

R U I Z

J. EDGAR RUIZ
HIDALGO COUNTY JUDGE

NOTICE is hereby given in accordance with Chapter 551, Texas Government Code, that a WORKSHOP of the Commissioners' Court will be held on TUESDAY, JANUARY 17, 1995 at 8:30 A.M. in the Commissioners' Courtroom of the Administration Building, Edinburg, Hidalgo County, Texas, discussion and possible action relating to the following business will be transacted:

NOTICE TO THE PUBLIC WORKSHOP

1. Legislation

Dated this the 11th day of January, 1995

THE STATE OF TEXAS :
COUNTY OF HIDALGO :

BE IT REMEMBERED that on the 17TH day of JANUARY, 1995, after due notice having been given, there was begun and holden a meeting of the Elections Commission in the Commissioners' Courtroom of the Hidalgo County Administration Building, in the City of Edinburg, Hidalgo County, Texas with the following members of said Committee present and participating:

Hon. J. Edgar Ruiz
Chairman

Hon. Jose Eloy Pulido
Vice-Chairman

Hon. Ciro Trevino
Secretary

WHEREUPON, the following proceedings

were had, to-wit:

-----000-----

JANUARY 17, 1995

The Honorable J. Edgar Ruiz called the Election Commission meeting to order, whereupon the following proceedings were had, to-wit:

JUDGE RUIZ

I hereby call this Elections Commission meeting to order, ah, good afternoon everybody, ah, present, ah, Mr. Ciro Trevino, our Tax Assessor, ah, Mr. Eloy Pulido, our County Clerk, ah, ladies and gentlemen, thank you. Ahm, we've got, we wanted to bring this to head, Commissioners, and start organizing ourselves, the Election Commission, obviously this action has been taken by the Board of County Commissioners and has been established, ah, what we anticipate in accordance with law, ahm, and it is now our responsibility as a Board to actually set policies and rules and regulations, to actually conform with the Election Code and to give direction to a department, to administer all elections in this County. Ah, I think that is the intent of the Commission and in a very general basis. What we wanted to do today is basically just give you the, what we understand is, is, is the laws, under the Texas Election, that maybe you can review them, maybe a little more leisurely in the next couple of weeks until we have a second meeting, where we start, ah, ah, putting this thing together. Ah, I, I am, I am by legislation set up by Chair, I don't know if there is a Vice necessary, Noe? Do you know that? A Vice-Chair...

NOE PEREZ

There, there is a Vice.

JUDGE RUIZ

There is a Vice and a Secretary...

NOE PEREZ

A Secretary.

JUDGE RUIZ

Okay, ah, so, so that's one issue that we need to take on next week, ah, in case I...

CIRO TREVINO

The appointments -----, you know, pretty well set in the Election Code, Judge.

JUDGE RUIZ

Oh, okay, I'm sorry, the County Clerk is Vice-Chair, by legislation and the Tax Assessor, I'm sorry, I stand corrected, Ciro. I haven't read this, ah, go ahead.

ELOY PULIDO

Judge, ah, in all fairness to Mr. Ramon Garcia and Mr. Chris Brisack, you know, and as, as you mentioned most of this information is pretty much self-explanatory and if we could, ah, Judge, if, if we could take all this, ah, information with us, on advice, where, ah, as advisement and if we not take action, ah, or you know, take action,

if, if necessary and we could take this information with us then hopefully when Mr. Brisack and Mr. Garcia come back into town, that they be afforded the same opportunity, then we could come back at the next meeting address this, ah, these issues immediately and then go on into any further action that needs to be taken.

JUDGE RUIZ

Okay. What, what we'll do if, under that recommendation, ah, we are presenting you the Texas Election Laws, for your review, we do have an inventory that needs to be accepted and a, a, ah, a budget, ah, that has to be accepted. The budget can always be amended and I think, you're right, we'll put these issues again, on the next agenda, to ratify any action that we may, we may want to take today. That, is that okay? Ah, again, I have not actually reviewed these Election Laws, ahm, and we'll do so before the next meeting. Ah, the inventory, ah, Ciro, was gracious enough to, to allow us to use, ah, ah, Noe Perez, as, as Interim Administrator, for this Election Commission. He, over and above his duties as Voter Registrar and, ah, so he started putting this inventory together, ah, everything from whatever computers are out there, to, to office furniture and, of course, the large majority is, is the voting machines. How many voting machines do we have?

NOE PEREZ

Five hundred plus, the plus are probably not working, in working condition. Ah, those are the, ah, machines that Lowell took care of them, I haven't gone up there and count each one myself; but those were the originally already in the election expense. There here now.

JUDGE RUIZ

Okay, Noe, so, they're inventoried?

NOE PEREZ

They're inventoried.

JUDGE RUIZ

They're all there, working or not working we've accounted for them, all the equipment and everything else. There are other decisions that, that are to be made, the software that's used, used by Voter Registration is presently tied and the hardware is tied to your computer and your software, right now.

NOE PEREZ

Right.

JUDGE RUIZ

Those are some of the considerations and issues that we're going to have to take into account, ah, office space, you know, Ciro and I have always fought for office space and we're probably fight for that square building in there also.

CIRO TREVINO Where?

JUDGE RUIZ Where that, office space, too, no? You and I will fight for it?

CIRO TREVINO Which space are you talking about?

JUDGE RUIZ Where Voter Registration is.

CIRO TREVINO What about, what about that?

JUDGE RUIZ We're, you and I are gonna fight for it.

CIRO TREVINO It's mine, I don't like to fight.

(LAUGHTER)

ELOY PULIDO Negotiate.

JUDGE RUIZ Let's negotiate.

CIRO TREVINO (INAUDIBLE)

JUDGE RUIZ It's no fight, it's mine, dice Ciro.

CIRO TREVINO I was hoping they would move this office, to a much larger space...

JUDGE RUIZ Well...

CIRO TREVINO ...there's, there's a lot of files in there that, that, that, ah, right now, just for the Voter Registration files and he needs to condense it, it, it's not big enough and I'm sure that maybe, if there was someplace here in this area here, that, that we could get it a much bigger space, 'cause during the election time, it's gonna be hectic and all those people come in there, from the reporting, you know, when they're reporting the voter registrar, or now the Administrator, it's it's gonna take -----

JUDGE RUIZ I agree.

CIRO TREVINO Besides, besides, I need to enlarge the Automobile Department and the space ----- I think you will help me there -----

JUDGE RUIZ We can work something there.

CIRO TREVINO Yes, you gotta help on this.

JUDGE RUIZ Yes, it's not on the agenda, Ciro. (LAUGHTER)
No, I agree with you, Ciro, no question that the Department will need more space, it just depends depends on how much., what I've done already is that, that, ah, that I've given notice to some of

the departments, some of the, the private sector who are here leasing, hopefully between now and the next month, ah,...

CIRO TREVINO

Who's...

