
**HOUSE COMMITTEE ON COUNTY AFFAIRS
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2002**

**A REPORT TO THE
HOUSE OF REPRESENTATIVES
78TH TEXAS LEGISLATURE**

**TOM RAMSAY
CHAIRMAN**

**COMMITTEE CLERK
MISSY WARREN**



Committee On
County Affairs

October 20, 2002

The Honorable James E. "Pete" Laney
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 Seventy-Seventh Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Seventy-Eighth Legislature.

Respectfully submitted,

Tom Ramsay, Chairman

Glenn Lewis, Vice Chairman

Betty Brown

Warren Chisum

David Farabee

Harvey Hilderbran

Mike Krusee

Ignacio Salinas, Jr.

John Shields

Vice-Chairman Glenn Lewis

Members: Betty Brown, Warren Chisum, David Farabee, Harvey Hilderbran,
Mike Krusee, Ignacio Salinas, Jr., John Shields

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INTRODUCTION

At the beginning of the 77th Legislature, House Speaker James E. “Pete” Laney appointed nine members to the County Affairs Committee. The committee membership includes the following:

Chairman Tom Ramsay
Vice Chairman Glenn Lewis
Representative Betty Brown
Representative Warren Chisum
Representative David Farabee
Representative Harvey Hilderbran
Representative Mike Krusee
Representative Ignacio Salinas, Jr.
Representative John Shields

Pursuant to House Rule 3, Section 7, the County Affairs Committee has 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) multi-county boards or commissions; (5) relationships or contracts between counties; (6) other units of local government; and (7) the Texas Commission on Jail Standards.

The County Affairs Committee held two interim hearings in 2002 to take public testimony on the five interim charges assigned to the committee. The committee members would like to thank the citizens, county officials and organization members who testified at the hearings for their time and expertise on behalf of the committee, including: The Texas Association of Counties with special thanks to Stan Reid, Project Director of the County Information Project, Ken Nicolas, Director of Special Projects, Criminal Justice Division of the Office of the Governor, Terry Julian, Director of the Texas Commission on Jail Standards, Donald Lee, Executive Director, Conference of Urban Counties, Michael Vasquez, Conference of Urban Counties, Dan Wilson, Office of the Comptroller, Bernie Little, Office of the Comptroller, Jim Allison, General Counsel for the County Judges and Commissioners Association of Texas.

HOUSE COMMITTEE ON COUNTY AFFAIRS

INTERIM STUDY CHARGES

1. Review the implementation of House Bill 2869, 77th Legislature, creating the Texas County Financial Data Advisory Committee, and county information systems, including coordination with state agencies.
2. Examine the revenue sources available to county governments, including but not limited to taxes, to determine whether revenue sources are keeping pace with demands for services. Among other factors affecting revenues, evaluate the impact of ad valorem tax exemptions granted since 1985. Assess the varying levels of tax effort in different counties and factors that may account for the differences observed.
3. Review the County Essential Services Grant Program and other programs to assist counties with mandatory duties.
4. Review the implementation of county fee and fine collection programs and Senate Bill 732, 77th Legislature.
5. Actively monitor agencies and programs under the committee's oversight jurisdiction.

INTERIM CHARGE #1

Review the implementation of House Bill 2869, 77th Legislature, creating the Texas County Financial Data Advisory Committee, and county information systems, including coordination with state agencies.

COMMITTEE HEARING SUMMARY

Before the 77th Legislature convened, the House Committee on County Affairs (Committee) discussed during the interim the cost of county statutory duties and the ability of county tax bases and fees to support such duties. In 2000, over 60 counties participated in a financial study¹ conducted by the Texas Association of Counties to give the Committee an initial picture of counties' revenues and expenditures. The Committee found that the lack of a central data base and the lack of consistency in the manner in which counties collect and store financial data made it difficult to evaluate these issues. While the data exists in each county, it is not maintained or collected in a way that makes it easy to locate, to compare county to county, or to analyze on a statewide basis.

The Committee was sensitive to the fact that the introduction of the Governmental Accounting Standards Board Form 34 (GASB 34) would further complicate any attempts at uniform data collection as the accounting differences between compliant and non-compliant counties increased. In 1999, GASB adopted a new reporting standard for local and state governments. Over the next few years these governmental entities must revise their annual reports to meet the new standard if they expect to remain or become compliant with Generally Accepted Accounting Principles and qualify for the best financial ratings in areas such as issuing new bond debt.

With these issues in mind, the Committee approved the following recommendation in their Interim Report to the 77th Legislature:

Recommend the 77th Legislature establish a County Financial Data Committee, funded by grants, consisting of county officials, with assistance and support of the Comptroller's office, to study current county financial reporting requirements and systems and make recommendations as to ways in which the collection and use of county financial data can be improved without resulting in additional costs to the counties. At a minimum, the Financial Data Committee should address uniformity, duplicative reporting requirements, GASB34, electronic filing, and the cost of meeting these requirements. The County Affairs Committee further recommends that the Financial Committee utilize the resources of the Texas Association of

Counties and the Conference of Urban Counties to act as conveners for the committee's meetings.²

As a result of the Committee's recommendation, House Bill 2869 sponsored by Representative Tom Ramsay, Chair of County Affairs, and Senator Frank Madla, Chair of Intergovernmental Affairs, was passed during the 77th Legislative session. The legislation created the Texas County Financial Data Advisory Committee (TCFDAC) to study county financial reporting requirements and systems and to make recommendations to the comptroller and the legislature on ways the collection and use of county financial data can be improved without resulting in additional costs to counties. The legislation required the recommendations to address issues relating to county financial reporting requirements such as: uniformity, duplicative reporting requirements, the Government Accounting Standards Board's most recent reporting standards; electronic filing; and costs associated with meeting the requirements. House Bill 2869 requires the advisory committee to develop and recommend a consolidated uniform financial reporting procedure to the Comptroller that does not impose a greater reporting burden on counties than current practices and a voluntary uniform chart of accounts for counties no later than September 1, 2002. The legislation further authorizes the Comptroller to implement the recommendations of the committee for the reporting of financial data and other pertinent information to the state.

