

# the Courthouse Journal

WWW.WACOUNTIES.ORG

October 28, 2005  
Issue No. 30

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Courthouse Journal*

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*Washington Association of County Officials  
Washington State Association of Counties*

## Pierce County Hears Good News on their Lawsuit Against DSHS

Pierce County has won several important victories in their lawsuit against DSHS regarding policies at Western State Hospital (WSH). Final trial action will take place on November 7 to determine monetary damages to be awarded. But Judge Paula Casey, Thurston County Superior Court has issued several orders favoring Pierce County. These are summary judgments on long-term patients, liquidated damages and discharge planning. The findings of fact are summarized below:

**Long-Term Patients:** The State has the sole responsibility under the Involuntary Treatment Act for providing adequate care and individualized treatment to 90 or 180 day long-term patients once a court signs an order committing the patient to the custody of DSHS. Pierce County Regional Support Network (RSN) and Puget Sound Behavioral Health (PSBH) have no duty to provide care and treatment to 90 or 180 day committed patients. DSHS fails to perform a duty required by law and acts outside its statutory authority when it declines to timely accept Pierce County RSN or PSBH for reasons related to WSH census or staffing and not related to the safety of the patient. If there are medical conditions or issues of patient safety, DSHS is responsible for finding necessary care elsewhere. The state is financially responsible for unreimbursed costs

associated with Pierce County RSN or PSBH providing care to 90 or 180 day patients.

**Liquidated Damages:** DSHS promulgated WAC 388-865-0203 (effective July 1, 2001) by which it purports to allocate "nonforensic adult beds to the state hospital utilized by the RSN based on the number of beds funded by the Legislature at the hospital." Subsection 3 states that DSHS will "assess liquidated damages" against RSNs if the "in-residence census (at state hospitals) exceeds the funded capacity on any day or days within the fiscal year". Contracts entered into between DSHS and Pierce County RSN expressly reference this WAC. Application of the liquidated damages provisions impacts or threatens to impact the legal rights of Pierce and deprived them of funds it otherwise would have received. DSHS has exceeded its statutory authority in promulgating, applying and continuing to apply the liquidated damages provisions and acted outside its statutory authority when it incorporated liquidated damages into its contracts with Pierce County RSN. Accordingly those provisions are invalid and Pierce County is entitled to a refund of those charges and interest. The validity of the bed allocation formula is denied without prejudice as without liquidated damages, Pierce County is not substantially harmed.

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E-mail your info to [warden@wacounties.org](mailto:warden@wacounties.org)

**What information do you need to include in your e-mail?**

Visit [Employment Opportunities](#)

## The Courthouse Journal

Published weekly (during Legislative Session) and Bi-weekly (other than Session) by the Washington Association of County Officials (WACO) and the Washington State Association of Counties (WSAC).

We welcome your suggestions and contributions. The weekly deadline is noon Wednesday.

Direct inquiries and correspondence to *The Courthouse Journal*, 206 Tenth Ave SE, Olympia, WA 98501-1131 or [www.wacounties.org](http://www.wacounties.org).

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**Discharge Planning:** DSHS must change its discharge planning policy. Patients must be psychiatrically stable when they are discharged and they cannot be discharged to a place that would cause their mental illness to become worse. The implementation of the new policy will be monitored by WPAS.

At this time, the other 13 Regional Support Networks are exploring their legal options to file abbreviated versions of the same lawsuit which establish they are the same as Pierce County and thereby have suffered the same harm and should be due equal remedy.

Congratulations to Pierce County and especially the staff of the RSN and PSBH who have worked so hard on this case for the past three years!! The monetary settlement once decided will allow Pierce County to provide additional community services which all agree is more suitable and preferable whenever appropriate for persons with mental illness. This is a huge victory for consumers.

## Performance Audit Work Progresses

October 18, 2005

For Immediate Release

Contact: Communications Manager  
Mindy Chambers, (360) 902-0091

A survey to gauge citizen sentiment on areas of state government that should be included in a performance review will be launched this week on the Washington State Auditor's Office Web site,

[www.sao.wa.gov/performanceaudit](http://www.sao.wa.gov/performanceaudit).

The survey will ask for people's thoughts on state government operations and for suggestions for

improvements.

