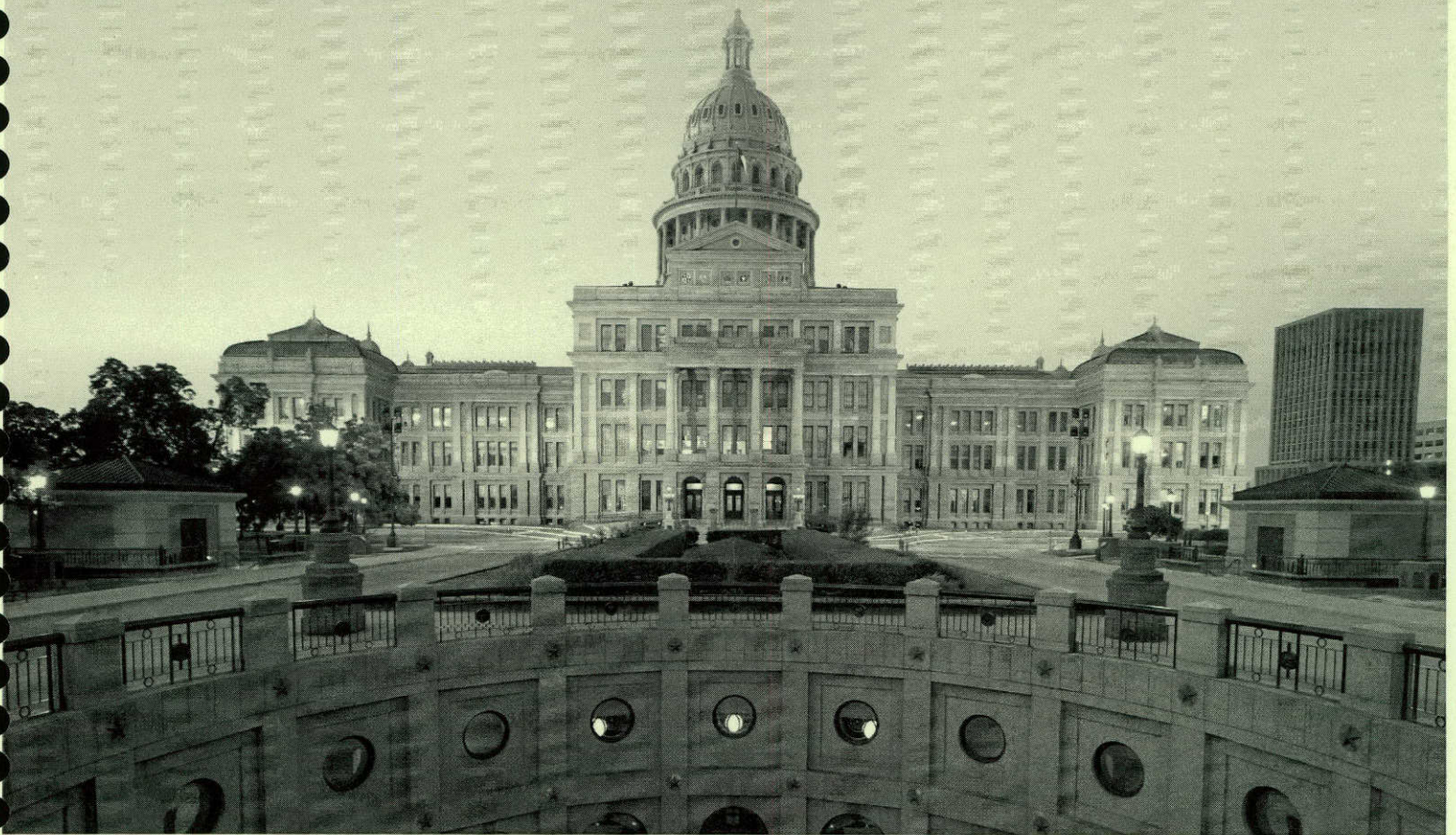


INTERIM REPORT

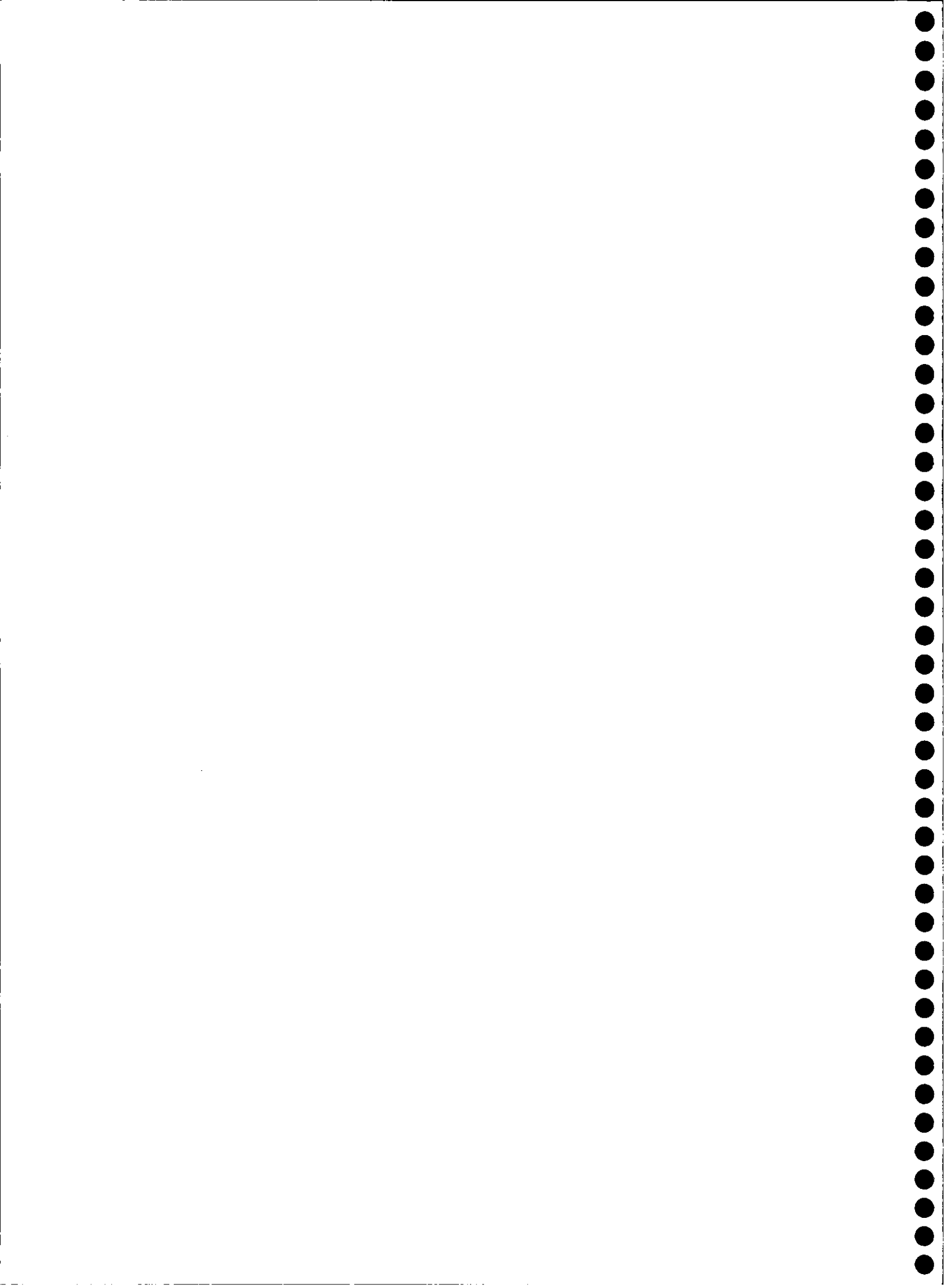
to the 85th Texas Legislature



HOUSE COMMITTEE ON
LAND & RESOURCE MANAGEMENT



DECEMBER 2016



**HOUSE COMMITTEE ON LAND & RESOURCE MANAGEMENT
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2016**

**A REPORT TO THE
HOUSE OF REPRESENTATIVES
85TH TEXAS LEGISLATURE**

**JOE D. DESHOTEL
CHAIRMAN**

**COMMITTEE CLERK
MELISSA QUEVEDO**





Committee On
Land & Resource Management

December 5, 2016

Joseph "Joe" Deshotel
Chairman


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

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

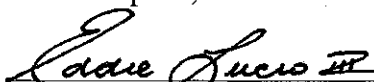
Dear Mr. Speaker and Fellow Members:

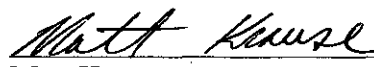
The Committee on Land & Resource Management of the Eighty-fourth Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Eighty-fifth Legislature.

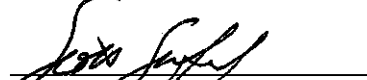
Respectfully submitted,

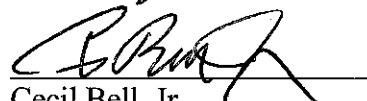

Joseph "Joe" Deshotel, Chair

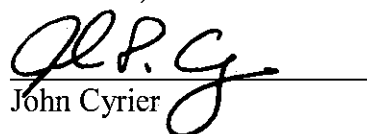

Ed Thompson, Vice-Chair


Eddie Lucio III


Matt Krause


Scott Sanford


Cecil Bell, Jr.


John Cyrier

Ed Thompson
Vice-Chairman

Members: Eddie Lucio, III; Matt Krause; Scott Sanford; Cecil Bell, Jr.; John Cyrier



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INTRODUCTION TO LAND & RESOURCE MANAGEMENT

At the beginning of the 84rd Legislature, the Honorable Joe Straus, Speaker of the Texas House of Representatives, appointed seven members to the House Committee on Land and Resource Management (the Committee).

The Committee membership includes the following appointees:

Joe Deshotel, Chair; Ed Thompson Vice-Chair; Eddie Lucio, III; Matt Krause; Scott Sanford; Cecil Bell, Jr., John Cyrier

Pursuant to House Rule 3, Section 25 (84rd Legislature), the Committee shall have jurisdiction over all matters pertaining to:

- (1) the management of public lands;
- (2) the power of eminent domain;
- (3) annexation, zoning, and other governmental regulation of land use; and
- (4) the following state agencies: the School Land Board, the Board for Lease of University Lands, and the General Land Office.

During the interim, Speaker Joe Straus issued five interim charges to the Committee to study and report back with facts, findings, and recommendations. The House Committee held two public hearings on 22nd of August and 21st of September to study the charges.

The Committee also accepted written testimony and research from the public in the course of compiling this report. Appreciation is extended to those who testified before the Committee and those who submitted written testimony and research during this time.



INTERIM STUDY CHARGES

1. Study state preparedness and response to natural disasters including but not limited to: an evaluation of risks to the state, emergency planning efforts, first response efforts, coordination between the General Land Office, the State Emergency Operation Center, and other state, local, and federal resources. Make appropriate recommendations to ensure Texas has the proper programs, resources, and personnel in place to respond to natural disasters.
2. Examine the rate of erosion along Texas's coast and the effects of coastal erosion on public beaches, natural resources, coastal development, public infrastructure, and public and private property. Analyze current programs related to coastal erosion and examine their effectiveness. Make appropriate recommendations.
3. Study the effectiveness of the implementation of SB 695 (84R) and examine the feasibility and desirability of creating and maintaining a coastal barrier system.
4. Examine current regulatory authority available to municipalities in their extraterritorial jurisdiction. Study current annexation policies in Texas. Make necessary legislative recommendations to ensure a proper balance between development, municipal regulations, and the needs of citizens in Texas.
5. Conduct legislative oversight and monitoring of the agencies and programs under the committee's jurisdiction and the implementing of relevant legislation passed by the 84th Legislature, and specifically:
 - a. consider any reforms to state agencies to make them more responsive to Texas taxpayers and citizens;
 - b. identify issues regarding the agency or its governance that may be appropriate to investigate, improve, remedy, or eliminate;
 - c. determine whether an agency is operating in a transparent and efficient manner; and
 - d. identify opportunities to streamline programs and services while maintaining the mission of the agency and its programs.



CHARGE I

Study state preparedness and response to natural disasters including but not limited to: an evaluation of risks to the state, emergency planning efforts, first response efforts, coordination between the General Land Office, the State Emergency Operation Center, and other state, local, and federal resources. Make appropriate recommendations to ensure Texas has the proper programs, resources, and personnel in place to respond to natural disasters.

SCOPE OF COMMITTEE WORK

The Committee held a hearing in Austin, Texas on Monday, 22nd of August 2016. During the hearing, the committees heard invited testimony from the following: Pete Phillips, Texas General Land Office; Bob Nicks, Austin Firefighters Association; Randy D. Denzer, Austin Firefighters Association; Chief Nim Kidd, Texas Department of Public Safety/Texas Department of Emergency Management; and John Fanelli, Hughes Network Systems. Registered but did not testify: Heather Lagrone, Texas General Land Office; Marie Robb, Self.

BACKGROUND INFORMATION

Disaster

*The occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, extreme heat, other public calamity requiring emergency action, or energy emergency.*¹

According to Texas Department of Public Safety Division of Emergency Management, Texas has incurred 93 major disasters in the last 63 years. Since 2010, we have had 10 federally declared disasters, 2 emergency declarations, 58 fire management assistance declaration, 8 declared state disasters.²

In 2015 alone, Texas endured severe weather and flooding in the months of May, June, and October. The areas effected from the flooding saw a rapid growth of vegetation in June and July. Come October, Texas experienced very high temperatures and humid conditions which dried out the new growth, making it more susceptible to wildfires. For those reasons, Bastrop County experienced and responded to a number of small fires prior to the Hidden Pines Fire³

The Hidden Pines Fires was responsible for more than 4600 acres burned making it the second worst Bastrop County wildfire in recent history. The most serious destruction happened on Day 2 of the fire, October 14, when sixty homes burned. Then on the third day, four more homes burned. Additionally, approximately two-thirds of Buescher State Park burned. In another words, about 143,000 out of 233,000 trees burned down⁴

Thus far in 2016, Texas has incurred five Major Disaster Declarations which started in March from severe storms, tornadoes and flooding. Then in April, there was severe storms and flooding. There is a pattern between weather events and disasters, with the rain comes drought which cause condition to be susceptible to fires⁵

Since the 1900s, Texas has experienced 17 major storms falling under a category 3 or 4. In U.S. history, Texas has suffered 12 of the 50 most deadliest hurricanes to ever strike. "The Storm of the Century" hit Galveston, Texas killing over 8,000 people. Hurricane Ike hit the Texas Coast causing \$29.52 billion in damages, this made the sixth costliest storm in U.S. history.

Every year, hurricane season falls from June 1st to November 30th, while we have been blessed not to incur a major storm since 2008 (Hurricane Ike), it only takes one major hurricane to bring havoc on the Texas Coast. History has shown us, the Texas Coast is vulnerable hurricanes for which we must be prepared.

Issue:

Texas is susceptible to many natural and manmade disaster. The question which arises the most, "Is Texas prepared to respond?"

TESTIMONY & DISCUSSION

Pete Phillips, Director of the Community Development & Revitalization Division, General Land Office.

Testimony was provided by Pete Phillips, Director of the Community Development & Revitalization Division, for the General Land Office. He explained the recent name change of the Disaster Recover to Community Development and Revitalization to reflect the goal for the State, which is to conduct long-term capacity rebuilding post-disaster. As well as provided an overall updated on what programs the GLO offers to help assist Texas.

Key Factor: Every dollar we spend has to meet one of the three national objectives.

- Urgent Need;
- Prevention/Elimination of Slums or Blight; or
- Activities Benefiting Low to Moderate Income Persons.

Community Development Block Grant Funds

Over the last 10 years, the program has used Community Development Block Grant Funds to rebuild infrastructure and housing in Bastrop County and along the coast. And with this rebuilding GLO is increasing the community's preparedness for the next disaster, should there be one.

Though its efforts, they have allowed cities and counties to fund the projects they believe are the most important to the communities, and with the recent flooding this year these projects have

been proven helpful. In Houston, houses have been relocated and raised to bring them out of the flood plain. In Orange County, GLO has funded pumps and generators to lessened damages. These pumps moved 400,000 gallons of water a minute and ensured that daily lives were not disrupted for extended periods of time. And in Galveston, GLO provided \$85 million dollars for repairs to their water treatment plant which will continue to provide running water during a future disaster. There are countless examples of how the GLO is working with the Federal government, other state agencies and local governments to improve upon what it does to ensure efforts are not duplicated in this process.

Even though the GLO received this program in 2011, 3 years after Ike, HUD has indicated GLO is still on pace to spend down the funding faster than any other state has for similar disasters. Texas continues to be a model program for the nation, from design standards to local control and even the measures we're taking to prepare for future events.

GLO just completed their Infrastructure Resiliency Study, which scored over 2,000 new and existing projects to mitigate potential damage to critical infrastructure. This Study covered all 22 coastal counties and lists projects that are currently unfunded. It will also give us the ability to make a much quicker damage assessment after future disasters.

Another study, in partnership with the Texas Water Development Board, focuses on storm water drainage in the Lower Rio Grande Valley. This study is working to examine the infrastructure needs in Colonias, in particular, how CDBG funds can be used to provide drainage improvements to correct flooding problems in the wake of Hurricane Dolly so communities can be prepared for future disasters.

In the area of infrastructure projects related to the 2011 wildfires, Bastrop County has the majority of its projects in the engineering design phase with two drainage projects completed in their construction phases. Newton County is currently procuring for construction for its fire equipment. Coryell County has completed three fire protection projects. Walker County has completed a radio purchase project and obtained a brush truck.

With each round of funding, we are rebuilding infrastructure is elevated, hardened to withstand future events, and constructed to current industry standards. In subsequent events through the same areas, we have seen public utility services operate uninterrupted as a result, saving taxpayers money and getting citizen back to their normal day to day quicker.

He also talked about the next round of funding that will be coming down later this year for the May and October floods of 2015. Congress appropriated \$142 million dollars, and HUD has divided that money essentially into 4 pots to the following: the City of San Marcos will receive \$25 million dollars, Houston will receive \$66 million dollars, and the General Land Office will

receive \$50.6 million dollars. \$22.2 million for the 4 most affected counties of Harris, Hays, Hidalgo and Travis and \$28.4 million for the remaining 112 affected counties. The GLO will be managing the method of distribution for the \$50 million dollars based on a scoring criteria that we develop with input from the local governments, but it will ultimately be the local affected communities that choose the projects that are best for them.

With the flooding Texas has seen in 2016 it is very possible we will receive another appropriation from Congress, but the GLO has made it very clear to our local partners they need to be communicating with the congressional delegation to ensure they are well informed. Commissioner Bush will be making a trip to DC this fall to make the case, but he stressed even with the \$140 million dollars that we received for 2015, we are still only fulfilling about half of the unmet need that the state suffered.

A request for funds to better prepare us for the next disaster will be included in GLO's LAR for the next biennium. When these disasters hit, TDEM does a great job with the immediate post-disaster recovery, but the GLO, currently, cannot begin doing damage assessments and planning until an appropriation is made by congress, which can take as long as twelve months. The benefit of CDR going out immediately following a disaster ensures local communities are accurately documenting damage, beginning planning and ultimately allowing us to make a better case for federal dollars when the time comes for congress to address the next appropriation. If an allocation is made to the state, any funds expended can be reimbursed for the preliminary work that is done.

He concluded his testimony by reassuring the committee the GLO CDR program remains committed to the long-term recovery and revitalization that takes place in bringing communities and citizens back stronger and more prepared for the next disaster.

Chairman Deshotel asked if any efforts have been made by the GLO to reduce administration cost, so that more funds can go towards housing. Director Philips reassures the Chairman, since the program was transferred to the GLO the overhead cost has been reduced. He states the GLO uses local council of governments (COGs) and has reduced staff from 90 to 45. HUD provides 5% allocates for administration cost but GLO has managed to reduce the amount to 2.8%.

Overview of U.S. Department of Housing & Urban Development (HUD); 2006 to the present⁶
Long-term disaster recovery grants received from the U.S. Department of Housing and Urban Development (HUD) between 2006 to the present, and excludes other disaster funds received from FEMA or other federal sources. Eligible activities include housing and infrastructure repair, public services, and business recovery.

Hurricane Rita - \$503,194,849

\$74,523,000 (Public Law 109-148)

\$428,671,849 (Public Law 109-234)

Primarily administered by Texas Department of Housing & Community Affairs and the Texas Department of Rural Affairs; GLO handled the last few million expenditures when the program transferred to the agency. Grant to be completed by Dec. 31 of this year

Hurricanes Ike & Dolly - \$3,113,472,856

- HUD released the allocations in rounds (Public Law 110-329)
- First round - \$1,314,990,193
- Second round - \$1,798,482,663

2011 Wildfires - \$36,380,686

- \$31,319,686 (Public Law 112-55)
- \$5,061,000 (Public Law 113-2)
- Primarily funding damages in Bastrop County and limited allocations to other wildfire impacted counties
- Wildfire II to be completed by Sept. 30 of this year

2015 Flooding - \$50,600,000

- \$22.2 Million for Harris, Hays, Hidalgo and Travis Counties
- \$28.4 Million for remaining 112 affected Counties

Bob Nicks, Battalion Chief/ President of ATX Firefighters Association & Battalion Chief & Vice-President Randy Denzer

Testimony was provided by two members of the Austin Firefighters Association, Battalion Chief & President Bob Nicks and Battalion Chief & Vice-President Randy Denzer about wildfire preparedness. More specifically, the Lost Pines Fire in Bastrop, Texas.

Chief Nicks provided the committee a brief outline of events and how he became involved with the Hidden Pine Fires.

- On October 16 the fire had started by the morning of the 17th press conference was held stating about 300 acres was effected but later in day about it was discovered 1500 acres had been affected.
- He was asked to participate in a news media conference on October 18th at 5 AM. In

which, it was suggested to me on live camera Austin was asked to assist and a couple of head departments said we couldn't respond. It surprised him because he was coming in to testify on field mitigation efforts and things like that. He thought he was to be giving general comments on the fire. He acknowledged the question but stated Austin could have easily provided up to 100 firefighters and not have hurt their capabilities in any shape or form. Austin works in a shift system with about 300 firefighters off at a time.

- During the press conference, it was asked by someone "given what we learned from Bastrop Fires, we learned our lesson this time?" Chief Nicks stated his response to the question was "maybe not" They did not take in to consideration the predicted weather patterns. Chief explains, maybe they haven't learned their lessons considering they perceived the damage to be 300 acres but then realized once they got into the plane for an aerial view, it was over 1500. He continued to explain how they didn't take in consideration the weather patterns 20 hours before which put 60 homes in harm's way.
- After the broadcast, a citizens group from Bastrop contacted me wanting some answers. Chief Denzer and myself, worked with the group on some technical advice. The group produced a report "Too Little Too Late: Lessons Learned from the Hidden Pines Fire." He states the report is evenhanded and has good recommendations which are achievable.

Chief Nicks explained how the group was not being critical to any one person or organization but simply wanted answers on what can be done better. Three fires took place that day, two of which were handled well and differently. He did state, the firefighters certainly were heroic in their efforts and long hours. The firefighters did a fantastic job with the limited resources and his comments are not to throw anyone under the bus, but we should look at this objectively.

Chief Nicks then began on the significance of the size of the fire. He made it clear on how hard to it is to have a strategy without knowing size or under-sizing the fire. He said it's very hard to learn where the lines of attack are and so, he believes that's where the cascading effect took place during the Hidden Pines Fire He stated, when the fire was underestimated, instead of amping up resources the first 6, 12, 24 hours the resources were reduced. There was a feeling, on the ground and the report even catches a sense, the officials were deescalating incident and had things covered. He explains how the predicted weather report came in, which may sound like fancy stuff but weather reports is what firefighters live and die on. The report had pretty accurate timing of the wind shifts, when it was to occur, miles per hour and wind gust. It was not taken into consideration and 60 homes were put in harm's way.