The Texas County Financial Data Advisory Committee was appointed in 2001 and held their first meeting in October of 2001. The following members were appointed to the committee:

Susan Spataro, Travis County Auditor, Presiding Officer

Kathy Hynson, Ft. Bend County Treasurer

Toni Jones, Yoakum County Treasurer

Andy Meyers, Ft. Bend County Commissioner

Sal Pendas, Angelina County Assistant Auditor

Debbie Schneider, Tarrant County Budget Officer

Tommy J. Tompkins, Harris County Auditor

Skipper Wheelless, Runnels County Commissioner

Donald Lee, Executive Director, Conference of Urban Counties

Jim Allison, General Counsel, County Judges and Commissioners Association of Texas

Stan Reid, Director of the County Information Project, Texas Association of Counties
Alfonso Casso, Manager, Local Government Assistance Division, Comptroller's Office

Since October 2001, TCFDAC has met several times and created two subcommittees: (1) subcommittee on Uniform Chart of Accounts and (2) subcommittee on Required Reports. The subcommittee on Uniform Chart of Accounts was charged with three duties³:

- a) work to develop a uniform chart of accounts for Texas counties;
- b) work to help simplify reporting requirements; and
- c) make this available electronically

The subcommittee on Required Reports:

- a) The Department of Information Resources is to obtain information from state agencies regarding reports they require
- b) Look at connecting financial reporting requirements with a proposed detail chart of accounts

TCFDAC held a hearing in August 2002, to approve a high level chart of accounts (Appendix 1). A letter under the signature of Comptroller Rylander was sent out to all counties along with the chart of accounts. The initial chart of accounts represents Phase 1 of the TCFDAC's work. Upon completion of Phase 2, all reports currently required by the state from counties will be identified. Phase 2 will also result in a recommended uniform financial reporting format that is in compliance with GASB 34, with no additional cost to counties. As the chart of accounts is supplemented in the future, it will provide the basis for a consolidated uniform financial reporting procedure and the elimination of duplicative reporting requirements.

RECOMMENDATION

★ Recommend the work of the Texas County Financial Data Advisory Committee

continue and that state agencies be directed to supply all necessary information to complete the committee's directive.

- ★ **Recommend that the House County Affairs Committee continue to monitor the progress of the Texas County Financial Data Advisory Committee.**

INTERIM CHARGE # 2

Examine the revenue sources available to county governments, including but not limited to taxes, to determine whether revenue sources are keeping pace with demands for services. Among other factors affecting revenues, evaluate the impact of ad valorem tax exemptions granted since 1985. Assess the varying levels of tax effort in different counties and factors that may account for the differences observed.

For the past two legislative sessions, discussion has frequently focused on the ability of counties to provide essential services to the population, much less additional services. The main stumbling block was the inability for the state to even determine what counties' revenues and expenses there were due to the limited data available and the lack of any central information depository in which the information could be obtained. This lack of county information was brought to light during an interim study of the 76th Legislature in the House County Affairs Committee which called for a review of the cost of statutory county duties and the ability of county tax bases and fees to support such duties. An initial project undertaken by the Texas Associations of Counties, County Information Project,⁴ yielded how scattered data is and that, with current reporting procedures, it would require much more information gathering from different sources. However, the report did provide foundational data that would serve as a basis for future development.

Based upon the six primary sources of revenue for counties: taxes (general property taxes and general and selective sales and use taxes); licenses and permits; intergovernmental revenues; charges for services; fines and forfeitures; and miscellaneous revenue, the study found the primary source of revenue for counties was the property tax. Although the "General Fund" tax is limited by the Texas Constitution to a maximum of \$0.80 per \$100 of property value and by the eight percent (8%) rollback rate, it is the single-most significant source of county revenue.⁵

The Committee continued its' collection of data for county revenue and expenses with Charge #2 during the 77th interim. In order to compile the data as called for in the interim charge, a County Affairs Interim Charge #2 informal working group (Working Group) was created. The members of the working group were: Dan Wilson, Comptroller's Office, Bernie Little, Comptroller's Office, Donald Lee, Executive Director of Conference of Urban Counties, Michael Vasquez, Conference of Urban Counties, Stan Reid, County Information Project Director for Texas Association of Counties, Rex Wiginton, Texas Association of Counties, Jim Allison, General Counsel for County Judges and Commissioners Association of Texas, Bobby Gierisch, Director of Research for House Speaker Pete Laney and County Affairs Committee Clerk, Missy Warren.

The Working Group met numerous times during the interim to determine the sources of needed data,

to gather the data, if available, and to compile the data into a report. The interim charge was broken into three categories: a) Compile a list of revenue sources and indicators of demand for services and determine the change in revenue sources and demand for services from 1990 to 2000; b) Identify all tax exemptions post-1985 and determine the value of each exemption; and c) assess the varying levels of tax effort in counties.

Revenue Sources and Demand Indicators

The working group compiled a list of Statewide Indicators of Demand and Revenue (Appendix 2) to help determine whether or not counties' revenue sources were keeping up with demand for services. The preliminary conclusion agreed by all in the working group was the taxable value available to counties along with fees was not keeping pace with the cost of services. While the population and demand services increased by approximately one-fifth during the 1990s, inflation-adjusted property tax value increased just over one-tenth. The percentage increase in justice of the peace cases was 14.4% from 1990 to 2000. County Court cases had increased by 16.4% in ten years. County Court juvenile cases and District Court juvenile cases increased 169% and 139.3% respectively from 1990 to 2000. Unreimbursed health care expenditures increased 161% from 1990 to 2000 (Appendix 3).