JUDGE RUIZ

Calame and, and, and, ah, Eddie Garcia, Raul Eddie, will actually be moving out, ah, I give them on March 1st, but, ah, I think I may have to give them a little bit more time, ah, but, we, we are in desperate need of more space and we'll try to work that out.

CIRO TREVINO

You would need, ----- wherever, ah, ----- it's gonna have more space, so, that is one thing, the other thing is ----- and I think that has already been taken with, ah, some of the computer, ah, software, ah, people that are doing business and I think he's already gotten some information -----, ah, see well, right now we have new -----, on computer, but I think he's looking at the possibility of combining elections, in computer and also the, you know ----- he might have something for us to look at.

JUDGE RUIZ

Okay, all right. Okay, so at this point, ah, I'd like to recommend a motion to, to accept the inventory, that's been established and with the condition that we will ratify it when the other two members show up.

ELOY PULIDO

So move.

CIRO TREVINO

Second.

JUDGE RUIZ

Motion and second, all in favor signify by saying aye.

COMMISSION

Aye.

JUDGE RUIZ

All opposed same sign; motion carries. The budget, that, that we have presented here was actually approved by Commissioners' Court in 1994. Obviously the Commissioners' Court was proactive on this issue, it seems to me that for 1996, this, this Board will make the budget and then ask it from Commissioners' Court, but we've got \$304,317.43 that has been budgeted for the department and there is no problem for this Commission to adjust or amend this budget as it sees fit. That's why I'm asking that this budget be accepted with the understanding that the Commissioners' Court will, will better analyze this, the action, the Commission will better analyze it and make any budget amendments, salary or otherwise, ah, in the near future. You al.., we always

have the option, obviously of going back to Commissioners' Court and asking for more funds, if necessary.

CIRO TREVINO

(INAUDIBLE)

JUDGE RUIZ

Well, we can always say no on the other side. Is there a motion to accept the budget, as presented.

CIRO TREVINO

So move.

ELOY PULIDO

Second.

JUDGE RUIZ

Motion and second, all in favor signify by saying aye.

COMMISSION

Aye.

JUDGE RUIZ

It is with the condition, Jenny, that we will ratify this action next week, and it'll be on the agenda. Okay, ahm, ah, real quickly on this particular budget we did, we did have, ah, ah, some personnel that were transferred from the Tax Office and from the County Clerk's Office, and from the Election Budget, and we consolidated it and put them all together, ahm, again, those are issues that this Commission has to take on and place them temporary or place them permanent or whichever may be the case, in, in the very, very near future, we do have the responsibility and authority to appoint an Election Administrator, is that what you call it, Noe?

NOE PEREZ

Yes sir.

JUDGE RUIZ

An Election Administrator.

CIRO TREVINO

What move do you -----...

JUDGE RUIZ

Well, I think that, that, it depends on the type of procedure, I think that in our next meeting we do an Interim, and then we decide whether we want to advertise, or we want to appoint from within, or we just, you know I think that, we have discretion in doing that.

ELOY PULIDO

I agree with you, Judge, ah, ----- I would recommend that, that we, we do follow that procedure, because it is, ah, I think very important that, that we advertise, but if the advertisement and, and the, the process and procedure is gonna take, you know let's say a couple of months, I think it's important that this department be, ah, based in, in the, I want to say, in the fast-track, ah, because, I guess, we're gonna have some amendment elections, in November...

JUDGE RUIZ

Yea.

ELOY PULIDO

...ah, and some serious work needs to start, ah, get started on, on this process that, so, I would agree that we do appoint an Interim and then that, ah, you know, we begin the procedure to hire a Permanent Administrator.

JUDGE RUIZ

I think that, you know, some of the things, some of the reactions that I've gotten from, from people and the elected officials and other wise, on this, has been proactive. One of the things that, that we may venture out to, at the point that we're ready, is running city and school elections and them contracting out for a fee, okay. Two things happen, we get our budget subsidized, ah, and, and secondly, for them it's sort of an impartial, impartial Board coming in and running a city and school election.

CIRO TREVINO

Yeah.

JUDGE RUIZ

Ah, so, that, that's something we may venture out and that may be another reason why we need to incorporate quickly as...

CIRO TREVINO

That's right, I would want to -----, there are, you know some elections going on now, ah, school elections ----- those ----- have taken place, we need to have somebody in there that's gonna run the whole operation and, ah, -----

JUDGE RUIZ

Yeah, yeah, we've got the supplies, we've got the machines, we've got everything, it just makes sense for us to run, now we may not be in a position to run absentee, for seventeen, eighteen days, but for election day it may be a very impartial board that we use; go out and run a very fair and impartial election; something like that. Okay, ah, okay, any other issue.

ELOY PULIDO

Mr. Chairman, I move that we adjourn.

JUDGE RUIZ

Is there a second.

CIRO TREVINO

Second.

JUDGE RUIZ

-----sabe bien que traigo hambre, no mas de adrede lo hace. There's a motion and a second, to adjourn, all in favor signify by saying aye.

COMMISSION

Aye.

JUDGE RUIZ

All opposed same sign. Motion carries.

THERE BEING NO FURTHER BUSINESS TO COME
BEFORE SAID BOARD, the meeting of the Elections Commission was
adjourned.

J. Edgar Ruiz _____
Chairman


Jose Eloy Pulido _____
Vice-Chairman

Ciro Trevino _____
Secretary

Ramon Garcia _____ A B S E N T _____

Chris Brisack _____ A B S E N T _____

Dated this 17TH day of JANUARY, 1995.

By:  _____
Jennifer Castillo, Deputy

Workshop - January 17, 1995

- refer to exhibit -

Noe Carreros - Solid Waste + Emergency District

Judge also mentioned that an additional area was on the South
Texas Community College

Conference of Urban Counties

Proposed Legislative Platform 74th Texas Legislature

① Criminal Justice

1. New capacity sufficient to avoid any backlog.
2. Repeal prison admission allocation formula 9/1/95.
3. Adequate funds for probation.
4. Alternative corrections funds equal to Harris County.
5. Direct TDCJ to build state jails in urban counties.
6. Request reimbursement for blue warrants.
7. Request state pay for indigent defense counsel.
8. Allow jail industries to work for and sell to private sector.

② Juvenile Justice

1. No unfunded mandates to juvenile probation or counties.
2. Clarify c.cts discretion over juvenile probation budgets.
3. Greater authority for c.cts, including teen curfew.
4. Lower age for juveniles to be prosecuted as an adult.
5. New funds for alternative corrections like boot camps.
6. Allow counties to opt out of TYC in exchange for funds.
7. Expand TYC facilities.
8. New funds for child welfare programs like MHMRA and CPS.
9. Protection from liability for juvenile probationers ordered to work.

③ Medicaid/Indigent Health Care Reform

1. No cuts in Medicaid payments to hospital districts.
2. Assure hospital districts a role in any managed care plan.
3. No restrictions on dispro funds.
4. No unfunded mandates to hospital districts.
5. Intergovernmental transfers of local funds to the state through agreement only.