Chief Nick's falls in line with the *Too Little Too Late: Lessons Learn from the Hidden Pine*

Fire's 1st recommendation: prepare for the worst. The report goes on to give the following explanation:

Incident commanders must prepare for the worst case in a WUI wildfire so as not to risk life, property, and the ecosystem. This means resources to meet worst case scenarios must be ordered as soon as possible, including fire suppression aircraft, bulldozers, fire departments from neighboring counties and communities, and necessary support in terms of water, fuel, retardant, and more. Resources should be pre-staged in areas where high fire danger conditions exist.⁷

Chief Nick's explained the concept of "front loading" which is rolling on resources early on during an incident in order to have a reduction of fire lost. He stresses to the committee, once a firefighter gets there every second counts, since 30% of new construction is in a heavily fueled area. During the fires, the Texas Intrastate Fire Mutual Aid System (TIFMAS) was not activated in order to have strike teams at the fire scene before the wind shift. On the second day, the resources of local fire departments were not sufficient to fight the fire which leads to his next reference.

Chief Nick proceeded to mention the 6th recommendation: TIFMAS needs to be activated promptly with strike teams close by as first priority. Pre-staging TIFMAS strike teams should be considered in areas being affected by high fire danger. The explanation from the report states:

[TIFMAS] needs to be activated promptly when a worst-case scenario indicates that local fire departments do not have the resources to either contain the wildfire or comprehensively provide structure protection. Strike teams during the first 24 hours should be considered as part of an initial attack on the wildfire. Under that scenario, TIFMAS protocols call for the closest most appropriate resources to be identified and mobilized. It makes little sense to mobilize TIFMAS strike teams that are four to five hours away when there is a severe time crunch for achieving containment, such as when containment must be achieved before a wind shift takes hold.⁸

He provided the committee with additional background information on TIFMAS being a really good program. He explained how it's like an army of firefighters, the notion behind it is, "Texas can set them up and separate them quickly" This allows for us to pay for it when we need it verses paying for all the time.

Since all factors were not considered, the resources really close in Austin was not put into place in time. Chief Nicks has confidence in the current programs but stated it could be enhanced by minor tweaks. The "tweaks" would not cost much money other than some staff time to "tighten up" the procedures such as having a master resource list available. In that, a list of who has what would speed up the process of tracking down who has what available and eliminate

prolonged response time.

Chief Nicks suggested enhancing and reminding local authorities to create and use mutual aid contracts, as these contracts were underutilized during the Bastrop fires. The recommendations of a master list or simply reminder of mutual aid contracts could bring significant changes would cost very little money "to get it right" He goes on to say, the State has some very capable people but we have more natural disasters than any other state.

Chief Nick concluded his testimony by agreeing with the 9th recommendation: An Air Tanker Base should be located at Austin-Bergstrom International Airport (ABIA) with sufficient retardant to serve Type 1 air tankers and a VLAT (DC-10) during the peak fire season and when the average KBDI drought index exceeds 700 for more than 7 consecutive days in Bastrop County. The report provides the following explanation:

There are three areas within 200 miles of Austin that rank in the top 10 areas for highest wildfire risk to residential properties among the 13 western states in the U.S. It is high time for an air tanker base with the necessary retardant to be located at ABIA. That would enable Type 1 air tankers or a DC-10 to make it to a WUI fire in Bastrop, Travis, Bexar, and other central and southeastern Texas Counties in a matter of minutes and reload without leaving a fire scene for hours at a time.⁹

He believes a tanker base would be "huge" if it was located at the Austin-Bergstrom area. Rep. Cyrier and Chief Nicks, briefly engage on these efforts. In which, Chief Nicks would be brief in the needs of an air tank base but stressed Austin is the 3rd highest lost with the potential for most fire damages in the nation with San Antonio at 5th place and Houston at the 10th place.

Rep. Krause proceeds to ask where the closest location for an air tanker base. In which Rep. Cyrier, replies "it's the only one and it's in Abilene" but continues to explain how it's not large enough to support a DC-10. The base has the agreements, the set up, and systems to put the retardant in but the air tanker is not always there. Rep. Cyrier reassures everyone, they are working toward and getting a base set up in Austin.

Vice-Chair Thompson expressed the desire to have a base in the Houston area in addition to the Abilene and Austin-Berstrom area to have additional coverage. This would allow for the timeline to be shorten.

Chief Randy Denzer, sits on the national level firefighter association, currently working on whether or not we should have more air tank bases. He stated, the truth is "yes" we should but concluded with "they are expensive." While talking with the group, who was looking at California being pretty thin, he expressed his concerns of Texas being the worst and everyone agreed. He then stated, one nice thing about Austin is its centralized location and the turnaround

time. He participated in Texas fires between 2010-11 and explained how "it's a terrible feeling" to have to stand around watching houses burn down due to waiting for the resources to arrive. In the 2011 Labor Day fires, after about the third or fourth day, they finally got the air tanker base set up at ABI and it made the difference.

Chief Randy Denzer really expressed his concerns and needs of resources. The way the model is today, once a fire occurs the resources are brought in. He really wants everyone to understand, Texas knows it has fire seasons late July and February, we simply cannot wait for the resources to arrive.

Chief Denzer stated, Texas should really look at California's reactiveness since they have been doing this for a really long time. California recognizes they no longer have a fire season, that it can burn all year long. For that reason, California is working to have more bases, structures, and strike teams available year round. Everyone typically agrees, we need to move towards a reactive and start setting things up in mid- July and January to get ahead of the game and save the state money in the long run.

Interesting Fact: Texas is one of three western states without a permanent air tanker base that can handle Type 1 air tankers. Type 1 air tankers can drop 3,000 to 4,000 gallons of retardant on each trip to a fire scene. Texas and California have the most residential properties at high risk of wildfire damage of all 13 western states in the United States.¹⁰

Chief Denzer responds to Vice-Chair Thompson question and concerns "who the person who makes the call" on situations such as Hidden Pines Fires. He explained the county judge is the person who makes the call and everyone is depended on a single person's decision. He proceeds to express the frustration on depending on a single county judge's calling for help to get the state resources. He explained how a county judge may not fully understand what the firefighters have to do and need to fight the fire. He stated we try to let the county judges know but ultimately "sometimes it works, sometimes it doesn't, I don't know the solution is to that."

Chief Nicks clarifies more on the Hidden Pines Fire, the Bastrop County Judge relied heavily on the surrounding advisors. The report isn't critical of the county judge at all but ultimately, he is the person responsible. He proceeded to explain how we need to make sure Texas Forest Service and local fire fighters are well trained to give the county judge proper advisement. He believes with the proper advisement, a county judge would make the right decision. He stressed the systemic problem of firefighting and not the fault of a single person. He believes the Hidden Pines Fire and the citizen's report provides us with recommendations on what should be done.

Rep. Cyrier followed up on Chief Nicks and Chief Denzer's testimony, by stating he was there in 2011, as the County Commissioner in Caldwell County. He attended the Hidden Pines fire's 7AM briefings and worked along the side of Bastrop County Judge Paul Pape. He asked the

committee to note, "there was no lack of asking for help, as you can imagine as Chief brought up, we had three fires going on in our county at the same time" He stressed to everyone, you don't know which one is the big one or the one that is going to get out of control.

Rep. Cyrier then mentioned Mike Fisher, the emergency manager coordinator past experience dealing with four historic floods, Bastrop Complex fire, and of course had the Hidden Pines fire on his watch. He expressed, the issue was a matter of coordinating all the different information and not knowing what and when something is going to happen. Rep. Cyrier stated that was the was the big challenge.

Vice-Chair Thompson the proceeds to state he's not criticizing but asked how much of information has been shared with other counties judges who has never been in a situation like Hidden Pines Fire. He agrees with the Austin Firefighter Chiefs, in that, it's a very good learning opportunity for us to educate everyone.

Rep. Cyrier responded to Vice-Chair, by stating we have had a learning curve from 2011 to 2015, in that the communication on all levels was so much better. While airbases through the state is not necessary but having a permanent base and resources available is important. He then told the committee about single engine air tankers (SEATs) being available in Lee County, Giddings Texas which is good for initial attacks.

Rep. Krause asked the Chiefs the cost and who will pay for a base. The Austin Firefighter Chiefs did not know the answer off hand. Rep. Cyrier, responded by reminding the committee not all airports have the infrastructure to handle an air base tanker. The logistics for an air tank base is complex in that facilities must be able to offer space for parking, keeping overnight crews, water, pumps and different equipment involved, and storage of materials. Once the air tank base is brought to Austin- Berstrom area, it will help San Antonio, Houston, and east Texas. Rep. Cyrier stated he is looking at the situation as more of a redundancy, if the pumps goes down in Abilene, Texas then they have Austin-Berstrom as a backup. We are trying to get this pushed to have everything ready for the next event.

Rep. Bell, Jr. mentioned the fires in Magnolia, Texas in that the fire behavior was an issues because the resources were already committed elsewhere. For this reason, he pursued and passed 83RHB 4871 relating to liability of certain persons assisting in man-made or natural disasters.

1 House Bill 487 amends the Local Government Code to clarify the authority of the governing body of a municipality, the chief of a municipality's fire department, an emergency management director or coordinator designated for a municipality or county, a county commissioners court, a county judge, a county fire marshal, an incorporated volunteer fire department under contract with a county, or a volunteer fire department authorized to petition the commissioners court to provide fire-fighting equipment, as applicable, to request or accept certain disaster assistance to the extent the official or entity believes necessary to address a man made or natural disaster. The bill grants an individual, association, corporation, or other private legal entity that provides such assistance immunity under the Civil Practice and Remedies Code from civil liability for an act or omission, other than reckless conduct or intentional, wilful, or wanton misconduct, that occurs in providing the assistance.

Rep. Bell, Jr. then proceeded to state one of the problems is only having 4 DC 10's available for the entire country and they will go where the most economic damage will occur. Another problem, is being prepared with a unified command structure which will allow resources to be divided efficiently. Overall, the State's bulldozers never became available and the federal bulldozers arrived days later for the Magnolia Fires. Rep. Bell, Jr. agreed that by having the proper equipment available, from Local, State, Federal or even local farmers it can certainly make a difference in controlling a fire. To end his discussion, Rep. Bell, Jr. expressed his gratitude to all the firefighters involved in the Magnolia fires.

Chairman Deshotel asked "who will take the lead once the jurisdictions are crossed" and "who will implement the recommendation from the reports" Chief Denzer replied that the Texas Forest Service would be the ones to move resources but they have to look at the cost. When they knew Texas was having "flash drought" last year, they started to move resources but not at the magnitude to handle the problems. Chairman Deshotel responded by asking, "how do we rectify that?" In which, Rep. Cyrier stressed to the Chairman and everyone the problem is funding.

Rep. Cyrier explained to the committee, there is a section in Bastrop where the trees are fully matured and to the stage where they are supposed to burn. Texas needs to make everyone aware of fires and wildfires are happening more and more and they are damaging. He believes the State should look at more funding from volunteer firefighters all the way up and for more resources.

Nim Kidd, Chief, Texas Division of Emergency Management

Testimony was provided by Chief Nim Kidd with the Texas Division of Emergency Management. He provided the committee an statistics, growing population concerns and overview of the local, state and federal process on disasters.

Chief Nibb began his testimony by "Congratulations, Texas is number one. in disasters" Texas has recorded 93 Major Disasters in the last 63 years which comes out to be one every 8.1 months¹¹

Population

Texas has 254 Counties, 1,210 Cities and 1,024 Independent School Districts. In addition, Texas has the six most populous cities in the United States: Houston 4th, San Antonio 7th, Dallas 9th, Austin 11th, Fort Worth 16th, and El Paso at 19th place¹² In which, our population is still growing. The growth of Texas is highly important when safety of its inhabitants.

Threshold for Federal Assistance

In addition, the growth has caused our threshold for federal assistance to rise over the years.

To qualify for federal assistance after a disaster states must meet a pre-established, population based damage threshold. Below is a chart created by TDEM to show Texas and surrounding state's thresholds.

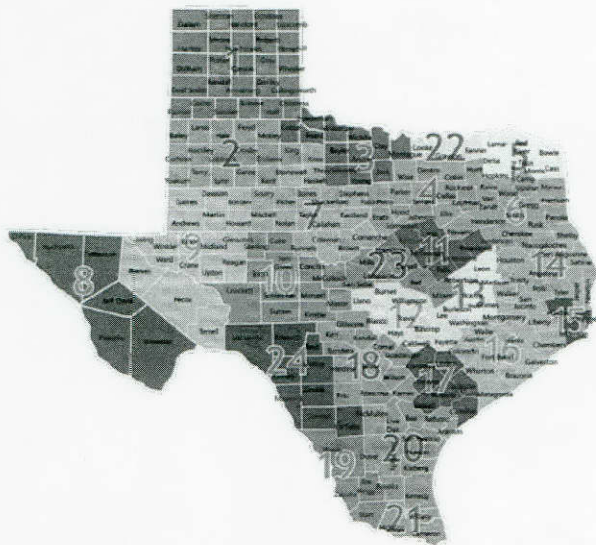
Thresholds	
Texas	\$35,455,241
Arkansas	\$ 4,111,444
Louisiana	\$ 6,932,055
Oklahoma	\$ 5,289,405
New Mexico	\$ 2,903,442

Disaster Process and Funding

The disaster process is not only defined in Texas State Law in Chapter 418, the Texas Administrative Code 37, but by the National Response Framework from FEMA and the National Incident Management System. All agree and say "ALL DISASTERS ARE LOCAL".

Chapter 418 lays out the ground work of roles and responsibilities: mayors and county judges are the emergency management directors for their communities. When they declare a disaster, they become the king or queen of all agencies, boards, commissions in that jurisdiction. They become responsible to their community to mitigate through the issues which occur during a disaster.

At the state level, we are divided into disaster districts which are synonymous to our council of government boundaries, managed by the Texas Highway Patrol. A lieutenant or captain of the Texas Highway Patrol by state law is the disaster committee chair. All state agencies in that area fall under command and control of the chair in support of local governance. You will never hear the state say "we are here to take over". Law, policy and doctrine does not support such behavior, it supports local control. The state may build incident management teams but all in support of the local officials.



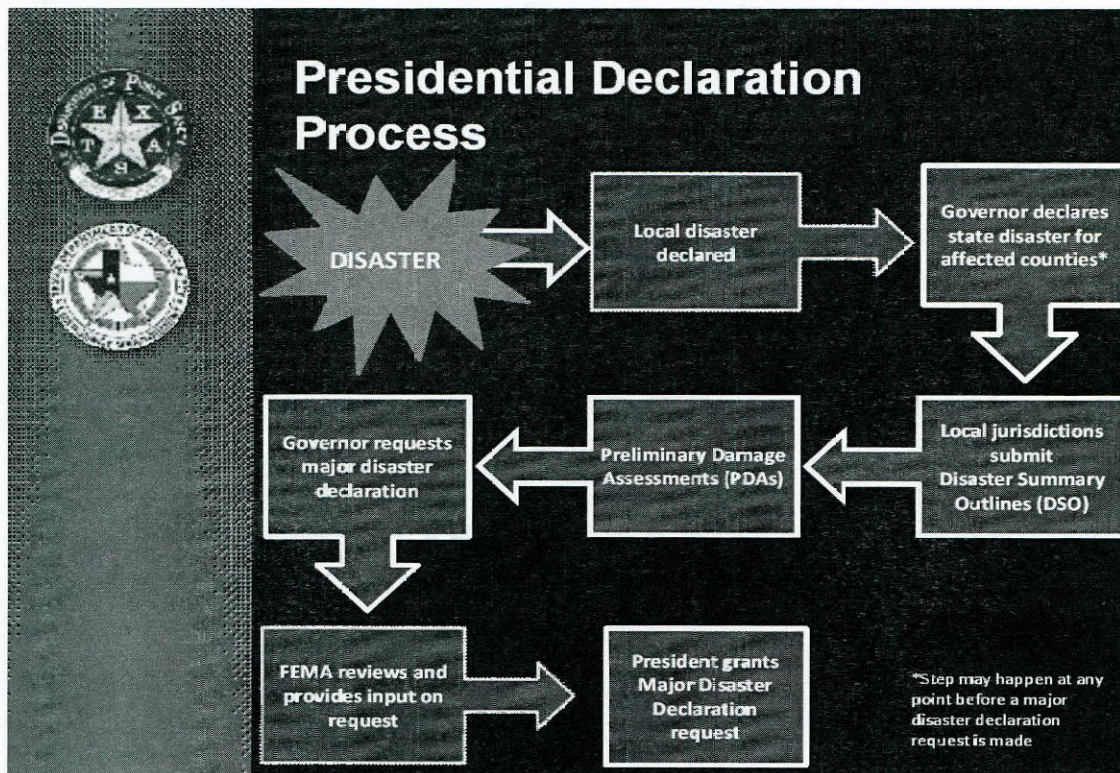
As shown, Texas has 24 disaster districts.

- Each disaster district has a TDEM District Coordinator(s).
- Field Response Regional State Coordinators oversee the team of district coordinators.

Chief Kidd answers Chairman Deshotel's original question on what happens when it crosses jurisdictional boundaries is answered by the term "Unified Command". Unified Command is when each mayor, county judge, fire chief, police chief, emergency manager and city manager has the statutory authority to appoint who will be in charge of the incident manager who will be responsible. Various disciplines and jurisdictions come together as a unified command fashion, so that all parties and interest are seen in the decision making process. That is how we handle this daily at the local level.

Chief Kidd moved on to explain the Stafford Act, which is the federal law Texas follows to get a federal declaration. Mayors and county judges can declare disasters which is good for seven days. At the end of the seven days, they have to go back to the city council or county court in order to extend the declaration. The Governor can declare for 30 days, then add another 30 days if needed.

The state asks local officials to submit disaster summary outlines which are very hasty details of how much money has been spent, how much debris captured, how many miles of road are damaged, how many building and homes are destroyed. Texas must meet a 35.4 million dollar threshold of uninsured damages. If TDEM starts seeing the cost raise closer to the threshold, they begin to work with our federal partners. To overview, local authorities identifies damages, the state verifies damages, and then FEMA certifies those numbers and make a recommendation on federal disaster declaration.

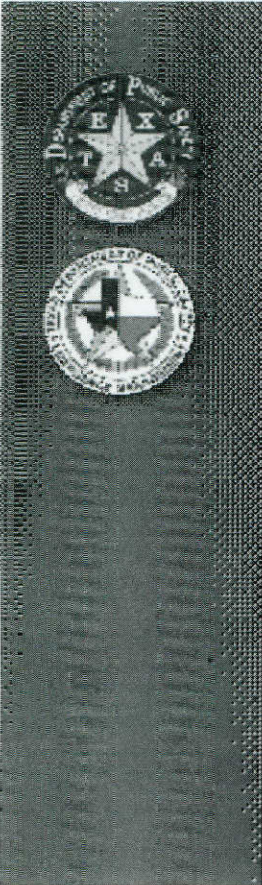


In the last 14 months, Texas has requested 6 presidential declarations and each was granted. Meaning, each event met or surpassed the 35.4 million dollar threshold. Once the disaster declaration has been granted by the President, FEMA then comes in to work on "project worksheets" (PWs) which are worst case scenario estimates such as cost associated with debris pick up, roads and schools repairs. The project worksheets are handed back to the local jurisdiction to work on their local city and county repairs.

TDEM's job is to manage the money coming down from the federal government in support of our local government partners. Every dollar coming down from the federal government has an earmark for a specific project.

Emergency Management Councils

In closing, Chief Kidd provided the committee with a summary of the emergency management councils. By the Governor's executive order, there are state agencies which are a part of emergency management council. When the councils get together, our job is to work in a uniformed fashion to help the local jurisdictions.



Emergency Management Council (EMC)

- Texas Military Department
- American Red Cross
- Department of Information Resources
- General Land Office
- Texas Division of Emergency Management
- Public Utility Commission of Texas
- Railroad Commission of Texas
- Salvation Army
- State Auditor's Office
- State Comptroller of Public Accounts
- Texas Animal Health Commission
- Texas Attorney General's Office
- Texas Procurement and Support Services
- Texas Commission on Environmental Quality
- Texas Commission on Fire Protection
- Texas Department of Aging and Disability Services
- Texas Department of Agriculture
- Texas Department of Assistive and Rehabilitative Services
- Texas Department of Criminal Justice
- Texas Department of State Health Services
- Texas Department of Housing and Community Affairs
- Texas Health and Human Services Commission
- Texas Department of Insurance
- Texas Department of Family and Protective Services
- Texas Department of Public Safety
- Texas Department of Transportation
- Texas Education Agency
- Texas A&M Engineering Extension Service
- Texas A&M Forest Service
- Texas Parks and Wildlife Department
- Texas Voluntary Organizations Active in Disaster
- Texas A&M AgriLife Extension Service

John Fanelli, Senior Director, Hughes Network Systems

Testimony was provided by John Fanelli, Senior Director, Hughes Network Systems to give the committee an overview of Hughes Network Systems and how Texas could benefit from a satellite network system during a disaster event.

Written Testimony Provided to the Committee¹³:

Hughes Network System's headquarters is in Germantown, MD, which is just 30 minutes north of our Nation's Capital. Hughes is the #1 high-speed satellite Internet service in the marketplace and we've shipped more than 5 million systems to customers in over 100 countries. This represents approximately 50 percent market share. I support the state of Texas as the primary point of contact for the Department of Public Safety, the Department of Information Resources, Texas Department of Parks & Wildlife, as well as Ark-Tex Council of Government. We are a state contract holder with a variety of communications and other managed services.

In addition to supporting Texas and the southeastern portion of the U.S. I also have the privilege of working with many of the federal agencies. In particular I have worked closely with FEMA to provide support to their Disaster Recovery Centers during the recovery efforts of Superstorm Sandy. We are providing network support to TSA as well as FEMA's National

Continuity Programs Readiness Division as they continue to expand their interoperability network. DHS's "Planning for a bad day" seems to be reiterated weekly in discussions and we are pleased to be able to support them.

In particular to Texas:

- Hughes operates a 9-1-1 Continuity of Operations satellite network for the Ark-Tex COG to their 11 Public Safety Answering Points.
- Hughes, has provided network services to the Texas Department of Public Safety over the past decade reaching over 860 Law Enforcement locations for their Texas Law Enforcement Telecommunications System, or TLETS network.

We have a strong understanding of the telecommunications industry and constantly seek to develop industry leading solutions to support State, Federal, and local Governments.

With regard to the interim charge to study the preparedness and response to natural disasters I am happy to be here today to provide recommendations based on my past experience. One key area, as we have seen time and time again, is making sure that communications capabilities are in place and operate reliability during, and after an emergency. That means not just ensuring that the first responders and key government officials have access to communications, but making sure that anyone in Texas can reach out to 911 for help at the most critical times. We have all seen network failures whereby people die when they cannot reach first responders. This makes for a very bad day for everyone.

Hughes has many years of experience assisting federal, state and local governments as well as industry in ensuring that they are well-prepared for emergency communications. In doing so, we have found that the best approach is to focus on the following 3 key areas (Preparedness, Response, and Recovery)

- The first area is Preparedness: This entails understanding, before you do anything, what and where the weak links are. This may involve personnel, tools, or from a communications perspective. where is the network most vulnerable?

Some common preparation questions may include:

- In the event that ground based terrestrial networks are unavailable or cannot be delivered in a timely manner. do we have alternate networks available?
- Is a business continuity plan in place that enables auto failover from the primary network to a truly path diverse network?
- Are we testing backups regularly to ensure operation if, and when, an event occurs?

-
- Are contracts in place for alternate services to achieve Continuity of Operations?
 - Does our service provider have authorization to enter affected disaster area?

Failure to be prepared will mean guessing at what resources are needed. If you don't have preparedness plans in place then it is nearly guaranteed that a poor response or a delay in recovery will occur.

I'd like to site two examples.

- Prior to Superstorm Sandy making landfall in the mid-Atlantic region on October 29th 2012 FEMA's communications team understood that the impact would be significant on the communications infrastructure and they would need to quickly establish connectivity for their planned Disaster Recovery Centers. The result is that FEMA established a contract with Hughes for up to 100 communications kits to be deployed that provided High speed satellite network connectivity, Wireless access, and phone service. The delivery timeframe would be within 48 hours of notice.
- Ark-Tex Council of Govt, understands that network challenges occur and also that there isn't a particular method that is THE single solution. As a result they set up a diverse satellite network to provide additional redundancy to their regional 9-1-1 system for the safety of their citizens. The Public Safety Manager has stated that "A network solution using site to site satellite communications complements our primary network and provides an alternate communication path should issues arise."

