  - More than 75 percent of patients reported that the main reason for "going to the FQHC Clinic for health care" was convenient (28 percent), affordable (25 percent) and provided quality health care (22 percent).<sup>26</sup>

With Health Care Reform, FQHCs will play an important role in primary care. There will be a doubling of patients over the next 3-4 years which will in turn necessitate the doubling of the health care workforce, especially primary care providers.

Collaborations with community organizations, cities, counties and school districts as well as educational affiliations with area universities, colleges and technical schools are important elements of the FQHC model. Additionally, most have expanded hours of operation to accommodate the increased need and those who work during regular business hours.

Robert Gonzales, Chief Operating Officer at Centro de Salud Familiar La Fe, an FQHC in El Paso that has 13 service sites and provides services to 22,266 patients, 81 percent of which are at or below poverty. It is centered around a community driven health development service model that focuses on the person's total well-being and fuses social, health, education and economic development initiatives.

- Voluntary sliding scale fee - a minimum fee is required for those under FPL.
- The La Fe Diabetes Collaborative is a program of communication and data exchange between La Fe and other community health centers throughout the United States. This collaborative ensures a high standard of care for low-income diabetic patients with a key health disparity.
- Pharmacy PhD Residency and services collaboration.
- La Fe Culture and Technology Center unites several La Fe health and social justice initiatives via a unique blend of culture, technology, fine arts, and culinary education and provides the El Paso County region with educational opportunities focused on health promotion and disease prevention.
- Community collaborators include both the public and private sectors. In addition to the city, county and civic organizations, private partners such as Barnes & Noble Booksellers and Bassett Place Mall provide support for programs and initiatives.

### *Mental Health*

Approximately 3 percent of Texans suffer from a severe and persistent mental illness and 1 in 10 children between 9 and 17 years of age suffers from a serious emotional disturbance.<sup>27</sup>

The Center for Health Care Services is a community center in San Antonio created under Section 534.0015 of the Texas Health and Safety Code as a vital component in a continuum of services for persons who have a mental illness or intellectual disability. Part of their mission is developing services that are effective alternatives to treatment in a large residential facility. With a budget shortfall in the state, the burden of care for these individual will shift not only to jails, prisons and emergency rooms, but also to the very individuals and families that rely on the

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community-based system of care. Because of their relationship with the University Health System, they are able to participate in their 340B program to lower costs of medications for their clients. This also gives them a medical home. The Center for Health Care Services, in collaboration with the Bexar County Jail Diversion Program, saved the City of San Antonio and Bexar County almost \$6.7 million by addressing the issues of mental illness, substance abuse and homelessness through its programs and services rather than jail or emergency room visits. Additionally, House Bill 1232 (Menendez) implemented a mental health project in Bexar County in the 81st Legislature where agencies and entities could collaborate through the use of leveraging existing services without creating a new system of care.

Access to mental health services can often be challenging. The Hill Country Community MHMR Center provides outpatient behavioral services, developmental disability services, substance abuse services and early childhood intervention services for a 19 county area (over 22,000 square miles) of the Greater Texas Hill Country. The Texas Panhandle MHMR covers 21 counties, 26,000 square miles and 401,000 residents. They have implemented tele-psychiatry which uses sophisticated tele-video systems located in several service sites and 9 county jails. Because of advanced technology they are able to provide immediate mental health crisis screenings and assessments as needed.

Austin Travis County Integral Care (MHMR) works collaboratively with community providers to provide a coordinated, accountable and responsive system of care for Travis County residents. It has a Psychiatric Services Stakeholder Committee to develop immediate and long-term strategies for addressing local crisis mental health issues. Texas A&M was an independent evaluator and found that cost savings of crisis redesign exceeded the cost of the programs, even with a 24 percent increase in crisis episodes from 2007 to 2008.

Gary Larcenaire, the Chief Executive Officer of El Paso MHMR, operates 6 outpatient clinics and maintains an external network of 5 providers. They serve 3,375 adults and 1,135 children totaling 4,510 residents with a budget of \$20 million in the provision of mental health services. He testified that:

- Early detection and intervention are some of the most effective methods of cutting costs.
- Collaborations with the City of El Paso, Opportunity Center for the Homeless and the Border Children's Mental Health Collaborative are a few entities they partner with to find cost savings and achieve economies of scale. A partnership with the El Paso Jail Diversion Committee enables them to review open cases and identify individuals who might benefit from less expensive treatment in outpatient settings rather than remain in jail on charges related to a mental illness.
- They were able to establish the Veterans Rally Point to assist in coordinating services for military service members and their families in establishing linkages with veterans groups and the military support community.

The Mental Health Services at Mental Health Mental Retardation Authority (MHMRA) in Harris County works closely with the local law enforcement agencies and serves the emergency psychiatric needs of 1,500 people monthly. They also manage over 2,5000 inmates in the Harris County Jail who are on psychotropic medications. Rose Langham Childs, Deputy Director, stated that the need for mental health services is currently greater than the funding permits. MHMRA has partnered in many ways to expand the dollars to maintain the "safety net" for

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indigent care services. Without the much needed funding, people will continue to cycle in and out of acute episodes of illness and will use far more expensive services through the hospital emergency rooms, jails, hospital beds and finally become homeless.

### *Special Programs*

El Paso Healthcare Heroes are located in emergency rooms to assist patients navigate the health care system. Monica Reyes, Executive Director, stated that they have estimated avoided costs at \$357,000. Health care Heroes gets people to the right place based on their ability to pay. They capture the clients at the emergency room door and are able to divert them to less costly providers of care in non-emergent situations. They are able to assist the county save money because of their knowledge and collaborations in the community. Unfortunately, they are not currently able to address mental health needs, but are hopeful that they will be able to offer expanded services in the future.

Doctors Hospital at Renaissance is a unique physician led management model in McAllen which uses an electronic medical record system which could set the foundation for a "community record" of health information exchanges statewide. Its targeted outcomes are: improved quality, safety, efficiency and reducing health disparities; engaged patients and families in their health care; and improved care coordination. Doctors are able to access medical records through portable devices such as laptops and smart phones, which cuts down on time looking for paper files and decreases the use of paper. It also allows for almost instantaneous transmission of files on a patient throughout the system.

### *Rural Concerns*

Don McBeath, Director of Advocacy and Communications with the Texas Organization of Rural and Community Hospitals (TORCH) testified about the unique challenges in the delivery of health care services in a rural area. Texas has the largest rural population of any state in the country. Of the approximately 25 million residents in the state, 15 percent of that population are spread throughout the rural regions of the state. While Texas is one of the most rapidly growing state, the growth is primarily in urban areas. As a consequence, many of the rural areas have been declining. Much of this decline is attributed to economic hardship (high unemployment, lower salaries and less skilled jobs). Agriculture has traditionally been the primary industry and it is now generating fewer and fewer jobs and the pay is substantially lower than that in more urban areas.

The population is increasingly become older with higher numbers of senior citizens in proportion to other age levels. There is also rapid growth in the Hispanic population in rural areas, which includes undocumented, low income and uninsured people. The net effect on rural hospitals is that their service areas are disproportionately affected by the greater demands for health care by seniors, and by having to care for a growing low-income and generally uninsured population. Additionally, mental health and the incidence of substance abuse are often higher.

Unique challenges to rural areas include: isolation, low patient volume, limited resources reimbursement and workforce. Rural hospitals see more Medicare and Medicaid patients. Therefore, rural providers receive a higher percentage of their income from government

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insurance plans that often cover less than the full cost of services rendered. Without the presence of rural hospitals, most of Texas would be unprotected and without access to timely emergency treatment. Most rural hospitals are Level IV and are critical to immediate medical intervention. This may often be immediate treatment, stabilization and then transfer to a Level I or Level II facility.

The Texas Department of Rural Affairs considers health care "a major economic driver in rural areas" as "a single rural physician can generate more than 5 full-time jobs and \$233,000 in local economic activity."

### *Workforce Issues*

Teaching Hospitals of Texas (THOT) is composed of 17 organizations who serve as major teaching hospitals in Texas, training over half of the residents and interns in the state. Even though the number of people graduating from medical school is increasing, the number of slots available for residents is fixed. Therefore, graduates often are forced to leave the state and obtain a residency outside the state of Texas. Because most residents end up practicing in that same area, many never return to the state of Texas.

Challenges to hiring health care professionals are intensified in rural areas of the state as most graduates are drawn to urban areas with higher paying salaries. It is cost-prohibitive for a recent graduate, with an average \$150,000 of student debt, to set up a practice. As a result, 27 counties in Texas have no primary care physicians and 16 counties are served by a single doctor.

Advanced Practice Registered Nurses (APRNs) could be a part of the solution to the health care provider crisis in Texas, but they must be allowed to practice to the full extent of their educational and national certification. Lynda Woolbert, Executive Director of the Coalition for Nurses in Advanced Practice, testified that many APRNs are the primary care provider for a panel of patients. Even though most are employed by physicians, hospitals and medical schools, APRNs in Texas may own their own practices. APRNs have had prescriptive authority in Texas since 1989, but unlike 35 other states, the authority to prescribe and order drugs must be designated by a physician and Texas law restricts physicians (Appendix D). Another barrier is that Texas is one of only 4 states that requires a physician to physically be on site with the APRN. The amount of time that physicians are required to be present adds to the cost of health care.

## **CONCLUSION**

When comparing urban and rural health care delivery models, it is important to note the disparate levels of care and resources that are needed in different regions across the state of Texas. Both capitated and non-capitated delivery systems serve a purpose in Texas for adapting to these unique environments. The legislature should continue to monitor the various expansions and other delivery systems and reforms across the state.

With regard to indigent care services, counties should continue to have the option to provide those services in a way that works best for their constituents. Some communities have been able to come up with innovative and cost-saving programs that best fit their needs. With a steadily

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increasing population combined with an increase in the number of people who will be able to access primary health care with the implementation of Health Care Reform, there is an even greater need for health care providers across the state. There is a current shortage of health care providers and it will only worsen as the population increases. Commissioner Roy Brooks of Tarrant County stated that "all indigent health care providers need to look at themselves and see what they will look like in a fully insured environment."

## **RECOMMENDATIONS**

1. The Texas Legislature should adopt measures that allow for the employment of doctors by rural hospitals.
2. The Texas Legislature should adopt measures that support enhanced loan repayment programs for all health professionals.
3. The Texas Legislature should adopt measures that create partnerships between teaching hospitals and small/rural communities to address the workforce needs of those areas.
4. The Texas Legislature should continue to monitor managed care and other delivery alternatives with the ultimate goal being quality care for patients and the efficient delivery of services by providers across the state.
5. The Texas Legislature should adopt measures that remove barriers to the full utilization of Nurse Practitioners (NPs), Physician Assistants (PAs) and other health providers.
6. The Texas Legislature should adopt measures which encourage Mental Health Mental Retardation (MHMR) authorities to work with hospital districts to utilize their 340B drug discount programs as a means of lowering the costs of medications for the mentally ill.
7. The Texas Legislature should adopt measures which create and expand programs for people with mental illnesses, intellectual disabilities and substance abuse challenges using existing models such as the Bexar County Jail Diversion Program and the Center for Health Care Services, the community MHMR center in Bexar County.
8. The Texas Legislature should adopt measures that encourage, allow and provide incentives to agencies and entities to collaborate by maximizing existing services and facilities. This reduces costs and maximizes existing services without creating a new system of care.
9. The Texas Legislature should adopt measures that further support the Federally Qualified Health Center (FQHC) Incubator Program, providing seed money for organizations seeking FQHC status and for existing FQHCs to expand.

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10. The Texas Legislature should adopt measures that encourage employers to invest in the health and coverage of their employees via wellness and prevention programs for employees and their family members.

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CHARGE 3

Study county oversight related to pretrial release on bond in criminal cases.

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## SCOPE OF CHARGE

This section of the Interim Report explores the ways in which counties oversee pretrial release programs. This report examines whether county oversight of the pretrial release process is adequate, and makes recommendations for future legislative action.

## SUMMARY OF COMMITTEE ACTION

### Committee Hearings

The House Committee on County Affairs held several public hearings on Charge 3:

- April 15, 2010, Capitol Room E2.012, Austin
- October 12, 2010, City Council Chambers, San Antonio
- October 18, 2010, Outpatient Clinic Auditorium, John Peter Smith Hospital, Fort Worth
- October 20, 2010, Texas A&M Health Science Center Conference Room, McAllen
- November 4, 2010, University of Texas at Tyler, Tyler
- November 8, 2010, Harris County Commissioners Court Courtroom, Houston
- November 12, 2010, The University of Texas at El Paso, El Paso
- November 16, 2010, Capitol Room E2.016, Austin
- November 30, 2010, Texas AgriLife Research & Extension Center, Amarillo

### Witnesses

#### April 15, 2010 - Austin

- Carol Oeller - Harris County Pretrial Services
- Clyde Lemon - Latonia Wilson, District Clerk Galveston County
- Roger Moore - Professional Bondsmen of Texas

#### October 12, 2010 - San Antonio

- Tommy Adkisson - Bexar County, Texas
- Michael Lozito - Bexar County Pretrial Services Office
- Ken Good - Professional Bondsmen of Texas
- John McRae - Professional Bondsmen of Texas

#### October 18, 2010 - Fort Worth

- G.K. Maeneus - Tarrant County Pre-Trial Release
- Glen Whitley - Tarrant County
- Roger Moore - Professional Bondsmen of Texas

#### October 20, 2010 - McAllen

- Raul Ramirez - Brooks County, Texas
- Tillman Welch - Professional Bondsmen of Texas
- Ramon Garcia

#### November 4, 2010 - Tyler

- Joel Baker - Smith County, Texas

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- JoAnn Hampton - Smith County Precinct 4 Commissioner
  - Cynthia Kent - Professional Bondsmen of Texas

#### November 8, 2010 - Houston

- Carol Oeller - Harris County Pretrial Services
- Patrick McCann
- Brandon Wood - Texas Commission on Jail Standards
- John McCluskey - Professional Bondsmen of Texas

#### November 12, 2010 - El Paso

- Jaime Esparza - District Attorney, 34th Judicial District
- Robert Storch - Self & El Paso Public Defender Clara Hernandez
- Jesus Lechuga - West Texas Community Supervision and Corrections Department
- Alberto de Lachica
- Mario Gonzalez

#### November 16, 2010 - Austin

- Irma Guerrero - Travis County Pretrial Services
- Ronald Morgan, Jr. - Travis County Pretrial Services
- Ken Good - Professional Bondsmen of Texas
- Jessica Zak - Professional Bondsmen of Texas
- Leah Pinney - Texas Criminal Justice Coalition & Ana Yanez-Correa, Executive Director
- Betty Blackwell

#### November 30, 2010 - Amarillo

- Greg Williams - Professional Bondsmen of Texas

### **BACKGROUND**

An individual who has been arrested and charged with a crime is presumed innocent until proven guilty and, in most cases, may be released from jail during the time between his arrest and his trial. This is known as pretrial release. In Texas, judicial officers (judges and magistrates; for simplicity, this report refers to “judges”) are responsible for making pretrial release decisions: what amount of bail to require, what form of bond to accept, and what other conditions of bail, if any, should be imposed.

Historically, if a defendant could not afford bail, the defendant could contract with a private bail bondsman who, for a fee, would post bond on the defendant’s behalf. More recently, pretrial services or personal bond offices have been created to assist judges in two key ways:

- gather pertinent information and make recommendations to the judges, and
- supervise any special conditions a judge imposes upon a defendant’s release.

Pretrial services offices also assist the local criminal justice system by playing an important role in jail population management strategies. They collaborate with the judiciary, law enforcement officials, and probation departments. In performing their functions, their foremost considerations are the safety of the community and the presence of the defendant in court.

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Across the State of Texas, pretrial services offices are organized in a manner that give jurisdictions the flexibility to use them to meet the needs of the local criminal justice system. Examples of the different pretrial services offices include some that are under the auspices of their county commissioners' courts, and others that are located under the leadership of other local elected officials. In all cases, these agencies are accountable to those entities.