In 1999, seven counties had reached or exceeded the maximum general fund tax rate of eighty cents (\$.80) per \$100 valuation. Those counties were: Kenedy, Jim Hogg, Duval, Delta, Throckmorton, Foard, and Loving.⁶ In 2001, nine counties had reached or exceeded the maximum general fund tax rate: Kenedy, Runnels, Karnes, Kinney, Fisher, Throckmorton, Duval, Foard, and Jim Hogg.⁷ Most of these counties also have a Road and Bridge tax and a Lateral Road and Flood Control tax, increasing their total tax rate.

Of the thirty-six counties with a FY2000 total county tax rate seventy cents (\$.70) or above, all but two have a population under 50,000 with the vast majority under 10,000. This demonstrates a vast disproportionate impact in rural, agricultural counties (Appendix 4).

There are one hundred twenty-one counties that impose a county sales and use tax for property tax relief⁸. If a county adopts a county sales and use tax, it must reduce both the effective tax rate and

the rollback tax rates to “offset the expected sales tax revenue”. This effectively lowers the rollback trigger to less than eight percent (8%).⁹ Under the Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter N, subsection 3.251(a) (2), “a county may not adopt the tax if the resulting combined rate of all local sales and use taxes (county, city, and metropolitan transit authority/city transit department (MTA/CTD)) imposed by local tax entities with territory in the county would exceed two percent (2%).”

These tight restrictions severely limit counties the ability to conduct business effectively and to deal with financial difficulties in a timely and proficient manner.

Post-1985 Tax Exemptions

The Comptroller’s staff on the Working Group compiled a comprehensive list of all tax exemptions either created or expanded since 1985. A document was prepared for the Committee called “Overview of Property Tax Exemptions For the State of Texas Since 1985”(Appendix 5). The document noted that all property tax exemptions must have a constitutional basis as stated in the Texas Constitution, art. VIII, sec. 1b:

“All real property and tangible personal property in this State, unless exempt as required or permitted by this Constitution, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law.”

The Texas Constitution lists some property that is exempt from taxation without any action by the Legislature or a taxing unit. The Texas Constitution provides two types of exemptions: those exemptions that *shall be exempted* by the Legislature and those that *may be exempted* by the Legislature. The Texas Property Tax Code provides the statutory provisions for the taxation and exemption of property. Section 11.01 of the Tax Code provides that all real and tangible personal property that this state has jurisdiction to tax is taxable unless exempt by law. With a few exceptions found in Section 11.02 of the Tax Code, intangible personal property is not taxable. Examples of intangible personal property include: stocks, bonds, certificates of deposit, annuity, pension, and goodwill.

The following county property exemptions have been added or expanded since 1985:

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- 1) Implements of Farming and Ranching (including timber since 1999) (Required)
 - 2) Public Property owned by counties, cities and towns, school districts and special districts used for public purposes (Required)
 - 3) Income-Producing Personal Property Valued at Less than \$500 (Required)
 - 4) Mineral Interest Valued at Less than \$500 (Required)
 - 5) Personal Property Homestead (Optional)
 - 6) Charitable Organizations (Optional)
 - 7) Private Schools (Optional)
 - 8) Religious Organizations (Optional)
 - 9) Disabled Veterans (Optional)
 - 10) Family Supplies and Farm Products (Optional)
 - 11) Offshore Drilling Equipment (Optional)
 - 12) Nonprofit Water Supply or Wastewater Service Corporation (Optional)
 - 13) Pollution Control Property (Optional)
 - 14) Charitable Organization Improving Low-Income Housing (Optional)
 - 15) Community Housing Development Organization (Optional)
 - 16) Association Providing Assistance to Ambulatory Healthcare Centers (Optional)
 - 17) Youth Spiritual, Mental and Physical Development Associations (Optional)
 - 18) Personal Leased Motor Vehicles (Optional)
 - 19) Raw Cocoa and Green Coffee (Optional)
 - 20) Property Redevelopment and Tax Abatement (Optional)
 - 21) Freeport Goods (Optional)
 - 22) Water Conservation Initiatives on Property (Optional)
 - 23) Travel Trailers (Optional)
 - 24) Limitation on Homestead Taxable Value Increases (Required)

The last page of the document titled "County-Reported Property Tax Exemption Data (General Fund) 1990-2000" summarized the amount of taxable value lost in the years 1990 and 2000. The total value loss from exemptions and deductions in 2000 out of a total value appraised of \$1,056,374,312,952 (Appendix 5) was \$181,772,607,044 (17.2%). In Mr. Wilson's testimony¹⁰, he noted the document did not include the value of totally exempt property (i.e. public property, religious and charitable organizations, private schools, etc.) as these properties were not generally appraised by counties. Therefore, it was not possible to estimate the taxable value lost with those properties. He further noted that the largest exemption shown on the document showing a loss of \$72,786,185,577 for "Productivity Value Loss" which includes agricultural and timber land for 2000, is not truly an exemption, rather it is a loss attributed to the difference in market value and the constitutionally required productivity value for qualified products.