④ County Revenue and Budget

1. No unfunded mandates.
2. No diversion of county vehicle tag fee to cities.
3. County cut of any new gambling revenue.
4. No redirection of county revenue.
5. Clarify c.ct authority over the county budget.
6. New county revenue options if tax reform undertaken.
7. Protect county developed software under the open records act.
8. Amend open records act to charge market price for commercial data.



Conference of Urban Counties

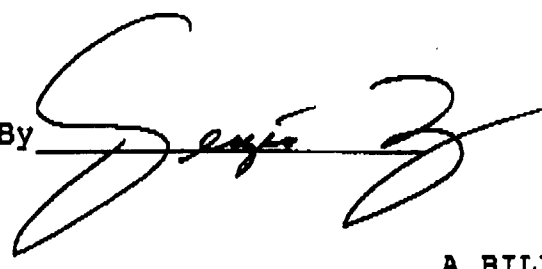
Other Proposals Considered for the 74th Legislature

- Join TAC in opposing the regulation of county self-insurance or insurance pools.
- Oppose any curtailment of felony forfeiture funds to counties.
- Oppose the extension of OSHA regulation to counties.
- Support county ordinance-making authority. Proposed by Tarrant County.
- Support removing the requirement of separated workforce development staff. Proposed by Tarrant County.
- Support reducing non-property damaging fireworks violations to class C from class B misdemeanor. Proposed by Tarrant County.
- Support extending county fire code to apartments. Proposed by Tarrant County.
- Support extending law library fee to JP cases over \$1,000. Proposed by Tarrant County.
- Support requiring licensing, bonding, and insurance for private process servers. Proposed by Tarrant County.
- Support relieving counties of tort exposure from private process servers. Proposed by Tarrant County.
- Support county access to criminal histories of county job applicants. Proposed by Tarrant County.
- Support c.ct. authority to order performance audits of county departments, recognizing elected official discretion. Proposed by Bexar County.
- Support a \$25 Sheriff's bond processing fee. Proposed by Dallas County.
- Support dedicating ct. reporter fees in response to litigation. Proposed by Dallas County.
- Support removing annual c.ct orders requirement on county fees. Proposed by Dallas County.
- Support removing the requirement that sheriff deputies be paid colleagues salary when filling in for less than 30 days. Proposed by Dallas County.
- Support cancellation of liquor licenses for failure to pay county fees. Proposed by Dallas County.
- Support a penalty for writing a hot check for license tags. Proposed by Dallas County.
- Support requiring ct. appointed counsel fee schedules to be approved by c.ct. Proposed by Dallas County.

Conference of Urban Counties

- Support authorizing c.cts. to require plats for the subdivision of land without streets, prevent modification of plats by cancellation, exempt increasing lot size from public notice requirements, and requiring mobile home subdivisions to be platted. Proposed by Comal County.
- Support authorizing c.cts. to require land sale disclosure statements in the unincorporated part of a county. Proposed by Cameron County.
- Support adding a victims advocate to the Community Justice Task Force. Proposed by Travis County.
- Support c.ct. authority to levy criminal fines for floodplain violations. Proposed by Travis County.
- Support c.ct. authority to levy criminal fines for driveway violations. Proposed by Travis County.
- Support c.ct. authority to make park rule violations Class C misdemeanors. Proposed by Travis County.

Post-It™ brand fax transmittal memo 7671		# of pages >
To <i>McSalinas</i>	From <i>Rep. Sergio Muniz</i>	
Co.	Co. <i>H. O. R.</i>	
Dept.	Phone # <i>463 0704</i>	
Fax # <i>(210) 318-2699</i>	Fax # <i>32463 0495</i>	

By 

*H.*B. No. 1929

A BILL TO BE ENTITLED

AN ACT

relating to the private practice of law by a judge of a statutory county court of Hidalgo County.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 25.1102(k), Government Code, is amended to read as follows:

(k) A judge of a county court at law may engage in the private practice of law. This subsection expires January 1, 2005 [~~1995~~].

SECTION 2. Notwithstanding Section 4, Chapter 1135, Acts of the 71st Legislature, Regular Session, 1989, Section 25.1102(1), Government Code, as added by that Act, takes effect January 1, 2005.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

BILL ANALYSIS

Senate Research Center

S.B. 92
By: Haley
Intergovernmental Relations
1-20-93
As Filed

BACKGROUND

Currently, Section 352.002 of the Tax Code authorizes certain counties to impose a hotel occupancy tax. If a county is covered under this section the Commissioners Court of that county may impose the tax by the adoption of an order or resolution. The tax rate is subject to change according to the qualifying criteria of the county. The highest rate currently allowed is seven percent.

All of the revenue raised by the hotel occupancy tax goes to the county and revenue raised under this tax may only be used to promote tourism and the convention and hotel industry.

PURPOSE

As filed, S.B. 92 adds to those counties authorized to impose a hotel occupancy tax a county that has a population of 10,000 or less and borders the Toledo Bend Reservoir.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 352.002(a)(8), Tax Code, to add a county that has a population of 10,000 or less and borders the Toledo Bend Reservoir, to the list of counties whose commissioners courts are authorized to impose a hotel occupancy tax.

SECTION 2. Emergency clause.
Effective date: upon passage.

John Hall, *Chairman*
Pam Reed, *Commissioner*
Peggy Garner, *Commissioner*
Anthony Grigsby, *Executive Director*



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

October 31, 1994

Honorable Edgar Ruiz
Hidalgo County Judge
P.O. Box 1356
Edinburg, Texas 78539

Re: County Authority - Solid Waste Disposal Service

Dear Judge Ruiz

The purpose of this correspondence is to respond to the many inquiries we have received relative to the aforementioned subject. Many counties are faced with an increasing problem of illegal dumping of municipal solid waste. The cost of addressing this problem, as explained to us by various County Officials, is increasing, with little or no known recourse for generating revenue to combat illegal dumping. This office requested guidance relative to this issue from Mr. Hector Mendieta, Manager, Special Projects Section, MSW Division - TNRCC and Mr. Eugene A. Clayborn, Staff Attorney, Legal Services Division - TNRCC. The following information was obtained and is presented to you as a construction of the statutory authority, as delegated to County governments pursuant to the County Solid Waste Control Act ("the Act"). Tex. H.B. 2136, 71st Leg. (1989). It addresses the following issues:

- (1) Whether a county can establish a solid waste collection system?
- (2) Whether a county can contract with a private entity to provide waste collection services.
- (3) Whether a county may establish rules for solid waste disposal?
- (4) Whether a county can establish and enforce fees for its solid waste disposal service?

§364.014. County Authority

Pursuant to §364.013 of the Act "a county may: (1) acquire, construct, improve, enlarge, repair, operate, and maintain all or part of one or more solid waste disposal systems..." Additionally, in §364.002 (6), the definition of "solid waste disposal system" is "a plant, composting process plant, incinerator, sanitary landfill, or other works and equipment that are installed, or operated to collect, handle, store, treat, neutralize, stabilize, or dispose of solid waste, and includes the sites." Therefore, a county does have the authority to establish a solid waste collection system.