## DISCUSSION

The concept of pretrial release is a cornerstone of our criminal justice system. As Chief Justice William Rehnquist said, "In our society, liberty is the norm and detention prior to trial...the carefully limited exception."<sup>28</sup> An individual who is arrested and charged with a crime is, in most cases, entitled to be released from jail pending disposition of the charges against him. The overarching goals of a pretrial release process are to assure the safety of the community and the presence of the defendant in court while, at the same time, respecting the protections afforded the defendant under the United States and Texas Constitutions.

A judge sets the conditions for pretrial release, including the amount of bail that must be satisfied in order for the defendant to be released. The defendant is then able to "make bail" by posting bond in one of three ways:

1. a personal bond, where the defendant is not required to post the bail but is released on his promise to appear in court<sup>29</sup>;
2. a cash bond, where the defendant posts the entire amount of the bail with the Sheriff, and this is returned to him (less statutorily permitted administrative fees) once the case is completed and he has appeared at all Court dates<sup>30</sup>; and,
3. a bail bond, where the defendant makes a business agreement with a commercial surety company (bail bondsman) and, in exchange for paying a non-refundable premium (a percentage of the bail amount), the surety arranges for the release of the defendant<sup>31</sup>.

Ordinarily, an individual who is unable to satisfy bail through one of the above means of release remains detained, at taxpayer expense, until the disposition of his case.

### *Limitations on Excessive Bail Amounts*

The Eighth Amendment to the United States Constitution states: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." Article 1, Section 11 of the Texas Constitution states in relevant part: "All prisoners shall be bailable by sufficient sureties ... ."

Decisions regarding pretrial release on bail thus seek to balance two competing principles:

- 1) an arrestee is presumed innocent until proven guilty, and so should not be deprived of his or her freedom by inability to pay excessive bail; and
- 2) defendants should not be released from custody if they pose a flight risk or are a danger to themselves or to others.

Such decisions are left to judges, based on their investigation and evaluation of each defendant's individual circumstances. In many Texas counties, judges receive assistance with this effort

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through the work of pretrial services offices.

### *The Role of Pretrial Services Offices*

Article 17.42 *et seq.* of the Texas Code of Criminal Procedure permits counties to establish a Personal Bond Office “to gather and review information about an accused that may have a bearing on whether he will comply with the conditions of a personal bond and report its findings to the court before which the case is pending.” Pursuant to these provisions, many Texas counties have established what are called “pretrial services” offices to assist the judiciary in making these decisions. These offices are funded by commissioners courts and are organizationally part of a county’s criminal justice infrastructure.

Although the design and function of pretrial services offices in Texas vary from jurisdiction to jurisdiction, all perform one or both of the following functions:

- intake duties, or bond interviews; and
- post-release supervision.

Pretrial services offices that perform an intake function interview new arrestees to obtain background information and follow up to investigate the defendant’s criminal history, verify residence and employment information, and ascertain any other information that may be relevant to the defendant’s ability to be released on bail.

This information is then ordinarily presented to a judge, who determines what bail should be set, including whether the defendant should be released on personal bond or whether financial bond should be required, and what conditions, if any, should be imposed on the defendant’s release. State law allows a judge to impose conditions on a defendant’s release in order to assure community safety and the appearance of the defendant in court. Examples of these conditions may include a requirement that the defendant wear a Global Positioning System (GPS) electronic monitor or install an ignition interlock device (IID) on a motor vehicle.<sup>32</sup>

It is in monitoring these conditions that some pretrial services offices perform their second function: supervision. In some jurisdictions, they supervise defendants to ensure that they comply with the conditions of release that have been ordered by the court. In addition to the most basic, but important, duty of assuring that the defendant is aware of his court appearance obligations, pretrial officers work to assure that defendants abide by bond conditions such as compliance with electronic monitoring programs. They can also assist defendants in engaging in counseling programs that the court has ordered to assist the defendant in achieving/maintaining sobriety.

The goal of pretrial supervision is thus integrally tied to assuring the defendant’s presence in court and to the safety of the community through enforcing the conditions of release that have been ordered by the court when the defendant was released on bond.

### *The Role of the Private Bail Bond Industry*

The private bail bond industry also plays a role in the pretrial release system. In cases where a defendant is not permitted by the court to be released on personal bond and does not have the

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resources to post a cash bond, bail bondsmen post a surety with the sheriff as their pledge to pay the full amount of the bond if the defendant misses a court appearance. In return, bail bondsmen charge the defendant a non-refundable fee, typically at least ten percent (10 percent) of the amount of the bail, as well as other costs as permitted by law.

To protect their financial interest in the bond, bail bondsmen often enter into an agreement with the defendant or persons related to the defendant, making them liable to the bail bondsman for the amount of the bond. Also, a bail bondsman can impose contractual conditions upon the arrestee, such as house confinement or drug testing. These contractual conditions are private business arrangements between the bondsman and the defendant, and bail bondsmen may impose a fee upon the defendant for such services.

Contractual conditions, which are a matter between the bondsman and the defendant, are not enforced by the court. However, some conditions of bail set by courts apply no matter how a person is released on bond, including surety bond. These may include IID and GPS monitoring. In some jurisdictions, the pretrial services office is responsible for providing the monitoring and supervision of defendants who are released on surety bonds.

The Professional Bondsmen of Texas testified at most of the Committee hearings across the state. All agreed that the pretrial release programs do have a place in the adjudication process. They are, however, concerned about the county's ability to provide oversight and to "capture" those who have chosen not to show up for court as promised.

### *Oversight and Accountability*

Pretrial release systems are ultimately controlled by the judges of the criminal courts in each jurisdiction. In many counties, the judges with a criminal docket meet regularly to discuss the pretrial release system in that jurisdiction. Because the pretrial release system affects jail population management and public safety issues and has budgetary impacts, county sheriffs and commissioners courts are also involved in oversight roles.

With certain exceptions as outlined in statute, pretrial services offices established by commissioners courts must provide annual reports on their activities either to the commissioners courts or to the judges of their district and county courts.<sup>33</sup>

In Texas counties with a population over 110,000, bail bondsmen are regulated by a local bail bond board. The membership and duties of the board are established in statute.<sup>34</sup> Counties with a population less than 110,000 may create a bail bond board if that is recommended by the persons who would serve on such a board and approved by the commissioners court.<sup>35</sup> Currently, approximately 65 Texas counties have bail bond boards. In counties that do not have a bail bond board, bail bondsmen are regulated by the county sheriff.

### *Outcomes*

There is no "one-size-fits-all" approach to the design and function of pretrial release systems. Indeed, counties have been left to fashion their own approaches, within the framework of the law. As a result, some counties rely on a strictly financially-based bail system, where in order to

be released on bail, defendants must either post cash bond or a surety bond. Other counties utilize pretrial services offices to one extent or another.

In any case, judges must make pretrial release determinations and monitor their impacts in terms of defendants' attendance at court hearings and the safety of the community. Caseloads vary widely. By way of example of performance in these areas, the following information was provided by Travis County:

2009		
Number of Individuals Booked-In to Travis County Jail <sup>36</sup>	44,873*	
	Personal Bond <sup>37</sup>	Surety Bond <sup>38</sup>
Number Released	18,275	3,994
Number Re-arrested After Release	1,535 (8.4 percent)	1,881 (47 percent)
Number Forfeiting Bond After Release	2,613 (14.3 percent)	822 (21 percent)

*\*This figure represents bookings for "higher charges" not including class-c misdemeanors or pre-release parolees.*

Pretrial service programs are an effective strategy that many counties use to reduce jail populations while maintaining community safety. Of those released on non-financial conditions, typically all go back to their communities to work and to live within 24 hours of the court's decision. The county absorbs the cost of detaining anyone financially released by the court but who cannot meet the financial release conditions. The number of jail inmates, both felony and misdemeanor, who are in an un-convicted status and considered "releasable" by the court has significant effects on jail population management. In a very short time, they become the primary cause of a county's need to expand jail capacity by building expensive new facilities.<sup>39</sup>

Tarrant County is working towards maintaining a low jail population. According to testimony provided by G.K. Maeneus, the Tarrant County Administrator, they have approximately 1,000 empty beds because of the effective way that they run their program and the good relationships that they maintain with their local bondsmen.

## CONCLUSION

In the State of Texas, the role of allowing the pretrial release of defendants in criminal cases belongs to judges through the bail-setting process, where they are able to determine what type of bond a defendant should be required to post in order to be free pending disposition of his or her case. In addition, counties have the authority to impact the pretrial release process through the establishment of pretrial services agencies (personal bond offices).

Pretrial services agencies play an increasingly important role in the criminal justice system, by providing information critical to judges so that they may complete their statutory duty of determining conditions of bail for arrestees. The case management programs operated by pretrial services agencies also provide direct supervision to defendants in an effort to mitigate concerns about court appearance and public safety, and can respond to defendant misconduct through court notification, allowing the judge to take those steps necessary to assure community safety and court appearance.

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Where they exist, pretrial services agencies are organized to best meet the needs of the local community. Whether organized under the leadership of a County Commissioners Court or other elected officials, pretrial services offices remain accountable to these local entities. As such, they have developed positive relationships and ongoing communication with local officials on the types of services and funding levels provided, and they ensure that initiatives undertaken meet the needs of the community as determined by the elected official, often resulting in cost-avoidance for the county jail system.

Where pretrial services agencies are not utilized, defendants are required to obtain pretrial release by financial means, through posting surety bond (which is also overseen at the local level through statutorily formulated bail bond boards, or the county sheriff), or through posting a cash bond.

At this point, the level of oversight provided by these local entities over the pretrial release process is adequate. Overall, pretrial programs can save county dollars, assist in managing jail population through the release and supervision of those who are least likely to pose risk in the community.

### **RECOMMENDATIONS**

1. The Texas Legislature should adopt measures that standardize pretrial services programs and reporting requirements.
2. The Texas Legislature should continue to monitor how the criminal justice system handles defendants during the pretrial phase, and in doing so monitor the role played by local pretrial services agencies (personal bond offices) as well as compensated surety companies (bail bondsmen).

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#### CHARGE 4

Examine how local governments can better inform the public about local government debts.

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## SCOPE OF CHARGE

This section of the Interim Report explores how government entities inform the public about local government debt and examines ways in which the public can become better informed about these debt obligations.

## SUMMARY OF COMMITTEE ACTION

### Committee Hearings

The House Committee on County Affairs held several public hearings on Charge 4:

- April 15, 2010, Capitol Room E2.012, Austin
- October 12, 2010, City Council Chambers, San Antonio
- October 18, 2010, Outpatient Clinic Auditorium, John Peter Smith Hospital, Fort Worth
- October 20, 2010, Texas A&M Health Science Center Conference Room, McAllen
- November 4, 2010, University of Texas at Tyler, Tyler
- November 8, 2010, Harris County Commissioners Court Courtroom, Houston
- November 12, 2010, The University of Texas at El Paso, El Paso
- November 16, 2010, Capitol Room E2.016, Austin
- November 30, 2010, Texas AgriLife Research & Extension Center, Amarillo

### Witnesses

#### April 15, 2010 - Austin

- Robert Kline - Texas Bond Review Board
- Judy Good - Texas Bond Review Board
- Jonathan Frels - Office of the Attorney General

#### October 12, 2010 - San Antonio

- Peggy Venable - Americans for Prosperity
- David Smith - Bexar County, Texas
- Ben Gorzell - City of San Antonio

#### October 18, 2010 - Fort Worth

- Glen Whitley - Tarrant County & Conference of Urban Counties & Texas Association of Counties

#### October 20, 2010 - McAllen

- Raul Ramirez - Brooks County, Texas

#### November 4, 2010 - Tyler

- JoAnn Fleming - Executive Director of Grassroots America - We The People & Americans for Prosperity of Texas
- Joel Baker - Smith County, Texas
- Rick Thompson - Texas Association of Counties

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November 8, 2010 - Houston

- Adrian Heath - Americans for Prosperity
- Rick Thompson - Texas Association of Counties
- Cathy Sisk - Harris County, Texas

November 12, 2010 - El Paso

- Edward Dion - El Paso County

November 16, 2010 - Austin

- Peggy Venable - Americans for Prosperity
- Leroy Nellis - Travis County, Texas

November 30, 2010 - Amarillo

- Courtney Beene - Americans for Prosperity
- Don Allred - County, Texas & County Judges and Commissioners Association of Texas

## **BACKGROUND**

### *Debt Authority*

Local governments are granted debt authority by the Texas Constitution.<sup>40 & 41</sup> Debt capacity is limited in that debt service appropriations may not exceed 35 percent of the total budget in any fiscal year.<sup>42</sup> Additionally, a county's total bonded debt may never exceed 5 percent of the net valuation of taxable values which are determined by the Central Appraisal District.<sup>43</sup> Section 9 of the Texas Constitution further limits local governments by setting the maximum state tax for county, city and town levies at eighty cents (\$.80) on the one hundred dollars (\$100) valuation in any one year for general fund, permanent improvement fund, road and bridge fund and jury fund purposes.<sup>44</sup> Also, proceeds of bonds may not be used to fund current or future operating costs and only for the capital purposes stated in the order issuing the bonds.

### *Notice Requirements Pertaining to Issuances of County Indebtedness*

The Open Meetings Act requires a county to provide written notice of any meeting held by its commissioners court to adopt an order authorizing indebtedness, including certificates of obligation and ad valorem tax bonds, and to take other formal action related to the indebtedness<sup>45</sup>.

The Certificate of Obligation Act requires a county to publish notice of its intention to issue certificates once a week for two consecutive weeks in a newspaper of general circulation in the area of the county, the first publication date being no later than 30 days before the date tentatively set for the passage of the order authorizing issuance. The notice must contain the following information: the time and place tentatively set for the passage of the order authorizing the issuance of the certificates; the maximum amount and purpose of the certificates; and the manner of repayment (i.e. taxes, revenues, or a combination of the two).<sup>46</sup>

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### *Ad Valorem Tax Bond Elections*

Section 1251.001 of the Texas Government Code requires voter approval at an election before a county may authorize bonds payable from ad valorem taxes.<sup>47</sup>

Section 4.004 of the Texas Government Code requires that notice of a county bond election must state the following information: 1) the nature and date of the election; 2) the location of each polling place, including each early voting polling place; 3) the hours that the polls will be open; 4) the bond proposition(s) to be voted on; and 5) any other information required by other law.<sup>48</sup>

Section 4.003(c) of the Texas Election Code requires a county to publish notice of an election at least once, not more than 30 days or less than 10 days before election day.<sup>49</sup>

Section 4.003(b) of the Texas Election Code requires a county to post a copy of the election notice, which must include the location of each polling place, on the bulletin board used for posting notices of the meetings of the commissioners court of the county, not less than 21 days before election day. The notice must remain posted continuously through Election Day.<sup>50</sup>

In addition to the notice required by §4.003, Election Code, a county must 1) post a substantial copy of the election order at three public places in the county holding the election and the county courthouse; and 2) publish notice of the election in a newspaper of general circulation published in the county on the same day in each of two successive weeks, the first publication date being no later than 14 days before the date of the election.<sup>51</sup>

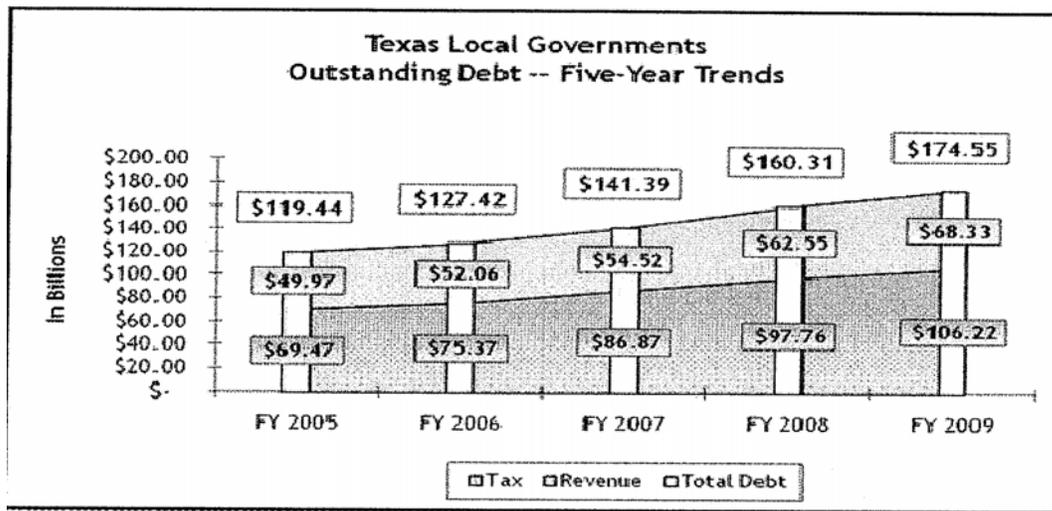
### *Existing Reporting Requirements*

The Attorney General's Public Finance Division is responsible by statute for collecting information on public securities issued by a municipal corporation or political subdivision of Texas.<sup>52</sup> This information consists of a required form and attachments to bond documents. Once gathered, this bond transcript information is submitted to the Bond Review Board for inclusion in the board's report of debt statistics.