"We are committed to gathering comments from a broad range of people," said State Auditor Brian Sonntag. "We hope folks will take some time to let us know of areas of state government where they have concerns or compliments."

Also on the performance audit front, the Citizen Advisory Board created in legislation earlier this year to advise the State Auditor on a statewide performance review will meet from 9 a.m. to noon, Thursday, Nov. 3.

The meeting will be in Hearing Room 3 of the John L. O'Brien Building on the State Capitol Campus.

At the meeting, the Board's first, the 10 citizen members will be briefed on their responsibilities and elect a chair.

The Board was created last year in legislation giving the State Auditor's Office the authority to contract for performance audits.

Under the legislation, the performance audit work is to produce concrete recommendations for:

- Eliminating, reducing, consolidating or enhancing programs and services.
- Changing roles and functions of state agencies, programs and its services.
- Modifying organizational structure and staffing levels.

The work will begin with a statewide performance review that will begin in early 2006.

**NOTE:** Legislative Committee schedules and agendas can be found at <http://www.leg.wa.gov/wsladm/calendar.cfm>

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## ***Courts, Public Safety, Law & Justice***

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### **Death Investigations Testing Set for February**

Testing for certification by the American Board of Medicolegal Death Investigators (ABMDI) will be conducted on February 21, 2006, in Seattle in conjunction with the Annual Conference of the American Academy of Forensic Sciences (AAFS) at the Washington State Trade and Convention Center. Applicants must apply to ABMDI to determine eligibility and submit fees at [www.slu.edu/organizations/abmdi](http://www.slu.edu/organizations/abmdi). WACO will keep coroners and medical examiners advised as the details are determined.

### **Juvenile Rehabilitation Administration (JRA) Bed Reduction**

JRA has just announced that due to a reduced forecast in bed needs of 112 beds, that they will be taking approximately 100 beds off line by

the end of December 2005 and the remainder by June 2006.

The good news is that there is an overall reduction in juvenile crime both in Washington state and nationally thanks in part to the good work being done by both the state and counties in intervening with at-risk youth. The unfortunate impact is the loss of beds statewide since JRA feels it is important to retain a full continuum of care and thus reduce beds in all levels and types of care. The current plan is to reduce by December 2005:

- Naselle Youth Camp, Naselle – 20 beds
- Green Hill School, Chehalis – 24 beds
- Camp Outlook (Basic Training Camp), Connell – 10 beds
- Sunrise Community Facility, Ephrata – Closure
- Dyslins Contracted Community Facility, Tacoma - Cancel contract

If the reduction continues as anticipated, JRA plans to close an additional contracted community facility and reduce 20 beds at Maple Lane before June 30, 2006.

The decision to close Sunrise is based on JRA's desire to geographically balance their community beds around the state as well as ensure access to vocational programs since Columbia Basin Job Corps is no longer available to JRA youth. At Green Hill the reduction will reduce their double-bunking level. The reduction at Naselle will close Eagle Lodge; a living unit that the state feels has outlived its operational efficiency.

Counties should be aware; these reductions may negatively impact the chances of moving additional state youth to county facilities.

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## ***Environment, Land Use and Resources***

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### **Governor's Draft GMA Bills Available on the Web**

Following a series of stakeholder meetings in early October, the Governor's office and CTED staff have issued second-round drafts of possible GMA bills. WSAC members and staff participated in the stakeholder meetings.

Currently seven draft bills address the following topics: GMA timelines, GMA appeals process, best available science, pre-existing land uses, agricultural accessory uses, agricultural pilot projects, and eminent domain. The draft bills are available at the CTED website [www.cted.wa.gov](http://www.cted.wa.gov), under the "local government division" quick link.

The WSAC legislative Issue Team for GMA (a subcommittee of the Legislative Steering Committee) is reviewing the bill drafts, as are several county prosecutors. CTED staff will meet with WSAC staff and Issue Team members in mid-November to discuss the bills.