Judge Ruiz
Page 2
October 31, 1994

Further, §364.013 of the Act states that "a county may: ...(2) contract with a person to collect, transport, handle, store, or dispose of solid waste for that person..." Additionally, in §311.005 (2) of the Code Construction Act, the definition of "person" "includes corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity..." Therefore, a county may enter into a contract with a private legal entity to provide waste collection services.

§364.011. County Adoption of Solid Waste Rules

Pursuant to §364.011(a) of the Act, "a commissioner's court by rule may regulate solid waste collection, handling, storage, and disposal in areas of the county not in a municipality or the extra-territorial jurisdiction of a municipality..." However, County solid waste rules should be reasonable and should not conflict with Chapter 361 (Solid Waste Disposal Act) or the rules of the Texas Natural Resource Conservation Commission. Therefore, a county may adopt rules for solid waste disposal.

§364.034. Solid Waste Disposal Service

Pursuant to §364.034 of the Act, "a public agency or a county may: (1) offer solid waste disposal service to persons in its territory; (2) require the use of the service by those persons; (3) charge fees for the service; and (4) establish the service as a utility separate from other utilities in its territory..." Therefore, a county has statutory authority to charge and collect fees for the use of the county's solid waste disposal service.

For further review, I have enclosed specific copies of §364.011 - §364.036. It is anticipated that the information herein provided will assist you in your efforts to combat illegal dumping in your county. If I can be of any further assistance, please feel free to call me at (210) 968-3165.

Sincerely,



Carlos Rubinstein, R.S.
Waste Program Manager
Region 15 - Harlingen

cc: Jose A. Franco, Regional Manager (w/o enclosure)

Bickerstaff, Heath & Smiley, L.L.P.

A REGISTERED LIMITED LIABILITY PARTNERSHIP

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JOHN H. KNOX

MARCO MUÑOZ—OF COUNSEL**

September 26, 1994

LETTER VIA FACSIMILE (512) 318-2699
AND ATTACHMENTS VIA FEDERAL EXPRESS

*Board Certified, Administrative Law—
Texas Board of Legal Specialization
**Licensed in Mexico only

The Honorable J. Edgar Ruiz
County Judge, Hidalgo County
P.O. Box 1356
Edinburg, Texas 78540

RE: Questions on County Issues

Dear Judge Ruiz:

Noe Cavazos and J. D. Salinas requested information concerning certain types of special districts. The first issue raised was regarding available mechanisms for solid waste handling by existing or special districts. The second question concerned the ability of consolidating Ambulance and fire prevention districts and the effect on the tax rate that such consolidation might have.

With respect to your first question, you have asked for suggestions as to how solid waste collection services can be provided to unincorporated areas of Hidalgo County. There are at least three ways that this can be accomplished:

1. A solid waste management district created by special act of the legislature;
2. A water control and improvement district; and,
3. A County-coordinated, fee-based approach.

The most versatile option is the creation of a solid waste management district by a special act of the legislature that is tailored to meet the specific needs of the County. The district's boundaries could be drawn to include only those areas of the County that are in need of service, and its funding sources could include any that are constitutionally permissible. The district would not be bound by any restriction contained in the general law.

The one drawback to this option is that it will require both confirmation and tax elections. However, these elections are not unique to districts created by special legislation and will be required of any special district option that the County might consider.

At present, there are two solid waste management districts that have been created by special legislation, and our law firm drafted the legislation which created one of them -- the Upper Sabine Valley Solid Waste Management District. See Tex. Rev. Civ. Stat. Ann. §§ 4477-7j, 4477-7k (Vernon Supp. 1994).

The Upper Sabine District was created to manage solid waste disposal in three full counties and in a portion of another. As part of its functions, it can contract with a private company to collect the waste, and it can enter into cooperative agreements with local governments and other political subdivisions. In addition, the Upper Sabine District is authorized to tax and to issue bonds. The tax and bond provisions of the special legislation are drawn more specifically than the general law. For example, the Upper Sabine District's maintenance and operating tax cannot exceed three cents on each \$100 of assessed valuation of property; there is no such restriction in the general law. However, as is the case in the general law, and as would be the case with a district created for Hidalgo County, confirmation and tax elections are required.

A copy of the Upper Sabine District's enabling legislation is enclosed for your review.

Another option is the creation of a water control and improvement district (WCID) to undertake the collection of solid waste in the desired area. The Water Code allows WCIDs to be created for the purpose of managing solid waste. Tex. Water Code Ann. § 51.331 (Vernon 1972). They can include all or only a portion of a county, and they can overlap or coincide with other governmental entities, including other WCIDs. Tex. Water Code Ann. § 51.012 (Vernon 1972).

With respect to funding their operations, WCIDs can charge fees, borrow money, issue bonds, and levy taxes. See e.g., Tex. Water Code Ann. §§ 51.337, 51.339, 51.360, 51.402, 51.508, 51.635 (Vernon 1972); 51.338(a), 51.371 (Vernon Supp. 1994). In fact, WCIDs that engage in solid waste management are required to adopt a tax plan that sets tax rates on an ad valorem basis, a benefit basis, or a combination of both. Tex. Water Code Ann. 51.511, et seq. (Vernon 1972). See also Tex. Water Code Ann. 51.337 (Vernon 1972). There is no limit on the rate that can be set; however, any tax rate set by the district must be approved by the voters at a tax election. Tex. Water Code Ann. §§ 51.360(b), 51.361, 51.538, 51.650 (Vernon 1972). See also Slater v. Ellis County Levee Improvement Dist. No. 9, 36 S.W.2d 1014, 1017-18 (Tex. 1931).

WCIDs that engage in solid waste management must be created by the Texas Natural Resource Conservation Commission (TNRCC), even if they are located wholly in one county.

Tex. Water Code Ann. § 51.333 (Vernon 1972).¹ The process begins with the filing of a petition usually signed by at least 50 landowners within the proposed district. Tex. Water Code Ann. § 51.013 (Vernon 1972); 31 TAC § 293.11. After the petition is filed and notice is given, the TNRCC will conduct a hearing on the creation of the district. Tex. Water Code Ann. §§ 51.021, 51.027-.030 (Vernon 1972). The Texas Department of Health will render technical aid to the TNRCC during the hearing. Tex. Water Code Ann. § 51.333 (Vernon Supp. 1994). If the TNRCC grants the petition, the district's creation will be put before the voters in a confirmation election. Tex. Water Code Ann. § 51.033 (Vernon 1972).

For your review, I have enclosed a copy of an article on the creation of WCIDs which was written by one of our attorneys for our Local Government Seminar two years ago.