These are both fine example of being prepared by anticipating the issues before they arise and having the resources ready to support the response.

- Next area is Response: The response timeframe can be minimized when preparation has taken place. While you may not have prepared for every situation that may exist you are far better off and well positioned with adequate resources. During the response phase the resources may not be available to support your needs, however, when the plan has been established when the skies were blue. the impact of the event will be minimized on the bad days, especially when a scripted plan is in place.

Continuing with the FEMA example mentioned earlier, Hughes was able to immediately begin implementation of the communications kits at 20 Disaster Recovery Centers that were set up in New York and New Jersey. Communications resources were put in place for the FEMA teams to begin to respond to the impact on the community.

One area that I want to make sure you understand is that the networks you rely on, whether LMR, cell phones, landlines, etc. will fail. If there is no network reliability to guard against terrestrial infrastructure failures there will not be an adequate response.

- Finally the area of Recovery: It is well understood that recovery efforts can begin immediately when the response time is reduced. Not only can you minimize the impact of the event but also allow those impacted to begin the path toward healing. Ensure that communications redundancy is in place as there are after-effects that may surprise you and the physical infrastructure may take some time to fully recover. We found this to be the case following Sandy as several FEMA Disaster Recovery Centers continued to be operational for 4-6 months following landfall. This was due to the extended timeframe for network infrastructures to reach full recovery.

So you may ask “what was the impact on the communications network. ” with Superstorm Sandy?

- Terrestrial networks were knocked out by flooding and lack of fuel. This impacted the base stations, towers and backhaul, as well as major switching centers in New York. Wireless cellular networks were severely impacted. Keep in mind that the cellular network is only wireless from the user to the tower, however, the tower still needs to connect with terrestrial backhaul lines to the switching centers.
- As for Satellite Networks, we withstood the disaster quite well with limited or no disruptions to service. Most of the disruptions occurred because our customers still needed power to operate the network. Those with backup generators continued their operation.

The impact on business and government was significant. Offices with power were unable to communicate due to terrestrial and wireless network outages. Coordination with out of state resources was complicated by wireless network outages. No power = No gas pumps. And finally contingent network plans were mostly not in place for automatic failover which resulted in:

- Days of network downtime
- Lost employee productivity
- Inability to serve the public

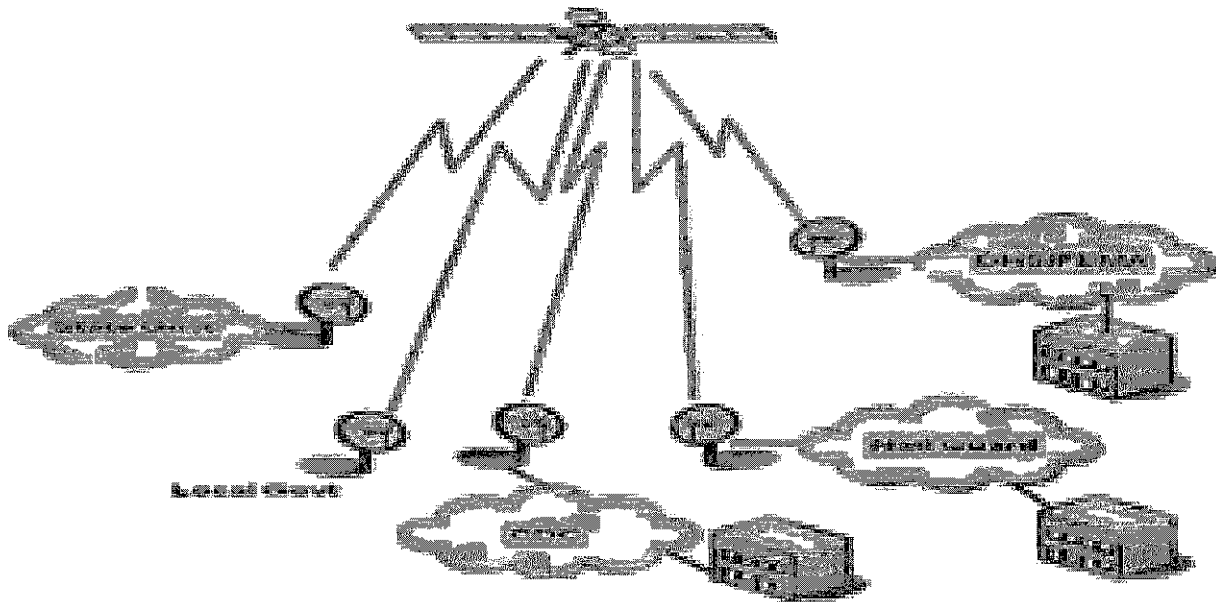
“Reaction Mode” was in effect and “Response Mode” was delayed as it was difficult to obtain service once the impacts were felt. This is due to the fact that “Preparation mode” was not invoked. Many of the Vendors’ were unable to quickly deliver alternate service. This left private networks inoperable and business applications unusable. The outage time was Days

and Weeks, and not minutes or hours.

Case in point. Hughes was responsible to support recovery efforts in more ways than just network communications with our Satellite and other broadband services. Hughes customer sites across the devastated region include thousands of gas stations, restaurants, pharmacies and hotels. Hughes provided a valuable service to the All Hazards Consortium (AHC) by identifying those with power and helping to quickly disseminate information to emergency responders. This information was updated daily and was provided to officials in the impacted FEMA regions, the first responder community, and key emergency operations centers.

Finally, the coordination between Texas departments, State Emergency Operation Center, and other state, local, and federal resources can be made possible through the creation of an Inter-Governmental Crisis Network, even though many of these organization are operating within their own disparate network. Through specific Hughes solutions we can establish a private and fully path diverse network to facilitate communications among crisis management leaders. A network that complements current government terrestrial networks, replaces terrestrial networks when they are compromised by an extraordinary event, and one that is activated by previously established user groups. This would enable:

• White House	< ----- >	State Governors
• State governors	< ----- >	National Guard
• 1st responders	< ----- >	State emergency agencies
• FEMA/DHS	< ----- >	State emergency agencies
• CDC • Dept. of Justice	< ----- > < ----- >	State health agencies S&L law enforcement



Satellite services are available almost anywhere to support the served and “unserved” areas. Satellite services requires line of site to the southern sky and are ideal for hard-to-reach locations, however, when preparedness and response are required for even those easy-to-reach locations. Satellite services may be your only network resource available to improve response time and minimizing recovery time. But preparation is required to minimize the impacts of any event. In addition to what has been mentioned above, other useful applications for satellite include:

- Wide Area Network backup or restoration
- Primary communications for remote locations
- Land Mobile Radio for network communications to/from towers
- Governor’s office communications
- Communication to support smart grid utility metering
- Transportable command posts
- Machine-to-machine communications

If you are not familiar with how the Satellite industry has changed you might think that the technology is “old, slow and expensive” It is just the opposite:

- New “High Throughput Satellites” now offer significantly faster speeds than older satellite offerings
- Its more affordable than long terrestrial access circuits, new network build outs, private microwave construction, and previous satellite services

The bottom line is that Satellite services are path diverse from terrestrial services AND path diversity is a good thing!

Hughes, having experience supporting Texas as well as other states and the Federal Government, is honored to provide this testimony and would value the opportunity to continue to have further discussion with this committee or other state officials on ways to Plan for a Bad Day. Being prepared will minimize the impact on citizens, state personnel, and other state resources.

COMMITTEE FINDINGS

The effects of natural and manmade disasters have become more frequent, far-reaching, and widespread. As a result, preserving the safety, security, and prosperity of all parts of our society is becoming more challenging especially with the lack of funding and proper resources available. Over the years, Texas has begun to learn from its past mistakes. We are now focusing on becoming a state which is proactive instead of focusing on an issue after the fact.

RECOMMENDATION(S)

Continue current collaboration/ outreach programs between General Land Office, Emergency Management, and local communities on enhancing both immediate response and long-term recovery plans after a disaster.

- Strengthen existing capabilities through discussions and decision-making processes; and
- Improve on anticipating the needs of local communities during a natural or manmade disaster; and
- Express the need for local communities to request assistance from the State/ Emergency Management through the entire process of a disaster from preparing to responding and recovering; and
- Express the need to local communities to have the necessary inter-local agreements for rapid response of man-power and equipment.

Texas is one of the three western states without a permanent air tanker base that can handle Type 1 air tankers which can drop 3,000 to 4,000 gallons of retardant on a single trip to scene of a fire.

- Build permanent air taker base(s) in a centralized location that is highly susceptible to fires.

In addition, we should:

- Educate all the stakeholders involved on the importance of communication and sizing up the fire(s).
- Provide additional funds to Texas Forest Service to ensure proper resources to prepare for flash draughts and fire seasons.

Please see the Joint Committee on Coastal Barrier System's interim report for recommendations regarding coastal protection.



CHARGE II

Examine the rate of erosion along Texas's coast and the effects of coastal erosion on public beaches, natural resources, coastal development, public infrastructure, and public and private property. Analyze current programs related to coastal erosion and examine their effectiveness. Make appropriate recommendations.

SCOPE OF COMMITTEE WORK

The Committee held a hearing in Austin, Texas on Monday, 22nd of August 2016. During the hearing, the committees heard invited testimony from the following: David Green, Texas General Land Office; Sharon Tirpak, United States Army Corps of Engineers; Maria Robb, Self. Registered but did not testify: Kevin Frenzel, Texas General Land Office; Tony Williams, Texas General Land Office.

BACKGROUND INFORMATION

Shoring Up the Future for Texas Gulf Coast (2016) by the General Land Office lays out the ground work as to why Texas' Gulf Coast is critical for everyone in the nation. It states, "[as] Texans, our diverse coastal landscape is a vital part of our identity. Our 367-mile coast and 3,300 miles of bay front are essential to many vital aspects of our daily lives. The Texas coast's contributions to the state and the nation are many, ranging from energy and agricultural industries, the port system and military transportation, to commercial fisheries and tourism"

The average erosion rate for the 367 miles of Texas coast is 2.3 feet per year. Sixty-four percent of the Texas coast is eroding at an average rate of about 6 feet per year, with some locations losing more than 30 feet per year. Most affected areas: Sabine Pass to High Island (McFaddin National Wildlife Refuge), Sargent Beach and South Padre Island.

The State and the nation as a whole, benefits in protecting the Gulf Coast of Texas. FEMA estimates every dollar spent on erosion control and mitigation to preserve wetlands and other natural ecosystems, will provide a return on average of four dollars in cost-savings for the future.

TESTIMONY & DISCUSSION

David Green, Deputy Director on Coastal Resources Division, General Land Office¹⁴

Testimony was given by David Green, Deputy Director on Coastal Resources Division from the Texas General Land Office. He provided the Committee a coastal briefing which consisted of all the programs, studies, and funding information to assist in developing a comprehensive, long-term framework to ensure a resilient ecologic and economic management of the Texas coast.

The division is primarily in charge of coastal management and hurricane preparedness, including all 367 miles of Texas beaches facing the Gulf of Mexico. The Coastal Erosion Protection and Response Act also known as the CEPRA Program.

The following types of projects are generally considered for funding:

-
- beach nourishment on both Gulf of Mexico and bay beaches
 - shoreline stabilization
 - habitat restoration and protection
 - dune restoration
 - beneficial uses of dredged material for beach nourishment, habitat restoration, etc.
 - coastal erosion related studies and investigations
 - demonstration projects
 - structure relocation and debris removal

The GLO in partnership with the Bureau of Economic Geology, measures the rate of erosion along the Texas Gulf Coast on a regular basis. These studies currently show an average rate of erosion for the entire coast of 3.9 feet per year with some areas critically eroding up to 30 feet per year.

The good news, through the GLO's and local cities/counties efforts, Texas has actually begun to slow the rate of erosion for the entire coast by almost a foot a year since the 1950's. Yes, Texas beaches are still eroding and this is a huge problem but we have gone from a loss of 4.8 feet per year to a loss of 3.9 feet a year.

The CEPRA Cycle Funding since it was established in 1999, is largely relying on leveraging funds as the program has progressed in order to serve more with less money but its clearly not enough. The shorelines not only affect the economic health of many of these communities but as many of you know, there are private property rights to take into consideration, as the shoreline continues to retreat.

Recent studies on the program have shown for every dollar spent on the beach and dune re-nourishment, the state receives eight dollars and forty cents in economic and financial benefits. FEMA has also calculated for every dollar spent there is four dollars saved in the long term storm mitigation cost.

The GLO is developing a Texas Coastal Resiliency Master Plan to ensure the resilient ecologic and economic management of the Texas Coast. The master plan is a 1.9 million dollar effort which will be completed by the end of the year.

Coastal Resource staff have been regularly meeting up and down the coast with our Technical Advisory Committee, a group of experts on solutions to alleviate those problems. The first draft of the study will be ready in early-November, at which time the GLO will do another round of meetings with the committee and local elected officials on the coast to allow for input before a final draft is executed.

It is crucial we are not only prepared for the next disaster but also work to prevent as much damage as possible, the goal of the Coastal Master Plan as well as the studies the GLO is conducting in coordination with the US Army Corps of Engineers.

The GLO is partnering with the US Army Corps of Engineers to complete the Coast Texas Study, which is a 5 1/2 year, 20 million dollar effort. Ms. Tirpak with the Corps can provide more details. The goal of the study is to develop a comprehensive study and plan which will recommend future projects to Congress for construction. The GLO is required to pay for half of the study, but much of the state's cost can be paid through "work in kind" by staff and contractors.

It's important to note, the Coastal Texas Study will build on the Texas Master Plan by identifying larger projects which require federal funding. The Texas Master Plan will focus on smaller projects which can be accomplished without in-depth feasibility analysis and large-specific appropriations from Congress.

In a separate study with the Corps, the Sabine to Galveston Study, has been analyzing the feasibility of updating and expanding a levee system in the Freeport area, and in Orange and Jefferson Counties. This study will be completed early next year and will provide a recommendation to Congress on the construction and funding of those levee system upgrades.

The GLO has also partnered with the Gulf Coast Community Protection and Recovery District (GCCPRD) to conduct a six county coastal protection study spanning from Galveston Bay to Sabine Pass. Phase III has been completed and recommendations have been made for what they believe is the best path forward for a coastal spine in the Galveston Bay area, among other recommendations, at an estimated cost of 11.8 billion dollars.

GCCPRD will be conducting phase IV to do preliminary engineering designs as well as environmental impact studies for the recommended plan. These environmental studies are an integral part of the Corps Study and the GCCPRD's work is up to the Corps' standards. This means, the study can be folded into the Coastal Texas Study.

The GLO recognizes each community on the coast faces different challenges regarding resiliency and the studies/ plans exist to compliment and support one another with the overall goal of exhibiting the importance of the Texas Coast. The GLO will continue to promote measures which will protect the coast and foster resiliency.

Mr. Green reassures Chairman Deshotel, the request for funding will be coordinated into an all in one to protect the Texas Coast, not separate request such as funds for coastal erosion and coastal spine. Essentially, the idea is to get the entire state together to promote the needs of the coast into one idea/ plan.

Mr. Green responded to Rep. Krause question on the 50/50 match funding, by explaining the federal government has already provided the funding. The GLO is constantly working with the United States Army of Corps Engineers to make sure the budgets and payments are correct. He states we have the funding for the State's portion but there may be a request for additional funding down the road.

Legislative Update on Coastal Studies¹⁵.

Texas Coastal Resiliency Master Plan - \$1,900,000

- Focus: Storm Suppression and Ecological Preservation
- GLO Funding Source: CDBG and CEPRA
- Project Status: Executing Grant Contract
- Completion Date: December 2016

Overall Objective:

- Develop a comprehensive, long-term framework to ensure a resilient ecologic and economic management of the Texas coast.
- Illustrate the ecologic and economic value of the Texas coast and identify the primary threats facing the coast.
- Generate data to assist coastal resource managers and elected officials in resiliency planning to better prepare for future storms and coastal vulnerabilities.

Outcomes:

- Guidelines for GLO implementation to inform effective coastal management to enhance and protect the coast;
- Identify current coastal issues of concern and create a database of projects to address the regional vulnerabilities;
- Data from this initiative will be provided to the USACE to use as applicable in the Corps Feasibility Study;
- Stakeholder engagement documents and website for education and outreach on the importance of the Texas coast and the significance of keeping it resilient.

Coastal Texas Protection and Restoration Feasibility Study (Corps Study)- \$19,800,000

- Focus: Long-Term, Large Scale Project Feasibility
- GLO Funding Source: CDBG and CEPRA
- Cost Sharing: 50% GLO – 50% USACE

-
- Project Status: Finalizing Scope of Work
 - Completion Date: 2021

Overview:

- The GLO has partnered with the US Army Corps of Engineers (USACE) on the Coastal Texas Study.
- The goal is to develop a Comprehensive Plan for the Texas coastal zone for Flood Risk Management (FRM), Coastal Storm Risk Management (CSRМ) and Ecosystem Restoration (ER), with specific feasibility-level focus to recommend projects for individual Congressional authorizations.
- A significant portion of GLO's cost share is expected to be through work-in-kind by using GLO professional service providers to assist with the engineering and environmental analyses.

Update:

- The Feasibility Cost Share Agreement was executed in November 2015.
- GLO and USACE held a kick-off meeting in New Orleans in January 2016.
- The Alternatives Milestone Meeting was June 28, 2016, and USACE HQ approved the progress to date.
- GLO and USACE are evaluating alternatives for the Tentatively Selected Plan, May 2018.

Sabine Pass to Galveston Bay Study - \$5,200,000

- Focus: Northern Coastal Barrier Planning
- GLO Funding Source: CDBG and CEPRA
- Cost Sharing: 50% GLO – 50% USACE
- Project Status: Agency Decision Milestone Reached
- Completion Date: July 2017

Overview:

- Pre-existing Corps Study that was restructured in 2012 following Hurricane Ike.
- The GLO has partnered with the USACE on the Sabine Pass to Galveston Bay Study.
- The goal is to complete feasibility investigation and analyses on potential Coastal

Storm Risk Management (CSRM) and Environmental Restoration (ER) projects within the coastal area of the six-county study area.

- Focus is on Orange, Jefferson and Brazoria Counties, with the remainder to be addressed in the Coastal Texas Study.

Gulf Coast Community Protection and Recovery District (GCCPRD) - \$7,115,000

- Focus: Comprehensive Coastal Barrier Planning
- GLO Funding Source: CDBG
- Expensed to Date: \$2,746,434.96 (70%)
- Project Status: 2 of 3 Phases Complete
- Completion Date: Summer 2016

Overview:

- In 2013, the Texas General Land Office (GLO) entered into an agreement with the GCCPRD to conduct a storm surge suppression study in accordance with federal standards. The study will lead to recommendations for viable region-wide coastal protection systems.
- The GLO is funding the study and will own all intellectual rights to the project.
- Phase III of the project has been completed with recommendations for each of the three regions and can be found at gccprd.com.
- Phase IV of the Study will conduct preliminary environmental designs as well as environmental impact studies closely aligned with USACE standards.

Ms. Sharon Tirpak, Deputy Chief of Project Management, U.S. Army Corps of Engineers¹⁶

Testimony was given by Sharon Tirpak, Deputy Chief of Project Management at the United States Army Corps of Engineers in Galveston. She provided the Committee with an update on how the Corp is partnering with state and local agencies in delivering small and large scale engineering solutions to address needs and opportunities along the Texas Coast.

Chairman Deshotel asked whether or not the sand from the deepening and widening projects can be used to build up beaches. Sharon stated that sometime it is and sometimes it isn't. If the sand is determined to be beach quality sand then it can be placed on the beach for restoration. As the Galveston entrance channel, the sand was determined to be beach quality sand and they were able to use it on the front beach of Galveston. If the dredging material is "new work material" and never been used before the clays can be used to build up levees or dikes on placement areas and the softer material is used for other projects such as ecosystem restoration.

In summary, she stated that Texas is sand starved and we do not have the same conditions

therefore we wouldn't benefit from the sand motor as other areas such as the Netherlands/North Sea. Although, they have taken material from the Brazos Island Pass (ship channel pass) and placed the material just offshore of South Padre Island. It has helped build the beaches in that area, in a sense, they have tested the theory out and will continue to look into the subject, if they think it will work.

Written testimony provided by Sharon Tirpak¹⁷.

Our projects support National economic development criteria while meeting all applicable engineering and environmental guidelines. The Corps of Engineers is keenly aware of the significant, challenging and dynamic environment that we operate in to deliver these project.

The Galveston District encompasses the entire Texas coastline and two westernmost coastal Louisiana Parishes and inland about 150 miles. This is an estimated 50,000 sq miles. Although there is an estimated 367 miles of coast – as the crow flies – there is an estimated 3,300 miles of shoreline along its islands, bays and river mouths. Our District includes 16 Congressional districts; 18 Coastal Counties; vast infrastructure, particularly for the energy sector on the upper and mid-Texas coastal areas and 15 deep draft ports and 13 shallow draft ports that make up an integrated transportation network linking the Texas coast to the Nation's Heartland. District Headquarters are located on the eastern end of Galveston and a number of field offices are spread out over the coast.

Coastal Texas is among the most precious regions of the Nation. The unique and vast infrastructure in our area drives the Nation's economy and is vital to our energy security. Coastal Texas has one of the richest shorelines in terms of environmental diversity and resources of national significance. The rapidly growing population in our region has placed increased pressures on water resources such as shorelines, barrier islands, marshes and coastal wetlands. Coupled with economic activities, increased recreation, and relative sea-level change, the risks to these vital resources are accelerating. Endangered species such as sea turtles, piping plover, whooping crane, and ocelot live in these shrinking habitats. The great flyway for North America's migratory birds is narrowing. Water supplies for our people are threatened due to extreme climate variability. Nowhere is there a more pronounced intersection between the Nation's economic security and its environmental security. The Corps of Engineers and the Galveston District are committed to working with the State of Texas and local stakeholders throughout the coast to address these challenges.

Since the 18th Century, the Army Corps of Engineers has been responsible for providing some of the largest scale engineering solutions to meet the demands of the Nation. Today the mission of the Corps is to strengthen the security of the nation, improve the economy and reduce the risks associated with disasters. We work to achieve this mission through our partnerships and supporting a shared vision for the Texas Coast. We rely heavily on our collaborative efforts with

the Texas Ports, the Texas General Land Office, the Texas Department of Transportation and other stakeholders to articulate a vision that positions the region for economic growth, promotes ecologic health and improves community resiliency. Within this context, the Galveston District supports two critical business lines that allow us to leverage our authorities and resources to directly support this shared vision – these two business lines are navigation and flood risk management. Likewise the Corps has federal authorities to reduce the risks of flooding associated with storm surge. For over 115 years the Galveston District has partnered with state and local agencies to build infrastructure that reduces risks to our people, structures and businesses. Beginning with supporting the Galveston Seawall after the Great Storm, the District has constructed seven hurricane flood protection systems in coastal Texas and we continue to work with local sponsors to maintain and improve these systems. We see these projects as critical to reducing risks and increasing resiliency along the coast, but there is more work to be done.

As a national leader in developing engineering solutions to address our Country's toughest challenges, the Corps is uniquely suited for facing the problems in Coastal Texas. We have a variety of programs and projects that address needs and opportunities, and everything we do is done in partnership with state and local entities to ensure we are focused on that shared vision for the future of the Texas Coast. Since 1880 the Galveston District has improved and maintained navigation infrastructure in Texas along 400 miles of coast to include six deep-draft navigation systems, 28 ports and the Gulf Intracoastal Water Way. This infrastructure supports nearly a quarter of all US waterborne commerce. Three of the top ten ports in the Nation, based on tonnage, are located along the Texas coast. The Gulf Intracoastal Waterway ranks third in the Nation for inland waterways. All of these channels need to be improved or maintained by dredging, which leads to opportunities for utilizing dredged materials beneficially along areas of the coast that are in need.

