



# Legislative UPDATE

May 14, 2010  
Number 4

## **SENATE FINANCE COMMITTEE PONDERES TRUTH-IN-TAXATION AND APPRAISAL CAPS**

On April 14, the Senate Finance Committee held a hearing to discuss, among other issues, the following interim charges: “Methods to increase public participation in the tax rate-setting process” and the “[r]equirement that property appraisal values may not increase by more than inflation and/or population growth or another amount to be determined by local taxing authorities, with a maximum cap of 10 percent.”

As to the first of these charges, some members of the committee and various witnesses claimed that the effective and rollback property tax rate calculations have become so cluttered with “carve-outs” and other exceptions that local governments can secretly raise taxes without the public knowing about it. It was also claimed that cities and counties were responsible for these “carve-outs” and that TML and other organizations are to blame for fighting against truth-in-taxation legislation generally. (Click here <http://www.webinars.com/StateFinanceClips/SenateCommitteeonFinance.swf> to hear TML blamed for fighting truth-in-taxation and to hear cities blamed for their “boundless avarice” when it comes to property taxes.) In reality, most of the exceptions to the effective and rollback rate formulas were either: (1) responses to unfunded state mandates placed on cities and counties, or (2) necessary adjustments to hold cities harmless when the legislature took property off the tax rolls through state-enacted property tax exemptions. Many “carve-outs” were done administratively by the state comptroller in response to new state laws. In other words, if the effective and rollback rate calculations are confusing, it’s because of legislative mandates and tax exemptions, not city actions.

The committee also considered lowering appraisal caps from the ten percent in current law to some lower figure, but there wasn’t as much interest in this topic. The massive fiscal hit that the state budget would receive by removing taxable value from school district tax rolls makes appraisal caps a tough sell.

## **APPLICATION PERIOD FOR 2010 ASSISTANCE TO FIREFIGHTERS GRANTS NOW OPEN**

The United States Department of Homeland Security recently announced the availability of \$390 million in Assistance to Firefighters Grants (AFG) to local fire departments nationwide. Fundable activities under the grant program include firefighter training, firefighting equipment acquisition, firefighter wellness and fitness, and modification to fire stations and facilities. The application deadline for AFG funding is Friday, May 28, 2010, at 5:00 p.m. Eastern Time.

General information on the AFG program can be found in the Guidance and Application Kit at [http://www.firegrantsupport.com/docs/2010\\_AFGguidance.pdf](http://www.firegrantsupport.com/docs/2010_AFGguidance.pdf). For additional information, including a link to the application itself, please visit <http://www.firegrantsupport.com/content/html/afg/>.

## **ACCESS LINES AND ANNEXATION: AT&T RIGHT-OF-WAY OFFICE RELOCATES**

Chapter 283 of the Texas Local Government Code requires that certificated telecommunications providers (CTPs) pay cities quarterly based on the number of “access lines” located in the city. While there are many CTPs, AT&T is the largest in the state.

When a city annexes territory, the newly-included area may have access lines. In order for a city to be properly compensated for the inclusion of the access lines, the city should notify any CTPs that may be providing service in the current city limits that, if the CTP also has access lines in the newly-annexed area, it must begin additional compensation to the city accordingly.

The External Affairs/Municipal Relations Department of AT&T Texas has recently moved its office. AT&T has asked TML to give notice to those cities served by AT&T that any right-of-way and annexation ordinances should now be sent to:

AT&T – EXTERNAL AFFAIRS  
Angela Thornton/Bob Garza  
275 N. Greenville Ave, Ste. 200  
Richardson, Texas 75081

AT&T asks that, to speed the processing of annexations that impact access line counts, cities provide the following information:

- A signed copy of the annexation ordinance.
- A list of street names and address ranges that are being annexed.
- A detailed map that clearly depicts street configuration, street names, and the geographical perspective to the surrounding area. (If property is vacant with no streets, the city should include a written notation of that fact.)

A city that annexes property should also notify the PUC ([www.puc.state.tx.us](http://www.puc.state.tx.us)) so that the information can be posted on the PUC’s website. City officials with questions about reporting to AT&T should contact Angela Thornton with AT&T at 972-234-7005 or [at3161@att.com](mailto:at3161@att.com).

## **PROPANE ASSOCIATION ATTACKS CITY REGULATION**

The House Energy Resources Committee met on Friday, April 30, 2010, to consider an interim charge regarding the establishment of uniform statutes relating to liquid petroleum gas. In addition to regulation of propane gas by the Texas Railroad Commission, current law allows cities to regulate propane, and cities do so in varying ways based on their specific location and topography. These municipal regulations naturally result in local rules that vary from city to city. This fact led to objections from the Texas Propane Gas Association (TPGA) at the hearing.

During the April 30 hearing, the TPGA executive director objected to these regulatory inconsistencies and stated support for propane “regulation that is rigorous, consistent, rational, and science-based as set forth in the International Fire Code, NFPA 58, and the rules and regulations of the Railroad Commission of Texas.” Leonard Smith, a representative of the TPGA, explained the association’s desire to establish an end to local rules that deviate from national, international, and statewide standards and cited five cities as having “unreasonable, inconsistent and

unfair local rules” (such as an ordinance allowing the use of propane to heat pools, but not homes). The TPGA also proposes to abolish local regulations that demonstrate a bias or preference for a form of energy other than propane gas (such as one city’s ordinance prohibiting the use of propane where natural gas is available within 200 feet).

Local flexibility is essential in this area, and municipalities need the continued ability to regulate propane gas based on location and topography in order to ensure public health, safety, and welfare. TML will continue to monitor this issue as it pertains to Texas cities. To listen to the House Energy Resources Committee’s discussion of propane regulation, please [CLICK HERE](#).