The final option is for the County to coordinate the collection of solid waste under Chapter 364 of the Health and Safety Code by contracting directly with a private collection company. Since ad valorem taxes must be county-wide, the County cannot levy an ad valorem tax solely within its unincorporated area to pay for the collection services rendered under the contract. As a result, the County would have to rely on fees paid by those receiving the service. However, as we have discussed, a fee-based system is unworkable unless and until the local water supply corporations agree to collect the solid waste collection fees for the County. Please let me know if you would like discuss another attempt at a legislative solution to this problem (or any other solution for that matter).

Your second question regards whether the County can consolidate ambulance and fire prevention services into a single entity, whose ad valorem taxing authority will equal that of rural fire prevention districts and emergency services districts combined.

In answer to your question, although it appears that the existing emergency services district possesses the authority to include fire protection and fire prevention services within its scope of operations, we do not believe it can increase its aggregate taxing authority by the provision of fire protection and prevention services which otherwise would be provided by a rural fire protection district with independent taxing authority.

Emergency Services Districts - County emergency services districts are created under the authority of Chapter 775 of the Health & Safety Code. The powers of such districts are enumerated in Health & Safety Code § 775.031, which by implication include fire prevention

¹ WCIDs that do not engage in solid waste management may be created by the commissioners court if the district will be located wholly within one county. Tex. Water Code Ann. § 51.016 (Vernon 1972).

and fire protection services as emergency services. Section 775.031(b) creates an exception to the inclusion of fire prevention and fire protection services as emergency services, stating that emergency services districts located within counties of 2.4 million in population may not provide fire prevention or fire-fighting services unless the district was originally a rural fire prevention district and subsequently converted to an emergency services district under section 775.056 of the Health & Safety Code.

1. Taxing authority - The ad valorem taxing authority of emergency services districts is set forth in section 775.018 and sections 775.074 - 775.075 of the Health & Safety Code which generally allows the imposition of a tax not to exceed ten cents on each one hundred dollars of taxable value of taxable property within the district. Two exceptions to the ten cent tax ceiling exist: 1) if any area in the district is also included in a rural fire prevention district, then the ceiling is reduced to two cents per one hundred dollars of taxable value of taxable property, and; 2) if the district is located wholly within a county with a population of more than 2.4 million, the ad valorem tax imposed by the district cannot exceed three cents per one hundred dollar valuation, or six cents per one hundred dollar valuation in the event the district is consolidated with a rural fire prevention district.

There is no statutory authority which would allow an emergency services district to exceed the ten cent ad valorem tax ceiling, even in the event of conversion from a rural fire prevention district which, prior to the conversion, had independent taxing authority of up to three cents per hundred dollars of taxable property.

Section 775.0751 of the Health & Safety Code also allows emergency services districts to impose sales and use taxes in one-half cent increments up to a ceiling of two percent, so long as the combined rate of all sales and use taxes imposed by the district and other political subdivisions having territory within the district does not exceed two percent at any location in the district. The application, collection and administration of the district's sales and use taxes is governed by Chapter 323 of the Tax Code.

2. Conversion of rural fire prevention districts - Existing rural fire prevention districts may be converted into emergency services districts pursuant to section 775.056(a) of the Health & Safety Code, but not vice versa. In the event of conversion, the emergency services district assumes all obligations and outstanding indebtedness of the rural fire prevention district. Health & Safety Code § 775.056(b).

Rural Fire Prevention Districts - Rural fire prevention Districts are created and governed by Chapter 794 of the Health & Safety Code. The function of these districts is to protect life and

property from fire and to conserve natural and human resources. Health & Safety Code § 794.003.

1. **Taxing authority** - The ad valorem taxing authority of rural fire prevention districts may not exceed three cents on each one hundred dollars of the taxable value of taxable property within the district. Health & Safety Code §§ 794.018, 794.075. Rural fire prevention districts have no statutory authority to impose sales and use taxes, as do emergency services districts.


2. **Conversion into emergency services districts** - Upon receipt of a petition and the vote of a majority of the qualified voters within the district, a rural fire prevention district may be converted into an emergency services district. Health & Safety Code § 794.100. Section 794.100 is consistent with Section 775.056 which also governs conversion of rural fire prevention districts into emergency services districts.

Emergency services districts may be converted from existing rural fire prevention districts, and may provide fire prevention and fire protection services. However, these districts cannot combine the ad valorem taxing authority of rural fire prevention districts with their own taxing authority to result in an increased ad valorem rate ceiling.

In the instance of Hidalgo County, the statutory maximum of ad valorem tax rate imposed by the County Emergency Services District is ten cents per one hundred dollars valuation, unless some portion of an existing fire prevention district extends into the boundaries of the Emergency Services District.

I hope that this information is useful to the County in orienting you to the issues that are involved and the opportunities that exist for the County in these areas. As I indicated in the letter, the firm has been involved in the creation of the type of solid waste management districts that you inquired about as well as in the handling of tax rate matters for the other types of districts inquired about. We would be happy to visit with you and your staff when you review this material to answer any questions or to provide additional advise on these matters.

Sincerely,


David Méndez

DM/cg
david@ruiz.dm

8-10-237*

RE: Solis - Zoning for areas by Mexico
A BILL TO BE ENTITLED

AN ACT

relating to granting the commissioners courts of counties along the Texas-Mexico border the authority to regulate the use of land in unincorporated areas; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 7, Local Government Code, is amended by adding Chapter 238 to read as follows:

CHAPTER 238. BORDER COUNTY LAND MANAGEMENT AND DEVELOPMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 238.001. LEGISLATIVE FINDINGS; PURPOSE. (a) The

legislature finds that:

(1) the lack of regulation of building and development in the area of the state near the border of Mexico has created conditions that threaten the health, safety, and welfare of the residents of and visitors to the area; and

(2) proper regulation in the area is of concern to the entire state.

(b) The powers granted under this chapter are for the purpose of promoting the public health, safety, and welfare and encouraging the efficient use of land for business, commerce, and residences.

Sec. 238.002. APPLICATION. This chapter applies only to the unincorporated area of a county that borders the Republic of Mexico.

[Sections 238.003-238.010 reserved for expansion]

SUBCHAPTER B. LAND USE REGULATION

Sec. 238.011. LAND USE REGULATIONS GENERALLY. The

commissioners court may regulate in the area subject to this chapter:

(1) the height, number of stories, and size of buildings or other structures;

(2) the percentage of a lot that may be occupied by structures;

(3) the size of yards, courts, and other open spaces;

(4) population density;

(5) the location and use of buildings, other structures, and land for business, industrial, residential, agricultural, or other purposes; and

(6) the placement of water and sewage facilities, parks, recreational facilities, and other public requirements.

Sec. 238.012. COMPLIANCE WITH COMPREHENSIVE PLAN. Regulations must be adopted in accordance with a comprehensive plan and must be designed to:

(1) lessen congestion in the streets and roads;

(2) secure safety from flood, windstorm, fire, panic, and other dangers;

(3) promote health and the general welfare;

(4) provide adequate light and air;

(5) prevent the overcrowding of land;

(6) avoid undue concentration of population;

(7) facilitate the adequate provision of



1 transportation, emergency evacuation, water, sewers, parks, and
2 other public requirements; or

3 (8) assist in developing the area into parks and
4 recreational areas for the residents of this state and other states
5 and nations.