## Public Health and Human Services

### Sen. Hargrove's Omnibus Mental Health and Substance Abuse Legislation, **SB 5763**, Gets First Public Outing in Port Angeles

One of the first public sessions on implementation of Senator Hargrove's key legislation on mental health and substance abuse, **SB 5763**, took place earlier this summer in Port Angeles, Clallam County. Called by Clallam County Commissioner Mike Doherty, the community meeting included commissioners from neighboring Jefferson County; the prosecutor from Grays Harbor; law enforcement officers; county social services representatives from Kitsap, Grays Harbor, Jefferson and Clallam; the juvenile court administrator from Clallam, DSHS employees, NAMI representatives, and providers from all kinds of agencies on the peninsula numbering at least 25. A total of over 70 community members were represented demonstrating the interest in Sen. Hargrove's bill. On the "answer" side of the table was Sen. Hargrove, DSHS staff Ken Stark and Steve Norsen from the Division of Alcohol and Substance Abuse and the Mental Health Division respectively as well as DSHS Government Relations, Sherry McNamara and WSAC staff.

To refresh everyone's memory, Sen. Hargrove's bill in brief includes pilot projects to evaluate cross-system integrated crisis response, involuntary commitment, secure detoxification and intensive case management; funding for additional substance treatment for both adults and youth; improved communication between mental health, substance abuse and

corrections; authority for drug, mental health, and therapeutic dependency courts; an integrated screening tool and assessment process for mental health and substance abuse; substance abuse professionals at DSHS Children & Family Services local offices; and perhaps most important, the authority for counties to levy an additional 1/10<sup>th</sup> of a cent sales tax without voter approval to increase or enhance mental health and substance abuse services.

Commissioner Doherty opened the meeting then turned it over to Senator Hargrove for his comments. The Senator summarized both his legislation and the requirements of Rep. Cody's mental health bill, **HB 1290**. **HB 1290** establishes the RFQ process that all the RSNs are currently grappling with. DASA Director, Ken Stark and Mr. Norsen brought the audience up to date on the implementation activities so far. Since that time, the pilot sites have been selected for both the secure detox and the intensive case management. North Sound RSN and Pierce County were selected to pilot the integrated crisis response and open the state's first secure detox facility. Thurston-Mason and King County were selected to pilot the intensive case management strategy. The audience was particularly interested in several of the areas and asked a number of questions about evidence-based practices in both mental health and substance abuse as well as the mental health RFQ process and the replacement of the \$80 million in lost federal funding. A vigorous discussion ensued over the future of mental health and what the system may look like in 2006 and

following years. The audience also put the question to the commissioners who were present as to whether they would implement the 1/10<sup>th</sup> cent sales tax. Both Clallam and Jefferson County indicated they were examining it and favored the idea. (Just last week, Senator Hargrove relayed to WSAC staff that Jefferson County had indeed implemented the tax and Clallam was close.)

Admittedly the meeting was held early in the process for implementing Senator Hargrove's bill but the Senator's continued interest in the area indicates there will be close attention paid to monitoring a successful carrying out of his intentions. The audience attending the meeting both elected officials and non-elected community representatives were just as interested and encouraged to stay involved. It was a sign of the energy for treating persons with disabilities to be found on the Olympic Peninsula. Other communities are encouraged to follow suit.

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## **Boards and Commissions**

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### **Westside Position Available on State Building Code Council**

The Washington State Building Code Council, which provides analysis and advice to the governor and legislature on building code issues, has an opening for a WSAC member from Western Washington. The position is appointed by the governor for a three-year term.

Kitsap County Commissioner Chris Endresen most recently filled this position and served as vice-chair of the Council. Franklin County Commissioner Neva Corkrum currently represents Eastern Washington counties on the Council.

Interested WSAC members should contact WSAC staff Sophia Byrd McSherry at [sbyrd@wacounties.org](mailto:sbyrd@wacounties.org) or 360-753-1886. The WSAC Board will forward nominees to the Governor's office for final selection.

The Building Code Council establishes the minimum building, mechanical, fire, plumbing and energy code requirements necessary to ensure public safety. The Council's membership comprises 15 gubernatorial appointees representing elected county commissioners/councilmembers/ executives, elected city officials, local building code enforcement, local fire service, the building trades, architects, engineers, commercial and residential construction, manufacturers of building components, persons with disabilities, and the general public. Four legislators sit as ex-officio members. The Council is served by six staff persons.