A great example is our beneficial use program where we seek to maximize the use of material dredged from the navigation channels to build shallow marshes that create habitat, reduce erosion and increase resiliency along our waterways. We have had a number of successful beneficial use endeavors throughout the coastal area while partnering with the Texas General Land Office. The areas marked with green, including Bessie Height Marsh, Texas Point, Rollover Beach, Pierce Marsh, Galveston Beach and South Padre Island were jointly funded beneficial use projects for marsh/wetland restoration and beach restoration. The areas in red, although GLO did not provide direct funding, they were active team members on the projects. The Corp of Engineers accomplished a significant amount of beach nourishment particularly in Galveston and South Padre Island in 2015. None of this is possible without strong partnerships and state and local commitment of funding. It's really up to the local stakeholders to work with GLO and others to develop a strategy and plan to fund the cost differential in what the Corps pays to complete the dredging work, and the additional amount of money it takes to put the sand on the beach. In most cases it adds hundreds of thousands or even millions of dollars of work.

I would like to highlight the most recent beneficial use project, which was a partnership between the Galveston Park Board, the GLO and the Corps. Dredged material was removed from the Galveston entrance channel and placed on the beach in front of the seawall west of 61st Street.

Approximately 629,000 CY of sand were placed and 4,500 feet of beach constructed. The beach, completed in the spring of 2016, has had a high use of activity throughout the summer. We have received a letter of intent for future partnerships. Also, our Planning Assistance to States Program with the Galveston Park Board and will move forward with a Galveston Sand Management Plan looking at structural options on front beach and conduct technical analyses for back-passing and bypassing more sediment to the beach and to inlets.

To expand our capabilities and maximize our potential we continue to be involved with a variety of initiatives to leverage technology and develop innovative tools. We've been able to leverage our understanding of sediment transport to maximize beneficial use opportunities. This has allowed us to place sand on beaches, reduce shoaling in habitual areas. Much of this is through our partnerships, and as an example we've been working with General Land Office and the Galveston Parks board to put sand back on beaches. We are partnering closely with the Corp's Engineering Research and Development Center on a variety of tools to allow us to best manage dredged material.

Currently we have several on-going studies that will evaluate coastal storm risk management and ecosystem restoration along the coast. These include the Sabine Pass to Galveston Bay Study, the Coastal Texas Protection and Restoration Study and the Jefferson County Study. Before I talk specifically about these studies, to help inform your understanding of the work of the Corps of Engineers, I will describe the overall Corps project process.

The Corps' project process relies on two fundamental requirements – Congressional authority and funding. Our process includes the entire lifecycle of the project beginning with a feasibility study or general investigation through design, construction and then maintenance. To begin a study requires congressional authorization and appropriations as well as a local cost sharing sponsor. Based on the Corps' budgeting cycle, annual funding has to be provided by congress to allow the project to reach completion. Once a study is initially funded, it is prioritized for future funding as long as the project is progressing. The study phase culminates in a Chief's report and a new authorization for construction. Once the project is authorized by congress it must compete with other projects across the Nation for construction funding. Projects typically compete based upon the benefit to cost ratio of the project. Once a new construction start is determined, the project is prioritized for future funding to ensure completion.

Sabine Pass to Galveston Bay: This is an on-going feasibility study that will include a comprehensive discussion of problems and opportunities of ecosystem restoration and coastal

storm risk management along the Texas coast, with focused study to recommend an implementable plan in the Freeport and the Jefferson and Orange County areas. The plan in Freeport and Jefferson County include improvements to existing Hurricane Flood Protection Systems (HFPS) and in Orange a recommendation for construction of 27 miles of new levee/floodwalls. TX GLO is the non-Federal Sponsor for the study and we have letters of intent from the Velasco County Drainage District to be the implementing (or construction sponsor) for Freeport; Jefferson County Drainage District #7 for the Port Arthur HFPS; and Orange County for the 27 miles of new levee. The Chief's Report is due in August 2017.

Jefferson County Study: This study will conduct a comprehensive review of the coastal area within Jefferson County to include impacts from federally constructed projects, and to identify and evaluate alternatives and recommend an implementable solution for ecosystem restoration opportunities. Evaluated opportunities include the potential beneficial use of dredged material from the Sabine-Neches Waterway to slow or stop the erosion of the Gulf Shoreline, Gulf Intracoastal Waterway shoreline, and marshes in Jefferson County, including areas such as the Texas Point National Wildlife Refuge, J. D. Murphree Wildlife Management Area, McFaddin National Wildlife Refuge and adjacent sensitive wetlands.

The Coastal Texas Protection and Restoration Study: Texas is one of the few states that does not have a Coastal Master Plan. This study will include a comprehensive report that will be nested with the State's Master Plan that is currently being developed. In addition, the study is evaluating Coastal Storm Risk Management and Ecosystem Restoration alternatives for the entire coastline of Texas, excluding the areas of the upper Texas coast that are covered in the previously discussed projects, and is an opportunity to generate implementable projects that will provide structural and non-structural recommendations to reduce risks associated with storm damage, and will provide for environmental restoration opportunities that will increase resiliency along the coast. We are leveraging existing information from ongoing studies to maximize collaboration opportunities.

Ultimately we are looking to develop alternatives that support the federal interest and will seek to evaluate these alternatives from engineering, economic and environmental perspectives. This study is currently one of the largest studies in the Corps and will cost \$19.8 M and will take five and a half years to complete.

In summary I want to highlight that the Corps of Engineers and the Galveston District are committed to supporting a shared vision of the Texas Coast. We are a recognized leader in bringing federal authorities and resources to address the toughest challenges in this dynamic region. We have the unique ability to deliver executable projects that are policy compliant. And we are very proud to be partnering with the state on two of the largest and most significant studies in the Nation. Thank you for the opportunity to speak today and I look forward to our continued partnership to support this vital region.

Maria Robb, Self from Galveston Island

Testimony was given by Maria Robb representing herself as a citizen of Galveston Island. She expressed great concerns on the state of Texas coordinating its efforts. She proceeds to state every or most every coastal community conducts semi or annual surveys on coastal erosion rates, and while the GLO is a partner, it does not use this information. States such as New Jersey, New York, and Florida coordinate all the information, while Texas has not been good at doing that. She begins to express concerns on tax funds being used by the GLO and yet the information is not made public or accessible. She believes the annual surveys are more beneficial to use since it reflects the effects of manmade items such as levees, dikes, ship channels etc.

She states there are studies, in which the GLO were partners on, showing Texas is not as sand starved as previously believed. Texas A&M University is conducting a study on the sand motor, and Texas needs to look at it to use to our benefit. She believes coordination and use of all studies should be used. When it comes to the coastal area, Texas has the habit of recreating the wheel, instead of using the current wheel.

While expressing concerns, she believes the Corp is doing a great job and GLO is more proactive than previous years. She is glad to see Texas moving faster but feels it is not moving fast enough.

COMMITTEE FINDING

The coast of Texas is the home and livelihood of millions of people. The population along the coast is 6.1 million and it is projected the population growth will increase to 9.3 million by the year 2050.¹⁸ On a broader spectrum, the entire state and the nation benefits from its coast. The coast is credited for a healthy economy due to the industry, ports, commercial fisheries, tourism and recreation.

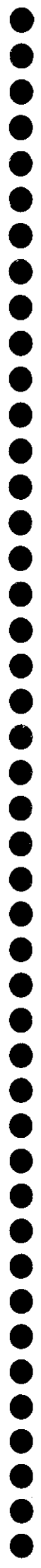
The General Land Office along with the US Army Corps of Engineers, have ongoing studies and projects regarding coastal erosion. While coastal erosion is a huge problem, the loss of feet per year has gone down. Upon completion of these studies, we are confident our efforts to reduce the effects of coastal erosion which will limit the threat to public beaches, natural resources, coastal development, public infrastructure, and public and private property.

RECOMMENDATION(S)

Continue current programs and outreach between General Land Office and local communities to resolve both immediate and long-term coastal erosion. Use such programs to continue engaging and educating the public on the importance of the Texas coast and the significance of keeping it resilient.

- Educate the citizens on the important of the Texas Coast
- Ensure we use all stakeholder information/studies; to prevent overlapping of studies and uses of funds.

Please see the Joint Committee on Coastal Barrier System Report.



CHARGE III

Study the effectiveness of the implementation of SB 695 (84R) and examine the feasibility and desirability of creating and maintaining a coastal barrier system.

SCOPE OF COMMITTEE WORK

The Committee did not meet to discuss the interim charge. However, the Committee members discussed all relevant information as members of the Joint Committee on Coastal Barrier System.

BACKGROUND INFORMATION

HB 3459 (83R) created a Joint Committee on Coastal Barrier System to examine the feasibility and desirability of creating and maintaining a coastal barrier system. SB 695 (84R) was passed to allow the continuation of Joint Committee on Coastal Barrier System.

The committee consists of the following the House and Senate members:

Rep. Joe Deshotel, Co-Chair; Rep. Ed Thompson; Rep. Eddie Lucio, III; Rep. Matt Krause; Rep. Scott Sanford; Rep. Cecil Bell, Jr., Rep. John Cyrier, Rep. Wayne Faircloth; Rep. Geanie Morrison

Sen. Larry Taylor, Co-Chair; Sen. Brian Birdwell; Sen. Craig Estes; Sen. Troy Fraser; Sen. Bob Hall; Sen. Kelly Hancock; Sen. Juan Hinojosa; Sen. Eddie Lucio, Jr., Sen. Robert Nichols; Sen. Kel Seliger; Sen. Carlos Uresti; Sen. Lois Kolhorst,

The Joint Committee on Coastal Barrier System held a hearing on Monday, April 11 at the University of A&M Galveston, in Galveston, Texas. The Joint Committee heard invited and public testimony on the charge.

The Joint Committee on Coastal Barrier System held a follow-up hearing on Wednesday, October 5 in Austin, Texas. The Joint Committee heard invited testimony on updates since the last hearing.

COMMITTEE FINDINGS

The Committee ask for you to refer to the interim report for the Joint Committee on Coastal Barrier System, since the House Committee on Land and Resource Management did not meet separately to discuss the charge.

RECOMMENDATION(S)

The Committee remains silent on recommendations for this charge.

CHARGE IV

Examine current regulatory authority available to municipalities in their extraterritorial jurisdiction. Study current annexation policies in Texas. Make necessary legislative recommendations to ensure a proper balance between development, municipal regulations, and the needs of citizens in Texas.

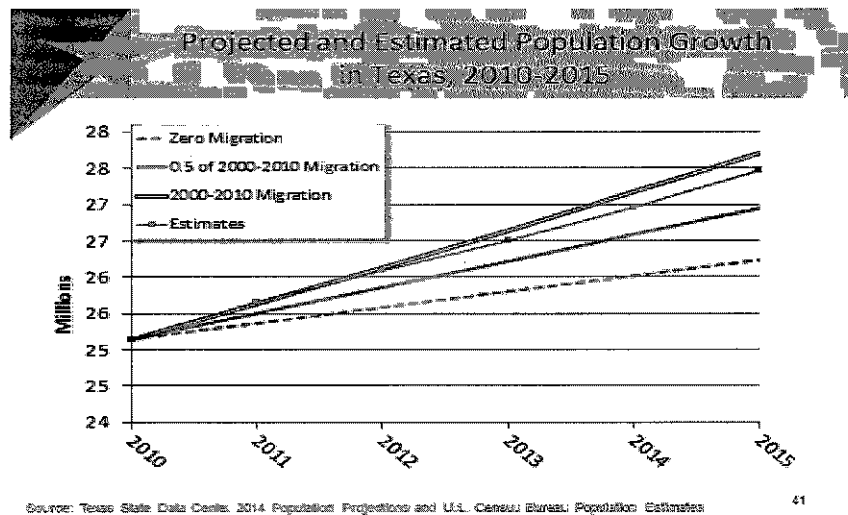
SCOPE OF COMMITTEE WORK

The Committee held a hearing in Austin, Texas on Wednesday, 21st of September 2016. During the hearing, the committees heard invited testimony from the following: Scott Houston, Texas Municipal League; Maso Maher, City of Frisco; Kevin Carruth, City of Rockport; Ned Munoz, Texas Association of Builders; Rep. Dan Huberty; State Representative for 127th Legislative District; Gerald Nobels, Self/Texas & Southwestern Cattle Raisers Association; Russell Boeing, Texas Farm Bureau; Col. Mark Lee, Joint Base San Antonio/ Military DOD Representative; James Cannizzo, US Army; Jeff Coyle, City of San Antonio. Registered but did not testify: Virginia Collier, City of Austin; Jerry Rusthoven, City of Austin.

BACKGROUND INFORMATION

Population Growth for Texas

There is no denying the growth of Texas' population is substantial. According to the Office of the State Demographer, "Texas is the second largest state in terms of population (2nd to CA) and area (2nd to AK). In terms of number of people, Texas' growth exceeds that of all other states between 2010 and 2015"¹⁹ Six of Texas' cities are the most populous cities in the United States: Houston 4th, San Antonio 7th, Dallas 9th, Austin 11th, Fort Worth 16th, and El Paso at 19th place²⁰ In 2010, the Texas population was 25,145,561 by 2015 the population had risen to 27,469, 114 and the numbers keeps rising.



*Office of the State Demographer- Demographic Characteristics and Trends in Texas and the San Antonio Area by Lloyd B Potter.

Population Growth Relevance to the Regulatory Authority of Municipalities

The State relies heavily on municipalities to create a stable environments for the growing population all the while enhancing the economic growth. Municipalities must provide and maintain residential, employment and entertainment areas; safety in the form of police stations, fire stations and hospitals; and proper infrastructure for roadways, clean water and sewage. In order to do so, the State has given municipalities the ability to regulate through various powers such as zoning, extraterritorial jurisdictions, annexation and eminent domain.

Extensive research has been conducted by Senate and the House Committees on the subject regulatory authority and extraterritorial jurisdictions over the years (listed below):

- During the 80th legislative interim, the Senate Committee on Jurisprudence studied the following charge: Study administrative and legal procedures used by municipalities to exert regulatory authority beyond city limits and extraterritorial jurisdiction. Determine whether conflicts exist with agencies' regulatory authority and regulatory authority delegated to home rule municipalities, and make recommendations for appropriate delegation and clarification of respective authorities.

No recommendations were adopted by the committee in order to avoid long-standing principles regarding EJC and nuisance law.

- During the 81st legislative interim, the Senate Committee on Intergovernmental Relations studied the following charge: Review state and local policies related to development and growth in rural and unincorporated regions of the state with regard to annexation and zoning authority. Focus on impacts to private property rights. Determine the appropriateness of existing extraterritorial jurisdiction authority. Make recommendations regarding possible changes to this authority.

The committee found concerns on development and growth for municipalities were localized. Therefore, no recommendations were adopted by the committee due to statutory changes (76RSB89, 77RHB1445, 80RSB1867) which they felt created a balance in policies related to annexation, zoning, and authority in the extraterritorial jurisdiction and unincorporated areas.

- During the 82nd legislative interim, the Committee on Land and Resource Management studied the following charge: Examine the current regulatory authority available to municipalities in their extraterritorial jurisdiction to ensure a proper balance between development activities and municipal regulation.

The committee recognized and had concerns regarding excessive and abusing regulations which denied property owners their right to develop land. Although, the committee did not recommend statewide solutions as they would have unintended consequences on

communities other than those imposing unreasonable regulations. The committee recommends local bills to target specific areas brought by their members who are affected by "bad" regulations.

- During the 83rd legislative interim, the Committee on Land and Resource Management studied the following charge: Study current regulatory authority available to municipalities in their extraterritorial jurisdiction. Examine how citizens are involved in the zoning process, and make necessary recommendations to ensure a proper balance between development activities, municipal regulations, and the effect zoning decisions have on Texas citizens.

The majority of the committee remains silent on recommendations due the complaints being isolated to certain areas of the state and unintended consequences.

Although other recommendations were given due the abuses which were discovered during the testimony. These recommendations included amending comprehensive plans (effecting zoning procedures), required majority votes annexation, reducing the size of ETJ, shorting the time of services once annexed, building code permits and model subdivision.

Below is a brief overview of regulatory authority available to municipalities and the issues which occur:

Zoning

Municipal zoning authority was codified into Chapter 211 of the Local Government Code. The purpose for allowing zoning regulations and zoning districts was to provide municipalities the ability to promote the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance.²¹ Municipalities does not possess the authority to zone areas within ETJ. Although, various provisions within the Local Government Code provides municipalities the ability to regulate these areas.

- Covers details as to what a municipality may regulate such as the height, number of stories, and size of buildings and other structures; the percentage of a lot that may be occupied; the size of yards, courts, and other open spaces; population density; the location of buildings, other structures, and land for business, industrial, residential or other purpose, and; the pumping, extraction, and use of groundwater by persons other than retail public utilities, for the purpose of preventing the use or contact with groundwater that presents an actual or potential threat to human health.

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- Designated places and areas which cover historical, cultural, or architectural importance and significance by regulation of construction, reconstruction, alterations, or razing.
 - Home-rule municipalities have the ability to regulate the build of buildings²²
 - No recent legislation has been passed since 2003.

Pursuant to Section 211.004(a), Texas municipalities must apply zoning regulations in accordance with a comprehensive plan. Chapter 213 of Local Government Code, authorizes a municipality to adopt a comprehensive plan for " .long-range development. " of the municipality but does not define "long-range" or otherwise limit the scope or time horizon of a comprehensive plan.

- Sec. 211.004(a) does not use the phrase "long-term development", instead it specifies the purpose of a Comprehensive Plan. It is designed to: lessen congestion in streets, secure safety from fire, panic, and other dangers, promote health and the general welfare, provide adequate light and air, prevent the overcrowding of land, avoid undue concentration of population and/or facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements.²³
- *Town of Sunnyvale v Mayhem(Texas. App.-Dallas 1994)*-An appellate ruling holding zoning decisions are vested in the discretion of municipal authorities. Although zoning decisions must abide with constitutional standards, municipalities may use zoning to protect the ill effects of urbanization. "A generally applicable zoning ordinance will survive a substantive due process challenge if it is designed to accomplish an objective within the government's police power and if a rational relationship exist between the ordinance and its purpose."²⁴
- No recent legislation has been passed since 1997

The procedures for the adoption of zoning regulations are provided by Sec. 211.006 et seq. of the Local Government Code.

- The section gives details for notice and publication, requirements for hearings, appeals, notices and fees.
- No recent legislation has been passed since the enactment in 1987.

The procedures for creation and purpose of Zoning Commissions and Board of Adjustments are provided by Sections 211.0075 and 211.008 et seq. of the Local Government Code.

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- A home-rule municipality shall, and a general-law municipality may, create a Zoning Commission which acts as an advisory function by conducting public hearings, make recommendations, and report to the municipality's governing body. It does not make a final decision on land use.
 - A municipality MAY create a Board of Adjustment.
 - a.) The duties of the board includes: appeals, variances, special exceptions, provide a written decisions.
 - b.) Under limited circumstances, the Board is authorized to make special exceptions to the terms of the zoning ordinance.
 - Recent Legislation- HB674 (83R) amends the Local Government Code to require written notice of each public hearing before a municipal zoning commission on a proposed change in a zoning classification affecting residential or multifamily zoning to be sent to each school district in which the property for which the proposed change in classification is located. The bill exempts a municipality the majority of which is located in a county with a population of 100,000 or less from the notice requirement, but requires the municipality to give notice to a school district that has territory in the municipality and requests the notice.²⁵

Issue:

In the past, the committee found a handful of municipalities who misused the zoning and comprehensive planning process to stymie development by imposing on a particular area or specific tracts uses which are not attainable under real-world marketplace conditions, even in the long-term. The misuse of powers imposed uncompensated burdens and financial hardships on private landowners for the sake of preserving theoretical long-term future public benefits.²⁶

Extraterritorial Jurisdiction (ETJ)

The legislature codified extraterritorial jurisdiction into Chapter 42 of the Local Government Code. The purpose " .designate certain areas as the extraterritorial jurisdiction of municipalities to promote and protect the general health, safety, and welfare of persons residing in and adjacent to the municipalities." The extraterritorial jurisdiction (ETJ) is the unincorporated area surrounding the municipalities boundaries and which varies population.

ETJ Radius from City Limits Municipal Population

0.5 miles	< 5,000
1 mile	5,000-24,999
2 miles	25,000-49,999
3 miles	50,000-99,999
5 miles	>100,000

- Extraterritorial Jurisdiction (ETJ)- is the unincorporated area, contiguous to the corporate boundaries of the municipality. The extent to which the ETJ is given, depends on the number municipal inhabitants.²⁷
- Regulation of ETJ -Subdivision plats may be regulated by applying standards for infrastructure, tracts, intended to be dedicated to public use.
 - Exception: Border counties, Harris County and surrounding counties must enter into an agreement with the county.
 - Benefits: Saves municipalities money in the long run by ensuring minimum standards are set for infrastructure and development in surrounding areas which could be annexed, if necessary.

Issue:

The majority of issues occur when property owners within the ETJ and city officials do not see eye-to-eye with some regulations and annexation procedures. The property owners feel the unbalance of powers and "overreaching" by municipal officials, who they do not get to vote for in city elections. In addition, some ETJ's who are annexed received substandard services or did not receive services with what they feel to be a "reasonable" time frame.

Annexation

The powers of annexation can be found in Subchapter B of Chapter 43 of the Local Government Code. The purpose of annexation by municipalities is to create zoning and development standards, provide more efficient public safety and municipal services. Most importantly, annexation gives municipalities the ability to maximize the return on investments (infrastructure and business incentives), protect and expand the tax base.

Below is a broad explanation, as the process can become more complicated depending on the circumstances.

- General law city- (usually a population of under 5,000) annexation can only be accomplished at the request of area landowners or voters, depending on the number of registered voters in the area
 - Some exceptions allow for annexation without consent but it is very limited.
- Home rule city-(usually a population of over 5,000) annexation may be accomplished without consent if the charter provides for it.

General Stipulations:

- Property must be located in the municipalities ETJ but not located in another's ETJ.
- Agricultural, wildlife management, timber management properties cannot be annex without an agreement between owner and municipality.²⁸

Annexation Agreements/ETJs- § Sec. 212.172, Local Government Code, allows for Landowners and municipalities to enter into a development agreements. The agreements are utilized to establish mutually agreeable terms and conditions for the development of property for the duration of the project development.

Legislative Initiatives

Despite several attempts by legislators to amend municipal authority on annexation, no major legislation has been passed since (76R) SB89, the first comprehensive reform of the annexation laws since the Municipal Annexation Act of 1963. The purpose of the comprehensive reform was to balance the powers between municipalities and property owners. It has been said, SB89 covered all the necessary reforms yet came in short by not including property owners consent prior to annexation. The most recent attempt to address this issue was (84R) HB 2221, relating to the procedures for municipal annexations by Rep. Dan Huberty.

*HB 2221-Digest by Texas House Research Organization*²⁹.

Limited purpose annexation. The bill would prohibit a municipality from annexing an area for the limited purposes of applying its planning, zoning, health, and safety ordinances in the area. This would supersede any municipal charter provision that conflicted with the prohibition.

General authority to annex. The bill would allow a municipality to annex an area that was noncontiguous to the boundaries of the municipality if the area was in the municipality's extraterritorial jurisdiction. It also would allow a municipality to annex an area upon the request of each owner of the land, subject to the governing body of the municipality meeting requirements to enter into a written agreement that included the services to be provided and to hold public hearings as defined in the bill.

Areas under a municipal annexation plan. The bill would create one process and set of requirements for areas with populations of less than 200 and another for areas with populations of 200 or greater.

To annex an area with a population of less than 200, the bill would require the municipality to obtain consent by petition of more than 50 percent of registered voters in the area or more than 50 percent of owners of land in the area if registered voters did not own more than 50 percent of the land

To annex an area with a population of 200 or more, the bill would require the municipality to hold an election in the area to be annexed by which the majority of qualified voters approved an annexation and also to obtain consent through a petition signed by more than 50 percent of the owners of land in the area if the qualified voters did not own more than 50 percent of the land in the area.

The bill also would define the types of public hearings and notifications that would be required through these processes, the time frames certain steps in the processes would have to follow, and how the results of petitions, elections, or protest petitions would be handled. In addition to these requirements, a municipality proposing to annex an area would be required to adopt a resolution that would include specified elements, including a statement of intent to annex, a description and map of the area to be annexed, and a description of the services to be provided under the annexation.