The Texas Bond Review Board is mandated by statute to submit a biennial report to the legislature that contains statistical information concerning the bonds and other debt obligations issued by local governments.<sup>53</sup> "Local governments" refers to approximately 4,400 entities including cities, community & junior colleges, counties, health & hospital districts, independent school districts, water districts, and other special districts. Although the Bond Review Board does not play a role in the approval of local government debt issuance, it is a goal of the agency's Strategic Plan to ensure that public officials have access to current information regarding debt issuance, finance, and debt management. To further achieve this goal, the Bond Review Board posts local outstanding debt after the close of each fiscal year by providing downloadable files and searchable databases which are accessible to the public on its website.<sup>54</sup> According to Robert Kline, Executive Director of the Texas Bond Review Board, based on a five-year average, 3,155 unduplicated users download 13,600 files and/or make database searches each fiscal year.

## DISCUSSION

Peggy Venable, the Executive Director of Americans for Prosperity, testified that local government spending is unsustainable. Citing Texas Bond Review Board statistics, she stated that "Local governments in Texas are currently \$174.55 Billion in debt, as of 2009." The Americans for Prosperity Foundation has researched local government spending and debt and found that local government spending over the past 30 years has grown four times faster than Texans' paychecks and that local government debt has grown five times faster. Texas ranks third among the 10 most populous states in terms of local government debt per capita. Ms. Venable provided the chart included below in order to illustrate the growth of Texas local governments' outstanding debt.



Ms. Venable suggested the following ways in which Texas could change this legacy of debt, including:

- Create model school facilities that can be changed based on local building materials and terrain.
- Call bond initiatives what they are - deferred tax increases
- Inform voters of the current debt each time a new bond initiative or additional debt would be incurred.

On behalf of American for Prosperity, she further offered the following recommendations:

- All bond initiative material should include information on current debt (principle and interest for the taxing entity, as should all proposed tax rate increases.
- Debt information (principle and interest) should also be clearly posted on local taxing entities' websites.
- Local governments should be required to report bond initiatives and debt to the Texas Bond Review Board and that information should be made publicly available and easily accessible.
- The Texas Bond Review Board or the Texas Comptroller's office should have a tool on their website where a person could enter their zip code and find an immediate tally of

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how much debt is being carried by their local taxing entities (by individual entity, and a combined total).

- Taxpayers should be able to compare their local entities' debt to others in Texas - so we should find a way to rank school district, city, county, and other taxing entities' debt as well as tax rate. That information should be listed also as per capita debt.

Adrian Heath, on behalf of Americans for Prosperity, testified that even though voters approved the bond indebtedness that local government now carries, the way the bonds are structured can make a huge difference to the amortization schedule and often results in what amounts to "vampire indebtedness...debt that will never die." In order to better inform the public about local government debt, Mr. Heath offered the following measures:

1. Require all local government jurisdictions to display current debt statistics prominently on the main page of their website and cover of their Comprehensive Financial Annual Report.
2. Require County Commissioners or Tax Assessor-Collectors to serve as the clearinghouse for all jurisdictions debt data.
3. Require all jurisdictions to include debt data on each tax statement.
4. Require full and complete disclosure of current and proposed deferrals of principle and/or interest with every bond proposal or Certificate of Obligation.
5. Require all jurisdictions to establish an email based bond alert list that interested taxpayers can subscribe to.

JoAnn Fleming, Executive Director of Grassroots America - We The People, believes that we are leaving our children a legacy of debt. In order to change this, Ms. Fleming presented the following ideas:

- Create model school facilities that can be changed based on local building materials and terrain.
- Call bond initiatives what they are - deferred tax increases
- Inform voters of the current debt each time a new bond initiative or additional debt would be incurred.

### *Government Perspective*

The Texas Bond Review Board informs the public of local debt obligations through the agency website; however, local government entities across the state also inform the public about debt issuance in a variety of other ways. The State Comptroller's Office began a voluntary financial transparency program for local governments that has spread throughout the state. Most government bodies include public input throughout the budget process. For example, the City of San Antonio offers community budget meetings in each City Council district. Many entities, including Tarrant County, also stream official public meetings online and archive these videos online for the public to view. Once the budget is finalized, most entities post it online for public viewing.

The City of San Antonio not only publishes the budget, but also includes official statements for bond issuance and the published rating reports from the bond rating agencies. For many counties, including Harris and Smith County, the official check register is now posted online. El Paso County also fully discloses existing bond debt in the County's interim monthly financial reports.

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Other entities, including El Paso County and the City of San Antonio, also employ a multi-year Capital Plan that is perpetually updated and approved annually.

The City of San Antonio and Bexar County provide their taxpaying public with financial transparency. The city follows a 6-year capital budget that is updated and adopted annually. This budget, along with the annual operating budget and official statements for bond issuance, are posted online. Public input is sought throughout the budget process. Community meetings are held in each council district where attendees are given project documents that detail all projects completed during the fiscal year, projects under construction, and projects that will begin construction in the upcoming year. Furthermore, all official budget meetings are posted online for the public to view.

Judge Whitley of Tarrant County stated that they are very transparent. Public hearings are held after notice has been given to the public via the local paper. These hearings are broadcast live-stream on the County's website and archived online for the public to view at a later date. Additionally, all documents seen or discussed in these hearings are posted online as part of the agenda for that meeting.

Judge Whitley then discussed potential problems for holding a public election on Certificates of Obligation in Tarrant County. Elections are not free and in Tarrant County's case it would cost \$1 million to have a countywide bond election. It would be difficult to add these bonds to May elections because these are not necessarily held countywide. Additionally, the Commissioner's Court is just beginning the budget discussion in May and would not have accurate figures for the potential amount of money needed by election day. November would be the next uniform election date; however, Tarrant County completes its budget process prior to this. Therefore, in order to vote on Certificates of Obligation, Tarrant County would need a separate election date and regardless whether the Certificate of Obligation achieved voter approval, the county would still face a \$1 million bill for the election.

Brooks County is a small population county and its website serves as a portal where people can view what is going on with their county government. Judge Ramirez stated that notice of bond and Certificate of Obligation hearings are posted in the local newspaper so the public knows how much tax money has to be set aside for that indebtedness. These hearings are open to the public, with one being held at night allowing those who work during the day to attend. The County Judge has a State of the Union type address each year to inform everyone where their tax money is being spent.

Smith County has been recognized by the Texas Comptroller for efforts at fiscal transparency. The county budget, including outstanding indebtedness, is posted online and Smith County was one of the first counties in the state to post its checkbook online. Additionally, the county follows all statutory requirements for the issuance of debt, including notice and all commissioner court meetings are accessible online. Moreover, public input is sought on capital projects. Judge Baker then reiterated, "I believe that counties currently do a good job in informing citizens about their debts. I am not opposed to any voluntary reporting of additional information to the Texas Bond Review Board or to the Comptroller's office; I am adamantly opposed to requiring such reports without a funding source."

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The online posting of county financial records in Harris County has been a priority. Members of the public can now find comprehensive financial reports on the County Auditor's website and can view the county's check register online via the Treasurer's Office. Harris County has received two awards in the past year for transparency in government. The County was awarded the Texas Comptroller's Gold Leadership Circle Award for making the county's finances transparent and the Sunny Award from the Sunshine Review, which is a national nonprofit that evaluated the websites of every state and over 5,000 local governments.

Edward Dion, County Auditor, presented financial policies that the El Paso County Commissioners Court approves annually. These include:

- The County's total bonded debt will never exceed 2 percent of the net valuation of taxable property values in El Paso County.
- Bond financing arrangements will be restricted to capital improvement projects that cannot be feasibly funded with current revenues and reserves.
- The term of bonds will not exceed the useful life expectancy of the capital project or equipment for which the borrowing was done.
- The Commissioners Court will make a diligent effort to coordinate planning, issuing and timing of bond issues with the overlapping jurisdictions in the County.

Leroy Nellis serves as the Travis County Budget Director and stated that Travis County invites public transparency in the budget process. All Commissioners Court hearings and budget deliberations are televised live on the local public access channel. Travis County officials encourage public testimony and offer people a chance to be heard every Tuesday. Additionally, both the county operating budget and capital budget are posted on the Travis County website.

Judge Allred testified that Oldham County already has in place requirements for financial data to be transparent to the public. Public hearings are held when budget matters are discussed and notices for these hearings are placed in a local newspaper of general circulation. Despite the many forms of public notice, very few people participate in the budget process.

## **CONCLUSION**

It is clear that local government entities are becoming increasingly financially transparent and are attempting to better inform the public about local government debt. Information from all governmental entities issuing debt should be readily available and transparent to the public. A government's decision to issue debt must be well thought out, documented and communicated in public forums. However, it is important to recognize that many counties are not equipped with the proper staffing or technology to impose more reporting requirements, which would amount to an unfunded mandate should that be required.

## **RECOMMENDATIONS**

1. Each taxing entity in Texas should be required to report all proposed bond initiatives and debt to the Texas Bond Review Board. The Legislature should ensure that implementation of this measure does not result in an unfunded mandate on the taxing entity.

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2. The Texas Bond Review Board or the Comptroller's Office should have a tool on their website where a person can enter their zip code and find an immediate tally of how much debt is being carried by their local taxing entities.
  3. Taxing entities should provide a projected ad valorem tax impact anticipated from bonds that will be issued in the current tax year and over the life of the outstanding bonds based on projected repayment schedules. The Legislature should ensure that implementation of this measure does not result in an unfunded mandate on the taxing entity.
  4. Taxing entities should disclose the status of all existing bond projects and an accounting of expenditure of proceeds within two years of issuance and arbitrage compliance. The Legislature should ensure that implementation of this measure does not result in an unfunded mandate on the taxing entity.

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CHARGE 5

Survey rural economic development programs. Analyze the economic relationship between rural communities and the agriculture industry and their combined impact on the state's economy.  
*Joint Interim Charge with House Committee on Agriculture and Livestock*

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## SCOPE OF CHARGE

This section of the Interim Report surveys rural economic development programs. The committee examined the economic relationship between rural communities and the agriculture industry and their combined impact on the state's economy.

## SUMMARY OF COMMITTEE ACTION

### Committee Hearings

The House Committee on County Affairs held a joint public hearing with the House Committee on Agriculture and Livestock on Charge 5:

- April 27, 2010 - Capitol Room E1.030, Austin

### Witnesses

#### April 27, 2010 - Austin

- Todd Staples - Texas Department of Agriculture
- Donna Chatham - Association of Rural Communities in Texas
- Billy Curb - USDA Rural Development Programs
- Julie Chase - Office of the Governor - Economic Development & Tourism Division
- Joe Morin - Office of the Governor - Economic Development & Tourism Division
- Becky Dempsey - Texas Department of Agriculture
- Charles Stone - Texas Department of Rural Affairs
- Russell Gallahan - Comptroller of Public Accounts
- Penny Redington - Texas Association of Regional Councils
- Ken Becker - Sweetwater Enterprise for Economic Development
- Katherine Silvas - City of Seguin
- Kathy Keane - Eden Economic Development Corporation & City of Eden

## BACKGROUND

A number of state and federal agencies assist with administering programs aimed at promoting rural economic development. The primary agencies through which rural economic development funds are administered are the Texas Department of Rural Affairs (previously Office of Rural Community Affairs), Texas Department of Agriculture and the U.S. Department of Agriculture.

## DISCUSSION

### *Texas Department of Rural Affairs*

The Texas Department of Rural Affairs is a state agency, created in 2001 as the Office of Rural Community Affairs by the 77th Legislature to ensure a continuing focus on rural issues, monitor governmental actions affecting rural Texas, research problems and recommend solutions, and to coordinate rural programs among state agencies. Since its inception, TDRA has operated as a statewide agency serving all rural areas of Texas and awarding over 4,891 grants totaling more

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than \$642,309,774. These funds have gone out to communities and counties for economic development, disaster relief, infrastructure, and healthcare, benefiting more than four million people in Texas.

The agency is primarily funded through federal grants, with 90.3 percent of the agency's total funding coming from federal grant funds, 6.9 percent from state general revenue, and 2.8 percent from general revenue-dedicated and other funds.

In FY 2008, the agency's \$3.6 million (almost 4 percent) in general revenue funds will leverage over \$79.4 million in federal funds for rural community programs in Texas. These programs fund basic infrastructure projects such as sanitary sewer systems, drainage and flood control projects, and road improvements. TDRA programs also fund drinking water, safe housing and disaster relief projects. In addition, the legislature approved funds to fund the Renewable Energy Program, the Emergency Service District Program, and the creation of two new Rural Technology Centers. The agency's rural health programs provide grants and stipends to rural health care professionals to locate in rural communities. These programs also provide grants to rural hospitals for capital improvements and to rural communities for the purchase of life-saving equipment, such as defibrillators.

#### Community Development Block Grant Program (CDBG)

Texas has the largest CDBG program in the country. The primary objective of the CDBG program is to develop viable communities by providing decent housing and a suitable living environment and by expanding economic opportunities, principally for persons of low and moderate income. The state must ensure that at least 70 percent of its CDBG grant funds are used for activities that benefit low and moderate income persons. Under certain circumstances, states may also use CDBG funds to meet urgent community development needs that pose a serious and immediate threat to the health or welfare of the community and have arisen in the past 18 months.

Since TDRA began operations in 2002, the agency has:

- Awarded 1,232 grants (totaling \$345,550,998) to 692 rural communities and counties to assist those communities and counties with their community and economic development needs, thus benefiting 1,975,712 rural Texans. Of those rural Texans, 1,155,380 are persons of low to moderate income.
- Awarded 87 grants (totaling \$23,527,694) to 73 rural communities and counties to assist those communities and counties with their disaster relief needs, thus benefiting 588,170 rural Texans. Of those rural Texans, 256,430 are persons of low to moderate income.
- Awarded 192 grants (totaling \$61,053,164) to 135 rural communities and counties to provide first time water and wastewater service, thus benefiting 70,470 rural Texans. Of those rural Texans, 54,803 are persons of low to moderate income.
- Awarded 1,145 grants (totaling \$18,349,643) to 572 rural communities and individuals to assist rural communities improve access to healthcare and improve healthcare facilities.
- Awarded 172 grants (totaling \$8,332,736) to public and nonprofit hospitals through its Capital Improvement Loan Fund to improve the health services and healthcare infrastructure of Texas' rural communities by making capital improvements to existing facilities, constructing new health facilities, and purchasing capital equipment.