<http://www.webinars.com/Propane/TMLLegislativePropaneVideoClip.swf>

## **CITY FUNDING OF CONTINUATION OF HEALTH BENEFITS IS EXTENDED AGAIN**

Federal requirements that employers pay for a portion of COBRA health benefits have been extended through May 31, 2010. Currently, an eligible employee is one whose reduction of hours causes a loss of health coverage and who is then terminated on or after March 2, 2010, through May 31, 2010. Also, an individual whose reduction in hours caused a loss of health coverage and who was terminated is eligible to sign up for continuation of health coverage under COBRA and to receive the subsidy from the city, if the individual did not elect COBRA continuation coverage when it was first offered or elected but subsequently discontinued COBRA. In the past, a city was not responsible for paying for that continued health coverage under COBRA, but could do so if it chose to.

However, a new law, passed as part of last year’s federal stimulus package, requires cities to pay 65 percent of the cost of the continued health benefits if an employee is involuntarily terminated for a reason other than misconduct. The city is then reimbursed for the payment through its payroll taxes.

For more information, go to <http://www.dol.gov/ebsa/cobra.html>. This topic is also discussed in the Legal Q&A section of the February issue of *Texas Town & City* magazine.

Please contact Laura Mueller at the TML Legal Department with questions at (512) 231-7400 or [laura@tml.org](mailto:laura@tml.org).

## **FEDERALIZED COLLECTIVE BARGAINING BILL IS IN COMMITTEE IN THE HOUSE; SENATE BILL REINTRODUCED**

H.R. 413, the Public Safety Employer-Employee Cooperation Act of 2009, is pending in a subcommittee in the United States House of Representatives. On March 10, Ellis Hankins, executive director of the North Carolina League of Municipalities, testified before the subcommittee in opposition to the bill. The bill would mandate collective bargaining for public safety officers, regardless of state and local laws. The bill has not yet been sent to the House floor.

On April 12, 2010, Senate Majority Leader Harry Reid reintroduced the nearly identical Public Safety Employer-Employee Cooperation Act of 2009 (S.3194) under a rule that allows the bill to bypass the committee process and go straight to the Senate floor for a vote. Once both chambers have adopted the same version of bill it will be sent to the President for his signature.

H.R. 413 and S.3194 have not yet come to a vote in the U.S. House or U.S. Senate. To track H.R. 413, click [here](http://www.govtrack.us/congress/bill.xpd?bill=h111-413) <http://www.govtrack.us/congress/bill.xpd?bill=h111-413>]. To track S.3194, click [here](http://www.govtrack.us/congress/bill.xpd?bill=s111-3194) <http://www.govtrack.us/congress/bill.xpd?bill=s111-3194>]. To read Ellis Hankins’ written testimony click [here](http://nlc.staging.10floor.com/ASSETS/FAD20EEA6FFF4AD2897F850965AD6924/Hankins%20Testimony%20Before%20the%20House%20HELP%20Subcommittee%20Final.pdf) <http://nlc.staging.10floor.com/ASSETS/FAD20EEA6FFF4AD2897F850965AD6924/Hankins%20Testimony%20Before%20the%20House%20HELP%20Subcommittee%20Final.pdf>.

## **FEDERAL HEALTH CARE REFORM**

### **BILL WILL AFFECT CITIES**

On March 23, 2010, the President signed into law a bill that, over the next five years, is expected to fundamentally change health care. City-provided health plans will be affected in the same way as other employer health plans including new coverage requirements, new benefit requirements, limits on restrictions for pre-existing conditions, and other mandates. Also, any city that does not provide its employees with qualified health insurance plans will have to pay some type of penalty. Cities will still be allowed to maintain their current health insurance programs or self-coverage so long as they meet criteria that all employers will have to meet.

For additional analysis of the bill, see the National League of Cities memorandum that was sent to the state leagues after the bill was signed into law: [http://www.tml.org/legal\\_pdf/20100326-HealthCareReform-NLC-Cities.pdf](http://www.tml.org/legal_pdf/20100326-HealthCareReform-NLC-Cities.pdf)

As more information becomes available, TML will provide additional guidance in a future issue of the *TML Legislative Update*, or in the *Texas Town & City* magazine.

### **COMMITTEE LOOKS AT FACEBOOK AND TWITTER**

On May 11, League staff was invited to testify on the following interim charge before the Senate State Affairs Committee:

*Study the Public Information Act and the Open Meetings Act to ensure that government continues to operate in a way that is open and transparent. The study should consider how advances in technology and the emergence of various forms of social media (e.g. Facebook, MySpace, Twitter) have affected communications by and within governmental bodies.*

The League's testimony dealt with the legal pitfalls of social media Web sites when used by mayors and city councilmembers, and it appeared to be well-received. Several media organizations testified as well.

An interesting addition to the hearing came during public testimony. A representative from Americans for Prosperity (AFP) testified that "city officials want to use social media to get around the Open Meetings Act, and in doing so, they want to take the teeth out of the Act." In addition to making unsupported statements about city officials and open government laws, the AFP representative launched into an unsolicited attack on "taxpayer funded lobbying."

According to its Web site, "Americans for Prosperity...are committed to educating citizens about economic policy and mobilizing those citizens as advocates in the public policy process." In Texas, AFP's mission would appear to be limited to mobilizing citizens who do not serve as local elected officials. In other words, the only reasonable interpretation of AFP's position is that elected officials have no role as advocates in the public policy process.

A senator on the committee quickly came to the defense of cities, and refuted AFP's nonsensical position. To view the AFP testimony, which lasts about eight minutes, click here.

<http://www.webinars.com/StateFinanceClips/TMLCommitteeonStateAffairsClip.swf>

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