Tax Effort

The working group compiled tax information on all counties to determine the tax effort in each county (Appendix 4). The information gathered included FY2000 county population, total county taxable value, local option exemptions, adjusted county taxable value, adjusted per capita taxable value, total county levy, unadjusted tax effort per capita and adjusted tax effort per capita. The document clearly showed a great variance in the per capita value available for a county to tax, with value concentrated in certain counties. The available taxable value per capita ranges from \$2,134,015 in Loving County to \$14,342 in Coryell County, a 14,879% difference. The highest tax rate of \$1.21 in Jim Hogg County is 636% higher than the nineteen cent (\$.19) rate in Lubbock County. The greater variances could be partially attributed to the fact that, in previous times, the state was mainly agricultural-intensive creating more evenly-distributed economic wealth among all counties. Today, counties that are more industrial and commercial intensive tend to have a higher taxable value per capita than do agriculture-based counties.

However, high-growth counties do not necessarily possess a low tax base. In testimony given by Donald Lee, Executive Director, Conference of Urban Counties, he pointed out that despite Ft. Bend having one of the fastest-growing populations of all counties in the state, it also has a high tax rate due to the lack of commercial and industry activity in the county.

The working group found it was impossible to compare counties on an apples-to-apples basis due to several factors. Some counties fund their Road and Bridge Fund while others have a separate fund. Some counties include health care expenses in their budget while others have hospital districts. Taking these factors into consideration, the working group determined that the property tax could not be the sole factor in determining a county's ability to provide and maintain needed services. Given the limitations the working group encountered in gathering county data, there was no consensus on what recommendations could be made to the County Affairs Committee. However, the working group could extrapolate from the available information that the current property tax system distributes this revenue source without regard to need or demand for services. In counties where both value per capita is low and population is low, the ability to provide even essential services such as law enforcement and health care is being stretched to the limit.

RECOMMENDATION

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- ★ **The Committee urges future County Affairs interim studies to continue researching the revenue sources and demands for services for counties with the assistance of the Texas County Financial Data Advisory Committee, the Texas Association of Counties, the Conference of Urban Counties and the Comptroller’s Office.**

RECOMMENDATION

- ★ **The Committee recommends the 78th legislature consider allowing counties to have more flexibility in determining its own general tax rate by local referendum without a constitutional limit and to allow counties more flexibility to re-structure county government to meet the needs of each county including consolidation of county offices.**

INTERIM CHARGE #3

Review the County Essential Services Grant Program and other programs to assist counties with mandatory duties.

Prior to the 77th Legislature, concerns about the ability of counties to provide essential services had arisen. Some counties have reached their maximum taxing capabilities and are in jeopardy of being able to continue essential services in law enforcement services, provision or maintenance of public buildings, and in the provision of public record keeping.

At the beginning of the 77th Legislature, House Bill 2868 was introduced by Representative Tom Ramsay which would provide grants to certain eligible counties for essential services. Those counties eligible included ones that had levied the maximum state tax rate of eighty cents set out in Section 9(a), Article VIII of the Texas Constitution, for the two-year period preceding any distribution of funds under this subchapter. Due to a large fiscal note, the criteria for eligible counties was revised.

Ultimately, House Bill 2868 was included in the Appropriations Act of 2001 as Budget Rider 13 under the section entitled “Trusted Programs Within the Office of Governor”. The Rider states:

County Essential Grants. Funds appropriated above to provide County Essential Service Grants are to provide assistance to counties that 1) have levied the maximum state tax set out in Section 9 (a), Article VIII, Texas Constitution, for the two-year period preceding the receipt of any grant funds, and 2) levy a county sales tax. The Office of the Governor shall adopt procedures and requirements to award these grants to eligible counties and to ensure that the funds are only utilized for the provision of a law enforcement service, including the provision of a jail or court, the provision or maintenance of a public building, or the provision of public record keeping.

The grant program was appropriated \$500,000 per fiscal year for 2002-2003 to be administered by the Governor’s Office. The Criminal Justice Division (CJD) of the Governor’s Office was given the responsibility of developing the grant application and reviewing the applications submitted. CJD announced the request for applications effective April 1, 2002, in the March 29, 2002, issue of the *Texas Register*. The announcement established that grant-funded projects must begin on or after April 1, 2002. However, CJD posted a “notice of correction” in the May 10, 2002, issue of the *Texas*

Register, which clarified that project grant periods may cover eligible expenses effective September 1, 2001, to be consistent with the effective date of the appropriations rider that created the program. Applications will be accepted through the remainder of the biennium, August 31, 2003. A maximum of \$100,000 may be approved for each grant application request and is awarded for a 12-month period. However, an eligible county may submit additional grant requests for other projects within the same fiscal year.

The following criteria is required in the grant application available on the Governor's Office website at http://www.governor.state.tx.us/the_office/cjd/cjdmain.htm or applicants may contact the Criminal Justice Division by phone at 512/475-4461:

1. The funding being applied for is currently budgeted by the county but is in jeopardy due to an unexpected or major revenue shortfall.
2. The county has levied the maximum state tax set out in Section 9(a), Article VIII, *Texas Constitution*¹¹, for the two most recent complete county fiscal years;
3. The county has levied a sales tax for the two most recent complete county fiscal years as authorized in Section 323.103, *Texas Tax Code*¹².

The following taxes can be used in determining the maximum rate:

1. General Fund
2. Permanent Improvement Fund
3. Road and Bridge Fund
4. Jury Fund

The following taxes cannot be used:

1. Farm-to-Market and Flood Control
2. Ad Valorem Tax for Public Roads

Additional Requirements

- Grant periods may cover eligible expenses incurred effective September 1, 2001.

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- Grants will not be awarded for reimbursement of expenses incurred prior to the award of the grant.
 - The applicant must receive advance written approval from CJD's executive director if an applicant anticipates obligating funds prior to the grant period. However, this should not be considered an indication or assurance that CJD intends to fund the project.
 - Grants will not be awarded for more than 12 months.

Awards are made on a first-come, first-served basis subject to available funding. The number of eligible counties has varied over the current fiscal year as new property tax criteria has become available. As of October 2002, Karnes and Kinney are eligible to apply for the grant¹³.