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*Texas Department of Agriculture*

- Texas Agricultural Finance Authority  
Significant changes were made last session to the Texas Agricultural Finance Authority (TAFA), an authority within the Texas Department of Agriculture created by the Legislature in 1987. Through partnership with banks or other agricultural lending institutions, TAFA provides financial assistance to creditworthy individuals and businesses. Four programs are designed for eligible applicants who wish to establish or enhance their farm or ranch operation or to establish an agriculture-related business. Special incentives are now available to our young farmers, such as a new grant program.
- Agricultural Loan Guarantee  
TAFA provides financial assistance through loan guarantees to eligible applicants who wish to establish or enhance their farm or ranch operation or to establish an agricultural-related business. The program provides guarantees based on a tiered structure, not to exceed \$750,000 or 70 percent of the loan amount whichever is less. The program also provides an interest rebate as part of the guarantee process to eligible borrowers.
- Interest Rate Reduction  
TAFA can facilitate commercial lending that may result in lower interest rates compared to current market rates. Any person who proposes to use the proceeds under this program in a manner that will help accomplish the state's goal of fostering the creation and expansion of an agricultural business in Texas is eligible.
- Young Farmer Interest Rate Reduction  
Even more beneficial than the standard interest rate reduction program, young farmers can see greater reductions to their rates through TAFA. Any person who is at least 18 years of age but younger than 46 years of age and proposes to use the proceeds under this program in a manner that will help accomplish the state's goal of fostering the creation and expansion of an agricultural business in Texas is eligible.
- Young Farmer Grant  
For the first time ever, TAFA now offers a grant program two times per year to eligible applicants that are at least 18 years of age but younger than 46 years of age and that are engaged in creating or expanding agriculture in Texas. The applicant must be able to make dollar-for-dollar matching expenditures to sustain, create or expand the proposed project. Individual grants may range from \$5,000 to \$10,000.

*United States Department of Agriculture Rural Development*

United States Department of Agriculture Rural Development funds utilization in Texas and has experienced steady increases during the past three years. During Fiscal Year 2009, a total of \$1.26 billion in grants, direct loans, and guaranteed loans were delivered to Texas rural areas. USDA administers several program aimed at assisting rural businesses and communities promote economic development.

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### Business and Industry Guaranteed Loans

The Business and Industry Guaranteed Loan Program helps create jobs and stimulates rural economies by providing loan guarantees up to 90 percent for commercial lenders assisting rural businesses. For most business programs, a rural area is any area other than a city or town that has a population of greater than 50,000 inhabitants and the urbanized area contiguous and adjacent to such a city or town as defined by the latest U.S. Census data. The maximum loan amount is \$10 million and loan proceeds may be used for working capital, machinery and equipment, buildings and real estate, and certain types of debt refinancing. For fiscal year 2010 Texas was allocated \$42 million. Additionally, Texas received an additional \$77 million in B&I program funding under the American Reinvestment and Recovery Act.

### Value Added Producer Grants

Value Added Producer Grants assist eligible producers of agricultural commodities, agricultural producer groups, farmer and rancher cooperatives, and majority-owned producer-based ventures to develop feasibility studies, business plans and provide working capital for viable marketing opportunities and develop strategies to create marketing opportunities in emerging markets. The maximum grant amount for planning is \$150,000 and the maximum grant amount for working capital is \$150,000. Value added is the value that is realized by the producer from an agricultural commodity or product as a result of: a change in the physical state, differentiated production or marketing; as demonstrated in a business plan, product segregation, or production of farm or ranch based renewable energy.

### Rural Business Enterprise Grants

Rural Business Enterprise Grants are competitive grants awarded to public bodies, private non-profit corporations, and federally-recognized Indian tribal groups to finance and facilitate development of small and emerging private business enterprises. Grants can be used to finance the acquisition and development of land, easements and rights-of-way; construction, conversion, enlargement, repairs or modernization of buildings, plants, machinery, equipment, access streets and roads, parking areas, utilities and pollution control abatement facilities; financial assistance to third parties through a loan (revolving loan fund); loans for startup operating costs and working capital; technical assistance for private business enterprises; and reasonable fees and charges for professional services necessary for the planning and development of a project. The FY 2010 RBEG allocation for Texas is \$1.4 million.

### *Rural Broadband Access*

The Texas Department of Agriculture announced in March 2010 Texas recipients of U.S. Department of Agriculture funding that will help bring much needed high-speed Internet service to rural areas of the state. Governor Rick Perry designated TDA, in consultation with the Public Utility Commission and the Texas Public Safety Commission, as the lead agency in coordinating broadband expansion activities funded by the American Recovery and Reinvestment Act.

The American Recovery and Reinvestment Act appropriated \$7.2 billion and directed USDA's Rural Utilities Service and the Department of Commerce's National Telecommunications Information Administration (NTIA) to expand broadband access to unserved and underserved communities across the United States, increase jobs, spur investments in technology and infrastructure and provide long-term economic benefits.

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### Texas Projects Receiving USDA Funding

PRIDE Network, Inc.: The Texas South Plains Project; \$22,720,551 loan and \$21,829,549 grant. The funding will provide a FTTP telecommunications infrastructure, with a WiMAX service-extension overlay, that will bring advanced broadband services to rural communities of the Texas South Plains region.

PRIDE Network, Inc.: The Burkburnett and Iowa Park Project; \$12,811,071 loan and \$6,309,931 grant. The funding will provide a FTTP telecommunications infrastructure, with a WiMAX service-extension overlay, that will bring advanced broadband services to the rural communities of Burkburnett and Iowa Park (less than five percent of this network will serve an area in Oklahoma).

XIT Rural Telephone Cooperative, Inc.: The FTTP and Very High Speed DSL2 (VDSL2) Combination Application Project; \$3,065,440 grant and \$3,190,560 private investment. The funding will provide a FTTP and Fiber-to-the-Node (FTTN) advanced DSL technology within two separate service areas in and around the communities of Dalhart and Stratford.

Southern Texas Broadband Infrastructure Development and Adoption Project: \$40,093,153 loan and \$38,520,868 grant. The funding will develop a broadband infrastructure in 11 unserved and underserved rural communities of the South Texas Plains.

### Texas NTIA Funding

Level 3 EON, Inc.: The Expanding Broadband Access Across Texas project received \$4,677,788 to build 17 new access points on Level 3's existing broadband network to enable last mile providers to offer affordable high-speed services to underserved areas. These points of interconnection enable last mile providers to transport data to the Internet backbone and provide affordable service to anchor institutions, homes and businesses. The project could enhance broadband capabilities for as many as 400,000 households, 21,000 businesses and 214 community anchor institutions, including schools, government agencies and health care providers.

### *Sweetwater, TX*

Ken Becker serves as Executive Director of the Sweetwater Enterprise for Economic Development (SEED). He views rural economic development as something towns cannot just expect to happen. Instead, communities must seek out and embrace opportunities. Sweetwater, under his leadership, has done this. SEED works with the area real estate agency groups and obtains updated figures on what type of inventories are available for commercial buildings and homes. This information is then relayed on to interested businesses.

Mr. Becker also recommends other entities to follow Sweetwater's lead and encourage the development of their natural resources. Wind, which was once cursed by Nolan County residents, has been fully embraced and has transformed this extremely rural county. Mr. Becker notes that Nolan County is only 3 percent residential with 97 percent of the county's land tied to agriculture. Therefore, since the wind power-boom began, SEED has remained in constant

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contact with the farmers and landowners allowing agriculture and wind power generation to coexist.

This has proven very beneficial for Nolan County. Its 1999 total evaluation was \$500 million; whereas, by 2009 it had increased to \$2.8 billion thanks to the wind towers. In order to achieve these results, SEED has had to put in the leg work. Mr. Becker believes that staff training and networking opportunities through the Texas Economic Development Corporation and regional groups like the High Ground of Texas and the Texas Midwest Community Network are extremely beneficial. He recommends that local community groups should work with these umbrella groups and become more involved in their region.

SEED also offers an incentive package focused on the expansion, retention, and recruitment of industry and employees to businesses that are considering Sweetwater. Through this package, businesses can be eligible for loans, loan guarantees, full time equivalent incentive, facility assistance/industrial park, information assistance, and information on state incentives. Each project's incentive package is different, no one size fits all. For example, SEED has provided incentive funds to only four out twenty-three companies that have relocated to Nolan County since 2007. Other companies have required information and help with locating the right building and employees.

Additionally, Mr. Becker argues that communities must encourage the expansion of education and training for their workforce. In order for Nolan County to capitalize on wind power, it had to have a workforce that could perform the necessary jobs. Therefore, SEED approached the local Texas State Technical College (TSTC) about finding a way to produce more potential employees. The first step was to start a certificate program for wind industry training. As enrollment grew, TSTC began an Associate program making it the first community college wind energy program in Texas. Today, this program has expanded further and its administrators are helping other community colleges across the state start their programs.

Furthermore, TSTC and Sweetwater made the investment of purchasing their own wind tower, thus allowing schools in other parts of the state/country to handle the required classroom instruction and then send their students to Sweetwater for the last six months to get hands-on training in the wind towers. Mr. Becker concludes by stating, "Just because it works in one town does not mean that same program will work in another. There are good examples though. The Texas Economic Development Corporation helps by sharing information about programs that work."

### *Seguin, TX*

Katherine Silvas serves as the Assistant Director of Economic Development for the City of Seguin. Seguin is home to the largest number of manufacturing jobs per capita in the state. Manufacturing represents roughly 13 percent of the total employment in Guadalupe County, nearly twice the national average. Throughout her testimony, Ms. Silvas focused on Seguin's experience in recruiting Caterpillar Inc.'s Engine Assembly, Test and Paint Facility and the approximately 1,465 jobs that it will bring to the area in the next five years.

The annual economic impact from this project is estimated at \$600 million and will generate an

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additional 1,719 indirect and induced jobs for the region. In order to obtain the Caterpillar project, Seguin assembled an aggressive and cooperative incentives package. Many groups came together and built a bond of trust, including: the State of Texas-Office of the Governor for Economic Development and Tourism; Guadalupe County; City of Seguin; Seguin Economic Development Corporation; Seguin ISD; Guadalupe Valley Electric Cooperate; Springs Hill Water; Center Point Energy; the Texas Workforce Commission-Skills Development Fund; Texas Department of Agriculture-Texas Capital Fund; the Comptroller's Office (HB 1200/Appraised Value Limitation); and the Texas Department of Transportation (infrastructure improvements). Every member of this group signed a non-disclosure agreement which was respected by all parties, even to the extent that they were not informed of the identity of the company until the announcement was made to the community.

On December 18, 2008, there were four precedent-setting back-to-back meetings, including: The Seguin Tax Abatement Review Committee; followed by the Seguin Economic Development Corporation; followed by the Seguin City Council; concluding with the Guadalupe County Commissioner's Court. These meetings were held in order to brief all the necessary governing bodies and to approve the local incentive package being offered to Caterpillar. The final package was a 100 percent city and county tax abatement for a 10 year period.

#### *Eden, TX*

Kathy Keane is the Economic Development Coordinator for the City of Eden, a rural community located 45 miles west of San Angelo. There is a population of approximately 2,426 people, 1200 of which are housed in the local prison. Because Eden is so small and isolated, state agencies and regionalism have proven very useful in terms of economic development. In fact, Ms. Keane states, "State Agencies dedicated to rural issues provide an invaluable service to rural Texas."

The Texas Department of Rural Affairs (TDRA) helped the city recover after a tornado by repairing streets and the Texas Department of Agriculture (TDA) provided the city with a beautification grant that enabled it to build a park for the downtown. TDA also offers marketing programs which Eden has taken advantage. After their implementation, there was a noticeable increase in sales tax revenue which provided some relief in their capital budget. This allowed the city to invest in more efficient water meters and to replace the faded street and directional signage throughout the city. The TDA marketing funds led to a new textile manufacturer relocating to Eden with start-up costs provided through the USDA-IRP loan program. Additionally, Eden's TDA Field Representative introduced Eden's city leaders to the Texas film industry resulting in an opportunity for nationwide exposure.

### **CONCLUSION**

Through numerous local, state and federal programs, rural economic development has had some success across the state. These collaborative efforts must extend to the private industry as well in order to strengthen and grow rural communities.

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## RECOMMENDATIONS

1. The Texas Legislature should continue to support Texas Department of Rural Affairs through general revenue funding in order to maximize available federal funds for rural community programs.
2. The Texas Legislature should continue to support public and higher education, transportation infrastructure and rural healthcare services. These institutions serve as important job sources for rural communities and help to stimulate economic development and employment.
3. The Texas Legislature should monitor and support the use of Tax Increment Finance (TIF) zones, county improvement districts, water districts and other special service districts as they are vital tools used to improve the quality of life and promote economic development.
4. The Texas Legislature should adopt measures that allow for the employment of doctors by rural hospitals. A single rural physician can generate more than five full time jobs and \$233,000 in local economic activity (same as Charge 2, Recommendation 1).
5. The Texas Legislature should adopt measures that create partnerships between teaching hospitals and small/rural communities to address the workforce needs of those areas. This helps to ensure that rural areas are able to cultivate economic development while maintaining and increasing jobs (same as Charge 2, Recommendation 3).
6. The Texas Legislature should adopt measures that further support the FQHC Incubator Program as this provides seed money for organizations seeking FQHC status and for existing FQHCs to expand. Spending on healthcare can have a 3.25 multiplier effect on a local economy, serving as an important economic development tool. FQHCs often can serve an important role in delivery of rural healthcare (same as Charge 2, Recommendation 10).

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CHARGE 6

Monitor the agencies and programs under the committee's jurisdiction.

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## SCOPE OF CHARGE

This section of the Interim Report explores the agencies and programs under the committee's jurisdiction. The Committee examined Regional Councils of Governments and the Texas Commission on Jail Standards.