6 Sec. 238.013. DISTRICTS. (a) The commissioners court may
7 divide the area in its county that is subject to this chapter into
8 districts of a number, shape, and size the court considers best for
9 carrying out this subchapter. Within each district, the
10 commissioners court may regulate the erection, construction,
11 reconstruction, alteration, repair, or use of buildings, other
12 structures, or land.

13 (b) The regulations must be uniform for each class or kind
14 of building in a district, but the regulations may vary from
15 district to district. The regulations shall be adopted with
16 reasonable consideration for, among other things, the character of
17 each district and its peculiar suitability for particular uses,
18 with a view of conserving the value of buildings and encouraging
19 the most appropriate use of land throughout the area.

20 Sec. 238.014. LAND USE AND DEVELOPMENT. (a) To exercise
21 the powers authorized by this chapter, the commissioners court
22 shall appoint a land use and development commission.

23 (b) The commissioners court may enter into a services
24 agreement with a planning agency created under Chapter 391, or with
25 another political subdivision, to provide assistance to the land
26 use and development commission in performing its functions and
27 responsibilities.

1 (c) The commission shall recommend boundaries for the
2 original districts and appropriate regulations for each district.
3 The commission must consist of a presiding officer and six
4 additional members, each of whom is a resident of the county. At
5 least one member must be a representative of agricultural interests
6 in the county.

7 (d) The commissioners court shall appoint a presiding
8 officer. The members serve two-year terms. In making the initial
9 appointments of the other members, the commissioners court shall
10 designate the members for staggered terms of one and two years. In
11 the event of resignation, end of term, or a vacancy, the court
12 shall appoint new members. The court shall fill a vacancy in the
13 office of presiding officer by appointment. The commission may
14 employ a secretary, an acting secretary, and other technical or
15 clerical personnel.

16 (e) A member of the commission is entitled to compensation
17 in an amount set by the commissioners court. A member of the
18 commission may also be entitled to expenses actually incurred while
19 serving on the commission as provided by order of the commissioners
20 court.

21 (f) The commission shall make a preliminary report and hold
22 public hearings on that report before submitting a final report to
23 the commissioners court. The commissioners court may not take
24 action or hold a public hearing until it has received the final
25 report of the commission. In preparing the final report the
26 commission shall consult with and consider recommendations of any
27 regional planning council having the county within its region.

1 (g) Before the 10th day before the hearing date, written
2 notice of each public hearing before the commission on a proposed
3 change in a classification in the district shall be sent to:

4 (1) each owner of affected property or to the person
5 who renders the property for county taxes; and

6 (2) each owner of property that is located within 200
7 feet of property affected by the change or to the person who
8 renders the property for county taxes.

9 (h) The notice may be served by depositing it, postage paid
10 and properly addressed, in the United States mail.

11 Sec. 238.015. PROCEDURE GOVERNING ADOPTION OF REGULATIONS
12 AND DISTRICT BOUNDARIES. (a) The commissioners court may not
13 adopt, alter, or repeal a regulation or district boundary unless it
14 has:

15 (1) received the recommendation of the land use and
16 development commission concerning the proposed action; and

17 (2) held a public hearing on the proposed action at
18 which all interested parties have an opportunity to be heard.

19 (b) Notice of the time, place, and subject of the hearing
20 shall be published in a newspaper of general circulation in the
21 county not later than the 15th day before the date of the hearing.

22 (c) The commission may not make a recommendation to the
23 commissioners court under this section unless it first holds a
24 public hearing on the matter. Before the 10th day before the date
25 of the hearing, written notice of the hearing shall be given to

26 each owner of property directly affected by the recommendation and
27 each person owning property within 200 feet of the affected

1 property. Notice may be by publication in a newspaper of general
2 circulation in the county or may be served by depositing it,
3 properly addressed with postage paid, in the United States mail not
4 later than the 10th day before the date of the hearing.

5 (d) If a proposed change to a regulation or boundary is
6 protested in accordance with this subsection, the proposed change
7 must receive, in order to take effect, the affirmative vote of at
8 least four-fifths of all members of the commissioners court. The
9 protest must be signed by:

10 (1) owners of property constituting at least 20
11 percent of the area affected by the proposed change; or
12 (2) owners of property constituting 20 percent of the
13 area included in the lots or parcels of land adjoining the area
14 affected by the proposed change.

15 (e) The commissioners court shall establish reasonable
16 regulations as to the time, place, and form for filing protests to
17 proposed changes.

18 Sec. 238.016. SPECIAL EXCEPTION. (a) Any of the following
19 persons may petition the commissioners court for a special
20 exception to a regulation adopted by the commissioners court:

21 (1) a person aggrieved by the regulation; or
22 (2) any officer, department, board, or bureau of the
23 county or of a municipality in the county.

24 (b) The commissioners court shall hold a public hearing on
25 the petition and shall publish notice of the hearing before the
26 15th day before the date of the hearing in a newspaper of general
27 circulation in the county.



1 Except as provided by Subsection (d), the commissioners
2 court may grant a petition for a special exception by majority
3 vote.

4 (d) If a proposed special exception to a regulation is
5 protested in accordance with this subsection, the proposed special
6 exception must receive, in order to take effect, the affirmative
7 vote of at least four-fifths of all members of the commissioners
8 court. The protest must be presented at the hearing and signed by
9 the owners of at least 20 percent of:

10 (1) the lots covered by the proposed exception; or
11 (2) the lots immediately adjacent to the rear of the
12 lots covered by the proposed exception extending 200 feet from
13 those lots or from the street frontage of the opposite lots.

14 Sec. 238.017. BOARD OF ADJUSTMENT. (a) The commissioners
15 court in a county with a population of more than 250,000 may
16 provide for the appointment of a board of adjustment and authorize
17 the board of adjustment, in appropriate cases and subject to
18 appropriate conditions and safeguards, to make special exceptions
19 to the regulations adopted under this subchapter. The exceptions
20 must be consistent with the general purposes and intent of the
21 regulations and comprehensive plan.

22 (b) A board of adjustment consists of five members appointed
23 by the commissioners court for terms of two years. The
24 commissioners court may remove a board member for cause on a
25 written charge after a public hearing. A vacancy on the board
26 shall be filled for the unexpired term by a person appointed by the
27 commissioners court. Each case before the board of adjustment must

1 be heard by at least four members.

2 (c) The board shall elect from its membership a presiding
3 officer to serve for any tenure the board determines, not to exceed
4 the member's term on the board. The board may elect other
5 officers.

6 (d) The commissioners court may provide for the appointment
7 of four alternate board members to serve in the absence of one or
8 more regular members. An alternate member serves for the same
9 period as a regular member and is subject to removal in the same
10 manner as a regular member. A vacancy among the alternate members
11 is filled in the same manner as a vacancy among the regular
12 members.