Strategic partnership agreements. The bill would prohibit strategic partnership agreements from providing for limited purpose annexation starting September 1, 2015. It also would make changes to provisions governing areas that were annexed for a limited purpose as these were authorized before September 1, 2015.

The bill would take effect September 1, 2015, and would not apply to an annexation for which the first hearing notice was published before that date.

Issue(s):

In the past, issues with annexation becomes apparent when considering non-consensual annexation. It is said, " .more power should be placed in the hands of residents who are potentially affected by annexation. "30 Property owners who purposely purchased land outside a municipality should be able to have a voice in the annexation process.

Eminent Domain

The power of eminent domain is recognized in both the United States and Texas Constitutions. The Fifth Amendment of the United States Constitution provides that private property may not be taken for public use without just compensation. Article I, Section Seventeen of the Texas Constitution, likewise, prohibits the taking, damaging or destruction of property for public use without adequate compensation being made.

There are three elements of eminent domain under Texas law:

- (1) The actor must be the state or a private entity authorized to condemn;
- (2) the property must be taken for public use; and
- (3) the landowner must receive adequate compensation for the condemned property.

Issues / Recent Legislative Initiatives

CSSB 1812 by Kolkhorst (House Sponsor: Geren) was heard and left pending by the L&RM Committee on May 11th, of 2015. The initiative was to maintain a snapshot of the eminent domain authority landscape in Texas. However, without continuous registration, current law only provides a limited view of how many entities in Texas possess eminent domain authority. The initiative would create a continuous reporting process for entities granted eminent domain authority by the Texas Legislature. A reporting platform would be developed and administered by the comptroller, facilitating registration on an annual basis so as to make reporting easy using modern database systems

SB 474 by Sen. Kolkhorst (House Sponsor: Burkett) was heard and left pending L&RM Committee on May 18th, of 2016. Interested parties note that property owners are often forced to accept diminished compensation for their land in eminent domain cases because they cannot afford the legal costs to challenge the offer through litigation. Condemnors, the parties continue, are aware that property owners can rarely afford litigation and they take advantage of property owners by offering excessively low compensation for property, using appraisers that are known for undervaluing

property and drawing out the litigation process to make it more expensive. There are existing regulations to ensure adequate compensation in eminent domain cases but, the parties contend, they are largely ineffective due to the underutilization of court proceedings.

Issue:

Property owners are often forced to accept diminished compensation for their land in eminent domain cases because they cannot afford the legal costs to challenge the offer through litigation. In addition, there are over 9000 entities with eminent domain authority but the state only provides a limited list of those who have ED authority.

TESTIMONY & DISCUSSION

Scott Houston, President of the Texas Municipal League

Testimony taken from Scott Houston, Texas Municipal League consisted of a general overview of municipal regulation. He provided the committee a brief on previous and recent claims by groups wanting "freedom from tyranny" and citing the federalist papers. Mr. Houston's defense was that the federalist papers were from the year of 1788 which was designed to assist interpretation of the US Constitution and irrelevant to municipal expanding and regulating an ETJ. He proceeded to explain, the U.S. Constitution does not give any right to decide whether a property owner is inside or outside of any political subdivision.

Mr. Houston stated it's true the legislature can take away municipal authority to annex or regulate the ETJ but the question which should be asked is if it makes sense to do so. One of the first things the legislature began to do in 1845 was to charter cities to do local work. The Legislature came to realize it not efficient to govern local affairs every other year from Austin. Our state's forefathers envisioned a system which local government took on the lion's share of provision of services and we believe the system is in place today.

Cities have the tools they need right now with the authority to raise revenue and power to expand, although this is under attack right now, to provide the services that citizens demand. He stated, the State of Texas does not provide much help other than a few tools to obtain what they need. With more than 1,400 people added to Texas population every single day, cities and surrounding areas are needing to accommodate the growth while providing safety and services.

He implores the committee "Cities need to retain power to manage this growth, it would be detrimental to take this power away" He gave caution in that it would hurt cities as well as the state economy as a whole. He proceeded to explain how Texas' economy has done well in comparison to other states. If a person was to consider changing the large component of what some people call the Texas miracle, he should do so with caution. Any statutory changes, might affect economic success of the state.

Chairman Deshotel addressed Mr. Houston's remarks by reminding him the legislature has studied these issues repeatedly finding the same problems such as cherry picking areas for tax income and/or neglect services in other areas. Chairman Deshotel suggested the municipal league to create some type of enforcement within the organization, to shun those who abuse the system.

Mr. Houston responded with "the comptroller is the one who keeps track of how many annexations take place for the purpose of sales tax" He stated there are hundreds of annexations which take place each year but does not raise concerns because the areas are not opposed to it.

The Municipal League has embarked on aggressive educating campaign for their members, held a two day annexation conference and will make sure to have another. The League is making efforts to make sure their members know the law and will comply.

Rep. Bell would like to express concern in his district which is part of a 35 year plan. The property owners and private sector have expressed the desire and need to develop but the city can't get to the development. The issues arise when there is not a structure in place, there should be a way to give the private sector opportunity to partner with the most adjacent municipality who could provide such structures sooner.

Mr. Houston responded by stating the development around cities and their ETJ is complex and integrated. We talk about annexation or a city providing services in ETJ but it's such a complex area that you have to bring in different types of entities to provide services. In most rural areas, they have to bring in a private water supply organization to provide water services, which most say doesn't provide the best services to a high dense municipal development. The most common way to bring in services in an ETJ is to create a special district. Some were opposed to the concept back in the 80's but he believes that "train has long left the station" and it has been the preferred method by developers. There are current tools in local government which allows a development agreement in an ETJ, so it doesn't completely overrun the city.

Bell encourages Committee to look at how you make certain that in the event you get to an impasse a process is in place to that allows the private sector to have an opportunity to work with the most closely related utility. Also, what happens when the entity does not have the desire in working with developers and releasing the land to for them to work with a closer municipality.

Mahe Maso, Mayor for the City of Frisco

City of Frisco is a very fast growing community, last year according to the census the fastest growing city in the country. We've seen good and bad when it comes to annexation. Mayor Maso gave examples of the ill effects when neighboring municipalities do not annex such as uncontrolled traffic issues, grid-lock, right-away issues and not having funding to pay roadways. The City of Frisco works hard on the timing and needs of infrastructure which has been the key to their success. They developed a master plan which involved all citizens, stakeholders, and landowners. Our policy has always been to have annexation agreements with landowners which

is the easiest and best way to do it. We had situations where areas inside the city were not annexed due to property owners interests, yet years down the road, the property owners come back and asked to be annexed.

Mayor Maso testified on the complex issues which arise in the ETJ while providing services to the areas. Problems arise when the area is not controlled making it more dangerous to police and fireman. Standards were not met and encroachment on roadways made them unsuitable for expansion which puts everyone in jeopardy. There have been complaints from residents near EJT's regarding uncontrolled developments and why the city hasn't done anything about it. We understand landowners rights but again our main concern is public safety, controlled growth and sustainability not just for the City of Frisco but the entire region and state.

Mayor Maso believes some of the problems are erosion of local control and even being able to approve permitting in an ETJs because again our permitting is designed for public safety and standards to get the right-away needed for suitable transportation and to relieve congestion. Mayor Maso ended his testimony by reinforcing the current procedures by stating "what's in place now is working" with some minor adjustments.

Rep. Thompson, a previous city councilman who has been through the annexation is very understanding on the process. Although, one of his big issues which he struggles with is the timing of the services that these annex areas received. In cases where there had been areas which have been annexed but waiting a long period of time for the ETJ to receive services such as water and sewer. He believes there is a true issue with areas who are being annexed but not receiving services. He followed with his opinion being, if the city annexes an ETJ, then they should immediately receive the services of the city. He inquired if the City of Frisco provides services immediately and asked if Mayor Maso can provide a timeline.

Mayor Maso responded by stating its unacceptable to not give people in city services who want them. Those developers and citizens are using city resources and tax dollars and it is very unfair to those who are paying them. The City of Frisco "lives and breathes" by using a master plan and they know their infrastructure needs and build out. The city would be a disaster without a master plan because they add over 2400 homes and four new schools a year. From the City's perspective is a very good plan and the property owners within the ETJ knows what is coming.

Mainly, the city works with the people within their ETJ, in some cases the residents don't want those services. We work out a plan with them because it will also save them and everyone else tax dollars. He proceeded to state people should not assume the people within that area have a desire for certain services. He explains local control as a system works, with exceptions but with a master plan everyone knows what to expect. He stated what really scares him is making adjustments for those few exceptions, which could hurt the growth of well planned communities

of the state. This is something everyone can learn from and the ship can rise together. There needs to be a better way to get the best practices to every community to improve annexation.

He ended his response by reiterating ETJ's consume a lot of resources from the city and it is not fair to the taxpayers who invest real dollars. The bigger picture is what is critical to look at, 10+ years down the line will the cities and State be sufficiently developed to ensure the economic and population growth.

Rep. Krause expressed his main concern is forced annexation. He asked Mayor Maso, "Do you foresee, or seen circumstances where you think it's legitimate not to give those who are annexed a chance to vote to be annexed or is it your opinion they should always have a voice?"

Mayor Maso answered Rep. Krause by stating forced annexation is rare and a last resort. They happen because it's a public safety or transportation issue not due to gaining more revenue. We do really good on that with a very low tax rate. The reason behind forced annexation is to protect the public good.

Rep. Krause then asked Mayor Maso if it would it be fair to say your position might be, if they are getting the services out of what our taxpayer and tax base, they wouldn't be able have a loud voice or waive the ability to protest against receiving services. He asked Mayor Maso, if that was fair to say.

Mayor Maso responded by stating he would go far as saying "waive" because they have opportunities to speak at public meetings and they get to hear the viewpoints of other landowners. Everyone's views are listened to at these public hearings but ultimately the jobs of city council and mayors is to protect the overall good and growth.

Rep. Bell proceeded to address Mayor Maso with a question regarding a previous statement: People in the ETJ know the plan when they move into the ETJ. However, ETJ expands when annexation occurs and when population grows the ETJ gets larger by default. So the people who move to unincorporated areas because to get away from the city. Rep. Bell asked "How do you answer the same comment that they know going in?" He proceeds to question if those people should have the right to vote if the ETJ sweeps right over the top of them.

Mayor Maso responded by stating there are several levels to look at, when he made the statement which was specific to the City of Frisco and being landlocked. The city knows its ETJ and it has been known for a very long time with no surprises. We always work with landowners and have written agreements. He believes it is common sense if you live near a city that is fast growing the city will get closer to you. He believes it is incumbent for the landowners to be involved in the process. He expressed his understanding of Rep. Bells concerns but his comment was specific to the City of Frisco.

Kevin Carruth, City Manager for the City of Rockport

Mr. Kevin Carruth provided testimony to give the committee a prospective relative to the City of Rockport which was perhaps a different end of the spectrum from Frisco. They have had a steady growth for the last 25 years. The City of Rockport is the business and education hub for entire county. There are areas when you come into town that are unincorporated. They call it a "donut hole" which is a whole in the middle of the community and it's pretty blighted and the State recognizes it as a "Colonia"². These areas do not make it a pretty "front porch" as you come into the county/city. The city has a very good partnership with Aransas County in accessing funds to put water and sewer lines in most of the colonia. They have issues within this area which the county is not equipped with regulations or law enforcement therefore the city will begin the process of annexation next month to address those concerns.

The City of Rockport has looked at it from every angle. There are arguments that city only annexes for money from property and sales tax which may be the case from previous statements but it's not a one size fits all. What happened in Kingwood - Houston issue does not exist throughout the state of Texas. Mr. Carruth has served six different cities and has never experienced such situations.

In the case of Rockport's upcoming annexation, it will cause the city \$225 thousand a year to keep up with the additional services from code enforcement, police, fire and all those services. Their efforts is not to make money off the property owners but it's their duty to the citizens to protect the health and safety. Since this area bleeds over with their issues, the only way to handle this particular situation is for it to be within the city limits. So one should look at it from the proposed citizen's perspective the question that most often arises are "what am I going to get out of it" "what is it going to cost me" "what am I going to get." He reviewed a sampled area with detailed analysis which provide a breakdown of cost/returns which he estimated \$60 per good. The estimated amount was taking into account all the additional taxes from the city, reduced utility and sanitation rates, lower fire insurance premiums, improved police and EMS response times, red lights all the benefits that come from annexation.

The "consumption without contribution" is a fair and legitimate concern. There are property owners who near the city limits that benefit from living near the city. They are consuming services and driving on our roads, so out of the fairness question, he believes one should consider consumption without contribution since it is a part of that equation.

Rep. Bell then addressed the idea of consumption without contribution. He goes on state, ad valorem tax is much smaller than sales taxes and those individuals who live in the ETJ's contribute significantly through sales taxes. The sales taxes are a larger part of a city's budget. Mr. Carruth agreed in that the people who live in the ETJs do contribute through sales taxes although its impossible to track the amount but there is a contribution there.

² The term "colonia," in Spanish means a community or neighborhood. The Office of the Secretary of State defines a "colonia" as a residential area along the Texas-Mexico border that may lack some of the most basic living necessities, such as potable water and sewer systems, electricity, paved roads, and safe and sanitary housing.

Rep. Thompson continued by addressing Rep. Bell's statement on sales taxes contribution. He does not believe it's a fair assessment to say sales taxes is a large portion of their budgets. In which Mayor Maso further stated that smaller cities have very little to no sales taxes, in that he has never seen a sales tax being higher than property tax. Although it was noted by Rep. Thompson, the City of Webster is land locked and does have a large mall which may fit the scenario of a high contribution in sales tax. Overall, in most cities the property tax would be higher than the sales tax.

In response, Mayor Maso stated their sales tax is still less than property values. No city has a higher sales tax than property tax. Furthermore, he mentioned the state takes a cut of the cities share before they return its portion.

Rep. Bell ended the discussion by applying the concept of "one size doesn't fit all" even when they are talking about ad valorem tax verses sales tax.

Mr. Carruth revisited Rep. Thompson's question regarding utilities. While he doesn't claim to know how all cities handle their utilities and everything a city does should be run like a business. In cities he has worked for, the user fees are used to pay for water and sewer service. These services are not tax supported through ad valorem tax. A city has to provide services in the manner they do for everyone else. In Rockport, the burden for utilities is on the developers or customers who are wanting those services. They pay for the extension of those lines which is not something which comes off property taxes. While Mr. Carruth mentioned that probably some cities do subsidize the cost with property taxes but he was not aware of any.

Ned Munoz, Vice-President of Texas Association of Builders

Mr. Munoz provided testimony focusing on the authority available to municipalities and the ETJs. Cities do have a number of tools to regulate an ETJ. Above that, they do have the ability to extend ordinances to the ETJ. One of the most important things a city can do is apply a platting requirements to new development to conform to a city's general plan (master plan) to its streets, parks, public utilities standards. In another words, the city has a lot of controls over an ETJ's infrastructure which they could eventually annex.

In addition, Chapter 212 of the Local Government Code, Subchapter B, provides the cities the ability to regulate development what one would think of as "construction" These regulations could require detailed plans buildings, dimensions of the streets and alleys. The construction cannot be approved until it's been filed and approved by the city.

The Texas Association of Builders strongly believe cities cannot extend building codes, permitting fees, and inspections to unincorporated areas. Those powers have been given to the county. The legislature explicitly gave counties the authority to mandate that all homes in the unincorporated areas be built to code and get at least three independent third party code inspections (Subchapter F, Ch. 233, Local Government Code).

Unfortunately, over the years there have been cities who overextending their powers by applying aggressive building codes and permit fees into the ETJ. There are Supreme Court rulings which addressed these abuses, stating General Law cities cannot overextend their authority and appellate courts upheld those findings. ³

Rep. Sanford then asked Mr. Munoz if the Supreme Court case brings contention in that it may also apply to Home Rule cities? In addition, if in the future these cases could be handled by the Supreme Court or through legislation. In response, Mr. Munoz restated the case was over General Law Cities but there was some overlap. He mentioned an appellate case currently going on regarding Home Rule cities but was unaware of any updates. Ultimately, Home Rule cities could be subject to a ruling in the future.

Mr. Munoz expressed his concerns for ETJ residents not being able to vote for city council and do not get services. All the while, city council and cities are the ones who apply platting and other health and safety regulations for the citizens within the ETJ.

Mr. Munoz began to thank Rep. Bell for pointing out the contribution of residents to cities. Stating while ETJ residents and others do use city services in the form of roads, just as Rep. Bell pointed out, they are also probably buying things in the city and generating sales tax. In addition, many residents of an ETJ work within the city who helps with their overall economy. Therefore, residents and others who are within the ETJs do contribute to the cities.

Going forward, one of the things Texas Association of Builders ask of legislatures to consider these issues contemplating regulation in the ETJ. As we heard before, as a city annexes the ETJ will expand. When the annexation occurs, it is important to provide some sort of notice to the residents in the newly expanded ETJ. It is hard for some to understand the concept of expansion and being subject to new regulations. The burden to inform property owners should be on the city governments since they will impose new regulations.

Mr. Munoz ended his testimony by asking the committee to consider the housing affordability and private property rights being paramount and must be balanced with the authority of cities to annex and extend ordinances into the ETJ.

Representative Dan Huberty, District 127, Texas House of Representatives

Rep. Dan Huberty from Kingwood Texas provided the committee testimony regarding the ongoing debate regarding forced annexation. Last year, he filled HB 2221 otherwise known to the TML as "end of Texas' miracle."

³ Texas Supreme Court in 2016 ruled that General Law Cities cannot enforce building codes and permit fees and inspections in the ETJ (Town of Lakewood Village v. Bizios).

Annexation hasn't been addressed in a long time by the Texas legislature. Rep. Huberty happens to represent the area which has involved the volatile debate of annexation. Ultimately, Kingwood was forcibly annexed by the City of Houston. The residents of Kingwood still hold resentment towards the legislature for being forced to annex. This annexation was a money, MUD and land grab despite previous claims that cities do not use annexation for revenue purpose.

Rep. Huberty referenced a letter given to the legislators by TML last session (Appendix A) by reminding the committee the overall purpose of his legislative initiative. He fully believes the property owners have the right to vote on whether or not they want to be annex. The intent was for unincorporated areas who lives within an area which could be annexed, would give the people who lives in this area the right to decide on whether or not they want to live in the City of Houston, San Antonio, Austin, or wherever it may be. He believes people want to have rights and proper representation and that the United States was formed on those principals. "The bottom line is that annexation isn't about property rights, it's about the continued success of the Texas economy" is a concept which is opposed by Rep. Huberty.

In 2003/2004, cities lobbied and was granted additional authority by limited purpose annexation. Limited purpose annexation was a way for the city to tax MUD districts to gain revenue. Rep. Huberty provided the committee with charts which shows how much money was generated by limited annexation agreements (Appendix C). The handouts showed the committee how much money is given to the cities without receiving services.

The premise of the agreements being made is, if you increase your sales tax, we will not annex you for 30-40 years. Agreements place a higher burden on the areas who provide their own services. As mentioned by Rep. Huberty, Kingwood has a volunteer fire department, for which they provide the trucks and other resources. All the while, the City of Houston has taken away their ability to better equip their volunteer firefighters and station by taking away their funding resources.

Contrary to previous claims of "consumption & compensation," Rep. Huberty states they pay through tenant rent, sales tax, gas tax and other such taxes which help with the cost of usage. Rep. Huberty's overall point he has been trying to bring light to is the fact that there are cities who do not care what property owners think before annexation. He believes forced annexation is an assault on the freedoms of places where people choose to live. Forced annexation threatens property rights of citizens, forces additional regulations, and taxes.

Rep. Huberty drafted a revision of the bill from last session to do the following: streamline the overall process, eliminate limited purpose annexation, allow municipalities to continue to annex as long as the property is within its extraterritorial jurisdiction (restriction of counties to 500,000 or more), land area can still request to be annexed, population less than 200 would be required to

have a petition of approval with 50% of voters, population 201 plus would be required for an election with approval from 50% of eligible voters, provides exemption for current MUD's, strategic partnerships, utilities partnerships within an extraterritorial jurisdiction, areas surrounding active military installation and areas within its extraterritorial jurisdiction can annex areas. Exemption for municipalities to annex roads or other right away on the request from road owner or the political subdivision which pertains to the road's right way.

At the request of Chairman Deshotel, Rep. Huberty's Office provided the committee with a chart of various states and their annexation methods (Appendix B).

Gerald Nobles, Jr., Texas and Southwestern Cattle Raisers Association

Texas and Southwestern Cattle Raisers Association (TSCRA) is the largest and oldest livestock association formed in 1877 with over 17 thousand members which own 76 million acres of land. Texas is growing but with growth brings problems. We are starting to have an influx of complaints from members who are having issues with being in an extraterritorial jurisdiction and facing annexations. To further support the groups grievances, Mr. Nobles shared his personal experience and trails with the committee.

In 2009, Mr. Nobles was told by doctors to leave West Texas due to the sand and dust. The decision was very difficult in that he was a 4th generation rancher with his ancestors being the founders of Midland, Texas, my grandsons were the 6th generation to live in the ranch house.

Ultimately, the family did move and bought a ranch in McCulloch County. In order to complete the transaction, Mr. Nobles would have to sell part of the Midland ranch which had been a part of the extraterritorial jurisdiction for years, part of the ranch was a quarter of a mile from city limits while other parts was about three miles. In preparation to sell their proposal was denied due to the zoning change from industrial agriculture and retail/residential without notifying them.

The Nobles began looking at ways to sell the southern part of the ranch based on the anticipation of annexation. In addition, the city expressed additional constraints by expressing the need for the atmosphere to be pleasant and the city wanted to control what was on the highway.

Four years later, an out-of-town oil service company who wanted to get involved in real estate, purchased a part of the land. It was brought to his attention, the new purchaser was suing or threatened to sue the municipality because they had changed the zoning back to industrial due to the municipalities interest of a new airport runway. The municipality economic development committee eventually purchased the piece of land to settle the dispute.

Although, the Midland's economic development committee declined Mr. Nobles request for them to purchase the remaining amount of land to be sold. He was left to sell the remainder of the ranch for less than a third of what it was worth when he originally wanted to sell it.

Mr. Nobles agrees that extraterritorial jurisdiction, annexation and eminent domain authority is important. Although, he has major reservations regarding municipalities motives and failing to upkeep promised services such as a water line and an abatement of taxes (in his case).

Mr. Nobles' ranch used zero utilities from city, they had their own water and cooperative for electricity. These problems are everywhere across the state of municipalities infringing on the rights of property owners. Mr. Nobles feels as though municipalities should notify, in a timely manner, the property owners when zoning for particular tract is changed. Property owners are left with very limited legal recourse and very little ability to negotiate. While Mr. Nobles acknowledges not all municipalities are bad, he reiterates there are those who abuse their powers.

At which Chairman Deshotel proceeded to thank Mr. Nobles for his testimony and recognized the state has "good players and bad players" who are experiencing the same problems on different levels as a result of municipalities excising their powers.

Rep. Bell spoke to Mr. Nobles' concerns on zoning, an extension to our interim charge. He believes there should be an appeals process for the zoning commission especially if new zoning requirements effects private property values.

Chairman Deshotel reminded the committee and everyone of municipal authority regarding the process and notice requirements for zoning. It is important to note: a municipality's ordinances and other regulations are valid and enforceable only within the municipality's corporate limits. Though the local government code does provide municipalities the ability to regulate the land through subdivision and platting regulations. In the case of Mr. Nobles, the committee is not certain but believes the development plats were denied by the city since his property fell within the city's extraterritorial jurisdiction.

Russell Boeing, President of Texas Farm Bureau

Mr. Russell Boening, President of Texas Farm Bureau, testified on annexation and extraterritorial jurisdiction to the committee in line with the Texas and Southwestern Cattle Raisers Association. Therefore, he focused his concerns on eminent domain. While the subject has been brought to the committee numerous times, serious concerns still remain. Texas Farm Bureau recognizes and understands eminent domain is a necessary part of society. Texas is growing and we know there is a high demand for resources but we feel the condemning entities take advantage of property owners.