## SUMMARY OF COMMITTEE ACTION

### Committee Hearings

The House Committee on County Affairs held several public hearings on Charge 6:

- April 15, 2010, Capitol Room E2.012, Austin
- October 12, 2010, City Council Chambers, San Antonio
- October 18, 2010, Outpatient Clinic Auditorium, John Peter Smith Hospital, Fort Worth
- October 20, 2010, Texas A&M Health Science Center Conference Room, McAllen
- November 4, 2010, University of Texas at Tyler, Tyler
- November 8, 2010, Harris County Commissioners Court Courtroom, Houston
- November 12, 2010, The University of Texas at El Paso, El Paso
- November 16, 2010, Capitol Room E2.016, Austin
- November 30, 2010, Texas AgriLife Research & Extension Center, Amarillo

### Witnesses

#### April 15, 2010 - Austin

- Penny Redington - Texas Association of Regional Councils
- Jack Steele - Houston-Galveston Area Council
- Walter Diggles, Sr. - Deep East Texas Council of Governments

#### October 12, 2010 - San Antonio

- Gloria C. Arriaga - Alamo Area Council of Governments
- Jay Milliken - Alamo Area Council of Governments

#### October 18, 2010 - Fort Worth

- Glen Whitley - North Central Texas Council of Governments
- Monte Mercer - Mike Eastland & North Central Texas Council of Governments

#### October 20, 2010 - McAllen

- Norma Garcia - Lower Rio Grande Valley Development Council
- Ken Jones - Lower Rio Grande Valley Development Council

#### November 4, 2010 - Tyler

- JoAnn Hampton - Smith County Precinct 4 Commissioner
- Claude Andrews - East Texas Council of Governments
- David Cleveland - East Texas Council of Governments

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November 8, 2010 - Houston

- Brandon Wood - Commission on Jail Standards
- Kerry Neves - Houston-Galveston Area Council Board of Directors
- Jack Steele - Houston-Galveston Area Council

November 12, 2010 - El Paso

- Annette Gutierrez - Rio Grande Council of Governments

November 16, 2010 - Austin

- Brandon Wood - Commission on Jail Standards
- Ronnie McDonald - Executive Committee, Capital Area Council of Governments
- Betty Voights - Capital Area Council of Governments (CAPCOG)
- Patti Jones - Texas Association of Regional Councils
- Penny Redington - Texas Association of Regional Councils

November 30, 2010 - Amarillo

- Don Allred - County, Texas & County Judges and Commissioners Association of Texas
- Vernon Cook - Roberts County, Texas & Texas Association of Counties
- Harold Keeter - Swisher County, Texas
- Terri Carter - Sherman County, Texas

## **REGIONAL COUNCILS OF GOVERNMENT**

### **BACKGROUND & OVERVIEW**

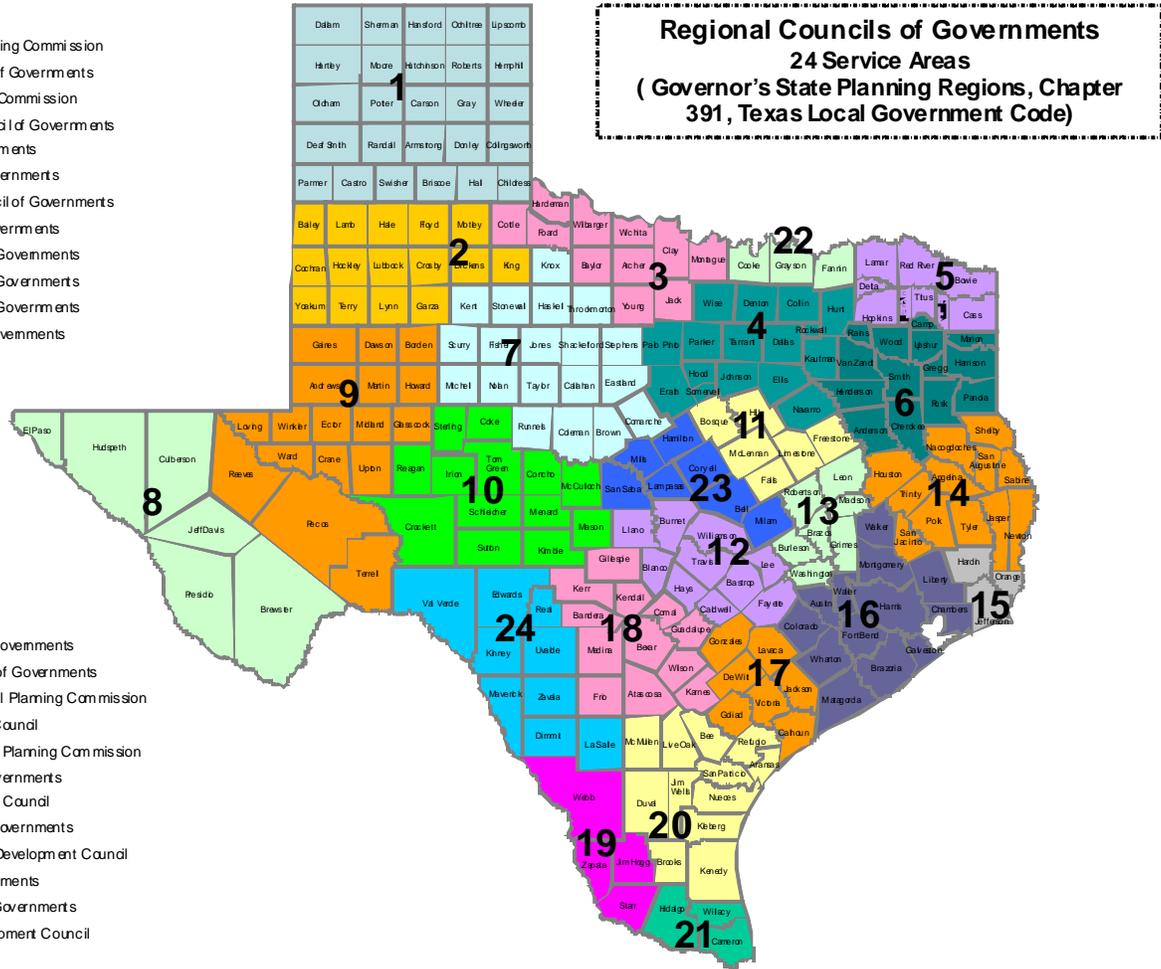
The Regional Planning Act of 1965 authorized regional councils of governments in Texas. Since then, the twenty-four regional councils of governments (COGs) have worked to guide the development of their respective regions. In order to accomplish this they rely on facilitating cooperation and coordination amongst the cities, counties, school districts, and special districts that make up their regional community. They are a useful, voluntary instrument that enables local governments to determine public policy and provide essential services. Their general purpose is to make studies and plans to guide the unified, far-reaching development of a region, eliminate duplication, and promote economy and efficiency in the coordinated development of a region. Regional councils encourage their local government members to cooperate in order to improve the health, safety, and general welfare of their citizens and to plan for the future development of their communities. Through this cooperation they are able to accomplish together what a single entity may not be able to accomplish alone.

#### *Texas Association of Regional Councils (TARC)*

Penny Redington, Executive Director of the Texas Association of Regional Councils (TARC) supports and assists the twenty-four regional councils of government across the State of Texas. It provides an open forum for the exchange of information and ideas related to regional planning and development. TARC also sponsors quarterly content-rich and timely training sessions for regional council staff professionals in a variety of program areas with a goal of strengthening

regional council capabilities. All 254 counties in Texas belong to a regional council. Included below is a map of the boundaries for each council of government.

1. Panhandle Regional Planning Commission
2. South Plains Association of Governments
3. North Texas Regional Planning Commission
4. North Central Texas Council of Governments
5. At-Tex Council of Governments
6. East Texas Council of Governments
7. West Central Texas Council of Governments
8. Rio Grande Council of Governments
9. Permian Basin Council of Governments
10. Corcho Valley Council of Governments
11. Heart of Texas Council of Governments
12. Capital Area Council of Governments



13. Brazos Valley Council of Governments
14. Deep East Texas Council of Governments
15. South East Texas Regional Planning Commission
16. Houston-Galveston Area Council
17. Golden Crescent Regional Planning Commission
18. Alamo Area Council of Governments
19. South Texas Development Council
20. Coastal Bend Council of Governments
21. Lower Rio Grande Valley Development Council
22. Texoma Council of Governments
23. Central Texas Council of Governments
24. Middle Rio Grande Development Council

*Leadership of Regional Councils*

Participating governmental members, by joint agreement, determine the composition, structure and qualifications of members of the governing body of the regional planning commissions. Each governing body must consist of at least two-thirds local elected officials from the region's participating counties and municipalities. A regional council is governed by its member local governments; therefore, the first consideration in determining its activities is the expectation of its members as expressed by its governing board.

*Services Offered by Regional Councils of Governments*

Each regional council is established to determine and address the specific needs as agreed upon by the local governments within the region. The political, programmatic, economic, and

philosophical environment in the twenty-four state planning regions in Texas varies greatly, reflecting the vastness and diversity of our state. Regional councils are given the flexibility under the law to effectively represent the uniqueness of the regions, and at the same time, to implement programs and policies for effective statewide coverage. Regional councils frequently partner with state agencies and federal agencies through a multitude of contractual relationships, each with its own work program, budgetary and reporting requirements. COGs have evolved over the years to handle a variety of regional services, including:

- planning and implementing regional homeland security strategies;
- operating law enforcement training academies;
- promoting regional municipal solid waste and environmental quality planning;
- providing cooperative purchasing options for governments;
- managing region-wide services to the elderly;
- maintaining and improving regional 9-1-1 systems;
- promoting regional economic development;
- operating specialized transit systems; and
- providing management services for member governments.

In addition, Texas’ regional councils of governments are responsible for regional planning activities that may differ from region to region, but typically include planning for economic growth, water supply and water quality, air quality, transportation, emergency preparedness, and the coordinated delivery of various social services. Many councils of governments establish and host region-wide geographical information systems (GIS) as well as databases on regional population, economic, and land-use patterns.

*Oversight & Accountability: Annual Reporting & Audit Requirements*

Each regional council is required to submit a variety of reports annually to the governor (OOG), the state auditor, the comptroller, and the Legislative Budget Board (LBB). The Office of the Governor may draft and adopt rules relating to the oversight of the regional councils and has determined that they shall also make the financial audit available to each member of the Legislature. Included below is a spreadsheet outlining these reporting and audit requirements.

<b>Regional Planning Commission’s Reporting Requirements</b>			
<b>Report</b>	<b>Required By</b>	<b>Submit To</b>	<b>Due Date</b>
<u>Actual Productivity and Performance Reporting.</u> A report of the COG's productivity and performance during the most recently completed fiscal year, which shall include: (A) the outcomes of the program's activities at the most detailed level reported to each sponsoring agency, including: (i) any program output measures the COG is required to report to an entity sponsoring the program; and (ii) any outcome measures the COG is required to report to an entity sponsoring the program; (B) a comparison of planned performance and actual results; and (C) an analysis of progress made toward achieving planned goals and objectives;	*Local Govt Code 391.009 and 391.0095	State Auditor, OOG, LBB, Comptroller	12/30
	General Appropriations Act, 80th Leg, Art. IX, Section 7.01		
	*1 TAC, Part 1, Ch 3, Sub J, Rule 3.9430 - Reports		
<u>Projection of Productivity and Performance/Work Program</u>	*Local Govt Code	State Auditor,	12/30

<u>Projection.</u> A projection of the COG's productivity and performance during the next fiscal year based upon the COG's specified goals, objectives, and performance measures for the next fiscal year;	391.009 and 391.0095	OOG, LBB, Comptroller	
	General Appropriations Act, 80th Leg, Art. IX, Section 6.15		
	*1 TAC, Part 1, Ch 3, Sub J, Rule 3.9430 - Reports		
Asset Disposal Report. A report of any assets disposed of by the COG, which shall include the following: (A) an itemized list describing each disposed asset; (B) the acquisition date of each disposed asset; (C) the purchase price of each disposed asset; (D) the reason for disposing of each asset; (E) the disposition date of each disposed asset; and (F) the final disposition price for each disposed asset;	*Local Govt Code 391.009 and 391.0095	State Auditor, OOG, LBB, Comptroller	12/30
	*1 TAC, Part 1, Ch 3, Sub J, Rule 3.9430 - Reports	State Auditor, OOG, LBB, Comptroller	
<u>Annual Financial Statement.</u> A complete annual financial statement, which shall include a list of receipts and expenditures by accounts.	General Appropriations Act, 80th Leg, Art. IX, Section 7.02	State Auditor, OOG, LBB, Comptroller	12/30
	*Local Govt Code 391.0117		
	*1 TAC, Part 1, Ch 3, Sub J, Rule 3.9430 - Reports		
<u>Complete financial audit prepared by an independent CPA.</u> The audit shall include: 1) Amount & source of all funds received by the commission; 2) Amount & source of all funds expended by the commission; 3) Explanations of any method used to compute an expense of the commission, including indirect cost computations; AND 4) A statement of indirect costs which compares actual indirect cost allocations with the proposed indirect cost allocation plan used to establish an indirect cost rate.	*Local Govt Code 391.009 and 391.0095	State Auditor, OOG, LBB, Comptroller	Annually - 9 mos post FY Completion
	*General Appropriations Act, Rider 17 *		
	*1 TAC, Part 1, Ch 3, Sub J, Rule 3.9410 - Financial Audit Requirements		
<u>Reports of Periodic Audits by Internal Auditor and Corrective Action Plan</u> a) A regional planning commission shall file a copy of each report submitted to the regional planning commission's governing board by the agency's internal auditor. (b) Each report shall be filed not later than the 30th day after the date the report is submitted to the regional planning commission's governing board, (c) In addition, a regional planning commission shall file any action plan or other response issued by the regional planning commission's governing board in response to the report of the state agency's internal auditor.	General Appropriations Act, 80th Legislature, Art. IX, Sec. 17.02 (Refers to Gov. Code 2102.0091)	COG must certify in their to this requirement as a condition of receiving Planning Assistance Grants with CJD.	Not later than 30 days following submission to the agency's governing board.
<u>Annual Operating Budget.</u> Itemized budget covering the operation of applicable fiscal year of the biennium.	General Appropriations Act, 80th Leg, Art. IX, Section 7.01	COG must certify in their to this requirement as a condition of receiving Planning Assistance Grants with CJD.	NA
<u>Certification of Indirect Costs.</u> A commission may not spend an amount more than 15 percent of the commission's total expenditures on the commission's indirect costs.	*Local Govt Code 391.0115	COG must certify in their to this requirement as a condition of receiving Planning	NA

		Assistance Grants with CJD.	
<p><u>Salary Schedule.</u> Not later than the 45th day before the date of the beginning of each COG's fiscal year, each COG shall submit its salary schedule, as approved by its governing body, including the salaries of all exempt positions, to the State Auditor and shall make its salary schedule available to each member of the Legislature. If the State Auditor, subject to the Legislative Audit Committee's approval for inclusion in the audit plan under §321.013, Government Code, has recommendations to improve a COG's salary schedule or a portion thereof, the State Auditor shall report the recommendations to CJD.</p> <p>CJD may not allow the portion of the schedule for which the State Auditor has recommendations to go into effect until revisions or explanations are received from a COG that are satisfactory to CJD and support the recommendations from the State Auditor.</p>	*Local Govt Code 391.0017	State Auditor	45th day prior to COG's FY Start Date

### **SUMMARY OF TESTIMONY**

Regional Councils of Governments are the mechanisms that enable the seamless operation of public sector activities and expenditures of local, state and federal resources throughout multi-jurisdictions in Texas. Annette Gutierrez, Executive Director of the Rio Grande Council of Governments stated, "Councils of Governments operate for the most part the same programs; however it is how we operate those programs that clearly identify ourselves from one another." The following sections will highlight programmatic successes and differences amongst the various regional councils.

#### **Deep East Texas Council of Governments (DETCOG)**

Walter Diggles, Sr. - Executive Director, Deep East Texas Council of Governments

The Deep East Texas Council of Governments consists of a twelve county region in the Pineywoods of East Texas that includes: Angelina, Houston, Jasper, Nacogdoches, Newton, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity, and Tyler Counties. It is a voluntary association of local governments (counties, cities, school districts, river authorities, soil and water conservation districts, and hospital districts) as well as non-profit organizations, minority representatives and sustaining private industry members. With over 10,000 square miles, the region covers one of the largest rural COGs in the state.

#### *Board of Directors*

The membership of DETCOG's board of directors includes 33 percent local government officials with the remaining percentage divided amongst school districts, river authorities, hospital districts, and minority representatives. The board also includes a member of the deep east Texas legislative delegation.

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## *Programs*

DETCOG serves as a council of government and as a federally recognized economic development district. It operates one of the largest rural Section 8 Housing Authorities in the nation. Over the past five years, DETCOG has also been heavily involved in Hurricane Recovery.

### Disaster Case Management

The DETCOG Hurricane Ike Disaster Case Management program is a pilot program, funded by the Federal Emergency Management Agency (FEMA) and the Texas Health and Human Services Commission (HHSC) that provides long-term case management services to citizens affected by the devastation of Hurricane Ike. DETCOG case managers work closely with clients to: 1) assess client needs; 2) develop and implement client plans that assist in restoring clients to pre-hurricane conditions; 3) refer clients to service providers based on client needs; 4) advocate on behalf of clients.

Case management for this pilot program may address pre-existing needs that were made worse by the disaster; the goal of which is to restore the client, at minimum, to a pre-hurricane level. Case management services will not address non-disaster needs such as needs that existed for the client prior to the hurricane or other pre-existing conditions such as medical, mental health, and substance abuse needs. No funds are currently available for direct services.

Successful case management depends on a close client-case manager working relationship. Clients are expected to be active participants in their plan development and plan completion. Case managers work with clients using telephone, internet, and home contacts. Bilingual and transportation assistance is provided.