13 (e) The board shall adopt rules consistent with regulations
14 adopted under this subchapter. Meetings of the board are held at
15 the call of the presiding officer and at other times as determined
16 by the board. The presiding officer or acting presiding officer
17 may administer oaths and compel the attendance of witnesses. All
18 meetings of the board must be open to the public.

19 (f) A member of the board is entitled to compensation in an
20 amount set by the commissioners court. A member of the board may
21 also be entitled to expenses actually incurred while serving on the
22 board as provided by order of the commissioners court.

23 Sec. 238.018. POWERS OF BOARD OF ADJUSTMENT. The board of
24 adjustment may:

25 (1) hear and decide appeals involving allegations that
26 there is an error in an action by an administrative official in the
27 enforcement of this subchapter or in the enforcement of an order or

1 regulation adopted under this subchapter:
 2
 3 (2) hear and decide special exceptions to an order if
 4 the commissioners court requires the board to do so; and
 5 (3) authorize on appeal in specific cases a variance
 6 from an order that is not contrary to the public interest if,
 7 because of special circumstances, a literal enforcement of the
 8 order will result in unnecessary hardship and if under the variance
 9 the spirit of the regulation will be observed and substantial
 10 justice will be done.
 11 Sec. 238.019. APPEALS TO BOARD OF ADJUSTMENT. (a) A person
 12 aggrieved by, or any officer, department, board, or bureau of the
 13 county or of a municipality affected by, any action of an
 14 administrative official designated to enforce this subchapter or a
 15 regulation adopted under this subchapter may appeal to the board of
 16 adjustment.
 17 (b) The appeal must be taken within a reasonable time after
 18 the action from which the appeal is taken. The board of adjustment
 19 shall provide rules setting time limits for taking appeals. An
 20 appeal is taken by filing with the officer from whose action the
 21 appeal is taken and with the board of adjustment a written notice
 22 of appeal stating the reasons for the appeal. The officer with
 23 whom the notice is filed shall promptly transmit to the board all
 24 papers constituting the record of the action from which the appeal
 25 is taken.
 26 (c) The board shall schedule a hearing on the appeal to be
 27 held within a reasonable time and give notice to all parties
involved and to the public. At the hearing a party may appear in

1 person or by agent or attorney. The board shall decide the appeal
 2 within a reasonable time after the hearing.
 3 (d) In disposing of an appeal, the board, in compliance with
 4 this subchapter, may affirm or reverse, wholly or partly, or modify
 5 the action from which the appeal is taken. In granting relief, the
 6 board has all the powers of the officer from whose action the
 7 appeal is taken.
 8 (e) The concurring vote of four members of the board is
 9 required to reverse an action of an administrative officer of the
 10 county.
 11 Sec. 238.020. APPEAL FROM BOARD OF ADJUSTMENT. (a) Any
 12 taxpayer, officer, department, board, or bureau of the county or of
 13 a municipality or any person aggrieved by a decision of the board
 14 of adjustment may appeal the decision by presenting a verified
 15 petition to a court of competent jurisdiction stating that the
 16 decision is illegal, in whole or in part, and specifying the nature
 17 of the illegality. The petition must be filed not later than the
 18 10th day after the date of the decision of the board.
 19 (b) On presentation of the petition, the court may issue a
 20 writ of certiorari directed to the board of adjustment to review
 21 the board's decision. The writ must prescribe the time within
 22 which a return must be made and served on the relator's attorney.
 23 This time may not be before the 10th day after the date of issuance
 24 of the writ. The return date may be extended by the court. The
 25 issuance of the writ does not stay proceedings on the decision
 26 appealed, but the court on application, and after notice to the
 27 board and a showing of good cause, may grant a restraining order.

1 (c) The board is not required to return the original papers
2 on which it acted but may return certified copies of them or of
3 portions that are called for in the writ. The return must
4 concisely state any other facts that may be pertinent and material
5 to show the grounds of the decision appealed. The return must be
6 verified.

7 (d) If it appears to the court at the hearing that testimony
8 is necessary for the proper disposition of the matter, the court
9 may take evidence or appoint a referee to take evidence as it
10 directs and report findings of fact and conclusions of law to the
11 court. The report is a part of the proceedings on which the
12 court's determination shall be made. The court may reverse or
13 affirm, wholly or partly, or may modify the decision appealed.
14 Costs may not be assessed against the board unless the court
15 determines the board acted with gross negligence, bad faith, or
16 malice in its decision.

17 Sec. 238.021. ENFORCEMENT; REMEDIES. (a) The commissioners
18 court may adopt orders to enforce this subchapter or an order or a
19 regulation adopted under this subchapter.

20 (b) If a building or other structure is erected,
21 constructed, reconstructed, altered, repaired, converted, or
22 maintained or if a building, other structure, or land is used in
23 violation of this subchapter or an order or regulation adopted
24 under this subchapter, the appropriate county authority, in
25 addition to other remedies, may institute appropriate action to:

- 26 (1) prevent the unlawful action or use;
- 27 (2) restrain, correct, or abate the violation;

1 (3) prevent the occupancy of the building, other
2 structure, or land; or
3 (4) prevent any illegal act, conduct, business, or use
4 on or about the premises.

5 Sec. 238.022. CONFLICT WITH OTHER LAWS; EXCEPTIONS. (a) If
6 a statute or an order, ordinance, or regulation of the state, a
7 political subdivision, or another governmental agency conflicts
8 with an order or regulation adopted under this chapter, the more
9 restrictive standard applies to the extent of the conflict.

10 (b) This subchapter does not authorize the commissioners
11 court to require the removal or destruction of property that exists
12 and that is actually and necessarily used in a public service at
13 the time the commissioners court implements this subchapter.

14 [Sections 238.023-238.030 reserved for expansion]

15 SUBCHAPTER C. CODES

16 Sec. 238.031. AUTHORITY TO ADOPT AND ENFORCE BUILDING,
17 ELECTRICAL, MECHANICAL, GAS, FIRE, AND PLUMBING CODE. (a) The
18 commissioners court of a county may adopt a building, electrical,
19 mechanical, gas, fire, or plumbing code or another code regulating
20 the construction, alteration, reconstruction, or razing of
21 structures and may adopt rules necessary to administer and enforce
22 those codes. An adopted code applies to the area subject to this
23 chapter.

24 (b) The commissioners court and a municipality in the county
25 may contract with each other for the administration and enforcement
26 of any adopted code.

27 Sec. 238.032. CONTENT OF CODES. (a) A code adopted under

1 this subchapter may apply to a commercial, residential, or public
2 building constructed in an area to which this chapter applies.

3 (b) An adopted building code must conform to a national
4 building code published by the Southern Building Code Congress or
5 the Building Officials and Code Administrators International or
6 must establish protective measures that provide equivalent
7 protection as determined by the Texas Department of Housing and
8 Community Affairs.