For more information on the State Building Code Council, go to [www.sbcc.wa.gov](http://www.sbcc.wa.gov)

### **State Council on Aging County Position Open – Take Two**

With the departure of Sue Miller, ex-Franklin County Commissioner, the county position on the State Council on Aging is open. The term actually began mid-September.

The State Council on Aging provides advice and comment on all affairs relating to long-term care administered by the Department of Social and Health Services Aging and Disability Services Administration to the Department, the legislature, and the Governor's Office. They review and help formulate policies that affect older persons primarily. They have defined statutory duties in RCW 43.20A.680. In addition, they function to create awareness of the special needs and potentialities of older persons; and to provide for self-advocacy by older citizens of the state through sponsorship of training, legislative and other conferences, workshops, and such other methods as may be deemed appropriate.

The regular meetings are scheduled for the fourth Tuesday of each month but generally do not occur each and every month and average about 8 times per year in the Sea-Tac area. Expenses are reimbursed.

- Please contact WSAC staff, Jean Wessman if you are interested in this position or know of a retired commissioner or council member who may be interested. Also if you are interested, be sure to mail a complete nomination packet with original signatures to WSAC, ATTN: Boards and Commissions, at 206 10<sup>th</sup> Ave SE,

Olympia, Washington 98501. The packet must include the form Application for Gubernatorial Appointment, a letter of interest (addressed to WSAC) and a brief resume. Applications and additional information are available on the Governor's website at <http://www.governor.wa.gov/actions/appointments/boards/> or through the following link Application and Information.

We look forward to a response from several of you as with the changes in Medicare Part D, the Prescription Drug Benefit and its ramifications on all aspects of the long-term care system as well as the Joint Long-Term Care Financing Task Force beginning their work in November, it is very important that counties be represented.

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## ***Training and Upcoming Events***

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The Interagency Committee of State Employed Women (ICSEW), sponsored by Governor Christine Gregoire, would like to invite your county to be represented at the ICSEW's Biannual Professional Development Conference held in Kennewick, Washington on May 8-10, 2006.

The theme of the conference is "Today's Women, Today's Leaders."

The ICSEW is asking that your county contribute a gift basket to the conference, filled with products either manufactured in or unique to your area of the state. The baskets will be displayed throughout the conference and then auctioned off with all proceeds going to benefit the Columbia Basin Community College, Adult Learning Center's child care program.

With over 31,000 women employed by various agencies in five regions of our state, chances are your county will be represented at the conference. The expertise Washington State workers gain at the conference will become part of the overall business workings for your county and area of the state.

For more information, including where to send the gift basket representing your county, please contact Patricia Thronson at 360-902-3470 or e-mail Patricia at [PatriciaT@dis.wa.gov](mailto:PatriciaT@dis.wa.gov).

## Calendar of Events

<b>Meeting</b>	<b>Location</b>	<b>Date</b>	<b>Information</b>
<b>For your convenience training and workshops are bolded.</b>			
<b><u>NOVEMBER 2005</u></b>			
Washington Counties Risk Pool, Risk Managers Roundtable	Marcus Whitman Hotel, Walla Walla	November 2	(360) 586-7447, ext 104
Washington Counties Risk Pool, Autumn Board Meeting & Planning Session	Marcus Whitman Hotel, Walla Walla	November 2-3	(360) 586-7447, ext 100
<b>VETERANS DAY</b>	<b>WA Counties Bldg CLOSED</b>	<b>November 11</b>	<b>(360) 753-1886</b>
Washington Association of Sheriffs and Police Chiefs' (WASPC) Annual Fall Conference	Red Lion Hotel, Olympia	November 14-17	(360) 753-7319
Assn of County Human Services	Ellensburg	November 16 - 18	(360) 753-1886
Washington Counties Insurance Fund (WCIF) Board Meeting	Red Lion at Columbia Center, Kennewick	November 18	(360) 586-0466
<b>THANKSGIVING HOLIDAY</b>	<b>WA Counties Bldg CLOSED</b>	<b>Nov. 24 and 25</b>	<b>(360) 753-1886</b>
WA State Assn of Local Public Health Officials	SeaTac	November 29 - 30	(360) 753-1886
<b><u>DECEMBER 2005</u></b>			
WA Association of Prosecuting Attorneys' (WAPA) Winter Meeting & Banquet	Crowne Plaza Hotel, Seattle	December 8 - 9	(360) 753-2175
<b>CHRISTMAS HOLIDAY</b>	<b>WA Counties Bldg CLOSED</b>	<b>December 25</b>	
<b><u>JANUARY 2006</u></b>			
<b>NEW YEARS HOLIDAY</b>	<b>WA Counties Bldg CLOSED</b>	<b>January 2</b>	
Legislative Session Begins	Olympia	January 9	<a href="http://www.leg.wa.gov/wsladm/calendar.cfm">http://www.leg.wa.gov/wsladm/calendar.cfm</a>
WSAC Legislative Luncheon	Ramada Inn, Olympia	January 19 (11:30a)	(360) 753-1886
WSAC Legislative Reception	Ramada Inn, Olympia	January 19 (5:30p)	(360) 753-1886
County Treasurers' Legislative Conference	WA Counties Bldg Olympia	January 23-24	(360) 753-7319
County Clerks' Legislative Conference	WA Counties Bldg Olympia	January 25-26	(360) 753-7319
County Assessors' Legislative Conference	WA Counties Bldg Olympia	January 31-February 2	(360) 753-7319