### Hurricane Rita Disaster Recovery

DETCOG used grants from the Texas Department of Housing and Community Affairs (TDHCA), the People of Saudi Arabia, and the Texas Department of Aging and Disabilities to replace and repair homes that were damaged by Hurricane Rita.

#### TDHCA CDBG Funding

- \$385,783.98 repaired 12 homes
- \$5,674,546.33 replaced 116 homes

#### People of Saudi Arabia Grant

- \$60,000 built 4 homes
- Labor furnished by the Mennonite Disaster Services

#### Texas Department of Aging and Disabilities Grant

- \$250,000 - Assisted 200 elderly persons with minor repairs to their homes, debris removal, and the replacement of food, clothing, medicines and other needs immediately after the storm.

### Regional Housing Authority

DETCOG serves as a funding agency for the Section 8 Housing Assistance Program, now known as the "Housing Choice Voucher Program." Funding is provided by the U.S. Department of Housing and Urban Development. Services include (FY2009):

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- Housing Choice Voucher Program (Rental Assistance)
    - Projected Target: Provide rental assistance to 1,919 families (monthly)
  - Housing Choice Voucher Program Family Self Sufficiency Program (FSS)
    - Projected Target: Provide case management services to 25-50 families for achievement of self sufficient status (Annually)
  - Housing Choice Voucher Program (Homeownership)
    - Projected Target: Provide case management and counseling services to 10-15 families for achievement of homeownership in the private sector (Annually)
  - HUD Certified Housing Counseling Agency
    - Projected Target: Provide counseling services to a minimum of 50 families that relate to housing assistance (Annually)
  - Disaster Housing Assistance Program (DHAP)
    - DHAP Katrina/Rita - Projected Target: Provided services to over 300 families. Completed phase out in December 2009.
    - DHAP Gustav/Ike - Currently providing disaster services to 260 families; program to phase out in 2010.

**Alamo Area Council of Governments (AACOG)**

Gloria Arraiga - Executive Director, Alamo Area Council of Governments  
 Jay Millikin - Alamo Area Council of Governments Board Chairman

The Alamo Area Council of Governments encompasses a 12 county region that includes: Atascosa, Bandera, Bexar, Comal, Frio, Gillespie, Guadalupe, Karnes, Kendall, Kerr, Medina, and Wilson Counties.

*Board of Directors*

AACOG's board of directors is comprised of thirty individuals, including: the twelve county judges comprising AACOG's region; various county commissioners; a member representing water districts; a member representing school districts; a member representing hospital districts; a member representing local utility districts; various mayors and councilpersons; and two state elected officials representing each legislative chamber.

*Programs*

**Alamo Local Authority for Intellectual & Development Disabilities (ALA)**

ALA is responsible for the implementation and expansion of comprehensive services offered to people with intellectual and developmental disabilities (IDD). ALA's mission is to ensure that Bexar County residents with IDD receive quality delivery of all necessary services. After potential clients complete eligibility screening that identifies those qualified to receive assistance, ALA assists the client with selecting and authorizing appropriate programs and support services.

This program is concentrated on assisting clients in Bexar County where there are approximately 40,000 citizens with some degree of mental retardation or related conditions. There are currently 3,168 Bexar County residents who are on the Home and Community Based Services interest list.

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Since September 1, 2009, services have been provided for a total of 177,101 client hours. Additionally, 208 individuals were enrolled into the Home and Community Based Services program and seven individuals were transitioned from state supported living centers into group homes within the community.

#### Area Agencies on Aging (Alamo & Bexar)

AACOG is host to two area agencies on aging. The 'Alamo AAA' concentrates its efforts in the eleven rural counties surrounding Bexar County. The 'Bexar AAA' serves Bexar County, including the City of San Antonio. These two agencies are dedicated to building a community that supports older residents and allows them to age in place with dignity, security, and enhanced quality of life.

The range of services provided by both AAAs includes: congregate meals; home-delivered meals; benefits counseling; care coordination; legal assistance; nutrition counseling and training; caregiver support; and transportation services. They also offer health promotion programs, such as chronic disease self-management and falls prevention training, which are designed to enhance self-management skills and promote a healthy lifestyle. In 2009, there were seven "A Matter of Balance" classes that were attended by 92 seniors. Additionally, both AAAs provide referral and assistance information in order to help seniors, people with disabilities, and their families navigate the complex system of services offered by government agencies, non-profits, and other service providers. In FY 2009, 43,497 citizens received care coordination assistance and 1,833 received legal assistance. Moreover, both AAAs provide nutritious meals to seniors in the region through a contract with the Texas Department of Aging and Disability Services. Each agency selects third-party providers to prepare and serve hot meals at congregate meal sites, where seniors are served a hot lunch while enjoying the companionship of their peers for 249 days each year. In FY 2009, 646,250 meals were served at congregate meal sites and 280,652 meals were delivered to seniors in their homes.

#### Law Enforcement Academy

AACOG began training law enforcement personnel in 1972. In April 1973, the Alamo Area Regional Law Enforcement Academy was licensed as an official training academy by the Texas Commission on Law Enforcement Officer Standards and Education. During FY 2009, the Academy trained 7,018 law enforcement, corrections, and emergency telecommunications personnel with a total training time of 157,243 hours. Total program cost was \$835,230. In May 2009, recognition of the excellent training received at the Law Enforcement Academy led to an invitation from the government of the American Territory of Samoa to train 22 peace officers in the criminal investigator certification course. Three Academy instructors traveled to Pago Pago, at the expense of the Samoan government, to provide 144 hours of instruction in 12 criminal investigation topics.

#### **North Central Texas Council of Governments (NCTCOG)**

Glen Whitley - President, Executive Board, North Central Texas Council of Governments  
Monte Mercer - Deputy Executive Director, North Central Texas Council of Governments

The NCTCOG serves 16 counties, including: Collin, Dallas, Denton, Ellis, Erath, Hood, Hunt, Johnson, Kaufman, Navarro, Palo Pinto, Parker, Rockwall, Somervell, Tarrant, and Wise

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County. It was created in 1966 (the first COG in Texas), contains a total of 241 member governments, and has a budget of \$200 million.

### *NCTCOG Leadership*

Each member government appoints a NCTCOG voting representative from its governing body. These voting representative make up the General Assembly, whose membership annually elects the Executive Board. The Executive Board, composed of 13 locally elected officials, is the policy making body for all activities undertaken by the COG. This Council of Governments does not have a member of the legislature on its Executive Board.

### *Programs*

#### Transportation

NCTCOG serves as the Metropolitan Planning Organization (MPO) for the Dallas-Fort Worth Metropolitan Area. The Executive Board provides coordinated regional policy direction and fiduciary oversight to the MPO process while the Regional Transportation Council (RTC), comprised of local elected officials and representatives of the region's transportation providers, serves as the region's independent transportation policy body. As the MPO, NCTCOG and the RTC are responsible for planning and implementing transportation programs and projects aimed at reducing congestion, enhancing mobility and improving air quality.

#### Workforce Development Department

This department administers publicly funded employment, training and support programs and provides staff support to the North Central Texas WorkForce Development Board. This board is one of the seven large boards in the state, with a budget of approximately \$62.6 million (including stimulus funds) in fiscal 2010. Workforce services are delivered through a network of 15 WorkForce Centers located throughout the 14-county service area. The centers provide employers with skilled workers and assist job seekers in finding rewarding careers. Programs provided through the WorkForce Centers include the Workforce Investment Act for Adults; Dislocated Workers and Youth; Wagner-Peyser Employment Services; Choices (the employment and training component of the Temporary Assistance for Needy Families program); Food Stamp Employment and Training; Veterans Services; Reintegration of Offenders (RIO); and Child Care Services. In one program year alone, the department served 116,942 customers including 15,486 veterans, and provided 1.6 million days of childcare services, enabling parents and caregivers to work or participate in additional job training.

#### Environment & Development Department

Sustainable Environmental Excellence (SEE) is the overall theme of this department's initiatives. SEE is intended to guide NCTCOG's efforts and ultimately the regions'. The SEE initiatives are grouped into three strategic issues: SEE Less Trash, SEE Safe Clean & Green Regional Environmental Corridors, and SEE Development Excellence. Through these initiatives the department promotes environmental quality and environmentally friendly practices, including sustainable development, uniform construction standards, SmartScape landscaping, and ecosystem approaches to major infrastructure development throughout the region.

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## **Lower Rio Grande Valley Development Council (LRGVDC)**

Norma Garcia - 2<sup>nd</sup> Vice-President, Past-President, Lower Rio Grande Valley Development Council

Ken Jones - Executive Director, Lower Rio Grande Valley Development Council

The Lower Rio Grande Valley Development Council encompasses the three southernmost counties in Texas (Cameron, Hidalgo, and Willacy County). According to the 2008 U.S. Census population estimates from the Texas State Data Center, the region's population was 1,138,872.

### *LRGVDC Leadership*

Membership in LRGVDC consists of the governing bodies of each of the three counties, forty municipalities, fourteen educational institutions, twenty-nine special purpose districts, one grassroots representative and ten members-at-large, five of whom are selected by the membership and five who are elected by the Board of Directors. The Board of Directors is named annually and serves as the policy-making body of the organization. This Council of Governments does not have a member of the legislature on its Board.

### *Programs*

#### Aging

The LRGVDC is the representative agency of the Texas Department on Aging for the Lower Rio Grande Valley and functions as the coordinating and planning agency for services to persons who are 60 years of age or older. The overall objective of this agency is to improve the quality of life for persons who are 60 years of age or older through the development and expansion of a comprehensive and coordinated social service delivery system at the regional level. The Area Agency on Aging has continually provided direct services through case management and long-term care projects. Through this agency, the LRGVDC offers many programs including the 'Foster Grandparent Program.' The goal of this program is to provide low-income individuals age 60 and over an opportunity to volunteer their services and remain active in their communities.

#### Regional Planning and Services

Throughout the years, the LRGVDC has provided member governmental entities with a variety of planning assistance activities and services. The Regional Planning and Services Department maintains three divisions: Natural Resources; Texas Review and Comment System; Community Development and Technical Assistance. Emphasis is placed on the preparation of regional studies and plans, assistance to local governments regarding a broad range of technical assistance services, and the management and administration of Federal, State, and local contracts.

## **East Texas Council of Governments (ETCOG)**

JoAnn Hampton - Chair, Executive Committee, East Texas Council of Governments

David Cleveland - Executive Director, East Texas Council of Governments

Claude Andrews - Director of Aging Services, East Texas Council of Governments

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The East Texas Council of Governments service area includes 14 counties, including Anderson, Camp, Cherokee, Gregg, Harrison, Henderson, Marion, Panola, Rains, Rusk, Smith, Upshur, Van Zandt, and Wood County. It makes up an area of 10,021 square miles with a population of over 700,000 that is almost evenly divided between urban and rural areas of the region.

### *ETCOG Leadership*

The ETCOG Board of Directors is comprised of elected officials representing the ETCOG membership. Each member of ETCOG has an opportunity to designate between one and three representatives to the ETCOG Board of Directors based on the type of membership and population size of the member city or county. The ETCOG Executive Committee is comprised of seventeen members. Sixteen members of the Executive Committee are representatives of general purpose governments, elected by the Board of Directors from its membership. These representatives serve two year terms, with nine of them elected at the semi-annual Board of Directors meeting prior to the beginning of each odd fiscal year and seven elected in even fiscal years. One member of the Executive Committee is a representative of a special purpose district and is elected by the Board of Directors from its membership. The Executive Committee is responsible for carrying out the policies and programs as established by the Board of Directors, managing ETCOG funds, determining regional plans to be undertaken, authorizing contracts, and the application for grants. This Council of Governments does not have a member of the legislature in its leadership.

### *Programs*

#### Aging

The Area Agency on Aging (AAA) of East Texas was established in 1973. Initially, the AAA provided nutrition services only. The meal program began in church fellowship halls and community facilities. After a needs survey, transportation services were established to transport seniors to and from the nutrition meal sites. The transportation service later expanded to transporting clients with health and human service needs. As the transportation service continued to grow, so did the meal program. As funding became available from the State, AAA expanded its services to include benefit counseling/legal assistance, emergency response, in-home services, information, referral and assistance, medication management, home repairs, ombudsman, and other support services. The overall objective of the AAA of East Texas is to coordinate services for individuals in East Texas who are 60 or older, with particular attention to low-income including low-income minorities, individuals with limited English proficiency, and older individuals residing in rural areas.

#### Workforce Development

The State Legislature established a comprehensive workforce development system. The intent was to integrate categorical workforce programs to be delivered through a network of "one stop" workforce centers under the authority of local Workforce Boards. These include, but are not limited to, the Workforce Investment Act, Child Care, Temporary Assistance for Needy Families, Supplemental Nutrition Assistance Program and Project Rio. ETCOG provides staff support for the local workforce board and functions as the administrative unit and grant recipient for the system. For the 14 counties served by ETCOG, the March 2008 unemployment rate was 4.2 percent with 16,154 unemployed. The rate for August 2010 was 8.2 percent with 32,733

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unemployed. Workforce Solutions East Texas Centers, have experienced a corresponding increase in usage - 24,758 visitors in August 2010 compared with 14,755 in March of 2008. Currently 815 individuals from East Texas have enrolled in occupational training through ETCOG funded programs. Additionally, ETCOG received a \$2,545,084 National Emergency Grant to train 200 additional workers laid-off from AT&T Services, Inc., Blue Cross Blue Shield, Pilgrim's Pride Cooperation, Trane, and Verizon Wireless.

### **Houston-Galveston Area Council (H-GAC)**

Kerry Neves - Chair, Board of Directors, Houston-Galveston Area Council  
Jack Steele - Executive Director, Houston-Galveston Area Council

The Houston-Galveston Area Council encompasses a 13 county region, including: Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Harris, Liberty, Matagorda, Montgomery, Walker, Waller, and Wharton County. According to 2000 estimates from the U.S. Bureau of Census, H-GAC represented approximately 4.8 million citizens and covered an area of 12,500 square miles.

#### *Board of Directors*

H-GAC is governed by a General Assembly of 132 delegates from member local governments. A Board of Directors composed of 35 locally elected officials, members representing county governments, cities, school districts, and soil and water districts provides more specific guidance and policy-making through its regular monthly meetings. This Council of Governments does not have a member of the legislature on its Board of Directors.

#### *Programs*

H-GAC's Board of Directors provides direct oversight of the health and human services programs. The Board approves contracts for services, reviews financial reports and audits, and receives program reports. These human service programs are provided by community and governmental organizations selected through a formal competitive procurement process. Requests for proposals must comply with state law and funding agency regulations. H-GAC advisory committees such as the Gulf Coast Workforce Board and the Aging Programs Advisory Committee, comprised of citizens and professionals from throughout the region, review proposals and consider staff recommendations. After this procurement review process, advisory committee recommendations are presented to the Board for action.

#### Aging Services

H-GAC is the designated Area Agency on Aging for 12 H-GAC counties, except Harris. The City of Houston was designated as the Harris County Area Agency on Aging by the State over thirty years ago, under then-existing federal rules. H-GAC's Area Agency on Aging delivers services to senior citizens through a network of community organizations. H-GAC and the Houston Area Agency on Aging cooperate on programs, most recently with the Care Connection Aging and Disability Resource Center, an information resource that locates private and public services for older persons and individuals with disabilities of all ages.

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### Workforce Development

H-GAC administers regional workforce development programs, known as Workforce Solutions. Program planning and oversight is led by the Gulf Coast Workforce Board appointed by local officials, in partnership with H-GAC's Board of Directors. This workforce program has received awards and recognitions for its innovation and excellence, including:

- Requested three times by U.S. Department of Labor to serve as a mentor to other workforce boards in Maryland, Georgia, and Washington.
- Selected for a National Association of Workforce Board project to disseminate innovative practices. H-GAC worked directly with boards and state level workforce agencies in Washington, California, Colorado, New Mexico, Indiana, Michigan, Florida, Pennsylvania, and Florida to promote the building of better workforce systems.
- Along with BP and College of the Mainland, H-GAC was awarded the 2010 W.O. Lawton Business Leadership Award from the National Association of Workforce Boards
- Received awards in 2009 from the Texas Workforce Commission for the Summer Jobs project and for the child care program;
- Received awards in 2007 recognizing H-GAC's one-stop career office system (National Workforce Association) and their approach to working with business (U.S. Department of Labor).