Private property owners are discouraged over the process of eminent domain. Private property owners are having their lands taken way and are not being compensated fairly. In many cases private property owners who took their complaint to the court and won are still on the losing end

due to the cost of legal representation. Property owners are not given an equitable process to fight low ball offers to "become whole" Mr. Boeing suggested a check and balance solution by allowing property owners the ability to recover attorney fees if the condemner has been found guilty of low balling an offer (please refer to SB 474 by Sen. Kolkhorst).

Rep. Thompson raised concerns regarding "fair" compensation for those property owners who will never feel as though the offer was reasonable. He has concerns of predatory businesses who will take advantage of these situations and the only person who will benefit is the negotiator not the property owner.

Mr. Boeing understands Rep. Thompson's concerns and recognized all offers are not low ball offers. Property owners will have to consider litigation or mediation carefully due to the possibility of sharing the legal fees. The State of Florida has addressed these concerns and has not seen a flood of litigation. In fact, they have seen offers become more consistent and fair.

Rep. Thompson still had reservations on offers and what is considered fair since most property owners are not aware of current market values. Then proceeds to ask, "how do you put a price tag on sixth generation land" or how does one address concerns as to why condemnors paid \$\$ amount there but not here. Mr. Boeing stated the Texas Farm Bureau is currently in the process of setting up a website to provide examples of cases where people were low balled. These cases can be used for reference when considering litigation.

Mr. Boeing did not go in to great detail but provided the committee an overview of what a property owner endured during an eminent domain dispute. A landowner refused the initial offer, prior to the condemnor filing eminent domain another offer which was 1/3 of the original offer was made subsequently a settlement six times the original offer was reached prior to court date. Mr. Boeing ended his testimony by stating Texas is a pro-property right state but we still have some improvements to make.

Rep. Bell believes we must acknowledge there is a disparity in the condemnation process when a property owner is adamant in not wanting to sell his or her property. Yet, he has been told condemnor offers are always low and not using the same standard that's required by the comptroller office (a willing seller and willing buyer). Property owners should be compensated for having to depart from their land.

Rep. Cyrier addressed Rep. Thompson's concerns of a "cottage industry" being created to handle eminent domain litigation. Rep. Cyrier considers this industry to already be in existence because condemnors have lawyers representing them who are fully aware of the process. The testimony heard today is about protecting property owners who do not handle or not familiar with eminent domain.

Rep. Thompson made it clear, he does believe there are issues which needs to be addressed with eminent domain but remains hesitant since he has seen unintended consequences due to legislative changes. Ultimately, Rep. Thompson wants to make sure that if and when the legislature makes changes, "it is done right" Rep. Bell's statement hit the nail on the head, some property owners maybe "land rich but case poor" and do not have the proper resources to go against bodies of attorneys on staff.

Chairman Deshotel' ending comments reflects the sentiment of others, individual property rights are important. The state must look for a way to create a balance process.

Colonel Mark Lee, Military DoD Representative, Joint Base San Antonio

Col. Mark Lee's testimony provided the committee an update with the needs and concerns of the Air Force. He maintains the Air Force remains neutral on annexation policies which do not involve their lands. Their main concern is encroachment and compatibility is our goal. He goes into detail as to why and how the tree ordinance of San Antonio helps with property rights.

Written Testimony provided by Colonel Mark Lee³¹

Good morning Chairman Deshotel and distinguished committee members. I'm COL Mark Lee, Deputy Commander of the 502d Air Base Wing and Joint Base San Antonio (JBSA) Installation Commander. Today I'd like to provide you some comments regarding impact of annexation and tree ordinance to the military community here in San Antonio. Both of these initiatives provide a platform for mitigating encroachment for Joint Base San Antonio, as well as enhancing mission viability and sustainment. I appreciate the opportunity to discuss the critical importance of JBSA not only in the defense in this great Nation but as a vital interest to the city of San Antonio. JBSA is comprised of four primary locations JBSA Randolph, Fort Sam Houston, Camp Bullis and Lackland and expands out across 11 geographically separated parcels of land consisting of 46,539 acres, and 34.8 million sq feet in facilities that support 266 mission partners. JBSA is home to more DoD students than any other installation, more active runways than any other installation, and houses the DoD's largest hospital and only level one trauma center in the country. Additionally, JBSA supports more than 250,000 retirees, including 425 retired general officers, and interfaces with the 1,000 civic leaders of San Antonio, 20 smaller communities, four counties and four Congressional districts.

The 80,000+ military and civilian professionals who come to work every day to execute JBSA's 266 missions are making a difference, not only in San Antonio, but for the Nation-accomplishing critical technical training and operational support. Every medic in the DoD is trained at JBSA. Every Airman in the Air Force completes their basic military training at JBSA. Over 800 Air Force pilots annually accomplish their pilot training at JBSA, including all the Air Force's Remotely Piloted Aircraft Pilots which are trained at JBSA-Randolph, a number that we're

doubling from 200 to 400 pilots per year. However, we are more than just a training installation, JBSA serves as the home to vitally important operational headquarters that support homeland defense, intelligence, surveillance, and reconnaissance and cyber operations. Additionally, JBSA is the largest single employer in San Antonio and according to the latest study undertaken by the City of San Antonio's Economic Development Department, the Department of Defense's economic impact in San Antonio is roughly \$13 billion with an estimated economic impact to the Texas economy of approximately \$47 billion annually. Regarding annexation, it is the official policy of United States Air Force to remain neutral on annexation when such action do not directly involve our lands. Therefore, I must decline to comment or make recommendations with regard to any specific annexation proposals.

However regarding tree ordinance, the City of San Antonio and Bexar, Comal and Kendall Counties were instrumental in resolving many of Camp Bullis' encroachment issues. In 2008 and 2009, the City issued a dark sky ordinance and the counties issued lighting orders to help protect Camp Bullis' night training missions. San Antonio passed a military sound attenuation zoning overlay in 2010. These measures have been extremely helpful with regard to resolving numerous issues arising from the increasing impact on our military mission caused by residential and commercial development and we are grateful for the support provided by the surrounding counties and the City of San Antonio. Specifically, the City of San Antonio has implemented an ordinance which aids in preserving our military mission. This ordinance takes a reasonable approach to preserving trees and at the same time, it protects private property rights. We are of the opinion that the City of San Antonio's current authority to regulate tree cutting and to regulate steep slope development is very important to ensure a rational approach to development around our installations.

Protecting the viability of the 28,000 acre Camp Bullis training area is critical since Fort Sam Houston and Camp Bullis are the lynchpin for medical training for the entire Department of Defense. Furthermore, security forces from Lackland rely on Camp Bullis for the Airbase Ground Defense School, Common Battlefield Airman Training and Combat Controller's Selection Course training course. Tree protections helps Camp Bullis by creating additional habitat for the golden cheeeked warbler, creates a buffer from firing range noise and light pollution for use of night vision goggles.

Additionally, the trees help the San Antonio area to be in attainment for EPA ozone standards. Ozone is a summertime pollutant and the biggest factor in ozone creation is temperature. The shade created by all trees reduces ozone by reducing the urban "heat island" effect. Ozone compliance could affect any major proposal for federal growth for JBSA. You may have heard that San Antonio had too many non-attainment episodes this past summer. Maintaining the tree canopy is one measure to keep us falling further into nonattainment.

Generally, in any fast growing urban areas near military installations, we rely on local municipal planning, zoning, and other land use controls to ensure compatible development that will not adversely affect our military missions. Efforts to enhance those legal authorities may provide additional options and tools to address negative encroachment and develop win-win situations for all affected landowners. Ensuring the continued viability of the San Antonio military infrastructure is one my primary goals.

JBSA encroachment team have been working ardently together with local city, county and the state for several years to quell the tide of encroachment by promoting compatible land use development around JBSA. Thank you for allowing me to testify and for your consideration and continued support of the expanding role of Joint Base San Antonio as an increasingly important center for significant and vital national defense mission.

Jim Cannizzo, Ad & Civil Law Advisor, US Army (1.53.32)

The Committee addressed a charge similar charge (2012) and Mr. Jim Cannizzo, Attorney and Adviser for the U.S. Army, provided testimony to the committee to reinforce their stance the City of San Antonio's city ordinances. Local Control is important to Texas due to its large size. Mr. Cannizzo cautions the committee with statewide solutions.

Written testimony provided by Atty. Jim Cannizzo³².

I am the Army's attorney advisor for encroachment issues for Camp Stanley and for retained Army functions at Fort Sam Houston and Camp Bullis in the San Antonio area. I am here to testify on city development authority in the extraterritorial jurisdiction (ETJ) which helps protect military missions.

Camp Bullis is our primary field training site and is vital in preparing our Officers, Noncommissioned Officers, and Soldiers, to save lives on the battlefield. Camp Stanley stores small arms and ammunition, including storing ammunition for the San Antonio area military installations Fort Sam Houston is the home of Department of Defense medicine and is the lynchpin for enlisted medic and officer training for the entire DoD. Fort Sam Houston is a 3,000 acre urban installation near downtown San Antonio. It relies on Camp Bullis for this field training capability Air Force personnel at the Air Force Airbase Ground Defense School at Bullis are also a major field training user. These field training courses are vital to the ongoing military operations in Afghanistan

Camp Bullis was established more than one hundred years ago and back then there was no development around it. Times have, of course, changed and it is now rapidly being surrounded by intense development. The Camp is now surrounded by development on all but its northern boundary.

As a result of the 2005 Base Realignment and Closure (BRAC), Fort Sam Houston became the home of all Defense Department enlisted medical training as of October 2010. Our average student population grew from a daily population of approximately 4,500 students to over 9,000 Army, Navy, and Air Force students attending medical specialty courses and advanced technical training courses. In total, Fort Sam Houston received an additional 12,000 personnel per BRAC 2005.

Retaining Camp Bullis as a 28,000 acre maneuver training area is essential to accomplishing the current and expanding missions of Fort Sam Houston and Joint Base San Antonio. The consolidation of Defense Department enlisted medical training is a result of the significant field training capability available only at Camp Bullis. The training that occurs in the classroom setting at Fort Sam Houston, coupled with the realistic field training that occurs under conditions similar to today's battlefield, are essential in our efforts to save lives in war. These efforts are contributing to the greater than 90 percent survivability rates we are seeing from injuries in Afghanistan.

San Antonio's tree ordinance helps protect Camps Bullis and Stanley in several ways. First, it helps our camps from becoming the "lone island of refuge" for the endangered golden-cheeked warbler. The warblers trigger many restrictions on our camps under the federal Endangered Species Act and these restrictions will only increase if we are the "lone island of refuge." Next, trees help buffer light from development around our installation, which helps protect our night training mission and our use of Night Vision Goggles (NVGs). Trees can also help buffer noise coming from our installation, reducing noise complaints arising from our firing ranges and aviation activities. Also, the trees help the San Antonio area (including Camp Bullis, Fort Sam Houston, Lackland and Randolph AFBs) to be in attainment for EPA ozone standards. Ozone is a summertime pollutant and the biggest factor in ozone creation is temperature. Ozone noncompliance affects any major proposals for federal growth (and for large private proposals, such as the Toyota plant siting in San Antonio). It would have been extremely difficult to accept BRAC 2005 gains had this area been in non-attainment. Nonattainment designation for San Antonio is projected for October 2017.

This really comes down to local control. It is not hard to understand how legislators who are not from central Texas would not be able to understand local issues such as steep slope, the Edwards Aquifer, ozone attainment, or very large military bases with encroachment issues. Many areas of Texas do not have a single one of the issues locally. In the lead-up to the 2013 legislative session, there was an interim charge on tree authorities in the ETJ. The military also made our concerns known at that interim charge hearing, and the final committee report, concluded that no statewide changes should come from Austin. Rather, due to local issues, any changes should be done by local legislators. See excerpt and web-link to the 2012 interim charge report.

Recommendation

The committee does have concerns regarding excessive and abusive regulations which impede or deny property owners their right to develop land as they see fit. However, the committee feels these regulations should be addressed with targeted , local bills brought by members who represent the area affected by the regulations. Any statewide solution could have unintended consequences on communities other than those imposing unreasonable regulations.

http://www.house.state.tx.us/_media/pdf/committees/reports/82interim/House-Committee-on-Land-and-Resource-ManagementInterim-Report-2012.pdf

Thank you for allowing me to testify and for your consideration and continued support of the expanding role of Fort Sam Houston, Camp Bullis, and Camp Stanley as increasingly important centers for significant and vital national defense missions.

Jeff Koyle, City of San Antonio

Mr. Jeff Koyle, Director of Government and Public Affairs, City of San Antonio provided testimony to the committee in regards to a recent annexation and the right to vote. Prior to the recent annexation, the city had not annexed any surrounding areas and seen the unincorporated areas growing rapidly. In 2014 Bexar County conducted a study of the surrounding 5 areas which fell in San Antonio's ETJ to see if it would benefit them to provide urban services. Later in the year, the city moved to begin plans to annex the areas. As required by state law, the city held public hearings and received feedback from a lot of people who did not want to be annexed. In turn, the mayor decided to scaled back the annexation from 100,000 to 16,000 people.

Rep. Krause asked Mr. Koyle for clarification, if the citys efforts were scaled back to the 16 thousand due to them wanting to be annexed or was it forced. Mr. Koyle stated they felt it was forced upon them and not wanted. The surrounding area included Camp Bullis, while the Military remained neutral, the city felt zoning was important to prevent somebody from building large infrastructure on the fence line.

The mayor and city council (9-2 vote) all understood the concerns but believed the decision was made for the best of the region and economic impact. If the City of San Antonio was to have played out the vote, if they voted no, and if something would have been built, the effects would have been detrimental to the entire area.

Mr. Koyle stated the city is not against people's right to vote but they have a large city and constituency who would benefit not just the interests of the people in the ETJ. Chairman Deshotel posed the question of how the mayor would feel if the people within the ETJ had the right to vote for the mayor during elections. While Mr. Koyle was not able to answer, he did mention future votes would be considered if they continue with an annexation.

One of the council's most conservative member has said that had the requirement been in place which would require a vote for annexation the city would not have grown to the size it is today. San Antonio's growth has allowed them to bring in big companies who contribute to tax base. In a study, it was shown that 80 percent of residents in the ETJ, work within the city for these corporations. At the same time, they use city resources and roads traveling to and from work.

Chairman Deshotel stated again, it's a difficult issue for us to balance. Ultimately, there is a balance between property owners who intentionally move away from urban areas only to find boundary lines knocking at the door due to growth of municipalities, and finding a way to prevent a drain to the current system and Texas.

William Anderson, Self, Upper Bull Creek Neighborhood Association

Mr. William Anderson of Bull Creek Neighborhood Association provided the committee with testimony on the recent annexation of their area by the City of Austin. He stated the noncommercial area did not ask, want, or found it warranted to be annexed. The residents in my area feel there was no other reason other than to increase Austin's tax base.

In the 1990's Bull Creek paid MUD over 100 thousand dollars to extend water and sewer lines to the area. Through the agreement, the area became ETJ service consumer even though the area was not directly in the MUD. Later in the 90's / Early 2000's, Austin annexed the MUD and so the pipe and sewer lines were included.

Austin's annexation paperwork had no capital improvements due to no potential water or utility issues despite our documented proof of massive rainwater discharge from an area above the neighborhood. The concentrated storm water is in direct default of the Texas Water government changing sheet flow into concentrated flow. Ironically, many of the same staff members who were working on annexing the area were also involved in the unmitigated disaster in the Onion Creek subdivision in the Austin Area. The City of Austin is now finding themselves having to buy homes of individuals who have been flooded multiple times over the years.

To counter Austin's desire to annex Bull Creek, they built a coalition of conservatives, liberals, environmentalists and neighborhood advocates. In turn, the city council voted in the coalition's favor due to their efforts over the Bull Creek watershed, the covenants, and wildlife protection.

We understand and concur with the cities desire for growth. However, such decisions should be done in non-aggressive and well calculated ways which protects property rights. Annexation should not be about money grabs. If the municipalities can make a compelling argument for their decision, why are they scared to put it to a vote?

Commissioner W. A. "Andy" Meyers, Precinct 3, Fort Bend County³³

Written testimony was provided by Commissioner W A. "Andy" Meyers of Precinct 3 from Fort Bend County.

Under current legislation, cities have approval authority of subdivision plats, roads, and drainage in their Extra Territorial Jurisdiction (ETJ) even though residents/citizens in the city's ETJ cannot vote for or against the city elected officials who are deciding issues that affect them.

Currently there is a lack of accountability of city elected officials to residents whose lives these officials affect directly. About 95% of the approximately 250,000 residents who live in Precinct 3 in Fort Bend County are in the unincorporated area of the County in the ETJs of

Katy, Fulshear, Simonton, and Sugar Land. Most of those residents reside in Houston's ETJ. If the city of Houston's bureaucrats reject a development and road plan that the County favors there is nothing that the peoples' only elected and accountable officials, their County Commissioners and Judge, can do about it. The people simply have no voice in these matters.

Although the various cities, through their approval of developers' subdivision plans, decide where roads in the unincorporated area of the county are to be placed, those cities contribute nothing toward remedying problems related to the lack of mobility created by developers avoiding connecting roads going through their subdivisions. Those costs are borne solely by the county. Since cities do not fund county roads, they should not be making decisions about the placement of those roads.

The city of Houston has entered into numerous Strategic Partnership Agreements (SPA) with Municipal Utility Districts (MUDs) in the unincorporated area of Fort Bend County, allowing Houston to levy a 1 cent Sales Tax in its Fort Bend County ETJ. Houston is currently collecting about \$12 million per year in sales taxes in the unincorporated area of Fort Bend County which it is sharing 50/50 with the MUDs. Houston uses its \$6 million to fund its operating expenses and most of the MUDs utilize their portion of the \$6 million to subsidize the water and sewer costs/fees of residents in their districts. The vast majority of residents in Houston's ETJ receive no benefit from the taxes that they pay to the city through the SPAs.

In the 2015 Legislative Session, I was successful in getting legislation introduced to require the city of Houston and the MUDs to spend at least some portion of the sales taxes they collect in Houston's ETJ to directly benefit the residents paying those taxes. We agreed to voluntarily pull the legislation down after a hearing in the House Ways and Means Committee in exchange for Houston and the MUDs agreeing to negotiate in good faith to reach an agreement to fund joint projects that benefit the residents paying the tax. To date we have

been unable to reach any agreement with Houston or the MUDs. We believe that revenue from a General Tax, such as a Sales Tax paid by the general public, should be used to benefit the general public paying the tax. Only about 15% of residents in Houston's ETJ, those living in the MUDs that have an SPA with Houston benefit. We believe 100% of the people paying the tax should receive some benefit.

Chapter 43 of the Local Government Code details how unincorporated areas of a county can be annexed into a municipality or released from one. Home Rule cities such as Houston may annex land, which extends their ETJ in the manner stated in their city charter. Local Government Code Section 42.021 provides that Houston can extend its ETJ five miles past proper city limits unless another municipality has already extended its ETJ or city limits into the area.

Section 43.141 of the Local Government Code details the requirements of disannexation from a municipality, which again gives home rule cities the ability to allow disannexation procedures to occur in a manner stated in their respective city charters. Residents have the ability to petition to be released from annexed areas under certain circumstances, such as the city's failure to provide services, and residents of general law cities can petition to be disannexed. Procedures allowing for the release of an ETJ are not covered in statute. The Local Government Code allows for a municipality to give a portion of its ETJ over to another municipality (42.022) but explicitly states in section 42.023 that "the extraterritorial jurisdiction of a municipality may not be reduced unless the governing body of the municipality gives its written consent by ordinance or resolution. "The ability to deny a reduction in the ETJ is a political decision by the granting city, and not necessarily in the best interest of the citizens residing in the ETJ.

Residents in Houston's ETJ are subject to some of Houston's regulations, and pay the city's sales tax. These residents cannot vote in Houston elections and have no say in regulations or, in certain circumstances, taxes that they are subject to due to their residence inside the ETJ. If residents were allowed to create their own city, they could be more responsive to their own needs, have a voice in rules and regulations, and would be able to apply sales, property, and other tax collections to projects that benefit their community, such as mobility, police protection, and parks.

Houston has represented to my office and area residents that it will not be able to provide city services to the residents in its ETJ for 25-30 years. Our request is to introduce legislation allowing residents in Houston's ETJ, by a majority vote of those residents, to remove themselves from Houston's ETJ to allow them to become part of another city or to create their own city, which would allow these residents to control their own destiny.

COMMITTEE FINDINGS

"One bad apple can spoil the whole barrel"

During the course of the hearing, we heard testimony from representatives of the City of Frisco and Rockport who are the perfect examples of how a master plan, annexation and extraterritorial jurisdictions are supposed to work. These cities embraced their powers and responsibilities to become "poster child" of how and why the current structure is functioning accordingly. Although, not all the testimony painted the same picture of a working system.

Supporters of annexation claim that by reducing a cities' unilateral ability to annex areas around it, such actions would hinder growth & services since they receive little to no financial assistance from the state. Decreasing municipal authority would be detrimental the State's economy. Another argument of "consumption & compensation" is routinely used to enforce the idea of everyone benefiting and paying for services.

There are cities who delay offering services to annexed areas for years and refuse to release them from ETJ to allow them to get services from a closer municipality. There is no way for residents in an ETJ to appeal the process if municipalities are unwilling to work with them. Limited annexation allows for municipalities to agree not to annex for certain amount of years as long as the MUD splits the tax. At face value, this may be beneficial for some but clearly it is not useful for areas such as Fort Bend County/Kingwood.

The Committee agrees, there should be a balance between the municipality and ETJ if services are being provided. It should be noted, for one to measure other monetary gains from residents of an extraterritorial jurisdictions to municipalities is nearly impossible. Although the committee recognizes economic benefits from residents of ETJs by providing workforce and contributing to the sales tax.

The idea of property owners using "common sense" is unrealistic and not fair. As we heard during testimony, property owners who reside in unincorporated areas are often unaware of how often a city's boundary lines changes due to population growth and expanding ETJ. It is our duty to protect and educate those who are not informed, yet there are no notices given to property owners within an unincorporated area who may one day be subjected regulations by becoming a part of an ETJ and a growing municipal's authority.

Population growth controls boundary lines and ultimately how far municipal powers can reach. This has become a problem when municipal interest (master plan) conflicts with the ideals, wants, and needs of those who live and own property in an extraterritorial jurisdiction. Property owners and residents within extraterritorial jurisdictions do not get to vote for city council members who could protect their interest and needs. The current system lacks the accountability of city elected officials to residents of extraterritorial jurisdictions.

Over the years, the Texas Legislature has not fully addressed forced annexation due to the fear of unintended consequences. Chairman Deshotel expressed his desire to see pressure on those "bad actors" by TML and other municipalities. He would like to see TML to continue their efforts in

educating municipalities on the proper methods and what's considered an abuse of power.

The subject of annexation reform is not going away due to the continued abuse by those "bad apples" On one hand, if the majority of annexations are welcomed and uncontested, as claimed during testimony, how would a vote hinder the growth of a municipality and Texas? On the other, we heard testimony from the City of San Antonio who used annexation (to enforce zoning ordinances) to protect and prevent the possibility of a large building along the military installation fence line. The committee remains cautious in making changes which will affect the entire state.

In the end, Rep. Huberty's argument rang true and was heard by our committee, "we live in a democracy and everyone's voice should be heard" The statement "[t]he bottom line is that annexation isn't about property rights, it's about the continued success of the Texas economy" raises grave concerns. As Legislators, we must be able to protect the interest of everyone. We must find a balance of powers between property owners and municipalities to ensure the success of Texas economy.

RECOMMENDATION(S)

- A public notice to unincorporated areas of its boundary lines changing due to annexation or ETJ expanding.
- Reconsider annexation reform which will balance the powers between private property owners and municipalities.

OTHER RECOMMENDATION(S)

- Reconsider eminent domain reform to ensure fair compensation for private property owners.



CHARGE V

Conduct legislative oversight and monitoring of the agencies and programs under the committee's jurisdiction and the implementing of relevant legislation passed by the 84th Legislature, and specifically:

- a. consider any reforms to state agencies to make them more responsive to Texas taxpayers and citizens;
- b. identify issues regarding the agency or its governance that may be appropriate to investigate, improve, remedy, or eliminate;
- c. determine whether an agency is operating in a transparent and efficient manner; and
- d. identify opportunities to streamline programs and services while maintaining the mission of the agency and its programs.