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## Attachments

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**Internal Revenue Service IRS.gov**

DEPARTMENT OF THE TREASURY

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October 25, 2005

### **IRS Seeks Applications for TE/GE Advisory Committee**

WASHINGTON - The Internal Revenue Service is seeking applications for vacancies on the Advisory Committee on Tax Exempt and Government Entities (ACT). The committee provides a venue for public input into critical tax administration areas.

Vacancies exist in the following customer segments:

- Employee Plans - two vacancies,
- Exempt Organizations - two vacancies,
- Federal, State and Local Governments - one vacancy,
- Tax Exempt Bonds - one vacancy, and
- Indian Tribal Governments - two vacancies.

The ACT is an organized public forum for the IRS and representatives who deal with employee plans, exempt organizations, tax-exempt bonds, and federal, state, local and Indian tribal governments. The ACT allows IRS to receive regular input on administrative policy and procedures of the Tax Exempt and Government Entities Division.

Members are appointed by the secretary of the Treasury and serve two-year terms, beginning in May 2006. Applications can be made by letter or by completing an application form, available on the IRS Web site. In either case, applications should reflect the proposed member's qualifications. A notice published in the Federal Register dated October 25, 2005, contains more details about the ACT and the application process.

Applications will be accepted through November 25, 2005.

Applications should be sent to Steven Pyrek, TE/GE Communications and Liaison Director, Internal Revenue Service, 1111 Constitution Ave. NW - SE:T:CL Penn Bldg, Washington, D.C. 20224, or by fax to 202-283-9956 (not a toll-free number).

Links:

2005 ACT Membership Application (Adobe)

Federal Register Announcement (Adobe)

ACT Reports

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## ***Attachments (continued)***

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Please join us as we offer

**E. KAY STAPLES, Benton County Clerk**

best wishes in her retirement

**A wonderful evening has been planned to honor Kay**

Friday, November 11, 2005

No-Host Cocktails 6:00 PM

Dinner 7:00 PM

Red Lion Hotel Ballroom  
802 George Washington Way  
Richland, Washington

**Highlights of Kay's Service Presented by:**

Hon. Dennis Yule, Master of Ceremonies

Hon. Dennis Sweeney, Guest Speaker

Diehl Rettig, Attorney at Law, Guest Speaker

**Entertainment by Comedian Brad Upton**

*Opening act for Tim Allen, Smothers Brothers,*

*Kenny Rogers, Dolly Parton & many others*

*www.bradupton.com*

**Dinner Selections:**

*Marinated Beef Tenderloin in Red Wine, Garlic & Herbs*

*Halibut with White Wine Clam Sauce*

*Chicken Oscar topped with Chilean Crab & Asparagus*

Tickets \$35.00 per person, RSVP by November 4, 2005

Please contact Byron Pugh for further details or Nita Kirk for tickets

(509) 735-8388



Happy Halloween from all of us at the  
Washington Counties Building