### Workforce Solutions Programs

H-GAC offers an innovative Workforce Solutions program where women receiving unemployment insurance are trained to weld and fit pipe. These women train for 16 weeks and can pass industry certification tests when they finish. All successful graduates have been able to get jobs with contractors doing turnarounds in chemical plants or refineries.

Earlier this year, H-GAC opened a NASA transition office that serves employees affected by the changes occurring with the manned space flight program. As of November 8, 2010 they have served 631 persons at the new office. Due to the retirement of the space shuttle, H-GAC expects between 2,000 and 3,000 additional people will be laid off from NASA in 2011. They have received a \$5 million grant to provide additional services to these people.

With help from the federal stimulus funds, H-GAC has sponsored summer jobs over the last two years. In 2009, when they received the bulk of the funding, H-GAC put more than 5,100 young people to work. In 2010, they've helped more than 4,300 go to work. Through this program, young people have had the opportunity to learn about work and receive additional training. Some of them worked at community organizations and some entered special intern programs with private sector employers such as Dow Chemical.

### Regional Health Planning

For several years H-GAC has sponsored a regional health planning committee, comprised of health care professionals, hospital administrators and EMS providers that has worked on hospital emergency department ambulance diversion. Recently the committee has been studying regional approaches to health care access for persons who are indigent, uninsured or under-insured.

### Disaster Recovery Social Services

Under contract with the state Health and Human Services Commission, H-GAC funded over 40 local government and community organizations to provide health and human services to

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Hurricane Ike victims. Through September 30, about \$63 million has been expended providing services to over 155,000 persons.

### **Rio Grande Council of Governments (RGCOG)**

Annette Gutierrez - Executive Director, Rio Grande Council of Governments

The Rio Grande Council of Governments service area includes Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, and Presidio Counties as well as Doña Ana County in New Mexico. It is dominated by the population of one county and its boundaries are larger than some states.

#### *Board of Directors*

The Rio Grande Council of Governments is governed by a board of directors that is comprised of local officials from the area, including: three El Paso County representatives; three from the City of El Paso; three directors from member cities other than the City of El Paso (one elected from member cities in El Paso County, one elected from member cities within the five rural counties in Texas, and one elected from the member cities within Doña Ana County, New Mexico); one representative from each member school district with 10,000 or more students, including El Paso Community College; the County Judge of each member county other than El Paso County; one representative selected from all member Special Districts; and a representative from the Ysleta del Sur Pueblo. This Council of Governments does not have a member of the legislature on its Board of Directors.

#### *Programs*

##### Area Agency on Aging (AAA)

The Area Agency on Aging is the largest division at the RGCOG. Like all AAAs, it provides five core services to persons 60 years of age and older and to support their family caregivers. These services include: 1) Information and Referral, 2) Case Management, 3) Benefits Counseling, 4) Caregiver Education & Information Services and 5) Ombudsman Services. In addition to these services, the RGCOG AAA administers several other programs (discussed below) which are above and beyond the core services provided by AAAs nationwide.

##### Chronic Disease Self-Management Program

The RGCOG is one of five AAAs that is part of a statewide project entitled, Texas Healthy Lifestyle Project, which was funded through the Administration on Aging through the federal stimulus program. RGCOG is specifically targeting colonia residents in El Paso and Hudspeth County and is also working with the elders of the Ysleta del Sur Pueblo. The focus of the program is to help underserved populations who may not have access to healthcare learn how to manage their chronic diseases. The program started in March of 2010 and will be funded until February of 2012.

##### El Paso/Far West Texas Aging and Disability Resource Center

El Paso is the ninth site that has been funded through Department of Aging and Disabilities Services, to establish an Aging and Disability Resource Center (ADRC). The purpose of an ADRC is to create a single point of access to long-term care services for older adults or persons

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with disabilities. LULAC Project Amistad, is serving as the fiscal agent and will host the actual site of the ADRC. The RGCOG AAA is a core member of the group that will help establish and oversee the operations of the ADRC. AAA will be dedicating a staff member to be co-located at the ADRC. The target date for the grand opening is early spring of 2011.

#### El Paso Times Senior Fund

Each Christmas holiday season, the El Paso Times conducts a fund drive to raise money as a means to finance the special needs of senior citizens. The El Paso Times coordinates with the AAA to maximize the contributions for the greater needs of seniors residing in El Paso County. All persons over the age of 60 who are in need of assistance apply directly to the AAA. This program is an example of how public/private partnerships can work effectively. The program has been in existence for over fifteen years. The funding is used to primarily assist with purchasing vision, dental, and hearing assistance. Most importantly, these local donations help the AAA stretch their resources to be able to serve the needs of the community.

#### 11<sup>th</sup> Annual Aging to Perfection Expo

Every year the AAA hosts the Aging to Perfection Expo. The event is held in May to coincide with Older American month. The focus of the Expo is to increase community awareness of available resources for older adults and family caregivers, that will enhance quality of life, promote independence and support active aging. The Expo is a one day event, which is held at the El Paso Convention Center. The RGCOG AAA collaborates with local sponsors and community partners in aging services to be able to put on this event.

This year, there were 96 booths comprised of basic information about available resources to health screenings such as glucose tests, blood pressure checks, eye exams, hearing exams, foot screenings and medication review by a pharmacist. The attendance at the Expo was estimated to be between 1,800 to 2,000 people comprised of seniors, family caregivers, baby boomers and local service providers in aging services. The RGCOG AAA was the first in the state to establish such an event.

#### Far West Texas Regional Water Planning Group

The Far West Texas Water Planning Area (Texas Water Development Board Region E) is comprised of seven counties in Far West Texas. The RGCOG has administered this group since the inception of the program under Senate Bill 1 of the 75<sup>th</sup> Texas Legislature. The bill required that all areas of Texas conduct a comprehensive water-planning program to address the water needs of the region for the next 50 years. The plans that are created in each of the state's 16 planning regions are revised every five years and submitted to the Texas Water Development Board where they are incorporated into the State Water Plan. The RGCOG is one of a handful of Councils of Governments which administers the program.

#### **Capital Area Council of Governments (CAPCOG)**

Ronnie McDonald - Executive Committee Member, Past Chair, Capital Area Council of Governments

Betty Voights - Executive Director, Capital Area Council of Governments

The Capital Area Council of Governments serves a ten-county area, including: Bastrop, Blanco,

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Burnet, Caldwell, Fayette, Hays, Lee, Llano, Travis, and Williamson County.

### *CAPCOG Leadership*

Representatives from all member organizations make up a General Assembly that elects the CAPCOG Executive Committee. This Committee is composed of 25 elected officials from rural and urban areas, small and large communities, throughout the region and includes a balance between city and county officials. This Commission does not have a member of the legislature on its Board of Directors.

### *Programs*

CAPCOG is the only COG to include its largest city and county in its 9-1-1 program, making this its largest program. This region was one of the first in Texas to complete the backbone for Next Generation 9-1-1, a digital approach to receiving emergency information from a citizen and sending it instantly to a first responder. They have built an Internet Protocol based network and will, for the first time ever, be able to accept text 9-1-1 messages as well as photographs that might capture a robbery in process or the abduction of a child.

CAPCOG is also working to identify the development of an industry cluster of energy businesses from a smart grid pilot project being undertaken by the Austin Technology Incubator, Austin Energy, the Austin Chamber and several private companies in the region (Cisco, IBM, Microsoft, Oracle, Dell, and others). The intent of this program is to identify business opportunities coming from patents, applied research, software development, power storage products, and professional services that will be generating new types of jobs.

CAPCOG recently completed an Assessment of Growth and Development for water, land use, transportation, and economic development - a two year project requested by the region's elected officials. It was felt that the COG would be the most neutral organization to take on this type of project. The CAPCOG Executive Committee adopted the Assessment on November 12, 2010. The report makes an honest assessment of the challenges this region faces relative to limited water availability, decreasing capacity for the road network, the ongoing challenges of limited land use authority for counties, and the need to consider the issues to stay economically competitive. It concluded with policy recommendations for the regions' local governments to consider in future years.

### **Panhandle Regional Planning Commission**

Don Allred - Board Member, Panhandle Regional Planning Commission

Vernon Cook - Roberts County Judge

Harold Keeter - Swisher County Judge

Terri Carter - Sherman County

The Panhandle Regional Planning Commission has a population of slightly more than 400,000 and is made up of a 26-county area, including: Armstrong, Briscoe, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman,

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Swisher, and Wheeler County. Regional Cooperation is uniquely important to the Texas Panhandle because it is geographically isolated. It is over 300 miles from Dallas and portions of the region are actually closer to Wyoming's state capitol than our own in Austin.

### *Board of Directors*

The Panhandle Regional Planning Commission Board of Directors consists of 24 members comprised of local county and city officials, five minority citizen representatives, and a member of a local Municipal and Industrial Water Authority. This Commission does not have a member of the legislature on its Board of Directors.

### *Programs*

#### Workforce Development

The Region's Workforce Development Programs are planned and administratively managed by the Planning Commission. In 2010, more than 34,000 Panhandle workers were assisted. More than 3,000 area employers were assisted in recruiting qualified workers and more than 5,500 Panhandle children from low-income families were provided child care services. The region's workforce programs are consistently top in the state in meeting performance standards and have been routinely awarded incentive dollars as a result of outstanding performance.

#### Criminal Justice

For more than 40 years, the Planning Commission has coordinated the effective expenditure of funds to enhance the region's criminal justice system. For example, in 2010 a Panhandle Regional Planning Commission project lead to more than 140 mobile data terminals being installed for the first time in area law enforcement patrol vehicles. 2010 also saw the Panhandle Regional Law Enforcement Training Academy graduating its 100<sup>th</sup> and 101<sup>st</sup> classes.

#### Alternative Dispute Resolution Center

In a one-of-a-kind initiative for a regional council, the Planning Commission operates an Alternative Dispute Resolution Center. The Center offers mediation assistance for a variety of conflicts including divorce/custody, visitation arrangements, consumer complaints, and employer/employee conflicts. More than 300 cases were successfully mediated in 2010.

## **CONCLUSION**

Regional councils were established to assist government entities better respond to the needs of their constituents. They provide a statewide, multi-functional network for determining the most effective and efficient way to meet local needs and then oversee the delivery of the needed services. Though there are many common threads in the services offered by Texas' regional councils, it is apparent that each is unique and face distinct challenges. Their diversity and adaptability are among their greatest strengths. The councils are well suited to assist federal, state, and local governments with the delivery of programs and services that cross jurisdictional boundary lines. Regional councils have, for more than four decades, worked to secure a better future for Texas and in this less-than-optimal current economy, they will be viewed by their member governments as even more indispensable because of their ability to create economies of scale and eliminate duplication of services through partnership and collaboration.

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## **RECOMMENDATION**

1. The Texas Legislature should adopt measures that require Regional Councils of Governments to offer full board membership or ex-officio board membership to a member of the legislature on each Regional Council of Governments.

### **TEXAS COMMISSION ON JAIL STANDARDS**

#### **BACKGROUND**

The Texas Legislature created the Commission on Jail Standards in 1975 to implement a declared state policy that all county jail facilities conform to minimum standards of construction, maintenance and operation. In 1983, the Texas Legislature expanded the jurisdiction of the Commission to include county and municipal jails operated under vendor contract. In 1991, the Texas Legislature added the requirement for count, payment, and transfer of inmates when precipitated by crowded conditions as well as expanding the Commission's role of consultation and technical assistance. In 1993, the legislative function expanded the role of the Commission again by requiring that it provide consultation and technical assistance for the State Jail program. In 1997, the Texas Legislature affirmed that counties, municipalities and private vendors housing out-of-state inmates are within the Commission's jurisdiction. It is the duty of the Commission to promulgate reasonable written rules and procedures establishing minimum standards, inspection procedures, enforcement policies and technical assistance for:

1. the construction, equipment, maintenance, and operation of jail facilities under its jurisdiction;
2. the custody, care and treatment of inmates;
3. programs of rehabilitation, education, and recreation for inmates confined in county and municipal jail facilities under its jurisdiction.<sup>55</sup>

#### **DISCUSSION**

Brandon Wood - Assistant Director of the Commission on Jail Standards

The Commission on Jail Standards (TCJS) has 19 full-time employees and oversees 245 facilities, 32 of which are currently in non-compliance. These facilities house approximately 7,200 inmates with the total number ranging from 6,800-7,300. The number of inmates with blue warrant status has remained steady over the past 12 months and is currently 2,288. The Commission currently has a budget of approximately \$1 million. The requested 5 percent budget reduction will cut \$52,000 a year. The additional 10 percent reduction will cut another \$99,000 and eliminate 3 or 4 full-time employees. Furthermore, a supplementary 2-3 percent reduction will cost \$25,000.

The Commission on Jail Standards came out of the Sunset Review process in very good standing. The Sunset staff recommended a change in a few Commission operations and stated that the Commission should get supplementary funding for an additional field inspector and a program specialist in order to assist jails regain compliance if they are found to be in non-compliance. These positions have been funded since September 1, 2009.

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Deaths in Texas county jails have been in the news, but the amount is lower when compared to national figures. Suicide is the primary cause of inmate death nationally at 29 percent; whereas in Texas this number is 25 percent. This is attributed to an increase in the number of mental health screenings of inmates upon entrance rather than waiting to discover problems further down the road.

There is currently no way to know exactly the cost of counties to house illegal immigrants. The determination of nationality remains a federal issue. Most counties will ask an inmate their nationality on a voluntary basis, but the answer given is not always accurate. The Secure Communities Program allows the arresting entity to submit an inmate name and fingerprints to a national database in order to determine if the individual has had contact with immigration authorities previously. If it is found that they have, the person is flagged and immigration proceedings can commence. Currently, each individual county would have to gather data on the number of these cases that occur and some counties do not collect this information. TCJS does not currently collect this information and would require a statutory change before this could happen. At this moment, the only data regarding immigration status that the TCJS can collect is the information they receive from the federal government through the State Criminal Alien Assistance Program (SCAAP) which reimburses counties for any illegal immigrants that they have housed and have identified.

### *Variances*

A majority of the jails that currently have variances are grandfathered jails which were in existence prior to the creation of the Commission on Jail Standards on December 23, 1975. Since that time other counties have requested variance beds. When a county begins discussion on increasing their jail capacity they approach the TCJS and have them complete a *Facility Needs Analysis*. One of the first questions they ask the county is "What kind of alternatives to incarceration do you currently have?" If these are not utilized, the TCJS will notify the county that they can address their population issues by employing alternatives to incarceration, including pretrial bonding, work release programs, and electronic monitoring. All of these programs are cheaper than building a jail bed, employing the staff required to watch them, and the continued upkeep on those facilities.

Harris County is a non-grandfathered facility that receives variances. Their current round of variances began in 2005, with Harris County steadily increasing their variance beds over time. However, recently this trend is being reversed. At the November TCJS meeting, Harris County presented a proposal to reduce their number of variance beds by 690. This drop in county jail population can partially be attributed to sentencing alternatives.

## **RECOMMENDATIONS**

1. The Texas Legislature should support measures that would assist the Commission on Jail Standards to lower jail populations via diversion programs for the mentally ill.
2. The Texas Legislature should adopt measures that prohibit waivers for counties not in compliance with Texas Jail Standards.