9 (c) An adopted electrical code must conform to the National
10 Electrical Code published by the National Fire Protection
11 Association or must establish protective measures that provide
12 equivalent protection as determined by the Texas Department of
13 Housing and Community Affairs.

14 (d) An adopted plumbing code must conform to a national
15 plumbing code published by the Southern Building Code Congress or
16 the Building Officials and Code Administrators International or
17 must establish protective measures that provide equivalent
18 protection as determined by the Texas Department of Housing and
19 Community Affairs.

20 Sec. 238.033. BUILDING PERMIT; APPLICATION. (a) The
21 commissioners court may require that a person may not construct a
22 building described by Section 238.032(a) in an area to which this
23 chapter applies unless the person obtains a building permit issued
24 in accordance with this subchapter.

25 (b) A person may apply for a building permit by providing to
26 the commissioners court:

27 (1) a plan of the proposed building containing any

1 information required by the commissioners court; and
2 (2) an application fee in an amount set by the
3 commissioners court.

4 Sec. 238.034. COUNTY ORDERS RELATING TO CERTAIN BUILDINGS.
5 (a) A county by order may require the vacation, relocation of
6 occupants, securing, removal, or demolition of a building that is:
7 (1) dilapidated, substandard, or unfit for human
8 habitation; and
9 (2) a hazard to the public health, safety, and
10 welfare.

11 (b) The order must:
12 (1) establish minimum standards for the continued use
13 and occupancy of a building regardless of the date of its
14 construction;
15 (2) provide for giving proper notice to the owner of a
16 building; and
17 (3) provide for a public hearing to determine whether
18 a building complies with the standards set out in the order.

19 Sec. 238.035. INSPECTIONS. (a) The county shall inspect a
20 building subject to this subchapter to determine whether the
21 building complies with any adopted codes.

22 (b) The commissioners court may provide that a county
23 employee or an employee of another governmental entity under
24 intergovernmental contract may perform the inspection.

25 (c) A building inspector may enter and perform the
26 inspection at a reasonable time at any stage of the building's
27 construction or after completion of the building.

1 (d) On or before the date that construction of a building

2 subject to this subchapter is completed, the owner of the building
3 shall request in writing that the county inspect the building for
4 compliance with any adopted codes.

5 (e) The county shall issue a final certificate of compliance
6 to the owner of a building inspected under this section if the
7 inspector determines, after an inspection of the completed
8 building, that the building complies with all adopted codes.

9 Sec. 238.036. FEES. (a) The commissioners court may
10 develop a fee schedule based on building type and may set and
11 charge fees for an inspection, for the issuance of a building
12 permit, and for a final certificate of compliance under this
13 subchapter.

14 (b) The fees must be set in amounts necessary to cover the
15 cost of administering and enforcing this subchapter.

16 (c) The county shall deposit fees received under this
17 subchapter in a special fund in the county treasury. Money in the
18 special fund may be used only for the administration and
19 enforcement of regulations adopted under this chapter, except
20 surplus money in the fund may be used for any other purpose.

21 Sec. 238.037. INJUNCTION. The appropriate attorney
22 representing the county in the district court may seek injunctive
23 relief against the owner, the owner's representative with control
24 over the building, or the occupier of a building that the county
25 determines violates an adopted code to prevent the violation or
26 threatened violation of the code.

27 [Sections 238.038-238.040 reserved for expansion]

1 SUBCHAPTER D. PENALTIES

2 Sec. 238.041. CRIMINAL PENALTY. (a) A person commits an
3 offense if the person violates this chapter, an order or a
4 regulation adopted under this chapter, or a code adopted under this
5 chapter. Each day that a violation occurs constitutes a separate
6 offense.

7 (b) An offense under this section is a Class C misdemeanor.
8 Sec. 238.042. CIVIL PENALTY. (a) The appropriate attorney
9 representing the county in civil cases may file a civil action to
10 recover a civil penalty against:

11 (1) a person who violates this chapter or an order, a
12 regulation, or code adopted under this chapter; or

13 (2) the owner or the owner's representative with
14 control over a building that the county determines violates an
15 adopted code.

16 (b) The civil penalty may not exceed \$200 for each day on
17 which the violation exists. In determining the amount of the
18 penalty, the court shall consider the seriousness of the violation.

19 (c) The county shall deposit amounts collected under this
20 section in the special fund described by Section 238.036(c).

21 SECTION 2. This Act takes effect September 1, 1993.

22 SECTION 3. The importance of this legislation and the
23 crowded condition of the calendars in both houses create an
24 emergency and an imperative public necessity that the
25 constitutional rule requiring bills to be read on three several
26 days in each house be suspended, and this rule is hereby suspended.



By Cuellar, R.

H.B. No. 33

74R1816 JSA-D

A BILL TO BE ENTITLED
AN ACT

relating to the establishment and operation of an academic health center in the Rio Grande Valley.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 74, Education Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. RIO GRANDE VALLEY ACADEMIC HEALTH CENTER

Sec. 74.611. AUTHORITY TO ESTABLISH OR PARTICIPATE IN

CENTER. (a) The Board of Regents of The University of Texas System may execute and carry out affiliation or coordination agreements with any other entity or institution in Cameron, Hidalgo, Starr, Webb, or Willacy County to establish or to participate in the establishment or operation of an academic health center in any of those counties. The academic health center may be used to provide clinical, postgraduate, including internship and residency, or other levels of medical educational work in those counties in connection with any component institution or institutions of The University of Texas System as the board determines appropriate. The primary purpose of the center is to provide medical education in primary medical care, but education in other medical disciplines may also be provided.

(b) The board may execute and carry out affiliation, coordination, or other agreements with any other person or

crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

By *Gutierrez*

HB. No. 68

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the provision of medical education programs by The
3 University of Texas System in certain counties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 74, Education Code, is amended by adding
6 Subchapter L to read as follows:

7 SUBCHAPTER L. MEDICAL EDUCATIONAL PROGRAMS

8 IN CERTAIN COUNTIES

9 Sec. 74.701. MEDICAL EDUCATIONAL PROGRAMS IN CERTAIN
10 COUNTIES. (a) The board of regents of The University of Texas
11 System may provide clinical, postgraduate, or other medical
12 education programs in Brooks, Cameron, Hidalgo, Jim Hogg, Kenedy,
13 Starr, or Willacy County.

14 (b) The board may execute and carry out affiliation,
15 coordination, or other agreements with any institution of higher
16 education or other legal entity as needed to conduct and operate
17 medical education programs created under this section.

18 (c) The board may utilize the facilities and staffs of the
19 medical and dental units of The University of Texas System in
20 carrying out this section.

21 SECTION 2. The importance of this legislation and the
22 crowded condition of the calendars in both houses create an
23 emergency and an imperative public necessity that the
24 constitutional rule requiring bills to be read on three several

1 days in each house be suspended, and this r is hereby suspended,
2 and that this Act take effect and be in force om and after its
3 passage, and it is so enacted.