SCOPE OF COMMITTEE WORK

The Committee held a hearing in Austin, Texas on Wednesday, 21st of September 2016. During the hearing, the committees received information from the General Land Office and left the charge open to public testimony.

BACKGROUND INFORMATION/COMMITTEE FINDINGS

The Committee on Land and Resource Management oversees the following state agencies: the School Land Board, the Board for Lease of University Lands and the General Land Office.

The School Land Board³⁴.

The School Land Board (SLB) was established in 1939 by the 46th Legislature to manage the sale and mineral leasing of Permanent School Fund (PSF) lands. The SLB's responsibilities include approving land sales, trades and exchanges, the purchase of land for the PSF, as well as issuing permits, leases and easements for uses of state-owned submerged land.

Membership: The Commissioner of the Texas General Land Office serves as Chairman of the SLB and is joined by two citizen members. One citizen member is appointed by the Governor while the other is appointed by the Attorney General. Citizen members serve two-year terms, and may be reappointed, while the Commissioner serves during his/her term in office.

Current Membership:

- George P. Bush, Chairman (January 2015 - Present; Ex officio)
- David S. Herrmann (November 2001 – August 2015)
- Gilbert Burciaga (September 2015 – August 2017)

The Board of Lease of University Lands³⁵.

In March of 1929, the 41st Legislature created the Board for Lease of University Lands (Board). The Board is responsible for the leasing of Permanent University Fund (PUF) lands for oil and gas exploration and development. The mission of the Board is to maximize the revenue from PUF lands by applying intensive management, accounting, conservation, and environmental programs which improve and sustain the productivity of PUF lands.

Membership: The Commissioner of the Texas General Land Office serves as Chairman of the Board during his/her term in office. Two members of the Board of Regents of The University of Texas System and one member of the Board of Regents of the Texas A&M University System serve two-year terms.

Current Membership:

George P. Bush, Chairman
Charles W. Schwartz
Brenda Pejovich
David J. Beck
Dr. Scott Kelley
Mark A. Houser

The General Land Office: Programs and Resources

Energy Resources

The Energy Resources division conducts oil and gas lease sales on behalf of the Permanent School Fund (PSF) and other state agencies, processes oil and gas leases covering various types of state land, issues mining leases for hard mineral production, administers leases for termination, delay rentals, shut-in royalty payments and compliance with other lease provisions, and inspects and monitors leases producing state oil, gas and hard minerals throughout the state. The division also performs royalty audits, reconciliations and reviews to ensure that royalties are being properly paid. In addition, the division markets electricity and natural gas to public retail customers, and researches renewable energy and water development projects.

Appraisal Services

The division provides appraisal services to other divisions within Asset Enhancement and to the Veterans Land Board. These property values assist with transactions involving Permanent School Fund real property and the School Land Board. Appraisal Services also conducts market studies and feasibility analysis as requested by its client for any other potential transactions contemplated by the agency. In addition, similar services are also performed for properties owned by other state agencies by incorporating a highest and best use analysis to ensure that those properties are fully utilized.

Surveying Services

Surveying Services performs field inspections and boundary surveys of state-owned Permanent School Fund (PSF) upland and submerged lands, including the beds of navigable and perennial

streams as well as tidally-influenced coastal waters and the Gulf of Mexico, as requested by other GLO divisions, other county, state, and federal agencies and the Veterans Land Board. The division also provides research information and determinations of boundaries and ownership disposition of PSF lands to the aforementioned entities and the general public as requested.

Construction Services

The Construction Services division is the centralized group for GLO-related design and construction services. The division maintains and improves the Texas State Veterans Homes and Cemeteries facilities and other GLO managed facilities to comply with codes and licensing requirements. In addition, the division repairs and improves beach and other coastal assets on behalf of the Coastal Resources division and provides planning and grant support services for GLO construction projects.

Leasing Operations

The Leasing Operations division issues surface leases and special documents for a variety of uses of the surface of Permanent School Fund land. In addition, the division grants easements for pipelines, electric lines, fiber optic lines and roadways over PSF uplands, creeks and rivers and state-owned submerged land. This division has the responsibility for inspecting, leasing, and managing all Permanent School Fund upland property and non-tidal state-owned creeks and rivers.

Asset Management

The Asset Management program area manages the real assets of the Permanent School Fund (which includes investment-grade real property in the Internal Investment Portfolio and the sovereign/rural land tracts), and oversees the commercial leases for projects such as marinas, piers, and dredging activity that occur on state-owned land. The division also inventories and performs evaluations on real property owned by other state agencies and manages the disposition of any underutilized state agency real property as authorized.

Oil Spill Prevention and Response Program

The Oil Spill Program is charged with the prevention of and response to oil spills, removing and disposing of derelict vessels. Creates partnerships with coastal local governments and private industry to ensure proper disposals and ownership of the incidents.

Coastal Resources

The Coastal Resources program area is charged in protecting, preserving, restoring, and enhancing natural resource areas while stimulating the economic growth along the Texas Coast. Specific programs: Coastal Management Program (CMP), Coastal Erosion Planning and Response Act (CEPRA), Coastal Impact Assistance Program (CIAP).

Veterans Land Board (VLB)

The Veterans Land Board provides low-interest loans for land, housing and home improvements for eligible Texas Veterans, military members or their families. Provides for long term skilled nursing care at the eight State Veterans Homes and manages the four state veteran's cemeteries which will provide a final resting place for over 137,000 veterans and their families.

Community Development and Revitalization (CDR)

The Community Development and Revitalization program manages all aspects of Community Development Block Grants for Disaster Recovery (CDBG-DR) received from the United States Department of Housing and Urban Development (HUD) as a result of hurricanes, wildfires, floods and other national disaster declarations. Their area of responsibility includes, but is not limited to: ensuring compliance with all Federal regulations in their efforts to assist with housing, infrastructure, and economic development for affected Texas communities.

The Alamo Complex

(82R)HB3726 moved the Alamo under the jurisdiction of the GLO. The GLO is now responsible for the preservation, maintenance, and restoration of the Alamo Complex and its contents, and is responsible for the protection of the historical and architectural integrity.

Archives and Records- since 1837, the GLO has been maintaining documents from 18th century while making them available to others at a low cost in order to protect but share Texas history.

GLO Budget and Program Details

GLO adjusted appropriations for FY 2016 as reported in the FY 2018-2019 Legislative Appropriation Request are \$212,210,523 with 584.8 FTE's.

- \$107M in Federal Funds for the Disaster Recovery program make up 50% of the budget.
- The GLO receives a General Revenue appropriation of \$31,478,793 for FY 2016
 - \$23,754,480 for the Alamo
 - \$1,707,182 in Earned Federal Funds from Disaster Recovery Program
 - \$5,398,794 for Coastal Erosion projects and closure of Rollover Pass
 - \$618,337 (from state tax revenue) for general operating expenditures.

General Revenue – Dedicated

- Coastal Protection Fund - \$10,495,998
 - This is funded by a 1.3 cent per barrel fee assessed on oil passing through Texas ports.
- Alamo Complex Account - \$3,147,235
 - Revenues derived from rental fees, donations, vending and gift shop sale proceeds.
- Coast Public Lands Management Fee Account \$209,008

Permanent School Fund

The GLO manages the real estate portion of the Permanent School Fund (PSF). This includes managing mineral leasing on 13 million acres, surface leasing of approximately 747 thousand acres.

FY16 the PSF receipts total is approximately \$1.083 billion.

- Receipts from Mineral Sources (including oil and gas royalties)- \$522 million in revenue.

-
- Receipts from Real Assets Investments:
 - Internal Investment portfolio - approximately \$46.6 million.
 - External Real Assets investments – approximately \$386M
 - Receipts from Surface Rentals, Easements, and Damages - \$15.4 M

In FY 2016 the TXGLO/PSF real assets investment portfolio:

- Generated a total return of 10.58% vs. a benchmark of 8.16%
- It's 3-year average annual total return was 12.78% vs. a benchmark of 9.25%
- It's 5-year average annual total return was 14.24% vs. a benchmark of 9.80%

The Veterans Land Board

The Veterans Land Board (VLB) offers below market loans to Texas veterans to buy land, purchase a house or make a home improvement. The VLB currently holds 26,635 active mortgages.

In FY 2016:

- 1247 VLB land loans were closed
- 2933 housing loans closed
- 391 home improvement loans closed.
-

In FY 2016, approximately \$250M in bonds was issued to support the mortgage program.

Texas currently has four veteran cemeteries in Abilene, Corpus, Killeen and Mission that will provide burial space for 137,000 Texas veterans. This year, the VA awarded a construction grants to the VLB for the expansion and improvement of the Texas State Veterans Cemetery in Killeen for \$799,649 and an improvement grant for the State Veterans Cemetery in Abilene for \$393,485.

VLB Texas State Veterans Homes are in eight locations across Texas, including: Amarillo, Big Spring, Bonham, El Paso, Floresville, McAllen, Temple, and Tyler. The total capacity of the State Veterans Homes is 1,180. The eight homes maintain a 94% average occupancy. In

comparison, the national VA State Veterans Home occupancy rate is 86%, while the average occupancy rate for all nursing homes in the state of Texas is 71.7%.

The Veterans Administration conditionally awarded a grant for a ninth home to be located in the Houston area. The total VA grant is for \$22,697,931.75 which represents 65% of the cost of the new home estimated to be \$34,919,895. Anticipated funding of the award is March of 2017. The new facility will have a capacity of 120 residents.

The VLB Texas State Veterans Home Program was awarded the Optima Award by Long Term Living Magazine for its Post-Traumatic Stress program that was developed by the TSVH staff and provided training to the staff in all eight of the State Veterans Homes.

In FY 2016, the TSVH program was awarded two grants from the VA. The first was for life safety projects at three of the eight Texas State Veterans Homes (Amarillo, El Paso, and McAllen). The second was for renovation projects at the same three homes. The total amount awarded by the VA for the life safety work was \$1,390,263 (65 percent of the total project cost). The total amount awarded by the VA for the renovation work was \$2,766,935.81 (65 percent of the total project cost). Since FY2013, the VA has awarded the TSVH program over \$18M in life safety and renovation grants to provide for improvements at the Texas State Veterans Homes.

Oil Spill Program

The GLO's Oil Spill Protection and Response program is a 24/7 program with 5 strategic locations on coast (Nederland, La Porte, Corpus Christi, Brownsville, Port Lavaca) that allow us to respond to any spill within a few hours.

Coastal Protection Fund

The program is funded by a 1.33 cent per barrel fee on oil that passes through Texas ports. The fund has a ceiling of \$20M and a floor of \$10M that impact when the fee is collected. The fund is used to staff the program and can be used to pay for clean up if the responsible party is not identified. In cases where the responsible party is identified, like the Texas City spill, the State's fund is not used to pay the bills.

Coastal Management Program

With 367 miles of Gulf beaches and more than 3,300 miles of bays and estuaries, Texas has one of the longest coastlines in the country. The GLO is charged with taking care of the Texas coast, ensuring that beaches remain open to the public, monitoring coastal construction and managing grant programs to assist local governments in caring for Texas beaches and bays. The GLO receives \$10M per year in funding for coastal management and coastal erosion programs.

GLO manages one state funded and three federally funded grant programs.

- Coastal Erosion Planning and Response ACT (CEPRA - state funded)
- Coastal Impact Assistance Program (CIAP)
- Coastal Management Program (CMP)
- Gulf of Mexico Energy Security Act (GOMESA)

In FY 2016, the GLO NRDA (Natural Resource Damage Assessments) section worked on over 35 active NRDA cases including the Deepwater Horizon and Texas City oil spills.

Community Development and Revitalization

In 2011, the long-term disaster recovery programs and the \$3.6B grant portfolio associated with Hurricanes Rita, Ike and Dolly were transferred to the GLO. Subsequently, the GLO the renamed the program, Community Development and Revitalization (CDR) to differentiate the long-term recovery mission from that of immediate response, as performed by other state agencies. In 2012 and 2013, HUD awarded two additional grants, totaling \$36 million, to the State of Texas as a result of the damages sustained in 2011 Texas Wildfires. HUD recently allocated 2 grants for the 2015 and 2016 Flood Disaster Declarations in the amounts of \$50 million and \$45 million. Of the \$50 million 2015 Flood Grant, \$22 million has been allocated by HUD to the most impacted counties of Hays, Hidalgo, Harris, and Travis. Projects funded under CDBG-DR grants include infrastructure, housing, planning studies and economic development activities. To date, the Disaster Recovery program has completed over 10,000 single-family homes.

The CDR program has completed approximately 86% of planned infrastructure projects for recovery from Hurricanes Ike and Dolly, which equals approximately 1,579 projects ranging from generators to a \$85M wastewater treatment plant. The rental housing program is 67% complete in building more than 6300 units.

CDR expended over \$375 million in FY 2016. Program expenditures have increased four times over since the GLO received the DR program in 2011. Lean program management has allowed the CDR program to achieve a 30% reduction in administrative costs in FY2016 compared to the prior year.

Alamo

There are now three Not-for-Profit Entities managing Alamo affairs in San Antonio. The GLO partners with these organizations to run the property and preserve its historical legacy and physical structures. Daily operations, staffing, and visitor experience elements are now run by Alamo Complex Management (ACM). The Alamo Endowment is creating an endowment fund and manages the Alamo Master Plan process which is a cooperative redevelopment campaign involving the Alamo Not-for-Profit Entities, the State of Texas, and the City of San Antonio. Finally, the Remember the Alamo Foundation (RTAF) is responsible for private fundraising related to capital campaign aspects of the Master Plan.

In spring 2016 Preservation Design Partnership (PDP), from Philadelphia, was selected to lead the master planning process. This process started with a discovery (research) phase highlighted by an archeological dig on Alamo St. in San Antonio. The Master Plan process now is in a development phase that will lead to building design options and ultimately yield the final plan in spring 2017. The first of several public hearings on the Master Plan process was held in August. The Master Plan process was formalized under the “Reimagine the Alamo” campaign banner to grow public support and manage communications efforts.

The GLO in cooperation with ACM have undertaken several facilities improvement projects across the Alamo grounds to preserve the historic structures and add essential building elements for modern use and aesthetic consistency. The changes have included transforming the former DRT Library into a multi-use exhibition, education, and conference space, as well as applying

ADA building codes to all areas, improving public restroom facilities, and providing IT infrastructure.

The GLO has purchased several properties surrounding the Alamo site – the Crockett, Palace, and Woolworth buildings on Alamo St. The board of Directors and the GLO are researching additional sites to purchase around the Alamo, as all of these properties will feed the Master Plan process. These sites will be transformed into a world class museum and designed for a better visitor experience around the Alamo.

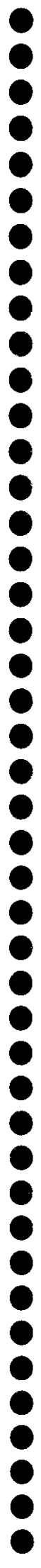
Archives & Records

The GLO Archives and Records consist of 35.5 million documents and over 45,000 maps, dating as far back as 1561. The GLO has scanned and placed online 3 million documents and scans an additional 10,000 documents every month. These documents are used by people like surveyors, land men, historians and genealogists.

The Save Texas History program was started in 2004 to raise funds for preserving these historic documents. In FY16, the GLO Archives earned almost \$155,000 in revenue to support conservation efforts.

RECOMMENDATION(S)

The Committee remains silent on recommendations for this charge.



APPENDIX A
TML's Letter Against HB 2221
Referenced by Rep. Dan Huberty



TEXAS MUNICIPAL LEAGUE

President Nelda Martinez, Mayor, Corpus Christi
Executive Director Bennett Sandlin

March 19, 2015

The Honorable Joe Deshotel
House Committee on Land and Resource Management
P.O. Box 2910
Austin, TX 78768-2910

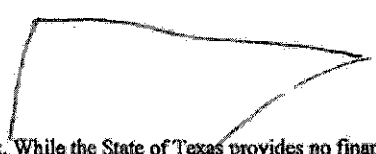
Dear Mr. Chairman:

The purpose of this letter is to inform you of the Texas Municipal League's opposition to House Bill 2221 by Huberty. The bill would do many things. The most harmful provisions in the bill would require voter approval of an annexation of an area with more than 200 residents. (Other annexations require a vote if triggered by a petition.)

Such legislation would, of course, mean an end to annexations in Texas. And if that were to happen, the state's economy would be in dire straits, indeed. Why is that so? Why is annexation authority so critical to Texas? To understand the answer to those questions, one must look to the most basic elements of municipal finance and intergovernmental relations:

1. Cities (city taxpayers) pay for a wide array of services and facilities that benefit entire regions and the entire state. For example, it goes without saying that such basic activities as mail delivery couldn't take place if cities don't construct and maintain streets. The economy of Texas would crumble without city investments in the basic infrastructure upon which business and industry rely. Cities are centers of employment, health care, entertainment, transportation, and merchandising used by non-city-residents throughout the region. This means that cities must support public safety services and a physical infrastructure sufficient to serve a daily influx of visitors from throughout the metropolitan region.
2. Most states recognize that cities should be assisted in making these expenditures that benefit entire regions and the whole state. Virtually every state transfers state-generated revenue to cities to assist in the provision of services and facilities. They do this in recognition of the fact that cities (city taxpayers) are making expenditures that benefit all residents of the state. For example, all populous states give a portion of state gasoline tax revenue to cities to assist in street construction and repair. Many states share vehicle registration revenue or motor vehicle sales tax revenue with cities.
3. In Texas, there is virtually no state aid to cities. Take a look at the municipal budget of a Texas city and try to find a revenue line item called "Transfer from State" or "State Financial Assistance." While such line items are common in other states, you won't find them in Texas.
4. Most county taxes are paid by city residents. To make matters worse, most of the revenue that supports county services to areas of unincorporated territory comes from city taxpayers. Most residents who oppose annexation receive services from the county government which, in turn, receives most of its tax revenue from city residents.

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5. Texas has allowed cities to annex. While the State of Texas provides no financial aid to cities, it has granted broad authority for cities to help themselves. One of those authorities is the authority to annex. Cities have used that authority to bring adjacent areas into the city and into the system through which cities finance the services and facilities that benefit the region and state.
 6. To erode or eliminate municipal annexation authority without considering the issues of municipal revenue and intergovernmental relations would cripple cities and the state's economy. If annexation authority were to be eliminated, as H.B. 2221 would essentially do, Texas would become the only state in the nation that denies both state financial assistance and annexation authority to its cities. Opponents of annexation cannot point to a single state that has restricted annexation authority without implementing fiscal assistance programs under which the state helps cities pay for the infrastructure on which the region and the entire state depend.

The bottom line is that annexation isn't about property rights, it's about the continued success of the Texas economy.

For that reason, the Texas Municipal League is opposed to H.B. 2221.

Sincerely,



Scott Houston
General Counsel and Deputy Executive Director

cc: Members of the House Committee on Land and Resource Management



APPENDIX B
Detailed Summary of Annexation Methods
Provided by Rep. Huberty's Office

Chart 2. Detailed Summary of Annexation Methods

State	Annexation Method
Alabama	Cities can annex territory upon receipt of a petition signed by 100% of electors in the territory. Cities may initiate annexation by referendum, and it must be approved by a majority of voters in the territory. The state legislature may also approve annexations. Unilateral annexation of unincorporated islands surrounded by the city is authorized in certain cities.
Alaska	Annexation can be initiated by a city or petition signed by at least 10% of a city's resident registered voters or at least 10% of the resident registered voters of the area proposed for annexation. An annexation has to first be approved by the state level Local Boundary Commission. If it has support of all owners and residents, no further approval is required. If it does not have the support, the annexation must be approved by a majority of voters in the territory in an election or by majority of voters of the city and territory in an election. Annexations can also be approved by the state legislature. The Local Boundary Commission authorizes the unilateral annexation of city owned property.
Arizona	Annexations can be initiated by a city or interested citizens. An annexation must be approved by a petition signed by the owners of 1/2 or more of the assessed value of the real and personal property and more than 1/2 of the persons owning real and personal property in the territory to be annexed. A city located in a county with a population of more than 350,000 persons may unilaterally annex any territory within an area that is surrounded by the city or that is bordered by the city or town on at least three sides if the landowner has submitted a request to the federal government to take ownership of the territory or hold the territory in trust.
Arkansas	The city or a majority of owners in territory may initiate annexation. An annexation must be approved by a majority of electors in the annexing city and in the territory in an election. Cities may unilaterally annex islands.
California	Annexation may be initiated by city or by a petition signed by at least 5% of voters in the territory or least 5% of the owners within the territory who also own 5% of the assessed value of land. An annexation must be approved by the local level Local Agency Formation Commission (LAFCO). After approval, if 25-50% of voters in the territory protest the annexation, an election on the question must be held. A majority of voters in the territory must approve the annexation in the election. If more than 50% of voters protest, then the annexation is terminated. Cities can unilaterally annex contiguous and noncontiguous islands and city owned property.

State	Annexation Method
Colorado	A city can annex territory upon receipt of a petition signed by 50% of the owners in the territory who own at least 50% of the assessed value of land in the territory. Electors can initiate an annexation by election by submitting a petition signed by 75 electors or 10% of electors in the area to be annexed, whichever is less, in counties with more than 25,000 inhabitants or 40 registered electors or 10% of said electors, whichever is less, in counties with twenty-five thousand inhabitants or less. The signees must be resident landowners in the territory. The annexation must be approved by a majority of owners in the territory. Cities may unilaterally annex islands and city owned property.
Connecticut	All the territory in the state is incorporated.
Delaware	For cities over 50,000, annexation may be initiated by the city or a petition signed by 25% of voters in the territory. The city and county governments have to approve the annexation before an election is held. A majority of voters in the territory must approve the annexation. Cities under 50,000 use annexation procedures outlined in their town charters.
Florida	Territory can be annexed upon petition of 100% of owners in the territory. Annexation may be initiated by a city but it must be approved in an election by a majority of voters of the territory. The governing body of the annexing city may also choose to submit the annexation to voters of the annexing city. In the case of a dual referendum, a majority of voters in the city and a majority of voters in the territory must approve the annexation. Cities are authorized to annex an islands by interlocal agreement with the county.
Georgia	Cities can annex territory upon receipt of a petition signed by 100% of residents in the territory. Cities are authorized to annex land by ordinance upon the signed applications from: not less than 60% of the resident voters in the area and the owners of not less than 60% of the land area by acreage. Territory may also be annexed after the annexation is approved in a referendum by a majority of the voters from the area proposed to be annexed. Cities are authorized to unilaterally annex islands.
Hawaii	There are no cities in Hawaii.
Idaho	Cities may initiate annexation. If the territory sought to be annexed has more than 100 private landowners owning lots five acres or less, a majority of the owners must approve the annexation by written consent. Annexation is not required to be approved by owners if the territory contains less than 100 private owners owning lots five acres or less. Cities may also unilaterally annex islands or land that is subject to a development moratorium or water or sewer restriction.
Illinois	Cities, owners, or electors may initiate annexation by filing a petition with the circuit court. If the court approves the annexation, it must be approved by a majority of electors in the territory. Islands of 60 or fewer acres may be unilaterally annexed.