Delta County applied for and received \$100,000 to purchase equipment, software, training, networking, and wiring in order to allow the criminal justice divisions in that county to operate in a more modern and efficient environment.

Public testimony taken at the County Affairs Committee hearings in both April and August 2002, raised concerns about the program being administered by the Criminal Justice Division of the Governor's Office. The Criminal Justice Division is limited statutorily (*Government Code, Chapter 772.006 Governor's Criminal Justice Division*) as to the scope of programs in which they may participate. As evidence, it was noted that the notice posted in the Texas Registry applied strictly to law enforcement. Consequently, counties are not aware of all the options available to them regarding requests for funds for public buildings and public record keeping.

The County Affairs Committee was given assurances by the Governor's Office that the term "law enforcement" provision is being applied generically as much as possible by the Criminal Justice Division in an effort to include other areas of criminal justice such as jails and courts, in addition to the provisions identified in the appropriations rider, including public buildings and public record keeping.

Given the fact that the County Essentials Grant Program was just created during the 77th Legislative Session and that the grant application process through the Texas Register was just completed in May of 2002, the following is recommended by the Committee:

RECOMMENDATION

- ★ **The Committee will continue to monitor the County Essentials Grant Program within the Criminal Justice Division of the Governor’s Office to determine whether the program should be retained in the Division or be transferred to another division or agency that can allow for flexibility of approval of grants as stipulated in Rider 13 of the Appropriations Act of 2001.**

- ★ **Due to the severe financial qualifications, the County Affairs Committee recommends that the Legislature consider expanding the eligibility requirements for counties who are close to or have reached taxing limits to maintain essential services.**

INTERIM CHARGE #4

**Review the implementation of county fee and fine collection programs
and Senate Bill 732, 77th Legislature.**

Fines and Fees Collection Programs

For years, the general perception among virtually everyone involved in the criminal justice system was that very few criminal defendants were financially able to pay fines and costs. This perception is being shattered by innovative and aggressive collections programs that are proving a majority of criminal defendants have greater resources to meet financial responsibilities than is usually assumed. Basic private sector collections techniques and procedures are helping courts and counties statewide identify and access resources previously thought to be inherently limited or totally non-existent.¹⁴

In 1993, a fine collection pilot program was launched in Dallas County with a two-person staff and a budget of \$75,000, serving three criminal misdemeanor courts. The pilot had twelve months to produce an increase of \$250,000 in fine and costs collections. The pilot is now a fully self-supporting department operating under the Dallas County Clerk's office, which serves all twelve criminal misdemeanor courts. The program is credited with increasing fine collections an estimated average \$6.45 million per year providing the county with an additional \$26.5 million in revenue from inception through FY 1999. Dallas County has also recently implemented a similar program to handle felony cases.¹⁵

In September 1996, the state office of Court Administration implemented a fine collection project, modeled largely after the Dallas program, in the county-level courts of Brazoria County. Unlike Dallas County, Brazoria County had a successful history of collecting fines. However, at the end of the first year of operation of the collection program, Brazoria County experienced a 131% increase in the dollar amounts collected within 60 days of sentencing and a 10.16% overall increase in collections. They also experienced a 57.8% decrease in credits given for jail time served. By the end of calendar year 1997, Brazoria County's collection rate, which in 1995 was an impressive 75.02%, was approaching 90%. In FY 1999, Brazoria County collected 89% of fines and fees assessed, a figure that rises to 95% if uncollected funds scheduled for payment after the end of the fiscal year are included.¹⁶

In September 1996, San Patricio County initiated their version of the Dallas County Collection

program, starting with one full-time and one part-time person. By December 1997, the county had realized an increase in fine collection of 83%, or \$600,000. To date, the San Patricio program is credited with increasing the average annual collection revenue of the county court from \$300,000 to \$650,000 and has generated more than \$1 million in additional revenue for the county since inception.¹⁷

The collection program developed in Dallas County has successfully increased fine collection in that county (i.e., a large urban county), in a small rural county, and in a moderate-size county with an excellent fine collection track record. The success of this concept has not been restricted to misdemeanor county courts. To date, there are 129 Texas courts operating similar programs. They include 34 felony level courts, 66 county level courts, 6 juvenile courts, 19 justice level courts, and 4 municipal courts.¹⁸

Due to the success of these pilot collection programs, House Bill 3498, 77th Legislature, sponsored by Senator Royce West and Representative Senfronia Thompson, was introduced and passed which amended the Code of Criminal Procedure to authorize the Office of Court Administration of the Texas Judicial System (OCA) to award grants no later than January 1 of each even-numbered year to counties and municipalities to prepare a collection plan. The grants are required to reimburse the county or municipality for the cost of preparing the plan and the plan must provide methods to improve the collection of court costs, fees, and fines imposed in criminal cases. The bill authorizes the OCA to require the county or municipality to reimburse the state from the additional collections as a condition of the grant.¹⁹

However, due to budgetary shortfalls, the newly-created program was not appropriated any state funds to provide start-up money for counties to implement such a program.

During the August 21, 2002, County Affairs hearing, Jim Lehman, Collections Specialist, Office of Court Administration provided a document to the committee received from the Assistant Administrator for the Municipal Court of Amarillo (Appendix 6). This document dated December 12, 2001, provided an example of a Collection Improvement Plan for Municipal Courts Costs. A procedure was established which, upon entering a ticket into the system, prompted a range of

“courtesy letters” to warrants to inform the offender of the penalties for non-payment.