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APPENDIX A

**COUNTIES GRANTED BROADER  
SUBDIVISION PLATTING AUTHORITY**

**Counties subject to Local Government Code, Chapter 232, Subchapter B (near international border):**

Brooks,	Hudspeth	Starr
Brewster	Jeff Davis	Sutton
Cameron	Jim Hogg	Terrell
Crockett	Kenedy	Uvalde
Culberson	Kinney	Val Verde
Dimmit	La Salle	Webb
Duval	Maverick	Willacy
Edwards	Nueces	Zapata
El Paso	Pecos	Zavala.
Hidalgo	Presidio	

**Counties subject to Local Government Code, Chapter 232, Subchapter C (economically-distressed counties):**

Newton  
Sabine  
Trinity  
Grimes  
Coryell  
McCulloch  
Kerr  
Frio  
Reeves  
Bee  
San Patricio

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**APPENDIX B**

**LAND USE AUTHORITY  
GRANTED TO SPECIFIC COUNTIES**

County	Authority & Scope <sup>56</sup>
Denton, Grayson, Cooke	Zoning within 5000' of Lake Ray Roberts <sup>57</sup>
Hunt, Kaufman, Rains, VanZandt	Zoning within 5000' of Lake Tawakoni <sup>58</sup>
Hood	Countywide comprehensive planning and development regulations <sup>59</sup>
Ellis	Zoning around Superconducting Supercollider (repealed) <sup>60</sup>
Burleson, Washington, Lee	Zoning within 5000' of Lake Somerville <sup>61</sup>
Kent, Garza, Hopkins, Hunt, Delta, Crosby	Zoning within 5000' to 3 miles of Lakes Post and Alan Henry, Lake Cooper and Lake Ralph Hall <sup>62</sup>
Cameron, Willacy	Zoning within 2 miles of a beach used by over 500 persons annually or a public park <sup>63</sup>
El Paso	Zoning in Mission Trail Historic Area <sup>64</sup>
Val Verde	Zoning near Amistad Recreation Area <sup>65</sup>
Zapata	Zoning in Zapata County <sup>66</sup>

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## APPENDIX C

From: *Homeownership Costs and Housing Affordability Sensitivity*  
by James P. Gaines, Real Estate Center at Texas A&M University  
(October 2006)

**Table 12. Number of Texas Households That Cannot Afford the Same Home as the Price Increases by \$5,000**

House Price	Total Required Monthly Payment	Minimum Required Income to Qualify	Percentage of Households That Cannot Afford This Price	Percentage of Households That Can Afford This Price or More	Percentage Fewer Households That Can Afford This Price	Number of Fewer Households That Can Afford This Price	Average Number of Fewer Households Per \$1,000 Price Increase
\$50,000	\$496.48	\$19,859	22.8	77.2			
55,000	546.12	21,845	25.5	74.5	2.7	211,403	42,281
60,000	595.77	23,831	28.2	71.8	2.7	212,976	42,595
65,000	645.42	25,817	30.8	69.2	2.6	205,836	41,167
70,000	695.07	27,803	33.4	66.6	2.5	195,876	39,175
75,000	744.71	29,789	35.9	64.1	2.5	195,876	39,175
80,000	794.36	31,774	38.3	61.7	2.4	187,391	37,478
85,000	844.01	33,760	40.7	59.3	2.4	186,490	37,298
90,000	893.66	35,746	43.0	57.0	2.3	181,739	36,348
95,000	943.30	37,732	45.2	54.8	2.2	174,096	34,819
100,000	992.95	39,718	47.5	52.5	2.2	174,096	34,819
105,000	1,042.60	41,704	49.6	50.4	2.2	167,654	33,531
110,000	1,092.25	43,690	51.8	48.2	2.1	166,691	33,338
115,000	1,141.89	45,676	53.8	46.2	2.0	158,317	31,663
120,000	1,191.54	47,662	55.6	44.4	1.8	142,330	28,466
125,000	1,241.19	49,648	57.4	42.6	1.8	142,330	28,466
130,000	1,290.84	51,633	59.1	40.9	1.7	130,574	26,115
135,000	1,340.48	53,619	60.8	39.2	1.6	128,125	25,625
140,000	1,390.13	55,605	62.4	37.6	1.6	128,125	25,625
145,000	1,439.78	57,591	64.1	35.9	1.6	128,125	25,625
150,000	1,489.43	59,577	65.7	34.3	1.6	128,125	25,625
155,000	1,539.07	61,563	67.1	32.9	1.4	106,273	21,255
160,000	1,588.72	63,549	68.4	31.6	1.3	100,443	20,089
165,000	1,638.37	65,535	69.6	30.4	1.3	100,443	20,089
170,000	1,688.02	67,521	70.9	29.1	1.3	100,443	20,089
175,000	1,737.66	69,507	72.2	27.8	1.3	100,443	20,089
180,000	1,787.31	71,492	73.5	26.5	1.3	100,443	20,089
185,000	1,836.96	73,478	74.8	25.2	1.3	100,443	20,089
190,000	1,886.61	75,464	76.0	24.0	1.2	91,573	18,315
195,000	1,936.25	77,450	76.8	23.2	0.8	62,723	12,545
200,000	1,985.90	79,436	77.6	22.4	0.8	62,723	12,545
205,000	2,035.55	81,422	78.4	21.6	0.8	62,723	12,545
210,000	2,085.20	83,408	79.2	20.8	0.8	62,723	12,545
215,000	2,134.85	85,394	80.0	20.0	0.8	62,723	12,545
220,000	2,184.49	87,380	80.8	19.2	0.8	62,723	12,545
225,000	2,234.14	89,366	81.6	18.4	0.8	62,723	12,545
300,000	2,978.85	119,154	90.4	9.6	8.8	45,860	9,172
350,000	3,475.33	139,013	93.5	6.5	3.1	24,160	4,832
400,000	3,971.81	158,872	95.4	4.6	1.8	14,129	2,826
Average Number of Households Per \$1,000 (Through \$225,000)							26,204

Source: Real Estate Center at Texas A&M University

**Table 12A. Average Number of Households Unable to Afford the Same Home as the Price Increases by \$5,000**

Home Price Range	Average Number of Households Per \$5,000 Increase	Implied Number of Households Per \$1,000 Increase
\$50,000-\$100,000	192,578	38,516
\$100,000-\$150,000	142,040	28,408
\$150,000-\$190,000	100,063	20,013
\$190,000-\$225,000	62,723	12,545

Source: Real Estate Center at Texas A&M University  
\*Based on set of cost and financing assumptions in Table 1

Summarizing the total results indicates that on average, 192,578 fewer Texas households can afford to acquire the same home for every \$5,000 increase in home price from \$50,000 to \$100,000, (an average of 38,516 fewer households that can afford the same home per \$1,000 increase within that price range). Similarly, an average of 142,040 households per \$5,000 price increase from \$100,000 to \$150,000 are unable to afford the same home (28,408 households per \$1,000 increase). An average of 100,063 households per \$5,000 price increase from \$155,000 to \$190,000 cannot afford the same home (20,013 households per \$1,000 increase).

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## APPENDIX D

### COMPARISON OF STATE PRESCRIPTIVE AUTHORITY LAWS FOR ADVANCED PRACTICE REGISTERED NURSES (APRNs)



**INDEPENDENT  
TOTAL=16 + D.C.**

- Alaska
- Arizona
- Colorado
- District of Columbia
- Hawaii
- Idaho
- Iowa
- Maine
- Maryland
- Montana
- New Hampshire
- New Mexico
- Oregon
- Rhode Island
- Utah
- Washington
- Wyoming

**COLLABORATIVE  
TOTAL=19**

- Arkansas
- Connecticut
- Delaware
- Indiana
- Kansas
- Kentucky
- Louisiana
- Mississippi
- Minnesota
- Nevada
- New Jersey
- New York
- North Dakota
- Ohio
- Pennsylvania
- South Dakota
- West Virginia
- Vermont
- Wisconsin

**DELEGATED  
TOTAL=15**

- Alabama
- California
- Florida
- Georgia
- Illinois
- Massachusetts
- Michigan
- Missouri
- Nebraska
- North Carolina
- Oklahoma
- South Carolina
- Tennessee
- Texas
- Virginia

**LEGEND:**

**Independent** - State law does not require physician involvement. (Allows APRNs to practice to the full extent of their education and certification.)

**Collaborative** - State law requires some type of collaborative agreement.

**Delegated** - The Board of Nursing approves NPs for prescriptive authority but the authority to prescribe is delegated by a physician. (Severely restricts APRNs from practicing to the full extent their education and training should allow.)

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## COMMENTS

Representative Leo Berman dissents and **does not** support the following recommendations:

Charge 2:

Recommendation 1: The Texas Legislature should adopt measures that allow for the employment of doctors by rural hospitals.

Recommendation 5: The Texas Legislature should adopt measures that remove barriers to the full utilization of Nurse Practitioners (NPs), Physician Assistants (PAs) and other health providers.

Recommendation 10: The Texas Legislature should adopt measures that encourage employers to invest in the health and coverage of their employees via wellness and prevention programs for employees and their family members.

Charge 5:

Recommendation 3: The Texas Legislature should monitor and support the use of Tax Increment Finance (TIF) zones, county improvement districts, water districts and other special service districts as they are vital tools used to improve the quality of life and promote economic development.

Recommendation 4: The Texas Legislature should adopt measures that allow for the employment of doctors by rural hospitals. A single rural physician can generate more than five full time jobs and \$233,000 in local economic activity (same as Charge 2, Recommendation 1).

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## ENDNOTES

- <sup>1</sup> Texas State Data Center, University of Texas at San Antonio
- <sup>2</sup> NCHS Vital Statistics Data, 2005 <http://wonder.cdc.gov>
- <sup>3</sup> U.S. Bureau of the Census 2008 Estimates
- <sup>4</sup> Source: U.S. Census Bureau
- <sup>5</sup> TEX. LOCAL GOV'T. CODE, Chapter 232, Subchapter A.
- <sup>6</sup> TEX. LOCAL GOV'T. CODE, Chapter 232, Subchapters B and C.
- <sup>7</sup> TEX. WATER CODE, §16.315
- <sup>8</sup> TEX. LOCAL GOV'T. CODE, Chapter 233
- <sup>9</sup> TEX. HEALTH & SAFETY CODE, Chapter 366
- <sup>10</sup> TEX. LOCAL GOV'T. CODE, Chapter 241
- <sup>11</sup> TEX. ALCOHOLIC BEV. CODE, § 109.33
- <sup>12</sup> TEX. LOCAL GOV'T. CODE, Chapter 243.
- <sup>13</sup> TEX. LOCAL GOV'T. CODE, Chapter 234
- <sup>14</sup> TEX. HEALTH AND SAFETY CODE, Chapters 361 and 364.
- <sup>15</sup> TEX. LOCAL GOV'T. CODE, Chapter 244
- <sup>16</sup> TEX. TRANS. CODE, §§251.003 and 251.016
- <sup>17</sup> TEX. LOCAL GOV'T. CODE, Chapter 573
- <sup>18</sup> TEX. LOCAL GOV'T. CODE, Chapter 231
- <sup>19</sup> Fort Bend, Montgomery, Brazoria, Harris, Galveston, Waller, Chambers, and Liberty counties can assess impact fees for drainage and flood control. TEX. LOCAL GOV'T. CODE, §395.079.
- <sup>20</sup> TEX. LOCAL GOV'T. CODE, §395.011
- <sup>21</sup> TEX. LOCAL GOV'T. CODE, §§ 240.031 *et seq.*
- <sup>22</sup> House Research Organization, Interim News, July 22, 2004
- <sup>23</sup> "One Regional Health System's Innovative Steps to Deal with the Uninsured", Journal of Health Care Finance, Fall 2009
- <sup>24</sup> The 340B Pricing program resulted from the enactment of Public Law 102-585, the Veterans Health Care Act of 1992. The 340B Drug Discount Program is managed by the Health Resources and Services (HRSA) Office of Pharmacy Affairs (OPA). The program limits the cost of covered outpatient drugs to certain federal grantees, Federally Qualified health Centers (FQHCs) and qualified disproportionate share hospitals.
- <sup>25</sup> Gurewich, Deborah, Donald S. Shepard, Karen R. Tyo and Junya Zhu. "High Performing Community Health Centers: What it Takes in Texas. Final Report: Phase One." Schneider Institutes for Health Policy, June 30, 2009.
- <sup>26</sup> Health Resources and Services Administration , 2010
- <sup>27</sup> Charles Boone testimony - San Antonio hearing 10/12/10
- <sup>28</sup> *U.S. v. Salerno*, 481 U.S. 739 (1987)
- <sup>29</sup> If a defendant released on a personal bond fails to appear for court, a warrant is issued for his arrest, the bond is forfeited, and the county takes action against him via civil suit for the amount of the bond.
- <sup>30</sup> If a defendant released on a cash bond fails to appear for court, a warrant is issued for his arrest, the bond is forfeited, and the county takes action to recover the cash bond through a civil suit.
- <sup>31</sup> If a defendant released on a surety bond fails to appear for court, a warrant is issued for his arrest, the bond is forfeited, and the county takes action against the bonding company and the defendant via civil suit for the amount of the bond.
- <sup>32</sup> *See, e.g.*, TEX. CODE CRIM. PROC. arts. 17.43-17.47.
- <sup>33</sup> TEX. CODE OF CRIM. PROC. Art. 17.42, §6.
- <sup>34</sup> TEX. OCCUPATIONS CODE § 1704.053.
- <sup>35</sup> TEX. OCCUPATIONS CODE § 1704.052.
- <sup>36</sup> Source: Travis County FY2009 Justice Systems Coordinating Committee (JSCC) Report
- <sup>37</sup> Source: Travis County Pretrial Services
- <sup>38</sup> Source: Travis County Criminal Courts Administration
- <sup>39</sup> National Association of Counties, "Jail Population Management: Elected County Officials' Guide to Pretrial Services", September 2009
- <sup>40</sup> Texas Constitution Article XI, Section 7
- <sup>41</sup> Texas Constitution Article VIII, Section 9
- <sup>42</sup> Texas Constitution Article VIII, Section 9

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- <sup>43</sup> Texas Government Code Section 1301.003  
<sup>44</sup> Texas Constitution Article VIII, Section 9  
<sup>45</sup> Texas Government Code Chapter 551  
<sup>46</sup> Local Government Code Section §271.049  
<sup>47</sup> Texas Government Code Section 1251.001  
<sup>48</sup> Texas Government Code Section 4.004  
<sup>49</sup> Texas Election Code Section 4.003(c)  
<sup>50</sup> Texas Election Code Section 4.003(b)  
<sup>51</sup> Texas Government Code §1251.003(d)  
<sup>52</sup> Texas Government Code, Title 9. Public Securities, Chapter 1202.008  
<sup>53</sup> Texas Government Code Chapter 1231.062  
<sup>54</sup> <http://www.brb.state.tx.us>  
<sup>55</sup> <http://www.tcjs.state.tx.us>  
<sup>56</sup> All counties' zoning/development regulation authority is limited to the unincorporated area.  
<sup>57</sup> TEX. LOCAL GOV'T. CODE, Chapter 231, Subchapter F  
<sup>58</sup> TEX. LOCAL GOV'T. CODE, Chapter 231, Subchapter F  
<sup>59</sup> TEX. LOCAL GOV'T. CODE, Chapter 231, Subchapter G  
<sup>60</sup> TEX. LOCAL GOV'T. CODE, Chapter 231, Subchapter H  
<sup>61</sup> TEX. LOCAL GOV'T. CODE, Chapter 231, Subchapter J  
<sup>62</sup> TEX. LOCAL GOV'T. CODE, Chapter 231, Subchapter G  
<sup>63</sup> TEX. LOCAL GOV'T. CODE, Chapter 231, Subchapter B  
<sup>64</sup> TEX. LOCAL GOV'T. CODE, Chapter 231, Subchapter. I  
<sup>65</sup> TEX. LOCAL GOV'T. CODE, Chapter 231, Subchapter C  
<sup>66</sup> TEX. LOCAL GOV'T. CODE, Chapter 231, Subchapter. L