State	Annexation Method
Indiana	Territory may be annexed if a petition signed by 100% of owners who reside in the territory, 51 % of owners or 75 % of the owners of the total assessed value of the land in territory is submitted to the city. A city may unilaterally annex territory by ordinance. A city may annex noncontiguous property if it is city owned.
Iowa	Annexation may be initiated by the city development board, a city council or 5% of the registered voters of the city or territory to be annexed. The city development board then will approve any annexation it considers to be in the public interest. The annexation must then be approved in an election. Registered voters of the territory and city may vote. The annexation is approved by the majority of those voting in the election. If all owners of the territory consent to annexation, then that territory can be annexed with the approval of the city council only. In these situations, it is not necessary to get the approval of the city development board unless it is within the urbanized area of another city.
Kansas	Cities can annex territory upon receipt of a petition signed by 100% of owners in the territory. Cities are authorized to unilaterally annex territory in certain situations if the land is platted and contiguous to the city, the land lies mainly within the city and has a common perimeter with the city of more than 50%, annexing the land will make the city's boundary more harmonious (21 acre limit), the tract is situated so that 2/3 of any boundary line adjoins the city (21 acre limit), land is owned or held in trust for the city, the land adjoins the city and is owned by another government. petition the county in order to annex the territory. If a city wants to annex a tract that is less than 40 acres and is not covered under the provisions above, the annexation must be approved by the board of county commissioners by a 2/3 vote. If a city wants to annex a tract that is not covered under the above provisions and is 40 acres or larger, then a city may petition the county in order to annex the territory. The board of county commissions must approve the annexation by a 2/3 vote. Then, the majority of land owners in the territory to be annexed must approve the annexation in a mail ballot election.
Kentucky	Cities can annex territory upon receipt of a petition signed by 100% of owners in the territory. Cities can initiate annexation by enacting an ordinance stating its intent to annex. In cities with a population fewer than 100,000, if no petition is presented in the 60-day period following the publication of notice of the ordinance, then the city can enact a second ordinance annexing the territory. Residents and owners can petition for an election by filing a petition signed by 50% of the voters or owners in the territory. If 55% or more of those persons voting in the election oppose annexation, the property will not be annexed. In cities with a population of 100,000 or more, residents must file a petition in circuit court protesting the annexation. If the jury finds that 75% or more of the resident owners of the territory have protested against the annexation then the annexation shall not take place. Islands can be unilaterally annexed.

State	Annexation Method
Louisiana	Residents living in the territory may request to be annexed but it must be approved in a dual referendum. The annexation must be approved, first, by a majority of the voters living in the territory and then it must be approved by voters in the annexing city. Cities may also annex by ordinance but the annexation must be approved with a petition signed by a majority of the registered voters and a majority in number of the resident owners as well as 25% in value of the property of the resident owners within the area proposed to be annexed.
Maine	The state constitution and statutes do not address the issue of annexation.
Maryland	Cities can initiate annexation after getting the consent of at least 25% of the residents who are registered voters and the owners who own at least 25% of the assessed value of property in the territory. The city may then introduce an annexation resolution. Prior to the effective date of the resolution, the county, or at least 20% of the registered voters in the city or in the area to be annexed may petition for a referendum. If the petition was submitted by the county or the residents of the territory, the voters in the territory may participate in the referendum. If the petition was submitted by city residents, the voters in the city participate. If both circumstances exist, separate elections are held for both the existing city voters and for voters in the territory to be annexed. In the case of two elections, both sets of voters must approve the referendum in order for the annexation to proceed. A majority of voters must approve the annexation.
Massachusetts	There is no unincorporated territory in Massachusetts. Annexation is not authorized by the constitution or general law.
Michigan	Home rule villages have to get permission from the county commission and hold an election to annex property. Home rule cities can unilaterally annex city owned property. Annexation can take place by the adoption of a joint resolution of the legislative bodies of the home rule city and the township. If the property is in a charter township, the county is petitioned to hold an election in the city and in the area to be annexed. Most other annexations are approved through petition to the State Boundary Commission (SBC). Petitions can be filed by the city, 75% of the owners in the territory, 25% of the voters in the territory to be annexed or by 1% of the entire population of the city and township. Once the SBC and the head of the Consumers and Industry Services Department approve the annexation, it will become final unless 5% of the voters in the territory file a petition to hold an election. If both the majority of the electors in the territory and the majority of the city or township electors voting separately approve the annexation, the decision of the SBC stands. If either group fails to register a majority vote, the SBC decision is overturned.

State	Annexation Method
Minnesota	Cities may unilaterally annex by ordinance if there is unincorporated land completely surrounded by the city, it is city owned land outside the corporate limits, all the landowners consent to the annexation and the territory is less than 120 acres and the territory is presently served or capable of being served by available public wastewater facilities, or the land is within two miles of the city and has been approved for platting, and the platted lots average 21,780 square feet or less. All other annexations must be approved by the state level Municipal Boundaries Adjustment Unit of the Office of Administrative Hearings.
Mississippi	Cities may initiate annexation by filing a petition in chancery court. Annexation may also be initiated by filing a petition signed by 2/3 of the electors residing in the territory in chancery court. The chancery court must approve the annexation. The chancellor shall enter a decree approving the annexation if he finds that the annexation is reasonable and is required by the public convenience and necessity and that reasonable public and city services will be rendered in the annexed territory within a reasonable time.
Missouri	Territory can be annexed upon a petition of 100% of owners in the territory. If an objection to the annexation is filed, an election must be held. A city can initiate an annexation by filing an action in circuit court asking for a declaratory judgment authorizing the annexation. If the court authorizes the annexation, then the annexation has to be approved by a majority of votes cast in the area to be annexed, and by a majority of votes cast in the city. Cities can annex noncontiguous territory if 50% of the city is liable to be inundated as a result of the construction of a lake or other body of water.
Montana	If the city initiates the annexation, then the annexation must be approved in an election by the voters who reside in the territory to be annexed. If the annexation is initiated by residents, then the annexation must be approved in an election by voters in the city and the territory to be annexed. A city may unilaterally annex islands.
Nebraska	Cities may unilaterally annex property. An owner can petition to be annexed in first class cities. An owner or a majority of owners and inhabitants in the territory can petition to be annexed in second class cities.
Nevada	Annexation may be initiated by a city or by petition of a majority of owners in the territory. A city can't annex the property if the annexation is protested by a majority of owners. In cities located in counties with a population of less than 700,000, the city may unilaterally annex islands 40 acres or less in size or land that is subdivided and the city will be able to provide the city services required for public health, safety, convenience or welfare.
New Hampshire	Annexation is not authorized by the constitution or general law.
New Jersey	No unincorporated land in the state. The only annexation that takes place is between cities.

State	Annexation Method
New Mexico	Cities or majority of land owners may initiate annexation. The annexation is determined by an arbitration board that consists of three members from the territory to be annexed, three members from the annexing city and a neutral member from the county that does not live in the city or the territory to be annexed. The annexation may also be determined by a state level city boundary commission. In counties with a population less than 300,000, a majority of owners of acres of land in the area may request annexation. The city may pass an ordinance expressing its consent or rejection of the annexation. Islands may be unilaterally annexed.
New York	Annexation may be initiated by residents or owners or by joint resolution of the governing bodies of the affected territory. Each of the governing bodies of the affected local governments determine whether to consent to or deny the annexation. If one but not all of the local governments approve the annexation, the governing board of any of the affected local governments may apply to the appellate division of the supreme court for determination if the annexation is in the best interest of the public. Once the annexation has been approved by the court or the affected local governments, the annexation must be approved by a majority of those residing in the territory.
North Carolina	One hundred percent of owners in territory can petition for annexation. Seventy five percent of owners may petition for annexation in a high poverty area, and 2/3 of residents can petition for annexation in distressed areas. Cities may initiate an annexation but it must be approved by a referendum of voters living in the territory to be annexed. Noncontiguous property can be annexed in limited circumstances. Cities may unilaterally annex city owned property.
North Dakota	Annexation may be initiated by a petition signed by at least 3/4 of the qualified electors or by the owners of not less than 3/4 in assessed value of the property in the territory. A city may also initiate annexation on its own initiative but if the owners of 1/4 or more of the territory protest the annexation, then the dispute must be submitted to mediation and possibly adjudication by the office of administrative hearings.
Ohio	Annexation may be initiated by a petition signed by a majority of owners in the territory. Cities may only initiate annexation of territory if it is owned by the city, county, or state government. The board of county commissioners must approve the annexation.
Oklahoma	Cities may initiate annexation but it must obtain the written consent of the owners of at least a majority of the land in the territory. Owners may also request annexation by filing a petition signed by at least 3/4 of the registered voters and the owners of at least 3/4 (in value) of the property in any territory adjacent or contiguous to the city.

State	Annexation Method
Oregon	Annexation may be initiated by the city or a majority of owners in the territory. The legislative body of a city need not hold an election when all of the owners of land in that territory and not less than 50% of the electors, if any, residing in the territory consent. Annexations must be approved by a petition signed by electors or owners in the territory or in an election where the majority of votes cast in the territory are in favor of annexation. Islands and territory that the Oregon Health Authority has declared to be a danger to public health may be unilaterally annexed.
Pennsylvania	There is no unincorporated territory in the state. Territory in one city can be annexed by another city.
Rhode Island	Boundaries locked in by statute.
South Carolina	Annexation may be initiated by a petition signed by all owners in the territory requesting annexation or a petition signed by 75% or more of the owners owning at least 75% of the assessed value of property in the area to be annexed. Upon agreement to annex the area and the enactment of an ordinance by the city governing body declaring the area annexed, the annexation is complete. Annexation may also be initiated by a petition signed by 25% or more of the electors who reside in the area proposed to be annexed. A referendum is held in the area to be annexed. The annexation is approved if a majority of electors in the territory vote in favor of the annexation. Government owned property may be unilaterally annexed.
South Dakota	Cities, upon receipt of a written petition, may annex the territory if the petition is signed by not less than 3/4 of the registered voters and by the owners of not less than 3/4 of the value of the territory sought to be annexed to the city. A city may also initiate annexation on its own initiative but the annexation has to be approved by a majority of the voters. Voters from both the annexing city and the territory to be annexed may vote in the election. The annexation must be approved by a majority of those voting.
Tennessee	Cities may unilaterally annex property on their own initiative within their urban growth boundary or when petitioned by a majority of residents and owners. Cities may also annex by referendum on their own initiative or when petitioned by interested parties. The annexation must be approved by a majority of voters in the territory. The city may also choose to submit the question to city voters. If the question is submitted to city voters, a majority of voters in the city must approve it.
Texas	Annexation may be initiated by owners or voters in general law cities. Approval by majority of voters or owners in the territory is required. The vote is not required to be done by ballot or at any type of formal election. The voter's intentions may be expressed by any method that is satisfactory to themselves and the city council. Home rule cities may annex unilaterally or by consent depending on their charter provisions. Islands may be unilaterally annexed by all cities.

State	Annexation Method
Utah	Annexation can be initiated by a petition signed by a majority of owners within the territory who own at least 1/3 of the assessed value of all the land in territory. The city legislative body then votes on the annexation. Private property owners in a first class county or a county legislative body may file a protest. If a protest is filed then the city can choose to deny the annexation or the matter will be submitted to the boundary commission. The commission will then make a decision on whether to approve the annexation. Cities can unilaterally annex islands.
Vermont	General law only addresses annexation of territory in a town by a village. There is very little unincorporated territory in the state.
Virginia	Cities, 51% of the voters of any territory adjacent to any city, or 51% of the owners in number and land area in a designated area can initiate annexation by filing a petition in circuit court. A special court comprised of three circuit court judges appointed by the Supreme Court of Virginia hears the case and decides whether the territory should be annexed.
Washington	Residents or property owners in the territory may initiate an annexation by submitting a petition to the city signed by 10% of the residents or the owners representing 10% of the assessed value in the territory. Depending on whether the traditional or new petition method is used, the annexation must be approved by a petition signed by owners representing 60% of the assessed value in the territory or by a majority of owners and voters in the territory. Annexation by election may be initiated by a petition signed by voters who live in the area or by the city. It requires approval by a majority of voters in the territory. Cities located in counties that plan under the Growth Management Act may only annex property that is located within their designated urban growth areas. City owned property may be unilaterally annexed.
West Virginia	Annexation can be initiated by petition signed by 5% or more of the city's landowners. A majority of city voters and a majority of voters in the territory to be annexed must approve the annexation in an election. A majority of the voters and all owners in the territory, whether they reside or have a place of business therein or not, may file a petition to be annexed with the city. The territory may be annexed once the city determines the petition meets the requirements of the law. Cities may get permission from the county to annex property in limited circumstances. Cities may unilaterally annex territory within the urban growth boundary in limited circumstances.

State	Annexation Method
Wisconsin	<p>Territory can be annexed upon a petition of 100% of electors and owners in the territory. Cities may also annex property upon a petition signed by a number of electors residing in the territory equal to at least the majority of votes cast for governor in the territory in the last gubernatorial election and signed by either 1/2 the owners in the area or 1/2 of the owners of assessed value in the territory. The city legislative body must approve the annexation by a 2/3 vote. Annexation by referendum may be initiated by the city or a petition signed by a number of electors residing in the territory equal to at least 20% of the votes cast for governor in the last election and at least 50% of the owners of at least 50% of the real property either in area or assessed value. If a city initiates, it must apply for an order for an annexation referendum from the circuit court. The annexation must be approved by a majority of voters in the territory. City owned territory, both contiguous and noncontiguous, and islands in existence on December 2, 1973, may be unilaterally annexed.</p>
Wyoming	<p>Annexation proceedings may be initiated by a city or by a petition signed by a majority of owners owning a majority of the territory to be annexed. If the city finds that the requirements of the law have been met, it can annex the property. If more than 50% of the owners, or if an owner or owners owning more than 50% of the area to be annexed file written objections within 20 days of the public hearing no further action may be taken on any area within the proposed annexation territory within two years. A city may unilaterally annex property if 75% or more of the perimeter of the territory is contiguous.</p>

APPENDIX C

**"Houston Collects Sales Tax Outside City Limits"
Provided By Rep. Huberty's Office**

Houston collects sales tax outside city limits

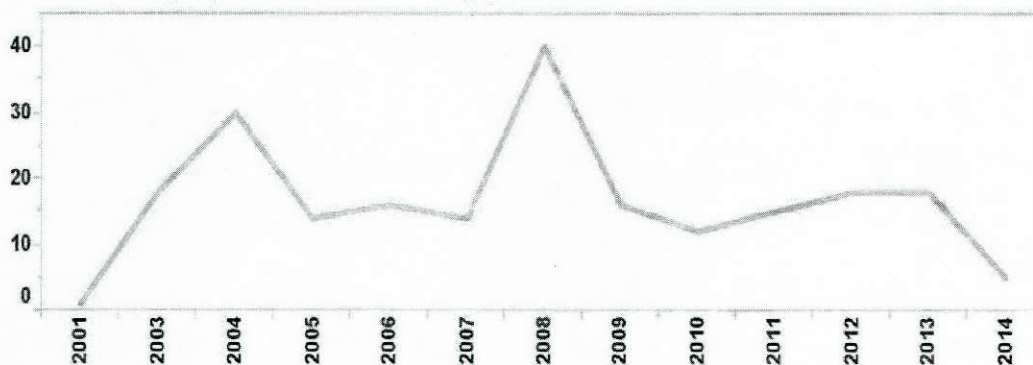
Changes to Texas laws in 1999 created "limited purpose annexations." Unlike other cities, the majority of the agreements signed with utility districts by Houston allow it to collect sales tax, splitting that revenue with the district. Only a handful involve Houston providing services. Click through the slides and play with the graphs to learn more about how much is collected this way.

More than 200 utility districts have agreed to limited annexation.

The agreements are a growing part of city sales tax collections.

Collections are growing faster in these suburban areas.

New limited purpose annexations by year



More than 200 utility districts have agreed to limited annexation.

The agreements are a growing part of city sales tax collections.

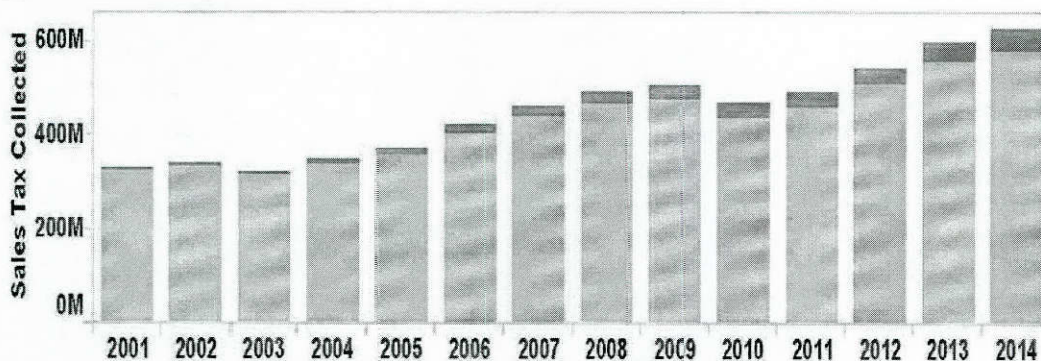
Collections are growing faster in these suburban areas.

Houston sales tax collections by source

(excludes portion given to utility districts)

Suburban

Within city limits

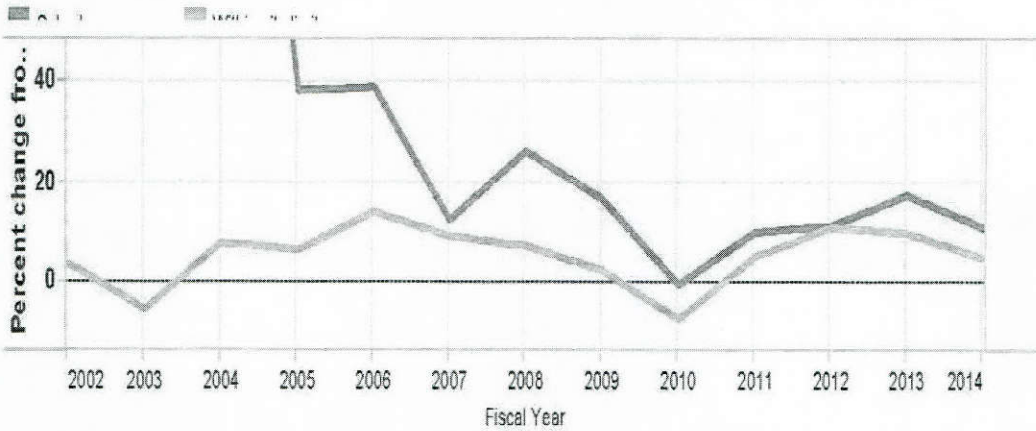


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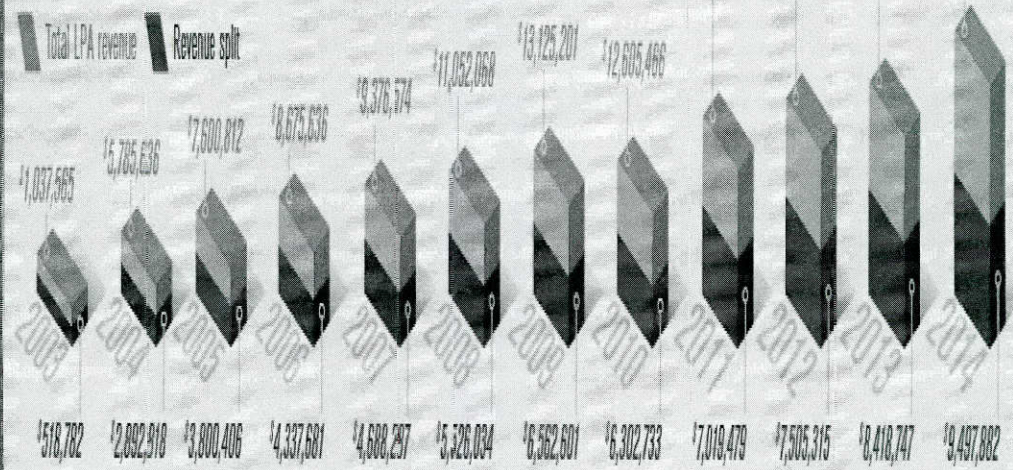
Houston sales tax growth by source (excludes portion given to utility districts)



MUD moneymaker

More than \$130 million has been collected through limited purpose annexation agreements between Houston and utility districts from Hwy. 249 to the Hardy Toll Road and from FM 1960 to Spring Creek. The money comes from the 1 percent of available sales tax in those districts.

TOTAL SALES TAX REVENUE COLLECTED: \$134.14 MILLION = REVENUE TO MUDS: \$67.07 MILLION + REVENUE TO HOUSTON: \$67.07 MILLION



Source: City of Houston / Community Impact Newspaper

ENDNOTES

- ¹ Chapter 418.004 (1)
- ² Texas Department of Public Safety Division of Emergency Management, 2016 Texas Legislature- Disaster 101, May 18, 2016.
- ³ Too Little, Too Late: Lessons Learned From the Hidden Pines Fire, Lost Pines Property Owner Fire Protection Task Force, page 8, May 18, 2016. www.hiddenpinesfire.org
- ⁴ Too Little, Too Late: Lessons Learned From the Hidden Pines Fire, Lost Pines Property Owner Fire Protection Task Force, page 11, May 18, 2016. www.hiddenpinesfire.org
- ⁵ Texas Department of Public Safety Division of Emergency Management, 2016 Texas Legislature- Disaster 101, May 18, 2016
- ⁶ General Land Office, 84th Legislative Session, Charge 1-Disaster Recovery Land and Resource Management August 22, 2016.
- ⁷ Too Little, Too Late: Lessons Learned From the Hidden Pines Fire, Lost Pines Property Owner Fire Protection Task Force, page 17, May 18, 2016. www.hiddenpinesfire.org
- ⁸ Too Little, Too Late: Lessons Learned From the Hidden Pines Fire, Lost Pines Property Owner Fire Protection Task Force, page 12-13, May 18, 2016. www.hiddenpinesfire.org
- ⁹ Too Little, Too Late: Lessons Learned From the Hidden Pines Fire, Lost Pines Property Owner Fire Protection Task Force, page 13, May 18, 2016. www.hiddenpinesfire.org
- ¹⁰ Too Little, Too Late: Lessons Learned From the Hidden Pines Fire, Lost Pines Property Owner Fire Protection Task Force, page 17, May 18, 2016. www.hiddenpinesfire.org
- ¹¹ Texas Department of Public Safety Division of Emergency Management, 2016 Texas Legislature- Disaster 101, May 18, 2016
- ¹² Texas Department of Public Safety Division of Emergency Management, 2016 Texas Legislature- Disaster 101, Slide 14, May 18, 2016.
- ¹³ Written Testimony from Mr. John Fanelli, Hughes Network, August 22, 2016.
- ¹⁴ Testimony from David Green, General Land Office, August 22, 2016.
- ¹⁵ General Land Office 84th Legislative Session Coastal Briefing, September 20, 2016.
- ¹⁶ Testimony from Ms. Sharon Tirpak, US Army Corp of Engineers, August 22, 2016.
- ¹⁷ Written Testimony from Ms. Sharon Tirpak, US Army Corp of Engineers, August 22, 2016.
- ¹⁸ Shoring up the Future for the Texas Gulf Coast, Texas General Land Office, George P. Bush, August 2016. www.shoringuptexas.org
- ¹⁹ Office of the State Demographer- Demographic Characteristics and Trends in Texas and the San Antonio Area, Master's Leadership Program, San Antonio, Texas, Lloyd B Potter. October 5, 2016. <http://osd.state.tx.us/Presentations>
- ²⁰ Texas Department of Public Safety Division of Emergency Management, 2016 Texas Legislature- Disaster 101, Slide 14, May 18, 2016.
- ²¹ Texas Local Government Code, Sec. 211.001, <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.211.htm>
- ²² Texas Local Government Code, §211.003
- ²³ Texas Local Government Code, §211.004(a)
- ²⁴ Mayhew v Town of Sunnyvale <http://caselaw.findlaw.tx-supreme-court/1298821.html>
- ²⁵ <http://tlis/BillLookup/BillSummary.aspx?LegSess=83R&Bill=HB674>
- ²⁶ The House Committee on Land and Resource Management, "Interim Report to the 84rd Texas Legislature" December 2015.
- ²⁷ Texas Local Government Code, Sec.42.021, <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.42.htm>
- ²⁸ Texas Local Government Code, Sec. 43.035, <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.43.htm>
- ²⁹ <http://www.hro.house.state.tx.us/pdf/ba84r/hb2221.pdf#navpanes=0>
- ³⁰ <http://www.hro.house.state.tx.us/pdf/ba84r/hb2221.pdf#navpanes=0>
- ³¹ Written Testimony from Col. Mark Lee, San Antonio Base, September 21, 2016.
- ³² Written Testimony from Atty. Jim Cannizzo, San Antonio Base, September 21, 2016.
- ³³ Written Testimony from Commissioner W.A. 'Andy' Meyers, September 21, 2016.
- ³⁴ <http://www.glo.texas.gov/the-glo/boards-commissions/school-land-board/index.html>
- ³⁵ <http://www.glo.texas.gov/the-glo/boards-commissions/university-lands/index.html>





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