Increasing Statewide Collection Rate

A report was given to the County Affairs Committee by Rene Henry, Collections Project Manager, Office of Court Administration, concerning the revenue collected by municipalities and counties in the state of Texas.²⁰ In 2001, the total revenue reported by all court levels was \$674,028,743. Approximately two-thirds of the revenue is generated by municipal courts and the remainder comes from justice county and district courts (Appendix 7). For every one dollar assessed in a criminal case, an estimated sixty-five cents (\$.65) is actually collected²¹. For every dollar that is actually collected by cities or counties, thirty percent (30%) is sent to the state. The state of Texas collected \$208,818,915 in revenue from court costs and fees from municipalities and counties, an increase of 260% from 1993 (Appendix 8).

It is estimated that the financial impact of increasing the statewide collection rate by one percent (1%) would generate an additional \$10,369,673 (Appendix 7). If the statewide collection rate increased from 65% to 75%, an additional \$100 million would be generated²². At a time when the state is facing a severe budget shortfall, this additional revenue would be helpful.

Senate Bill 1778

In the 77th Legislature, Senate Bill 1778, sponsored and passed by Senator Eddie Lucio and Representative Juan Hinojosa, amended Article 103.0031, Code of Criminal Procedure, which allowed county courts to add a thirty percent (30%) increase to any fine, fee, restitution, debt, or cost that was sixty days overdue. This additional cost allowed cities and counties to recover administrative costs including contract expenses with a collection vendor. However, in 2002 an Attorney General’s Opinion was issued (JC-0516) which ruled that Article 103.0031, Code of Criminal Procedure was “inapplicable in a case in which a justice of the peace has informally suggested an acceptable fine.”²³ This ruling affected the ability to apply the 30% increase in Class C misdemeanor cases in which the defendant failed to appear in court and a warrant had been issued along with a “suggested” fine for the defendant to pay.

Failure To Appear Program

The Failure to Appear Program (FTA), Transportation Code, Chapter 706, enacted during the 74th Legislative Session in 1995, authorizes the Department of Public Safety to contract with political subdivisions to deny the renewal of driver licenses for failure to appear on certain traffic violations. The statute was amended in 1999 to include all Class C misdemeanor offenses in which the violator is given 10 days to appear in court for prosecution. Effective September 2001, it also includes failures to pay or satisfy judgments.²⁴

The FTA Program is a voluntary alternative or additional tool for use by political subdivisions to complement other local enforcement programs. The jurisdiction retains control of offenses and collects the proceeds from the violator. A political subdivision must enter into an Interlocal Cooperation Contract with the Texas Department of Public Safety to participate. The Interlocal Cooperation Contract requires the political subdivision to collect a thirty dollar (\$30) administrative fee from the violator for each offense entered into the program. Twenty dollars (\$20) of the administrative fee is paid quarterly to the State Comptroller's Office, six dollars (\$6) is paid quarterly to OmniBase and the remaining four dollars (\$4) is retained by the political subdivision.²⁵ To date, the state of Texas has collected \$3,413,715 since the program's inception in July, 1996.²⁶

The Texas Department of Safety has contracted with OmniBase Services of Texas to assist with the automation of the FTA Program. OmniBase is the source database of original FTA record entries from the originating political subdivision and has an automated information system to store and access records. The Remote Entry System (RES) is a software package developed by OmniBase specifically for the FTA Program. Upon contract confirmation, OmniBase provides the necessary protocol and the software for electronic transmissions to the jurisdiction at no cost. Political subdivisions need a personal computer, a modem and a telephone line with access to long distance service for transmissions. Records of all violations are transmitted from the political subdivision through modem and by using the OmniBase-provided RES. A political subdivision can transmit or add violators when convenient, but it is recommended that jurisdictions transmit regularly but no less than once per week. The Interlocal Cooperation Contract with DPS requires that clearance or compliance reports on violators must be transmitted within five (5) business days after payment or

final disposition. OmniBase will deliver the data to DPS in order to flag the violator's drivers' license in the DPS drivers license system. Once the flag is confirmed by DPS, OmniBase mails a "Notice of Denial" letter (within 24 hours) informing each violator of the offense, the fine and court costs for the offense, the address and phone number for the city or county reporting the offense, and a toll-free number to call for information on how to resolve the matter, as well as sanctions for non-compliance. Upon satisfactory compliance by the violator, the originating court updates the record in RES with a final disposition and plea. The report is transmitted by RES to OmniBase for removal of the drivers license restriction. Normally, a violator is cleared within a 72-hour period.²⁷

It is estimated that between 95 and 98 percent of the FTA offenders will comply with the political subdivisions that contract with DPS.²⁸ Statistics for the FTA Program since inception are:²⁹

Total Number of Violators in Database	645,928
Average Number of Offenses Per Violator	2.49
Number of Offenses Entered	1,609,371
Number of Offenses Cleared	964,005
Cleared to Entered Ratio	59.9%
Number of Contracted Political Subdivisions	573
Number of Transmitting Political Subdivisions	510
Contracted to Transmitting Ratio	89.0%

Senate Bill 732

Prior to 2001, a county was prohibited from spending money received from certain sources, including private entities wishing to support the development of public works projects, during the year in which it is received. In the 77th Legislative session, Senate Bill 732, sponsored by Senator Gonzalo Barrientos and Representative David Farabee, was enacted to allow counties to spend money received during a fiscal year after a county auditor or judge has certified the receipt of the money. Without the legislation, the ability to utilize the funds from emergency grants, new federal programs, equipment sales, litigation settlements or private entities, was in doubt.

Also included in S. B. 732 was a provision concerning the use of interest on the motor vehicle inventory tax escrow account by the county tax assessor-collector (Chapter 111A, Local Government Code, Section 111.095). In 2001, an Attorney General's Opinion JC-0348³⁰ was issued

that declared a tax assessor-collector was not prohibited from using the interest earned on motor vehicle inventory tax escrow accounts to supplement his or her own salary without prior public notice. There previously had been incidences where funds were being used to supplement the personal salary and other personal expenses of some tax assessor-collectors.

As a result of S. B. 732, these funds may no longer be used for personal expenses or to supplement the salary of the county tax assessor-collector. In addition, if these funds are not included in the county budget, the funds must be included in a special budget by the tax assessor-collector and subjected to a public hearing.

A questionnaire was sent to all counties to survey which counties had implemented the new requirements in S. B. 732. The questionnaire consisted of two sections: Section 1 pertained to whether or not the county received unanticipated revenue from a new source not included in the budget and, if so, whether or not the Commissioners Court had adopted a special budget for the limited purpose of spending the revenue. Section 2 pertained to the Special Tax Assessor-Collector Funds and whether or not the funds collected are included in the county budget or are maintained by the tax assessor-collector.

A "Summary Report of S. B. 732" (Appendix 9) resulted in the following for Section 1: Forty-one counties reported receipt of unanticipated revenue and eighteen adopted a special budget. For Section 2, of the one hundred counties who reported maintaining a special fund, seventy prepared a budget for the current year. All one hundred counties were in compliance with the prohibition against use of the fund for personal expenses. The questionnaire clearly showed that counties are adhering to the provisions in S. B. 732.

RECOMMENDATION

- ★ **The Committee recommends the Office of Court Administration be funded \$100,000 by the state to expend the Collection Improvement Program with loans and grants to**

cities and counties to meet the initial start-up costs of the program with the provision that the start-up funds will be reimbursed by the cities and counties through the increased collections.

RECOMMENDATION

- ★ **The Committee recommends new legislation to be introduced in the 78th Session to amend Article 103.0031, Code of Criminal Procedure, to allow counties and cities to recover the 30% collection fee from defendants who fail to appear before a court in Class C misdemeanor cases.**

RECOMMENDATION

- ★ **Review the Failure to Appear Program administered by the Texas Department of Public Safety to determine the success of the collections program and determine whether the program should be highly recommended for all political subdivisions to use to increase fines and fees collections.**

CHARGE #5

Actively monitor agencies and programs under the committee's oversight jurisdiction.

COMMITTEE HEARING SUMMARY

The County Affairs Committee met for a public hearing on April 24, 2002, to hear testimony on the interim charge regarding the Texas Commission on Jail Standards. The committee has oversight jurisdiction of the Commission.

The Executive Director, Terry Julian, of the Texas Commission on Jail Standards was invited to speak to the committee. The following is a summary of his testimony along with updated information subsequent to the committee hearing.

“As of March 2002, the county jails were operating at 78% of capacity with a population of approximately 60,543. About 9,810 of these are federal inmates. There are nearly 2,400 Texas Department of Criminal Justice (TDCJ) inmates currently being housed in 10 county jails across Texas. This number may decrease significantly in the future pending possible implementation of Rider 64 by TDCJ.”

Rider 64 was included in the 77th Legislative Appropriations Act under the Department of Criminal Justice section. The rider directs TDCJ, in conjunction with the Criminal Justice Policy Council, to develop a plan to reduce temporary/contracted capacity when the TDCJ inmate population falls below 145,006.

NOTE: As of August 2002, all contracted inmates from TDCJ have been removed from county jails.

“Jail capacity increased during calendar year 2001, with 2,690 new beds being added from 13 construction projects in 11 counties. By the end of 2002, an estimated additional 9,190 beds will come online. About 4,200 of those beds will be located in Harris County, and the remainder will be spread out among several counties.”

“Jail capacity has increased to try to keep pace with the pressures that contribute to the jail

population. Some of these pressures are direct, such as arrests, and some are indirect, such as releases from prison, when county jails may house an increasing number of recidivists. According to the Criminal Justice Policy Council, the number of total arrests has been more or less stable the past couple of years, but total releases from prisons and state jails have climbed upward. The parole releases alone have increased by 31 1/2 % in 2001. Jails of all sizes and capacities have been forced to try to keep up with population demands. The percentage of jails operating at 90% of their capacity or greater has risen from 46 in 2001 to 57 in 2002. These jails range in size from the 13-bed jail in Wheeler County to the 7,666-bed jail in Dallas County. There are also 14 jails currently running at 100% capacity or greater. These jails range in size from the 9-bed jail in Hall County to the 795-bed jail in Lubbock County.”

“The number of blue warrant inmates is slowly creeping back up to relatively high levels, from 1,979 a year ago to 2,639 today. Parole violators with new charges have also been increasing steadily over the past year, with 2,982 in county jails today compared with 2,618 in April of last year. The total number of inmates who are “paper ready” (awaiting transfer to TDCJ) staying 45 days or longer in county jails is up as well, from 133 last year to 218 this year.”

JAIL ESCAPES

Despite recent reports of jail escapes, the impression from those reports may be that jails are not as safe and secure as they should be. Mr. Julian emphasized that across the board, county jails are safe and secure.

“When jails fall out of compliance with Minimum Jail Standards, especially with staffing requirements, problems like escapes can occur. The jails that do not staff adequately are at greater risk for potential escapes, and the Jail Commission takes staffing deficiencies very seriously. Proper training of staff is just as important as meeting Minimum Jail Standards. Practically all of the escapes that occurred in the past 12 months could have been prevented by proper training steps to improve officer training with regard to facility security and preventing escapes. The Commission on Jail Standards is developing a training program geared just for this purpose and will be presented at a statewide conference this year.”

NOTE: The Commission has prepared a new Minimum Jail Standard for jails to report escapes. As of May 2002, all counties should notify TCJS of any escapes within 24 hours. The report form (Appendix 10) includes specifics of each escape, and this data will help to identify and monitor escape trends over time.

Mr. Julian reiterated that when a jail is properly staffed, when it has well-trained officers, and meets or exceeds Minimum Jail Standards, the likelihood of an escape decreases significantly.

“A major factor contributing to safe and secure jails is proper training of jail staff. Although TCLEOSE provides jailer certification and training courses for jail staff, the Jail Commission also offers technical assistance and training for jails on a wide range of jail issues. The Commission offers instruction on maintaining compliance with Minimum Jail Standards, statute and case law research, legislative analyses, and training programs covering jail management, operations, and practices. In addition, new training courses are being developed by staff this year, including training on escape prevention and handling mentally impaired offenders in the jail setting.”

MEDICAL COSTS TO COUNTY JAILS

An advisory group was created in 2001 to review the trends of county jails.³¹ Of the nine topic areas for evaluation by jail administrators, medical costs were rated as the single most important problem facing jail management.

Telemedicine and Telepsychiatry

“Telemedicine and telepsychiatry may help meet the challenges of supervising mentally impaired inmates and managing the costs associated with inmate medical care in county jails. Inmate medical care and costs, especially for special-needs offenders, will require counties to re-assess how they deliver medical services in their jails. As jail populations increase, so will the cost of medical care. Telemedicine has proven effective in providing quality medical care with greater security at a reasonable cost in the Texas prison system and in others around the country. Telemedicine has also been advocated by the Texas Council on Offenders with Mental Impairments as a viable option for our county jails to consider. The Jail Commission will be working to explore the ways in which

telemedicine may help county jails deliver high-quality care while controlling costs.”

Handicap Accessibility Reviews

These reviews have been performed by the Texas Department of Licensing and Regulation (TDLR) during the jail construction document review stage to check for compliance with the ADA requirements. With the passage of SB 484 in the 77th legislation session, the handicap accessibility reviews and inspections can now be performed by the Jail Commission instead of TDLR. The Commission anticipates being able to conduct the first ADA review by the summer of 2002.

RECOMMENDATIONS

- ★ **The committee encourages the 78th Legislature to continue examining cost-saving measures in administering medical care to county inmates.**

APPENDICES

APPENDIX 1

APPENDIX 2

APPENDIX 3

APPENDIX 4

APPENDIX 5

APPENDIX 6

APPENDIX 7

APPENDIX 8

APPENDIX 9

APPENDIX 10

ENDNOTES

1. Report on Interim Charge Number 1 to the House Committee on County Affairs, 77th Legislature; Texas Association of Counties, County Information Project; December 20, 2000
2. Interim Report to the 77th Texas Legislature, Committee on County Affairs, October 2000; page 10
3. Texas County Financial Data Advisory Committee Meeting Minutes, May 2, 2002
4. Report on Interim Charge Number 1 to the House Committee on County Affairs, 77th Legislature; Texas Association Counties, County Information Project; December 20, 2000
5. Ibid.
6. Report on Interim Charge Number 1 to the House Committee on County Affairs, 77th Legislature; Texas Association of Counties, County Information Project; December 20, 2000, page 26.
7. Comptroller's Office Statistics for 2001, Property Tax Division.
8. Texas Comptroller's Office. Online. Available: <http://www.cpa.state.tx.us/>.
9. Report on Interim Charge Number 1 to the House Committee on County Affairs, 77th Legislature; Texas Association of Counties, County Information Project; December 20, 2000, page 26.
10. Testimony by Dan Wilson, Comptroller's Office, to the House County Affairs interim hearing on August 21, 2002, Austin, Texas
11. (a) No county, city or town shall levy a tax rate in excess of Eighty Cents (\$.80) on the One Hundred Dollars (\$100) valuation in any one (1) year for general fund, permanent improvement fund, road and bridge fund and jury fund purposes.
12. In a county that has adopted the tax authorized by this chapter, there is imposed a tax on the receipts from the sale at retail of taxable items within the county at the rate of one-half of one percent, or in a county that includes no territory within the limits of a municipality, one percent.
13. Governor's Office, Criminal Justice Division. Email. October 8, 2002.
14. Texas Office of Court Administration. Online. Available: <http://www.courts.state.tx.us/>. Accessed: October 1, 2002.
15. Ibid.

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16. Ibid.
 17. Ibid.
 18. Ibid.
 19. Texas State Legislature, House, House Bill 3498, Bill Analysis, 77th Legislature (2001)
 20. Testimony by Rene Henry, Collections Project Manager, Office of Court Administration to the House County Affairs interim hearing on August 21, 2002, Austin, Texas
 21. Ibid.
 22. Ibid.
 23. Office of the Attorney General, *Opinion No. JC-0516*, Re: Applicability of article 103.0031 of the Code of Criminal Procedure when a defendant has failed to appear in a Class C misdemeanor case (RQ-0485-JC).
 24. Omnibase Services of Texas. Online. Available: <http://www.omnibase.com/>. Accessed October 2, 2002.
 25. Ibid.
 26. Information provided by Margaret Spinks, License Issuance Bureau, Texas Department of Public Safety, October 4, 2002.
 27. Ibid.
 28. *Failure to Appear Program* pamphlet. Published by Texas Department of Public Safety. September 4, 2002.
 29. Monthly Quarterly Report for the Failure to Appear Program. Published by OMNIBASE Services of Texas, L.P. October 2002.
 30. Office of the Attorney General, *Opinion No. JC-0348*, Re: Whether a tax assessor-collector may use interest earned on motor vehicle inventory tax escrow accounts to supplement her own salary (RQ-0290-JC).
 31. Texas County Jails, 2001: A Status Report by Mark Kellar, Ph. D.; August 2001